

CITY OF GRISWOLD

General Policy/Procedure

Americans with Disabilities Act Compliance

Section 504 of the Rehabilitation Act Compliance

ADOPTION DATE: October 10, 2011

RESOLUTION NUMBER: 7-2012

REVIEW PERIOD: This policy is to be reviewed every three years or as needed.

STATEMENT OF POLICY

The City of Griswold is in compliance with Section 504 of the Rehabilitation Act of 1973 in that physical facilities, and programs, services and activities of the City government are accessible to members of the public, including qualified individuals with disabilities.

APPLICABILITY

This policy applies to the City of Griswold.

DEFINITIONS

Qualified Individual with a Disability- An individual with a disability who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided to the public by the City, with or without reasonable modifications to rules, policies, or practices, the removal of architectural or communication barriers, or the provision of auxiliary aids and services (Section 504 of the Rehabilitation Act of 1973, as amended, 42 U.S.C. Section 12131 et seq., 28 CFR Part 35, the Americans with Disabilities Act of 1990, and RCW 49.60)

Barrier-Free Design- Design that gives users the opportunity for movement without restriction. By using principles of barrier-free design, people with disabilities will be able to participate fully and avail themselves equally of the opportunities to benefit from the City programs and services.

Usability- Within facilities constructed prior to the passage of the ADA, some architectural elements may not meet current codes and requirements for accessibility. If a barrier to access by people with disabilities does not result, the facility is usable and complies with this policy. In other cases, though requirements of the applicable laws, codes, and regulations have been met, a barrier may exist to a qualified individual with a disability. In such cases, it may be necessary to modify the element in the facility to make the facility usable by qualified individuals with disabilities providing that such change and/or alteration does not result in an undue financial burden.

Overall Program Accessibility- the ADA requires that programs as a whole be accessible to people with disabilities, and requires the City to account how the program's elements work together as a whole and how services are delivered.

Self-Evaluation- The evaluation of policies, practices, and physical facilities to identify potential barriers to accessibility and corrective actions to reduce or eliminate those barriers.

Disability Transition Plan for Physical Facilities- A written plan which outlines identified physical barriers and a schedule of activities to remove those barriers and improve program accessibility. By definition, a transition plan must do the following:

- Identify physical barriers that limit accessibility to City programs, activities or services;
- Outline of the methods which will be used to remove the barriers and make the facility more accessible;
- The schedule for the necessary steps to achieve improved compliance; and
- The name of the management staff responsible for the plan's implementation.

POLICY AND PROCEDURE

In accordance with Title II of the ADA and its implementing regulations, Section 504, (collectively called the "disability non-discrimination laws"), no qualified individual with a disability shall, on the basis of such a disability, be subjected to discrimination or be excluded from participation in, or denied the benefits of the services, programs, activities or physical facilities which the City provides to the public.

To the extent feasible, the City shall comply with the provisions of the disability non-discrimination laws regarding access applicable to programs, activities, services, and physical facilities.

To the extent feasible, the City will ensure that physical facilities are usable by qualified individuals with disabilities. Where physical facilities cannot be made usable, overall program accessibility must be ensured.

Physical facilities owned by the City shall comply with the applicable regulations on barrier-free design and physical accessibility. The City will seek to lease space that complies with the applicable regulations on barrier-free design and physical accessibility. The construction and renovation of City facilities shall comply with applicable regulations on barrier-free design and physical accessibility.

Public meetings will be held at accessible locations and in such a manner that qualified, people with disabilities are able to fully participate.

Qualified people with disabilities shall not be discriminated against in participation on boards, commissions, or on advisory and planning committees.

City offices and programs shall be accessible to users of TTYs (teletypewriters).

Individuals with disabilities accompanied by service animals will be afforded access to all City facilities, programs, services, and activities as are open to other members.

The City Administrator is responsible for ensuring the City's compliance with disability non-discrimination laws regarding access. Under the law, the City is required to have at least one designated ADA coordinator. The City Administrator is the designated ADA Coordinator(s) to facilitate the City's efforts to comply with disability non-discrimination laws regarding access.

Department heads and officials shall cooperate with the City Administrator to ensure compliance with the requirements of disability non-discrimination laws regarding access, and with this policy and related procedures. Compliance-related activities include documenting:

- Disability accessibility accommodations made within departments;
- Participation in the evaluation of programs, services, activities, and physical facilities to identify potential barriers to accessibility;
- The preparation of necessary Disability Corrective Action Plans and/or Disability Transition Plans; and
- The coordination of budget approval to implement such plans.

The City Attorney will provide technical assistance to City personnel on disability access issues.

The City Administrator shall establish and implement internal grievance procedures to receive and resolve grievances from the public alleging non-compliance with disability non-discrimination laws regarding access. The City Administrator will serve as the initial point of appeal regarding ADA grievances. The City Administrator shall develop such other policies and procedures necessary to improve accessibility of programs, services, activities, and physical facilities of the City government.

ADA GRIEVANCES – COMPLAINT PROCEDURE.

The grievance procedure shall address concerns regarding Title II of the ADA and Section 504 of the Rehabilitation Act of 1973, as it applies to the City of Griswold department programs, services and activities.

Complaints shall be addressed to the City Administrator, and may be filed in writing or verbally. It shall contain the name and address of the person filing the complaint, and briefly describe the alleged violation of the regulations. A complaint shall be filed within seven days after the complainant becomes aware of the alleged violation.

An investigation, as may be appropriate, shall follow the filing of a complaint. The investigation will be conducted by the City Administrator. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint. A written determination as to the validity of the complaint and a description of resolution, if any, shall be issued by the City Administrator and a copy forwarded to the complainant no later than 15 working days after its filing. If any discrimination on the basis of handicap is discovered, the City will undertake action to correct the situation.

The ADA Coordinator shall maintain the files and records of the City relating to the complaints filed. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration shall be made within seven days to the City Administrator. A committee of three individuals, including the City Administrator or his or her designee, the City Attorney or his or her designee and a City Council member will process all appeals and issue their determination no later than 30 days after submission.

The right of a person to a prompt and equitable resolution of a complaint filed hereunder shall not be impaired by the person's pursuit of other remedies, such as the filing of a complaint with the Department of Justice or any other appropriate Federal agency. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.

These procedures shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the City complies with the ADA and regulations of the Department of Justice, the Equal Employment Opportunity Commission and any other Federal agency charged with promulgating regulations or monitoring compliance with the ADA.

All written complaints received by the City of Griswold, appeals, and responses will be kept by the City Clerk for at least five years.

504 COMPLIANCE – FEDERAL GRANTS

The objective of Section 504 of the Rehabilitation Act of 1973 is to ensure that entities receiving federal funding or grants do not discriminate against persons with disabilities. Some City departments receive federal funding in support of specific programs, services and activities administered by those departments.

24 CFR PART 8 – SECTION 504 - "No otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."

SECTION 504 - RECIPIENT DEFINED

Regulations define "recipient" as any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. An entity or person receiving housing assistance payments from a recipient on behalf of eligible families under a housing assistance payments program or a voucher program is not a recipient or sub-recipient merely by virtue of receipt of such payments [24 CFR 8.3].

SECTION 504 - COVERAGE

Section 504 covers all programs, services and activities of recipients of federal financial assistance, including, for example:

- Outreach and public contact, including contact with program applicants and participants
- Eligibility criteria
- Application process
- Admission to the program
- Tenancy, including eviction
- Service delivery
- Employment policies and practices

SECTION 504 - PROHIBITIONS AGAINST DISCRIMINATION

Right Guaranteed	Discrimination Prohibition
Opportunity to participate	Denying a qualified individual with disabilities the opportunity to participate in, or benefit from, the housing, aid, benefit, or service
Equality of benefits	Failing to afford a qualified individual with disabilities the opportunity for equal participation and benefit
Equality of opportunity	Failing to provide a qualified individual with disabilities a program or service that affords the same opportunity to benefit as that afforded others
No unnecessary difference or separateness	Providing different or separate housing, or separateness aid, benefits or services on the basis of disability unless providing such is necessary to provide housing or benefits that are as effective as that provided to persons without disabilities
No assistance to entities that discriminate	Providing significant assistance to an discriminate agency, organization or person that discriminates on the basis of disability in any aspect of a federally assisted activity
Opportunity to serve on boards	Denying a qualified individual with disabilities the opportunity to participate as a member of planning or advisory boards
No denial of right to a dwelling	Denying a dwelling to an otherwise qualified buyer or renter because of a disability of that buyer or renter or another prospective tenant
No discriminatory limitation of benefits	Limiting in any other manner a qualified of benefits individual with disabilities in the enjoyment of any right, privilege, advantage, or opportunity afforded to others
Most integrated setting	Providing programs or services to qualified individuals with disabilities in settings that are unnecessarily separate, segregated or restricted

SECTION 504 - CITY OF GRISWOLD RESPONSIBILITIES

To comply with Section 504, City departments receiving federal funding shall:

- Take steps to ensure effective communication with applicants, beneficiaries, and members of the public. [24 CFR 8.6]
- Take steps to ensure that employment activities, including job announcements, recruitment, interviews, hiring, work assignments, promotions and dismissals, do not discriminate on the basis of disability. [24 CFR 8.10 – 8.13]

- Ensure that all non-housing programs are operated in a manner that does not discriminate on the basis of disability and that new construction and alterations of non-housing facilities are made accessible in accordance with applicable standards. [24 CFR 8.21]
- Operate existing housing programs in a manner that does not discriminate on the basis of disability, and take steps, as needed, to ensure that existing housing programs are readily accessible to and usable by persons with disabilities. Develop and implement a transition plan to assure compliance. [24 CFR 8.24]
- Provide reasonable accommodations which may be necessary for a person with a disability to use or participate in the program, service or activity; unless the recipient can demonstrate that the accommodation will result in an undue financial and administrative burden or a fundamental alteration in the nature of the program, service or activity. A reasonable accommodation is an adaptation or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Reasonable accommodations may include, but are not limited to, adjustments or modifications to buildings, facilities, dwellings, and may also include provision of auxiliary aids, such as readers, interpreters, and materials in accessible formats. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- Pay for a reasonable accommodation needed by the individual (e.g., a ramp to a unit) unless providing that accommodation would be an undue financial and administrative burden or a fundamental alteration of the program. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- Ensure that all new construction of non-housing facilities and multi-family housing facilities are readily accessible to and usable by persons with disabilities, and meets the requirements of applicable accessibility standards. [24 CFR 8.21, 8.22 and 8.32]
- Ensure that substantial alterations, when undertaken, meet the requirements for new construction. [24 CFR 8.23(a)] Ensure that all other alterations, to the maximum extent feasible, meet the requirements of the applicable accessibility standards. [24 CFR 8.23(b)]
- Conduct any required needs assessments (for recipients who are public housing agencies) to determine the extent to which the housing needs of persons with disabilities are being met in the recipient's program and in the community. [24 CFR 8.25] Distribute accessible dwelling units throughout projects and sites and make such units available in the same ranges of sizes and amenities to provide housing choices for persons with disabilities that are the same as those provided by others. [24 CFR 8.26]
- Adopt suitable means to ensure persons with disabilities are made aware of the availability of accessible units and to maximize use of accessible units by individuals needing the features of these units. [24 CFR 8.27]
- Conduct any required self-evaluations of programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities, and involve persons with disabilities in these evaluations. [24 CFR 8.51]
- Recipients with 15 or more employees – designate an employee to ensure the recipients' programs, services and activities meet the requirements of Section 504; adopt a grievance procedure to effect due process standards and prompt and equitable resolutions of complaints. [24 CFR 8.53]
- Recipients with 15 or more employees – notify participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. [24 CFR 8.54]

- Maintain records and reports of efforts to meet the requirements of Section 504, and keep these records on file so that they are available if a complaint is filed, or if (a Federal compliance office) conducts a compliance review. [24 CFR 8.55]

SECTION 504 - SUB-RECIPIENT ASSURANCE OF COMPLIANCE

All sub-recipients that have been awarded federal funding by the City to provide a public service will be required to comply with the ADA and Section 504 regulations. Assurance of compliance is documented in the contract with the City and at the on-site monitoring visit.

SECTION 504 - NOTICE TO PARTICIPANTS AND APPLICANTS OF PROGRAM

Where possible, Section 504 Coordinators will distribute and post (or have posted) a notice to applicants and participants, that the program, service or activity is federally funded and must meet the mandates of Section 504 of the Rehabilitation Act of 1973 and the ADA.

SECTION 504 - COMPLAINTS

Persons with disabilities who believe they have been subjected to discrimination prohibited by Section 504 may file a complaint with the City Administrator, U.S. Department of Justice or the U.S. Department of Housing and Urban Development when discrimination in housing is alleged. Any person who believes that a specific class of persons has been subjected to discrimination prohibited by Section 504 and who is a member of that class or who is the authorized representative of a member of that class may file a complaint with the department. [24 CFR 8.26(c)] To file a complaint, contact should be made with the City Law Department, the U.S. Department of Justice 950 Pennsylvania Avenue, NW; Civil Rights Division; Disability Rights - NYAVE, Washington D.C. 20530 or Fair Housing HUD – U.S Department of Housing and Urban Development; Columbus Field Office 200 North High Street, Columbus, OH 43215.

REFERENCES

Americans with Disabilities Act of 1990 (ADA).

Section 504 of the Rehabilitation Act of 1973, as amended (Section 504).

Regulations promulgated under Section 504 include those by the U.S. Departments of Agriculture (7 CFR 156), Education (34 CFR 104), Health and Human Services (45 CFR 84), Justice (28 CFR 42), Interior (43 CFR 17), Housing and Urban Development (24 CFR 8), Labor and Transportation (49 CFR 27) implementing the ADA and Section 504 Requirements.

Applicable laws of the State of Iowa.