

**CITY OF LA VISTA
COUNCIL POLICY STATEMENT**

**Programs, Services, and Activities related to Section 504 - Rehabilitation Act of 1973
Americans with Disabilities Act of 1990**

**Issued: May 18, 2010
Resolution No. 10-059**

Purpose

The City of La Vista 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 La Vista 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

Please see Responsibility Flow Chart on Attachment 1

Section 504/ADA Coordinator Responsibilities

The City Clerk is designated as the City's Section 504/ADA Coordinator. The Coordinator shall be responsible for coordinating the City's efforts to comply with and carry out its responsibilities under the Section 504/ADA including employment matters and receiving any complaints communicated to the Coordinator alleging the City's non-compliance or alleging any actions that would be prohibited acts.

Section 504/ADA Notice to the Public

The City of La Vista 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 La Vista 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 the designated ADA and Section 504 compliance coordinator:

Pam Buethe, City Clerk
402-331-4343 Phone
402-331-4375 Fax
8116 Park View Blvd.
La Vista, NE 68128
pbuethe@cityoflavista.org
Office hours: Monday-Thursday, 8am-4:30pm, Friday, 8am-noon

Section 504/ADA Self-Evaluation

The following areas were evaluated at the time of the original passage of the acts and are reviewed periodically to ensure continued compliance.

- Personnel policies, procedures, benefits, programs, etc. were reviewed for accessibility.
- City buildings and facilities were evaluated for accessibility.
- City programs, services and activities were evaluated for accessibility.

The buildings, facilities, programs, services and activities are reviewed on an annual Basis as part of the Capital Improvement Program and the normal budget process.

Self-evaluations consider all programs, activities and services. Remedial measures necessary to bring the programs, policies, and services into compliance may include, but be limited to, (1) relocation of programs to accessible facilities; (2) offering programs in an alternative accessible manner; (3) structural changes to provide program access; (4) policy modifications to ensure nondiscrimination; and (5) auxiliary aids to needed to provide effective communication.

Section 504/ADA Transition Plan

The following areas identified in the self-evaluation process were given a transition plan and have been completed.

Employment

- Application form was reviewed and updated for compliance.
- Policy on pre-employment physical examinations was changed to be post job offer.
- Application procedure was changed to allow for changes in maximum testing times (such as those with dyslexia or other impairments).
- Job descriptions were updated. New format now includes a section for Essential Functions, Physical Requirements, Tools/Equipment Used, and Working Conditions.
- Recruitment information is now available in several formats and additional locations.
- Training with provided to all employees with additional training for supervisors regarding hiring policies, interviewing questions and procedures, etc.

Buildings/Facilities/Infrastructure

- Police Station (old facility)—pathways, door handles, and doorbells were changed, restroom facilities were modified, accessible parking and signage were altered for compliance.
- Police Station (new facility)—the new station was designed to be totally accessible according to building code requirements. Severe weather warning accommodations are available upon request.
- Fire Station No. 1 (old facility)—modified restrooms, added accessible parking spaces and with related signage and modified door handles. A new facility to replace Fire Station No. 1 is in the planning stages and will proceed when funding can be arranged.
- City Hall—a new City Hall was constructed prior to Jan. 1995 compliance deadline which conformed to all of the accessibility standards at that time.
- Municipal Swimming Pool—modifications were made to the bathhouse to modify restrooms and shower facilities, hallways were modified, and accessible parking was provided. Wheelchair access from the exterior is provided via a gate opening at the side of the building to circumvent a front door width restriction after which access to the bathhouse is available from inside the pool area. Some major issues, such as zero-depth entry remain. These will be addressed with a new aquatic facility at such time as funding can be obtained.
- Central Park-Restroom modifications were made and accessible parking stalls were provided.
- City Park—a drinking fountain was lowered and a new concession/maintenance building was constructed that provided accessible restrooms.
- Sports Complex—insulated piping and modified faucet handles in restrooms, changed door handles and provided accessible parking spaces
- Signage indicating accessible entrances was placed on each building.

Curb Ramps In Public Streets

- Newly built or altered streets and roads include ramps wherever there are curbs or other barriers to entry from a pedestrian walkway. "Altered" includes resurfacing while isolated panel replacement and filling-in potholes does not.

- New sidewalks and walkways in public right of way or public property contain curb ramps in accordance with the applicable design regulations at the time that they are constructed.
- The public may request curb ramps at specific locations at any time. They will be constructed if warranted at such time as funds are available.
- All existing streets have been provided with curb ramps.

Services

- Council meeting minutes are available in alternative formats including written and audiotape. City Council and other public hearing agendas are also available in different formats. These are available upon request to the City Clerk at least three working days prior to the public hearing.

Transition plans will be created/alterd as areas are identified during our continuing self-evaluations. Interested persons, including individuals with disabilities or organizations representing individuals with disabilities, will have an opportunity to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

ADA Compliant Procedure

1. If you believe you have been discriminated against, denied employment or a benefit, or excluded from participation in any City program or activity on the basis of disability in violation of the ADA, you may submit a complaint in writing to the City Clerk for resolution. The complaint form attached hereto should be used. The complaint should be submitted as soon as possible but no later than sixty (60) days after the alleged violation. A record of the complaint and action taken will be maintained. A decision by the City Clerk will be rendered to you in writing or an appropriate substitute format within 10 working days.
2. Upon receipt of a complaint the City Clerk will provide the appropriate Department Head with a copy of the complaint. The Department Head will assist the City Clerk in conducting an investigation. The City Clerk may seek assistance from other Department Heads and the City Attorney depending on the nature of the complaint. A response will be provided in writing to the complainant within 15 working days of receipt of the complaint. The response will explain the position of the City of La Vista and, if applicable, offer options for resolution or actions that will be taken by the City.
3. If the complaint can't be resolved to your satisfaction by the City Clerk you may appeal the decision or action to the City Administrator within 15 days after receipt of the response from the City Clerk.
4. If the complaint can't be resolved to your satisfaction by the City Clerk or City Administrator, then the complaint will be heard by the City Council and discussed at an open, public meeting of the elected body. The decision of the City Council is the final action of the City in response to the complaint.
5. A record of action taken on each request or complaint will be maintained as a part of the records or minutes at each level of the grievance process.

6. Your right to a prompt and equitable resolution of the complaint will not be impaired by your pursuit of other remedies, such as the filing of a complaint with the Department of Justice or other appropriate federal agency, or the filing of a suit in the state or federal court. Use of this grievance procedure isn't a prerequisite to the pursuit of other remedies.

Reasonable Accommodation Procedures

The requirements related to the provision of auxiliary aids and services and information concerning local providers are set forth in an attachment to this policy.

Assurances

Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the City of La Vista, 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 La Vista 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.

End

AMERICAN'S WITH DISABILITIES ACT
DISCRIMINATION COMPLAINT FORM

Instructions: Please fill out this form completely. Sign and return to the address on page 2.

Complainant:

Address:

City, State and Zip Code:

Telephone:

Home: _____

Cell: _____

Person Discriminated Against:
(if other than the complainant)

Address:

City, State and Zip Code:

When did the discrimination occur? _____

Where did the discrimination occur? _____

Describe the act(s) of discrimination (attach additional pages if necessary):

Have any additional efforts been made by you regarding this complaint? Yes ___ No ___

If yes, what?

Signature: _____

_____ Date:

Return this form to:

Ms. Pam Buehe, City Clerk
City of La Vista
8116 Park View Blvd.
City of La Vista, NE 68128
pbuehe@cityoflavista.org

AUXILIARY AIDS AND SERVICES

Under the Americans with Disabilities Act (ADA), State and local governments must ensure effective communication with individuals with disabilities. Public entities are required to provide appropriate auxiliary aids and service, where necessary, to ensure that communications (such as all public information, discourse, and/or announcements) with individuals with disabilities are as effective as communications with others. Auxiliary aids and services include: Braille, large print formats, assistive listening devices (ALS), TTY/TTD access, closed captioning, interactive software for various disabilities, website accessibility implements, interpreters, readers, service animals, etc.

When selecting an auxiliary aid or service, a public entity should:

- Give primary consideration to the aid or service preferred by the individual because that individual is usually best able to identify the communication barriers that hamper participation.
- Allow people the opportunity to use their own assistive technology products to achieve effective communication.
- Consider the context in which the communication is taking place and its importance.

A public entity is not required to provide:

- The requested aid or service if there is another equally effective means of communication available; however, it must give primary consideration to the aid or service preferred by the individual.
- Auxiliary aids that would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. However, public entities must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or undue burden.

TO FIND LOCAL PROVIDERS OF SPECIFIC AUXILIARY AIDS AND SERVICES
CONTACT:

Nebraska Commission for the Blind and Visually Impaired

4600 Valley Road
Suite 100
Lincoln, NE 68510-4844
Phone: (402) 471-2891
Toll-free: (877) 809-2419
Fax: (402) 471-3009

<http://www.ncbvi.ne.gov/>

Nebraska Commission for the Deaf and Hard of Hearing

Omaha Office
1313 Farnam On-The-Mall
Omaha, NE 68102-1836
Phone: (402) 595-3991 v/tty
Fax: (402) 595-2509
Toll Free: 1-877-248-7836 v/tty
E-mail Address: ncdhh.omaha@nebraska.gov

<http://www.ncdhh.ne.gov/>

Nebraska Department of Health and Human Services

Eastern Service Area
Barry DeJong- Administrator
1313 Farnam
Omaha, NE 68102
Phone: (402) 595-2880

Lincoln Office
301 Centennial Mall South
P.O. Box 95206
Lincoln, NE 68509-5026
Phone: (402) 471-3121

<http://www.dhhs.ne.gov/>