

**ADVOCATING FOR ACCESS:
Using Coordinators & Grievance Procedures to Resolve Disputes**

Do you believe you have been denied equal access to a program or service offered by a public entity because of a disability? Were you denied a reasonable modification that you requested in order to access the services or programs offered? The Americans with Disabilities Act (ADA) provides a mechanism to resolve disability discrimination disputes about access to public entities without having to engage in litigation by filing a complaint in federal court.

What does the law require?

Any public entity that employs more than 50 people must designate an ADA coordinator and establish a grievance procedure.ⁱ

The requirement to designate an ADA coordinator and publicize his or her contact information is meant “to ensure that individuals dealing with large agencies are able to easily find a responsible person who is familiar with the [the ADA] and can communicate those requirements to other individuals in the agency who may be unaware of their responsibilities.”ⁱⁱ

“A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities” under the ADA.ⁱⁱⁱ “The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated” to coordinate ADA efforts and compliance.^{iv}

In addition, a public entity covered by this rule must investigate complaints of the entity’s non-compliance with the ADA.^v The public entity is required to “adopt and publish grievance procedures providing for prompt and equitable resolution of complaints.”^{vi}

PUBLIC ENTITY
A public entity is “any State or local government” or “any department, agency, special purpose district or other instrumentality of a State or States of local government.”¹ Some examples of public entities include: the N.C. Department of Public Safety or N.C. Division of Motor Vehicles; a public university, community college, or county school system; a county’s sheriff’s office or parks & recreation department; a city’s police department or town’s revenue department.

How do I contact the ADA Coordinator?

If you feel that a public entity that employs more than 50 people has violated your rights under the ADA, you should notify the entity’s ADA coordinator in writing. You should be able to find the ADA coordinator by calling the public entity or searching for the information online. If you cannot determine who the public entity’s ADA coordinator is, you may need to make a written request to the public entity’s director or chief officer. Enclosed is a sample letter that you can send to a public entity to determine the identity of its ADA coordinator. If you are not able to identify the ADA coordinator through this process, contact Disability Rights NC for further assistance.

How do I file an ADA grievance? Do I have to file an ADA grievance?

Once you have made contact with the ADA coordinator, you should request information on the public entity's grievance procedure. Read the grievance procedure thoroughly and be sure to comply with all timeframes that are set forth within. Most grievance procedures require a written complaint, and usually a letter will be enough to start the process. Enclosed is a sample letter that you may wish to use as a guide.

You are not required to file a grievance with the ADA coordinator before making a complaint in court or pursuing a complaint with a federal agency (see below), if you choose to do so.^{vii} Please keep in mind that there are strict time limits for filing lawsuits in court.^{viii}

What if my grievance is not resolved?

You may choose to pursue litigation or a complaint with federal enforcement authorities. Which agency you file with will depend on the nature of the entity against which you have a grievance.

The U.S. Department of Justice, Civil Rights Division's Project Civic Access investigates ADA complaints against counties, cities, towns and villages to ensure the elimination of physical and communication barriers. To learn more about Project Civic Access, visit <http://www.ada.gov/civicac.htm> or contact the U.S. Department of Justice's ADA information line at 1 (800) 514-0301.

Other U.S. departments, such as the U.S. Department of Education, U.S. Department of Health and Human Services, U.S. Housing and Urban Development, and Federal Transit Administration, have offices of civil rights that investigate and enforce ADA compliance with regard to state public entities over which they have authority. If you cannot determine which agency to contact for help, you may wish to call Disability Rights NC for assistance in determining the appropriate U.S. agency with which to file your complaint.

Steps to Enforcing Your Rights Under the ADA

- 1. If you have never brought your concern to the attention of the public entity, notify the employee with whom you interact.**
 - a. If you need a reasonable accommodation or communication aid, you must notify the public entity of your needs. It is a good idea to make this request in writing, if possible.
 - b. A sample letter to request an accommodation is included in this packet.

- 2. If your concern is not being addressed, ask that employee to provide the name and contact information for the public entity's ADA coordinator.**
 - a. If you are told that the public entity does not have an ADA coordinator, make a request in writing to the public entity's manager, director or chief officer.
 - b. A sample letter to determine the name and contact information of the ADA coordinator is included in this packet.

3. Once you make contact with the ADA coordinator, tell them you would like to file a grievance and follow the grievance procedure.

- a. Read the grievance procedure thoroughly and be sure to comply with all timeframes that are set forth within.
- b. A sample letter making a grievance is included in this packet.

4. If you are unable to identify a public entity's ADA coordinator and file a grievance, ask for help.

- a. You can call Disability Rights NC (877-235-4210) or a private attorney to help you stand up for your rights.
- b. You may file a complaint with the U.S. Department of Justice. If you have questions about how to file a complaint or would like to request a complaint packet, you may call the Department's ADA Information Line at (800) 514-0301 (voice) or (800) 514-0383 (TDD). Their website can be found at www.ada.gov. You may also write to them at:

U.S. Department of Justice,
950 Pennsylvania Avenue NW
Civil Rights Division
Disability Rights Section–NYA
Washington, DC 20530

- c. Depending on the nature of your complaint, you may also be able to file a complaint with other federal agencies, such as the U.S. Department of Health and Human Services, U.S. Department of Education, or U.S. Department of Interior. If you have questions about with which federal agency you should file a complaint, contact Disability Rights NC for assistance.

This document contains general information for educational purposes and should not be construed as legal advice. It is not intended to be a comprehensive statement of the law and may not reflect recent legal developments. If you have specific questions concerning any matter contained in this document or need legal advice, we encourage you to consult with an attorney.

Created in 2014 by Disability Rights NC.

ⁱ 28 C.F.R. § 35.107.

ⁱⁱ 28 C.F.R. Part 35 Appx. B § 35.107.

ⁱⁱⁱ 28 C.F.R. § 35.107(a).

^{iv} Id.

^v Id.

^{vi} 28 C.F.R. § 35.107(b).

^{vii} Id. (In cases of employment discrimination under Title I of the ADA, administrative exhaustion through the EEOC is required. Contact Disability Rights NC for information specific to employment discrimination.)

^{viii} Typically, the statute of limitations to file a complaint under Title II of the ADA in a federal district court located in North Carolina is two years. See *A Soc'y Without a Name, for People without a Home, Millennium Future-Present v. Virginia*, 655 F.3d 342 (4th Cir. Va. 2011); *J.W. v. Croom*, 2012 U.S. Dist. LEXIS 136300 (E.D.N.C. Sept. 24, 2012); N.C. Gen. Stat. § 168A-12.

Sample Letter – ADA Title II Accessibility/Request for Accommodation. This document was created for educational purposes only and should not be construed as legal advice. It is not intended to be a comprehensive statement of the law and may not reflect recent legal developments. If you have specific questions concerning any matter contained in this document or need legal advice, we encourage you to consult with an attorney. Created in 2014 by Disability Rights NC.

Date

State/local government agency
Address

Dear [Head of state/local government agency]:

I write concerning the accessibility of [government service, program, or activity].

I am a person with a disability, in that [provide diagnosis or explain ways in which some major life activities are substantially limited]. It has been my experience that [this service/program/activity] is not accessible because _____
_____.

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination by state or local governments on the basis of disability. Under Title II of the ADA, a state or local government must ensure accessibility of all services, programs, and activities by [select all that apply: *eliminating any eligibility criteria for participation in programs, activities, and services that screen out or tend to screen out persons with disabilities, unless it can establish that the requirements are necessary for the provision of the service, program, or activity; *reasonably modifying its policies, practices, or procedures to avoid discrimination; and/or *ensuring that individuals with disabilities are not excluded from services, programs, and activities because existing buildings are inaccessible.]

To ensure accessibility of the above service/program/activity, I respectfully request that you [select all that apply: * eliminate the eligibility criteria specified below; * reasonably modify the policy, practice, or procedure specified below; or * alter the existing facility specified below, construct additional facilities, relocate the service/program/activity to an accessible facility, or provide the service/program/activity at an alternate accessible site.]

Specifically, I request the following: _____.

Please reply to my request in writing within ten (10) business days. If you have any questions about my request, please do not hesitate to contact me at () - .

Sincerely,

[Signature]

SAMPLE LETTER – NO IDENTIFIABLE ADA COORDINATOR

This document was created for educational purposes only and should not be construed as legal advice. It is not intended to be a comprehensive statement of the law and may not reflect recent legal developments. If you have specific questions concerning any matter contained in this document or need legal advice, we encourage you to consult with an attorney. Created in 2014 by Disability Rights NC.

Date

State/local government agency

Address

Dear [Head of state/local government agency]:

I write concerning [government service, program, or activity] and its compliance with the Americans with Disabilities Act (ADA).

I have attempted to determine who the ADA Coordinator is for your agency, but have been unable to do so. Title II of the ADA requires public entities that employ 50 or more people to designate an ADA coordinator, make his or her contact information known to interested individuals, and adopt a grievance procedure. If your agency has designated an ADA coordinator and adopted a grievance procedure, please provide me with his or her contact information and forward this letter to that individual.

I am a person with a disability, in that [provide diagnosis or explain ways in which some major life activities are substantially limited]. It has been my experience that [this service/program/activity] is not accessible because [location, date, and description of the problem, including details about any previous requests for accommodation].

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination by state or local governments on the basis of disability. Under Title II of the ADA, a state or local government must ensure accessibility of all services, programs, and activities by

[include all that apply:

◆ eliminating any eligibility criteria for participation in programs, activities, and services that screen out or tend to screen out persons with disabilities, unless it can establish that the requirements are necessary for the provision of the service, program, or activity;

◆ reasonably modifying its policies, practices, or procedures to avoid discrimination; and

◆ ensuring that individuals with disabilities are not excluded from services, programs, and activities because existing buildings are inaccessible.]

To ensure accessibility of [the above service/program/activity], I respectfully request that you [include all the apply:

eliminate the eligibility criteria specified below;

reasonably modify the policy, practice, or procedure specified below; or

SAMPLE LETTER – NO IDENTIFIABLE ADA COORDINATOR

This document was created for educational purposes only and should not be construed as legal advice. It is not intended to be a comprehensive statement of the law and may not reflect recent legal developments. If you have specific questions concerning any matter contained in this document or need legal advice, we encourage you to consult with an attorney. Created in 2014 by Disability Rights NC.

alter the existing facility specified below, construct additional facilities, relocate the service/program/activity to an accessible facility, or provide the service/program/activity at an alternate accessible site.]

Specifically, I request the following:

[_____

_____].

Please reply to my request in writing within ten (10) business days. If you have any questions about my request, please do not hesitate to contact me at () - .

Sincerely,

[Signature]

Name

Address

SAMPLE - ADA Coordinator

Sample Letter – Grievance to ADA Coordinator. This document was created for educational purposes only and should not be construed as legal advice. It is not intended to be a comprehensive statement of the law and may not reflect recent legal developments. If you have specific questions concerning any matter contained in this document or need legal advice, we encourage you to consult with an attorney. Created in 2014 by Disability Rights NC.

Date

Name

ADA Coordinator

State/local government agency

Address

Dear [ADA Coordinator]:

I write concerning [government service, program, or activity] and its compliance with the Americans with Disabilities Act (ADA).

I am a person with a disability, in that [provide diagnosis or explain ways in which some major life activities are substantially limited]. It has been my experience that [this service/program/activity] is not accessible because [location, date, and description of the problem, including details about previous requests for accommodation].

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination by state or local governments on the basis of disability. Under Title II of the ADA, a state or local government must ensure accessibility of all services, programs, and activities by [include all that apply:
◆ eliminating any eligibility criteria for participation in programs, activities, and services that screen out or tend to screen out persons with disabilities, unless it can establish that the requirements are necessary for the provision of the service, program, or activity;
◆ reasonably modifying its policies, practices, or procedures to avoid discrimination; and
◆ ensuring that individuals with disabilities are not excluded from services, programs, and activities because existing buildings are inaccessible.]

To ensure accessibility of [the above service/program/activity], I respectfully request that you [include all the apply:

- eliminate the eligibility criteria specified below;
- reasonably modify the policy, practice, or procedure specified below; or
- alter the existing facility specified below, construct additional facilities, relocate the service/program/activity to an accessible facility, or provide the service/program/activity at an alternate accessible site.]

Specifically, I request the following:

[_____

_____].

Sample Letter – Grievance to ADA Coordinator. This document was created for educational purposes only and should not be construed as legal advice. It is not intended to be a comprehensive statement of the law and may not reflect recent legal developments. If you have specific questions concerning any matter contained in this document or need legal advice, we encourage you to consult with an attorney. Created in 2014 by Disability Rights NC.

Please reply to my request in writing within [ten (10) business days OR # of days listed in adopted grievance procedure]. If you have any questions about my request, please do not hesitate to contact me at () - .

Sincerely,

[Signature]

Name

Address

SAMPLE - Title II Grievance to ADA Coordinator