

**DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

EFFECTIVE DATE: October 31, 2004

DATE ISSUED: October 31, 2004

I. **TITLE:** Complaints Filed Under the Americans With Disabilities Act (ADA)

II. **PURPOSE:** To establish procedures for the processing requests for reasonable accommodations or of alleged violations of the ADA within the Division in accordance with N.J.A.C. 10:4 and Personnel Circular 95-87.

III. **SCOPE:** This circular shall apply only to components of the Division.

IV. **POLICIES:**

... The Division shall not discriminate against any qualified person with a disability in employment opportunities or access to its services and programs.

... The Division shall make a good faith effort to provide an accommodation when one is requested.

V. **GENERAL STANDARDS:**

A. Definitions – For the purpose of this circular, the following terms shall have the meanings defined herein:

1. **Disability** means:

- a. A physical or mental impairment that substantially limits one or more major life activity; or
- b. A record of such an impairment; or
- c. Being regarded as having such an impairment.

2. Complaint means an alleged violation of the ADA by an employee or applicant whose request for a reasonable accommodation was not granted by the Division.
3. Grievance means an alleged violation of the ADA which does not involve employment filed by a person other than an employee or applicant.
4. Reasonable Accommodation means alterations or modifications to the workplace, work environment, equipment or job task that will permit an individual with a known physical or mental disability to perform a specific job for which he/she is otherwise qualified.

VI. PROCEDURES:

A. Employment

1. The administrative head of the component shall determine which job functions are essential and which are marginal.
2. An employee or applicant may request a reasonable accommodation in order to perform essential work functions.
3. All requests for reasonable accommodation shall be processed in accordance with DHS Personnel Circular 95-87.
4. A reasonable accommodation may include but is not limited to:
 - a. Adjustment to the work environment.
 - b. Adjustment to where the work is performed.
 - c. Part-time employment or a change of work hours.
 - d. Modification of equipment or devices.
 - e. Interpreters for persons with hearing impairments.
 - f. Readers for persons with visual impairments.

- g. Modification of training materials or examinations.
 - h. Any change of existing facilities or policies to allow the qualified individual with a disability to perform the essential functions of the job.
5. Provision of a reasonable accommodation shall be based upon an analysis of the nature and cost of the accommodation needed.
 6. The Division is not obligated to provide the preferred reasonable accommodation.
 7. The EEO/AA Regional Administrator shall receive and coordinate the response to requests for reasonable accommodation. The request shall be made utilizing the form contained in Personnel Circular 95-87.

B. Program Accessibility

1. Allegations of violations of the ADA which involve issues of access to programs by persons receiving services, their advocates or the general public shall be processed in accordance with the requirements of the Department of Human Services Rule N.J.A.C. 10:4.
2. A grievance may be filed orally or in writing but should contain the name and address of the person filing it and briefly describe the alleged violation. An oral grievance shall be confirmed in writing by the administrative head of the component.
3. The form contained in Appendix A shall be available at each office of the Division.
4. A grievance should be filed within 30 days after the grievant becomes aware of the alleged violation of the ADA.
5. The grievance shall be sent to the Division's Administrative Practice Officer (APO). The APO shall provide a copy of the complaint to the Office of Legal and Regulatory Liaison.

6. Upon receipt of a grievance, the APO shall notify the grievant of the receipt of the grievance, the initiation of an investigation into the matter and that the investigation should be completed no later than 45 days from the receipt of the grievance if practicable or unless a later date is agreed to by the grievant.
7. The APO shall prepare a report for the Division Director. Within 45 days, the Director shall make a decision concerning the grievance. That decision shall be made in writing with a copy to the grievant. The 45-day period may be exceeded with the agreement of the grievant. A copy of the decision shall be sent to the Office of Legal and Regulatory Liaison.

Carol Grant
Acting Director

AMERICANS WITH DISABILITIES ACT GRIEVANCE FORM

Date: _____

Name of Grievant: _____

Address of Grievant: _____

Telephone number of Grievant: _____

Name, address and telephone number of alternate contact person:

Agency alleged to have denied access:

Department: _____

Division: _____

Bureau or office: _____

Location: _____

Incident or barrier: _____

Please describe the particular way in which you believe you have been denied the benefits of any service, program or activity or have otherwise been subject to discrimination. Please specify dates, times and places of incidents, and names and/or positions of agency employees involved, if any, as well as names, addresses and telephone numbers of any witnesses to any such incident. Attach additional pages if necessary.

Proposed access or accommodation:

If you wish, describe the way in which you feel access may be had to the benefits described above, or that accommodation could be provided to allow access.

A copy of the above form may be obtained by contacting the designated ADA coordinator identified at N.J.A.C. 10:4-3.1