

## **SANTA FE COUNTY AMERICANS WITH DISABILITIES ACT, TITLE II STATEMENT OF POLICY AND GRIEVANCE PROCEDURE**

### **I. Policy statement:**

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 as amended (ADA), Section 504 of the Rehabilitation Act of 1973 as amended, and all related regulations, laws, executive orders, and directives; it is the policy of Santa Fe County (County) not to discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

### **II. The purpose of this policy is to:**

- A. To comply with Title II (Nondiscrimination on the Basis of Disability in State and Local Governmental Services) of the Americans with Disabilities Act of 1990 (“ADA”) and regulations thereunder.
- B. To state the County's commitment to providing an environment in all its services, programs and activities free from discrimination based on disabilities.
- C. To provide a procedure for prompt reporting and investigation of grievances that the County's services, programs, or activities fail to meet ADA requirements.
- D. To provide for corrective action to ensure that the County's services, programs and activities meet ADA requirements.

### **III. Scope:**

This policy sets forth basic information about accessibility of services, programs and activities, and provides a procedure to process grievances that services, programs and activities of Santa Fe County do not meet the requirements of the ADA.

### **IV. Employment**

Santa Fe County does not discriminate against qualified individuals on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

### **V. Effective Communication:**

Santa Fe County will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in Santa Fe County’s programs, services and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, vision or other relevant impairments. Requests shall be submitted to the Risk Manager.

## **VI. Facilities:**

The Santa Fe County Public Works Department is responsible for ADA accessibility of Santa Fe County facilities. Santa Fe County facilities are:

- Buildings and Sites
- Recreation Facilities and Outdoor developed areas
- Pedestrian Facilities within Santa Fe County Public Right of Way and Shared Use Paths

The Santa Fe County Public Works Department implements ADA facility improvements that are approved and prioritized by the Santa Fe County Board of Commissioners.

## **VII. Reasonable modifications to policies and programs and auxiliary aides and services:**

Santa Fe County will on a case by case basis agree to reasonable modifications from policies and programs, and will work to provide auxiliary aides and services, to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services and activities.

The ADA does not require Santa Fe County to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

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 of Santa Fe County, should contact the Risk Manager as soon as possible, but no later than 48 hours before the scheduled event.

Santa Fe County will not charge a particular individual with a disability or a group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modification of policy.

## **VIII. ADA compliance coordinator**

The Santa Fe County ADA Coordinator is responsible for coordinating the efforts of Santa Fe County to comply with Title II and for investigating any grievances that are received pursuant to this Policy. The Risk Manager of Santa Fe County has been designated as the ADA Compliance Coordinator. The Risk Manager can be contacted at (505)992-9884. The Risk Manager is located at 949 West Alameda Street, Santa Fe, New Mexico, 87501. At the time of adoption of this policy, the Risk Manager for Santa Fe County was Mark Lujan.

## **IV. Responsibility for grievances regarding accessibility of programs, activities or services:**

A. The Risk Manager is responsible for grievance intake and information gathering when a grievance alleges that a program, activity or service of Santa Fe County is not accessible.

B. The Risk Manager is responsible for dispositions of the grievance.

C. The County Manager or the County Manager's designee is responsible to review dispositions of a grievance at the request of a grievant.

**X. Grievance Procedure:**

A. Person Filing Grievance: Any person, including employees of the County, may file a grievance that the County has failed in a program, activity or service to fulfill a requirement of Title II of the ADA. Grievances must be filed no later than 60 calendar days after the alleged act of discrimination.

B. To Whom Grievance Made:

1. Grievances may be made in writing to the Risk Manager. Alternative means of filing a grievance, such as personal interviews or a tape recording of the grievance will be made available for persons with disabilities upon request. If the grievance is made verbally, the Risk Manager shall reduce the grievance to writing. If the grievance involves the Risk Manager, the grievance may be made to the Deputy County Manager who will then comply with the grievance procedures set forth herein in lieu of the Risk Manager.

2. The grievance shall, at a minimum, contain the information contained on the form attached hereto entitled "ADA Grievance Form". The form will be updated from time to time and the updated form shall be available by contacting the Santa Fe County Risk Manager and shall be posted on the Santa Fe County website. Failure to fully complete the form may result in a determination that no grievance was lodged.

3. The Risk Manager can be contacted in writing at the following address:

Mark Lujan, Risk Manager  
Santa Fe County  
949 West Alameda Street  
Santa Fe, NM 87501

Alternative means of submitting grievances can be initiated by contacting the Risk Manager at the address above or at the following phone number: (505)992-9884.

C. Information Gathering:

1. The Risk Manager shall gather all information relative to the grievance.

2. If the grievance refers to a personnel matter, the Risk Manager shall promptly send a copy of the grievance to the Human Resources Director to address any

personnel components of the grievance, while remaining responsible for addressing the grievance as it pertains to a program, activity or facility, and to ensure compliance with Title II of the ADA.

3. The Risk Manager shall gather all information related to the grievance within twenty calendar days after the receipt of the grievance. If the grievance refers to a personnel matter, a copy of such information shall be sent to the Human Resources Director. The Human Resources Director shall, when there are issues concerning matters of personnel, supplement the information obtained by the Risk Manager if necessary.

D. Further Investigation:

1. Upon receipt of the information, the Risk Manager shall review the information and determine whether further information is required from County staff or the grievant. If further information is required, the Risk Manager shall request the information within a period of time, not to exceed fifteen calendar days of receipt of the initial information.
2. The investigation may include discussions of the grievance with affected parties to determine the problem. The grievant may be represented by an attorney or other representative of his/her own choosing and may bring witnesses and present testimony and evidence in the course of the investigation.
3. Absent exceptional circumstances, investigations shall be completed within thirty (30) days of receipt of the formal grievance.

E. Disposition:

1. The Risk Manager shall review the information gathered and issue a written disposition of the grievance. Where appropriate, the disposition shall be in a format accessible to the grievant, such as large print, Braille, or audio tape. The disposition may, but is not limited to, the following types of actions:
  - (a) Factual information available does not support a determination that ADA requirements have not been met;
  - (b) A conciliation meeting is required to establish appropriate resolution of the grievance;
  - (c) Factual information indicates that the County should undertake remedial action to fulfill ADA requirements. The disposition should list proposed County actions along with a realistic timetable.
2. If necessary, the Risk Manager shall request that relevant County staff, including the Human Resources Director, and/or the grievant assist them in arriving at an appropriate disposition or conciliation of the grievance.

3. A copy of the disposition of the grievance shall be sent to the grievant (see 6 below), the County Manager, and the County staff responsible for implementation of the disposition, as well as the Human Resources Director if the grievance was referred to the Human Resources Director by the Risk Manager. The disposition shall not address disciplinary action, which remains the sole responsibility of the Human Resources Director.

4. Records of the grievance and its disposition will be retained in accordance with the Santa Fe County records retention schedule and federal law, and will be disposed of in accordance with state law.

#### F. Communications with Grievant:

1. The Risk Manager shall attempt to communicate with the grievant at least once every two weeks while the grievance is pending to advise the grievant as to the status of the grievance.

2. The disposition of the grievance, other than disciplinary action, shall be reduced to writing (or where appropriate in a format accessible to the grievant, such as large print, Braille, or audio tape) and communicated, if practical, at a meeting between the grievant and the Risk Manager. The disposition shall additionally inform the grievant that the County Manager or the County Manager's designee will consider an appeal of the disposition if requested to do so in accordance with Section H below.

3. If the disposition refers to activities that will take place in the future, the Risk Manager will inform the grievant in writing, or where appropriate in a format accessible to the grievant, such as large print, Braille, or audio tape, at the time the corrective measures have been fully implemented.

#### G. Time Frames:

If a timely grievance is submitted, the County shall adhere to the time frames in this grievance procedure unless the Risk Manager extends a deadline due to unusual or unforeseen circumstances. Whenever the times have been extended, the Risk Manager shall notify the grievant.

#### H. Review by County Manager or Designee:

A grievant who disagrees with the disposition of their grievance, can appeal that disposition in writing provided the written appeal is post marked or hand delivered to the County Manager's Office at 102 Grant Ave., Santa Fe, New Mexico, 87504, within fifteen business days after the disposition has been sent or given to the grievant. The appeal must set forth each and every factual basis for appealing the disposition and shall contain an address to which the County Manager's decision shall be mailed. Alternative

means of filing an appeal, such as personal meetings or a tape recording of the appeal will be made available for persons with disabilities upon request.

The County Manager or the County Manager's designee will review the disposition of the grievance if timely requested to do so by the grievant. The County Manager or designee shall also review the information gathered by the Risk Manager, and may gather any additional information necessary to resolve the appeal. The County Manager or designee shall either uphold or modify the disposition of the Risk Manager within twenty business days of receipt of an appeal. The County Manager or designee's decision shall be in writing, or where appropriate in a format accessible to the grievant, such as large print, Braille, or audio tape, and shall be mailed to the address provided in the grievance.

#### I. Filing of a complaint:

Individuals may submit a written complaint within 180 days of the date of any alleged violation by Santa Fe County of Title II of the ADA with the appropriate federal agency.