



CITY OF WILMINGTON, DELAWARE

HUMAN RESOURCES POLICY MANUAL

POLICY 1004.1 Americans with Disabilities Act (ADA) Grievance Policy and Procedure

I. PURPOSE: The purpose of the Americans with Disabilities Act (“the ADA”) Grievance Policy and Procedure (“the Policy”) is to provide a grievance procedure for filing a grievance with the City of Wilmington (“the City”) to qualified people with disabilities who feel that they have been discriminated against based upon disability in the City’s public services, programs, or activities. This Policy does not apply to, or affect, the current ADA policies and procedures of the Department of Human Relations with regards employees of the City.

II. POLICY: The City does not discriminate against qualified individuals with disabilities (“the qualified person” or, in the context of the procedures described by this Policy, the “grievant”) in its public services, programs or activities and complies with Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act (“the ADA”). The City has therefore adopted this Policy to provide for a prompt and equitable resolution of requests and grievances alleging a violation of these laws. “Public services, programs or activities” should be broadly construed to effectuate the purposes of the laws this Policy is intended to promote.

III. PROCEDURE:

A. Submitting a Grievance or Request within 14 Calendar Days:

1. A qualified person with disabilities has 14 days from the date of any perceived discrimination to submit a grievance or request to the City of Wilmington unless the time for filing is extended at the ADA Coordinator’s discretion. (If a discriminatory condition or action is continuing, the time period of 14 days does not begin to run until the discriminatory action or conditions ends.) The submission must include the person’s name, current contact information, the date when the qualified person perceived the discrimination to take place, its location, a sufficient description of the discrimination to understand the facts that led to the grievance or request, a description of the relief or accommodation being requested, and the signature of the qualified person filing the grievance. The filing date is the earlier of the postmark of a mailed grievance, or the date a written grievance is received, or an oral grievance is accepted. The ADA Coordinator shall be appointed by the Mayor.

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2. A grievance must be submitted to the City of Wilmington's ADA Coordinator at the online portal (www.wilmingtonde.gov/ada), via the mail, an email (ADAgrievance@wilmingtonde.gov), or in-person at the Office of Constituent Services, or, if the person is unable to provide a written statement, an oral grievance may in the discretion of the ADA Coordinator be filed over the phone:

The ADA Coordinator
Office of Constituent Services for the City of Wilmington
800 N. French Street, 3rd Floor,
Wilmington DE 19801
302-576-2494,
Email: ADAgrievance@wilmingtonde.gov
Portal: www.WilmingtonDE.gov/adagrievance

3. If a grievance is filed without enough information to begin a review, the City's ADA Coordinator, or their designee, may request any additional information necessary to initiate the review. A grievance is not sufficiently filed until all of the necessary information is supplied or obtained by the ADA Coordinator.

4. Anonymous communications, inquiries seeking advice or information, courtesy copies of court pleadings, courtesy copies of complaints or grievances addressed to other local, State, or Federal agencies, newspaper articles and courtesy copies of internal grievances are examples of items that are not considered a grievance, unless the writing contains a signed cover letter specifically asking the City to act concerning the allegation.

B. Meeting with the Person making the Request or Grievance: Within 15 business days of receiving a sufficiently filed grievance, the ADA Coordinator will schedule a meeting with the qualified person to discuss the grievance in order to determine if an agreed resolution can be reached. At the discretion of the ADA Coordinator, the meeting may be in person, virtual (e.g., over Zoom, Teams, or like medium), or over the phone. If after reasonable efforts are made, the grievant fails or refuses to meet with the ADA Coordinator within the prescribed 15 days, then the ADA Coordinator may either schedule the meeting at a date later or resolve the grievance without a meeting.

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C. Written Response to the Grievance within 45 Business Days: The ADA Coordinator will complete any necessary investigation, with the authority to consult with and interview all departments and personnel necessary to decide, resolve, or accommodate a particular grievance, and provide a written decision responding to the grievance within 45 business days of receiving a sufficiently filed grievance unless circumstances exist justifying additional investigative time. The written decision must determine whether a violation of the ADA has occurred, and if so, what steps the ADA Coordinator recommends that the City take to correct the violation. If the decision refers to future steps that should be taken, then the ADA Coordinator should ensure that the City notifies the grievant when those steps have been implemented.

D. Dismissal. The ADA Coordinator has the discretion to dismiss a grievance if: it is untimely filed; the grievant is unresponsive to repeated requests for information; the grievance fails to allege any harm over which the City has duty and control; reliable information is provided that the allegations raised in the grievance have already been resolved; or it is learned that substantially the same grievance has been filed with another governmental agency possessing authority to resolve the issue.

E. Grievant has 15 Business Days to Request an Appeal. Within 15 business days of the date of the written decision, or dismissal, by the ADA Coordinator, the qualified person or grievant may appeal the decision to the ADA Appeal Board of the City by providing written notice via mail, email, or other delivery to the ADA Coordinator. The Board members are the Mayor's Chief of Staff, the Commissioner of Public Works, and the City Solicitor, or their designees. The filing date is the earlier of the postmark of a mailed appeal or the receipt of an emailed or hand-delivered appeal. A phone call or message is in the case of an appeal insufficient.

F. Consideration of Appeal by the ADA Appeal Board. The ADA Appeal Board should meet to consider the appeal within 30 days of the filing of the appeal. At that time, the Board may in its discretion continue the matter in order to obtain additional information or decide the appeal, either with or without receiving additional information or evidence, by affirming, modifying, or reversing, in whole or in part, the decision and recommendations, or the dismissal, by the ADA Coordinator. The City Solicitor, or a designee, shall advise the ADA Appeal Board concerning the law.

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