

RULE 19

AMERICANS WITH DISABILITIES ACT COMPLAINT PROCEDURE

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Americans with Disabilities Act Complaint Form

Complainant Summary

RULE 19 - AMERICANS WITH DISABILITIES ACT COMPLIANT PROCESS

19.1 Purpose:

To provide applicants and employees with an effective procedure whereby employment practices or terms, conditions, privileges of employment and related issues defined under the Americans with Disabilities Act may be resolved in a fair, equitable and timely manner.

19.2 Responsibility:

It shall be the responsibility of the City of Sarasota to provide for the prompt and equitable resolution of complaints which allege any action prohibited by the Americans with Disabilities Act.

19.3 Definition of a Complaint:

A complaint is a problem that relates to a specific issue that has occurred which is alleged to be in violation of the Americans with Disabilities Act. This covers all aspects of the employment process, including: application, testing, hiring, assignments, evaluation, disciplinary actions, training, promotion, medical examinations, layoff or recall, termination, compensation, leave and benefits.

19.4 General Guidelines:

This procedure is in addition to whatever procedures may be available according to Federal Law.

The complainant shall be responsible for providing the office of Employee Services of the Department of Human Resources with all relevant material that he or she would like to be considered.

The complaint form may be obtained at the office of Employee Services of the Department of Human Resources during regular business hours; and the complaint shall be filed with the office of Employee Services of the Department of Human Resources within a reasonable amount of time from the time that the complainant knew or should have known of the alleged violation.

The Director of Employee Services shall notify the complainant, within ten (10) working days of receipt of the complaint, whether or not the complaint has been accepted or rejected. If the complaint is rejected, the notification letter shall specify what additional information is needed. The complainant will then have fifteen (15) days from the date of the notification letter to complete the complaint and return it to the office of Employee Services of the Department of Human Resources. If the complainant fails to do so, the City Manager or City Auditor and Clerk, for their respective employees, for those issued under his or her jurisdiction, will close the complaint without prejudice.

19.5 Procedure - First Step (Interview): (In some cases this step may not be applicable.)

The complaint must be presented in writing (see Pages 19-6 and 19-7, ADA Complaint Procedures Form) to the office of Employee Services of the Department of Human Resources. The Director of Employee Services will process the complaint through the various steps.

The interviewer is encouraged to consult with his or her Department Head to give them relevant information or assistance in considering the complainant's complaint.

The interviewer, within seven (7) working days after receipt of the written complaint, will give the office of Employee Services of the Department of Human Resources a written response to the complaint or proposed resolution of the complaint. The interviewer's response should include the decision and the reason(s) for the decision.

19.6 Procedure - Second Step (Department Head):

Within three (3) working days after receipt of the interviewer's written response to the complaint, the Director of Employee Services, on behalf of the complainant, shall make a request for an appointment with the Department Head to discuss the complaint. The Department Head shall hold the meeting with the Director of Employee Services within seven (7) working days of receipt of the request.

The Department Head shall within ten (10) working days after meeting with the Director of Employee Services, advise the Director of Employee Services in writing of his or her decision. The Department Head's decision shall state whether or not the interviewer's decision is being upheld, modified or reversed by the Department Head and the reasons therefore.

19.7 Procedure - Third Step (Director of Human Resources)

The Director of Employee Services, on behalf of the complainant, shall, within three (3) working days following receipt of the Department Head's decision, present the complaint in writing to the Director of Human Resources for his or her review.

The Director of Human Resources or his or her designee shall hear the complaint within seven (7) working days after the Director of Employee Services submits the request to him or her on behalf of the complainant.

The hearings shall be open to the public and the Director of Human Resources shall provide reasonable notice of each of his or her hearings. Such notice shall contain the date, time, place and subject of the hearing. A copy of the notice of hearing or meeting shall be provided to the complainant, the complainant's Supervisor(s) and Department Head (if applicable) the City Manager, the City Auditor and Clerk, for their respective employees, and the office of Employee Services of the Department of Human Resources.

The complainant and the City Department Head must be allowed the opportunity to make presentations in matters relating to the complaint and to submit related documents or other evidence.

The complainant and the City Department Head may be required to submit a list of witnesses they would like for the Director of Human Resources or his or her designee to interview, along with a brief summary of the relevancy of the witness' testimony. The witnesses may be called at the discretion of the Director of Human Resources or his or her designee, and, if called, the witnesses shall be questioned by the Director of Human Resources or his or her designee.

The technical rules of evidence do not apply to these hearings; so, relevant evidence, including hearsay, may be admitted, subject to the Director of Human Resources or his/her designee's discretion.

The Director of Human Resources or his or her designee will make a report of his or her findings and recommendations within ten (10) working days after the conclusion of the hearing. The report shall include findings of fact, conclusions of law and a description of a remedy for each violation found, if any.

19.8 Procedure - Fourth Step (City Manager/City Auditor and Clerk for their Respective Employees):

The City Manager or City Auditor and Clerk, for their respective employees, shall render the final decision in regard to the complaint.

Prior to making the final decision, the City Manager or City Auditor and Clerk, for their respective employees, may or may not elect to have the complainant or City Department make a presentation to him/her and may seek additional information as needed. The decision of the City Manager or City Auditor and Clerk for their respective employees, shall be final whether or not a presentation was made by the complainant. The City Manager or City Auditor and Clerk for their respective employees, shall advise the complainant in writing of his or her decision in the matter within seven (7) working days after receipt of the Director of Human Resources report, or as soon as practical thereafter.

In the event the City Manager or City Auditor and Clerk for their respective employees, determines that a violation of the Americans with Disabilities Act has occurred, he/she shall cause the violation to be remedied as promptly as feasible considering all relevant factors.

19.9 Role of the office of Employee Services of the Department of Human Resources:

The Director of Employee Services of the Department of Human Resources shall serve as a coordinator between the complainant and management. The coordinator will be responsible for ensuring that the process is conducted fairly and in a timely manner. The coordinator shall serve in an impartial capacity. The coordinator shall serve as a link between those complainants who need additional assistance because of a disability.

19.10 Time Frames:

If circumstances warrant additional time for further investigation at any step, except Rule 19.8 (step #4), the request must be submitted in writing to the City Manager or City Auditor and Clerk, for their respective employees, as appropriate. The City Manager or City Auditor and Clerk for their respective employees, reserves the right to extend any time frames outlined in Rule 19.

19.11 Miscellaneous:

The complainant has the right to discontinue his/her complaint at any stage of the process.

AMERICANS WITH DISABILITIES ACT COMPLAINT FORM
(Reference Personnel Rule 19)

NAME OF EMPLOYEE: _____ **EMPLOYMENT DATE:** _____

DEPARTMENT:* _____ **CLASSIFICATION:*** _____

DATE OF INCIDENT: _____ **LOCATION:** _____
(* = if applicable)

STATEMENT OF COMPLAINT: {attach additional comments if needed and state what issue under the ADA has allegedly been violated}

RESOLUTION REQUESTED: {attach additional comments if needed}

COMPLAINANT'S SIGNATURE: _____

DATE OF COMPLAINANT'S SIGNATURE: _____

STEP #1 - INTERVIEWER (See Rule 19.5)

1.A: COMPLAINANT PROVIDES WRITTEN STATEMENT TO THE DIRECTOR OF EMPLOYEE SERVICES WITHIN A REASONABLE AMOUNT OF TIME OF THE VIOLATION

DATE WRITTEN COMPLAINT SUBMITTED TO INTERVIEWER: _____
(must be accompanied by form)

1.B: RESPONSE BY INTERVIEWER {see attached} (within seven (7) working days after receipt of the written complaint, the interviewer will give the office Employee Services of the Department of Human Resources a written response to the complaint)

DATE OF RESPONSE: _____

STEP #2 - DEPARTMENT HEAD (See Rule 19.6)

2.A: THE DIRECTOR OF EMPLOYEE SERVICES WILL REQUEST AN APPOINTMENT WITH THE DEPARTMENT HEAD (within three (3) working days after receipt of the interviewer's reply in step #1)

DATE MEETING REQUESTED WITH DEPT. HEAD: _____

2.B: DATE DEPARTMENT HEAD MEETS WITH THE DIRECTOR OF EMPLOYEE SERVICES: _____
(within seven (7) working days after receipt of the Director of Employee Services request)

2.C: DEPARTMENT HEAD'S RESPONSE {see attached comments}
(Department Head responds in writing within ten (10) working days after meeting)

DATE OF RESPONSE: _____

STEP #3 - DIRECTOR OF HUMAN RESOURCES (See Rule 19.7)

3.A: EMPLOYEE SERVICES WILL REQUEST A HEARING WITH THE DIRECTOR OF HUMAN RESOURCES (within three (3) working days after receipt of the Department Head's response in Step #2)

DATE HEARING REQUESTED WITH DIRECTOR OF HUMAN RESOURCES: _____

3.B: LOCATION OF REVIEW HEARING(S): _____

DATE(S) OF HEARING(S): _____

TIME(S) OF HEARING(S): _____

3.C: DIRECTOR OF HUMAN RESOURCES' REPORT {see attached}

(The Director of Human Resources or his/her designee will adjudicate the facts and provide the report and recommendations to the City Manager or City Auditor and Clerk within for employees in the City Auditor and Clerk's Office ten (10) working days after the conclusion of the hearing)

DATE OF REPORT: _____

STEP #4 - CITY MANAGER/CITY AUDITOR AND CLERK (See Rule 19.8)

4.A: CITY MANAGER OR CITY AUDITOR AND CLERK, FOR THEIR RESPECTIVE EMPLOYEES, FINAL DECISION

{see attached}

(The City Manager or City Auditor and Clerk for their respective employees, responds to the complainant within seven (7) working days after receipt of the Director of Human Resources or his or her designee report and recommendations)

SIGNATURE OF CITY MANAGER/CITY AUDITOR AND CLERK: _____

DATE OF CITY MANAGER/CITY AUDITOR AND CLERK'S SIGNATURE: _____

The decision of the City Manager or City Auditor and Clerk for their respective employees, will be distributed to the complainant, Department Head, the office of Employee Services and the Director of Human Resources.

COMPLAINANT SUMMARY

STEP #1: INTERVIEWER	1.A	If complaint is not resolved during discussion, the complaint shall be filed with the Department of Human Resources within a reasonable amount of time from the time that the complainant knew or should have known of the alleged violation.
	1.B	Interviewer provides written response to the Director of Employee Services within seven (7) working days of receipt of complaint.
STEP #2: DEPARTMENT HEAD	2.A	The Director of Employee Services requests an appointment with the Department Head within three (3) working days after receipt of interviewer reply.
	2.B	Department Head meets with the Director of Employee Services within seven (7) working days after receipt of request.
STEP #3 DIRECTOR OF HUMAN RESOURCES	2.C	Department Head responds in writing within ten (10) working days after meeting with the Director of Employee Services.
	3.A	The Director of Employee Services within (3) working days after receipt of the Department head's response shall request a hearing by the Director of Human Resources or his or her designee.
	3.B	The Director of Human Resources conducts a hearing within seven (7) working days after receipt of the Director of Employee Services' request.
STEP #4: CITYMANAGER/ CITY AUDITOR AND CLERK	3.C	Report. The Director of Human Resources or his or her designee will provide a report of findings and recommendations to the City Manager or City Auditor and Clerk, for their respective employees, and present other pertinent information needed regarding the complaint within ten (10) working days after the conclusion of the hearing.
	4.A	The City Manager or City Auditor and Clerk, for their respective employees, shall make a final decision within seven (7) working days, or as soon as practical, after receipt of the Director of Human Resources or his or her designee's report.

Note: The City Manager or City Auditor and Clerk, for their respective employees, may extend the time frames, if necessary.

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