

CITY OF SAN DIEGO
ADMINISTRATIVE REGULATION

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CITY ADMINISTRATIVE REGULATION FOR INDIVIDUALS WITH DISABILITIES: CITY SERVICES	96.20	4	1 of 13
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1. PURPOSE

- 1.1. To comply with the Americans with Disabilities Act (ADA) and its implementing regulations; the Rehabilitation Act of 1973, as amended; California Government Code sections 11135-11139.5; title 24 of the California Code of Regulations; and any other applicable federal, state, and local laws and regulations protecting the rights of *Qualified Individuals with a Disability*.

2. SCOPE

- 2.1. This regulation applies to all City departments, boards, commissions, committees, task forces, special benefit districts, and other duly constituted bodies and offices operated by the City, and their respective programs, services, and activities. The City's policy related to employment of individuals with *Disabilities* is found in Administrative Regulation 96.21: City Policy for Individuals with Disabilities: Employment.

3. DEFINITIONS

- 3.1. *Accessible (Architectural)* - 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.
- 3.2. *Accessible (Communication)* - Oral, audio, visual, or tactile communication provided to individuals with speech, hearing, or vision impairments in a manner as effective as communications provided to those without speech, hearing, or vision loss. Examples of accessible communication include providing *Qualified/Certified American Sign Language Interpreters*, telecommunication devices for the deaf (*TDD/TTYs*), and assistive listening devices at public meetings.
- 3.3. *Accessible (Programmatic)* - When viewed in its entirety, each program, service, or activity is operated so as to be readily accessible to and usable by *Qualified Individuals with a Disability*. Examples of program access include providing a *Qualified/Certified American Sign Language Interpreter* at a meeting or moving a program from an architecturally inaccessible location to an *Accessible (Architectural)* location. Programs, services, and activities must be provided in an integrated setting that

(Supersedes Administrative Regulation 96.20, Issue 3, effective January 20, 2017)

Authorized

Signature of File

CHIEF OF STAFF/INTERIM CHIEF OPERATING OFFICER

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enables *Qualified Individuals with a Disability* to interact with non-disabled individuals to the fullest extent possible, unless separate or different measures are necessary to ensure equal opportunity.

- 3.4. *Auxiliary Aids and Services* - Devices and services that compensate for a disabling condition and enable individuals with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs, services, or activities conducted by the City.
- 3.5. *Disability* - A *Disability* is a physical or mental impairment that limits one or more of an individual's major life activities. Categories of *Disabilities* include, but are not limited to, mobility impairment, vision impairment, hearing impairment, cognitive impairment, intellectual impairment, and emotional impairment.
- 3.6. *Fundamental Alteration* - A modification so significant that it alters the essential nature of the goods, services, facilities, privileges, advantages, or accommodations offered.
- 3.7. *Other Power-Driven Mobility Device* - Any mobility device that is used by individuals 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. This includes golf carts, electronic personal assistance mobility devices such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes. *Wheelchairs* are not included in this definition.
- 3.8. *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.

The following individuals are also qualified individuals protected against discrimination under the ADA:

- 3.8.1. Individuals with a record of having a *Disability*;
- 3.8.2. Individuals regarded as having a *Disability*; and
- 3.8.3. Other individuals associated with an individual with a *Disability*.

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- 3.9. Qualified/Certified American Sign Language Interpreter - An interpreter who interprets effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, and who holds certification from the National Registry of Interpreters for the Deaf (RID), or Level 4 certification or above from the Educational Interpreter Performance Assessment (EIPA). The RID’s Code of Professional Conduct specifically prohibits misrepresentation of credentials and requires all interpreters to carry with them their certification cards and personal identification.
- 3.10. Service Animal - Any dog that is individually trained to do work or perform tasks for the benefit of the individual with a *Disability*, including a physical, sensory, psychiatric, intellectual, or other mental *Disability*. The work or tasks performed by a *Service Animal* must be directly related to its handler’s *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, except miniature horses which are an exception as outlined in Section 4.4.7.
- 3.11. Service Dog in Training - Any dog being trained to be a *Service Animal* by an individual with a *Disability* or by a person authorized to train the *Service Dog in Training*.
- 3.12. Speech-To-Speech (STS) Relay Service - *STS* assists anyone calling a person with a severe speech *Disability* and allows for individuals with severe speech *Disabilities* to make phone calls. The service involves the person with unintelligible or otherwise difficult to understand speech, and another individual with whom they are speaking, to communicate through a communications assistant at a relay center. To use this form of relay, dial 711 and ask for “Speech-to-Speech.”
- 3.13. Telecommunication Device for the Deaf (TDD) and Text Telephone (TTY) - *TDD* equipment uses any telephone or telephone line to allow deaf or hard-of-hearing individuals to communicate over the telephone via an acoustic coupler. *TTY* is a special device that lets deaf, hard-of-hearing, or speech-impaired individuals to use the telephone to communicate by allowing them to type messages back and forth to one another instead of talking and listening. *TTY* communication requires that both parties have a *TTY* device.
- 3.14. Undue Burden - An *Undue Burden* means significant difficulty or expense and can be either financial or administrative in nature. In determining whether an action would result in an undue burden, factors to be considered may include the nature and cost of the action; the overall financial resources of the public entity; the number of individuals employed by the public entity; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operations; and the impact otherwise of the action upon the operations of the public entity.

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- 3.15. Video Relay Interpreting (VRI) - An interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide bandwidth video connection that delivers high quality video images.
- 3.16. Video Relay Service (VRS) - A form of Telecommunications Relay Service (TRS) that allows individuals with hearing *Disabilities* who use American Sign Language to communicate with voice telephone users through video equipment rather than through typed text. Video equipment links the *VRS* user with a TRS operator, enabling the *VRS* user and the TRS operator to see and communicate with each other in signed conversation.
- 3.17. Wheelchair - A manually-operated or power-driven device designed primarily for use by an individual with a mobility *Disability* for the main purpose of indoor and/or outdoor locomotion.

4. POLICY

4.1. Public Access to Programs, Services, and Activities

- 4.1.1. The City is responsible for operating programs, services, and activities that are readily *Accessible (Architectural; Communication; Programmatic)* to, and usable by, *Qualified Individuals with a Disability*.
- 4.1.2. The City is responsible for providing equal opportunity to access City programs, services, and activities by:
 - a. Holding meetings, programs, and other events that are open to the public at *Accessible (Architectural)* locations.
 - b. Providing programs, services, and activities in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.
 - c. Modifying policies, practices, or procedures when necessary to avoid discrimination unless the modifications would *fundamentally alter* the nature of the program, service, or activity. See Section 4.7: Reasonable Modifications.
 - d. Ensuring information placed on the City's website is fully *Accessible (Communication)* to *Qualified Individuals with a Disability*.
 - e. Providing *Auxiliary Aids and Services* to *Qualified Individuals with a Disability*, whenever required, to provide equal opportunity for accessing City programs, services, and activities. The City shall give primary consideration to the requests of *Qualified Individuals with a Disability* in

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determining what types of *Auxiliary Aids and Services* are necessary. In order to be effective, *Auxiliary Aids and Services* must be provided in *Accessible (Communication)* formats, in a timely manner, and in such a way as to protect the privacy and independence of the *Qualified Individual with a Disability*.

- i. Examples of *Auxiliary Aids and Services* for individuals with hearing *Disabilities* include but are not limited to: *Qualified/Certified American Sign Language Interpreter* on-site or through video remote interpreting (*VRI*) services; note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices or systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (*TTYs*), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing.
 1. The City shall not require an individual with a *Disability* to bring an interpreter.
 2. The City shall not rely on an adult or minor child accompanying an individual with a *Disability* to interpret or facilitate communication except:
 - A. In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no *Qualified/Certified American Sign Language Interpreter* available; or
 - B. Where the individual with a *Disability* specifically requests that the accompanying adult (but not a minor child) interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.
- ii. Examples of *Auxiliary Aids and Services* for individuals with visual *Disabilities* include but are not limited to: qualified readers; taped

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texts; audio recordings; braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision.

- f. Including a statement indicating the City’s policy on *Access (Communication)* for individuals with *Disabilities* on all informational materials such as announcements, websites, meeting agendas, program descriptions, forms, and other information disseminated to the public. The statement should read as follows:

To request this information in an alternative format please contact the issuing department, adacompliance@saniego.gov, or (619)236-5979. A minimum of seven business days’ notice is requested to ensure availability; attempts will be made to accommodate requests with shorter notice.

- g. Providing informational materials such as announcements, websites, meeting agendas, program descriptions, forms, and other information disseminated to the public, in an alternative format, when requested. Materials will be provided free of charge and in a timely manner. See Section 5: Responsibility, for who is responsible for this subsection.
- h. Eliminating eligibility standards or rules that deny *Qualified Individuals with a Disability* physical access or equal opportunity to enjoy programs, services, or activities unless such standards or rules are necessary for the provision of the program, service, or activity due to its inherent nature.
- i. Permitting individuals with mobility *Disabilities* to use *Wheelchairs* and manually powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with *Disabilities* in any areas open to pedestrian use.
- j. Permitting individuals with mobility *Disabilities* 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 shall consider:
- i. The type, size, weight, dimensions, and speed of the device;

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- ii. The facility's volume of pedestrian traffic;
 - iii. The facility's design and operation characteristics;
 - iv. Whether legitimate safety requirements can be established to permit the safe operation of the *Other Power-Driven Mobility Device* in the specific facility; and
 - v. 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.
- k. Ensuring non-discrimination on the basis of *Disability* in contracting for the purchase of goods and services.
- l. Ensuring that newly constructed buildings and facilities follow all federal, state, and local accessibility rules, regulations, and building codes.
- m. Ensuring that alterations to existing buildings and facilities follow all federal, state, and local accessibility rules, regulations, and building codes.
- n. Ensuring that each program, service, or activity operated by the City, when viewed in its entirety, is accessible to and usable by *Qualified Individuals with a Disability* unless the action would threaten or destroy the historic significance of a historic property, result in a *Fundamental Alteration* in the nature of the program, service, or activity, or result in an *Undue Burden*.
- i. Documentation: After considering all resources available, the Mayor or the Mayor's designee must make the decision that compliance with the federal, state, or local accessibility rules, regulations, and building codes would result in a *Fundamental Alteration* or *Undue Burden* and must document the decision with a written statement of the reasons for reaching that conclusion. The City must still take other actions that would not result in such an alteration or burden but would nevertheless ensure that *Qualified Individuals with a Disability* receive the benefits or services provided by the City.
- o. Ensuring that all space leased by the City is *Accessible (Architectural)* to and usable by *Qualified Individuals with a Disability*.

4.2. Legitimate Safety Requirements

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4.2.1. The City may impose legitimate safety requirements necessary for the safe operation of its programs, services, or activities. However, the safety requirements must be based on actual risks, not on mere speculation, stereotypes, or generalizations about *Qualified Individuals with Disabilities*.

4.3. Inquiry about a Disability

4.3.1. The City shall not ask questions of a *Qualified Individual with a Disability* using a *Wheelchair* or *Other Power-Driven Mobility Device* about the nature and extent of the individual's *Disability*. The City may ask a person using an *Other Power-Driven Mobility Device* to provide a credible assurance that the mobility device is required because of the person's *Disability*. The City shall accept the presentation of a valid, State-issued *Disability* parking placard or other proof of *Disability*, or verbal representation, not contradicted by observable fact, that the *Other Power-Driven Mobility Device* is being used for a mobility *Disability*.

4.4. Service Animals

4.4.1. General - The City shall allow the use of a *Service Animal* (i.e., a dog or miniature horse) by a *Qualified Individual with a Disability*. *Service Animals* shall be permitted to accompany the *Qualified Individual with a Disability* in all areas of the City open to the public.

4.4.2. Inquiries about a Service Animal - The City shall not ask about the nature or extent of a person's *Disability* or request or require documentation about the animal, such as proof that the animal has been certified, trained, or licensed.

- a. In cases where it is unclear what service an animal is providing, the City may ask two questions in order to determine whether an animal qualifies as a *Service Animal*:
 - i. Is the animal required because of a *Disability*?
 - ii. What work or task has the animal been trained to perform?
- b. The City may not ask the handler to have the *Service Animal* demonstrate the work or task. Examples of work or tasks include but are not limited to: assisting individuals who are blind or have low vision with navigation and other tasks; alerting individuals who are deaf or hard of hearing to the presence of people or sounds; providing non-violent protection or rescue work; pulling a *Wheelchair*; assisting an individual during a seizure; alerting individuals to the presence of allergens; retrieving items such as medicine or the telephone; providing physical support and assistance with

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balance and stability to individuals with mobility *Disabilities*; and helping individuals with psychiatric and neurological *Disabilities* by preventing or interrupting impulsive or destructive behaviors.

- c. *Service Animals* are subject to local dog licensing and vaccination requirements.

4.4.3. Animal under Handler's Control - A *Service Animal* must have a harness, leash, or tether. The *Service Animal* must be otherwise under the handler's control through voice commands, or other effective signals, if the individual with a *Disability* is unable to use a harness, leash, or tether because of a *Disability* or because it would interfere with the *Service Animal's* safe, effective performance of work or tasks.

4.4.4. Exclusions - The City may ask a *Qualified Individual with a Disability* to remove a *Service Animal* from public facilities if:

- a. The animal is out of control and the animal's handler does not take effective action to control it;
- b. The animal is not housebroken; or
- c. The animal is a direct threat to the health or safety of others.
 - i. If the City properly excludes a *Service Animal* under this regulation, it shall give the *Qualified Individual with a Disability* the opportunity to participate in the program, service, or activity without having the *Service Animal* on the premises.

4.4.5. Responsibility - The City is not responsible for the care or supervision of a *Service Animal*, including situations in which the animal has been excluded from a public facility for any of the above reasons.

4.4.6. Surcharges - The City shall not ask or require a *Qualified Individual with a Disability* to pay a surcharge or to comply with any requirements generally not applicable to individuals without pets. Even if individuals accompanied by pets are required to pay fees for their pets, individuals with *Service Animals* are not to be charged a fee for their *Service Animal* to accompany them. However, if the City normally charges individuals for damage caused by their pets, a *Qualified Individual with a Disability* may be charged for damage caused by his or her *Service Animal*.

4.4.7. Miniature Horses - In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific

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facility, the City shall consider:

- a. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- b. Whether the handler has sufficient control of the miniature horse;
- c. Whether the miniature horse is housebroken; and
- d. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.
 - i. Other requirements as specified in sections 4.4.1 through 4.4.6, which apply to *Service Animals*, shall also apply to miniature horses.

4.4.8. *Service Dogs in Training - Qualified Individuals with a Disability* training a *Service Dog in Training*, and persons authorized to train *Service Animals*, shall be permitted in all areas of the City open to the public.

- a. Other requirements as specified in sections 4.4.2 through 4.4.6, which apply to *Service Animals*, shall also apply to *Service Dogs in Training*.

4.5. Technology

4.5.1. Web Content - Content on all website and web applications created, bought, leased, or otherwise employed by the City for public use shall meet the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA and any successive WCAG guidelines most current at the time of application.

4.5.2. Emergency Services - Telephone emergency services, including 911 and reverse 911 services, shall provide direct access to individuals who use *TDD/TTYs*.

4.6. Public Access to City Meetings and Records

4.6.1. The Office of the City Clerk will coordinate the provision of *Qualified/Certified American Sign Language Interpreters* or oral interpreters for City Council meetings when requested by an individual with a hearing impairment.

4.6.2. The Council Administrator's Office will coordinate the provision of a *Qualified/Certified American Sign Language Interpreters* or oral interpreters for City Council Committee meetings when requested by an individual with a hearing impairment.

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4.6.3. Requests for *Auxiliary Aids and Services* or interpreters require different lead times. The City, and contracting agencies who provide the interpreters, request a minimum notice of seven business days to ensure the availability of an interpreter, though attempts will be made to accommodate requests with shorter notice.

4.6.4. The Office of the City Clerk Office of the City Clerk will serve as a central location for storage and distribution of the City's Assistive Listening Devices for Council Chambers and the Council Committee Room.

4.6.5. The Office of the City Clerk will ensure that the *TTY* number is listed whenever the City Clerk's Office voice phones are listed. The proper format is:

_____ - _____ Voice
_____ - _____ *TTY*

4.6.6. The Office of the City Clerk, upon request, will provide printed materials in alternative formats such as braille, large print, audio tape, or electronic format. The City's ADA Coordinator will assist, as needed, with any of the above requirements.

4.6.7. The Office of the City Clerk will include a statement on all City Council meeting agendas.

The statement should read as follows:

This information will be made available in alternative formats upon request by contacting [NAME] at [(###) ###-####] or mail to: [EMAIL ADDRESS]. To ensure availability, a minimum of seven business days' notice is requested for Disability-related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services, or interpreters; attempts will be made to accommodate requests with shorter notice.

4.6.8. The Council Administrator will include a statement on all City Council Committee meeting agendas. The statement should read as follows:

This information will be made available in alternative formats upon request by contacting [NAME] at [(###) ###-####] or mail to: [EMAIL ADDRESS]. To ensure availability, a minimum of seven business days' notice is requested for Disability-related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services, or interpreters; attempts will be made to accommodate requests with shorter notice.

4.6.9. The City shall not ask or require a *Qualified Individual with a Disability* to pay a

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fee for any requests for *Auxiliary Aids and Services, Qualified/Certified American Sign Language Interpreters*, assistive listening devices, materials in alternative formats, or any other *Accessible (Programmatic)* accommodation.

4.7. Reasonable Modifications

4.7.1. General - In accordance with the ADA, the City will make reasonable modifications to its policies, practices, and procedures necessary to avoid discrimination on the basis of *Disability* unless making the modification(s) would be a *Fundamental Alteration*.

a. The City is not required to provide a reasonable modification to a *Qualified Individual with a Disability* who meets the definition of *Disability* solely under Section 3.8.2.

5. RESPONSIBILITY

5.1. Executive Director for the Office of ADA Compliance and Accessibility

5.1.1. Coordinates City-wide efforts to comply with federal, state, and local *Disability* laws and regulations; coordinates ADA grievance procedures and is the lead ADA Coordinator for the City.

5.2. City Clerk or their Designated Representative(s)

5.2.1. Coordinates the provision of *Auxiliary Aids and Services* to the public for all City Council activities and the distribution of all public information related to City Council actions, in addition to responsibilities listed in Section 4.6.

5.3. Council Administrator

5.3.1. Coordinates the provision of *Auxiliary Aids and Services* to the public for all Council Committee activities, as well as the distribution of all public information related to Council Committee actions.

5.4. Department Directors or their Designated Representative(s)

5.4.1. Ensure that the regulations stated in this Administrative Regulation are carried out in their department for all programs, services, activities, and meetings. Directors need to plan for ongoing accommodations, such as assistive devices or adaptive equipment needs, in their annual department budgets in order to provide *Access (Architectural; Communication; Programmatic)* to the public and to provide reasonable accommodations for employees with *Disabilities*.

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APPENDIX

Legal References

Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*
2010 ADA Standards for Accessible Design.
The Rehabilitation Act of 1973, as amended.
California Government Code §§ 11135 - 11139.5.
Title 24 of the California Code of Regulations.
Web Content Accessibility Guidelines 2.1.

Subject Index

Accessibility Regulation for Individuals with Disabilities

Administering Department

Office of ADA Compliance and Accessibility