

Maryland State Highway Administration

Americans with Disabilities Act
and
Section 504 of the Rehabilitation Act of 1973
Complaint Procedure

The Americans with Disabilities Act (ADA) states that a public entity is required to inform the public of the protections against discrimination afforded to them by Title II of the ADA, including information about how Title II requirements apply to its particular programs, service, activities and benefits (28 CFR §35.106). Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in any program, service or activity that receives Federal funds. SHA receives such funds for highway construction and other programs and services through the Federal Highway Administration (FHWA).

A public entity that employs 50 or more persons is required by the ADA to adopt and publish grievance procedures providing for prompt and equitable resolution of complaints or grievances alleging any action that would be prohibited by Title II of the ADA. The State Highway Administration's (SHA) procedure is described below.

Who May File a Grievance

The list below identifies individuals who may file a grievance or complaint:

- Any person with a disability, or his or her designated representative, who believes that they have been the subject of disability-related discrimination on the basis of the denial to access to facilities, programs or services.
- Individuals who may not be disabled themselves, but are known to have a relationship or association with an individual with a known disability, and have been subjected to discrimination on the basis of that association.
- Any individual who feels that they have been retaliated against or opposed any act or practice made unlawful by the ADA/504, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under the ADA/504 may file a grievance.

For purposes of ADA, a person with a disability is an individual who:

- has a physical or mental impairment that substantially limits one or more major life activities; or
- has a record or history of such an impairment; or
- is perceived or regarded as having such an impairment.

Instructions for Filing a Complaint/Grievance

The Maryland State Highway Administration makes every attempt to resolve problems informally at the lowest level possible. For organizational purposes, the State Highway Administration is divided into seven local engineering districts, each responsible for state right of way within several counties. Contacting the local district office is often the easiest and quickest way to address an issue. The complainant should fill out the ADA Complaint/Grievance Form providing all information requested. All complaints or grievances must be **in writing**, and the form filed with SHA's ADA Title II Coordinator within **180 days** of the alleged disability-related discrimination. Alternative formats of the form will be provided upon request. The ADA Complaint/Grievance Form may be obtained from and returned to: Maryland State Highway Administration, ADA Title II Coordinator, Mail Stop C-412, 707 North Calvert Street, Baltimore MD 21202; Telephone: 410-545-0362 or 1-888-204-0157; 1-800-735-2258 (Maryland Relay). The form is also accessible on SHA's website at the link below:

<http://www.roads.maryland.gov/OPR/ADAGrievanceProceduresForm.pdf>

Within 14 days after receiving a written complaint, the ADA Title II Coordinator will notify the complainant of the option to meet to discuss the complaint, obtain additional facts/documentation and explore resolutions. The decision to meet and attempt informal resolution is solely up to the complainant.

It is SHA's goal that within 14 days of the meeting, or a decision by the complainant not to meet, the ADA Title II Coordinator will respond in writing (and where appropriate in a format accessible) to the complainant explaining SHA's position and offer options for resolution. Some circumstances and complexities may require additional time.

A complaint/grievance will be forwarded to the Office of Equal Opportunity if:

- it is unable to be resolved by the ADA Title II Coordinator, or
- the complainant decides not to pursue the attempt at informal resolution.

In these instances, the complainant will be notified that the grievance is being forwarded for a formal investigation.

The Office of Equal Opportunity will log the grievance and begin a formal investigation. The investigation is tracked and actions taken toward resolution are documented.

It is SHA's goal that the Director of the Office of Equal Opportunity will prepare a written decision, after full consideration of the grievance/complaint merits, within 30 days, depending on whether the circumstances and complexity of the complaint requires additional time. A copy of the written decision shall be mailed to the complainant as well as to the ADA Title II Coordinator and the appropriate operating Offices within SHA, within 10 days of the decision.

Right to Appeal

If a complainant remains dissatisfied, he or she may file an appeal to the State Highway Administration's Deputy Administrator for Finance, Information Technology and Administration. The appeal must explain the reasons why the complainant is dissatisfied with the decision, and be signed by the complainant or authorized representative. The appeal reviewers will include the Deputy Administrator for Finance, Information Technology and Administration and either the Deputy Administrator for Planning and Preliminary Engineering or the Deputy Administrator for Operations. It is SHA's goal to act upon the appeal no later than 30 days of receipt. A copy of the appeals decision will be mailed to the complainant soon thereafter. The appeal decision shall be final, subject to the options noted below.

SHA shall maintain the confidentiality of all files and records relating to grievances filed, unless disclosure is authorized or required by law. Retaliation, coercion, intimidation, threat, interference or harassment for the filing a grievances or prevent filing is strictly prohibited.

Notice of Options to File

The use of SHA's ADA/504 Grievance/Complaint Procedure does not preclude persons from filing a formal complaint with the Maryland Commission on Human Relations, the Civil Rights Divisions of the Federal Highway Administration, the U.S. Department of Transportation or the U.S. Department of Justice.

Any person who believes he or she discriminated against based on his or her disability also has the right to bring a lawsuit to enforce their rights under Title II and may receive the same remedies as under Section 504 of the Rehabilitation Act of 1973, including reasonable attorney's fees.

March 2014