




POLICY AND PROCEDURE

Subject: Americans with Disabilities Act: Grievance Procedure	Index: Health, Safety & Welfare Number: 401-2
Effective Date: May 15, 2023	Prepared By: Finance & Administrative Services
Supersedes: November 15, 2017	Approved By: 

1.0 PURPOSE:

To comply with Americans with Disabilities Act, Title 28, Code of Federal Regulations part 35.107, establishes a procedure that provides for a public complaint process, which encourages prompt and equitable resolution of complaints alleging any action that would be prohibited by ADA.

2.0 ORGANIZATIONS AFFECTED:

All Departments

3.0 REFERENCES:

American with Disabilities Act of 1990
Code of Federal Regulations, Part 35 107

4.0 POLICY:

4.1 Confidentiality

The ADA Coordinator maintains confidentiality with regard to complaints, consultations and mediations, unless disclosure is notwithstanding the requirements of litigation and court proceedings. If the disclosure of information to another person is necessary to proceed with an investigation, the complainant will be advised first and consulted on whether and/or how to proceed.

4.2 Retaliation

Retaliation against a person who files a complaint of discrimination or harassment, participates in an investigation of such a complaint, or opposes an unlawful employment practice is prohibited by Federal and State law and Agency policy. Anyone who believes she or he has been retaliated against for filing a complaint of discrimination or harassment is encouraged to report the retaliatory actions to the ADA Coordinator.

5.0 DEFINITIONS:

- 5.1 ADA: Americans with Disability Act of 1990
- 5.2 ADA Coordinator: Employee designated to coordinate the City's efforts to comply with and fulfill its responsibilities under ADA, including the investigation of complaints.
- 5.3 CFR: Code of Federal Regulations.
- 5.4 TDD: Telecommunications Device for the Deaf.

6.0 PROCEDURE:

- 6.1 This procedure shall be liberally construed to protect the substantial rights of interested persons, to meet appropriate due process standards, and to assure compliance with the ADA. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City.
- 6.2 The complaint should be in writing and contain information about the alleged discrimination, such as the name, address, and phone number of the complainant, and location, date, and description of the problem. Alternative means of filing a complaint, such as a personal interview, use of a TDD, or a tape recording of the complaint, will be made available for persons with disabilities upon request.
- 6.3 The complaint should be submitted by the grievant and/or his/her designee as soon as possible, **but no later than 60 calendar days after the alleged violation** to:

ADA Coordinator
Robert Ferguson, Building Official
City of San Clemente
910 Calle Negocio
San Clemente, CA 92673

- 6.4 Within 15 calendar days after receipt of the complaint, the ADA Coordinator or designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or designee will respond in writing, and where appropriate, in format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the City and offer options for substantive resolution of the complaint.
- 6.5 If the response by the ADA Coordinator or designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the City Manager or designee. Within 15 calendar days after receipt of the appeal, the City Manager or designee will meet with the complainant to discuss the complaint and possible

resolutions. Within 15 calendar days after the meeting, the City Manager or designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

- 6.6 All written complaints received by the ADA Coordinator or designee, appeals to the City Manager or designee, and responses from both will be retained by the Agency for three years.