

## **Appendix 5**

### **Recommended Policies and Procedures**

## **Appendix 5a**

### **Notice of Compliance**

## **Sample Notice of Compliance**

### **Americans with Disabilities Act**

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BREC does not discriminate on the basis of disability in its services, programs, or activities.

**Employment:** BREC does not discriminate on the basis of disability in its hiring or employment practices and complies with the ADA title I employment regulations.

**Effective Communication:** BREC will, upon request, provide auxiliary aids and services leading to effective communication for people with disabilities, including qualified sign language interpreters, assistive listening devices, documents in Braille, and other ways of making communications accessible to people who have speech, hearing, or vision impairments.

**Modifications to Policies and Procedures:** BREC will make reasonable modifications to policies and procedures to ensure that people with disabilities have an equal opportunity to enjoy programs, services, and activities. For example, people with service animals are welcomed in (name of public entity) offices, even where pets and other animals are prohibited.

**Requests:** To request an auxiliary aid or service for effective communication, or a modification of policies or procedures contact [ADA Coordinator name and contact information] as soon as possible, preferably XX days before the activity or event.

**Complaints:** Send complaints to [ADA Coordinator name and contact information].

### **Sample Notice of Compliance - Short Version**

BREC does not discriminate on the basis of disability in its programs, services, activities and employment practices.

If you need auxiliary aids and services for effective communication (such as a Sign Language interpreter, an assistive listening device or print material in digital format) or a reasonable modification in programs, services or activities contact the ADA Coordinator as soon as possible, preferably XX days before the activity or event.

A grievance procedure is available to resolve complaints.

Upon request, this notice is available in alternative formats such as large print or Braille.

[ADA Coordinator name and contact information]

**Appendix 5b**

**ADA Liaison Responsibilities**

**And**

**Sample Monthly Report**

## **SAMPLE**

### **BREC Departmental ADA Liaison Responsibilities**

The primary function of the Departmental ADA Liaison (Liaison) is to assist the BREC ADA Coordinator to monitor/ensure compliance with the Americans with Disabilities Act for the Department. Sample responsibilities of the ADA Liaison include:

1. Participate in an annual On Site visit Meeting detailing all ADA requirements and current departmental status. This is also an opportunity to discuss any item of interest including training needs.
2. Some departments, due to the magnitude of programs, may have an ADA Committee where the Liaison is considered the Chair. The committee may designate different members to be responsible for different areas. Examples as follows:
  - Communications Dept may be responsible for ensuring “Notice of Compliance” postings in public facilities and in publications and be responsible to provide alternate formats;
  - Human Resource staff may be responsible for processing ADA Reasonable accommodations or assist with ADA Employment Training;
  - Facilities Manager may be responsible for access issues related to buildings and parking;
  - Safety Manager may be responsible for evacuation procedures including persons with disabilities;
3. Prepare an annual submission for the BREC ADA Implementation Status Report detailing any accessibility improvements, enhancements and trainings for the department.
4. Assist with dissemination of pertinent ADA information, related training, trending topics to their department.
5. Assist in resolving or investigating ADA inquiries/complaints related to department.
6. When developing new programs, ensure inclusion and accessibility through focus groups, surveys etc including persons with disabilities.
7. As needed, participate in the BREC-wide Committee to assist another department with a difficult or complicated disability determination or reasonable accommodation.

# ADA Transition Plan

## MONTHLY REPORT (example)

(Department Name)

Month: October 2019

- ADA RELATED MEETINGS, TRAININGS OR EVENTS:
  - Attended ADA Liaison meeting 10/18/18
  - Attended HR training/meeting
- ADA GRIEVANCES/COMPLAINTS OPENED AND/OR RESOLVED:
  - 1 Bus stops issue reported 10/17/18-OPENED
  - 1 Curb issued 9<sup>th</sup> and Davison-resolved 10/18/18
- ADA ACCOMMODATIONS REQUESTED/PROVIDED TO **EMPLOYEES**:
  - 1 Accommodation requested, 0 provided (please explain why it was not provided)
    - (reason not provided)
  - 1 accommodation requested, 1 provided (details below required)
    - Brief Description
    - Cost
- ADA ACCOMMODATIONS REQUESTED/PROVIDED BY **CITIZENS**:
  - 2 ASL interpreters used for public meetings.
  - Instructions on how to sign for public meeting requested in Braille/unable to supply. However, instructions were explained in detail to citizen.
  - 1 Assistive Listening Device requested for City Council Meeting/provided
- RECEIPT/PURCHASE/INSTALLATION OF ANY ADA COMPLIANT EQUIPMENT:
  - Purchased Assistive Listening Device
    - Cost
- ARCHITECTURAL BARRIER ELEMENTS OPENED OR RESOLVED:
  - RESOLVED: Client payment counter lowered to meet ADA compliant level.
    - Location and Cost
  - OPEN: Architect engaged for Comfort Station renovations.
    - Location and Cost

This example provides a mixture of possible scenarios across departments. Information specific to your department may, or may not be represented in the template above. The hope is that this example helps you understand the type of information that should be reported monthly. This format can then be used to produce the annual ADA Transition Plan Update Report.

## **Appendix 5c**

### **Policies for Non-Discrimination in Employment**

## Sample statements of equal employment employer

BREC will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, gender identity, age, religion, veteran status, disability, or sexual orientation. In addition, BREC will not discriminate in employment decisions on the basis of an individual's AIDS, AIDS Related Complex, or HIV status; nor will BREC discriminate against individuals who are perceived to be at risk of HIV infection, or who associate with individuals who are believed to be at risk. ADA Office: Contact info.

BREC is an Equal Opportunity Employer. In accordance with Americans with Disabilities Act, BREC will consider reasonable accommodation if requested.



## BREC Request for ADA Reasonable Accommodation

All requests for ADA Reasonable Accommodations to the physical and/or mental limitation of an applicant/employee with a disability are carefully considered and decisions are made in compliance with all applicable laws and regulations. In order for BREC to process a reasonable accommodations request, applicants/employees may need to submit medical documentation. A Departmental ADA Coordinator will advise you if medical documentation is needed. Medical documentation will be kept confidential.

***Applicant/Employee: please complete all areas that are applicable***

Name	Job Title
Phone Number	Employee No.
Department	Supervisor's Name
Date Employed	Supervisor's Phone No.

**Applicant:** Title and Job Order Number of Positions(s) for which you are applying

**Employee:**

Specific limitations in performing your current job

**Applicant and Employee:** Accommodation(s) Requested

**Applicant/Employee Signature:**

**Date of Request**

**Physician's Name (Optional)**

**Physician's Phone No. (Optional)**



## ADA Determination Questionnaire

<b>Name</b>	<b>Today's Date</b>
<b>Location</b>	

### Definitions

**Physical Impairment:** any physiological disorder, 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, genitourinary, hemic and lymphatic, skin and endocrine.

**Mental Impairment:** any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**Major Life Activities:** activities that an average person can perform with little or no difficulty. Examples: working, seeing, hearing, breathing, walking, speaking, etc.

**"Substantially Limits":** the effect which an impairment has on the individual's life activities. The individual must be unable to perform, or significantly limited in the ability to perform, a major life activity. Things to consider are the nature and severity of the impairment, how long it will last or is expected to last, and its permanent or long-term impact or expected impact.

### Practitioner completing this form

Name:	Please indicate the nature of your practice:

 Medical doctor Medical doctor, specialist in Psychiatrist Psychologist, PHD level Social worker, MSW level or higher Licensed Professional counselor (LPC) Chiropractor Other (please specify):

Signature:	Mailing Address

Telephone	FAX

1. Is the named employee a person who has a physical or mental impairment that substantially limits one or more major life activity?  Yes  No

1a. If yes, please explain which life activity(ies) the impairment substantially limits and how life activity(ies) is substantially impaired.

1b. If yes, what is the duration of the impairment?  Temporary  Long Term

Please explain:

2. How long have you been treating this individual for this impairment?

3. Is the impairment currently expected to be: Permanent?  Temporary?

3a. If temporary, please state the anticipated remaining duration. If you are not able to answer, please explain.

Please indicate whether the individual's impairment substantially restricts the individual's ability to do each of the following, compared to an average person in the general population.

<b>Activity</b>	<b>Substantial Restriction?</b>	<b>If yes, describe the restriction</b>
Speak	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Breathe	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Perform manual tasks	<input type="checkbox"/> Yes <input type="checkbox"/> No	
See	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Hear	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Learn	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Care for oneself	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Sleep	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Sit	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Stand	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Lift	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Read	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Think	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Concentrate	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Interact with others	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Tolerate ordinary office noise	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Tolerate ordinary office light	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Tolerate ordinary office temperatures	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Tolerate local weather conditions day or night	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Other restricted activities (specify)	Describe restrictions	

**BREC**

**REASONABLE ACCOMMODATION REQUEST, WAIVER OF MEDICAL CONFIDENTIALITY**

I, \_\_\_\_\_, do hereby waive my rights of confidentiality and authorize  
Employee

the provider listed below to release to BREC all medical and diagnostic information pertaining to  
my reasonable accommodation request pending with BREC.

I consent to the release of all hospital and other medical records relating to my reasonable  
accommodation request, including those records with information related to medical injuries,  
medical histories, mental health, consultations, prescriptions, and treatments, including x-ray films.

I understand that BREC will provide specific information about my job to the provider listed below,  
including the essential functions of my job, and that all information obtained will be kept confidential  
to the extent required and permitted by state and federal law.

A photostatic or facsimile copy of this authorization shall be considered as effective and valid as the  
original. Your assistance and cooperation is greatly appreciated

**Person or organization from whom medical records are requested:**

Hospital/agency/clinic/physician: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Employee Information:**

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Employee #: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Signature of Employee: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Witness: \_\_\_\_\_ Date: \_\_\_\_\_

**BREC**  
**ADA REVIEW COMMITTEE**

**DETERMINING ELIGIBILITY OF ADA REASONABLE ACCOMMODATION**

**APPLICANT/EMPLOYEE:**

Date of Review: \_\_\_\_\_

Employee Name \_\_\_\_\_ Employee#: \_\_\_\_\_

Program Area/Division: \_\_\_\_\_

**ADA COMMITTEE TEAM MEMBERS:**

- |  |       |                      |
|--|-------|----------------------|
| <input type="checkbox"/> <b>Present</b>                    | _____ | BREC ADA Coordinator |
| <input type="checkbox"/> <b>Present Name and Position:</b> | _____ | _____                |
| <input type="checkbox"/> <b>Present Name and Position:</b> | _____ | _____                |
| <input type="checkbox"/> <b>Present Name and Position:</b> | _____ | _____                |
| <input type="checkbox"/> <b>Present Name and Position:</b> | _____ | _____                |
| <input type="checkbox"/> <b>Present Name and Position:</b> | _____ | _____                |

**ELIGIBILITY DETERMINATION FOR ADA REASONABLE ACCOMMODATION**

**An individual who is eligible for “*Reasonable Accommodation*” is a person who has a physical or mental impairment that substantially limits one or more major life activities.**

In determining if an applicant is eligible for an ADA Reasonable Accommodation under the ADA the following factors should be considered:

**Section I.**

Does the employee have a physical or mental impairment? (As indicated by physician)

- Yes       No

**Section II.**

**“An individual must be able to perform the essential functions of the job with or without an accommodation or be significantly limited in the ability to perform, an activity compared to an average person in the general population.”**

- 1. What is the nature and severity of the impairment? \_\_\_\_\_**

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- 2. Describe Functional Limitations associated with the Impairment**

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- 3. Does the impairment substantially limit a major life activity?**  Yes  No

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- 4. How long is the impairment expected to last?**

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- 5. What is the permanent or long-term impact or expected impact?**

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## **RESULTS OF COMMITTEE REVIEW:**

1. As a result of this review process, the Departmental or BREC ADA Review Committee has determined that this individual

Is       Is Not       Undetermined, pending additional information (see below).

**Eligible for an ADA Reasonable Accommodation.**

### **Comments:**

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# BREC Reasonable Accommodations Checklist

Employee DOB: \_\_\_\_\_

Employee #: \_\_\_\_\_

## ADA Orientation Meeting (initial contact)

ADA Forms provided:

ADA Reasonable Accommodation Request

Date Received: \_\_\_\_\_

ADA Reasonable Accommodation Request

Date Received: \_\_\_\_\_

EEOC highlights distributed to employee

Meeting Date: \_\_\_\_\_

Return Date: \_\_\_\_\_

Return Date: \_\_\_\_\_

## ADA Review Team Meeting: determination of eligibility

Meeting to discuss ADA Reasonable Accommodation

HR Staff  Dept. ADA Coordinator  BREC ADA Office

Doctor returns with additional information

2<sup>nd</sup> meeting due to need for medical information

Meeting Date: \_\_\_\_\_

Return Date: \_\_\_\_\_

Meeting Date: \_\_\_\_\_

## Communications to Employee

### Approve ADA eligibility

Employee distributed eligibility letter for accommodation

Date: \_\_\_\_\_

Yes  No Employee accepts accommodation

Date: \_\_\_\_\_

Employee distributed eligibility letter for trial basis

Date: \_\_\_\_\_

Yes  No Employee accepts trial basis with start date of

Date: \_\_\_\_\_

Employee Trial Basis Accommodation reviewed

Date: \_\_\_\_\_

Meeting with Supervisor to discuss accommodation

Date: \_\_\_\_\_

### Deny ADA eligibility

Employee distributed denial letter

Date: \_\_\_\_\_

Employee offered return to work

Date: \_\_\_\_\_

Other \_\_\_\_\_

## Communication with Law Dept. when needed

Outcome \_\_\_\_\_

Date: \_\_\_\_\_

Follow up \_\_\_\_\_

Date: \_\_\_\_\_

## Additional Communications/meetings with Employee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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# **Introduction**

BREC's Human Resources Department provides this Policy to help ADA Coordinators, management staff, and individuals with disabilities learn about their responsibilities, rights, and obligations for reasonable accommodation in BREC employment. Departments are required to use the forms and processes provided herein.

This Policy does not constitute a binding contract. It may be updated periodically and without notice as statutory, regulatory, or legal developments so warrant. If this Policy conflicts with any legal authorities such as statutes, regulations, or case law, the legal authorities take precedence and should be followed.

# **Definitions**

Unless another meaning is clear from the context within in this Policy, the following terms shall be defined as they appear below:

**"Appointing authority"** shall mean a person, usually the head of a department, authorized by Charter or ordinance to employ others on behalf of BREC.

**"BREC ADA Coordinator"** shall mean a management representative within the Human Resources Department who is responsible for ensuring that disability-related employment actions comply with federal, state and local disability laws.

**"BREC"** shall mean the BREC organization and any or its entire individual employing units.

**"Department"** shall mean any department, office, or commission of BREC.

**"Department ADA Coordinator"** shall mean management staff within BREC department, who is responsible for ensuring that disability-related departmental employment actions comply with federal, state, and local disability laws.

**"Direct threat"** shall mean a significant risk of substantial harm to the health or safety of the individual with the disability or another person that cannot be reduced by reasonable accommodation. The determination of a direct threat must be based on an individualized assessment of the evidence.

**"Disabled"** shall mean an individual with a disability as defined in the Federal Law, ADA.

**"Individual with a Disability'** an individual with a physical or mental impairment, with a record of such impairment, or who is regarded as having impairment. Covered impairments are defined by the Americans With Disabilities Act (1990) and must substantially limit one or more major life activities, such as self-care, performing manual tasks, hearing, speaking, breathing, walking, concentrating and working.

**"Essential functions of a job"** shall mean the fundamental job duties of a position of employment. A job function may be considered essential if:

- The position exists to perform that function;
- A limited number of employees are available among whom the performance of that function can be distributed; or
- Where the function is highly specialized and the position incumbent is hired for his or her ability to perform it.

**"Health care professional"** shall mean any licensed provider whose services are recognized and accepted under any BREC health care plan.

**"Impairment"** as defined in the ADA shall mean:

- 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; genitor-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- Impairment under federal law is included in the state law definition.

Only for the purpose of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and meet the following conditions:

- Under federal law, the impairment does not necessarily need to impact an individual's ability to do his or her job, but must substantially limit a broad range of major life activities such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking communicating or working or substantially limit the operation of major bodily functions such as functions of the immune system, normal cell

growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions; and/or

- Under ADA, the impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment.

**"Modified duty"** shall mean temporary changes to usual job functions within the employee's current position, or classification, to perform tasks that are allowable under the medical restrictions stated by a health care professional and agreed to by the employing department.

**"Otherwise qualified;"** shall mean the possession of all the required skill, experience, education, and other job-related requirements for a position of employment.

**"Qualified individual with a disability"** shall mean an individual with a disability who possesses the required skill, experience, education, and other job-related requirements for a position of employment and who can perform the essential functions of the job with or without reasonable accommodation.

**"Reasonable accommodation"** shall mean any change or adjustment to a job or work environment that does not create an undue hardship, and permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

**"Undue hardship"** shall mean that an accommodation presents a substantial difficulty or expense, based on a number of factors including net cost, financial resources of the entity, and the nature of the operation.

## **Policy**

It is the policy of BREC to comply with all applicable federal, state, and local laws prohibiting employment discrimination. No qualified individual with a disability shall be excluded from participating in, or benefiting from, services, programs, activities or employment on the basis of such disability.

It is the policy of the BREC to reasonably accommodate a qualified

applicant or employee with a disability, unless that accommodation would impose an undue hardship, or pose a direct threat to the safety or health of the individuals with the disability and others. This policy includes temporary and regular employees of the City of Raleigh.

## **Authorization**

BREC complies with all applicable federal, state, and local laws prohibiting discrimination in employment, including the Americans with Disabilities Act (ADA).

## **Examples of Reasonable Accommodations**

A reasonable accommodation allows a qualified, individual with a disability to apply for a job, perform the essential functions of a job, and receive equivalent benefits, privileges, conditions, and terms of employment as a non-disabled individual. In order to be accommodated, the disability must be known, or shown through an interactive process, to exist in fact.

BREC will offer a reasonable accommodation to the extent it doesn't present an undue hardship. However, BREC is not required to offer the specific accommodation the employee requests.

The following is a non-exhaustive list of types of accommodations that may be reasonable under particular circumstances, depending on the department's and the individual with disability's needs:

- Provision of aids and equipment (e.g., magnifying computermonitor screens, ergonomic furniture, enlarged type);
- Modification of facilities to make them accessible and useable;
- Modification of work schedules;
- Job restructuring within the current classification, including redistributing marginal functions or altering how or when an essential function is performed;
- Reassignment to a vacant position for which the employee is qualified (transfer or reduction) that better accommodates his or her limitations, and that enables the employee to perform the essential functions of the job, but is not a promotion;
- Clarification or modification of training materials or policies;
- Provision of qualified readers or interpreters;
- Use of paid or unpaid leave; and

- Other actions consistent with the law.

## **Procedures**

Reasonable accommodation requires an interactive exchange between BREC and an applicant or employee, in which each seeks and shares information to achieve the best match between the applicant's or employee's capabilities and a position of employment. The process for making reasonable accommodations must be on a case-by-case basis, but in most cases will be consistent with this Policy.

### **Reasonable Accommodation in the Selection Process**

BREC shall not 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 the disability or disabilities, unless the standard, test, or other selection criteria are job-related and consistent with an identified business need.

#### **Pre-Selection Process**

- BREC should identify the essential functions of the job for which it intends to advertise, and conduct a selection process.
- Job advertisements, internal and external, must include a statement of BREC's commitment to provide reasonable accommodation in the selection process.

#### **Selection Process**

##### ***The Pre-Offer Stage***

###### **Questions and Examinations that Are Not Allowed:**

BREC may not ask any disability-related questions or require medical examinations before an offer of employment is made. A disability-related question is one that is likely to elicit information about a disability. For example, an applicant may not be asked whether they would need a reasonable accommodation to perform the job or the number of days missed due to an illness in a previous job.

A medical examination is prohibited when it is a procedure or test that seeks information about an individual's physical or mental impairments or health. Indicators of whether a test or procedure is medical include:

- (1) whether the test is administered or interpreted by a healthcare professional;
- (2) whether the test is designed or intended to reveal an

- impairment or the state of the individual's physical or mental health;
- (3) whether it is an invasive test;
  - (4) whether the test measures physiological responses to a task; and/or
  - (S) whether the test is usually given in a medical setting or uses medical equipment.

### **Questions That Are Allowed**

BREC may ask:

- (1) if an applicant can perform the physical requirements or functions of a job;
- (2) how the person handles stress;
- (3) the applicant to describe or demonstrate how he or she would perform the job; and/or
- (4) whether the applicant needs a reasonable accommodation for the hiring process.

If an applicant has an obvious disability that would require an accommodation, voluntarily discloses a hidden disability during the selection process, or requests an accommodation for the selection process, the hiring authority, or a designated selection process team, may ask the applicant:

- about his or her ability to perform the job;
- whether the applicant needs accommodation to perform the job; and
- the type of accommodation that would be required.

Inquiries about the underlying nature of disability are prohibited.

### ***The Offer Stage***

At the applicant's request, BREC shall provide a reasonable accommodation as is necessary to provide him or her with an equal opportunity to be considered for the position for which he or she has applied.

BREC shall consult with the applicant to identify potential accommodations. BREC ADA Coordinator or Human Resources staff should discuss and decide on a reasonable accommodation based on the abilities of the individual applicant(s) and not on presumptions or generalizations about what individuals with disabilities can or cannot do.

Applicants must cooperate with BREC to identify accommodations

and assess their effectiveness. If the need for accommodation is not obvious, an employer may ask an applicant for reasonable documentation about his or her disability and functional limitations from a healthcare professional.

- BREC shall consider the preference of the applicant in selecting an accommodation, but is not required to offer the precise accommodation preferred by the applicant.
- The hiring authority, or a designated selection process team, may be informed of an accommodation made for an applicant, only to the extent that they need to know in order to carry out the process. Other personnel may be informed only if the applicant's disability may require their emergency assistance at any time during the selection process.

### ***The Post-Offer Stage***

BREC may condition an offer of employment upon the results of a pre-placement medical examination that is job related and consistent with business necessity, as long as the following is met:

- The offer is a real offer, meaning the employer has evaluated all relevant non-medical information prior to giving the offer;
- All new hires in the same job class are required to undergo such an examination;
- The results of the examination are kept confidential; and
- The examination is not used to exclude individuals with disabilities, unless the examination concludes that the individual is not qualified to perform the particular job.

## **Reasonable Accommodation in Employment**

The obligation to provide reasonable accommodation is ongoing and may arise at any time during an individual's employment with BREC if a disability develops or as his or her existing disability or job changes.

### **When Is a Medical Inquiry Permissible Regarding Employees?**

The ADA prohibits BREC from requiring a medical examination or inquiring about an employee's disability, including its nature and severity, unless the inquiry or examination is job-related, and consistent with business necessity.

An examination is job related and consistent with business necessity, when an employer has a reasonable belief, based on objective evidence, that:

- (1) an employee's ability to perform essential job functions has been impaired by a medical condition; or
- (2) an employee will pose a direct threat due to a medical condition.

The inquiry must be no more intrusive than necessary. In most circumstances when BREC has objective evidence of impairment, BREC should ask the employee about his or her ability to perform the essential functions of the job, and/or may require the employee to submit medical information.

If the medical information submitted by the employee is inadequate, he or she may be asked to submit to a fit-for-duty medical examination that is specifically tailored to assess the employee's ability to perform the essential functions of the job.

If the employee fails to cooperate in providing requested medical information or declines to attend an employer scheduled medical examination, the employee may be disciplined for the underlying performance problems or denied an accommodation for failing to participate in the reasonable accommodation process. The employing unit shall contact the BREC ADA Coordinator for guidance.

Employees may not be asked about medication he or she is taking unless taking or not taking the medications could make the employee a danger to himself or herself, or to others.

### **Request for a Reasonable Accommodation**

BREC has a duty to take steps to reasonably accommodate an employee when BREC is aware of the employee's disability or physical limitations. While it is the employee's responsibility to inform BREC when an accommodation is needed, if BREC has notice of a disability that appears to interfere with an employee's work performance, the duty to accommodate is triggered, and BREC must take steps to reasonably accommodate the employee.

If an employee does not agree that an accommodation is necessary, the Department ADA Coordinator should contact the BREC ADA Coordinator to discuss the process and the options you may pursue.

### ***Identifying a Reasonable Accommodation***

Once BREC department is aware of a disability, it should initiate an interactive process to update the essential functions of the job, the record of an employee's limitations, and the types of accommodations that may be needed.

Responding to a reasonable accommodation request from an employee with a disability requires a problem-solving process that may include:

- Analysis of the employee's current job, taking into consideration the job's purpose and essential functions, and physical/cognitive requirements to identify potential accommodations.
- Consultation with the employee about how functional limitations to his or her specific abilities may be overcome with an accommodation. It is not always necessary to have input from an employee's health care provider in order to engage in an interactive process with an employee.
- Consideration of collective bargaining agreements and/or consultation with the Labor Relations Division within the Human Resources Department, if applicable, to assess the impact of any change in wages, hours, or other terms and conditions of employment, unless the particular collective bargaining representative has waived this consideration. BREC should obtain the affected employee's written consent to the disclosure of information about his or her disability to the union if it is necessary.
- Reasonable accommodation does not require the BREC to reallocate essential functions of the job, hire someone to perform some of the essential functions of the job, assign an employee to a position that is already occupied, or create a new position.

### ***Employee Cooperation in the Accommodation Process***

If it is necessary to obtain medical information concerning the employee's limitations, and the employee or his or her medical provider does not provide the information within a reasonable period of time, an employee may forfeit his or her right to an accommodation.

After reasonable attempts to obtain the information, the Department ADA Coordinator shall contact the BREC ADA Coordinator for advice. The documentation of the employee's failure to provide information must be clear before the duty to accommodate terminates.

### ***Undue Hardship***

An employee must be afforded a reasonable accommodation unless it poses an undue hardship on the employing department. Only the appointing authority may determine that a particular accommodation imposes an undue hardship on the employing department.

An undue hardship may arise when the process of accommodating an individual is unreasonably difficult in view of:

- The type of operation(s) of the business unit, including the composition, structure, and functions of the workforce;
- The nature of the employee's work;
- The requirements of other laws and contracts, including collective bargaining agreements;
- The impact of the accommodation on the operation of a facility, including the impact on the ability of other employees to perform their duties, and the impact on the facility's ability to conduct business; and/or
- Other appropriate considerations.

### ***Reasonable Accommodations in an Employee's Job***

The employing department should first try to determine through the interactive process whether there are reasonable accommodations that will allow the employee to do his or her job. These possible accommodations include job restructuring, modification of work schedule, readers, interpreters, equipment, machinery, and leaves for treatment.

Any reasonable accommodation that allows the employee to perform the essential functions of his or her job and does not create an undue hardship should be considered. The employer does not have to provide the accommodation that the employee chooses or the employee's doctor recommends.

### ***Leave as a Reasonable Accommodation***

Leave may be a reasonable accommodation if it will allow an employee to return to work within a reasonable amount of time, typically up to one year, in order to be able to do the essential functions of his or her job or another BREC position.

- The employee may opt to use his or her available vacation balance; personal holidays, compensatory time balance, and/or executive/merit leave balance prior to going on an unpaid leave of absence.
- If an employee's disability qualifies him or her for sick leave usage and/or sick leave transfer, he or she may elect to use sick leave.
- If the employee's disability qualifies for family and medical leave and he or she has not exhausted the 90-day entitlement, he or she may opt to take unpaid family and medical leave.
- If the employee has exhausted his or her sick leave balance and

family and medical leave entitlement, or does not have a condition that qualifies for sick leave or family and medical leave, the appointing authority may place the employee on an unpaid leave of absence. Typically this unpaid leave of absence is unconditional. However, certain circumstances may warrant the leave of absence to be conditional. Please consult the BREC ADA Coordinator.

**Please Note:** Departments have authority to grant a maximum leave of 12 months. The Human Resources Director must approve additional time.

For represented employees, leave of absence provisions in the pertinent collective bargaining agreement apply.

### **Job Reassignment as a Reasonable Accommodation**

BREC will consider reassigning the employee to a vacant job in which the employee meets the minimum qualifications and can perform the essential functions, with or without a reasonable accommodation when:

- There is no reasonable accommodation that will allow the employee to perform the essential functions of his or her current job; or
- Accommodation in the employee's current job would cause an undue hardship to BREC; or
- Reassignment is otherwise reasonable in the circumstances, and
- The employee is able to demonstrate that he or she meets the documented minimum qualifications for the job; and
- The employee can perform the essential functions of the job; and
- The job has a top step equal to or less than the top step of the employee's current job; and

The hiring authority may consult with the employee to ensure that he or she meets the minimum qualifications for the job and can perform its essential functions.

However, such consultation does not constitute a competitive selection process. The employee will not be required to compete for reassignment to a vacant job when the reassignment is offered as a reasonable accommodation.

The hiring authority must accept the reassignment of the employee as long as the above conditions are met.

- The employee may be required to undergo a qualifications assessment for reassignment to vacant jobs with a top step equal to, or less than, the top step of the employee's current position.
- An employee may compete for vacant positions that have a top step higher than the top step of the employee's current job, but does not have the right to be reassigned to a higher paying position.  
Reassignment outside the employee's current employing department must be in accordance with applicable collective bargaining agreements.

### ***Internal Department Search***

As soon as it is clear that an employee cannot be accommodated in his or her position, the Department ADA Coordinator shall begin looking within the employing department for an equivalent vacant position at or below the employee's current pay. The employee must meet the minimum qualifications and be able to perform the job with or without an accommodation. The internal department search must be documented.

If the employing department has not identified a vacant, equivalent position within a 6-month time frame, it shall expand the search organization wide.

During the time that the employing department is searching for vacant equivalent positions organization wide, it must continue to search within the employing department. This continued search should be documented.

### ***Organization wide Search***

The organization wide job search shall commence as soon as the Department ADA Coordinator is aware that there are no alternate positions available in the employee's home department. After conducting a search for a period of no longer than six (6) months, the Department ADA Coordinator shall contact the Human Resources Director for review and approval. In addition, the department shall notify the BREC ADA Coordinator. The BREC ADA Coordinator will facilitate a organization wide search for a job reassignment in another employing department.

Appointing authorities are required to make vacant positions available for reassignment to disabled employees as reasonable accommodations.

Upon notification from an employing department of its inability to reassign an employee within the department, the BREC ADA Coordinator will:

- Locate potential vacancies using the organization wide Vacancy Report.
- Request a comprehensive job description, outlining the essential functions of the vacant job, from the Department ADA Coordinator of each department where a potential vacancy is identified;
- Submit Job Analysis to medical providers to review the employee's ability to perform the essential duties of all potential positions;
- Facilitate one or more meetings between the current employing department, the potential employing department, and the affected employee, to identify and agree upon the accommodation(s), if any, that would be necessary for the employee to be able to perform the essential functions of the vacant job; and
- Work with the Department ADA Coordinator, in the potential employing department, to document an assessment of the impact of the accommodation(s) identified.
- Work with the Department ADA Coordinator in the potential employing department to identify the qualification assessment and the skills assessment processes the affected employee will be required to undergo.

If the Department and BREC ADA Coordinators conducting the search are unable to locate a vacant position appropriate for reassignment after conducting a department wide and a organization wide search for twelve (12) months, the Department and BREC ADA Coordinators must document search *efforts* and consult with the City Attorney's Office Employment Section about the next steps.

In order for a department to terminate an employee after an unsuccessful citywide search, it must have the concurrence of the Human Resources Director and the Department Head.

If the employee with a disability declines to accept a job reassignment as a reasonable accommodation, the department that has the vacancy can proceed to hold a regular selection process.

After a job *offer* has been made and declined and the BREC Attorney concurs, the employing department will have no further obligation to accommodate the employee and will notify the employee of his or her impending separation from BREC employment.

### ***Employee's Status While Job Search Continues***

While the search for an appropriate job reassignment is underway, it may be appropriate for the employing department to place the employee in a modified duty assignment, if one is available, or to place the employee on leave.

The department is not required to create a permanent or temporary job assignment as part of an accommodation.

### **Inability to Identify a Reasonable Accommodation**

If BREC is unable to reasonably accommodate an employee with a disability within the employee's current department or in another department, the Department ADA Coordinator will inform the employee.

The employee may be offered an opportunity to discuss with the employing department's appointing authority, or a designated management representative, the reasons BREC is unable to provide a reasonable accommodation. The Department ADA Coordinator should consult with the BREC ADA Coordinator and an attorney from the BREC Attorney's Employment Section before terminating an employee because his or her disability cannot be accommodated.

The employee's current employing department shall be responsible for giving the employee all of the necessary information related to the BREC's Employment Process and ensuring that he or she understands how to apply for positions.

Additionally, it is the employee's responsibility to search the Web and apply for positions for which he or she is interested in, or qualified for. This responsibility exists until the employee is no longer employed by BREC.

### **Accommodation of Employees with Temporary Disabilities**

An employee who is medically restricted from performing the essential functions of his or her job because of a temporary disability shall be eligible for consideration for an accommodation.

Employees whose work-related illness or injury is accommodated by a temporary alternate assignment to a job with a lower top step than his or her regular job shall not have his or her pay rate reduced based on Worker's Compensation requirements.

If the disability is not covered by Workers' Compensation, an employee's pay rate and status will not be affected if the employee is temporarily reassigned to a lower paying position for 60 days or less. After 60 days, the employee's salary should be reduced, commensurate with the body of work he or she is performing.

The obligation to accommodate a temporarily disabled employee is limited to the period of documented disability and will end when:

- The temporary disability is considered to have become permanent and will be accommodated under the general accommodation process; or
- The employee and his or her employing department, consistent with medical advice, mutually agree to terminate the temporary status.

## **Confidentiality of Medical Information**

All information regarding the medical condition or medical history of an applicant or employee is confidential. Medical records and files must be maintained separate from other employee records.

Supervisors and managers may need to be informed of restrictions related to an employee's work duties and assignments, but only to the extent necessary.

Confidential medical information may be disclosed to:

- Department personnel who need to know of an employee's condition in order to render aid or secure treatment in the event of an emergency; and
- Government officials investigating compliance with employment and non-discrimination laws.

BREC may not disclose to other employees whether it is providing a reasonable accommodation to a particular individual. Management may assert its authority to act for legitimate business reasons or in compliance with federal, state, and local laws and regulations.

## **Direct Threat**

An employer may exclude someone from a job if that person's disability would pose a direct threat to the health or safety of the employee or others.

The employer must show that the person poses a significant risk of substantial harm to himself, herself, and/or to others, and that no reasonable accommodation, including but not limited to reassignment, would reduce the risk of harm below an acceptable level.

If it is not possible to reduce the risk of harm below an acceptable level, the appointing authority may refuse to hire, or may separate, the individual.

Departments should contact the BREC ADA Coordinator before terminating, or refusing to hire, an individual because of a direct threat. There must be an individualized assessment of a direct threat that includes:

- The duration of the risk;

- The nature and severity of the potential harm;
- The likelihood of the potential harm occurring; and
- The imminence of the potential harm.

## **Duties and Responsibilities**

The following provides suggestions for categories of duties important to management, Department ADA Coordinators, and to the employee requesting a reasonable accommodation.

### **Management**

- Be aware of employees' rights and responsibilities under applicable federal, state and local disability legislation and regulations.
- Notify the Department ADA Coordinator when an employee has made an accommodation request.
- Identify essential job functions, and ensure that all job descriptions accurately reflect the work performed, and that any physical, mental, and sensory qualifications are job-related.
- In conjunction with the Department ADA Coordinator, assess what reasonable accommodations could be offered to an employee in his or her current job.
- Participate in an interactive discussion with the employee about options for reasonable accommodation and maintain open communication with the employee and others involved in the reasonable accommodation process.
- Coordinate the design and implementation of reasonable accommodations with the assistance of the Department ADA Coordinator, the Department Safety Officer and, if applicable, the Workers' Compensation Claims Analyst assigned to the employee's claim.
- When appropriate, make an *effort* to identify vacant positions within the employing department that meet the reasonable accommodation requirements and cooperate in efforts to place employees in appropriate vacant positions as a reasonable accommodation.

### **Department ADA Coordinators**

- Make recommendations to management about the development and implementation of reasonable accommodations.
- Facilitate the implementation of the reasonable accommodation

processes.

- Share only appropriate and necessary medical information with supervisors and managers.
- Document all actions taken by the department in response to each request for a reasonable accommodation of which they are made aware.
- Maintain all information in writing (electronic and/or hard copy) related to a disabled employee's condition, functional limitations, and resulting accommodation(s).
- Notify the Employment Section attorney assigned to your department when the employing department appears unable to reasonably accommodate an employee with a disability.
- Evaluate the particular circumstances of each specific case that may constitute an "undue hardship" and a "direct threat" and provide that evaluation to the Department Head and Employment section attorney for review.

## **BREC ADA Coordinator**

- Assist Department ADA Coordinators in the administration of appropriate processes and procedures to ensure compliance with federal, state and local disability laws.
- Assist departments to develop and implement reasonable accommodations, and provide advice and guidance to resolve issues during the reasonable accommodation process.
- Coordinate the organization wide search for reassignment when that has been identified as a reasonable accommodation.

## **Employees Seeking Accommodation**

- Inform the supervisor, management representative, Department EEO Officer or Department ADA Coordinator of the need for accommodation.
- Provide necessary and applicable documentation, including medical documentation, about the nature of the disability, functional limitations, and accommodation desired.
- Cooperate with management in the reasonable accommodation process.

- Provide a current resume, upon request, for purposes of evaluating qualifications for possible placement in an alternate work assignment.
- Work within any restrictions recommended by health care professionals and approved by the employing department.
- Notify the Department ADA Coordinator of any changes in physical or mental limitations imposed by a health care professional.

## **Appendix 5d**

### **Elements of Communication Policy**

## **Elements of Communication Policy**

**Effective Communication** The ADA requires that communication with people with disabilities must be “as effective” as communication with others. Generally this part of the regulations applies to people who are deaf, people who are hard of hearing, people who are blind, people with low vision and people with speech disabilities.

**Establish standards and procedures** for contracting for communications services from sources outside the entity, such as for Sign Language Interpretation and Captioning Services. Establish tracking system of these requests throughout the organization to assist with budgets.

**Primary Consideration** Public entities must give each individual with communications impairment an opportunity to request the auxiliary aid or service of his or her choice. That choice must be given primary consideration and must be honored unless the entity can demonstrate that another equally effective means of communication is available or that the auxiliary aid requested would result in a fundamental alteration in the program or undue financial or administrative burdens.

**Companions** In many situations, covered entities communicate with someone other than the person who is participating in the program, service or activity. The ADA refers to such people as “companions” and requires public entities to provide effective communication for companions who have disabilities.

**Undue Burden** Public entities are not required to provide an auxiliary aid or service that would fundamentally alter the program, service, or activity or would result in undue financial and administrative burdens. If the choice expressed by the person with a disability would result in an undue burden or a fundamental alteration, the public entity still has an obligation to provide another aid or service that provides effective communication, if possible.

The decision that a particular aid or service would result in an undue burden or fundamental alteration must be made by a high level official, no lower than a Department head, and must be accompanied by a written statement of the reasons for reaching that conclusion. All resources available for use in the funding and operation of the service, program, or activity must be considered.

**Training** Appropriate staff, such as Departmental ADA Coordinators and targeting certain front line employees should be trained on BREC's Communication Policy and the concepts of effective communication and auxiliary aids and services. This should include information on external and internal resources for obtaining these auxiliary aids and services.

**Auxiliary Aids and Services** The type of auxiliary aid or service will vary in accordance with the method of communication used by the person; the nature, length, and complexity of the communication and the context in which the communication occurs. Often ensuring effective communication requires public entities to provide these services, which may include the following:

For people who are deaf or have hearing loss:

- Qualified interpreters on-site or through video remote interpreting (VRI) services
- Real-time computer-aided transcription services (CART)
- Written materials
- Exchange of written notes
- Typing on a tablet or computer
- Assistive listening devices
- Open and closed captioning, including real-time captioning
- Videophones
- Videotext displays

For people who are blind or have vision loss:

- Large print materials
- Audio recordings
- Braille materials
- Screen reader software
- Magnification software
- Note takers
- Qualified readers
- Optical readers
- Secondary auditory programs (SAP)

For people who have speech disabilities:

- Exchange of written notes or typed communication
- Qualified speech-to-speech transliterators (a person trained to recognize unclear speech and repeat it clearly)

**Social Media** The use of social media continues to increase, and BREC uses this form of communication extensively. Below are five basic guidelines for the use of social media:

- Make your contact information available on your social media account page. List a primary contact phone number and email address or provide a link to your website that lists the appropriate contact information.
- Make your social media content available through more than one channel. Provide easy points of entry for more information. Some of the most common ways are to post threads on your website, provide options to sign up for daily email digests of social media posts or to add a social media widget to your website.
- Provide links or contact information to official social media support and accessibility teams. Often, social media tools have their own accessibility tips and support help desks. Educate yourself about them and provide links to your constituents.
- Keep it simple. Good design and good content tend to provide accessible content. When possible, write in plain language, use camel case when appropriate (i.e., capitalize the first letters of compound words as in #SocialGov), and limit your use of hashtags, abbreviations and acronyms. The use of camel case is not only a common practice, but also a helpful one as it makes multi-word hashtags easier to read, including for those using a screen reader.
- Test your social media content with a screen reader or other type of assistive technology.

# BREC Elements of website accessibility policy/best practices

## BREC Action Plan for Accessible Websites

- **Establish a policy that your web pages will be accessible** and create a process for implementation.
- **Ensure that all new and modified web pages and content are accessible:**
  - Check the [HTML<sup>1</sup>](#) of all new web pages. Make sure that accessible elements are used, including alt tags, long descriptions, and captions, as needed.
  - If images are used, including photos, graphics, scanned images, or image maps, make sure to include alt tags and/or long descriptions for each.
  - If you use online forms and tables, make those elements accessible.
  - When posting documents on the website, always provide them in HTML or a text-based format (even if you are also providing them in another format, such as Portable Document Format (PDF)).
    -
- **Develop a plan for making your existing web content more accessible.** Describe your plan on an accessible web page. Encourage input on improvements; including which pages should be given high priority for change. Let citizens know about the standards or guidelines that are being used. Consider making the more popular web pages a priority.
- **Ensure that in-house staff and contractors responsible for web page and content development are properly trained.**

- **Provide a way for visitors to request accessible information or services by posting a telephone number or E-mail address on your home page.** Establish procedures to assure a quick response to users with disabilities who are trying to obtain information or services in this way.
- **Periodically enlist disability groups to test your pages for ease of use;** use this information to increase accessibility.

## **Sample Elements of Procedures for Public Meetings**

Include a Notice of Compliance for accessible meetings. See below.

BREC is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Meeting locations are planned with wheelchair access. If requiring Sign Language Interpreters or other alternative formats, please give notice at least 4 days before the meeting date. Please call BREC ADA Coordinator at (contact info), for additional information, TTY users route through Relay Services.

**For accessibility, we appreciate your cooperation in keeping our meetings fragrance free.**

Train appropriate staff assisting with and posting public meetings on possible reasonable accommodations to include resources for providing alternative formats such as Sign Language Interpreters, Real Time Captioning and Large Print.

## **Appendix 5e**

### **Elements of Emergency Policies**

## Elements of Emergency Evacuation Plan

- **Notification** - Many traditional emergency notification methods are not accessible to or usable by people with disabilities. People who are deaf or hard of hearing cannot hear radio, television, sirens, or other audible alerts. Those who are blind or who have low vision may not be aware of visual cues, such as flashing lights. Warning methods should be developed to ensure that all citizens will have the information necessary to make sound decisions and take appropriate, responsible action.
- **Evacuation** – People with a mobility disability may need assistance leaving a building without a working elevator. People who are blind may not be able to use traditional orientation and navigation methods. A person who is deaf may be trapped and unable to communicate because the only communication device relies on voice. Procedures should be in place to ensure that people with disabilities can evacuate the physical area under different conditions.
- **Emergency transportation** - Accessible transportation may be needed to evacuate people with disabilities. Some communities have used lift-equipped school vehicles to evacuate people who use wheelchairs during floods.
- **Medication, refrigeration, and back-up power** - A reasonable number of shelters should have back-up generators and a way to keep medications in a refrigerator or a cooler with ice. These shelters should be made available on a priority basis to people who require access to electricity and refrigeration, for example, for using life-sustaining medical devices, providing power to motorized wheelchairs, and preserving medications.

- **Locations of accessible emergency shelters** and other shelters with specific features - The public should be notified about the location of these shelters. Emergency personnel need lists of where they are and information should be easily found on websites.
- **Service animals** - People with disabilities who use service animals should not be separated from their service animals, even if pets are not permitted. Service animals are the responsibility of their handlers who must keep them under control at all times.
- **Access to information** - Communication must be accessible for people who are deaf or hard of hearing. Staff and volunteers should be trained on basic ways to provide accessible communication, including exchanging notes or posting written announcements to go with spoken announcements. Staff and volunteers should read printed information, upon request, to people who are blind or who have low vision.

## **Appendix 5f**

### **Elements of Contract Policies**

## Elements of contract language to ensure ADA compliance

**Leased buildings.** Public entities are encouraged, but not required, to lease accessible space. Although a public entity is not required to lease accessible space, once it occupies a facility, it must provide access to all of the programs conducted in that space. Thus, the more accessible the space is to begin with, the easier and less costly it will be later on to make programs available to individuals with disabilities and to provide reasonable accommodations for employees who may need them. Responsibility for making the facility accessible should be clearly identified in the lease agreement and can be shared by lessor and lessee (BREC).

**Rental agreements** ADA language is needed to ensure that contractors or any outside entities, renting facilities from BREC, abide by ADA Title II obligations. This is important because it protects BREC from potential violations perpetrated by its renters and assigns responsibility for paying any requests of Alternative Formats.

### AMERICANS WITH DISABILITIES ACT (ADA)

User understands and agrees that they will be required to ensure compliance with ADA Title II. User agrees to pay for services required to meet the needs of persons with hearing disabilities such as Sign Language Interpreters or Captioning Services. Interpreter and Caption requests should be made through the \_\_\_\_\_ Office or BREC at least 10 days in advance of the scheduled event. In the event of short notice, BREC will make reasonable effort to provide User with the requested service. This requirement applies to other Alternative Format requests such as Braille, and Large Print.

**Third-party vendors and subcontractors** providing services on behalf of BREC agree to ensure compliance with ADA Title II obligations and ensure non-discrimination to persons with disabilities in the provision of their services. This is important because it protects BREC from potential violations perpetrated by its contractors/vendors. This policy includes responsibility for the purchases of items or services with accessibility as a major component.

## **Appendix 5g**

### **Elements of Volunteer Applications**

## **Elements to Volunteer Application Forms**

Include the following statement in volunteer application forms.

BREC is an Equal Opportunity Employer. In accordance with Americans with Disabilities Act, BREC will consider reasonable accommodation for volunteers, if requested.

Train appropriate staff assisting volunteers on possible reasonable accommodations to include resources for providing alternative formats such as Sign Language Interpreters and Large Print.

## **Appendix 5h**

### **Elements of Service Animal Policy**

# BREC

Subject: Service and Assistance Animals Policy

Effective Date:

Responsible Departments: \_\_\_\_\_

## I. Policy

The BREC policy welcoming persons with disabilities into all its public programs, activities, services, buildings and facilities is derived from the ADA (Americans with Disabilities Act). This policy provides guidance regarding BREC's responsibilities towards individuals with disabilities who rely on service or other assistance animals for disability-related support while participating in BREC programs, activities, and services.

Except as modified in Section V., below, individuals with disabilities have the right to be accompanied by their service or other assistance animal, as defined in IV, below, when participating in BREC programs, activities, and services, and in all BREC buildings and facilities open to the public, owned or leased, including buildings and facilities managed by third parties containing BREC-sponsored programs. Additionally, persons who are licensed or otherwise authorized to train service animals are allowed access to BREC programs, activities, and services, and in all BREC buildings and facilities open to the public, owned or leased, including buildings and facilities managed by third parties containing BREC-sponsored programs.

Under no circumstances will individuals with disabilities or service animal trainers be assessed a surcharge, deposit, or other fee when taking the measures required by this policy. Individuals with disabilities or service animal trainers can be held liable for any damage done to BREC buildings or facilities caused by the service or assistance animal, and the animal may be excluded if it cannot be controlled by the handler or is not housebroken. At all times the handler is responsible for the care and supervision of the service animal, service animal in training, or assistance animal.

All Departments shall ensure that procedures are in place to successfully implement this Policy throughout its locations, programs, activities, and services, and that contractors, grantees, and staff are provided training and technical assistance as needed.

## II. Responsible Parties

A. The BREC ADA Coordinator or his/her designee is responsible for enforcement of this Policy throughout all BREC programs, activities, services, and in all of the BREC's leased or owned buildings and facilities open to the public. The ADA Department is responsible for investigating complaints, providing technical assistance and training support to Departmental Coordinators and other staff, contractors, and grantees in implementing this Policy, and updating this Policy, as may be needed.

B. Departmental Coordinators are responsible for understanding the application of this Policy to their set of programs, activities, services, buildings, and facilities, including departmental contractors and grantees, and seeking technical assistance and training, as needed for successful implementation.

C. ADA Department is responsible for updating and publishing its policies and practices for accommodating volunteers and patrons with disabilities who are accompanied by their service animals, and licensed or otherwise authorized trainers accompanied by their service animals in training, at BREC facilities or events in accordance with this general policy, and making reasonable modifications to its programs, activities, and services as needed.

### III. Background

The ADA, sets forth the general requirements for all BREC programs, activities, and services for compliance and related laws protecting the rights of individuals with disabilities to full and equal access to state and local government services. This policy consolidates the BREC's obligations under the ADA, with respect to the treatment of service or assistance animals accompanying persons with disabilities. This Policy is intended to provide additional direction with regard to making accommodations for individuals with disabilities who must rely on service or assistance animals in order to be able to access BREC programs, activities, or services. This Policy also describes the right of service animal trainers to access BREC programs, activities, and services.

### IV. Definitions

A. Service Animal: means any dog, or when circumstances permit, miniature horses, that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether trained or untrained, are not service animals. The work or tasks must be directly related to the individual's disability. Crime deterrence, emotional support, or companionship does not constitute work or tasks under this definition.

B. Service Animal in Training: means any dog that is being individually trained to the requirements of an individual with a disability.

C. Assistance Animal: means any animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals are not subject to training requirements, but may include animals that meet the service animal definition above.

D. Reasonable Modification: means a change, exception, or adjustment to policies, practices, or procedures that may be necessary for a person with a disability to participate in a BREC program, activity, or service.

E. Fundamental Alteration: is a change that is so significant that it alters the essential nature of the goods, services, facilities, privileges, advantages, or accommodations offered.

F. Direct Threat: means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids and services.

## V. Procedures

### A. Access to BREC Programs, Activities, and Services

In general, service animals (dogs, or when circumstances permit, miniature horses) and service animals in training (dogs only) are permitted to accompany individuals with disabilities or their licensed or otherwise authorized trainer into BREC leased and owned buildings and facilities, and when participating in BREC programs, activities, and services, including those administered by third parties.

### B. Verifying a Service Animal, Service Animal in Training, or Assistance Animal

If it is not readily apparent that an animal is a service animal, service animal in training, or assistance animal, staff may take the following measures in order to verify whether the animal meets the applicable definitions set forth in Section IV, above.

1. General Programs. In general program settings, BREC is required to allow access to service animals that are dogs, or when circumstances permit, miniature horses, which are individually trained to perform work or a task for the benefit of a person with a disability. Staff may ask the following questions:

a. Is your dog (or miniature horse) required due to disability?

b. What work or task has your dog (or miniature horse) been trained to perform?

If there is a concern about whether a particular facility can in fact accommodate a miniature horse, staff may additionally assess the type, size, weight, level of handler control, whether the horse is housebroken, and whether there are legitimate safety requirements that would be impacted by the horse's presence at the facility. Staff is not permitted to ask about the nature of the individual's disability, or seek documentation such as certification, a license, or other proof that the dog or miniature horse is a service animal.

BREC only permits service animals in training that are dogs to accompany their licensed or otherwise authorized trainers while participating in its programs, activities, and services. Staff may request that the trainer produce a tag to prove that the dog is a service animal in training.

### C. Grounds for Exclusion

Every reasonable effort should be made to allow an individual accompanied by a service or assistance animal as defined in this policy to participate in BREC programs, activities, and services. Efforts shall include reasonably modifying policies, practices, and procedures to avoid conflicts between the presence of a service or assistance animal, and the overall purpose and benefits of the program. Allergies, or fear of animals among other program participants will not generally be grounds for the exclusion of a service or

assistance animal. Staff may make program modifications to mitigate the impact on other program participants due to the presence of the animal.

1. Lack of Control. A service animal or service animal in training generally may be excluded from accessing BREC programs, activities, services, buildings, and facilities when the handler is unable to exercise control of the animal, or if the animal is not housebroken. There is no requirement that the service animal be leashed as long as the animal is otherwise under the handler's control. The individual with a disability must be permitted to participate in the service, program, or activity without the service animal on the premises.
2. Fundamental Alteration. A service or assistance animal, or service animal in training, may be excluded from a BREC program, activity, or service if its presence would fundamentally alter the nature of the program, activity, or service. Such circumstances should be rare, and always individually assessed, but might include situations when the presence of the animal may affect the safety or welfare of other animals, such as an adoption event hosted by an animal services program.
3. Direct Threat. As stated above, a service or assistance animal or service animal in training must be under the control of the handler at all times. Before excluding a service or assistance animal or service animal in training based on direct threat, staff must make an individualized assessment, based on reasonable judgment that relies on the best available objective evidence, of the nature, duration, and severity of the risk of injury, the probability that injury will in fact occur, and whether modifications or the provision of auxiliary aids or services may mitigate the perceived risk. Stereotypes about particular species or breeds cannot form the basis of a finding of direct threat. Any decision to exclude an alleged service animal, service animal in training, or assistance animal from a BREC program, activity, or service must be made in writing by the Department Head or his/her designee.

## **SAMPLE SERVICE ANIMAL ACCESS POLICY- BREC ZOO**

BREC Zoo at welcomes visitors with disabilities and their service animals, subject to these guidelines. The Zoo has crafted a service animal access policy that complies with federal and state laws. The Zoo's Policy balances the Zoo's desire for giving visitors the most access possible with the Zoo's responsibility for maintaining the safety of its animal collection.

**Service Animals:** The Zoo adopts the definition of "service animal" that appears in the Americans with Disabilities Act (ADA): a dog that has been individually trained to do work or perform tasks for the benefit of individuals with disabilities. Miniature horses and pets are **not** allowed in the Zoo.

**Controlling Service Animals:** Please note that if a service animal is out of control and cannot or will not be controlled by its owner or if it is not housebroken, the Zoo staff will require that the service animal leave Zoo premises. Service animals must generally be on a leash, harness, or other tether that does not exceed four (4') feet in length. Exceptions are made if the tether restricts the service animal's function or if the visitor's disability makes such unworkable. If the service animal is not tethered, the visitor must be able to otherwise control the animal.

**Accommodations without Animals:** If an animal is not admitted, or if a service animal is required to leave Zoo premises, the Zoo staff will make reasonable efforts to allow the visitor to enjoy and experience the Zoo in the absence of such animals. Please note that the Zoo does not provide on-site kennel services.

**Sensitive or Off-limits Areas:** In order to safely protect the Zoo collection, certain areas of the Zoo are off-limits to service animals. Such off-limit areas may include new exhibits, exhibits with animals that are especially vulnerable or sensitive to other predator species, interactive animal areas, the exotic cat exhibits (including snow leopards, lions, tigers, and servals), exhibits with females with offspring, or animals acclimating to a new environment.

Because sensitive or off-limits areas can change frequently, the Zoo requires that visitors intending on using service animals in the Zoo check in with Zoo staff at the ticketing booth each time they visit. Zoo staff will inform visitors of any sensitive or off-limits areas.

**If a Zoo animal is agitated by the presence of the service animal, or vice versa, visitors should leave the area immediately.**

**Current off-limit areas are as follows:**

Exhibit Reason Exhibit is Off-limits

Exotic cats' exhibits (snow leopards, Susceptibility to canine distemper (CDV) lions, tiger, and servals) If there are questions about the Zoo's Service Animal Access Policy, please contact a member of the Zoo staff or call the BREC ADA Coordinator at (contact info).

## **Appendix 5i**

### **Sample Grievance Form**

## BREC – ADA Grievance Form

Complainant: \_\_\_\_\_

Person Preparing Complaint (if different from Complainant): \_\_\_\_\_

Relationship to Complainant (if different from Complainant): \_\_\_\_\_

Street Address & Apt. No.: \_\_\_\_\_

City / State / Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Please provide a complete description of the specific complaint / grievance:

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Please specify any location(s) related to the complaint or grievance (address or name of facility):

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Please state what you think should be done to resolve the complaint or grievance:

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Please attach additional pages as needed.

Signature & Date:

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Return to BREC ADA Coordinator

Upon request, reasonable accommodation will be provided in completing this form, or copies of the form will be provided in alternate formats. Contact the ADA Coordinator at the address above, via telephone 225-272-9200 or email: RRichard@brec.org