

City of Gothenburg

Section 504 – Rehabilitation Act of 1973

Americans with Disabilities Act of 1990

POLICY STATEMENT

The City of Gothenburg, Nebraska will ensure that no qualified disabled individual shall, solely on the basis of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any of its programs, services, or activities as provided by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA). The City of Gothenburg further ensures that every effort will be made to provide nondiscrimination in all of its programs or activities regardless of the funding source.

For our purposes, a disabled person is defined as any person who

- Has a physical or mental impairment that substantially limits one or more major life activities,
- Has a record of such an impairment, or
- Is regarded as having such an impairment

AUTHORITIES

Section 504 of the Rehabilitation Act of 1973, as amended, provides that "No otherwise qualified disabled individual in the United States, as defined in section 7(6), shall, solely by reason of his disability, be excluded for the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

29 USC 794 (October 29, 1992 to the Rehabilitation Act of 1973) substitutes "a disability" for "handicaps" and "disability" for "handicap".

49 CFR Part 27.13 (Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance) states, "This part applies to each recipient of Federal financial assistance from the Department of Transportation and to each program or activity that receives or benefits from such assistance".

49 CFR Part 28.102 (Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of Transportation) states, "This part applies to all programs or activities conducted by the Department of Transportation except for programs and activities conducted outside the United States that do not involve individuals with disabilities in the United States."

28 CFR Part 35 (Judicial Administration) states that: "The purpose of this part is to effectuate Subtitle A of Title II of the ADA which prohibits discrimination on the basis of disabilities by public entities."

49 CFR Part 27 (Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance) states, "The purpose of this part is to carry out the intent of Section 504 of the Rehabilitation Act of 1973 (29 USC 794) as amended, to the end that no otherwise qualified disabled individual in the United States shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

49 CFR Part 28-140 (Employment) states that, "(a) No qualified individual with disabilities shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Department," and "(b) The definitions, requirements, and procedures of Section 504 of the Rehabilitation Act of 1973 (29 USC 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

29 CFR Part 1613 (Equal Employment Opportunity in the Federal Government) states that: "It is the policy of the Government of the United States. . . to provide equal opportunity in employment for all persons to prohibit discrimination in employment because of race, color, religion, sex, or national origin and to promote the full realization of equal employment opportunity through a continuing affirmative program in each agency."

42 USC Part 12101-12213 (The Americans with Disabilities Act of 1990) states that: "No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment."

ORGANIZATION

Questions or concerns about this policy should be sent to the City of Gothenburg at 409 9th Street, Gothenburg, NE 69138 or contact the following individual at 308-537-3677.

Bruce Clymer, City Administrator and ADA Coordinator

The reporting structure for ADA complaints will be as follows: 1. Complaint filed with the ADA Coordinator. 2. Investigation of the complaint filed. 3. Report to the Mayor and City Council by the investigator. 4. Determination by the City Council. 5. ADA Coordinator reviews the determination with the complainant.

SECTION 504/ADA COORDINATOR RESPONSIBILITIES

- Monitoring the City's current policies and practices for implementing ADA/504.
- Identifying shortcomings in compliance and developing remedies.
- Evaluating remedial steps taken to eliminate the effects of discrimination.
- Monitoring complaint procedures that incorporate appropriate due process standards and providing for prompt and equitable resolutions of complaints alleging an action prohibited by ADA/504.
- Processing the disposition of complaints filed under ADA/504.
- Ensuring agency compliance with ADA/504.
- Monitoring the agency's ADA/504 Transition Plan to ensure that all department facilities remain in compliance with applicable accessibility standards.
- Conducting annual reviews of ADA/504 program areas.
- Preparing a report of ADA/504 accomplishments and problem areas for the NDOR Annual Report to FHWA.
- Monitoring the preparation of ADA/504 information for dissemination to the general public, including the "Notice to the Public" offer to provide reasonable accommodation, upon request.
- Review City Council determination with complainant (after a complaint was filed).
- Identifying, investigating, and eliminating ADA/504 discrimination when found to exist.

SECTION 504/ADA NOTICE TO PUBLIC

The City of Gothenburg does not discriminate on the basis of disability in admission of its programs, services, or activities, in access to them, in treatment of individuals with disabilities, or in any aspect of their operations. The City of Gothenburg also does not discriminate on the basis of disability in its hiring or employment practices.

This notice is provided as required by Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Questions, complaints, or requests for additional information or accommodation regarding the ADA and Section 504 may be forwarded to:

Name: Bruce Clymer, City Administrator

Phone Number (Voice): 308-537-3677

Office Address: 409 9th Street, Gothenburg, NE 69138

Days/Hours Available: Monday through Friday 8:00 a.m. to 4:30 p.m.

SECTION 504/ADA SELF-EVALUATION

The City of Gothenburg completed a self-evaluation in 1992. The evaluation identified city properties and buildings, listed the uses for each, and the physical barriers present at each location. This evaluation also gave recommendations for removing the physical barriers. The City understands this process is on-going and is planning on updating their self-evaluation within their next fiscal year. A copy of the self-evaluation completed in 1992 can be found in the City Administrator's office at 409 9th Street in Gothenburg.

SECTION 504/ADA TRANSITION PLAN

The City of Gothenburg completed a transition plan in 1992. This plan identified physical barriers with ADA's compliance guidelines as well as a timeline for removing those physical barriers. The City understands this process is on-going and is planning on updating their transition plan within their next fiscal year. A copy of the transition plan completed in 1992 can be found in the City Administrator's office at 409 9th Street in Gothenburg.

COMPLAINT PROCEDURES

Complaints may be filed by the affected individual or a representative of that individual. Complaints must be in writing and contain as much information as possible about the alleged discrimination. The City of Gothenburg has prepared a complaint form to be used for the convenience of the complainant. The complaint form may be picked up from the City offices located at 409 9th Street in Gothenburg. Written complaints (or the complaint form) should be sent to the City of Gothenburg, Attn: Bruce Clymer, 409 9th Street, Gothenburg, NE 69138. The individual(s) filing the complaint shall include their name and contact information. Complaints must be received within 180 calendar days of the complainant becoming aware of the alleged discrimination. Complaints will be handled in a prompt and equitable manner.

REASONABLE ACCOMMODATION PROCEDURES

Requests for a Reasonable Accommodation should be addressed to Bruce Clymer, City Administrator and ADA Coordinator. Requests may be made in person at the City Administrator's office, via telephone at 308-537-3677 or in writing and sent to City of Gothenburg, 409 9th Street, Gothenburg, NE 69138.

If the request is made orally initially, it shall be followed by a written request although the ADA Coordinator shall begin processing the request upon receipt of an oral request. The request may be made by a family member, health professional or other representative acting upon the individual's consent.

If the individual is an employee, the ADA Coordinator may request medical documentation only when the employee's need for accommodation is not apparent and there is no other medical information already on record for the employee which demonstrates that need. Failure to provide this information may result of the accommodation request.

Once it has been determined that the request is for a reasonable accommodation, the ADA Coordinator shall respond quickly. This procedure shall include (1) an analysis of the individual's particular request or employee's job to determine its purpose and essential functions, (2) a consultation with the individual or employee to ascertain the precise limitations or job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation, (3) an identification of potential accommodations and in conjunction with the individual, an assessment of the effectiveness of those accommodations in enabling the employee to perform the essential functions of the job or the of the individual performing their essential functions, (4) consideration of the preference of the employee and selection and implementation of the accommodation that is appropriate for the employee and the employer and consideration of the individual's needs if requested by an individual and (5) the overall needs of the office.

The accommodations need not be the most expensive, nor must it be exactly what individual requests, but it must be effective.

If a request for reasonable accommodation is denied, it must be in writing and outline the reasons for the denial by used DOJ form 100C. The official denying the request also must inform the individual of the right to any available informal dispute resolution avenues.

All requests for accommodations, along with any medical or other documentation provided, shall be kept on file. The City Clerk shall maintain the files after the decision maker makes a final determination on the request. Access to these files is limited to those with an identifiable need to review the information.

ASSURANCES

Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the City of Gothenburg desiring to avail itself of federal financial assistance from the US Department of Transportation, hereby gives assurance that no qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from this federal financial assistance.

The City of Gothenburg further assures that its programs will be conducted, and its facilities operated, in compliance with all requirements imposed by or pursuant to 49 CFR Part 27, 28 CFR Part 35 and 42 USC 12101-12213.

Adopted this 2nd day of July, 2013 at Gothenburg, Nebraska.

The Mayor and City Council of the City of Gothenburg:

Joyce Hudson, Mayor



Jeffrey Kennedy, President of Council



Jeff Whiting



Duane Oliver



Tim Strauser



Prepared by: Bruce Clymer

Title: City Administrator and ADA Coordinator