

**CITY OF PACIFIC GROVE
CITY COUNCIL POLICY**

Policy Governing	Policy No.	Effective Date	Page No.
ADA Grievance Procedure	300-5	November 4, 1992	1 of 4

I. PURPOSE

Under Title I of the Americans with Disabilities Act of 1990 (ADA), no local government or 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.

In addition, Title II of the Act requires a public entity to make its programs, services, and activities accessible to the disabled in all cases, except where to do so would result in a fundamental alteration of the nature of the program, service, or activity or in undue financial and administrative burdens.

II. POLICY

A member of the public who believes that he or she (individually or on behalf of a specific class of individuals) has been subjected to unlawful discrimination on the basis of disability by a City of Pacific Grove policy, service, or program, may file a complaint by himself, herself, or by an authorized representative. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

Grievances by City employees, relating to matters within the scope of the employee bargaining agreements, are excluded from this grievance procedure, and should follow the applicable procedures set forth in the appropriate Memorandum of Understanding.

Definition A grievance is an expression of dissatisfaction with a City of Pacific Grove policy, service, or program regarding access or the opportunity to participate in such programs on the basis of disability as defined in the Americans with Disabilities Act of 1990.

Objectives The objectives of this policy are:

- to comply with the Americans with Disabilities Act of 1990;
- to assure that grievances are promptly acknowledged and resolved;
- to establish uniform standards and procedure for handling grievances throughout the entire City organization;

- to provide citizens with an accessible, convenient, efficient system for bringing complaints to the City's attention;
- to demonstrate that the City is responsive to the concerns of its citizens; and
- to reduce or prevent the occurrence of circumstances that lead to justifiable citizen complaints.

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III. PROCEDURE

A. To File a Complaint

1. Any individual who believes he or she has been discriminated against on the basis of their disability may make a written complaint. In order to facilitate the investigation, the complainant is encouraged to submit the complaint within thirty (60) calendar days of the alleged incident(s). If the filing of a written complaint is prohibitive, complainant shall contact the ADA Coordinator who will discuss what alternative arrangements can be made to file the complaint.

All complaints should be sent to the ADA Coordinator, Community Development Department, 300 Forest Avenue, Pacific Grove, California 93950, for resolution. A written record of the complaint and the action taken will be maintained in the City's ADA Coordinator's Office for three (3) years. A decision by the ADA Coordinator (Coordinator) will be rendered in writing within 15 calendar days from the date it is received. ADA Grievance Procedure forms are available from the Coordinator.

2. The complaint shall include:
 - a description of the alleged discriminating activity, policy, program, or service;
 - date(s), time(s), and location(s) of incident(s);
 - names(s) of alleged offender(s), if any;
 - name(s) of witnesses, if any; and
 - remedy desired
3. Upon receipt of a complaint, the Coordinator shall investigate all charges. The investigation shall include, but not be limited to, interviews with: (a) the complainant within 15 calendar days after receipt of the complaint, to discuss the complaint and possible resolution(s); (b) the person(s) responsible for the activity, policy, program, or service engaged in the alleged incident; and (c) any other person the Coordinator believes to have relevant knowledge concerning the complaint.
4. Upon completion of the investigation, the Coordinator shall determine whether or not the alleged complaint should be sustained, giving consideration to all factual information gathered through the investigation, all of the circumstances, including

the nature of the activity, program, or service and the context in which the alleged discrimination occurred.

5. Within 15 calendar days after the meeting, the ADA Coordinator will respond in writing (or in a format accessible to the complainant) explaining the position of the City and offer options for resolution of the complaint. The results of the investigation and determination with appropriate recommendation(s) shall be conveyed to the complainant, the head of the City department which is the subject of the complaint, and any other person deemed relevant by the Coordinator.

B. Appeal Process

1. If the complaint is not resolved to the complainant's satisfaction by the Coordinator, the complainant can request the Coordinator to forward the complaint to the City Manager. Complainant must make any such request within fifteen (15) calendar days after receiving the response of the Coordinator. The request must state why complainant is appealing the Coordinator's determination and any proposed remedies as well as what remedy the complainant is seeking.
2. The City Manager will consider complaints on appeal that are not resolved by the Coordinator to the satisfaction of the complainant. The City Manager will meet with the complainant within 15 calendar days of the receipt of the appeal to discuss the complaint and resolution(s), consider the complaint and the record from the Coordinator and shall make a decision on the complaint within 15 calendar days after receipt of the appeal. Within 15 calendar days of the meeting, the City Manager will respond in writing (or in a format accessible to the complainant) with a final resolution to the complaint. The decision of the City Manager shall be final.

C. Written Record

A written record of the action taken on each request or complaint shall be maintained as part of the records at each level of the grievance process for (3) years.

D. Pursuit of Other Remedies

The complainant's right to prompt an equitable resolution of the complaint will not be affected by the complainant's pursuit of other remedies, such as the filing of a complaint with the Department of Justice or the Equal Employment Opportunity Commission. Furthermore, this procedure does not preclude, nor must it precede, the filing of a complaint with the appropriate federal agency. Complaints filed with federal agencies must be filed in accord with their time lines and procedures.

Adopted: November 4, 1992
Resolution No.: 6312

Amended: December 7, 2005
Resolution No.: 5-042

Amended: January 16, 2008
Resolution No. 08-001

RESOLUTION NO. 08-001

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE
AMENDING COUNCIL POLICY NO. 300-5, REGARDING ADA GRIEVANCE
PROCEDURE**

**THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES RESOLVE AS
FOLLOWS:**

Council Policy No. 300-5, (regarding the ADA Grievance Procedure) as amended in the copy of the policy attached hereto and incorporated herein by this reference is hereby approved and adopted.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this 16th day of January, 2008, by the following vote:

AYES: Council Members Bennett, Cohen, Cort, Davis, Miller, Nilmeier, Stilwell

NOES: None

ABSENT: None

APPROVED:



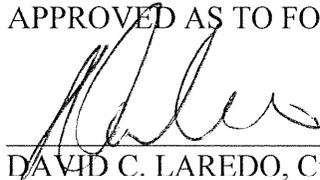
DANIEL E. CORT, Mayor

ATTEST:



CHARLENE WISEMAN, City Clerk

APPROVED AS TO FORM;



DAVID C. LAREDO, City Attorney

RESOLUTION NO. 5-042

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE AMENDING COUNCIL POLICY NO. 300-5 ADA GRIEVANCE PROCEDURE

THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES RESOLVE AS FOLLOWS:

Council Policy No. 300-5, (regarding the ADA Grievance Procedure) as amended in the copy of the policy attached hereto and incorporated herein by this reference is hereby approved and adopted.

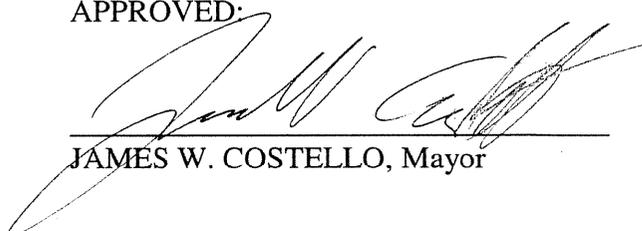
PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 7th day of December, 2005, by the following vote:

AYES: Cort, Costello, Bennett, Goldbeck, Miller, Nilmeier, Schenk

NOES: NONE

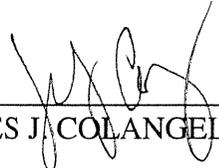
ABSENT: NONE

APPROVED:



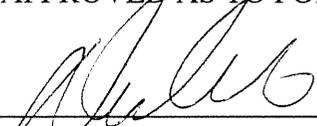
JAMES W. COSTELLO, Mayor

ATTEST:



JAMES J. COLANGELO, City Clerk

APPROVED AS TO FORM:



DAVID C. LAREDO, City Attorney

RESOLUTION NO. 6312

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE
ADOPTING COUNCIL POLICY NO. 300-5, TO ESTABLISH
GRIEVANCE PROCEDURES IN ACCORDANCE WITH
THE AMERICANS WITH DISABILITIES ACT OF 1990

THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES RESOLVE AS
FOLLOWS:

SECTION 1. Council Policy No. 300-5, entitled "ADA Grievance
Procedure", copy attached hereto and incorporated herein by this reference,
hereby is approved and adopted.

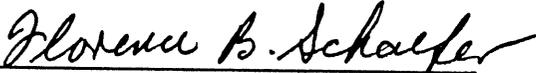
PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this 4th day of November, 1992, by the following vote:

AYES: Cavallaro, Gasperson, Nunn, Rogge, Schaefer, Whitman

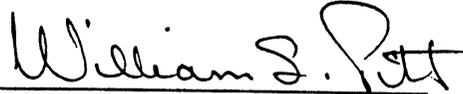
NOES: None

ABSENT: Davis

APPROVED:


FLORENCE B. SCHAEFER, Mayor

ATTEST:


WILLIAM S. PITT, City Clerk

APPROVED AS TO FORM:


GEORGE C. THACHER, City Attorney