

Folsom City Council Staff Report

MEETING DATE:	5/11/2021
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 10621 - A Resolution Updating the City's Grievance Procedure Originally Adopted by Resolution No. 8043 to Address Complaints Alleging Violations of the Americans with Disabilities Act of 1990
FROM:	City Clerk's Department

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends that the City Council approve Resolution No. 10621 - A Resolution Updating the City's Grievance Procedure Originally Adopted by Resolution No. 8043 to Address Complaints Alleging Violations of the Americans with Disabilities Act of 1990.

BACKGROUND / ISSUE

The Americans with Disabilities Act of 1990 ("ADA") provides civil rights protection to individuals with disabilities. The ADA guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications. Title II of the ADA prohibits state and local governments from discriminating against individuals with qualified disabilities in the receipt of benefits and access to programs, services and activities. The ADA requires that cities with more than 50 employees adopt a grievance procedure to resolve ADA complaints.

POLICY/ RULE

Federal regulation 28 CFR 35.107 requires that local governments with 50 or more employees adopt and publish a procedure for resolving grievances arising under Title II of the ADA. A grievance procedure must provide a system for resolving complaints in a prompt and fair manner.

ANALYSIS

The City of Folsom has a primary interest in ensuring that the rights of individuals with disabilities are protected and that barriers preventing individuals with disabilities from fully

participating as City residents are removed. Federal regulations require that any grievance procedure designed to resolve complaints alleging a violation of the ADA include all of the following:

1. A description of how to file a complaint and where to file a complaint;
2. A statement notifying potential complainants that alternative means of filing will be available to people with disabilities who require such an alternative;
3. A description of the time frames and processes to be followed by the complainant and the local agency;
4. Information regarding how to appeal an adverse decision; and
5. A statement regarding how long complaint files will be retained by the local agency.

The City's grievance procedure was adopted in 2007. The proposed updates will bring the City's procedures into compliance with updated federal standards for response times (from thirty days to fifteen days) and will remove outdated gender and personnel references.

FINANCIAL IMPACT

There will be no direct financial impact created by the adoption of the grievance procedure. Adoption of the grievance procedure, however, may result in the use of staff time in order to conduct investigations of complaints. Resolution of complaints may also result in some financial impact.

ENVIRONMENTAL REVIEW

The proposed action does not constitute a "project" for purposes of the California Environmental Quality Act ("CEQA"), and it can also be seen with certainty that the proposed action has no effect on the environment. Therefore, the action is exempt from CEQA.

ATTACHMENTS

1. Resolution No. 10621 - A Resolution Updating the City's Grievance Procedure Originally Adopted by Resolution No. 8043 to Address Complaints Alleging Violations of the Americans with Disabilities Act of 1990
2. City of Folsom Grievance Procedure Under the Americans With Disabilities Act
3. Resolution No. 8043 – A Resolution Adopting a Grievance Procedure to Address Complaints Alleging Violations of the Americans with Disabilities Act of 1990

Submitted,

Christa Freemantle, City Clerk / ADA Coordinator

ATTACHMENT 1

**Resolution No. 10621 - A Resolution Updating the City's Grievance
Procedure Originally Adopted by Resolution No. 8043 to
Address Complaints Alleging Violations of the
Americans with Disabilities Act of 1990**

RESOLUTION NO. 10621

**A RESOLUTION UPDATING THE CITY'S GRIEVANCE PROCEDURE ORIGINALLY
ADOPTED BY RESOLUTION NO. 8043
TO ADDRESS COMPLAINTS ALLEGING VIOLATIONS OF THE
AMERICANS WITH DISABILITIES ACT OF 1990**

WHEREAS, the City of Folsom provides benefits, programs, services and activities to the general public; and

WHEREAS, Title II of the Americans with Disabilities Act of 1990 (“ADA”) provides that no local agency may discriminate against individuals with qualified disabilities in the provision of benefits, programs, services and activities; and

WHEREAS, federal regulations implementing Title II of the ADA require that all local agencies, including cities, with 50 or more employees adopt a grievance procedure to address complaints alleging violations of the ADA; and

WHEREAS, the City Council approved a grievance procedure in May 2007 by Resolution No. 8043; and

WHEREAS, the proposed updates to the grievance procedure will bring the City’s procedures into compliance with updated federal standards for response times (from thirty days to fifteen days) and will remove outdated gender and personnel references.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom hereby approves the updated Grievance Procedure to address complaints alleging violations of the ADA.

PASSED AND ADOPTED on this 11th day of May 2021, by the following roll-call vote:

AYES: Councilmember(s):
NOES: Councilmember(s):
ABSENT: Councilmember(s):
ABSTAIN: Councilmember(s):

Michael D. Kozlowski, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

ATTACHMENT 2

City of Folsom Grievance Procedure
Under the Americans With Disabilities Act

**City of Folsom
Grievance Procedure
Under the Americans With Disabilities Act**



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

I. Purpose:

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (“ADA”). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of Folsom. The City of Folsom’s Personnel Policy governs employment-related complaints of disability discrimination.

II. Provisions:

A. Complaint

The complaint should be in writing and contain information about the alleged discrimination such as name, address and telephone number of the complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interview or tape recording of the complaint, shall be made available for persons with disabilities upon request. Complaints may also be submitted by email, provided the person submitting the complaint writes the words “ADA Grievance” in the subject line.

The complaint should be submitted by the grievant and/or their designee as soon as possible but not later than sixty (60) calendar days after the alleged violation to:

ADA Coordinator
Folsom City Hall
50 Natoma Street
Folsom, CA 95630

B. Response

The ADA Coordinator or their designee shall conduct any investigation deemed necessary upon receipt of a complaint. Within fifteen (15) calendar days after the receipt of a complaint, the ADA coordinator or their designee shall meet with the complainant to discuss the complaint and the possible resolutions. Within fifteen (15) calendar days of the meeting, the ADA coordinator or their designee shall respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the City of Folsom and offer options for substantive resolution of the complaint.

C. Appeal

If the response of the ADA coordinator or their designee does not satisfactorily resolve the issue(s), the complainant or complainant's designee may appeal the decision within fifteen (15) calendar days after receipt of the response to the City Manager or their designee.

Within fifteen (15) calendar days after receipt of the appeal, the City Manager or their designee shall meet with the complainant to discuss the complaint and possible resolutions. Within fifteen (15) calendar days after the meeting, the City Manager's or their designee shall respond in writing and, if appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

D. Document Retention

All written complaints received by the ADA coordinator or their designee, appeals to the City Manager or their designee, and responses from any of these officials, and all alternative format documentation when possible shall be retained by the City of Folsom for at least three (3) years following the resolution of any complaint.

E. Pursuit of Other Remedies

The complainant's right of prompt and equitable resolution of the complaint shall 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. Complaints filed with federal agencies must be filed in accordance with the appropriate federal timelines and procedures.

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*Adopted 05/08/2007, Resolution No. 8043
Revised 05/11/2021, Resolution No. 10621*

ATTACHMENT 3

**Resolution No. 8043 – A Resolution Adopting a Grievance Procedure to
Address Complaints Alleging Violations of the
Americans with Disabilities Act of 1990**

RESOLUTION NO. 8043

**A RESOLUTION ADOPTING A GRIEVANCE PROCEDURE
TO ADDRESS COMPLAINTS ALLEGING VIOLATIONS
OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

WHEREAS, the City of Folsom provides benefits, programs, services and activities to the general public; and

WHEREAS, some members of the general public are disabled; and

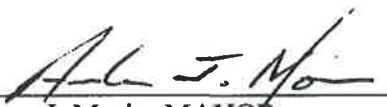
WHEREAS, Title II of the Americans with Disabilities Act of 1990 ("ADA") provides that no local agency may discriminate against individuals with qualified disabilities in the provision of benefits, programs, services and activities; and

WHEREAS, federal regulations implementing Title II of the ADA require that all local agencies, including cities, with 50 or more employees adopt a grievance procedure to address complaints alleging violations of the ADA.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom hereby adopts the attached grievance procedure required to address complaints alleging violations of the ADA.

PASSED AND ADOPTED on this 8th day of May 2007, by the following roll-call vote:

AYES:	Council Member(s):	Starsky, Howell, King, Miklos, Morin
NOES:	Council Member(s):	None
ABSENT:	Council Member(s):	None
ABSTAIN:	Council Member(s):	None



Andrew J. Morin, MAYOR

ATTEST:



Christa Schmidt, CITY CLERK



**City of Folsom
Grievance Procedure
Under The Americans With Disabilities Act**

I. Purpose:

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of Folsom. The City of Folsom's Personnel Policy governs employment-related complaints of disability discrimination.

II. Provisions:

A. Complaint

Any complaint alleging an ADA violation should be in writing and include the following information: the name, address and telephone number of the complainant and the location, date and description of the alleged discrimination. Alternative means of filing complaints, such as personal interview or tape recording of the complaint, shall be made available to any person upon request. Complaints may also be submitted by email, provided the person submitting the complaint writes the words "ADA Grievance" in the subject line.

The complaint should be submitted by the complainant and/or his or her designee as soon as possible but not later than sixty (60) calendar days after the alleged violation to:

Assistant City Manager-Administrative Services or
the Assistant City Manager's Designee ("ADA Coordinator")
Folsom City Hall
50 Natoma Street
Folsom, CA 95630

B. Response

The ADA Coordinator or his or her designee shall endeavor to resolve all issues raised in any complaint submitted as quickly as circumstances allow. The ADA Coordinator or his or her designee shall conduct any investigation deemed necessary upon receipt of a complaint. Within thirty (30) calendar days after the receipt of a complaint, the ADA coordinator or his or her designee shall meet with the complainant to discuss the allegations in the complaint and, if appropriate, a proposed resolution. Within thirty (30) calendar days of the meeting, the ADA

coordinator or his or her designee shall respond in writing and, if appropriate, in an alternative format accessible to the complainant (e.g., large print, Braille, or audio tape). The written (or alternative format) response shall explain the position of the City of Folsom and offer, when appropriate, options for substantive resolution of the complaint.

C. Appeal

If the response of the ADA coordinator or his or her designee does not resolve the issues(s) raised in the complaint to the satisfaction of the complainant, the complainant or complainant's designee may appeal the decision within thirty (30) calendar days after receipt of the written (or alternative format) response. Appeals must be submitted to the City Manager or the City Manager's designee.

Within thirty (30) calendar days after receipt of the appeal, the City Manager or the City Manager's designee shall review any and all materials that were presented to the ADA coordinator or his or her designee and may meet with the complainant to discuss the allegations made in the complaint and, if appropriate, a proposed resolution of the complaint. Within thirty (30) calendar days after the City Manager's review of the materials that were presented to the ADA Coordinator, the City Manager or the City Manager's designee shall respond in writing and, if appropriate, in a format accessible to the complainant, with a decision on the appeal. The decision of the City Manager or the City Manager's designee shall be final.

D. Document Retention

All written complaints received by the ADA coordinator or the ADA coordinator's designee, all written appeals to the City Manager or the City Manager's designee, all written responses from any of these officials, and all alternative format documentation when possible shall be retained by the City of Folsom for at least three (3) years following the resolution of any complaint.

E. Pursuit of Other Remedies

The complainant's right of prompt and equitable resolution of the complaint shall 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. Complaints filed with federal agencies must be filed in accordance with the appropriate federal timelines and procedures.

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