



PA TURNPIKE COMMISSION POLICY

This is a statement of official Pennsylvania Turnpike Policy

NUMBER: 2.01

APPROVAL DATE: 08-14-2012

EFFECTIVE DATE: 08-29-2012

REVISED DATE: 08-21-2013

POLICY SUBJECT:

Americans with Disabilities
Amendments Act

RESPONSIBLE DEPARTMENT:

Office of Diversity and Inclusion

A. PURPOSE:

Title 1 of the Americans with Disabilities Act of 1990 (ADA), as amended by the Americans with Disabilities Act Amendment Act (ADAAA), makes it illegal to discriminate against a qualified person with a disability. Employers are required to reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless otherwise doing so would impose an undue hardship on the operation of the employer's business. It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on disability.

In accordance with Title I, this policy is issued to reaffirm the policy and procedure(s) of the Pennsylvania Turnpike Commission (also referred to as the "Commission") on the issue of the ADAAA and to inform all personnel of their duties and responsibilities with regard to this subject.

B. SCOPE:

This policy letter applies to all job applicants and all employees of the Commission, at every level. It provides information and guidelines relating to the Commission's policy on ADAAA requests for reasonable accommodation and procedures for reporting and handling complaints of violations of the policy.

C. GENERAL POLICY:

The ADAAA prohibits discrimination in all aspects of employment against a qualified individual with a disability who can perform the essential functions of the job, with or without reasonable accommodation. The ADAAA also prohibits employers from retaliating against an applicant or employee for asserting his/her rights under the ADAAA.

Discrimination based upon disability is prohibited by both state and federal law and is also prohibited by the Pennsylvania Turnpike Commission's Equal Opportunity Policy. The Commission will make every practical effort to provide reasonable accommodation whenever

necessary for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential functions of the job and provided that any accommodation made does not present an undue hardship to the Commission. Generally, it is the obligation of the employee or applicant with a disability to request a reasonable accommodation or to indicate that s/he has a disability that is preventing him or her from accomplishing the essential functions of the job. Upon request, the Office of Diversity and Inclusion will work with the employee or job applicant to identify: (1) whether the employee/job applicant is a qualified individual with a disability and (2) whether a reasonable accommodation may be available to assist the employee/job applicant to perform the essential functions of the job.

The Commission's policy of nondiscrimination applies to all personnel and employment practices including:

1. Hiring, recruitment or recruitment advertising
2. Training
3. Promotion or transfer
4. Compensation
5. Layoff or termination
6. Disciplinary action
7. Evaluations
8. Medical exams
9. Leave
10. Benefits
11. Relationship or association with a disabled person

It is also a violation of Commission policy for any employee to subject customers or visitors to Commission facilities to discrimination based upon disability.

D. DEFINITIONS:

1. A "qualified individual with a disability" refers to an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
2. The terms "essential functions" refers to the fundamental job duties of the employment position that the individual with a disability holds or desires. This term does not include marginal functions of the position.
3. The term "disability" refers to a physical or mental impairment that substantially limits one or more major life activities of an individual, a record of such impairment, or being regarded as having such an impairment. Individuals covered only under the "regarded as" prong are not entitled to reasonable accommodation if no actual disability exists.

4. The determination of whether a person has an ADAAA disability will not take into consideration whether the person is substantially limited in a major life activity when using a mitigating measure other than “ordinary eyeglasses or contact lenses”.

5. Major life activities may include, but are not limited to, such functions as caring for oneself, performing manual tasks, walking, seeing, hearing, eating, sleeping, speaking, breathing, learning, reading, bending, communicating, thinking, sitting, reaching, interacting with others, and major bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal, special sense organs and skin, genitourinary, cardio vascular systems, and reproductive functions.

6. The term “substantially limits” refers to an impairment that prohibits or significantly restricts an individual’s ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

7. “Undue hardship” refers to an action requiring significant difficulty or expense, when considered in the light of factors set forth by the ADAAA.

E. PROCEDURES:

1. Any employee, including but not limited to a manager, supervisor, or chief/director, who acts in violation of this policy shall be subject to discipline up to and including suspension or termination.

2. Supervisory personnel have the responsibility to insure that this policy is adhered to and shall take whatever action is necessary to insure that none of their subordinates engage in prohibited behavior.

3. Any employee who feels that he or she has been harassed or discriminated against based on his or her disability is encouraged to keep a record of the employee(s) involved; the time, date and place of the incident(s); the nature of the alleged harassment or discrimination; and the identity of any witness(es).

4. Any employee who feels that he or she has been harassed or discriminated against based on disability, including but not limited to the conduct detailed in this policy, should immediately bring the problem to the attention of his or her immediate supervisor. An employee may also report the problem directly to the Office of Diversity and Inclusion.

5. Supervisory personnel will take all steps necessary to insure that all alleged harassing or discriminatory behavior is addressed in a timely and confidential manner when such behavior is brought to their attention, either officially or unofficially.

6. All complaints will be investigated in a timely and confidential manner. In no event will information concerning a complaint be released to a third party (except as required by the

Pennsylvania Human Relations Commission, Equal Employment Opportunity Commission or as otherwise required by law) with the following exceptions:

- i. Appropriate supervisors and managers may be informed regarding restrictions on the work or duties of disabled employees and any accommodations that have been made.
- ii. If the condition requires emergency treatment, first aid and safety personnel may be informed.

The Commission will use its best efforts to prevent discussion of the information outside the investigation and will instruct parties involved in the investigation not to discuss the matter except when necessary.

7. Investigation of a complaint will normally include conferring with the parties involved and any named or apparent witness(es). Employees shall be guaranteed a fair and impartial investigation. All employees shall be protected from coercion, intimidation, retaliation, interference or discrimination for filing a complaint or assisting in an investigation.

8. If the investigation results in sufficient evidence to substantiate a complaint, the Commission will address the policy violation in a timely manner and will take appropriate disciplinary action necessary to prevent a recurrence, up to and including suspension or termination.

9. If the employee who complains of harassment or discrimination is not satisfied with the response from his or her immediate supervisor, or if that supervisor is perceived to be involved in the harassing or discriminatory behavior, the employee should bring the matter to the attention of the person who is next in line in the chain of command or to the Office of Diversity and Inclusion which will promptly investigate all complaints as set forth above.

Complaints may be filed with the Office of Diversity and Inclusion:

The Pennsylvania Turnpike Commission
Office of Diversity and Inclusion
P.O. Box 67676
Harrisburg, Pennsylvania 17106-7676
(717) 939-9551

(Within 90 days of the incident)

The determination of the Office of Diversity and Inclusion shall represent the final decision of the Pennsylvania Turnpike Commission on the issue raised by the employee who complains of harassment or discrimination based on disability.

10. If any employee who complains of harassment or discrimination based on disability is not satisfied with the results or recommendations of the Pennsylvania Turnpike Commission's internal findings, he or she may forward the complaint to the agencies listed below:

PA Human Relations Commission: (www.phrc.state.pa)

Harrisburg Regional Office
333 Market Street
Harrisburg, PA 17126-0333
(717) 787-9780 (Voice)
(717) 787-7279 (TTY)

Office Pittsburgh Regional Office
301 Fifth Avenue
Suite 390, Piatt Place
Pittsburgh, Pennsylvania 15222
(412) 565-5395 (Voice)
(412) 565-5711 (TTY)

Philadelphia Regional Office
110 North 8th Street
Suite 501
Philadelphia, Pennsylvania 19107
(215) 560-2496 (Voice)
(215) 560-3599 (TTY)

(Within 180 days of incident)

Equal Employment Opportunity Commission:

Philadelphia District Office
801 Market Street
Suite 1300
Philadelphia, PA 19107-3127
(800) 669-4000 (Voice)
(800) 669-6820 (TTY)

Pittsburgh Area Office
1000 Liberty Avenue
Suite 1112
Pittsburgh, PA 15222-4187
(800) 669-4000 (Voice)
(412) 395-5904 (TTY)

(Within 300 days of incident)

This Policy Letter supersedes all previous Policy Letters on this subject.