

CITY OF SPOKANE ADMINISTRATIVE POLICY AND PROCEDURE	ADMIN 0620-13-64 LGL 2013-0014
TITLE: <b>AMERICANS WITH DISABILITY ACT / SECTION 504 OF THE REHABILITATION ACT OF 1973</b>	
EFFECTIVE DATE: April 1, 1985	
REVISION EFFECTIVE DATE: July 3, 2013	

1.0 GENERAL

1.1 The purpose of this policy is to reaffirm the City of Spokane's policy and practice that physical facilities, programs, services and activities of the City of Spokane government are accessible to members of the public, including qualified individuals with disabilities.

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2.0 DEPARTMENTS/DIVISIONS AFFECTED

- 2.1 American With Disabilities Act (ADA) - All City divisions and departments.
- 2.2 Section 504 of the Rehabilitation Act of 1973 – City departments receiving funding for specified programs, services and activities.
- 2.3 The provisions of this policy do not supersede the provisions of any collective bargaining agreements or Civil Service rules, and when in conflict, the specific terms and conditions of the collective bargaining agreement or Civil Service rules will prevail.

3.0 REFERENCES

Americans with Disabilities Act of 1990 as amended (ADA)  
Section 504 of the Rehabilitation Act of 1973, as amended,  
Chapters 2.42, 49.60 and 70.84 of the Revised Code of Washington (RCW)  
Washington State Building Code: International Building Code as adopted by the  
City of Spokane

Regulations promulgated under Section 504 include those by the U.S. Departments of Agriculture (7 CFR 15.3), Education (34 CFR 104), Health and Human Services (45 CFR 84), Justice (28 CFR 41 and 42), Interior (43 CFR 17), Housing and Urban Development (24 CFR 8), Labor 29 CFR 32), and Transportation (49 CFR 27) implementing the ADA and Section 504 Requirements

Regulations promulgated by Washington State agencies implementing state disability non-discrimination laws

#### 4.0 DEFINITIONS

- 4.1 "Barrier-free design" means 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 City programs and services.
- 4.2 "City" means the City of Spokane, Washington.
- 4.3 "Disability Transition Plan for Physical Facilities" means 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:
  - 4.3.1 Identify physical barriers that limit accessibility to City programs, activities or services;
  - 4.3.2 Outline of the methods which will be used to remove the barriers and make the facility more accessible;
  - 4.3.3 Contain the schedule for the necessary steps to achieve improved compliance; and
  - 4.3.4 Include the name of the management staff responsible for the plan's implementation.
- 4.4 "Overall Program Accessibility" means 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.
- 4.5 "Qualified individual with a disability": means 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).

- 4.6 "Reasonable accommodation" means 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.
- 4.7 "Self-evaluation" means the evaluation of policies, practices, and physical facilities to identify potential barriers to accessibility and corrective actions to reduce or eliminate those barriers.
- 4.8 "Service Animal" means an animal that is individually trained to perform tasks for people with disabilities such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other special tasks.
- 4.9 "Usability" means that 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.

## 5.0 POLICY

- 5.1 In accordance with Title II of the ADA and its implementing regulations, Section 504, WAC 51-50 and RCW 49.60 (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 of Spokane provides to the public.
- 5.2 City departments shall comply with the provisions of the disability nondiscrimination laws regarding access to applicable programs, activities, services, and physical facilities.

- 5.3 To the extent possible, City departments 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.
- 5.4 Physical facilities owned by the City shall comply with the applicable regulations on barrier-free design and physical accessibility.
- 5.5 The construction and renovation of City facilities shall comply with applicable regulations on barrier-free design and physical accessibility.
- 5.6 Public meetings will be held at accessible locations and in such a manner that qualified people with disabilities are able to participate fully.
- 5.7 Qualified people with disabilities shall not be discriminated against in participation on boards, commissions, or on advisory and planning committees.
- 5.8 All City offices and programs shall be accessible to users of TTYs (teletypewriters), either by having a TTY to provide direct TTY access or by using the Washington Relay Service.
- 5.9 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 of the public, unless the service animal's presence or behavior creates a fundamental alteration to the program or service being provided or presents a direct threat to safety. In addition, as a matter of policy, not compliance, the City will afford access to individuals, with or without a disability, accompanied by service animals-in-training. Individuals and their accompanying service animals-in-training will be subject to the conditions and limitations established by law and applicable to individuals with disabilities and their service animals.
- 5.10 Upon advance request, reasonable steps will be taken to furnish appropriate auxiliary aids and services (e.g., assistive listening devices, sign language interpreters, Braille) to afford a qualified individual with a disability an equal opportunity to participate in and enjoy the benefits of the services, programs, activities, and physical facilities provided to the public by the City. Primary consideration will be given to the requests of the qualified individual with a disability unless another equally effective accommodation is available, or the use of the means requested would result in a fundamental alteration of the service, program, and activity or in undue financial or administrative burden.
- 5.11 All City contractors, except contractors providing tangible goods, shall comply with Section 504/ADA Disability Assurance of Compliance, unless an accessibility waiver is obtained.

- 5.12 All City departments administering Section 504 contracts whereupon the contractor, other than another government entity, provides programs, services, or activities to the public, shall require the contractor to comply with the Section 504/ADA requirements applicable to governments. The contracting City department shall monitor respective contracts for compliance with Section 504/ADA.
- 5.13 The City will adopt and follow a procedure for prompt and equitable resolution of complaints alleging discrimination on the basis of disability in the City's provision of programs, services, and activities, and access to physical facilities.
- 5.14 The City recognizes that the laws covering the City's provision of programs, services and activities are subject to frequent revision and interpretation through legislation or judicial decisions. Should an interpretation or revision render any part of this policy invalid, the remainder of the policy will remain in full effect pending revision to address those areas invalidated.

## 6.0 PROCEDURE

### 6.1 Responsibilities - ADA.

- 6.1.1 The Office of the Mayor for the City of Spokane is responsible for ensuring the City's compliance with disability non-discrimination laws regarding access. Under the law, the City of Spokane is required to have at least one designated ADA coordinator. The Mayor has designated the Human Resources Director or designee as the ADA Coordinator(s) to facilitate the City's efforts to comply with disability non-discrimination laws regarding access.
- 6.1.2 Department heads and officials shall cooperate with the City of Spokane ADA Coordinator to ensure compliance with the requirements of disability nondiscrimination laws regarding access, and with this policy and related procedures. Compliance-related activities include documenting:
  - a. Disability accessibility accommodations made within their departments;
  - b. Participation in the evaluation of programs, services, activities, and physical facilities to identify potential barriers to accessibility;
  - c. The preparation of necessary Disability Corrective Action Plans and/or Disability Transition Plans; and
  - d. The coordination of budget approval to implement such plans.

### 6.1.3 ADA Coordinator

- a. will provide technical assistance to City of Spokane personnel on disability access issues.
- b. shall establish and implement internal complaint procedures to receive and resolve complaints from the public alleging non-compliance with disability non-discrimination laws regarding access. The Mayor or designee will serve as the point of appeal regarding ADA complaints.
- c. develop policies and procedures as necessary to improve accessibility of programs, services, activities, and physical facilities of City of Spokane government.

## 6.2 ADA / Section 504 Complaints – Complaint Procedure

### 6.2.1 City of Spokane Complaint Procedure – Purpose.

The complaint procedure shall address concerns regarding Title II of the ADA and Section 504 of the Rehabilitation Act of 1973, as it applies to City of Spokane department programs, services and activities. The complaint procedure may be used to file a complaint alleging:

- a. Violation of City of Spokane policies relating to the provision of services, activities, programs, or benefits.
- b. Discrimination under Section 504 of the Rehabilitation Act of 1973.
- c. Structural and parking accessibility issues on City owned or controlled property.
- d. Note: Employment complaints shall be directed to the City of Spokane Human Resource Department and investigated pursuant to Human Resource policies and applicable labor contracts.

### 6.2.2 Complaint Procedure and Format.

The complaint should be in writing and contain information regarding the alleged discrimination to include the name, address, and phone number of the complainant and the location, date and description of the alleged problem. Alternative means of filing complaints such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request. When possible, the complaint form should be used.

### 6.2.3 Complaint Filing.

The complainant and/or his/her designee should submit the complaint as soon as possible but no later than sixty (60) calendar days after the alleged violation to:

Attn: Gita George-Hatcher  
City of Spokane  
Human Resources Department  
808 West Spokane Falls Boulevard  
Spokane, WA. 99201  
TEL: 509-625-7083  
FAX: 509-625-6379  
Washington Relay Service at 7-1-1

### 6.2.4 Complaint Review.

- a. Within fifteen (15) calendar days after receipt of the complaint, the ADA or Section 504 Coordinator or the Human Resources Department representative will meet with or contact the complainant to review and clarify the issues of the complaint.
- b. Within thirty (30) calendar days of the initial meeting, a response will be provided to the complainant in writing and, where appropriate, in a format accessible to the complainant. The response will explain the position of the City of Spokane and offer options for substantive resolution of the complaint if appropriate. The Human Resources Director or designee may, when appropriate, utilize mediation to resolve complaints.

### 6.2.5 Complaint Appeal Process.

- a. If the initial response to the complaint does not satisfactorily resolve the issue, the complainant and/or designee may appeal the decision within fifteen (15) calendar days after the receipt of the City's response, to the Mayor or designee at:

Office of the Mayor  
City of Spokane  
808 West Spokane Falls Boulevard  
Spokane, WA. 99201

- b. Within fifteen (15) calendar days after receipt of the appeal, the Mayor or designee will meet with the complainant to discuss the complaint and possible resolutions. Within fifteen (15) calendar days after the meeting, the Mayor or the Mayor's designee will respond in writing, and, where

appropriate, in a format accessible to the complainant, with a final resolution of the complaint, with a final resolution of the complaint. The Mayor or designee may, when appropriate, utilize mediation to resolve complaints.

6.2.6 Complaint Retention.

All written complaints received by the ADA or Section 504 Coordinator, appeals to the City Administrator, and responses from these two offices will be retained by the City of Spokane for at least three (3) years.

6.2.7 State / Federal Complaint:

The complainant is not precluded from filing formal complaints at any time during or after the complaint process with the following state or federal agencies:

Washington State Human Rights Commission  
Spokane District Office  
1300 North Washington Street, Suite 2460  
Spokane, WA. 99201-1099  
TEL/TTY: (509) 568-3196 or 1-800-233-3247  
FAX: (509) 568-3197  
[hum.wa.gov](http://hum.wa.gov)

Office of Justice Programs  
Office for Civil Rights  
810 7<sup>th</sup> Street, NW.  
Washington D.C. 20531  
TEL: (202) 307-0690  
FAX: (202) 354-4380  
[askOCR@ojp.usdoj.gov](mailto:askOCR@ojp.usdoj.gov)  
[justice.gov](http://justice.gov)

Housing complaints may be filed with:

U.S. Department of Housing and Urban Development  
Spokane Field Office  
920 West Riverside, Suite 588  
Spokane, WA. 99201-1010  
TEL: (509) 368-3200  
FAX: (509) 368-3209  
[hud.gov](http://hud.gov)

Employment complaints may be filed with:

Equal Employment Opportunity Commission  
Seattle Field Office  
909 First Avenue, Suite 400



Seattle, WA. 98104  
TEL: (800) 669-4000  
TTY: (800) 669-6820  
FAX: (206) 220-6911  
eeoc.gov

### 6.3 Section 504 – Compliance (Federal Grants)

6.3.1 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.

#### 6.3.2 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.”

#### 6.3.3 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].

#### 6.3.4 Section 504 – Coverage.

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

- a. Outreach and public contact, including contact with program applicants and participants
- b. Eligibility criteria
- c. Application process
- d. Admission to the program

- e. Tenancy, including eviction
- f. Service delivery
- g. Employment policies and practices

6.4 Section 504 – Prohibitions Against Discrimination.

Guarantee	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, 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 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 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

6.5 Section 504 – Responsibilities.

6.5.1 The City of Spokane will comply with Section 504 on federally funded projects administered by the City of Spokane. City departments receiving federal funding shall:

- a. Appoint a Section 504 coordinator.
- b. Take steps to ensure the tenets of the implementing regulations of Section 504 are met, including those regulations that cover:
  - i. Effective communication with applicants, beneficiaries, and members of the public.
  - ii. Employment activities, including job announcements, recruitment, interviews, hiring, work assignments, promotions and dismissals, do not discriminate on the basis of disability.
  - iii. Non-housing and ensure that new construction and alterations of non-housing facilities are made accessible in accordance with applicable standards.
  - iv. Operation of existing housing programs, and steps to ensure that existing housing programs are readily accessible to and usable by persons with disabilities.
  - v. Providing 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.
  - vi. Paying 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.
  - vii. New construction of housing facilities .
  - viii. Alterations to existing facilities.
  - ix.. Needs assessment requirements

- x. Required self-evaluations of programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities.
- c. The City will designate an employee to ensure the recipients' programs, services and activities meet the requirements of Section 504; adopt a complaint procedure to effect due process standards and prompt and equitable resolutions of complaints.
- d. The City will notify participants, beneficiaries, applicants and employees of their nondiscriminatory provisions
- e. The City will 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.

6.5.2 Department Section 504 Representatives will:

- a. Assure that respective departments comply with all grant requirements through developing, implementing and monitoring processes.
- b. Create and assure that appropriate communication of complaint procedures for the public, employees and service recipients are posted or made known.
- c. Create and implement effective communication mechanisms to acquaint participants, beneficiaries, applicants and employees of rights under all grants.
- d. Assure that sub-recipients comply with all grant requirements and that sub-recipients have complaint and compliance procedures in place.
- e. Investigate complaints filed under Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program, service or activity administered by the City, as well as to sub-recipients, consultants and contractors and forward results to the City's Section 504/ADA Coordinator.
- f. Serve as the department liaison with grantor agencies on compliance issues including on-site compliance monitoring activities.

- g. Work with the City's Section 504/ADA Coordinator as needed when a grant requires ADA compliance.
  - h. Maintain all related files and reports.
- 6.5.3 The City Section 504 Coordinator will assist department Section 504 Representatives with ADA compliance issues pursuant to Federal grant compliance requirements. Responsibilities include but may not be limited to:
- a. Directing complaints and inquiries regarding grants to the appropriate City departments.
  - b. Assisting City Department 504 Representatives with complaints and investigations regarding alleged non-compliance of grant mandates.
  - c. Preparing ADA accessible surveys for inspections.
  - d. Assisting with ADA inspections when requested.
  - e. Serving as a resource on ADA issues.
- 6.5.4 Notice To Participants and Applicants of Programs.  
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. The Notice to Participants and Applicants of Program Form can be obtained by contacting the City of Spokane Human Resources Department.
- 6.5.5 Contractor Assurance of Compliance.  
Contractors, sub-contractors and entities participating in Section 504 programs will be required to show compliance with the ADA and Section 504 regulations. The City of Spokane has established a recording procedure for all Section 504 contractor participants. Assurance of compliance documentation will be required. Documentation includes:
- a. Section 504 of the Rehabilitation Act of 1973 & ADA – General information.
  - b. ADA Self-Evaluation Questionnaire.
  - c. Checklist for Readily Achievable Barrier Removal.

- d. Assurance of Compliance Form.
- e. Corrective Action Plan.
- f. Notice to Program Applicants.

6.6 Forms and Documents.

The listed forms and documents are available through the City of Spokane Human Resources Department:

- Notice Under the Americans with Disabilities Act
- City of Spokane Complaint Procedure Under Section 504 and the Americans with Disabilities Act
- Request for Reasonable Accommodation Form
- Citizen Complaint Form – Programs, Services, Facilities and Activities
- Section 504 – General Information
- Section 504 – Notice: Section 504 of the Rehabilitation Act of 1973
- City of Spokane Reasonable Accommodation Policy
- Section 504 – Self-Evaluation Review Form
- Section 504 – Assurance of Compliance
- Section 504 – Checklist for Existing Facilities

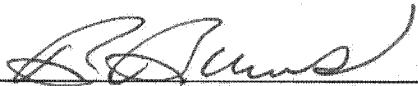
7.0 RESPONSIBILITIES

The Human Resources Department is responsible for administration of this policy and procedure.


8.0 APPENDICES

None

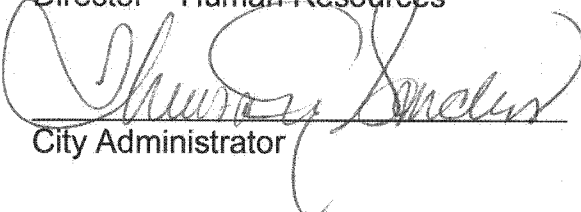
APPROVED BY:

  
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 City Attorney (Asst)

6-9-13  
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 Date

  
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 Director – Human Resources

6.12.13  
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 Date

  
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 City Administrator

6/18/13  
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 Date