

Advocacy Through Effective Complaints

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Webinar Process

- Today's webinar will be recorded and available for viewing
- Closed Captioning is available. Click the CC button in the meeting controls bar at the bottom of your screen to turn it on
- If you have a question, please type it in the Q&A box. Questions will be answered at the end of the program

Agenda

- Overview of the ADA
- Options for filing complaints
- Filing complaints with companies
- Filing complaints with local agencies
- Filing complaints with federal agencies
- ADA lawsuits
- Resources
- Q&A

Americans with Disabilities Act

- The Americans with Disabilities Act (ADA) is a civil rights law, passed in 1990, that prohibits discrimination against qualified individuals with disabilities in all areas of public life
 - Title II: State and Local Governments
 - Title III: Places of Public Accommodations
- Requirements:
 - Title II: requires equal opportunity to benefit from all of their services, programs, and activities; and reasonable modifications
 - Title III: reasonably modify policies, practices, and procedures; physical accessibility specifications; provide goods/services in most integrated setting
 - Exceptions: fundamental alterations

Options for Filing Complaints

1. File a complaint with the company
2. File a complaint with a local office (e.g., city, county, or state)
3. File a complaint with a federal agency
 - U.S. Department of Justice, Civil Rights Division
 - U.S. Department of Transportation, Office of Civil Rights
4. File a lawsuit under the ADA in federal court



Filing Complaints with Companies



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Filing Complaints to Companies

- Usually, the best way to achieve results more quickly
- Companies may not know they are not in compliance
- Companies may want to improve accessibility, but do not know how
- Pro tip: always keep a calm, direct, and professional tone. Companies will be more likely to engage in productive conversations

Steps for Effective Complaints

1. Document the barrier
2. Obtain contact information for the appropriate individual
3. Use written correspondence
4. Offer recommendations and solutions
5. Have a discussion
6. Follow-up
7. Thank them

Document the Barrier

- Always document barriers
- Documentation not only provides evidence of the barrier, but can also help the company understand the issue
- Write down the barriers experienced. Include the location, dates, approximate times, and any personnel involved (names and/or titles)
- Take pictures, if appropriate
- Organize all documentation
- Keep the originals and make copies for the company

Obtain Contact Information

- Frontline employees are often not the appropriate person for requesting physical barrier removal and/or reasonable modifications to policies, practices, or procedures
- Ask for the general manager's and/or owner's contact information
- Obtain their name, email, office address, and phone number
- If unable to access building due to a physical barrier, call or email the company and request the information
- Could also find information online, but this may be more difficult

Written Correspondence

- Writing a letter or email is also written documentation
- If sent by mail, send via certified mail with a return receipt
- Stick to the facts and keep the letter's tone calm and professional
- Always keep a copy of all written for your records

Written Correspondence

- Direct the letter to the appropriate person (manager and/or owner)
- Introduce yourself/your chapter
- Describe the barrier, include details of when you experienced the barrier (location/dates/times), personnel involved, and any photos
- Cite any laws or regulations violated
- Explain how this affected you personally and how it can affect others
- Suggest reasonable solutions and offer to have a conversation
- Sign the letter. Include your name, contact info, and anyone CC'ed
- If you receive a phone call, follow-up with written correspondence

Recommendations & Solutions

- Always provide recommendations and solutions to the companies
- Analyze what changes are needed and actions that must be taken
- Brainstorm multiple solutions
- Review ADA requirements, but also provide recommendations for accessibility beyond the minimum requirements (look at other companies for ideas)
- Have a reasonable timeline (according to the changes needed), but be willing to negotiate and compromise
- Consider other ideas the company may have

Have a Discussion

- Be cordial and professional in all meetings (including virtual/calls)
- Come prepared with solutions and recommendations
- Discuss the issue and stick to the facts
- Describe the effects of the barriers and/or policies, practices, and procedures for people with disabilities
- Explain any legal requirements and their importance for inclusion
- Talk, but also listen
- Identify a timeline for barrier removal and reasonable modifications
- Send a thank you note after the discussion

Discussion Follow-Up

- After the conversation, contact the company business periodically and request an update
- Be patient and give the company sufficient time to take action, per the agreed upon timeline
- Continue to use the preferred mode of correspondence (i.e., the method the business usually used)
- Always remain professional in any correspondence
- Reiterate why actions must be taken for inclusion
- Follow-up any phone calls with written correspondence

Thank Them

- When actions are taken, thank the company
- Send an email or letter expressing gratitude for their actions
- Highlight their successes and explain what their actions mean for the disability community
- If appropriate, request permission to publicly announce their actions for increasing accessibility
- Advocacy is also expressing support for businesses that take actions to provide accessibility for all

What if the company fails to respond,
cooperate, or remove the barrier?

Options if They Don't Reply

- If you do not receive a reply, follow-up at an appropriate time
- Try an alternative method, such as a letter, email, or via social media
- Send the correspondence to a different person, e.g., if the first letter was sent to the owner, send the second to the general manager
- Post the issue on social media and tag the company
- Keep trying until you receive a response
- If the company still does not respond, file a complaint with an agency

Filing Complaints with Local Agencies



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Local Disability Complaints

- Some cities, counties, and states have agencies or offices to enforce the ADA and local disability discrimination laws
- Agencies or offices may provide information on legal requirements
- Often, the agency or office have instructions online for filing complaints. If not, call or send an email to obtain this information
- Provide the same recommended documentation of the issues, and include any attempts to work with directly with the company
- Contact the [state/territory's Protection & Advocacy agency](#) for assistance



Filing Complaints with Federal Agencies



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Federal Disability Complaints

- Not required to file first with company or local agency, but recommended
- File with the proper agency
 - Department of Justice, Civil Rights Division: [File a Complaint](#) (places of public accommodation; state/local government services, programs, and activities)
 - Department of Transportation, Office of Civil Rights: [File a Complaint with FTA](#) (public transportation)
- File before the deadline
 - Title II – 180 days (DOJ or FTA)
 - Title III – no deadline, but should file in a timely manner (DOJ)
- Provide all evidence, include any attempts to resolve the issue

DOJ Complaint Process

- After filing, DOJ could:
 - Contact you for more information and investigate potential violations
 - Refer the matter to the ADA Mediation Program
 - Negotiate a consent decree with the entity
 - File a complaint in federal court
- [ADA Mediation Program](#)
 - An alternative means of dispute resolution
 - The purpose is to develop a mutually agreed upon solution
 - Free, party-driven, confidential, quicker, and preserves the relationship

Filing ADA Lawsuits



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Filing an ADA Lawsuit

- Filing a lawsuit should be the last resort
- Must file the lawsuit in federal court, generally within three years
- May add any violations of state or local laws to the case
- Will likely need to hire and pay an attorney
- The process can take a very long time, even years
- No monetary damages available under Title III (sometimes monetary damages are available under local laws)
- Limited monetary damages available under Title II

Resources

- Department of Justice: [ADA.gov](https://www.ada.gov) (laws, featured topics, and resources)
- DOJ's [ADA Information Line](https://www.ada.gov/ada-info-line): 800-514-0301 (cannot file via phone)
- ADA Centers – Regional Map: [Find Your Region](https://www.ada.gov/ada-centers)
- Mid-Atlantic ADA Center: [ADAinfo.org](https://www.adainfo.org), 800-949-4232 (DE, DC, MD, PA, VA, WV) or 301-217-0124, (guidance, training, and materials on the ADA)
- National Disability Rights Network – [NDRN.org](https://www.ndrn.org)
- PVA: [PVA.org](https://www.pva.org) & ADA Resources: [PVA.org/ADA](https://www.pva.org/ada)



Questions?

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Questions & Answers



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Thank You!

