

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Teri Davis, Senior Management Analyst 

DATE: September 30, 2015 (CC Meeting of 10/07/15)

SUBJECT: Consider Revisions to the City's Americans with Disabilities Act Grievance Policy

BACKGROUND AND DISCUSSION

The California Joint Powers Insurance Authority (CJPIA), of which the City of Moorpark is a member agency, provides policy templates to member agencies designed to assist member agencies in compliance efforts. The CJPIA notified the City of revisions to the CJPIA Americans with Disabilities Act (ADA) grievance policy template.

The revisions include a policy title change from "Americans with Disabilities Act Grievance" to "Americans with Disabilities Act/Section 504 Complaint and Grievance Procedure and Grievance Form." They also include a new process for filing a complaint in lieu of a grievance. The City's website already facilitates reporting ADA concerns or complaints through the website's Report a Concern feature which includes a request tracker component.

In the revised policy, the timeframe for investigating and responding to grievances is recommended to be increased from 15 days to 30 days for members of the public who choose to file a grievance. The appeal time would likewise be increased from 15 days to 30 days. Consistent with the CJPIA template, the City Manager is shown as the decision maker for the final resolution of a filed grievance. A grievance form is included in the recommended revisions.

The proposed modifications to the City Council's current Policy 2.13 are attached, and a copy of the revised policy showing language changes in legislative format is also included. The revised policy if adopted by Council will be incorporated into the next update of the City Council Policies Resolution.

Following adoption, the revised policy will be made available on the City's website and will include a link to the Grievance Form. A copy of the policy and Grievance Form will also be available at the public counter and as otherwise required by law.

FISCAL IMPACT

There is no fiscal impact.

STAFF RECOMMENDATION

Approve revised City Council Policy 2.13 Americans with Disabilities Act/Section 504 Complaint and Grievance Procedure and Grievance Form and direct staff to incorporate the revised policy into the next update of the City Council Policies Resolution.

Attachment: Revised Moorpark City Council Policy 2.13: Americans with Disabilities Act/Section 504 Complaint and Grievance Procedure and Grievance Form (including copy of revised policy with legislative format showing revisions)

Policy 2.13: Americans with Disabilities Act/Section 504 of Rehabilitation Act Complaint and Grievance Procedure

1. Purpose and Authority

This Policy has been created to comply with the Americans with Disabilities Act of 1990 (ADA), and Section 504 of the Rehabilitation Act of 1973. This policy establishes a complaint and grievance procedure to be followed by citizens who want to file a complaint or grievance alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of Moorpark (City), and not including City employment related discrimination complaints.

The City wants to hear concerns and complaints from citizens in order to provide accessible programs, services and activities. A member of the public can contact the City with a comment, concern, or complaint without filing a formal grievance. The City's website, <http://moorparkca.gov>, has a Report a Concern feature that includes ADA complaints with a request tracker to ensure City staff quickly responds to such concerns. A formal grievance can be filed by completing the Grievance Form included as an attachment to this Policy.

2. Definitions

The following terms are used in this policy:

- A. ADA: Americans with Disability Act of 1990 (28 Code of Federal Regulations Part 35.107).
- B. ADA Coordinator: Responsible employee with a working knowledge of the requirements of ADA and designated to coordinate the City's efforts to comply with and carry out the City's ADA responsibilities. The Personnel Officer is the ADA Coordinator for the City of Moorpark.
- C. CFR: Code of Federal Regulations.
- D. TDD: Telecommunications Device for the Deaf.

3. Confidentiality

The ADA Coordinator maintains confidentiality with regard to complaints, consultations, mediations, and records, 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 or their designated representative will be advised first and consulted on whether and/or how to proceed.

4. 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 City 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. Complaint and Grievance Procedure

This procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. It may be used by anyone who wishes to file a complaint or grievance alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City. The City's Personnel Rules govern the employment-related grievance procedure for Competitive Service Employees. In addition, City Council Policy No. 2.6 governs employment-related complaints of harassment, discrimination, and retaliation for all employees.

It is preferred that the formal ADA grievance be in writing and contain information about the alleged discrimination, such as the name, address, phone number of the complainant, and location, date, and description of the problem. Alternative means of filing a complaint, such as a personal interview or a recording of the complaint, will be made available for persons with disabilities upon request. If additional accommodations are needed, please contact the ADA Coordinator.

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
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021
Moorpark@moorparkca.gov
(805) 517-6213
California Relay Services: Dial 711

Within 30 calendar days after receipt of the complaint, the ADA Coordinator or her/his designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 30 calendar days of the meeting, the ADA Coordinator or her/his designee will respond in writing, and where appropriate, in format accessible to the complainant, such as large print, Braille, or audio recording. The response will explain the position of the City and offer options for substantive resolution of the complaint.

6. Appeal

If the response by the ADA Coordinator or her/his designee does not satisfactorily resolve the issue, the complainant and/or her/his designee may appeal the decision within 30 calendar days after receipt of the response to the City Manager or his/her designee.

Within 30 calendar days after receipt of the appeal, the City Manager or his/her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 30 calendar days after the meeting, the City Manager or his/her designee will respond in writing, and, where appropriate, also respond in a format accessible to the complainant, with a final resolution of the complaint.

7. Records Retention

All written complaints and grievances received by ADA Coordinator or his/her designee, appeals to the City Manager or his/her designee, and responses from these two offices will be retained by the City for at least three years from final action.

6. Has the complaint been filed with another bureau, such as the Department of Justice or any other Federal, State, or local civil rights agency or court?

Yes _____ No _____ If yes, which agency or court?

Agency or Court

Contact Person

Address

Telephone _____ Date _____

7. Do you intend to file with another agency or court?

Yes _____ No _____ If yes, which agency or court?

Agency or Court

Address

Telephone _____

8. Additional comments or information:

Signature: _____ Date: _____

Return to:

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Policy 2.13: Americans with Disabilities Act/Section 504 of Rehabilitation Act Complaint and Grievance Procedure

1. Purpose and Authority

~~This Policy has been created to comply with the Americans with Disabilities Act of 1990 (ADA), 28 Code of Federal Regulations Part 35.107 and Section 504 of the Rehabilitation Act of 1973. This policy provides a establishes a complaint and grievance procedure to be followed by citizens who want to file a complaint or grievance alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of Moorpark (City) to respond to individuals, or a specific class of individuals, who believe they have been subject to discrimination on the basis of disability by the City, and not including City employment related discrimination complaints. The Competitive Service employees of the City of Moorpark are subject to the grievance procedures contained in the City Council adopted Personnel Rules, and all other City employees are subject to the discrimination complaint grievance procedures adopted in a City Manager approved administrative procedure.~~

The City wants to hear concerns and complaints from citizens in order to provide accessible programs, services and activities. A member of the public can contact the City with a comment, concern, or complaint without filing a formal grievance. The City's website, <http://moorparkca.gov>, has a Report a Concern feature that includes ADA complaints with a request tracker to ensure City staff quickly responds to such concerns. A formal grievance can be filed by completing the Grievance Form included as an attachment to this Policy.

2. Authority

~~This policy has been adopted by the City Council for use in all departments,.~~

3. Definitions

The following terms are used in this policy:

- A. ADA: Americans with Disability Act of 1990 (28 Code of Federal Regulations Part 35.107).
- B. ADA Coordinator: Responsible employee with a working knowledge of the requirements of ADA and designated to coordinate the City's efforts to comply with and carry out the City's ADA responsibilities. The Personnel Officer is the ADA Coordinator for the City of Moorpark.
- C. CFR: Code of Federal Regulations.
- D. TDD: Telecommunications Device for the Deaf.

43. Confidentiality

The ADA Coordinator maintains confidentiality with regard to complaints, consultations, mediations, and records, 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 or their designated representative will be advised first and consulted on whether and/or how to proceed.

54. 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 City 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.

65. Complaint and Grievance Procedure

This procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. ~~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 or grievance alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City. The City's Personnel Rules govern the employment-related complaints of disability discrimination grievance procedure for Competitive Service Employees. In addition, City Council Policy No. 2.6 shall governs employment-related complaints of disability harassment, discrimination, and retaliation for all other employees.

The City wants to hear concerns and complaints from citizens in order to provide accessible programs, services, and activities. A member of the public can contact the City with a comment, concern, or complaint without filing a formal grievance. A formal grievance can be filed by completing the City's Grievance Form.

~~All other discrimination complaints pertaining to compliance with the ADA should~~ It is preferred that the formal ADA grievance 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. If additional accommodations are needed, please contact the ADA Coordinator.
~~A non-written complaint will only be accepted for disability accommodation.~~

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
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021
Moorpark@moorparkca.gov
(805) 517-620013
California Relay Services: Dial 711

Within ~~45~~30 calendar days after receipt of the complaint, the ADA Coordinator or her/his designee will meet with the complainant to discuss the complaint and the possible resolutions. Within ~~45~~30 calendar days of the meeting, the ADA Coordinator or her/his designee will respond in writing, and where appropriate, in format accessible to the complainant, such as large print, Braille, or audio recording. The response will explain the position of the City and offer options for substantive resolution of the complaint.

76. Appeal

If the response by the ADA Coordinator or her/his designee does not satisfactorily resolve the issue, the complainant and/or her/his designee may appeal the decision within ~~45~~30 calendar days after receipt of the response to the City Manager or his/her designee.

Within ~~45~~30 calendar days after receipt of the appeal, the City Manager or his/her designee will meet with the complainant to discuss the complaint and possible resolutions. Within ~~45~~30 calendar days after the meeting, the City Manager or his/her designee will respond in writing, and, where appropriate, also respond in a format accessible to the complainant, with a final resolution of the complaint.

~~Any appeal of the City Manager's decision would be pursuant to Section 2.04.080 of the City Municipal Code.~~

7. Records Retention

All written complaints and grievances received by ADA Coordinator or his/her designee, appeals to the City Manager or his/her designee, and responses from these two offices will be retained by the City for at least three years from final action.

The file retention period for all written ADA complaints received by the City and responses from the City will be included in the City's Records Retention Schedule.