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## **Americans with Disabilities Act Grievance Policy**

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### **1.0 PURPOSE**

The Santa Clara Valley Open Space Authority (Authority) is committed to providing accessible services, programs and activities. The Authority does not discriminate on the basis of disability, as provided by Title II of the American with Disabilities Act of 1990 (ADA), and, upon request, will provide reasonable accommodations to its services, programs and activities. Title II requires that public entities adopt and publish a grievance procedure to ensure the prompt and equitable resolution of complaints.

The purpose of this ADA grievance procedure is to resolve as promptly as possible any problems, complaints, or conflicts related to the Authority’s ADA compliance as it relates to public access to facilities, services, programs, and activities without the need for the complainant to resort to other remedies available under the law. 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, and programs.

The Authority wants to hear concerns and complaints from citizens in order to provide accessible programs, services and activities. Members of the public are welcome to contact the Authority informally with a comment, concern or complaint without filing a formal grievance by contacting the ADA Coordinator by email at [ada@openspaceauthority.org](mailto:ada@openspaceauthority.org) or by phone at 408.244.7476 or by dialing the California Relay Service at 711. A formal grievance can be filed by completing the Authority’s Grievance Form (Attachment 1). Alternative means of filing complaints will be made available for persons with disabilities upon request as discussed in this policy.

Employees with a disability-related grievance should consult Human Resources, as the content of this policy is focused on public access to Authority facilities, services, programs and activities.

### **2.0 APPLICATION**

This policy applies to anyone who wishes to file a complaint alleging discrimination on the basis of disability as provided by Title II of the Americans with Disabilities Act of 1990 (ADA) in the provision of services, activities, and programs. This policy also applies to staff and directs the process and timeline of investigating such complaints.

### 3.0 AUTHORITY

Americans with Disabilities Act Title II Regulations, Department of Justice 28 CFR Part 35 §35.107

### 4.0 POLICY

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#### 1. WHO MAY FILE A GRIEVANCE?

Anyone may file a grievance on behalf of themselves or others when they believe any of the following has occurred.

- The Authority is not in compliance with the physical access requirements of the ADA related to its public facilities; or
- You have been denied access or reasonable accommodation to participate in an Authority program, service or activity on the basis of disability; or
- You have been otherwise subjected to discrimination on the basis of disability by the Authority; or
- The Authority has otherwise violated the ADA.

#### 2. WHEN SHOULD A GRIEVANCE BE FILED?

Before filing a grievance, you may seek informal resolution by contacting the Authority's ADA Coordinator at [ada@openspaceauthority.org](mailto:ada@openspaceauthority.org). The Authority encourages, but does not require, an attempt to resolve concerns informally prior to filing a formal grievance. If your informal concern is not resolved in a timely fashion, you have the right to file a formal grievance under this procedure.

The grievance should be submitted by the grievant and/or his/her designee as soon as possible, but no later than 60 calendar days after the alleged violation. Prompt filing better enables the Authority to more effectively identify and correct any problems with the accommodation process.

### 3. WHAT SHOULD THE GRIEVANCE INCLUDE?

You may file your grievance on the attached form (Attachment 1). If you choose not to use the form, your grievance may be filed either in writing or verbally to the Authority's ADA Coordinator at [ada@openspaceauthority.org](mailto:ada@openspaceauthority.org) or by phone at 408.224.7476 or by dialing the California Relay Service at 711. Your grievance should include the following information.

- Your name, address, telephone number and email address. If a representative is filing the grievance on your behalf, their name, address, telephone number and email address should also be included.
- A description of the offending behavior(s) or action(s) or violation(s).
- The date(s), time(s) and location(s) of the incident(s).
- If the incident(s) involved an Authority employee(s), his or her name(s) should be included, if you know it.
- The name(s) and contact information of witnesses, if any.
- If your grievance is being filed on behalf of another person or a group of people, all the grievants should be described or identified by name, if possible.
- The remedy you desire.
- Your signature or the signature of your authorized representative if submitting your grievance in writing.

### 4. WHERE SHOULD I SUBMIT MY GRIEVANCE?

You may file your grievance with the Authority's designated ADA Coordinator by mail, email, phone or by hand delivery. The ADA Coordinator's contact information is as follows:

#### **ADA Coordinator**

Santa Clara Valley Open Space Authority  
33 Las Colinas Drive  
San Jose, CA 95119  
Office: 408.224.7476

[ada@openspaceauthority.org](mailto:ada@openspaceauthority.org)

California Relay Service: dial 711

### 5. WHAT IF I NEED ASSISTANCE FILLING OUT MY GRIEVANCE?

Assistance is available from the Authority's ADA Coordinator. You should contact their office and request the type of assistance you need. 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. The ADA Grievance Procedure and Complaint Form are available in alternative formats upon request from the ADA Coordinator.

**6. WHAT HAPPENS AFTER I FILE MY GRIEVANCE?**

After receiving your grievance, the ADA Coordinator, or their designee, will investigate your complaint. The investigation may include interviews with you, persons, if any, who allegedly discriminated against you, and any other person the investigator believes to have relevant knowledge concerning your grievance. The investigator will also consider any written evidence that is given to him/her.

After completing the investigation, the investigator will review the factual information gathered through the investigation to determine whether discrimination has occurred or the ADA has been otherwise violated. The investigator will consider all the factual information, all the circumstances and the context in which any alleged incident(s) occurred. The investigator will then prepare a written report which will include the results of the investigation, a determination as to whether discrimination occurred or access requirements have been violated, and any appropriate remedy which the Authority will provide.

A copy of the report and findings will be sent to you according to the timeline as outlined below.

**7. WHEN WILL I RECEIVE A RESPONSE?**

Within seven business days of the Authority's receipt of the grievance, you will be sent a confirmation that it has been received and is being investigated. The ADA Coordinator will contact you to schedule a meeting or a phone or video conference to discuss the complaint, if appropriate.

If you do not receive a confirmation within seven business days, please contact the ADA Coordinator.

Within 15 calendar days after receipt of the grievance, the ADA Coordinator will meet, call or video conference with you to discuss the complaint and the possible resolutions.

Absent extenuating circumstances, all grievances will be investigated and a report and findings issued with a final resolution of the complaint, within 30 calendar days of the meeting, phone or video conference with you. If for whatever reason you do not wish to meet with the ADA Coordinator, the report and findings will be issued within 45 calendar days of receipt of the complaint.

If a delay is expected, the ADA Coordinator will notify you in writing of the reason(s) for the delay and the date by which you will receive a report and findings.

**8. SHOULD I BE CONCERNED THAT AN EMPLOYEE MIGHT RETALIATE AGAINST ME IF I COMPLAIN?**

The Authority will not retaliate against you for filing a grievance and will not knowingly permit retaliation by its employees. The Authority will take reasonable steps to protect you from retaliation by others as a result of filing a grievance. Please contact the ADA Coordinator immediately if you feel you are being retaliated against for filing a grievance. See Item 4 above for the ADA Coordinator's contact information.

**9. WHAT CAN I DO IF I AM NOT SATISFIED WITH THE RESULTS OF THE AUTHORITY’S INVESTIGATION?**

If you are not satisfied with the results of the investigation, you may submit a verbal or written appeal within 15 calendar days of your receipt of the report and findings. Your appeal should detail the reasons you believe the findings to be in error. You will be sent a response within 15 calendar days of the day your appeal is received.

Your appeal should be directed to the Authority’s ADA Coordinator through whom it will be escalated to the General Manager or his/her designee. Within 15 days of receipt of the appeal, the General Manager or his/her designee will meet with you to discuss the complaint and possible resolutions. Within 15 days calendar days after the meeting, the General Manager or his/her designee will respond in writing, and where appropriate, in a format accessible to you with a final resolution of the complaint.

If you are not satisfied with the results of the appeal, you may file a complaint with the appropriate agency or department of the State or Federal government. Contact the U.S. Department of Justice, the U.S. Department of Education Office for Civil Rights or the California Department of Justice Civil Rights Division for information about how to file a complaint with these agencies.

Using this grievance procedure is not a prerequisite to pursuing any other remedies available to you. However, in the interest of a prompt and equitable resolution of alleged discrimination, the Authority encourages you to use this procedure.

All written complaints and appeals received by the ADA Coordinator or designee and reports, findings and responses will be retained by the Authority for at least three years.

**5.0 RESPONSIBILITIES**

The ADA Coordinator is responsible for receiving, investigating and otherwise addressing complaints pertaining to and within the timeline described in the ADA Grievance Policy.

The General Manager is responsible for considering any appeals and responding to the complainant within the timeline described in this policy.

Policy Approval History

<b>Policy #</b>	<b>Revision</b>	<b>Date</b>	<b>Reso</b>	<b>Action</b>
BRD-000	00	09/12/2024	24-46	Adopted



**Santa Clara Valley Open Space Authority**

Attachment 1

**Americans with Disabilities Act and**

**Section 504 of the Rehabilitation Act of 1973**

**Grievance Form**

**Instructions:** Please fill out this form completely. A printed or typed response is recommended. Sign and return to the address on last page by email, mail or in person. If you need an accommodation to complete or submit this form, please contact the ADA Coordinator at 408.244.7476 or [ada@openspaceauthority.org](mailto:ada@openspaceauthority.org) or the California Relay Service by dialing 711.

**1. Complainant:** \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Mobile or Landline: \_\_\_\_\_

**2. Person Discriminated Against (if other than the complainant):**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Mobile or Landline: \_\_\_\_\_

**3. Department or person which you believe has discriminated (if known):**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

When did the discrimination occur? Date: \_\_\_\_\_

**4. Describe the acts of discrimination providing the name(s) where possible of the individuals who discriminated:**

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**5. Have efforts been made to resolve this complaint?**

Yes  No

If yes: what efforts have been taken and what is the status of the grievance?

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Note: The following information would be helpful and is optional to provide:

**6. Has the complaint been filed with another bureau, such as the Department of Justice or any other Federal, State, or local civil rights agency or court?**

Yes  No

If yes:

Agency or Court: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Date Filed: \_\_\_\_\_

**7. Do you intend to file with another agency or court?**

Yes  No

Agency or Court: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

**8. Additional comments or information:**

\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Return to:**

Santa Clara Valley Open Space Authority  
Attn: Lea Rauscher, Assistant General Manager  
33 Las Colinas Road, San Jose, CA 95119

[ada@openspaceauthority.org](mailto:ada@openspaceauthority.org)

408.244.7476

California Relay Service: dial 711

**REFERENCES**

Americans with Disabilities Act Title II Regulations, Department of Justice 28 CFR Part 35 §35.107