

	<b>Americans with Disabilities Act (ADA) Grievance Policy, Procedures and Form</b>	<b>Administrative Procedures Manual</b>  <b>Chapter 1 – Administration &amp; Government</b> <b>Procedure 1.16</b>
		Responsible Department: Planning
Effective Date: 9/27/18	Attachments: a. Grievance Form	
Prior Versions: N/A		

## Purpose

The Midpeninsula Regional Open Space District (Midpen) is committed to ensuring that no person is denied access to its services, programs or activities on the basis of their disabilities, as provided by Title II of the American with Disabilities Act of 1990 (ADA). Title II requires that public entities adopt and publish a grievance procedure to ensure the prompt and equitable resolution of complaints.

The purpose of this ADA grievance procedure is to resolve as promptly as possible any problems, complaints, or conflicts related to Midpen’s ADA compliance as it relates to public access to facilities, services, programs, and activities without the need for the complainant to resort to other remedies available under the law. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, and programs.

Midpen wants to hear concerns and complaints from citizens in order to provide accessible programs, services, and activities. A member of the public can contact Midpen with a comment, concern, or complaint without filing a formal grievance by contacting the ADA Coordinator by email at [adacoordinator@openspace.org](mailto:adacoordinator@openspace.org) or by phone at (650) 691-1200 or by dialing the California Relay Service at 711. A formal grievance can be filed by completing the Midpen’s Grievance Form (Attachment 1).

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

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

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

- Midpen is not in compliance with the physical access requirements of the ADA related to its public facilities, land, or rights- of-way; or,
- You have been denied access to participate in a Midpen program, service, or activity on the basis of disability; or,
- You have been otherwise subjected to discrimination on the basis of disability by Midpen; or
- Midpen has otherwise violated the ADA.

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

Before filing a grievance, you may seek informal resolution by contacting Midpen's ADA Coordinator. Midpen encourages, but does not require, an attempt to resolve concerns informally prior to filing a formal grievance. If your informal concern is not resolved in a timely fashion, you have the right to file a formal grievance under this procedure.

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

**3. WHAT SHOULD THE GRIEVANCE INCLUDE?**

You may file your grievance on the attached form ([Attachment 1](#)). If you choose not to use the form, your grievance may be filed either in writing or verbally to the District's ADA Coordinator at [adacoordinator@openspace.org](mailto:adacoordinator@openspace.org) or by phone at (650) 691-1200 or by dialing the California Relay Service at 711. Your grievance must include the following information:

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

Midpen will make every reasonable effort to ensure that confidentiality is maintained throughout the complaint, investigation, and corrective action process, to the extent consistent with the law. This means that Midpen will share information only on a need-to-know basis.

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

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

##### **ADA Coordinator**

Midpeninsula Regional Open Space District  
330 Distel Circle  
Los Altos, CA 94022  
Office: (650) 691-1200

[adacoordinator@openspace.org](mailto:adacoordinator@openspace.org)

California Relay Service: dial 711

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

Assistance is available from the ADA Coordinator. You should contact his/her office and request the type of assistance you need. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request. The ADA Grievance Procedure and Complaint Form are available in alternative formats upon request from the ADA Coordinator.

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

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

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

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

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

Within seven business days of Midpen's receipt of the grievance, you will receive a confirmation that it has been received and is being investigated, and the ADA Coordinator will contact you to schedule a meeting or a phone conversation to discuss the complaint.

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

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

Absent extenuating circumstances, all grievances will be investigated, and a response issued with a final resolution of the complaint within 30 calendar days of the meeting and/or phone communication with you. If for whatever reason you do not wish to meet with the ADA Coordinator, the response will be issued within 45 calendar days of receipt of the complaint. Where appropriate, the response will be issued in a format accessible to you.

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

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

Midpen will not retaliate against you for filing a grievance and will not knowingly permit retaliation by its employees. Midpen will take reasonable steps to protect you from retaliation by others as a result of filing a grievance. Please let the ADA Coordinator know immediately if you feel you are being retaliated against for filing a grievance.

## **9. WHAT CAN I DO IF I AM NOT SATISFIED WITH THE RESULTS OF THE DEPARTMENT'S INVESTIGATION?**

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

Your appeal should be directed to the Midpen General Manager.

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

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

All written complaints received by the ADA Coordinator or designee, appeals to the General Manager or designee, and responses from these two offices will be retained by Midpen for at least three years.

**REFERENCES**

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

General Manager's Signature:	_____
Dated:	_____

**Midpeninsula Regional Open Space District**

**Americans with Disabilities Act and  
Section 504 of the Rehabilitation Act of 1973  
Grievance Form**

**Instructions:** Please fill out this form completely. A printed or typed response is recommended. Sign and return to the address on last page by email, mail or in person. If you need an accommodation to complete or submit this form, please contact the ADA Coordinator at (650) 691-1200.

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

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

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

Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

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

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

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

Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

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

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

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

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

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

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

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

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

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

Yes \_\_\_\_\_ No \_\_\_\_\_

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

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

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

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

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

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes:

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

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

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

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

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

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

Yes \_\_\_\_\_ No \_\_\_\_\_

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

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

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

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

8. Additional comments or information:

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

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

Return to:

Attn: Jane Mark, ADA Coordinator/Planning Manager

330 Distel Circle, Los Altos, CA 94022

adacoordinator@openspace.org

(650) 691-1200

California Relay Service: dial 711

#### REFERENCES

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

