

ADA Grievance Procedure

I. AUTHORITY.

Federal regulations implementing the Americans with Disabilities Act of 1990 (ADA) require public entities with 50 or more employees to designate a responsible employee and adopt grievance procedures which provide for the prompt and equitable resolution of complaints alleging noncompliance with the ADA or complaints alleging any actions that would be prohibited under title II of the ADA (28 C.F.R. 35.107).

II. INTENT AND PURPOSE.

It is the intent of the Lee County Clerk of the Circuit Court & Comptroller ("Clerk") to fully comply with the ADA and to assure equity, fairness and full participation in the Clerk's office's services for persons with disabilities.

The purpose of the procedure set forth herein is to establish a mechanism for resolving complaints without requiring the complainant to resort to federal complaint procedures. Nonetheless, complainants are not required to exhaust this grievance procedure before filing a complaint at the federal level.

It is the intent of the Clerk that complainants be consulted and advised and that communications be maintained at each step of the grievance process. It is also the intent of the Clerk to utilize alternative dispute resolution techniques whenever required, necessary or mutually agreed upon at any point during the grievance process.

III. DEFINITIONS.

- A. Americans With Disabilities Act (ADA) - Public Law 101- 336, the American with Disabilities Act of 1990, which prohibits discrimination on the basis of disability.
- B. ADA Coordinator - An employee designated to coordinate a public entity's efforts to comply with and carry out its responsibilities under title II of the ADA. These responsibilities include any investigation and/or follow through of any complaint alleging non-compliance or alleging any actions that would be prohibited by title II of the ADA.
- C. Disability or Persons with Disabilities - With respect to an individual, a physical or mental impairment which substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such an impairment as defined in Public Law 101-336 and 28 C.F.R. 35.104.
- D. Grievance - A formal complaint made by a person, or on behalf of a person, alleging that he or she has been subjected to unlawful discrimination or inaccessibility to facilities, programs, services, benefits or activities on the basis of a disability.
- E. Title II - The second section of the ADA that prohibits discrimination on the basis of disability in state and local government services.

IV. DESIGNATION OF COORDINATOR

The ADA coordinator for the Clerk's office is:

Tina Swilley Morris
2201 Second Street
Fort Myers, FL 33901
239-533-3270
adacoordinator@leeclerk.org

V. GRIEVANCES

A. A formal grievance shall be instituted by filing a complaint.

B. Each complaint shall contain the following minimum information:

1. The name, address and telephone number of the complainant on whose behalf the complaint is being made.
2. The address (physical or website) of the location in which the violation is alleged to have occurred.
3. A complete statement of the grievance and the facts upon which it is based.
4. The desired remedy or solution requested.
5. The names of any witnesses who can provide supportive or relevant information.

C. The complaint should be in writing, but alternative means of filing complaints such as personal interviews or voice recording of the complaint, will be made available for persons with disabilities upon request.

VI. GRIEVANCE PROCEDURE

A. Filing

1. Complaints must be filed with the ADA coordinator no later than one hundred eighty (180) days from the date of the alleged violation.
2. The filing deadline may be extended by the coordinator upon a showing of good cause made prior to the expiration of the 180-day period set forth in paragraph A.1. above.

B. Assessment and Determination of Team Members

1. The ADA coordinator will determine which functions of the Clerk's office are at issue: facilities, programs, services, benefits and/or activities.
2. The ADA coordinator will notify the Chief Human Resource Officer, the Clerk, and Chief Legal Officer of the complaint.
3. A team consisting of at least three (3) people shall address the complaint. Unless such individuals are the subject of the complaint, one team member must be the ADA coordinator, and one team member must be at minimum a director-level supervisor overseeing the department in which the alleged violation occurred.
4. The team will involve representatives from county government entities in the resolution of the complaint when the complaint involves a facility, program, service, benefit or activity that is under the authority of or provided by county government.

C. Fact Finding

1. The team, or a member of the team, will review the complaint with the complainant.
2. The team, or a member of the team, will interview the complainant or other witnesses who can provide supportive or relative information and complete the fact finding.
3. The complainant's failure to respond to a request for additional information may be deemed an abandonment of the complaint.

D. Test of Legal Sufficiency

1. The team, or a member of the team, shall determine the legal sufficiency of the complaint.
2. In making any such determination, the team shall consult the Legal Services department.

E. Action

1. If a complaint is legally sufficient, the team will establish a course of action to resolve the complaint.
2. If a complaint is legally deficient, the complaint shall immediately be brought the closure.
3. To the extent necessary, the Clerk's office will make reasonable modifications to its programs, services, benefits and activities to ensure future compliance with the ADA.

4. When appropriate, and to the extent necessary, the Clerk's office will work with county government to make reasonable modifications to facilities, programs, services, benefits and activities that are under the authority of or provided by county government to ensure future compliance with the ADA.
5. The Clerk's office may invoke the course of action described in the regulations implementing the ADA (28 C.F.R. 35.164) when modifications would result in a fundamental alteration in the nature of a service, program or activity or in undue financial and administrative burdens.

F. Closure, Notification and Records Retention

1. The ADA coordinator will communicate the results of the investigation and the chosen course of action to the complainant in writing not later than thirty (30) days from the date the complaint was filed. Upon request to the ADA Coordinator, responses may be presented in another format, such as in person or by telephone, that accommodates the complainant. If more than 30 days is required to respond to the complaint, the ADA Coordinator will promptly notify the complainant of the expected date that a written response will be provided.
2. A record of the grievance shall be maintained for three (3) years after settlement and the record shall be maintained by the Legal Services department.

G. Applicability to Employees

This Grievance Procedure is not intended to resolve employment-related complaints of disability discrimination or harassment. The Clerk's office employee policy manual governs employment-related complaints of disability discrimination. If the ADA Coordinator receives any employment-related complaints, the ADA Coordinator shall immediately forward the complaint to the Chief of Human Resources.