ADMINISTRATIVE REGULATION

No. 418
Effective Date: 04/1/93
Revised: 03/05/96

SUBJECT: Community Requests, Complaints and Grievances with Respect to the Americans With Disability Act (ADA)

Purpose

To set forth procedures to comply with the Americans With disabilities Act (ADA) of 1990, relating to all non-employment aspects of public service responsibility.

Authority

The ADA, in conjunction with the Department of Justice’s State and Local Services Regulation. This Administrative Regulation shall be applied in a manner consistent with the ADA and applicable federal regulations.

Application

This regulation applies to

1) All services and facilities provided to the community by or through the City, except for those relating to City employment.

2) All services and facilities provided to the community by persons or businesses licensed, regulated or permitted by the City.

Definition of Disability

“Disability” with respect to an individual is (1) a physical or mental impairment that substantially limits one or more major life activities; or (2) having a record of such an impairment; or (3) being regarded as having such an impairment.

Policy

Discrimination against a qualified individual or class of individuals is not condoned and is prohibited by federal law.

All complaints of discrimination on the basis of disability shall be investigated, and written responses prepared within 45 days of receipt of the complaint in accordance with the complaint procedures section of this regulation.
Where evidence of discriminatory policies or practices exist, responsible staff shall develop a course of action to rectify the situation.

Prohibitions

A. General ADA Requirements prohibit discrimination against persons on the basis of disability. These prohibitions extend to:
   a) Denial of opportunities to participate in or benefit from aid, services, programs or activities of the City.
   b) Exclusion or discrimination resulting from contractual, licensing or other arrangements.
   c) Provision of aids, benefits, or services to individuals with disabilities that are different that those provided to others unless such difference is necessary to provide qualified individuals with aids, benefits, or services that are as effective as those provided to others.
   d) Provision of significant assistance to any agency, organization, or person that discriminates on the basis or disability to beneficiaries of the public entity’s program.
   e) Exclusion to participation as a member of planning or advisory boards.
   f) Use of sites or locations that have the effect of excluding individuals with disabilities.
   g) Use of procurement selection procedures that subject qualified individuals with disabilities to discrimination on the basis of disability.
   h) Use of licensing or certification programs or criteria, that subject qualified individuals with disabilities to discrimination on the basis of disability.
   i) Failure to make reasonable modifications in policies, practices, or procedures necessary to avoid discrimination on the basis of disability, unless such modification would fundamentally alter the nature of the service, program, or activity.
   j) Surcharges on a particular individual with a disability or any group of individuals with disabilities to covert the costs of measures, such as the provision of auxiliary aids or other methods of program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment.
   k) Excluding or otherwise denying equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.
With respect to ADA, the baseline of comparison for ensuring accessibility of services to persons with disabilities is the service levels afforded to non-disabled persons. When viewed in their entirety, City programs should strive to provide equal or better degrees of services to disabled persons in comparison to members of the City on the whole. Programs and services designed to provide reasonable accommodations for a disability category must provide equitable service levels for the entire category or sub-category category of disability (i.e., mobility impaired-wheelchair; mobility impaired-ambulatory; vision impaired; hearing impaired; etc.).

Nothing in this regulation shall prohibit the City from developing programs to target service needs of non-disabled special populations, so long as disabled persons within the special population are addressed in a manner equitable to that of the rest of the special population, or to the rest of the population with similar disabilities, whichever provides the most appropriate accommodation.

The City is not required to provide an accommodation that imposes an “undue hardship” on the organization. Undue hardship includes: a significant difficulty or expense, financial difficulty, or a practice that is extensive, substantial or disruptive to the organization.

Where evidence of discriminatory policies or practices exist, responsible staff shall develop a course of action to resolve the matter.

**Investigating and Processing Complaints**

**A. INFORMAL COMPLAINTS AND REQUESTS**

Community members are encouraged to report issues relating to disability access or alleged discrimination directly to the appropriate division managers. The division Manager will investigate informal complaints and provide a response to the complainant.

1) The process will include:

   a) Consult with the complainant to determine the nature of the complaint and to explore possible remedies and accommodations.

   b) Analyze the situation and determine the barriers to equal opportunity or access.

   c) Assess the effectiveness of potential accommodations and their impacts on City or business operations and budget.
d) Provide a recommendation to

1) the appropriate Department Director regarding City provided services and facilities, or

2) the complainant and alleged violator for private business services and facilities.

e) Inform the ADA Coordinator (City Coordinator for ADA) of the informal complaint/request and the recommended resolution.

B. FORMAL COMPLAINT PROCEDURES

Formal ADA complaints against a business, which indicate a violation of City ordinances or processes, shall be investigated and acted upon as set forth by ordinance, general operating procedures of the division, or administrative process. All other formal complaints against businesses licensed, regulated or permitted by the City, shall be referred to the City’s Disabilities Specialist, who can determine the appropriate authorities or agencies for assistance.

Any member of the public who desires to make a formal complaint against the City on the basis of disability access may file a written “Disability Access Complaint Form” within three months of the incident.

A formal complaint shall include:

- A description of the behavior, situation, or impediment to accessibility;
- Name, address and telephone number of complainant;
- Date(s), time(s) and locations(s) of incident(s);
- Name(s) of alleged offender(s), if applicable; and,
- Name(s) of witnesses, if any.

1) All disability discrimination complaints file under this regulation shall be submitted to the City Clerk and shall remain confidential.

2) The City Clerk shall log, number and distribute the complaint to the ADA Coordinator in a sealed envelope. The ADA Coordinator shall be the individual responsible for ensuring that each complaint is investigated. A copy of the complaint shall be forwarded to the appropriate Department Director, Division Manager, and the Disability Specialist.

3) Upon receipt of a complaint, the Division Manager shall investigate all issues through (a) interviews with the complainant; (b) interviews with the person(s) allegedly engaged in discrimination and (c) site inspections, as applicable.
Staff shall honor the complainant’s wishes regarding the degree of confidentiality to be utilized in the investigation of the incident or situation.
4) The Division Manager shall then prepare a written report setting forth the results of the investigation and a determination as to whether a discriminatory practice exist. If it is determined that a discriminatory practice or situation exists, the Division Manager shall identify a remedy and implementation timeline.

The results of the investigation shall be attached to the complaint and conveyed to appropriate persons including to the complainant, the person(s) allegedly engaged in discrimination, the Department Director, the ADA Coordinator, the city’s Disability Specialist, and the City Clerk.

5) In the event that the complainant disagrees or does not accept the proposed remedy, the City’s Disability Specialist shall be notified and shall act as a mediator to resolve such disagreements. Agreements reached between the Disability Specialist and the complainant shall be signed by the appropriate Division Manager and the complainant and filed with the City Clerk and the ADA Coordinator.

6) If, after a reasonable period of time, the Disability Specialist determines that no agreement can be reached, the ADA Coordinator shall be notified and shall make a final attempt to resolve the issue. If no accommodation is acceptable to the complainant, the ADA Coordinator shall draft a letter of notification to the complainant and file a copy with the City Clerk.
 ATTACHMENT A

CITY OF WEST HOLLYWOOD
Disability Access Complaint Form

(please print clearly)

Staff receiving complaint: ___________________________ Date: ______________ Time: ________

Name of Complainant: __________________________________________________________

Address/Phone: _______________________________________________________________

____________________________________________________________________________

NATURE OF COMPLAINT:

____________________________________

Date(s) of alleged discriminatory acts(s): _______________________________________

Name of City Department and Division (if known): __________________________________

Name of responsible City employee (if known): ______________________________________

Nature of discrimination: _______________________________________________________

____________________________________________________________________________

Witnesses? Names/Phones: ______________________________________________________

____________________________________________________________________________

Written documentation: _________________________________________________________

____________________________________________________________________________

(please use additional space on back if needed)