

FILING AN ADA COMPLAINT

The Americans with Disabilities Act (ADA) is a civil rights law that guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, federal, state, and local government services, and telecommunications.

Employers that are covered by the ADA include private, state and local governments, employment agencies, and labor unions with 15 or more employees.

Employees that are covered by the ADA are those with a substantial impairment affecting a major life activity who are qualified to perform the essential functions of the job, with or without accommodations and who have disclosed their disability to their employer.

The employment provisions of the AA are enforced under procedures similar to those of other federal civil rights laws. Complaints may be filed with the appropriate federal agency or with designated state human rights agencies.

In general, the federal government encourages complainants to resolve differences through grievance procedures and other alternative dispute mechanisms such as mediation. If alternate dispute mechanisms fail, the appropriate federal agency will issue a "right to sue" letter or will file suit. Time is an important consideration, as complainants are encouraged to contact the EEOC within 180 days of the alleged discrimination.

Illustration of the process

A woman who uses a wheel chair for mobility has asked her employer to install an automatic door opener on the women's restroom door. Her employer has refused, stating that it is an unreasonable accommodation that would cause the company undue hardship. She feels her rights have been violated and wants to investigate options for resolution.

1. The employee should put her complaint in writing. It should include the following information:
 - her name, address, and telephone number;
 - the employer's name, address, telephone number, and a number of employees;
 - a description of the alleged discriminatory action, including when it happened and what issue it involved (hiring, firing, access, etc.);
 - an explanation of the complainant's disability and how it limits a major life activity, if it is not apparent; and
 - a list of any witnesses to the alleged discriminatory behavior

2. Next, the employee should submit her complaint to the company's ADA coordinator to initiate an alternative dispute mechanism.
3. If this approach does not result in a mutually agreed upon resolution, and the state she lives in has a designated human rights organization, she must file a complaint with that organization first. If a complainant has no access to a state or civil rights agency she or he may file with the Equal Employment Opportunity Commission.
4. NOTE: Complainants can file a complaint in person, by mail, or telephone. Telephone complaints must be followed up in writing. Complainants must file a complaint within 180 days of the date of the alleged discrimination. If they are accessing a state agency they may file charges with the EEOC within 300 days of the discriminatory act, or 30 days after receiving notice that the state agency has terminated its processing of the charges, whichever is earlier.
5. The state agency or the EEOC will notify the complainant and the employer about the charge within 10 days.
6. The state agency or the EEOC will then review and investigate the charges. After the complainant files a complaint, the agencies have a 180 days to resolve the issue through alternative dispute resolution.
7. If this does not work, the EEOC will either file suit on behalf of the complainant or issue a "right to sue" letter. In either case, the complainant then has another 90 days to file a private law suit.

Remedies available can include hiring, reinstatement, promotion, back pay, restored benefits, reasonable accommodation, attorneys' fees, and court costs.

Note: federal employees or job applicants who wish to file a complaint against a federal agency must contact the agency's Equal Employment Opportunity office within 45 days of the alleged discrimination.

Contact information for the EEOC:

Equal Employment Opportunity Commission

1801 L Street, N.W.

Washington, D.C. 20507

202/663-4900 (voice)

202/663-4494 (ttd)

1/800-669-6820

<http://www.eeoc.gov>

<http://www.eeoc.gov/offices.html> (to find information on the nearest EEOC office)