

TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER XXXIII: DEPARTMENT OF NATURAL RESOURCES

PART 1000
AMERICANS WITH DISABILITIES ACT
GRIEVANCE PROCEDURE

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AUTHORITY: Implementing Title II, Subtitle A of the Americans With Disabilities Act of 1990 (42 USC 12131-12134), as specified in Title II Regulations (28 CFR 35.107).

SOURCE: Adopted at 16 Ill. Reg. 20092, effective December 14, 1992; amended at 21 Ill. Reg. 8882, effective June 26, 1997; amended at 32 Ill. Reg. 4739, effective March 19, 2008.

Section 1000.10 Purpose

- a) This Americans With Disabilities Act Grievance Procedure (Procedure) is established pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) (ADA) and specifically Section 35.107 of the Title II regulations, 28 CFR Part 35, requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. Should any individual desire to review the ADA or its regulations to understand the rights, privileges and remedies afforded by it, please contact the ADA Coordinator.
- b) In general, the ADA requires that each program, service and activity offered by the Department, when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.
- c) It is the intention of the Department to foster open communication with all individuals requesting readily accessible programs, services and activities. The Agency encourages supervisors of programs, services and activities to respond to requests for reasonable modifications before they become grievances.

Section 1000.20 Definitions

- a) "ADA Coordinator" means the person appointed by the Director who is responsible for the coordination of efforts of the Agency to comply with and carry out its responsibilities under Title II of the ADA including investigation of grievances filed by complainants. The Designated Coordinator can be contacted at One Natural Resources Way, Springfield IL 62702-1271.
- b) "Agency" means the Illinois Department of Natural Resources.
- c) "Complainant" means an individual with a disability who files a grievance in accordance with this Part.
- d) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of the impairment; or being regarded as having such an impairment.
- e) "Grievance" means any complaint filed with the Agency by an individual alleging that he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the Agency or has been subject to discrimination by the Agency, on the basis of a disability.
- f) "Major Life Activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- g) "Physical or Mental Impairment" means any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- h) "Qualified Individual with a Disability" means an individual with a disability who, with or without reasonable accommodations or modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.
- i) "Reasonable Accommodation" means modifications or adjustments to services, programs or activities that enable a qualified individual with a disability to participate therein, or enjoy the benefits thereof.

- j) "Undue Hardship" means, with respect to the provision of an accommodation, significant difficulty or expense incurred by a covered entity.

(Source: Amended at 32 Ill. Reg. 4739, effective March 19, 2008)

Section 1000.30 Procedure

- a) Grievances must be submitted in accordance with the procedures established in Sections 1000.40 and 1000.50 of this Part, in the form and manner described, and within the specified time limits. Time limits established in this procedure are in calendar days, unless otherwise stated, and may be extended by mutual agreement in writing by the Complainant and the Agency.
- b) A Complainant's failure to submit a grievance, or to submit or appeal it to the next level of procedure, within the specified time limits, shall mean that the Complainant has withdrawn the grievance or has accepted the last response given in the grievance procedure as the Agency's final response.
- c) Exhaustion of all administrative remedies provided for in this Part shall be a prerequisite to the filing of a complaint before any court or other administrative tribunal.
- d) The Agency shall, upon request, provide an individual with a copy of this Part and a Grievance Form.

Section 1000.40 ADA Coordinator Level

- a) If an individual desires to file a grievance, he or she shall, within 180 days after the alleged discrimination or denial of benefits for any program, service or activity of the Agency, submit a written grievance to the ADA Coordinator.
- b) The grievance shall contain the following information:
- 1) the Complainant's name, address, and telephone number.
 - 2) information as to the best time and means for contacting the Complainant.
 - 3) the exact nature of Complainant's disability, including a signed statement from a physician currently licensed to practice in Illinois.
 - 4) the program, activity, or service which was denied Complainant, or in which alleged discrimination occurred.

- 5) the nature of the denial or alleged discrimination.
 - 6) an explanation of why the Complainant believes he or she is qualified individual with a disability.
 - 7) the date the denial or alleged discrimination occurred.
 - 8) the signature or execution of or on behalf of the Complainant.
- c) The Complainant shall attach copies of any documents received from or submitted to the Agency which pertain to the program, activity or service referred to in the grievance.
 - d) The ADA Coordinator or his or her representative shall investigate the grievance and shall make reasonable efforts to resolve the matter. The Coordinator shall serve the written response upon the Complainant within ten business days after receipt of the grievance. The date of service of the written response shall be considered to be the date of its mailing.

Section 1000.50 Final Level

- a) If the grievance has not been resolved to the satisfaction of the Complainant at the ADA Coordinator level, the Complainant may appeal the matter to the Director of the Agency for final review. The Complainant shall have ten business days from receipt of the ADA Coordinator's response to file an appeal. The date of service of the ADA Coordinator's written response shall be considered the date of its mailing.
- b) The Complainant shall submit a copy of the grievance and the ADA Coordinator's response, along with a short written explanation of the reasons for dissatisfaction with the response, to constitute an appeal.
- c) The Director shall appoint a 3-member panel to review the grievance at the final level. One member so appointed shall be designated chairman.
- d) The Complainant shall be afforded an opportunity, within 30 days after the Director's receipt of the appeal, to appear before the panel and present testimony, written argument or other evidence, and shall have the right to designate a representative to appear on his or her behalf. The Panel shall review the grievance and the evidence presented, and may conduct interviews and seek additional information, evidence and/or advice as it deems appropriate.

- e) The panel shall make written recommendations as to approval, disapproval or modification of the ADA Coordinator's decision, and transmit the recommendations to the Director for final decision.
- f) The Director shall render a written decision to the Complainant, with a copy to the ADA Coordinator and each panel member, within 45 days after receipt of Complainant's appeal.
- g) The grievance, the ADA Coordinator's response and the final decision of the Director shall be maintained in accordance with the State Records Act [5 ILCS 160/1] or as otherwise required by law.

(Source: Amended at 21 Ill. Reg. 8882, effective June 26, 1997)

Section 1000.60 Accessibility

The Agency shall ensure that all stages of the Procedure are readily accessible to and usable by individuals with disabilities.

Section 1000.70 Case-by-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the Agency. Accordingly, termination of a grievance at any Level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other Complainants should rely.