



Sunnyvale

## ADA Self-Evaluation & Transition Plan

Appendix A:

Self-Evaluation of Policies, Procedures, and Practices



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City of Sunnyvale  
SSA Project # 15089.00

# City of Sunnyvale

## Americans with Disabilities ADA Self-Evaluation



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## Section I: Project Overview

### Introduction

The City of Sunnyvale is committed to providing seamless access to all its programs, services and activities for qualified persons with disabilities. To ensure appropriate access exists, as well as compliance with State and Federal disability civil rights laws, the City of Sunnyvale conducted this Americans with Disabilities Act (ADA) Self- Evaluation. ***An ADA Self-Evaluation is an examination of all programs, services and activities provided by the City to ensure that, when viewed in their entirety, they are readily accessible to qualified persons with disabilities.***

### The City of Sunnyvale

Located 40 miles south of San Francisco and 10 miles north of San Jose, Sunnyvale is at the heart of Silicon Valley and is proud to be the home of such iconic businesses as Yahoo, LinkedIn and Google. The City's population is 149,841. Sunnyvale has parks, a Library system, senior citizen centers and community pools. A variety of residential settings are available, including urban, condominiums and single-family home suburban dwellings.

Sunnyvale City government has a wide variety of departments committed to providing programs, services and activities in a barrier free manner for residents and visitors. Disability issues are taken seriously by the City as it has a Disability Advisory Committee supporting City government's commitment to barrier free access.

The City of Sunnyvale is covered by ADA, Title II, and California Government Code 11135 and 12926. The City's employment programs are covered by ADA, Title I, the ADAAA and California Government Code 12926. When comparing State and Federal Law, 28 CFR 35.103 mandates that the most stringent law must be applied to create the maximum amount of access for persons with disabilities. Thus, the most stringent standards were applied in the course of the Self-Evaluation being reported in this document.

### Background Information Regarding the ADA

Passed in 1990, the ADA is one of the most comprehensive civil rights laws in the nation. It provides protection to an estimated 57 million Americans in: employment (Title I); receipt of programs, services and activities from State and local government (Title II); the receipt of goods and services from private businesses; (Title III) and telecommunications (Title IV). In 2008, the Americans with Disabilities Amendment Act (ADAAA) was passed. The ADAAA gives guidance to the courts regarding who has standing under ADA. The result has been an increasing number of persons who are now able to bring their ADA cases to Federal Court.

### Background Information Regarding California State Law

Under California Government Code 11135, the ADA has been incorporated into State law. Thus, the matters raised in this report as ADA issues are also State issues.

Through California Government Code 12926, California has broadened the definition of disability beyond the ADAAA. State and Federal Laws require that the law that is the most stringent be applied.

For the purposes of determining coverage under the ADA, California Government Code 12926 defines a person with a disability as follows:

1. A person having a physical or mental disability that limits a major life activity. This person is considered in the unmitigated status. Thus, the City would consider how the individual in question would function without the use of medication or devices that may mitigate the impact of the disability. If there is a limitation to a major life activity in this statute, coverage is established.
2. A person with a history of a disability as described in section 1 above.
3. A person who is regarded as having a disability, such as a disability described in section 1 above.

Among others, California State law also provides protection to cancer survivors, persons who have a genetic predisposition to illnesses or disabilities or persons who have received services within a special education program. For a complete description of coverage under California State law, please see California Government Code 12926.

## **Scope of this Self-Evaluation**

The US DOJ within the ADA, Title II, Technical Assistance Manual II-8.2000 recommends a scope of review for Self-Evaluations, which contain thirteen programs areas for review. This is the scope used in the development of this report. Areas considered included:

- The Transition Plan (physical access to existing City facilities), which is covered in a companion document;
- Policies that may limit or exclude the participation of persons with disabilities;
- Communication systems used by the City;
- The provision of auxiliary aides and services to members of the public who are engaged in receiving programs, services or activities from the City;
- Access to emergency management for persons with disabilities;
- Disability awareness among City staff;
- Programs, services and activities provided within a registered historic site;

- Policies addressing policy modification requests and the determination of fundamental alteration of programs;
- Access to public meetings;
- Human Resources (HR) programs and policies;
- Construction policies;
- City staff training and support;
- ADA related drug policies.

## Method of Review

The City of Sunnyvale contracted with SSA for the purpose of facilitating an ADA Self-Evaluation of City operations and updating the Transition Plan of City facilities and right-of-way. City policies regarding the ADA and general City functioning were requested and reviewed by SSA. Survey questions were developed by SSA and disseminated to City staff for the purpose of providing a comprehensive analysis of City functions within the areas associated with the scope of review. SSA staff received and analyzed the survey results and reported them within.

The focus of this review was to determine if existing policies or procedures might limit or exclude the participation of persons with disabilities in receiving City programs, services or activities. There was also an examination to determine if new policies and procedures were needed to ensure ADA compliance.

City staff from each department was asked to participate in the ADA Self-Evaluation process. An orientation meeting was held to provide information regarding disability civil rights and the ADA Self-Evaluation process. The consultants provided ADA surveys on a variety of topics designed to address the City programs, services and activities. Each department was asked to complete the Generic Survey and the Emergency Management Survey. Additionally, the ADA Coordinator was asked to complete a survey that addresses basic ADA matters. As warranted, departments were provided specialty surveys designed to the focus of their operations. The result of this effort is documented within this report with recommendations for action. The findings and results of this report were dependent upon the information provided by City staff that completed the survey. The consultant did not follow up when survey respondents reported being unsure of the answer. Findings and recommendations were based on survey responses.

The outcomes noted above were summarized in a public vetting session and the report is a public document.



## Section II: Self-Evaluation Findings and Results

### Sunnyvale Disability Civil Rights Policy (Recommended) (WP# 1)

It is the policy of the City of Sunnyvale to comply with all State and Federal disability civil rights laws including the Rehabilitation Act of 1973, ADA of 1990, ADA, ADAAA, the Genetic Non-discrimination Act 2008 (GINA) and California Government Codes 11135 and 12926.

### Basic ADA Procedures for the City of Sunnyvale

Status of the ADA Self-Evaluation

(28 CFR 35.105) This report is the ADA Self-Evaluation of the programs, services and activities of the City of Sunnyvale.

Status of appointment of an employee responsible for ADA Coordination

(28 CFR 35.107) The City of Sunnyvale has appointed an ADA Coordinator.

ADA Notice of Compliance (Include system of dissemination)

(28 CFR 35.106) The ADA Notice of Compliance is contained in the Appendix of this report.

Grievance System used to address disability civil rights complaints

(28 CFR 35.107) The ADA Grievance System is contained in the Appendix of this report.

Statement regarding the status of the ADA Transition Plan.

(28 CFR 35.150(2) (d)) The ADA Transition Plan was completed as part of this project and is available to the public for review upon request.

Service Animal Procedures.

(28 CFR 35.136) The City of Sunnyvale allows service animals into all City controlled sites. The service animal's owner is responsible for the conduct of the service animal.

Reasonable Accommodation Procedures (Employment)

(28 CFR 291630) (California Gov. Code 12926)

Procedures regarding auxiliary aides and services (Video Remote Interpreting (VRI) update)  
(28 CFR 35.160)

Finding: No City-wide system was found to provide auxiliary aides and services City wide.

Recommendation: Create and disseminate a procedure to address the provision of auxiliary aides and services to persons in the public with disabilities who need such accommodation(s) to receive the programs, services and activities in the City of Sunnyvale. (WP# 2)

Anti-Surcharge Notice

(28 CFR 35.130 (f)) A policy statement regarding anti-surcharge is contained in the ADA Notice of Compliance.

Procedures for policy modification requests and the determination of undue burden.

(CFR 35.160 (b) (7))

Finding: No procedure was found to address policy modification requests.

Recommendation: Create a procedure to address policy modification requests. (WP#3)

Controls regarding the use of personalized motorized vehicles in public areas.

Finding: The City has not exercised the option extended under 28 CFR 35.137(b) (1) to create a policy regarding the use of personal motorized devices in public areas.

Recommendation: The City may wish to study these issues and create a policy as needed regarding personal motorized mobility devices. (WP# 4)

Confirmation of accessible 911 systems.

(28 CFR 35.162) The Department of Public Safety reported that the City has a 911 system that is accessible to TTY users.

Standards, 508 or Web Content Accessibility Guidelines (WCAG) 2.0 regarding website access.

The City is addressing web access.

Procedures regarding captioning of video tape recording and/or broadcasts.

(28 35.160) City Council meetings and captioned.

Purchasing procedures to ensure public funds are not used to create barriers to access.

(28CFR 35.130)

Finding: No system is in place to ensure that purchasing is accessible.

Recommendation: Provide training or guidance to purchasing staff to create a better understanding regarding access requirements related to purchases of items used by the public. (WP# 5)

Procedures for determining direct threat to others.

(28 CFR 35.139)

Finding: No procedure was found to address the assessment of direct threat.

Recommendation: Create a procedure to determine direct threat to others. (WP# 6)

## Results Based on ADA Coordinator Survey

**Finding:** No policy is in place that ensures persons with disabilities will be offered assistance, if needed, due to their disability in completing a grievance.

**Recommendation:** Create a system to ensure assistance is offered to persons with disabilities, as needed due to a disability, when filing a grievance. (WP# 7)

**Finding:** The Grievance System does not contain a note that offers it in alternative format.

**Recommendation:** Include a statement in the Grievance System informing users that it is available as needed, in alternative format. (WP# 8)

**Finding:** The ADA Coordinator's name and contact information is not listed on the online Grievance System.

**Recommendation:** Include the ADA Coordinator's name and contact information in the online Grievance System. (WP# 9)

**Finding:** No system was found regarding how the ADA Grievance and Notice of Compliance is disseminated.

**Recommendation:** Create and implement a dissemination plan for the ADA Grievance and Notice of Compliance. (WP #10)

**Finding:** No clear system was found that defines who in each department is responsible for providing auxiliary aides and services and what resources are available to them.

**Recommendation:** Define who in each department is responsible for the provision of auxiliary aides and services and what resources are available. (WP# 11)

**Finding:** No system was found to address the interactive process for Title II accommodations.

**Recommendations:** Create a system to address the interactive process for Title II accommodations and provide training as needed. (WP# 12)

**Finding:** No clear system was found to address how undue hardship issues are recognized and referred to the City Attorney's office.

**Recommendation:** Ensure a system is in place to recognize and refer undue hardship issues to the City Attorney's office. (WP# 13)

**Finding:** No clear written statement was found that prohibits surcharges for accommodations.

**Recommendations:** Set a written policy in place that makes it clear that surcharges are not to be levied for accommodations or auxiliary aides and services. The Notice of ADA Compliance is a common location for such policy statements. (WP# 14)

**Finding:** No system was found to check access in tenant improvements.

**Recommendation:** Create and implement a system to check access in tenant improvements. Check points should include, planning, build out and furnishing. (WP# 15)

**Finding:** No guidance for staff was found to be used by impacted City staff that is responsible for placement of furniture and equipment.

**Recommendation:** Create and disseminate guidance to impacted City staff regarding furniture and equipment placement. (WP# 16)

**Finding:** No policy was found to provide City staff guidance regarding service animals.

**Recommendation:** Create policy or guidance regarding service and comfort animals. It is suggested that an incident reporting system be included. (WP# 17)

**Finding:** No system is in place to set up service animal relief areas to support meetings and events.

**Recommendation:** To support access, it is prudent to set up protocols that establish service animal relief areas adjacent to City sponsored meetings and events. (WP# 18)

**Finding:** No system is in place that results in an alternative format notice being included in all City publications.

**Recommendation:** Establish protocols that result in an alternative format notice being included in all City publications. (WP# 19)

**Finding:** ADA and disability awareness and etiquette training has not been provided to all City staff having public contact.

**Recommendation:** Provide training to all City staff covering disability civil rights and awareness. (WP# 20)

**Finding:** No system was found that provides new employees with disability information including etiquette and what the City of Sunnyvale is held to under State and Federal law.

**Recommendation:** Ensure that new City staff receives information regarding disability etiquette and the requirements the City is held to under State law. (WP# 21)

**Finding:** No system was found to document disability civil rights related training provided to City staff.

**Recommendation:** Establish a system to document training regarding disability civil rights that is provided to City staff. (WP# 22)

**Finding:** No record was found of any training provided to the City Disability Advisory Committee.

**Recommendation:** Disability Advisory Committee members should be trained regarding the legal mandates the City is held to by State and Federal law. (WP# 23)

Note: The Disability Advisory Committee was provided an overview of the State and Federal disability civil rights mandates that apply to the City.

**Finding:** A training plan for City's staff addressing the variety of disability civil rights responsibilities held by the City was not found.

**Recommendation:** Create and implement a comprehensive disability civil rights training program centered on the legal mandates the City is held to and disability awareness. (WP# 24)

**Finding:** Clearly the City of Sunnyvale does not want to portray anyone in a negative manner. A support system via publication review or training to ensure problems do not come up was not found. Terms such as "Suffers from" or "victim of" are an example of terms that could become issues if used.

**Recommendation:** Create a system of review for City publications or provide training to impacted staff regarding disability related terms and "persons- first" language. Please see item 23 above. (WP# 25)

**Finding:** No procedure was found to address policy modification requests and the determination of fundamental alteration of programs as required by 28 CFR 35.130 (b) (7).

**Recommendation:** Create a procedure to address policy modification requests and the determination of fundamental alteration of programs. Provide guidance to impacted City staff regarding the policy modification mandate. (WP# 26)

**Finding:** No procedure was found to address a policy for direct threat to others to support compliance with 28 CFR 35.139. Such a procedure must address programs, services and activities with Titles I and II of the ADA.

**Recommendation:** Create a procedure to address compliance with 28 CFR 35.139, direct threat to others. (WP# 27)

**Finding:** No system was found to address maintenance of accessible features whereby maintenance staff would identify and repair issues on site or report them for repair later. See 28 CFR 35.133.

**Recommendation:** Create and implement a system whereby accessible features and safety problems are identified and addressed. (WP# 28)

**Finding:** No training program or guidance was found for maintenance staff to support them in addressing the maintenance of accessible feature mandate within 28 CFR 35.133.

**Recommendation:** Provide training and or guidance to maintenance staff to address their responsibilities related to maintenance of accessible features. See 28 CFE 35.133. (WP# 29)

**Finding:** No system is in place to create, review and implement "Program Access" solutions. A "Program Access" solution is a modification in the way a program, service or activity is conducted, in order that it can be made accessible to persons with disabilities. For example, the site of a service delivery might be moved to an accessible location to address the needs of persons with a disability.

**Recommendation:** Create protocols to establish, review and monitor "Program Access" solutions. (WP# 30)

**Finding:** No system was found to ensure the City does not use public funds through its purchasing activities to create access or safety barriers.

**Recommendation:** Provide guidance to City staff involved in the purchasing process regarding access and safety issues. (WP# 31)

**Finding:** Access related design and construction policies were not found.

**Recommendation:** The City should develop and implement a comprehensive set of design, plan check, construction and inspection protocols to ensure that new construction, remodels and renovations, such as the California Commission on Disability Access 2015 Construction Inspection Checklist, should be used in conjunction with a CASp. (WP#32)

**Finding:** No policy was found that prohibits discrimination against persons who formally used drugs in an illegal manner and who have since been through a rehabilitation program.

**Recommendation:** Create a policy that prohibits discrimination against former users of drugs that complies with 28 CFR 35.131 (2). (WP# 33)

**Finding:** The City sells tickets that involve assigned seating and has no ticket sales policy to conform with 28 CFR 35.138.

**Recommendation:** Create a ticket sales policy that conforms to 28 CFR 35.138 and train impacted staff in its use. (WP# 34)

**Finding:** No clear system is in place to address the reasonable accommodation of City volunteers.

**Recommendation:** Create a system for the reasonable accommodation of City volunteers. (WP#35)

**Finding:** No anti-discrimination policy dissemination plan was found.

**Recommendation:** If not already done, the City should disseminate its anti-discrimination policy once a year. (WP#36)

**Self-Evaluation Questions for the ADA Coordinator**

1. Does the City of Sunnyvale have an ADA Notice of Compliance? If yes, does it address State law? Please attach the Notice.
2. Does the Grievance System
  - a. Offer assistance to persons with disabilities, who due to their disability are not able to complete the grievance form?
  - b. Provide timelines when a complainant can expect a result?
  - c. Have a second level of review?
  - d. Contain a notice regarding availability of the Grievance System in alternative format?
  - e. Contain the name and contact information of the ADA Coordinator?
3. Are the ADA Notice of Compliance and the Grievance System posted on the City's website?
4. Who handles the fact finding and grievance administration?
5. Does the City of Sunnyvale have a plan for ADA Notice and Grievance dissemination?
6. Does the ADA Coordinator's office have ready access to City senior management? If no, how are disability civil rights issues elevated in order that they may be addressed in a timely manner?
7. Who provides auxiliary aides and services to persons seeking accommodation under ADA Title II?
8. Who provides reasonable accommodations to applicants and employees under ADA Title I, ADAAA and California Government Code 12926?
9. Who investigates grievances related to reasonable accommodations and other ADA related issues?
10. Is an interactive process used? If yes, how is it documented?
11. How is undue hardship determined and by whom?
12. Is there an anti-surchage policy in place to make it clear to staff not to charge for accommodations?
13. Is contract language in place holding contractors and vendors to applicable State and Federal disability civil rights mandates? If yes, how is this enforced?
14. If a person with a disability believes they have been discriminated against by a City vendor or contractor, what steps are open to them?
15. Is an accessibility plan check done when vendors are conducting tenant improvements in public services areas?
16. Is guidance in place for City staff and vendors regarding clear space and furniture placement? If yes, please attach the guidance.
17. Does the City have a service animal policy? If yes, how is staff trained?
18. How is access for comfort animals addressed?
19. Is there a procedure in place to be used by City staff should there be an incident involving a service animal? If yes, please attach the procedure.
20. How does the City address service animal relief areas during meetings and events?
21. Are all City of Sunnyvale publications offered in alternative formats?
22. Is there notice on all public meeting announcements that auxiliary aides and services are made available, as needed, for meeting participants with disabilities?

23. Is the City's 911 system accessible to TTYs and modems?
24. Are City staff and vendors, who have public contact trained or provided guidance regarding ADA requirements and disability awareness?
25. How are new employees oriented to etiquette, language and City's legal disability civil rights mandates?
26. When disability civil rights training is provided, do you retain a roster of trainees, information regarding the subject and length of the training, the training plan or PowerPoint and the trainer's resume?
27. Has the City's Disability Advisory Committee been trained regarding the mandates the City is held to under ADA and California Government Code 11135 and 12926?
28. What trainings do you think should be provided to City staff?
29. Are publications reviewed to ensure they do not portray persons with disabilities in a negative manner?
30. Is there a policy and procedure in place to address policy modification requests and the determination of undue burden? If yes, when was it last updated? Please attach a copy of the policy.
31. Is there a policy and procedure in place to address direct threat determination to others? If yes, when was it last updated? Please attach a copy of the policy.
32. Is there a system in place to identify safety and access issues, which can be used by maintenance staff to report and or correct problems?
33. Has maintenance staff been trained to identify access and safety issues?
34. If "Program Access" solutions are used to create access are they approved by the ADA Coordinator before they are put in place?
35. When "Program Access" solutions are put in place, are they documented by a written procedure to ensure staff implements them appropriately?
36. Are transportation providers, if applicable, trained regarding, the use of tie downs, disability awareness, and the requirement that stops be called and other transportation mandates?
37. Has a policy been created to address motorized mobility devices, as required by 28 CFR 35.137? Note: This is a policy the City has the legal option of creating if it is seen to be in the City's best interest.
38. When the purchase of new equipment is made, (purchases including, but not limited to communication and transportation equipment) how are access requirements addressed?
39. Does the City operate any programs, services or activities from a registered historic site? If yes, please list the sites.
40. Have the City of Sunnyvale law enforcement officers received disability awareness training, such as the US DOJ role call videos?
41. How is access monitored during City related projects during planning and construction?
42. When entering into settlement agreements as part of the Project Civic Access, the US DOJ requires that the staff of Title II entities, which have public contact, attend a two hour training covering ADA requirements and disability awareness. How is the City of Sunnyvale informing impacted staff of the City's responsibilities and disability awareness?
43. In addition to staff training provided to date, are there other trainings you feel



should be produced? If yes, what training is needed and for whom?

44. Are there areas, not noted above, that you feel should be studied within this Self-Evaluation?
45. Does the City of Sunnyvale have a policy in place that prohibits discrimination against persons who formerly used drugs illegally?
46. Does the City have any programs that sell tickets with assigned seating?
47. How are reasonable accommodations for City volunteers handled?
48. Does the City of Sunnyvale have an anti-disability harassment policy? If yes,
  - a. Is it based upon zero tolerance or the legal definition of disability harassment?
  - b. How often is it disseminated to all City staff?

## Results for ADA Communications

**Findings:** 1. Not all City meeting and event notices contain the City's ADA statement. 2. The City's ADA statement contains the wrong code citation, 28 CFR 35.106.

**Recommendation:** Require that all notices of City meeting and events opened to the public contain the City's notice regarding the provision of auxiliary aides and services. If a code citation is used, it should be 28 CFR 35.160 (b) (1). (WP# 38)

**Finding:** Guidance is not available to City staff regarding disability related terms and person-first language.

**Recommendation:** Create a system of review for City publications and provide training to impacted staff regarding disability related terms and "person-first" language. Additionally, create and disseminate a language guidance checklist. Please see items 23 and 27 above in the ADA Coordinator Survey. (WP# 39)

**Finding:** The City uses a voice mail system on many City telephone line.

**Recommendation:** Managers of the voice mail system must ensure compliance with CFR 28 35.161 (b). This regulation addresses accessibility of telephone systems to person who are deaf or hard of hearing. The City may also wish to make staff who use telephones in public communications aware of the California Relay Service, 711. (WP# 40)

**Finding:** The City has resources in place to deal with sign language interpreters for City Council meetings, but resources to meet other needs have not been identified.

**Recommendation:** Identify resources to address other needs, which would include, but not be limited to real time captioning, note takers, Braille services, etc. (WP# 41)

**Finding:** No system was found to deal with access issues in touch screen system for persons who are blind.

**Recommendation:** Establish protocols for the purchase of touch screen systems. Such systems should be independently operable by persons who are blind. If they contain audio related information, captioning must be in place. (WP# 42)

**Finding:** City staff seemed unaware of VRI.

**Recommendation:** There is no requirement that VRI be used. However some entities are finding it useful as it eliminates the need to have a sign language interpreter on site. Impacted City staff may benefit from becoming familiar with 28 CFR 35.160 (d) to determine if this system would be a benefit to the City. (WP# 43)

**Finding:** No protocols were found that provide City staff guidance regarding computer access requirements where computers are being set up for public uses.

**Recommendation:** Ensure a system is in place that results in computers set up for public use are accessible having needed software, clear space and knee clearance. (WP# 44)

**Finding:** No guidance was found that requires that City hosted videos shown in City facilities are run with captioning.

**Recommendation:** Ensure that all video hosted in City facilities are captioned. (WP# 45)

**Finding:** Documents sent in PDF are not accessible to persons with disabilities who use a screen reader.

**Recommendation:** Make documents available in Word or HTML; otherwise ensure the PDF format works on screen readers. (WP# 46)

**Finding:** Disability civil rights training is not available to City staff.

**Recommendation:** Please see items 23 and 27 above in the ADA Coordinator Survey. Create written guidance including, but not limited to, development of a standard checklist for reviewing documents and writing training. (WP 47)

### ADA Communications Questions

1. Does the City prescribe a certain font type for City published documents? If yes, what font type is used?
2. Does the City require a certain font size in City publications? If yes, please name the font size.
3. Is there a notice on all City publications informing users that the publications are available in alternative format, if needed, for persons with disabilities? Agendas of public meetings of the Council and Boards/Commissions include this information.
4. Have City publications been reviewed to determine whether they portray persons with disabilities in a demeaning or offensive manner?
5. Have the City staffs that create publications or correspondence on behalf of the City been trained in the appropriate use of "person-first" language?
6. Have City telephone information lines been examined to determine whether or not they are accessible to persons who are deaf and hard of hearing?
7. Have local resources been identified that can provide auxiliary aids for communication as needed?
8. Does the City use any touch screen information systems for public interaction? If yes, is there an independent operating system for persons with visual impairments?
9. If videotape is used on the City website or in any other university forum, is it captioned?
10. Is there a policy in place for securing VRI?
11. If the Public Information Officer communicates with the press and releases critical information, is a sign language interpreter visible and within the screenshot if television cameras are in use or is a captioning service used?
12. Are computers used by members of the public, such as in libraries? If yes, are they equipped with software which makes them accessible to persons with visual impairments?
13. Are videos played in such places as waiting rooms captioned for the public?
14. If public address systems are used, is there a component that makes the information accessible to persons who are deaf or hard of hearing?
15. When announcements are distributed electronically from the City are they sent out in PDF and Word documents simultaneously?
16. Given the issues noted above, are there areas where you feel training of City facility and staff would be beneficial? If yes, please list the areas of training you have identified.

## ADA Self-Evaluation Results Regarding Electronic Communication

**Finding:** No system is in place to review new postings to the City web page to ensure they are accessible.

**Recommendation:** Create and implement a system to review new postings to the City website to ensure they are accessible. (WP# 48)

Note: Websites often have files that are posted in an accessible manner that contain the same information that is provided in parallel files that are not accessible. When the primary file is updated its accessible counterpart must also be updated. (WP# 50)

**Finding:** 1. The Library reported other methods of transactions are accessible to persons who are not able to use the touch screen system. This practice should be avoided as equipment purchased with public funds should be accessible to all members of the public. 2. Video is not accessible as they do not contain captioning and audio descriptors.

**Recommendations:** 1. Ensure that touch screen systems that are purchased are accessible to persons who are blind. 2. Ensure that videos are accessible to persons who are deaf or hard of hearing, as well as persons who are blind. (WP# 52)

## ADA Self-Evaluation Questions Regarding Electronic Communication

1. Are all web site postings reviewed for access before they are put up?
2. Have all files on City public sites been reviewed for access? If such a review is
3. Do all websites meet 508 or WCAG 2.0 standards?
4. Have any complaints been received regarding access to any City website?
5. Is there a text equivalent, such as an alt tag, on all non-text items such as photos or graphics?
6. For multimedia presentations, are equivalent accessible alternatives used? If so, are they synchronized with the presentation?
7. If video is used, is it captioned for persons who are deaf or hard of hearing?
8. When information is conveyed in color, is the same information made available without the use of color?
9. Are documents organized in an order that is readable without the need for an associated style sheet?
10. Are redundant text links provided for each active region of a server-side image map?
11. Are row and column headers identified for data tables?
12. Is markup used to associate data cells and header cells for tables that have two or more logical levels of row or column headers?
13. Are frames titled with text for form identification and navigation?
14. Are all pages designed to avoid screen flickering with a frequency greater than 2 Hz or less than 55Hz?

15. Does the text-only page have equivalent information and functionality?
16. Is the content of the text-only page updated at the same time the primary page is changed?
17. If the page uses scripting languages to display content or creates interface elements, is the information provided by the script readable by assistive technology?
18. If a web page or informational kiosk requires an applet or plug in device for access, does the required device(s) comply with Section 1194.21 of the Technical Standards for Software Operating Systems (a) through (l)?
19. If electronic forms are to be filled out online, do they work with assistive technology?
20. Have the systems discussed in question 19 been tested by end users?
21. Is a system in place that allows screen reader users to skip navigational links?
22. Are systems in place that may time out while a person is giving a response? If yes, is there a way that the user is warned and can obtain more time without losing data?
23. Are touch screen systems in use? If yes, do they have accessible operating systems for persons who are blind? If video is used, is it captioned? Does the video contain audio descriptors?
24. If City Council meetings are broadcasted, do they have captioning?

## ADA Self-Evaluation Results Regarding Site Specific Emergencies

### City and Office Sites

**Finding:** The EEOC guidance regarding identifying City employees who may need assistance during an emergency has not been used.

**Recommendation:** As part of the emergency management, use the EEOC guidance regarding identifying employees who due to a disability may need assistance during an emergency. These are the following steps to following the guidance: 1. At the point of hire, an employer may ask all incoming staff to disclose, on a voluntary basis, if they would need assistance during an emergency due to a disability. 2. An employer may periodically ask all staff, on a voluntary basis, if they would disclose that they have a disability that would make it desirable for them to have special assistance during an emergency. 3. If an employer observes that an employee has come into a disability, they may inquire as to the need for special assistance during an emergency.

If any of the actions above result in the identification of an employee who would need assistance during an emergency event, the reasonable accommodation process should begin. (WP# 53)

**Finding:** No evidence was found that floor wardens have been trained regarding the needs of persons during an emergency.

**Recommendations:** 1. Train floor wardens regarding the needs of persons with disabilities during emergencies. 2. Ensure the results of the reasonable accommodation process discussed in item 1 allows impacted floor wardens to gain knowledge to assist persons who are receiving reasonable accommodations. The confidentiality mandated must be discussed. (WP# 54)

**Finding:** No system was found that results in redundancies in staffing to address emergency response roles.

**Recommendation:** Ensure emergency management staffing includes redundancies to cover roles when the primary person assigned to the role is out of the office.

**Finding:** The emergency plans have not been coordinated with the Fire Department.

**Recommendation:** Coordinate emergency management plans with Public Safety (Fire Department). (WP# 56)

**Finding:** No System was found to include persons with disabilities in emergency planning and drills.

**Recommendation:** Involve persons with disabilities in emergency planning and drills. (WP#

57)

**Finding:** No protocols were found with regards to checking the staff assembly area for explosives before the site is populated with staff.

**Recommendation:** Create a protocol to ensure the emergency assembly site is checked for explosive devices before it is populated with staff. (WP# 58)

**Finding:** No clear protocols were found to address medical needs during shelter in place events.

**Recommendation:** Create a plan to address medical needs during a shelter in place event. Address medical personnel, supplies, medications and resource redundancies. (WP# 59)

**Finding:** Not all City sites have protocols to enable communication while first responders are on route to the event.

**Recommendation:** Establish protocols for communication between the emergency site and the first responders while the first responders are on route to the event site. (WP# 60)

**Finding:** Not all City sites have emergency plans that address the events relating to the City's risks.

**Recommendation:** Create a plan for each City site that addresses the risks faced by the City. (WP# 61)

**Finding:** Not all areas in City facilities have an evacuation plan that could be used to get persons with disabilities out of the site during an emergency. For example, the basement of City Hall has no plan in place when the elevator is shut down.

**Recommendation:** Ensure all areas in City are subject to an emergency plan. This may involve safe areas of refuge, communication systems and/or evacuations chairs. (WP# 62)

**Finding:** No training has been done regarding the issues of transferring persons with disabilities into emergency evacuation chairs.

**Recommendation:** Ensure that staffs receive training on transferring persons with disabilities into evacuation chairs. (WP# 63)

**Finding:** The need to evacuate more than one wheelchair user or person with a mobility related disability with an evacuation chair during an emergency was marked "N/A".

**Recommendation:** Plan not only for staff, but also for visitors. Consider how more than one person with mobility related disabilities would be evacuated from multi-story sites. (WP# 64)

**Finding:** Testing has not taken place to ensure emergency evacuation chairs will not get stuck in stairwells.

**Recommendation:** Test stairwells and emergency evacuation chairs for compatibility. (WP# 65)

**Finding:** No planning has taken place regarding how to address issues that might come up during an evacuation when evacuation chairs are moving down stairwells slower than foot traffic.

**Recommendation:** Plan for evacuation chair and foot traffic in stairwells during an event. (WP# 66)

**Finding:** Evacuation chairs are not stored near the areas that they would be used.

**Recommendation:** Store emergency equipment near the location it would be used during emergency. (WP #67)

**Finding:** Emergency equipment is not maintained.

**Recommendation:** Maintain emergency equipment. (WP#68)

**Finding:** No system is in place to ensure emergency communication systems in elevators are accessible to persons who are deaf or hard of hearing.

**Recommendation:** Ensure emergency communication systems in elevators are accessible to persons who are deaf or hard of hearing. (WP# 69)

**Finding:** Training for emergency staff regarding disability issues related to emergency management has not been provided.

**Recommendation:** Provide training to impacted staff regarding emergency management. (WP# 70)

### **City Wide Emergencies**

**Finding:** No protocols were found to require emergency information that is broadcasted on television to include a sign language interpreter in the screen shot or have captioning.

**Recommendation:** Ensure that all emergency television statements are either captioned or have a sign language interpreter in the screen shot. (WP# 71)

**Finding:** The City of Sunnyvale has not used the US DOJ's guidance on this topic in emergency planning.

**Recommendation:** Use the US DOJ's guidance regarding emergency management for



persons with disabilities. Guidance is available at ADA.gov. (WP# 72)

**Finding:** It was not known if the emergency plan addresses the need for redundancies for sources to obtain supplies.

**Recommendation:** If not in place, ensure that there are redundancies in supply sources. (WP# 74)

**Finding:** It was not known if emergency shelters have back up power supply.

**Recommendation:** Ensure that emergency shelters have back up power systems. This is needed for ventilators, power wheelchairs and temperature control for persons who may not survive in extreme heat. (WP# 75)

**Finding:** No service animal policy was found to ensure service animals will be permitted in emergency shelters.

**Recommendation:** Create and disseminate a policy permitting service animals in emergency shelter with their owners. (WP# 76)

**Finding:** No policy was found that requires that persons with disabilities must be served in an integrated setting within emergency shelters.

**Recommendation:** Create a policy that requires that persons with disabilities be served in an integrated setting within emergency shelters. (WP# 77)

**Finding:** It was not known if the American Red Cross, or others serving in the role of the City of Sunnyvale, is meeting the ADA Title II standards that the City is held to.

**Recommendation:** Ensure that any entity acting on behalf of the City is compliant with the standards the City is held to by ADA and State law. This would include access to emergency shelters. (WP# 78)

**Finding:** Neither the City ADA Coordinator nor the Disability Advisory Committee is involved in the City's emergency planning.

**Recommendation:** To ensure the needs of persons with disabilities are considered in emergency planning, include the ADA Coordinator and/or the Disability Advisory Committee in emergency planning. (WP# 79)

## **ADA Self-Evaluation Questions Regarding Site Specific Emergencies**

### **City and Office Sites**

1. Has the City used the US Equal Employment Opportunity Commission (EEOC) guidance regarding to a lawful means of identifying employees who might need

- assistance during an emergency due to their disability?
2. Do City office buildings have a visitors sign-in system to include an item whereby a visitor can declare, on a voluntarily basis, that they would need assistance in an emergency due to a disability?
  3. Have floor wardens been trained regarding the needs of persons with disabilities in emergency situations?
  4. If floor warders are assigned the responsibility of assisting persons with disabilities, are redundancies made in the assignments? (Consider wardens who might not be in the office on the day of the event.)
  5. Has the emergency plan been coordinated with the Fire Department?
  6. Is there a procedure for shutting down the intake on the HVAC system if there is a need to shelter in place due to contamination of the air outside the building?
  7. Are persons with disabilities involved in emergency plan creation, drills and debriefings?
  8. In the event of an emergency evacuation, has the path of travel and assembly been coordinated with the Fire Department? (Consider Fire Department points of arrival, staging area, areas for fire hoses, wheel chair users, distance needed from emergency site, etc.)
  9. In response to a bomb threat, if evacuation is required, is the assembly site checked for explosives before it is populated?
  10. If the event involves the need for site occupants to be decontaminated before leaving the site, is there a procedure in place to hold all parties on site until decontamination has been completed?
  11. During shelter in place events, how are medical and medication needs addressed?
  12. Can the person on site handling the event, prior to the fire departments arrival, communicate with the Fire Department as they are coming to the site? Not all sites have this capability.
  13. Is there information available to staff in regards to dealing with various types of events? (Consider earthquakes, fires, shootings, bomb threats, civil unrest, terrorist attacks, etc.) If yes, has it been made available to employees if it is needed in alterative formats?
  14. Is the whole site covered by fire alarms and strobe lights?
  15. Are exits clearly marked?
  16. Are back up emergency evacuation chairs in place?
  17. If areas of safe refuge will be in use, is there a communication system from that site to the event control center? If yes, would this system work for a deaf person?
  18. Are all Public Address (PA) systems monitored by maintenance staff to ensure the volume is high enough to be heard throughout the intended areas of impact?
  19. Are emergency evacuation chairs to be used? If yes,
    - a. Has staff been trained in the use of these chairs?
    - b. Did this training include information regarding the risks of transferring some persons with disabilities into and out of the chair?
    - c. Have impacted employees with disabilities been involved with the training?
    - d. What is the plan if the chair needs to be used by more than one person? (Consider where the first evacuee will be left when the chair is taken back into the site for reuse.)
    - e. Have the chairs been tested in the stair wells to ensure they can operate and turn

- in the space available?
- f. What is the plan in the event the slow moving chairs create a back up in the stair well?
  - g. Are the chairs stored close to where they will be used?
  - h. Are there any barriers or locks impacting ability to obtain them when needed?
  - i. Are chair manufacturer directives, if any, regarding maintenance followed?
20. Is there a plan in place to keep people hydrated if it is necessary to hold them outside the building for a prolonged period during hot weather?
21. Do elevators have a system to communicate, if a person is trapped? If yes, will this system work for a person who is deaf or has speech limitations?
22. Has emergency management staff been trained regarding the variety of events that might occur and their impact on persons with disabilities?

### **23. City Wide Emergencies**

24. Who is in command during an emergency?
25. Is there an evacuation plan for each community?
26. When the PIO makes press announcements regarding the incident, is a sign language interpreter used?
27. Is staff trained to identify and address the needs of persons with disabilities?
28. Is there a registry of persons with disabilities who might need special assistance during an emergency? (Please note this question does not imply that SSA recommended such a registry.)
29. Has the City of Sunnyvale used the US DOJ guidance regarding disaster management? (Please note this can be located at [ADA.gov](http://ADA.gov).)
30. Does the City of Sunnyvale have a reverse 911 system or some other method of communicating with sections of the City?
31. If prolonged sheltering in place is necessary, is there a means of obtaining
32. Accessible cots?
33. Medication and medical supplies?
34. Access for professionals who may arrive and be able to help?
35. Feeding systems?
36. Is more than one source identified to obtain needed items? (Consider that some supply sources may have been impacted by the emergency.)
37. Is there a backup means in place by which room temperature can be maintained? (Consider persons who may die if the temperature is too high.)
38. Is there a policy in place regarding access to the shelter for service animals?
39. Is there a policy in place requiring that persons with disabilities are served in integrated settings?
40. Have all third parties who may provide aide, such as the American Red Cross, agreed to comply with the mandates Sunnyvale is held to by ADA Title II?
41. If evacuation is needed, is a plan in place which would provide
- a. Accessible vehicles?
  - b. Drivers?
  - c. Fuel?
  - d. Appropriate destination(s)?
  - e. Destinations?

42. Have various area hospitals been identified that could accept injured persons?
43. If the evacuation of a building is necessary, how is the impacted area swept to ensure it is clear?
44. How is new staff oriented regarding the emergency plan?
45. Are drills held? If yes, do they involve different types of incidents? Please list.
- 46.** Is there a procedure for shutting down the intake on the HVAC system, if there is a need to shelter in place, due to contamination of the air outside the building?
47. Do they involve persons with disabilities?
48. Is the City ADA Coordinator involved?
49. Does the City of Sunnyvale have a Disability Advisory Committee involved? If yes, are they involved in this area?

## ADA Self-Evaluation Results for Law Enforcement

**Finding:** Training regarding law enforcement and persons with disabilities has not been provided.

**Recommendation:** Provide training and guidance to law enforcement officers regarding disability issues related to their role. The US DOJ has a free role call video training series on this subject. This resource is available at ADA.gov. (WP# 80)

**Finding:** No calls are made from City facilities.

**Recommendation:** If inmate calls are ever made from City facilities, they must also be accessible to inmates who are deaf or hard of hearing. (WP# 81)

**Finding:** No clear policy was found that bars euthanasia of service animals.

**Recommendation:** If not in place, create a policy that prohibits euthanasia of service animals by City staff or contractors. (WP# 82)

**Finding:** ADA Case law (Armstrong) sets limits on how and when medical appliances may be taken away from an inmate. Clear protocols in this area appear to be missing.

**Recommendation:** Create a protocol regarding the removal of medical appliances from inmates and the involvement of medical staff when action is taken. Train impacted staff. (WP# 83)

**Finding:** No information was provided regarding staff training for the 911 system.

**Recommendation:** Ensure there is a training plan for impacted staff regarding the use of the City 911 system. Also, ensure that it is accessible to TTY system as required by 28 CFR 35.162. (WP# 84)

**Finding:** This may be inconsistent with the response to item number 9. It appears that no support is in place to provide officers sign language interpreter services in the field.

**Recommendation:** Examine local resources to determine best options for creating a sign language support system for officers in the field. (WP# 85)

**Finding:** This response is not consistent with the response to item number 1.

**Recommendation:** Training is recommended. Please see item number 1. (WP# 86)

## ADA Self-Evaluation Questions for Law Enforcement

1. Have the City of Sunnyvale first responders been trained regarding the disability civil rights mandates that the City is held to under State and Federal laws?
2. Have holding and booking areas been reviewed for access since the 2010 ADA

Standards for Accessible Design became effective? If visitor areas are offered, are they accessible?

3. If inmate phone systems are provided, is there a phone system for inmates who are deaf or hard of hearing?
4. When arrests are made, how are service animals dealt with?
5. When arrests are made, how are medical appliances (canes, walkers, hearing aids, oxygen tanks, etc.) addressed?
6. How are power wheelchairs, scooters and other large mobility devices transported after an arrest?
7. How are medication needs dealt with after an arrest?
8. When an officer is giving information (direction or Miranda Rights) to a person with a communication related limitation, how is it determined that the person has an understanding of the information being communicated?
9. How do officers communicate with persons who are deaf?
10. Does the 911 system have TTY? If yes, how often does training occur regarding its use?
11. Is there a procedure in place for officers to obtain a sign language interpreter when one is needed on an emergency basis?
12. Have officers been trained regarding the best techniques for communication with persons with disabilities and officer safety? If yes, were the following disabilities covered?
  13. Vision Impairments
  14. Deaf, Hard of hearing and Speech Impairments
  15. Developmental Disabilities
  16. Traumatic Brain Injury
  17. Post Traumatic Stress Disorder
  18. Learning Disabilities
  19. Mobility Impairments
  20. Multiple Chemical Sensitivities
  21. Mental Disorders
  22. Competing Disabilities (i.e. someone is on the bus with a service dog and another person on the bus has a phobic response to the dog and wants it removed as an accommodation. Both have rights to be considered. The passengers are in conflict)
23. Are there other issues you feel should be addressed in dealing with disability civil rights and your role within the City of Sunnyvale? If yes, please explain.

## ADA Self-Evaluation Results Regarding Employment

**Finding:** The City of Sunnyvale does not conduct recruitment outreach to disability organizations.

**Recommendation:** Although not required, recruitment outreach to the disability community would set a welcoming message. (WP# 87)

**Finding:** While testing information is available in written and verbal forms, steps are needed to ensure that it's also available, as needed, in alternative formats, including but not limited to Braille, large print, etc.

**Recommendation:** Create a system to provide job related information available in alternative format. (WP#88)

Note: There may be situations where the disability being accommodated is apparent and medical information may not be needed.

**Finding:** No system was found that ensures hiring panels and supervisors do not ask disability related questions.

**Recommendation:** If not in place, ensure that information is made available regarding the limits of medical inquiries for hiring staff and supervisors. (WP# 89)

**Finding:** No fixed time frame is in place that sets a limit on how long a vacant position is looked for in situations where transfer to a vacant position is being used as an accommodation of last resort.

**Recommendation:** Set a time limit regarding how long the search for a vacant position is conducted when being used as a responsible accommodation. Taking this step will prevent disparate treatment. (WP# 90)

**Finding:** No policy was found to prevent employees who are being reassigned to a vacant position as a reasonable accommodation from competing for the position they are being assigned to.

**Recommendation:** Establish a policy that prohibits an employee who is being reassigned to a vacant position as an accommodation from being required to compete for the position. (WP# 91)

**Finding:** City emergency management staffs have not been trained regarding the needs of persons with disabilities during emergencies.

**Recommendation:** Ensure City emergency management staff are trained regarding the needs of persons with disabilities. (WP# 92)

**Finding:** The EEOC guidance regarding identifying employees who may need an accommodation due to a disability during an emergency.

**Recommendation:** Use the EEOC guidance regarding identifying City employees who may

need accommodations during emergencies. Under this guidance an employer: 1. May ask all new staff at the time of hire if they would care to disclose, on voluntary basis, that they have a disability that would create a need for special assistance during an emergency. 2. May periodically ask all employees, if they would care to disclose, on a voluntary basis, that they have a disability that would create a need for special assistance during an emergency. 3. May inquire in a discussion with the employee as to the need for special assistance in an emergency if an employer observes that an employee has come into a disability. Should any of the action above result in the identification of employees' needs in an emergency, the reasonable accommodation process must begin. The results of this process may result in a modification of the emergency plan. (WP#93)

**Finding:** An annual notice is not disseminated to all staff prohibiting disability discrimination and harassment.

**Recommendation:** While an annual notice regarding discrimination and harassment is not mandated by law, it has proven to be productive practices for many public entities and for that reason it is recommended. (WP# 94)

**Finding:** It appears that the full ranges of elements that define undue hardship are not considered during an undue hardship analysis.

**Recommendation:** Create guidelines for the determination of undue hardship that is consistent with 29 CFR.1630 (p). Also note that using financial hardship as the basis for undue hardship is very difficult for ADA Title II entities. (WP# 95)

**Finding:** It appears that the process for determining direct threat to others may not conform to the regulation defining direct threat.

**Recommendation:** Create a procedure for defining direct threat to others that is based upon the definition within 28 CFR 35.139. Provide guidance to impacted staff who would be expected to make direct threat determinations. (WP# 96)

**Finding:** No procedure or guidelines are in place to address situations where a City employee might need a modified vehicle to use on City business.

**Recommendation:** To ensure an appropriate decision is made in the event an employee would need a modified vehicle, guidelines should be put in place. (WP# 97)

**Finding:** No procedure or guidelines are in place to address issues that center around providing an employee with a severe disability attendant care, if needed, while the employee is on travel status doing City business.



**Recommendation:** Ensure procedures or guidelines are in place to address the issues around the provision of attendant care, if needed, for a City employee with a severe disability who is traveling overnight on City business. (WP# 98)

**Finding:** The City ADA Grievance System is not posted in all City work sites.

**Recommendation:** Post the City ADA Grievance System in all work sites. (WP# 99)

**Finding:** It was noted during staff interviews that reasonable accommodations are funded through the budgets of impacted City department.

**Recommendation:** Create a City-wide budget line item to fund reasonable accommodations. This action will avoid the legal problem that could come up if a City department denied a reasonable accommodation due to lack of funds within the Department budget. Enforcement authorities would consider the City budget as a whole. Some staff within City Finance would prefer that reasonable accommodations not workable within a Department budget would be heard by City Council. Such a plan would not be advisable due to confidentiality and potential barriers it would create for persons seeking reasonable accommodation. (WP# 100)

### **ADA Self-Evaluation Survey Regarding Employment**

A review of employment programs, services and activities is important so an employer can determine where improvements might be necessary to ensure compliance with The Fair Employment and Housing Act (FEHA), the ADA, the ADAAA, and the Rehabilitation Act of 1973.

It is necessary for the reviewer to identify any employment impact that comes about or may come about due to an applicant or employee's disability.

1. Are City openings advertised through organizations, which have a disability constituency, i.e. the Department of Rehabilitation, Independent Living Centers and other community based disability organization? If yes, please describe how this occurs. If it does not occur, please make recommendations, which would put this practice in place.
2. If the City of Sunnyvale has a telephone job line, can persons who are deaf or hard of hearing obtain the same information? If yes, how?
3. Are essential and marginal functions of each position identified before advertising for the position? If yes, by whom?
4. Have minimum qualifications been reviewed to ensure that they are job related and consistent with business necessity? For example, requiring a driver's license for a position where the incumbent does not drive might disqualify an otherwise qualified person with a disability. Please make recommendations as appropriate to improve this process.
5. Please describe how information about testing and openings are made available in alternative format for persons who request it due to their disability related needs. Are improvements needed to this system? If yes, please describe.
6. Do job bulletins announcing openings contain statements regarding the City's

- nondiscrimination policy concerning persons with disabilities?
7. Do job announcements inform candidates that reasonable accommodations are available as appropriate during the selection process?
  8. How is the process discussed in number 7 carried out?
  9. How are selection activities, such as interview questions, writing exercises, reference checks, etc., coordinated with the essential functions of the position?
  10. What recommendations do you have for improvement of this process?
  11. Do candidates know in advance of the types of activities they will need to engage in during the selection process? If yes, how are they informed? Please share any recommendations you have to enhance this process.
  12. How are selection panelists trained in disability etiquette and legal question formation?
  13. Who ensures that selections are conducted in accessible locations?
  14. Is there a policy requiring that selection sites be adjacent to accessible public transportation?
  15. All panel interviews are held in buildings owned by the City.
  16. Is the City's reasonable accommodation procedure posted and readily available to employees and candidates for employment?
  17. Is reasonable accommodation available during selection, the performance of essential functions and the receipt of benefits of employment?
  18. Is assistance in completing forms regarding the reasonable accommodation process available as needed by persons with disabilities?
  19. Have State and Federal laws been compared to determine which laws provide the greatest access and the most inclusive requirements used as a basis for employment policy/practice?
  20. Does the reasonable accommodation procedure require an interactive process, which includes disability disclosure, interactive problem solving, accommodation selection, accommodation implementation and ongoing follow to ensure effectiveness?
  21. How is the interactive process documented? Please explain.
  22. Have persons responsible for the reasonable accommodation process been trained regarding the legal requirements in this area?
  23. Are medical inquiries based upon need that are job related and consistent with business necessity?
  24. When making a medical inquiry, does the City of Sunnyvale inform the medical provider that genetic information is not being requested as mandated by the Genetic Information Nondiscrimination Act and the FEHA?
  25. What outside resources have been identified to assist in the reasonable accommodation process when additional information is needed?
  26. Is there a system in place to reassign employees with disabilities into a vacant position City-wide if effective accommodation is not possible in their current position?
  27. What is the process to determine that an employee is not able to be accommodated in their current position?
  28. Are Workers Compensation medical records kept separate from medical records obtained to facilitate reasonable accommodations?
  29. Are supervisors trained that it is unlawful to ask questions about disability or questions that might lead to information about a disability during selection interviews or reference checks? How do HR staff, supervisors and managers obtain information regarding the

- legal requirements to which the City of Sunnyvale is held?
30. Is this decision reviewed before the transfer is affected? If yes, by whom?
  31. How long does the City seek a vacant position for an employee needing reassignment as a form of reasonable accommodation?
  32. The reassigned employee must be able to perform the essential functions of the new position with or without reasonable accommodation. How is the reasonable accommodation process handled during reassignment?
  33. Does the City have a policy prohibiting reassigned staff from competing for the position they are being assigned to?
  34. Have emergency management teams in all facilities been trained regarding the needs for employees with disabilities during an emergency?
  35. Has the guidance for employer's issues by the EEOC, concerning identifying staff with disabilities that may need assistance in an emergency been used? If yes, how often is it used?
  36. Is a statement annually disseminated to all staff with notice that the City of Sunnyvale has prohibited disability discrimination or harassment including jokes or inappropriate language?
  37. What is the process for determining undue hardship regarding a reasonable accommodation process?
  38. What is the process for determining direct threat?
  39. What system is in place to address the need of an employee with a severe disability in terms of driving a modified vehicle on work related business?
  40. If an employee with a severe disability is on travel status and needs a personal services attendant, is there a system in place to address this need?
  41. Is the City of Sunnyvale's Notice of ADA Compliance posted in all work sites?
  42. Is the City of Sunnyvale's ADA Grievance System posted in all work sites?

## ADA Results for Staff Responsible for Purchasing and Service Contracts

### General Conditions

**Finding:** The City would entertain requests, as needed for documents in alternative format. No system was found to be in place that establishes this process.

**Recommendation:** Include a notice on all bidding documents that offers them, as needed, in alternative formats. Ensure the documents, if needed, can be produced in a timely manner so that bidders needing alternative formats can compete for City business in an equitable manner. (WP# 101)

### Construction and Remodels

**Finding:** The City is using ADA standards within projects. 28 CFR 35.103 requires that ADA be compared with other standards and that the most stringent standard be applied.

**Recommendation:** Compare ADA and Title 24 standards and use the most stringent standard until the US DOJ certifies that Title 24 is equivalent to ADA standards. (WP# 102)

**Finding:** Projects are designed to the minimum access standards that apply.

**Recommendation:** Please see number 1 above. Additionally, require that design professionals, when possible, without adding major costs to the project, design in construction tolerances. For example, a ramp standard is 12 inches of running slope for 1 inch of rise. Many designers use this standard in their plans. When errors are made in the field, ramp often are too steep to meet code. If the plan would be for a 1 to 15 ratio, this problem would not likely occur. (WP# 103)

**Finding:** The City does not use a CASp surveyor to monitor planning and construction of City projects.

**Recommendation:** It is not required that the City use the services of a CASp surveyor on City projects. However SB 1186 does require that the City has a working relationship with a CASp member to monitor access. Using CASp services within City projects is recommended to ensure appropriate compliance is in place. (WP# 104)

### Purchase of Items Which Have Communication Elements

**Finding:** No accessibility check is done before items are purchased by the City. This practice could result in public funds being used in a manner that creates an access barrier or safety issue.

**Recommendation:** Set policy and provide guidance and/or training to staff that covers items 1, 2 and 3. (WP# 105)

### General Purchases

**Finding:** Covering General Purchases items 1 through 4: Access and safety issues are not considered when general purchases occur.

**Recommendation:** Set policy and provide guidance and/or training to staff that covers General Purchases items 1 through 4. (Please see WP# 105)

## ADA Survey for Staff Responsible for Purchasing and Service Contracts

### Introduction

This document is designed to bring up a few of the general issues related to purchasing and contracting that relate to disability civil rights compliance in State and local government. It is important to note that each business transaction must be analyzed on its own merit and that the issues raised here are typical, but not exhaustive.

### General Conditions

1. Are all public documents related to bidding and contracting available to persons with disabilities in alternative format if needed?
2. Are meetings related to bidding and contracting held in accessible locations?

### Construction and Remodels

1. Do all design contracts hold design professionals to designs that use, at minimum, the most stringent access standards in effect at the time of the project?
2. Do design contracts encourage design professionals to exceed the maximum access standards when possible to ensure that contraction tolerances are built into the project?
3. Is policy in place that mandates CASp inspections at key points of construction and at completion, before final payment is made?
4. Are major public projects reviewed by stakeholders with disabilities during the planning stage?

### Service Contracts

1. Do all contracts in which the contractor will be providing programs, services or activities on behalf of your office, written in a manner that holds the contractor to the mandates of Title II of the ADA and California Government Code 11135?
2. If a recipient of programs, services or activities via service contracts believes that his or her civil rights have been violated, what recourse is open to them?
3. How do the contract administrator and ADA Coordinator become aware of alleged civil rights violations? (Please discuss timelines and communication of facts.)

### Purchase of Items Which Have Communication Elements

1. Is there a requirement in place that mandates purchasing agents check the market place to determine if accessible items can be purchased and are made available?
2. Are items purchased examined to determine if they are useable by persons who are:
  3. Blind?
  4. Have low vision?
  5. Deaf?
  6. Are hard of hearing?
7. Have learning disabilities? (Consider items that do not contain time limits on their use and close down.)
8. Have limited dexterity? (Consider items that do not require grasping, pinching or twisting.)
9. When questions come up regarding accessible communication purchases, are outside resources consulted (i.e. Disability Advisory Committees, Jobs Accommodation Network, local Independent Living Center, etc.) before the purchase is made?

**General Purchases**

1. Prior to the purchase, and if applicable, are building standards reviewed to ensure the item in question will be compliant when installed in its intended location? (Standards to consider include, but are not limited to: toilet paper dispensers must be located below the grab bar, items may not protrude more than 4" from the wall in a path of travel if they are placed at an elevation above 27" or below 80", Clearance must available for a wheelchair user to be able to approach the item for use, an item must not require a person to reach higher than 48" or lower than 15" to operate unless the user must reach over other items to operate, then it lowers, etc.)The facilities division would be in the best position to inform the answer to this question, but I am sure that they are aware of ADA compliance provisions for this work.
2. Is the operational presser required to use an item considered? (It should not exceed 5lbs.)
3. Is dexterity considered before a purchase is made? (Users must not be required to grasp, pinch or twist the device to operate it.)
4. When furniture is purchased, are knee clearance for tables and clearance space within a room considered?

## **ADA Results for NOVA Workforce**

The NOVA program has been subject to an extensive disability civil rights review from the State that is tied to the NOVA program funding. While there are no specific recommendations for NOVA, it is still important that the NOVA program incorporates action items from this report that are generic to City government such as emergency management, HR, communications, etc.

## **ADA Survey for NOVA Workforce**

1. Does the program serve people with disabilities in an integrated setting?
2. How are accommodations for program attendees addressed?
3. Does the program for people with disabilities disclose to outside resources such as the California Department of Rehabilitation or community rehabilitation programs?
4. How are medical limitations documented?
5. When a program participant has a disability, how are functional limitations determined and appropriate training goals set that are consistent with the functional limitations?
6. Are reasonable accommodations coordinated with employers at the time of placement?
7. Does the City of Sunnyvale hire from this program?
8. Our communication accommodations addressed in the "Communication Essentials" class?
9. Have there been any complaints relative to access to this program?

## ADA Self-Evaluation Results for Facilities Management and Leases to Third Parties

**Finding:** There is a practice in place that addresses major items related to maintenance of assessable features, such as elevators. However, neither procedures nor any training history to comprehensively deal with maintenance of accessible features were found.

**Recommendations:** 1. Create procedures to address maintenance of accessible features to comply with 28 CFR 35.133. 2. Provide staff training to ensure there is a good understanding of the range of accessible features. (WP# 107)

**Finding:** No evidence was found that City property leased to third parties has been surveyed and is part of the ADA Transition Plan.

**Recommendation:** Ensure that all City property is included in the City's ADA Transition Plan and that space leased to third parties is safe and accessible. When the lessees make improvements, ensure that improvements are documented in the ADA Transition Plan data base. (WP# 108)

Note: If staff is involved with the placement of furniture or equipment, guidance would be productive to ensure access is in place. (WP# 109)

**Finding:** It is very positive that ramps around the civic center are inspected regularly. No evidence was found that other important elements are inspected.

**Recommendation:** Create a broader review of accessible features. Please see item 1 above. (See WP# 107)

**Finding:** No procedure was found to keep the ADA Transition Plan database current.

**Recommendation:** To keep the ADA Transition Plan database current and to have evidence of the City's good faith effort, it is critical that a system be in place to record access improvements. Failing to keep the ADA Transition Plan current could result in the future need to resurvey City assets. (WP# 110)

**Finding:** No system was found to address access monitoring within construction of City assets.

**Recommendation:** Establish a system to monitor construction, remodels, renovations and tenant improvements. These systems should include plan checks by a CASp that review for the most stringent standards after comparing State and Federal mandates. Construction should also be surveyed at key points of the project. It is recommended that the "Accessibility Construction Inspection Checklist" from the California Commission on Disability Access be used. This checklist can be obtained at no cost at [www.ccca.ca.gov](http://www.ccca.ca.gov) (WP# 111)

## ADA Self-Evaluation Questions for Persons Managing Facilities and Space Leased to Third Parties

1. Is there a policy in place regarding the maintenance of accessible features? If yes, has maintenance staff been trained regarding identifying, reporting or repairing disability access and safety issues?
2. Is access to the City-owned leased space surveyed for compliance before said space is



- offered for lease? If so, are access barriers addressed before the lessee occupies the space?
3. Is guidance available to impacted staff regarding furniture placement and access issues? (Consideration includes, but is not limited to clear space, strike side clearance, bulletin board elevation, reach ranges, etc.) (Applies only if the City is providing furniture and equipment.)
  4. Do lease agreements clearly define areas of City and tenant responsibilities regarding access?
  5. Are facilities surveyed to determine if access and safety is being maintained?
  6. How is tenant improvement projects reviewed to determine if they create disability civil rights violations?
  7. Are City equipment and furniture purchases reviewed to determine if they comply with access standards?
  8. When access improvements are made, are the mitigated barriers to access incorporated into the City ADA Transition Plan to show Sunnyvale's good faith effort to comply with ADA?
  9. Are construction and remodeling projects done in conjunction with a CASp? Note: CASp reviews are recommended at plan check, at key points of construction and upon project completion.
  10. When the City leases space to be used for the provision of City programs, services or activities, is a CASp inspection performed?
  11. Are access barriers addressed before the City occupies the space?

## Library Services Program Results

**Finding:** Library staff appears very responsive to persons with disabilities, but they have not been provided training regarding the legal mandates the City is held to under State and Federal disability civil rights laws. The disability awareness training that has been provided was part of a wider harassment training program.

**Recommendation:** Provide training to Library staff regarding the mandates the City is held to under State and Federal disability civil rights laws. It might also be productive to expand the disability awareness training beyond that which has been provided to date. (WP# 112)

**Finding:** The Library's emergency management plan does not address the needs of persons with disabilities.

**Recommendation:** Revise the Library emergency management plan to address the needs of persons with disabilities. (WP# 113)

Note: If in the future touch screen systems are used, consider the access issues touch screen systems bring to persons who are blind or have low vision. (WP# 114)

**Finding:** Brochure racks and bulletin boards are not placed in a manner that makes them accessible to wheelchair users and persons of short stature.

**Recommendation:** Reposition bulletin boards and brochure racks to make them accessible from lower elevations. (WP# 115)

**Findings:** 1. Some programs may be offered in areas of the Library that are not accessible. 2. Floor mats may be a safety issue.

**Recommendation:** 1. Staff must be prepared to move the location programs to an accessible location, as needed, to create access for persons with disabilities. 2. Maintenance staff should be trained to address the floor mat issues. Please see item 1 in the ADA Self-Evaluation Questions for Persons Managing Facilities and Space Leased to Third Parties. (WP#116)

## Library Services Program Survey

1. Please briefly describe the library services program elements.
2. Has the library services program received any complaints regarding access to programs, services or activities?
3. Are all electronic communication systems within the library services program accessible to persons with disabilities? Please consider software necessary for appropriate access for persons with visual impairments, clear space in the approach to equipment, audio descriptors within video tapes for persons who are blind and captioning for persons who are deaf and hard of hearing.
4. When videotape is purchased, is it purchased with captioning and audio descriptions included?
5. Are stacks and library furniture arranged in a manner that allows access for persons who use wheelchairs?
6. How do persons of short stature or wheelchair users retrieve books from high shelves?
7. Have library services program staff who have public access been trained in disability awareness and legal mandates the University is held to within the library program?

8. How do persons with disabilities obtain materials in alternative format?
9. How do persons with visual impairments typically conduct library research projects?
10. Does the Library have an emergency management plan which includes addressing the issues relative to persons with disabilities?
11. Does the library use electronic informational kiosks? If yes, are they accessible to persons with visual impairments or who are deaf and hard of hearing?
12. Are brochure racks and bulletin boards at an elevation that makes them usable by persons with disabilities?
13. In the spirit of continuous improvement, what actions can you recommend that would make the library services program more accessible and usable by qualified persons with disabilities?

## ADA Self-Evaluation Results for Meeting and Event Planners

**Finding:** Not all City staffs that are responsible for public meetings and events have been trained regarding what disability civil rights laws require of the City in this area.

**Recommendation:** Provide training and or guidance to impacted staff regarding the production of accessible meetings and events with an emphasis on the legal mandates the City is held to under State and Federal law. (WP# 117)

Note: It is not required that all public meetings are held along public transit routes, but doing so does create better access for persons with disabilities.

**Finding:** No access evaluation of sites takes place before meetings and events are planned.

**Recommendation:** Use the results of the ADA Transition Plan as a basis for meeting and event planning. Do not use sites that are not safe and accessible for public meetings and events. (WP# 118)

**Finding:** Service animal relief areas are not identified when meetings or events are being planned.

**Recommendation:** To enhance access for persons with disabilities, identify service animal relief areas close to public meetings and events. (WP# 119)

**Finding:** Stages and sound equipment are not consistently checked for access during the planning of public events.

**Recommendation:** Ensure stages and sound equipment are checked for access during planning of meetings and events if the public may use them during the event. (WP# 120)

**Finding:** No procedure was found to ensure videos used in public meeting and events are captioned and has audio descriptors for persons who are blind.

**Recommendation:** Ensure that videos shown to the public have captioning and audio descriptors. (WP# 121)

**Finding:** Speakers are not asked to read slides out loud within PowerPoints.

**Recommendation:** It is not specifically mandated that speakers read PowerPoints out loud, but it is required that equal and effective communication occur. Reading the PowerPoints meets this need for persons who are blind or have low vision. (WP# 122)

**Finding:** Integrated seating is not available for persons with disabilities at City sponsored meetings and events.

**Recommendation:** Provide integrated seating for persons with disabilities in City sponsored meetings and events. This must include companion seating. (WP#123)

**Finding:** Knee for wheelchair users is not considered in table set up for meetings and events.

**Recommendation:** Consider knee clearance for wheelchair users when selecting tables for City meetings and events. (WP# 124)

**Finding:** High seating is not available within City meetings and events.

**Recommendation:** High seating is not mandated by code. However, it does send a welcoming message for persons, many of which are seniors, who are not able to easily get out of

lower/standard elevation chairs. For this reason, consideration is recommended. (WP# 125)

**Finding:** Meeting and event room set up does not include maneuvering space for wheelchair users and persons with service animals.

**Recommendation:** Establish protocols that result in maneuvering space provision for wheelchair users and persons with service animals in room set ups. (WP#126)

**Finding:** No clear indication was found that signage regarding Assistive Listening System is posted in all meeting sites.

**Recommendations:** Ensure that signage and equipment is in place as appropriate in all City sites where such signage is mandated. Please see the ADA Transition Plan for more detail. (WP# 127)

**Finding:** No protocols were found that are in place to ensure impacted staff understand how to successfully host a meeting where an Assistive Listening System is in use.

**Recommendation:** Provide training and/or guidance to impacted staff regarding the use of Assistive Listening Systems. (WP# 128)

**Finding:** No protocols were found regarding the use of sign language interpreters or real time captioners.

**Recommendations:** Provide training and/or guidance regarding the use of sign language interpreters and real time captioners. (WP# 129)

**Finding:** No standard is in place regarding retaining two sign language interpreters for events exceeding two hours.

**Recommendation:** Provide training and/or guidance to meeting and event planners regarding the need to retain two sign language interpreters for events lasting longer than two hours. The purpose of this action is to avoid carpal tunnel injury to the sign language interpreters. (WP# 130)

**Finding:** No systems were found to address the issues in items 18, 19 and 20.

**Recommendation:** See the recommendation in item 16 regarding training and guidance. (WP#129)

**Finding:** No protocols were found to ensure speaking time during meetings would be extended for persons who have disabilities impacting their speech.

**Recommendation:** Establish protocol to ensure speaking time is extended by meeting chairs for persons who have such a need due to a disability impacting speech. (WP# 131)

**Finding:** Not all displays within meetings and events are accessible.

**Recommendation:** Ensure all displays are accessible and on an accessible path of travel. (WP#132)

**Finding:** Not all events are held on sites where surfaces meet the access standards of being smooth, stable and slip resistant.

**Recommendation:** Only hold public meeting and events in City sites that meet access standards concerning the walking surface. The City's ADA Transition Plan may serve as a

useful tool in making site selections. (WP# 133)

**Finding:** Event and meeting planners do not evaluate the access to transaction points when planning events.

**Recommendation:** Check the accessibility of transaction points in terms of clear space and elevation during event planning. (WP# 134)

**Finding:** No process is in place to address creating access to exhibits via equivalent facilitation when it is not technically feasible to create access by standard means.

**Recommendation:** Create protocols and provide guidance and/or training regarding equivalent facilitation in situations where access is not technically feasible. (WP# 135)

**Finding:** The City does not have an event planning check list for staff to use in planning accessible events.

**Recommendation:** Create a check list for City staff that plan public meetings and events. (WP# 136)

### ADA Self-Evaluation Questions for Meeting and Event Planners

1. Is notice provided within meeting/event announcements that auxiliary aides and services (reasonable accommodations) are available as needed for persons with disabilities?
2. Are persons administering the meeting trained regarding the City's disability civil rights responsibilities?
3. Are meetings held on public transportation routes?
4. Are meeting sites reviewed for physical accessibility before the meeting is calendared?  
Note: This must include arrival points, meeting room(s), supporting restrooms, drinking fountains, public phones, registration counters, etc.
5. Are service animal relief areas identified before the meeting?
6. Are stages, speaking platforms, microphones and other items to be used by persons with disabilities accessible? Note: When considering microphone access please take into account podium elevations, touch screen control systems, goose neck microphone attached to the center of tables without knee clearance for wheelchair users, and persons who will not be able to hand hold any equipment.
7. If video is used, is it captioned?
8. If video is used does it contain audio descriptors?
9. Are speakers asked to read aloud all content on PowerPoint Presentations?
10. Is integrated seating made available with companion seating for wheelchair users?
11. If seating is at tables, is knee clearance space checked for wheelchair users?
12. Is high seating available for persons who have difficulty getting in and out of low chairs?
13. Is staff trained to set up meeting rooms to provide maneuvering space for persons who use wheelchairs or service animals?
14. Are FM Loop systems (Assistive Listening Devices) available for persons who are hard of hearing?

15. If FM Loop systems are being used, do meeting hosts ensure that all comments made during the meeting go through the PA system?
16. If sign language interpreters or a real time captioner are being used, is there reserved seating at the front of the room for persons needing these accommodations?
17. Are two sign language interpreters retained for meetings or events lasting more than two hours?
18. Are sign language interpreters and real time captioning screens positioned close to the speaker?
19. Are sign language interpreters under good lighting?
20. Are sign language interpreters and real time captioners provided information before the meeting/event regarding any unusual terms or difficult to spell names that will be part of the program?
21. If speaker cards are to be used, is staff available to assist persons with disabilities, as needed in completing the cards?
22. If public comment time is limited, is the time increased for persons who have speech impairments?
23. If events include displays, are the displays accessible and on an accessible route?
24. Is the indoor or outdoor surface where persons with disabilities will travel smooth, stable and slip resistant?
25. Have transaction points been reviewed for clear space and elevation?
26. If parts of an exhibit are inaccessible due to technical infeasibility, is video with captioning used to display the exhibit?
27. Does City of Sunnyvale have an event planning checklist to address access in meetings and event planning?

## ADA Results for Parks and Recreation

**Finding:** There may be a lack of awareness regarding the requirement that persons with disabilities be served in an integrated setting.

**Recommendation:** Provide guidance to impacted staff regarding the legal mandates that programs be provided in an integrated setting. (WP#137)

**Finding:** Staff has not been trained regarding the mandate to provide accommodations to persons with disabilities.

**Recommendation:** Provide training to impacted staff regarding providing accommodations to persons with disabilities. (WP# 138)

**Finding:** No communication system is in place to inform persons with disabilities on the level of difficulty that is involved with participation in programs.

**Recommendation:** As appropriate to the scope of programs, create a communication system that informs persons with disabilities of the level of difficulty involved with City Park programs. (WP#139)

**Finding:** Training has not been provided to impacted staff regarding disability etiquette and services to persons with disabilities.

**Recommendation:** Provide training to impacted staff regarding disability etiquette and services to persons with disabilities. (WP# 140)

**Finding:** No system was found to address ensuring access within off-site activities.

**Recommendation:** Create a system to ensure access to off-site activities and train staff regarding its implementation. (WP# 141)

**Finding:** No system was found to address accommodation needs for program participants.

**Recommendation:** Create a system to address accommodation needs of program participants and train impacted staff in its use. (WP# 142)

**Finding:** No guidance was found to provide information to parties that lease space from the City regarding accessible programming.

**Recommendation:** While providing to parties who lease space from the City regarding accessible programming is not mandated, some entities have found it useful in clarifying roles regarding access. For that reason, it is suggested that this step be given consideration. (WP#143)

## ADA Survey for Parks and Recreation

1. Does your department have special programs for persons with disabilities?
2. Can persons with disabilities be served in integrated settings in your programs?
3. How is staff trained regarding the process of providing accommodations to persons with disabilities?
4. Do you have a reservation system? If yes, is it accessible to persons with disabilities?



5. Are new construction or remodel projects reviewed for access? If yes, how?
6. Do persons with disabilities receive information concerning the degree of difficulty within programs, services and activities? If yes, how?
7. Do the Parks have swimming pools? If yes, how are pools made accessible for persons with disabilities?
8. Are playgrounds accessible to persons with disabilities?
9. What procedure is in place for maintenance of accessible features?
10. Does your department provide public transportation as a part of its program scope? If yes, are vehicles accessible?
11. Are vehicles equipped with lifts that have a capacity of at least 600 pounds?
12. Do vehicles have space for persons with disabilities and securements?
13. Has staff been trained concerning disability etiquette and the use of equipment which create access?
14. Have off-site recreational facilities that are used as part of a program been checked for access? If yes, how?
15. If a person with a disability needs an accommodation to participate in your departments programs, how would they know what activities are offered so that they could make an intelligent assessment of their accommodation needs?
16. Has staff been trained regarding the process for providing accommodations and the resources needed?
17. Does your Department need, or would it benefit from a policy controlling the use of motorized mobility devices by persons with disabilities? (Consider speed limits, storage and pedestrian and motorized vehicle use in the same area.)
18. Is recreational equipment used within programs accessible to persons with disabilities?
19. Are access issues considered during the purchase of furniture and equipment? Consideration should include, but not be limited to accessible picnic tables, drinking fountains, stages and platforms, etc.
20. When organizations use Department facilities do they receive guidance regarding making their events accessible?
21. Have ADA complaints been received concerning department operations? If yes, please describe.
22. What ideas or suggestions do you have which would improve access for persons with disabilities within your program area?

## ADA Training and Guidance

For the most part, City officials interviewed as part of the data gathering process for this report had rudimentary knowledge of ADA and its purpose. However, some City employees expressed concern about ADA and felt that policies and accommodations were unnecessary. It is recommended that the City of Sunnyvale clearly express its commitment to disability civil rights implementation and make it clear to all employees that their cooperation in this effort is expected.

In addition to this recommendation, it is also recommended that the following training in guidance subjects be made available to impacted City of Sunnyvale staff.

1. Disability awareness and civil rights overview for all staff having public contact.
2. Emergency management issues relative to persons with disabilities for persons having a role in the City of Sunnyvale emergency response be it site-specific or community-wide.
3. Maintenance of accessible features for persons responsible for maintenance and custodial activities.
4. Accessible meeting and event production for City staff who have a role in producing and setting up public meetings and events.
5. Guidance should be made available for individuals conducting purchasing on behalf of the City to ensure items purchased and used by the public are accessible. (WP# 144)

## Vetting of Self-Evaluation and ADA Transition Plan

On the evening of January 25, 2017, a public vetting meeting was held within the City of Sunnyvale. A small number of residents joined City staff and members of the SSA Access Evaluation team for a discussion regarding access within the City of Sunnyvale. A presentation was made that covered the ADA Transition Plan and Self-Evaluation project. Input was solicited.

Some of the issues raised related to programs services and activities administered by the State of California. Appropriate referrals were made to departments managing the issues in question.

Residents also expressed interest in access to local bike trails. These elements were included in the ADA Transition Plan scope as a result of input received.

Basic questions concerning ADA were asked and answered.

## **Use of This Self-Evaluation as a Living Document**

The ADA requires that a Self-Evaluation be conducted once. Many entities including the City of Sunnyvale recognize the value of using this document on an ongoing basis. As such, it's available to incorporate new policies as needed in response to emerging issues and case law, new regulation or the development and/or modification of City programs.

Thus, an addendum to this report can be added as needed to document the City's good-faith effort to make the changes necessary to ensure appropriate access for residents, employees and visitors to the City of Sunnyvale impacted by City operations.

## **City of Sunnyvale Staff Who Contributed to this ADA Self-Evaluation**

The authors of this report owe a great debt of gratitude for the support and insights provided by the City of Sunnyvale staff that made this report possible.

## **Work Plan for the Self-Evaluation Implementation**

The City developed a City of Sunnyvale ADA Self-Evaluation work plan. It is contained in a separate spreadsheet designed to be modified as progress is made. It may also be modified when work that is necessary is not identified within the body of this report. Such instances may occur pursuant to new regulations or case law developments.

The first column describes the general topic. The second column has the lead department. Third Column lists the finding and the fourth column lists "Recommendations". Contained in this area are recommendations relative to policies typically found within City government to facilitate appropriate implementation of the ADA. It also contains a series of recommendations that come from interaction with Sunnyvale City officials.

The fifth column is "Action Taken by the City". This column is designed to record whether the City has accepted the recommendation, modified, or rejected it. If the recommendation is rejected or modified, it would be advisable to record the rationale for this action in the "notes" section, which is the sixth column to the right.

Columns titled "Lead Department," "Staff Assigned," and "Due Dates" are designed to record progress in the implementation of the ADA Self-Evaluation.

Many of the recommendations are clustered by subject and can be addressed with one staff assignment.

## Section III: Appendices

### Appendix A: 28 CFR 35.105 Self-Evaluation

28 CFR 35.105 Self-Evaluation.

- (a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.
- (b) A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the Self-Evaluation process by submitting comments.
- (c) A public entity that employs 50 or more persons shall, for at least three years following completion of the Self-Evaluation, maintain on file and make available for public inspection:
  - (1) A list of the interested persons consulted;
  - (2) A description of areas examined, and any problems identified; and
  - (3) A description of any modifications made.
- (d) If a public entity has already complied with the Self-Evaluation requirement of a regulation implementing section 504 of the Rehabilitation Act of 1973, then the requirements of this section shall apply only to those policies and practices that were not included in the previous Self-Evaluation.

## **Appendix B: California Government Code Section 11135**

### **California Government Code Section 11135**

(a) No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the State or by any State agency, is funded directly by the State, or receives any financial assistance from the State. Notwithstanding Section 11000, this section applies to the California State University.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the Federal ADA of 1990 (42 U.S.C. Sec. 12132), and the Federal rules and regulations adopted in implementation thereof, except that if the laws of this State prescribe stronger protections and prohibitions, the programs and activities subject to subdivision

(a) shall be subject to the stronger protections and prohibitions.

(c) (1) As used in this section, "disability" means any mental or physical disability, as defined in Section 12926.

## Appendix C: California Government Code Section 12926

### California Government Code Section 12926

*Cal Gov Code § 12926 (2010)*

#### § 12926. Definitions regarding unlawful practices

As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

- (A) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.
- (B) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.
- (C) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.
- (D) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the State or any political or civil subdivision of the State, and cities, except as follows:
  - (E) "Employer" does not include a religious association or corporation not organized for private profit.
  - (F) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.
- (G) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.
  - a. A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:
    - i. The function may be essential because the reason the position exists is to perform that function.
    - ii. The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

- iii. The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.
- b. Evidence of whether a particular function is essential includes, but is not limited to, the following:
- i. The employer's judgment as to which functions are essential.
  - ii. Written job descriptions prepared before advertising or interviewing applicants for the job.
  - iii. The amount of time spent on the job performing the function.
  - iv. The consequences of not requiring the incumbent to perform the function.
  - v. The terms of a collective bargaining agreement.
  - vi. The work experiences of past incumbents in the job.
  - vii. The current work experience of incumbents in similar jobs.
- (H)** "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.
- (I)** "Medical condition" means either of the following:
- a. Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.
  - b. Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:
    - i. Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.
    - ii. Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and

**(J)** that are presently not associated with any symptoms of any disease or disorder.

**(K)** "Mental disability" includes, but is not limited to, all of the following:

- a. Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:
  - i. "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
  - ii. A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.
  - iii. "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.
- b. Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.
- c. Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.
- d. Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.
- e. Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

**(L)** "Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

**(M)** "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

**(N)** "Physical disability" includes, but is not limited to, all of the following:

- a. Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:



- i. Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
  - ii. Limits a major life activity. For purposes of this section:
    - 1. "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
    - 2. A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
    - 3. "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.
  - b. Any other health impairment not described in paragraph (1) that requires special education or related services.
  - c. Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.
  - d. Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.
  - e. Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).
  - f. "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.
- (O)** Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the ADA of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (i) or (k), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (i) and (k).
- (P)** "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation" includes a

- (Q)** perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.
- (R)** "Reasonable accommodation" may include either of the following:
- a. Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.
  - b. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
- (S)** "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.
- (T)** "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. "Sex" also includes, but is not limited to, a person's gender, as defined in *Section 422.56 of the Penal Code*.
- (U)** "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.
- (V)** "Supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
- (W)** "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:
- a. The nature and cost of the accommodation needed.
  - b. The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.
  - c. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.
  - d. The type of operations, including the composition, structure, and functions of the workforce of the entity.

- e. The geographic separateness, administrative, or fiscal relationship of the facility or facilities.

## HISTORY:

Added Stats 1980 ch 992 § 4. Amended Stats 1985 ch 1151 § 1; Stats 1990 ch 15 § 1 (SB 1027); Stats 1992 ch 911 § 3 (AB 311), ch 912 § 3 (AB 1286), ch 913 § 21.3 (AB 1077); Stats 1993 ch 1214 § 5 (AB 551); Stats 1998 ch 99 § 1 (SB 654); Stats 1999 ch 311 § 2 (SB 1185), ch 591 § 5.1 (AB 1670), ch 592 § 3.7 (AB 1001); Stats 2000 ch 1049 § 5 (AB 2222); Stats 2003 ch 164 § 1 (AB 196); Stats 2004 ch 700 § 4 (SB 1234).

## NOTES:

### Amendments:

#### 1985 Amendment:

Added **(1)** "or her" after "employed by his" in subd (b); and **(2)** subd (i).

#### 1990 Amendment:

Added subd (j).

#### 1992 Amendment:

**(1)** Added subd (a); **(2)** redesignated former subds (a)-(d) to be subds (b)-(e); **(3)** amended the introductory clause of subd (d) by **(a)** deleting ", except as hereinafter provided," before "includes"; and **(b)** substituting ", except as follows:" for a period; **(4)** added subdivision designation (d)(1); **(5)** added subd (d)(2); **(6)** added subd (f); **(7)** redesignated former subdivisions (e) and (f) to be subds (g) and (h); **(8)** substituted "includes, but is not limited to," for "means" in subd (h); **(9)** added subd (i); **(10)** redesignated former subd (g) to be subd (j); **(11)** substituted "disability, mental disability" for "handicap" in subd (j); **(12)** substituted subd (k) for former subd (h) which read: "(h) 'Physical handicap' includes impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services."; **(13)** added subds (l) and (m); **(14)** redesignated former subds (i) and (j) to be subds (n) and (o); and **(15)** added subd (p) and the last paragraph. (As amended 1992 ch 913, compared to the section as it read prior to 1992. This section was also amended by two earlier chapters, ch 911, ch 912. See *Gov C § 9605*.)

#### 1993 Amendment:

**(1)** Substituted "functions" for "duties" after "Essential" both times it appears in subd (f); **(2)** deleted ", but is not limited to," after "includes" in subd (h); **(3)** deleted former subd (l) which read: "(l) 'Reasonable accommodation' may include either of the following:

"(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

"(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. It is the intent of the Legislature that the definition of 'physical disability' in this subdivision shall have the same meaning as the term 'physical handicap' formerly defined by this subdivision and construed in *American National Ins. Co. v. Fair Employment & Housing Com.*, 32 Cal. 3d 603. However, 'physical disability' does not include conditions excluded from the Federal definition of 'disability' pursuant to Section 511 of the ADA of 1990 (42 U.S.C., § 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a physical disability."; (4) designated the former last paragraph in the section to be subd (l); and (5) substituted "of" for "or" after "size of the business" in subd (p)(3).

#### **1998 Amendment:**

(1) Amended subd (d) by (a) substituting the comma after "indirectly" for the semicolon; and (b) adding the comma after "thereof"; (2) substituted "that" for "which" after "organization" in subd (g); (3) amended subd (h) by adding (a) "(1) genetic characteristics, or (2)" after "include" in the first sentence; and (b) the second sentence; and (4) added "and" before "(5) the geographic" in subd (p).

#### **1999 Amendment:**

(1) Amended subd (d) by (a) substituting "of the State" for "thereof" in the introductory clause; (b) deleting subdivision designation (d)(1) at the beginning of the second paragraph; and (c) deleting former subd (d)(2) which read: "(2) 'Employer,' for purposes of provisions defining unlawful employment practices related to mental disability, means any person regularly employing 15 or more persons, or any person directly or indirectly acting as an agent of such an employer, and also includes the State and municipalities and political subdivisions of the State."; (2) substituted subd (h) for former subd (h) which read: "(h) 'Medical condition' includes (1) genetic characteristics, or (2) any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence. For purposes of this section, 'genetic characteristics' means any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or is determined to be associated with a statistically increased risk of development of a disease or disorder, or inherited characteristics that may derive from the individual or family member, that is presently not associated with any symptoms of any disease or order."; (3) substituted "or age" at the end of subd (j); (4) added subd (m); (5) redesignated former subds (m)-(o) to be subds (n)-(p); (6) added subds (q) and (r); and

(7) redesignated former subd (p) to be subd (s). (As amended Stats 1999 ch 592,

compared to the section as it read prior to 1999. This section was also amended by two earlier chapters, ch 311 and ch 591. See Gov C § 9605.)

**2000 Amendment:**

(1) Amended subd (h) by (a) adding "means" in the introductory clause; and (b) substituting "cancer or a record or history of cancer" for ", for which a person has been rehabilitated or cured, based on competent medical evidence" in subd (h)(1); (2) substituted subd (i) for former subd (i) which read: "(i) 'Mental disability' includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. However, 'mental disability' does not include conditions excluded from the Federal definition of 'disability' pursuant to Section 511 of the ADA of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a mental disability."; and (3) substituted subd (k) for former subd (k) which read: "(k) 'Physical disability' includes, but is not limited to, all of the following:

"(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

"(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

"(B) Limits an individual's ability to participate in major life activities.

"(2) Any other healthy impairment not described in paragraph (1) that requires special education or related services.

"(3) Being regarded as having or having had a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) and (2).

"(4) Being regarded as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

"It is the intent of the Legislature that the definition of 'physical disability' in this subdivision shall have the same meaning as the term 'physical handicap' formerly defined by this subdivision and construed in *American National Ins. Co. v. Fair Employment & Housing Com.* (1982) 32 Cal. 3d 603. However, 'physical disability' does not include conditions excluded from the Federal definition of 'disability' pursuant to Section 511 of the ADA of 1990 (42 U.S.C., Sec 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a physical disability."

**2003 Amendment:**

(1) Added the second sentence of subd (p); and (2) amended subd (s) by substituting (a) "The" for "the" at the beginning of subds (s)(1)-(s)(5); and (b) the period for the comma at the end of subds (s)(1)-(s)(3) and the period for ", and" at the end of subd (s)(4).

**2004 Amendment:**

Substituted "*Section 422.56 of the Penal Code*" for "*Section 422.76 of the Penal Code*, except that, for purposes of this part, the reference in that definition to the "victim" shall mean the employee or applicant and the reference in that definition to the "defendant" shall mean the employer or other covered entity or person subject to applicable prohibitions under this part" in subd (p).

## Appendix D: Notice of Compliance under ADA & California State Law

### City of Sunnyvale

#### Notice of Compliance under ADA & California State Law

In accordance with the requirements of Title II of the ADA of 1990, the ADAAA of 2008, the FEHA, California Government Code Section 11135 and other applicable codes, the City of Sunnyvale does not discriminate against individuals on the basis of disability in its services, programs or activities.

**Employment:** The City of Sunnyvale does not discriminate on the basis of disability in its hiring or employment practices and will comply with the FEHA, as well as Title I of the ADA, including the regulations promulgated by the U.S. EEOC, including the requirement to provide reasonable accommodations.

**Effective Communication:** The City of Sunnyvale will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities, including sign language interpreters, documents in Braille and other alternate formats to ensure information and communication is accessible to people who have speech, hearing, vision, or cognitive impairments so they can participate equally in the programs, services and activities.

**Modification to Policies and Procedures:** The City of Sunnyvale will make reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to participate in all of its programs, services and activities. *For example, individuals with service animals behaving within applicable standards are welcome in offices and City facilities, even when pets are generally prohibited.*

Anyone who requires auxiliary aides and services for effective communication, or a modification of policies or procedures to participate in a program, service or activity in the City of Sunnyvale should communicate with the responsible Department contact as soon as possible, but no later than **48 hours** before the scheduled event.

Neither the ADA, nor State law requires the City of Sunnyvale to take action that would fundamentally alter the nature of its programs, activities or services or impose an undue financial or administrative burden. Complaints that a program, activity or service of the City of Sunnyvale are not accessible should be directed to the

**ADA Coordinator, the name, email address, telephone number and address of ADA Coordinator must be added here.**

The City of Sunnyvale will not place a surcharge on a particular individual with a disability or a group of individuals with disabilities to cover the cost of providing auxiliary aids and services or making a reasonable modification to a policy to create access.

## Appendix E: ADA Grievance Procedure

### Grievance Procedure under ADA and California State Disability Civil Rights Laws

This Grievance Procedure is established to meet the requirements of the ADA of 1990, the ADAAA and California state law. It may be used by anyone wishing to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, practices, programs or benefits by the City of Sunnyvale. The City's Policy Against Harassment, Discrimination and Retaliation (Administrative Policy Manual, Chapter 3, Article 32) governs employment-related complaints of disability discrimination.

The complaint must be in writing and contain information about the alleged discrimination such as the name, address, phone number of the complainant; the location, date and a description of the alleged discriminatory action(s) in sufficient detail to inform the City of the nature, date, location of the violation; and the name or position of any City employee involved. If a complainant is unable to submit a written complaint, the complainant should contact the ADA Coordinator who can arrange alternative means of filing a complaint.

The complaint must be submitted by the complainant and/or their designee within 10 workdays of the incident or awareness thereof of the alleged violation to:

Citywide ADA Coordinator  
550 E. Remington Drive  
Sunnyvale, CA 94087  
Voice: 408-730-7599 (California Relay 711)  
Fax: 408-730-7754  
Email: [ncs@sunnyvale.ca.gov](mailto:ncs@sunnyvale.ca.gov)

The ADA Coordinator will forward the complaint to the responsible department and the Assistant City Manager (ACM). The responsible department will investigate the complaint and draft a response for the ACM's review. Within 25 workdays of receipt of complaint, the ACM will respond in writing and, where appropriate, in a format accessible to the complainant. The response will explain the City's position on the issue and may offer options for substantive resolution of the complaint.

If the complaint cannot be resolved to the complainant's satisfaction by the ACM, then the complainant and/or their designee may appeal the decision to the City Manager in writing or, if unable to submit a written appeal, an alternative method within 10 workdays after receipt of the ACM's response. The request for appeal must state why the complainant is appealing the ACM's response and any proposed remedies.

After receipt of the request for appeal, the ADA Coordinator will arrange a hearing before the City Manager. Within 15 workdays of the hearing, the City Manager will provide the complainant in writing and, where appropriate, in an alternative method the final decision on the complaint.



All written complaints received by the ADA Coordinator, appeals to the City Manager and official responses from the City will be retained by the City for at least three years.

## **Appendix F: Contact Information for the ADA Coordinator**

### **Contact Information for the City of Sunnyvale ADA Coordinator**

Citywide ADA Coordinator  
550 E. Remington Drive  
Sunnyvale, CA 94087  
Voice: 408-730-7599 (California Relay 711)  
Fax: 408-730-7754  
Email: [ncs@sunnyvale.ca.gov](mailto:ncs@sunnyvale.ca.gov)

## **Appendix G: Glossary of Terms and Basic information Glossary of Terms and Basic information**

The following glossary of terms is designed to give a basic overview of common elements of access within the Americans with Disabilities Act, Title II, and California State law. For more specific information concerning the terms described below please review 28 CFR 35 and the California Government Code 12926.

### **Definition of Disability:**

Under California State law, Government Code Section 12926, a person with a disability is: 1) A person having a physical or mental impairment that limits a major life activity. This limitation must be considered in the unmitigated status. This means that the determination of whether the limitation exists would be considered in terms of how the individual would function without the use of medication, personal devices or habits that have been formed to mitigate the disability. 2). or, A person who has a record of a disability, such as described in number one. 3). or, a person who is regarded as having a disability, such as described in number one.

Note: This is an abridged definition of disability under California State law. For further information, please see California Government Code 12926. The California definition of disability is being used, as it is more stringent than the definition found under the Americans with Disabilities Act of 1990 or the Americans with Disabilities Amendments Act of 2008.

### **Qualified Person with a Disability:**

A qualified person with a disability has a disability as described above and is qualified to receive the programs, services or activities of the entity in question.

### **Self-Evaluation**

A comprehensive evaluation of all programs, services and activities to ensure that access for qualified persons with disabilities is in place. The Self-Evaluation must be vetted with interested stakeholders. The Self-Evaluation was due in 1993.

### **Transition Plan**

A physical access evaluation of all sites from which programs, services and activities are provided. The transition plan contains four parts: 1. A list of physical barriers; 2. A statement of method to be utilized for mitigation of barriers; 3. A statement regarding the schedule of barrier mitigation; and 4. The designation of an official who is responsible for the administration of the transition plan. The transition plan was originally due in 1992.

The transition plan must be vetted with interested stakeholders.

Note: The intent of a Transition Plan was to create access within facilities that were constructed by 1992 and that new construction or remodels would be accessible.

**Program Access**

A designated alternative manner in providing programs, services and activities in order to ensure that appropriate access is in place. For example, accessible meeting space may be secured on the ground floor of the building to hold meetings with people who have mobility impairments, who are not able to go to higher floors because of the absence of an elevator.

**ADA Grievance Procedure**

A Grievance Procedure that is published and capable of addressing issues that may arise from access policies that impact the delivery of programs, services and activities. The Grievance Procedure must be widely disseminated, offer a second level review, notify the grievant of the outcome, state the ADA Coordinator's name and contact information and offer assistance to a person with a disability who may not be able to complete the grievance document independently due to their disability.

**Notice of ADA Compliance**

A Notice of ADA Compliance is a widely disseminated notice that provides information concerning the elements of ADA compliance that the entity has in place. It is recommended that the Notice of ADA Compliance be accompanied by a dissemination plan.

**ADA Coordinator**

This position is required for state and local government entities that have 50 or more employees. Initially, the position was envisioned to coordinate the grievance process. The national trend is that this position is now used to coordinate a variety of matters relative to ADA implementation and administration. Caution must be exercised concerning an appropriate separation of duties. It is inappropriate to have the ADA Coordinator engaged in both providing reasonable accommodations through the interactive process, and investigating issues concerning the accommodations that have been provided or denied.

**Direct Threat**

Direct threat is a significant risk of substantial harm that cannot be mitigated through policy modification or reasonable accommodation. The danger must be real and not speculative or remote.

**Policy Modification Request and Fundamental Alteration**

A qualified person with a disability may request that an entity modify its policies to create an appropriate level of access. A system must be in place for entertaining these requests and determining whether said request would result in a fundamental alteration of the programs, services and activities impacted. Should there be an inability to grant the initial request, other measures must be considered, if available, to address the access issue in question. Should it be determined that the request results in the fundamental alteration, a senior official should expeditiously sign off on the determination.

**Auxiliary Aids and Services**

These are measures provided to ensure that appropriate access to programs and services and activities is in place upon request. Auxiliary aids and services include, but are not limited to providing documents in an alternative format such as Braille, providing sign language interpreting services, note takers, real-time captioning services or assistive listening devices.

**Video Remote Interpreting (VRI)**

VRI is permitted in the 2010 Title II ADA regulations. It provides a system in which sign language interpreting can be conducted via video with the interpreter offsite. Caution needs to be exercised to ensure that the technical quality of the system is sufficient to appropriately transmit the information being communicated.

**California Relay Service**

The California Relay Service was created by ADA Title IV. It is a free service to facilitate effective telephone communication between deaf, hard-of-hearing and hearing people. This is done via a relay operator who uses both a teletype device and a telephone. The California Relay service may be reached at 711.

Note: Some entities have chosen to include "California Relay Service 711" on business cards and letterheads to facilitate communication.

**Reasonable Accommodation**

Reasonable accommodation refers to the employment relationship. It is an adjustment that provides the employee or applicant an opportunity to participate in: the performance of essential functions of the job, the selection process, or to receive benefits and privileges offered to other employees in the work situation. Reasonable accommodation solutions often vary widely. A Reasonable Accommodation request must be handled through an "interactive process".

**Interactive Process**

The interactive process is required in the state law and federal case law, yet neither defines it clearly. Problems have occurred when disputes have arisen and the employer has not clearly documented the interactive process. For that reason, the following steps are recommended:

1. The employer becomes aware that there is a disability that impacts elements of the employment relationship.
2. The employer and employee/applicant meet to discuss the barrier in question and potential resolutions. In this stage, if needed, data is gathered from medical providers, consultants or the Jobs Accommodation Network.
3. After giving primary consideration to what the employee/applicant is requesting, the employer makes a prompt decision regarding what effective accommodation will be provided. Or, if the accommodation in question would result in an undue hardship the employer is not obligated to provide said accommodation.

4. The employer promptly implements the reasonable accommodation.
5. The employer initiates follow-up discussions with the recipient of reasonable accommodation to ensure that the accommodation was, in fact, effective.

Note: The Reasonable Accommodation process is ongoing and may need to be revisited at any point in the employment relationship, as disabilities and technology may change.

### **Medical Inquiry**

Medical inquiry is the acquisition of pertinent medical information to determine whether a bonafide legal disability exists and what limitations it may present that necessitates a reasonable accommodation. Medical inquiry should be limited in scope. Data related to genetic characteristics should not be solicited, obtained or retained. Medical information may not be lawfully stored in an employee's personnel file.

### **Undue Hardship**

An undue hardship would be the provision of a reasonable accommodation that is extensive, disruptive, fundamentally alters the nature of the program or is unduly expensive. It is important to note that the expense issue is extremely difficult for a state or local government entity to use as a defense. In doing so, one would need to consider the total budget of the entity in question.

### **Service Animal**

A service animal is a dog or miniature horse that has specifically been trained to perform tasks for a person with a disability that they are not able to perform for themselves due to their disability.

Note: This is a subject that generates the highest number of complaints received by the US Department of Justice (DOJ).

### **Maintenance of Accessible Features Policy**

This relates to the requirement set by 28 CFR 35.133 in which an entity must maintain accessible features. Policy and procedure in this area is designed to give staff guidance unifying, repairing or reporting issues within access elements on sites where programs, services and activities are conducted.