

**City of Wenatchee Policy for Compliance Regarding
Americans with Disabilities Act of 1990 and
Section 504 of the Rehabilitation Act of 1973**



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1.0 SUBJECT TITLE

Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 Compliance.

2.0 PURPOSE

To reaffirm City of Wenatchee’s policy and practice that physical facilities, and programs, services and activities of City of Wenatchee government are accessible to members of the public, including qualified individuals with disabilities.

3.0 ORGANIZATIONS AFFECTED

- 3.1 Americans with Disabilities Act (ADA) – All City of Wenatchee Departments, Divisions, Offices and Agencies.
- 3.2 Section 504 of the Rehabilitation Act of 1973 – City departments receiving federal funding for specified programs, services and activities.

4.0 REFERENCES

- 4.1 Americans with Disabilities Act of 1990 (ADA).
- 4.2 Section 504 of the Rehabilitation Act of 1973, as amended (Section 504).

- 4.3 Chapters 2.42, 49.60, and 70.84 of the Revised Code of Washington (RCW).
- 4.4 Washington State Building Code: International Building Code as adopted by the City of Wenatchee.
- 4.5 Regulations promulgated under Section 504 include those by the U.S. Departments of Agriculture (7 CFR 156), Education (34 CFR 104), Health and Human Services (45 CFR 84), Justice (28 CFR 42), Interior (43 CFR 17), Housing and Urban Development (24 CFR 8), Labor and Transportation (49 CFR 27) implementing the ADA and Section 504 Requirements.
- 4.6 Regulations promulgated by Washington State agencies implementing state disability non-discrimination laws.

5.0 DEFINITIONS

- 5.1 “Qualified individual with disability”: An individual with a disability who meets the essential eligibility requirements for the receipt of services or the participation in program or activities provided to the public by the City of Wenatchee, with or without reasonable modifications to rules, policies, or practices, the removal of architectural or communication barriers, or the provision of auxiliary aids and services. (Section 504 of the Rehabilitation Act of 1973, as amended, 42 U.S.C. Section 12131 et seq., 28 CFR Part 35, the Americans with Disabilities Act of 1990, and RCW 49.60)
- 5.2 Barrier-free design: Design that gives users the opportunity for movement without restriction. By using principles of barrier-free design, people with disabilities will be able to participate fully and avail themselves equally of the opportunities to benefit from City of Wenatchee programs and services.
- 5.3 Usability: Within facilities constructed prior to the passage of the ADA, some architectural elements may not meet current codes and requirements for accessibility. If a barrier to access by people with disabilities does not result, the facility is usable and complies with this policy. In other cases, though requirements of the applicable laws, codes, and regulations have been met, a barrier may exist to a qualified individual with a disability. In such cases, it may be necessary to modify the element in the facility to make the facility usable by qualified individuals with disabilities providing that such change and/or alteration do not result in an undue financial burden.
- 5.4 Overall Program Accessibility: The ADA requires that programs as a whole be accessible to people with disabilities, and requires City of Wenatchee to account how the program’s elements work together as a whole and how services are delivered.
- 5.5 Self-evaluation: The evaluation of policies, practices, and physical features to identify potential barriers to accessibility and corrective actions to reduce or eliminate those barriers.

- 5.6 Disability Transition Plan for Physical Facilities: A written plan updated annually which outlines identified physical barriers and a schedule of activities to remove those barriers and improve program accessibility. By definition, a transition plan must contain:
- 5.6.1 Identify physical barriers that limit accessibility to city programs, activities and services;
 - 5.6.2 Outline of the methods which will be used to remove the barriers and make the facility more accessible;
 - 5.6.3 The schedule for the necessary steps to achieve improved compliance; and
 - 5.6.4 The name of the management staff responsible for the plan's implementation.

6.0 POLICIES

- 6.1 In accordance with Title II of the ADA and its implementing regulations, Section 504, WAC 51-50 as currently exists or may hereafter be amended, and RCW 49.60 (collectively called the "disability non-discrimination laws"), no qualified individual with a disability shall, on the basis of such a disability, be subjected to discrimination or be excluded from participation in, or denied benefits of the services, programs, activities or physical facilities which the City of Wenatchee provides to the public.
- 6.2 City of Wenatchee departments shall comply with the provisions of the disability non-discrimination laws regarding access applicable to programs, activities, services, and physical facilities.
- 6.3 To the extent possible, City of Wenatchee departments will ensure that physical facilities are usable by qualified individuals with disabilities. Where physical facilities cannot be made usable, overall program accessibility must be ensured.
- 6.4 Physical facilities owned by City of Wenatchee shall comply with the applicable regulations on barrier-free design and physical accessibility.
- 6.5 The construction and renovation of City facilities shall comply with applicable regulations on barrier-free design and physical accessibility.
- 6.6 Public meetings will be held at accessible locations and in such a manner that qualified people with disabilities are able to participate fully.
- 6.7 Qualified people with disabilities shall not be discriminated against in participation on boards, commissions, or on advisory and planning committees.
- 6.8 All City of Wenatchee offices and programs shall be accessible to users of TTYs (teletypewriters), either by having a TTY to provide direct TTY access or by using the Washington Relay Service.

- 6.9 City of Wenatchee departments and offices shall provide written notice on all written documents and communiqués' distributed to the public information on how to request alternate formats. At a minimum, information shall include the following: "For alternative formats, contact the City of Wenatchee ADA Compliance office – 129 S. Chelan Avenue, Wenatchee, WA (509) 888-3604; Email: cityclerk@wenatcheewa.gov.
- 6.10 Individuals with disabilities accompanied by service animals will be afforded access to all City of Wenatchee facilities, programs, services, and activities as are open to other members of the public, unless the service animal's presence or behavior creates a fundamental alternation to the program or service being provided or presents a direct threat to safety. In addition, as a matter of policy, not compliance, City of Wenatchee will afford access to individuals and their accompanying services animals-in-training will be subject to the conditions and limitations established by law and applicable to individuals with disabilities and their service animals.
- 6.11 Upon advance request, reasonable steps will be taken to furnish appropriate auxiliary aids and services (e.g., assistive listening devices, sign language interpreters, Braille) to afford a qualified individual with a disability an equal opportunity to participate in and enjoy the benefits of the services, programs, activities, and physical facilities provided to the public by City of Wenatchee. Primary consideration will be given to the requests of the qualified individual with a disability unless another equally effective accommodation is available, or the use of the means requested would result in a fundamental alteration of the service, program, and activity or in undue financial or administration burden.
- 6.12 All city employees will receive information about ADA responsibilities including emergency procedures in dealing with those with disabilities at employee orientation and annual training as needed for updates.
- 6.13 All City of Wenatchee contractors, except contractors providing tangible goods, shall comply with Section 504/ADA Disability Assurance of Compliance, unless an accessibility waiver is obtained.
- 6.14 All City of Wenatchee departments administering Section 504 contracts whereupon the contractor, other than another government entity, provides programs, services, or activities to the public, shall require the contractor to comply with the Section 504/ADA requirements applicable to governments. The contracting City department shall monitor respective contracts for compliance with Section 504/ADA.
- 6.15 The City of Wenatchee has adopted procedures for prompt and equitable resolution of grievances alleging discrimination on the basis of disability in the City's provision of programs, services, and activities, and access to physical facilities, according to Section 8

7.0 RESPONSIBILITIES

- 7.1 The City of Wenatchee Administration is responsible for ensuring the City's compliance with disability non-discrimination laws regarding access. Under the law, the City of Wenatchee is required to have at least one designated ADA coordinator. The Mayor has

designated the Human Resources Manager/designee as the ADA Coordinator(s) to facilitate the City's efforts to comply with disability non-discrimination laws regarding access.

- 7.2 Department heads and officials shall cooperate with the City of Wenatchee ADA Coordinator and will ensure compliance with the requirements of disability non-discrimination laws regarding access, and with this policy and related procedures. Compliance-related activities include documenting:
 - 7.2.1.1 Designating a Section 504 departmental coordinator
 - 7.2.1.2 Defining disability accessibility accommodations made within their departments;
 - 7.2.1.3 Participation in the evaluation of programs, services, activities, and physical facilities to identify potential barriers to accessibility;
 - 7.2.1.4 The preparation of necessary Disability Corrective Action Plans and/or Disability Transition Plans; and
 - 7.2.1.5 The coordination of budget approval to implement such plans.
- 7.3 The ADA Coordinator will coordinate training and technical assistance to City of Wenatchee personnel on disability access issues.
- 7.4 The ADA Coordinator shall establish and implement internal grievance procedures to receive and resolve grievances from the public alleging non-compliance with disability non-discrimination laws regarding access. The Executive Services Director will serve as the point of appeal regarding ADA grievances.
- 7.5 The ADA Coordinator shall also develop such other policies and procedures necessary to improve accessibility of programs, services, activities, and physical facilities of City of Wenatchee government.

8.0 ADA GRIEVANCES – COMPLIANT PROCEDURE

- 8.1 City of Wenatchee Grievance Procedure – Purpose – The grievance procedure established herein shall address concerns regarding Title II of the ADA and Section 504 of the Rehabilitation Act of 1973, as it applies to City of Wenatchee department programs, services and activities. The grievances procedure may be used to file a complaint alleging:
 - 8.1.1 A complaint regarding policies for the provision of services, activities, programs, or benefits provided by City of Wenatchee.
 - 8.1.2 Discrimination of Section 504 of the Rehabilitation Act of 1973.

- 8.1.3 Structural and parking accessibility issues on City owned or controlled property.
- 8.1.4 Employment complaints shall be directed to the City of Wenatchee Human Resource Department and investigated pursuant to Human Resource policies and applicable labor contracts.

8.2 Complaint Procedure and Format.

8.2.1 The complaint should be in writing and contain information regarding the alleged discrimination to include the name, address, phone number of the complainant and location, date and description of the alleged incident. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request. (Refer to Section 6.9).

8.3 Complaint Filing.

The grievant and/or his/her designee should submit the complaint as soon as possible but no later than 30 calendar days after the alleged violation to:

City Clerk
City of Wenatchee
129 South Chelan Avenue
P.O. Box 519
Wenatchee, WA 98807-0519

8.4 Complaint Review

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

8.4.2 Complaints involving employment issues will be referred to the Human Resource Department for review and investigation.

8.5 Complaint Review Process.

8.5.1 If the response by the ADA Coordinator does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision of the ADA Coordinator within 15 calendar days after receipt of the response to the City of Wenatchee Executive Services Director or his or her designee.

8.5.2 Within 15 calendar days after receipt of the appeal, the City Executive Services Director (or his/her designee) will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting the City Executive Services Director (or his/her designee) will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint. The City Executive Services Director (or his/her designee) may, when appropriate, utilize mediation to resolve complaints.

8.6 Complaint Retention.

8.6.1 All written complaints received by the City Clerk, referrals to the ADA Coordinator, appeals to City Executive Services Director (or his/her designee), and responses from the ADA Coordinator and City Executive Services Director (or his/her designee) will be kept by City of Wenatchee for at least three years.

9.0 SECTION 504 – COMPLIANCE (FEDERAL GRANTS)

9.1 The objective of Section 504 of the Rehabilitation Act of 1973 is to ensure that entities receiving federal funding or grants do not discriminate against persons with disabilities. Some City of Wenatchee departments receive federal funding in support of specific programs, services and activities administered by those departments.

9.2 24 CFR PART 8 – SECTION 504 – “No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service of activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service”.

10.0 SECTION 504 – RECIPIENT DEFINED

10.1 Regulations define “recipient” as any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. An entity or person receiving housing assistance payments from a recipient on behalf of eligible families under a housing assistance payments program or a voucher program is not a recipient or sub-recipient merely by virtue of receipt of such payments [24 CFR 8.3].

11.0 SECTION 504 – COVERAGE

11.1 Section 504 covers all programs, services and activities of recipients of federal assistance, including, for example:

11.1.1 Outreach and public contact, including contact with program applicants and participants.

11.1.2 Eligibility criteria.

11.1.3 Application process.

11.1.4 Admission to the program.

11.1.5 Tenancy, including eviction.

11.1.6 Service delivery.

11.1.7 Employment policies and practices.

12.0 SECTION 504 – PROHIBITIONS AGAINST DISCRIMINATION

| Guarantee | Prohibition |
|---|--|
| Opportunity to participate | 12.1 Denying a qualified individual with disabilities the opportunity to participate in, or benefit from, the housing, aid, benefit, or service. |
| Equality of Benefits | 12.2 Failing to afford a qualified individual with disabilities the opportunity for equal participation and benefit. |
| Equality of opportunity | 12.3 Failing to provide a qualified individual with disabilities a program or service that affords the same opportunity to benefit as that afforded others. |
| No unnecessary difference or separateness | 12.4 Providing different or separate housing, aid, benefits or services on the basis of disability unless providing such is necessary to provide housing or benefits that are as effective as that provided to persons without disabilities. |
| No assistance to entities that discriminate | 12.5 Providing significant assistance to an agency, organization or person that discriminates on the basis of disability in any aspect of a federally assisted activity. |
| Opportunity to serve on boards | 12.6 Denying a qualified individual with disabilities the opportunity to participate as a member of planning or advisory boards. |
| No denial of right to a dwelling | 12.7 Denying a dwelling to an otherwise qualified buyer or renter because of a disability of that buyer or renter or another prospective tenant. |
| No discriminatory limitation of benefits | 12.8 Limiting in any other manner a qualified individual with disabilities in the enjoyment of any right, privilege, advantage, or opportunity afforded to others. |
| Most integrated setting | 12.9 Providing programs or services to qualified individuals with disabilities in settings that are unnecessary separate, segregated or restricted. |

13.0 SECTION 504 – CITY OF WENATCHEE RESPONSIBILITIES

- 13.1 To comply with Section 504 on federally funded projects administered by the City of Wenatchee, City departments receiving federal funding shall:
 - 13.1.1 Appoint a Section 504 coordinator.
 - 13.1.2 Take steps to ensure effective communication with applicants, beneficiaries, and members of the public. [24 CFR 8.6]
 - 13.1.3 Take steps to ensure that employment activities, including job announcements, recruitment, interviews, hiring, work assignments, promotions and dismissals, do not discriminate on the basis of disability. [24 CFR 8.10 – 8.13]
 - 13.1.4 Ensure that all non-housing programs are operated in a manner that does not discriminate on the basis of disability and that new construction and alterations of non-housing facilities are made accessible in accordance with applicable standards. [24 CFR 8.21]
 - 13.1.5 Operate existing housing programs in a manner that does not discriminate on the basis of disability, and take steps, as needed, to ensure that existing housing programs are readily accessible to and usable by persons with disabilities. Develop and implement a transition plan to assure compliance. [24 CFR 8.24]
 - 13.1.6 Provide reasonable accommodations which may be necessary for a person with a disability to use or participate in the program, service or activity; unless the recipient can demonstrate that the accommodation will result in an undue financial and administrative burden or a fundamental alteration in the nature of the program, service or activity. A reasonable accommodation is an adaptation or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Reasonable accommodations may include, but are not limited to, adjustments or modifications to buildings, facilities, dwellings, and may also include provision of auxiliary aids, such as readers, interpreters, and materials in accessible formats. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
 - 13.1.7 Pay for a reasonable accommodation needed by the individual (e.g., a ramp to a unit) unless providing that accommodation would be an undue financial and administrative burden or a fundamental alteration of the program. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
 - 13.1.8 Ensure that all new construction of housing facilities is readily accessible to and usable by person with disabilities, and meets the requirements of applicable accessibility standards. [24 CFR 8.22 and 8.32]

- 13.1.9 Ensure that substantial alterations, when undertaken, meet the requirements for new construction. [24 CFR 8.23(a)] Ensure that all other alterations, to the maximum extent feasible, meet the requirements of the applicable accessibility standards. [24 CFR 8.23(b)]
- 13.1.10 Conduct any required needs assessments (for recipients who are public housing agencies) to determine the extent to which the housing needs of persons with disabilities are being met in the recipient's program and in the community. [24 CFR 8.25]
- 13.1.11 Distribute accessible dwelling units throughout projects and sites and make such units available in the same ranges of sizes and amenities to provide housing choices for persons with disabilities that are the same as those provided by others. [24 CFR 8.26]
- 13.1.12 Adopt suitable means to ensure persons with disabilities are made aware of the availability of accessible units and to maximize use of accessible units by individuals needing the features of these units. [24 CFR 8.27]
- 13.1.13 Conduct any required self-evaluations of programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities, and involve persons with disabilities in these evaluations. [24 CFR 8.51]
- 13.1.15 Recipients with 15 or more employees – designate an employee to ensure the recipients' programs, services and activities meet the requirements of Section 504; adopt a grievance procedure to effect due process standards and prompt and equitable resolutions of complaints. [24 CFR 8.53]
- 13.1.16 Recipients with 15 or more employees – notify participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. [24 CFR 8.54]
- 13.1.17 Maintain records and reports of efforts to meet the requirements of Section 504, provide a copy to the ADA Coordinator and keep these records on file so that they are available if a complaint is filed, or if {a Federal compliance office} conducts a compliance review. [24 CFR 8.55]

14.0 SECTION 504 – DEPARTMENT SECTION 504 COORDINATOR RESPONSIBILITIES

- 14.1 Assure that respective departments comply with all grant requirements through developing, implementing and monitoring processes.
- 14.2 Create and insure that appropriate communication of complaint procedures for the public, employees and service recipients are posted or made known.
- 14.3 Create and implement effective communication mechanisms to acquaint participants, beneficiaries, applicants and employees of rights under all grants.
- 14.4 Assure that sub-recipients comply with all grant requirements and that sub-recipients have complaint and compliance procedures in place.
- 14.5 Investigate complaints filed under Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity administered by City of Wenatchee, as well as to sub-recipients, consultants and contractors.
- 14.6 Serves as the department liaison with grantor agencies on compliance issues including on-site compliance monitoring activities.
- 14.7 Works with the City ADA Coordinator as needed when grant requires ADA compliance.
- 14.8 Maintain all related files and reports.

15.0 SECTION 504 – ADA COORDINATOR RESPONSIBILITIES

- 15.1 The City of Wenatchee ADA Coordinator will assist Department 504 Coordinators with ADA compliance issues pursuant to Federal grant compliance requirements. Responsibilities include but may not be limited to:
 - 15.1.1 Direct complaints and inquiries regarding grants to the appropriate City departments.
 - 15.1.2 Assist City Department 504 Coordinators with complaints and investigations regarding alleged non-compliance of grant mandates.
 - 15.1.3 Prepare ADA accessible surveys for inspections.
 - 15.1.4 Assist with ADA inspections when requested.
 - 15.1.5 Serve as a resource on ADA issues.

16.0 SECTION 504 – CONTRACTOR ASSURANCE OF COMPLIANCE

16.1 Contractors, sub-contractors and entities participating in Section 504 programs will be required to show compliance with the ADA and Section 504 regulations. The City of Wenatchee has established a recording procedure for all Section 504 contractor participants. Assurance of compliance documentation will be required. Documentation includes:

16.1.1 Section 504 of the Rehabilitation Act of 1973 & ADA – General information.

16.1.2 ADA Self-Evaluation Questionnaire.

16.1.3 Checklist for Readily Achievable Barrier Removal.

16.1.4 Assurance of Compliance Form.

16.1.5 Corrective Action Plan.

16.1.6 Notice to Program Applicants.

17.0 SECTION 504 – NOTICE TO PARTICIPANTS AND APPLICANTS OF PROGRAM

Where possible, Section 504 Coordinators will distribute and post (or have posted) a notice to applicants and participants, that the program, service or activity is federally funded and must meet the mandates of Section 504.

18.0 SECTION 504 - COMPLAINTS

Persons with disabilities who believe they have been subjected to discrimination prohibited by Section 504 may file a complaint with the City of Wenatchee ADA Compliance office, U.S. Department of Justice or the U.S. Department of Housing and Urban development when discrimination in housing is alleged. Any person who believes that a specific class of persons has been subjected to discrimination prohibited by Section 504 and who is a member of that class or who is the authorized representative of a member of that class may file a complaint with the department. [24 CFR 8.26(c)] To file a complaint contact should be made with:

City of Wenatchee
City Clerk
129 South Chelan
P.O. Box 519
Wenatchee, WA 98807

U.S. Department of Justice
950 Pennsylvania Avenue N.W.
Civil Rights Division, Disability Rights – NYAVE
Washington D.C. 20530

Fair Housing HUD
U.S. Department of Housing and Urban Development
Seattle Federal Office Building
909 First Avenue, Room 205
Seattle, WA 98104-1000

19.0 FORMS AND DOCUMENTS

The listed forms and documents are available through the City of Wenatchee Human Resources Manager:

- Notice Under the Americans with Disabilities Act
- City of Wenatchee Grievance Procedure Under the Americans with Disabilities Act
- Citizen Request for Reasonable Accommodation Form
- Citizen Complaint Form – Programs, Services, Facilities and Activities
- Section 504 – General Information
- Section 504 – Notice: Section 504 of the Rehabilitation Act of 1973
- City of Wenatchee Employee Request for Reasonable Accommodation
- City of Wenatchee Reasonable Accommodation Policy
- Section 504 – Federal Complaint Form
- Section 504 – Self-Evaluation Review Form
- Section 504 – Assurance of Compliance
- Section 504 – Checklist for Existing Facilities
- Transition Plan