

ADM-18.20 - Title II ADA Complaint Procedures

TITLE II ADA COMPLAINT PROCEDURES

Administrative Rule Adopted by the Office of Management and Finance Pursuant to Rule-Making Authority

ARB-ADM-18.20

Purpose:

The City of Portland is responsible for complying with Title II of the Americans with Disabilities Act (ADA). Title II of the ADA prohibits the City from excluding or denying qualified persons with disabilities access to City facilities or participation in City services, programs or activities.

One component of the City's compliance with the ADA is the development and implementation of procedures to ensure adequate tracking and investigation of complaints made under Title II. This administrative rule establishes procedures and forms for making complaints under Title II of the ADA.

Scope:

Any person who believes he or she has been unlawfully denied access to City facilities, programs, services, benefits or activities based on his or her status as a qualified individual with a disability has the right to file a complaint under Title II of the ADA with the City of Portland.

These procedures apply to all Title II complaints against the City of Portland.

These administrative procedures do not provide for compensatory or punitive damages for the complainant.

The City's complaint procedure for Title II is not exclusive. This means that a person who files a complaint with the City may also file a complaint with other state or federal agencies or the courts. Other agencies will have time limits for filing complaints. Generally, federal agencies require Title II complaints to be filed within 180 days of the date of the alleged discrimination.

Title II Complaint Procedures

Step 1 – Filing a Complaint

1. The City of Portland has established a [complaint form](#) for Title II complaints.
2. To be accepted, a Title II complaint must:
 - a) involve discrimination on the basis of the person's qualified disability;
 - b) allege that the discrimination was committed by the City of Portland or a City of Portland agent or employee;
 - c) be filed within 60 days of the alleged occurrence or when the alleged occurrence become known to the complainant;
 - d) involve a City of Portland facility, program, service, benefit or activity.
3. Complaints should be filed with Title II Program Manager in the Office of Management and Finance.
4. Complaints must be in writing and signed by the complainant. If the complainant needs assistance in reducing the complaint to writing or signing it, he or she may request assistance from the Title II Program Manager or may have another person write and acknowledge the complaint on his or her behalf.
5. Complaints should include:
 - a) the name, address and phone number of the person who experienced the discriminatory action;
 - b) the date of the alleged act of discrimination or the date when the complainant(s) became aware of the alleged discrimination;
 - c) a brief but specific description of the discriminatory situation, practice or action and including any relevant facts.
6. The complaint should include names and contact information of any witnesses.

7. A complaint may be faxed or e-mailed and will be acknowledged and processed once the identity of the complainant and the intent to proceed with the complaint have been established. A complaint received by telephone or TDD will be reduced to writing on a complaint form and provided to complainant for confirmation or revision before processing.
8. The complaint form must be signed or acknowledged, and sent to the Title II Program Manager for processing. The original copy may be sent, faxed or emailed to:

Title II Program Manager
1120 SW 5th Avenue, Room 1204
Portland, Oregon 97204
Fax 503-823-6924
title2complaints@portlandoregon.gov

Step 2 – Processing a Complaint

1. Upon receipt of the complaint, the Title II Program Manager will determine whether or not:
 - a) The City has jurisdiction;
 - b) The complaint is timely;
 - c) The complaint is complete; and,
 - d) Additional information is needed.
2. The Title II Program Manager will notify the complainant in writing within five (5) working days of receipt whether the complaint is accepted or not. If the complaint is not accepted, the Title II Program Manager will provide an explanation in writing. If the complaint is not accepted because additional information is needed, the complainant will be notified what information is needed. The complainant can then resubmit the additional information for review.
3. If the complaint is accepted, the City will investigate the merits of the complaint and will attempt to resolve it
4. City bureaus that receive complaints directly are responsible for forwarding those complaints to the Title II Program Manager for intake.

Step 3 – Dismissing a Complaint

1. The City of Portland may dismiss a complaint for any of the following reasons:
 - a) The complainant withdraws the complaint.
 - b) The complainant fails to respond to repeated requests for additional information needed to process the complaint.
 - c) The complaint is untimely.
 - d) The complainant cannot be located.
 - e) The complaint is determined to be legally insufficient.

Step 4 – Investigating and Tracking a Complaint

1. The Title II Program Manager will notify the complainant in writing within five working days of the decision to accept or reject the complaint. Notification will include a case number assigned to the complaint.
2. If the parties are unable to resolve the complaint, the Title II Program Manager will investigate the complaint. The complainant will be provided a written decision on the complaint within 60 working days of the acceptance of the complaint for investigation.

Step 5 – Appealing the City's Written Decision

1. The Title II Program Manager will only re-consider its decision regarding a complaint if new facts come to light.
2. If the complainant is not satisfied with the written decision of the Program Manager, the complainant has fourteen (14) working days from the date of the decision to provide the Program Manager with written notice of intent to appeal.

3. The appeal shall be sent to the director of the relevant City bureau no later than fourteen (14) days after the receipt of the written decision.
4. The bureau director shall issue a decision on the appeal within thirty (30) working days of the notice of intent to appeal, which shall be the final decision of the City.

Responsibility

Per ordinance #186277, the Chief Administrative Officer of the City of Portland is authorized to adopt rules, procedures and forms to assist in the implementation of the City of Portland's ADA Title II policy and program.

HISTORY

Adopted by the Chief Administrative Officer January 10, 2014.
Filed for inclusion in PPD January 10, 2014.