I. Purpose

The following procedure provides for prompt and equitable resolution of complaints alleging any action prohibited by the Americans with Disabilities Act of 1990 (ADA) and by Section 504 of the Rehabilitation Act of 1973, as amended.

In part the ADA states that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

In part, Section 504 states that "no otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

This complaint procedure shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards, and to assure that the City of Pasadena complies with the ADA, Section 504, and implementing regulations.

II. Procedure

A. An individual may utilize this procedure to file a complaint alleging discrimination on the basis of disability (handicap) in practices and policies or the provision of programs, services and benefits by the City of Pasadena, its representatives, agents or its subgrantees.

B. Within 10 working days after a complainant becomes aware of the alleged discrimination, a complaint should be filed in writing in accordance with the "DISCRIMINATION COMPLAINT PROCEDURE" detailed in this manual.

C. Complaints should be directed to the Accessibility and Disability Issues Coordinator, Department of Affirmative Action, who has been designated to coordinate the City's effort to comply with the ADA and Section 504.

D. The Accessibility and Disability Issues Coordinator will follow the procedures outlined in the Discrimination Complaint Procedure of this Manual in order to evaluate a complaint, determine jurisdiction, maintain and file records about a complaint, and conduct an investigation as appropriate. Nevertheless, if the complaint does not involve employment, no copy of the complaint will be placed in the complainant's personnel file, nor will the complainant's personnel file be reviewed.

E. During the investigation of a complaint, all interested persons and their representatives, if any, will be afforded an opportunity to submit evidence relevant to the complaint.

F. The Discrimination Complaint Procedure, Recommended Disposition Section of this Manual governs the options for the disposition of a complaint of discrimination based on disability, as well as a procedure for taking remedial action where appropriate. In addition, remedial action may include instructions to provide reasonable accommodation or to devise a plan to make structural or program changes.

III. Recommended Disposition

A. The Director of Affirmative Action will communicate the results of the investigation to the director of the department complained against, and if appropriate, to the Director of Human Resources. The complainant shall be advised of the recommended disposition of the complaint. The report shall contain the recommended level of disposition, as follows:

1. Not sustained - insufficient evidence, no action;

2. Sustained - (1) against accused employee - disciplinary action warranted, or (2) against a practice or procedure - remedial action or reasonable accommodation will be taken to correct practice or procedure.

B. In the event of a recommended disposition of "Sustained" against an employee, the Director of Affirmative Action shall meet with the Department Head to consider the appropriate disciplinary action.

C. In the event of a recommended disposition of "Sustained" against a systematic practice or procedure, the Director of Affirmative Action shall meet with the Director of Human Resources and the Department Heads, if appropriate to consider remedial action or reasonable accommodation to correct the practice or procedure. In the event agreement cannot be reached, the City Manager or designee will decide the matter.

IV. Appeals

A. If dissatisfied with the disposition of a complaint, a complainant can submit a request, within 10 working days of the resolution of the complaint, for reconsideration of the case by the City Manager or designee.

B. Within 30 days of a request for reconsideration, the City Manager will either uphold the resolution of the complaint, modify the resolution, or replace the resolution with a new one. The decision of the City Manager shall be final, and it shall be communicated to both the complainant and the Director of Affirmative Action.

V. Record Maintenance

The Department of Affirmative Action will maintain the files and records of the City of Pasadena relating to complaints based on the ADA and on Section 504 Rehabilitation Act. Such files and records will be treated as confidential, but may be requested by a responsible federal department or agency investigating alleged discrimination based on disability.

VI. Protection of Rights

The right of a complainant to prompt and equitable resolution of a complaint filed under this complaint procedure shall not be impaired by the pursuit of other remedies, such as the filing of a suit in Civil Court and of a Section 504 complaint with the responsible federal department or agency. Utilization of the City's grievance procedure is not a prerequisite to the pursuit of other remedies.