

Effective Date: May 2, 2021

Approval: DJB

ADMINISTRATIVE DIRECTIVE

SECTION: ADMINISTRATION
TOPIC: ADA COMPLAINT PROCEDURE – CITY SERVICES
REFERENCE: 1.6.6
POLICY: 1.0 – SECTION IV

I. DIRECTIVE

It is the City of Lewisville’s intent to ensure that people with disabilities of all kinds have an equal opportunity to participate in and benefit from the City’s services, programs, and activities in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990. This broad reaching legislation addresses the right of people with disabilities to obtain equal access to services, programs, buildings, facilities, and employment.

To ensure compliance with Section 504 of the Rehabilitation Act of 1973 and the ADA of 1990, this directive establishes a grievance procedure for the resolution of complaints from disabled persons who believe that they have been excluded from participation in, have been denied the benefits of, or have been subjected to discrimination under any program or activity of the City of Lewisville, solely by reason of his or her disability.

The City of Lewisville has adopted a complaint procedure providing prompt and equitable resolution of complaints alleging any action prohibited by the United States Department of Justice in accordance with the American with Disabilities Act.

II. DEFINITIONS

- A. Accessible - The combination of various elements in a building, facility, or area that allows entry, circulation, and full use by Qualified Individuals with a Disability. Accessibility features may include, but are not limited to ramps, elevators, wide-width doors, maneuvering space, grab bars in restrooms, and braille and raised letter signage
- B. Disability: A physical or mental impairment that substantially limits one or more major life activities of the individual, or a record of such an impairment, or being regarded as having such an impairment.
- C. Other Power-Driven Mobility Device - Any mobility device that is used by an individual with mobility Disabilities for the purpose of locomotion,

whether or not designed primarily for use by individuals with mobility Disabilities, including those powered by batteries, fuel, or other engines. Wheelchairs are not included in this definition.

- D. Qualified Individual with a Disability - As it pertains to City programs, services, or activities, is an individual with a Disability who, with or without reasonable modifications to rules, policies, practices, or the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and Services, meets the essential eligibility requirements for the receipt of services or participation in programs or activities provided by the City.
- E. Reasonable Accommodation/Modification: A change or exception to a policy, practice, or procedure that allows disabled individuals to have equal access to programs, services, and activities. The City of Lewisville will make reasonable modifications to policies, practices, and procedures when necessary to ensure access to services, programs, or activities for qualified individuals with disabilities, unless:
1. Making the accommodation would fundamentally alter the nature of the service, program, or activity,
 2. Making the accommodation would create a direct threat to the health or safety of others involved, or
 3. The individual with a Disability is able to fully use City of Lewisville's service without the accommodation being made.
- F. Service Animals: A dog (or in some cases a miniature horse) that is individually trained to do work or perform tasks for an individual with a Disability. The crime deterrent effect of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purpose of this definition. Service Animals are not pets. Other species of animals, whether wild or domestic, trained, or untrained, are not Service Animals for the purpose of this definition.

III. PROCEDURE

- A. A Qualified Individual with a Disability may use a Service Animal as long as the Service Animal is under the control of its handler and is harnessed, leashed, or tethered, unless the individual's disability prevents using these devices or these devices interfere with the service animal's safe, effective performance of task.
1. If there is a question about whether a dog is a Service Animal, only two questions may be asked:

- a. Is the animal required because of a disability; and
- b. What work or task has the animal been trained to perform?
No other inquiries are allowed.

2. A Service Animal may be removed if:

- a. The animal is out of control and the animal's handler does not take effective action to control it; or
- b. The animal is not housebroken.

3. If a Service Animal is properly excluded for one of the two reasons outlined above, the City will give the Qualified Individual with a Disability the opportunity to obtain programs, services, and activities without having the service animal on the premises. If the service animal is excluded, the Qualified Individual with a Disability may continue to access the programs, services, and activities, including the opportunity to seek a reasonable accommodation to access those programs, services, and activities.

4. All questions regarding the exclusion of a Service Animal must be directed to the City's ADA Coordinator over City Services, and only he has the authority to determine that a Service Animal may be removed or excluded.

B. Qualified Individuals with mobility Disabilities are permitted to use Other Power- Driven Mobility Devices, unless the City can demonstrate that the class of these devices cannot be operated in accordance with legitimate safety requirements. In determining whether a particular Other Power-Driven Mobility Device can be allowed in a specific facility as a reasonable modification, the City's ADA Coordinator of City Services shall make a determination based on the following considerations:

1. The type, size, weight, dimensions, and speed of the device;
2. The facility's volume of pedestrian traffic;
3. The facility's design and operation characteristics;
4. Whether legitimate safety requirements can be established to permit the safe operation of the Other Power-Driven Mobility Device in the specific facility; and

5. Whether the use of the Other Power-Driven Mobility Device creates a substantial risk of serious harm to the immediate environment, natural or cultural resources, or poses a conflict with federal land management laws and regulations.

C. Requests for Reasonable Accommodation/Modification:

1. To request an Accommodation, alternative format of communication, and/or Modification of policies and procedures in order to access and benefit from a program, service, meeting and activity, the individual must submit a request. Attachment A may be used to request an Accommodation/Modification.
2. Requests for an Accommodation/Modification may be made electronically, orally or in writing. The request can be submitted in any written format. Alternative means of filing a request, such as personal interviews, phone calls, or taped requests, will be made available for persons with disabilities if unable to communicate their request in writing.
3. Individuals requesting Accommodations/Modifications shall describe what they need in order to use the service, program, or activity. Individuals requesting Accommodations/Modifications are not required to use the term “reasonable accommodation/modification” when making a request.
4. Where a request for Accommodation/Modification cannot practicably be made and determined in advance, staff shall make a determination of whether the Accommodation/Modification can reasonably be provided at the time of the request.
5. The City will process requests for Reasonable Accommodation/Modifications and then provide accommodations, where appropriate, in as short a time frame as reasonably possible. However, the time necessary to process a request will depend on the nature of the accommodation(s) requested and whether it is necessary to obtain supporting information.
6. As soon as the City determines that a reasonable accommodation will be provided, that decision shall be immediately communicated to the individual. This notice must be in writing in order to maintain the required information for reporting purposes. Upon request, alternative means of response will be provided.
7. The ADA does not require the City to take any action that would fundamentally alter the nature of its programs or services or impose an

undue financial or administrative burden. An interactive discussion with the individual making the request is encouraged when clarification regarding the type of alternative format to be provided is needed. The expressed choice of the individual with a disability will be given primary consideration unless the City can demonstrate that another effective means of communication exists.

8. The City will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.
9. The resolution of any specific accommodation requires consideration and balancing of circumstances, such as the specific nature of the disability; the nature of the access to services, programs, or facilities at issue, and the essential eligibility requirements for participation; the health and safety of others; and the degree to which an accommodation would constitute a fundamental alteration to the program, service, or facility, or cause an undue hardship to the City. Accordingly, the resolution by the City of any one complaint does not constitute a precedent upon which the City is bound, or upon which other complaining parties may rely.
10. As soon as the City determines that a request for reasonable accommodation will be denied, the City's ADA Coordinator for City Services will communicate the basis for the decision in writing to the individual requesting the modification. The explanation for the denial will clearly state:
 - a. The specific reasons for the denial;
 - b. Any alternative accommodation that may create the same access to the services, programs, or activities, as requested by the individual; and
 - c. The opportunity to file a complaint relative to the City's decision on the request.

D. Complaint Process

1. Any person who believes that he or she, or any other program beneficiary, has been subjected to unequal treatment or discrimination in the receipt of benefits or services from the City because of a person's disability may file a complaint with the City's ADA Coordinator. Attachment B may be used to file a complaint.
2. The first notice to the City of an ADA complaint/questions may be made via the City's online portal, telephone, verbal, or written form. Upon

request, alternative means of filing complaints, such as personal interviews or a tape recording will be made available to persons with disabilities. The request/complaint shall be directed to the Director of Public Services, ADA Coordinator for City Services.

3. Any complaint shall contain information about the alleged discrimination such as name, address, phone number of the complainant and location, date, and description of the problem. The form attached hereto may be used for this purpose.
4. Upon request, alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities.
5. The complaint shall be submitted by the grievant or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation.
6. A City representative may contact the complainant to discuss the complaint and possible resolutions. After a thorough investigation, the ADA Coordinator will respond in writing, and where appropriate, a format accessible to the complainant. The response will offer options for substantive resolution of the complaint.
7. The complainant can request a review of the findings in instances where he or she is dissatisfied with the resolution. The request for review should be made within ten days to the City Manager. The City Manager will review the appeal and will provide a response to the complainant with within 15 business days after receipt of the complaint. The City Manager reserves the right to extend that time if necessary to properly investigate and respond to the complaint.
8. The ADA Coordinator shall maintain the files and records of the City of Lewisville relating to ADA complaints filed and the City's responses.

III. GENERAL PROVISIONS

The City of Lewisville reserves the right to change, modify, amend, revoke, or rescind all or part of this directive at any time.

**ATTACHMENT A
ADA PROGRAM ACCOMODATION REQUEST FORM**

Patron Name:	Date of Request:
Program or Activity for Which the Accommodation is Requested:	
Detailed Description of Accommodation Requested	

FOR CITY OF LEWISVILLE STAFF:

Approved as noted below:

Signature of Approver

Date of Approval

Unable to approve as noted below:

Signature of ADA Coordinator

Date of Denial

**ATTACHEMENT B
CITY OF LEWISVILLE**

COMPLAINT FORM PURSUANT TO THE AMERICANS WITH DISABILITIES ACT

(Please type or print clearly)

Name: _____ Date incident occurred: _____

Address: _____ City of Lewisville Department where incident

State: _____ Zip Code: _____ occurred: _____

Contact phone number: _____ Address where incident occurred: _____

Have you contacted anyone in the above-named department regarding your complaint?
____ Yes ____ No

If yes, name and telephone number of contact person: _____

Describe nature of grievance (Be specific--name, dates, locations, etc.):

(Attach additional sheet if necessary.)

Explain why you feel the City of Lewisville has discriminated against you on the basis of your disability: _____

Signature of Complainant _____ Date Completed _____

Return completed form to:

ADA Coordinator Keith Marvin
City of Lewisville
151. W. Church Street
Lewisville, Texas 75077

Received by ADA Coordinator: _____