



*The Protection and Advocacy System for South Carolina*

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## **FACT SHEET**

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### **TITLE II OF THE ADA: STATE AND LOCAL GOVERNMENT**

Title II of the Americans with Disabilities Act (ADA) protects people with disabilities from discrimination by state and local governments. It applies to all kinds of state or local governments and the services they provide. These include services from police departments, county councils, courts, and voting. The ADA covers state agencies like SC Department of Social Services (DSS) or SC Department of Disabilities and Special Needs (DDSN). Title II does not apply to private businesses. They are covered by another part of the ADA called Title III<sup>1</sup>.

#### **Your Rights under ADA Title II**

1. **NON DISCRIMINATION:** There should not be different rules about when and where the government provides its services to someone with a disability. Special programs can be offered for people with disabilities, but they should be able to participate in programs open to the general public. The US Department of Justice has said that the integration of people with disabilities into the mainstream of American life is a fundamental purpose of the ADA.
2. **REASONABLE ACCOMMODATIONS:** The ADA requires public entities to make "reasonable modifications" in their usual ways of doing things when necessary so someone with a disability can take part in the program. Examples of accommodations could include:
  - A man who uses crutches may have difficulty waiting in a long line to vote or register for college classes. The ADA does not require that the man be moved to the front of the line but staff must provide some alternative. They could bring out a chair and note where he is in line, so he doesn't lose his place.

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<sup>1</sup> See P&A's Fact Sheet, Americans with Disabilities Act (Title III):  
<http://www.pandasc.org/resources/americans-with-disabilities-act-ada/>

- A public agency that does not allow people to bring food into its facility may need to make an exception for a person who has diabetes and needs to eat frequently to control his glucose level.
- A city or county ordinance that prohibits animals in public places must be modified to allow people with disabilities who use service animals to access public places. A city or county ordinance that prohibits motorized devices on public sidewalks must be modified for people with disabilities who use motorized mobility devices that can be used safely on sidewalks.

Only "reasonable" modifications are required. The ADA does not required changes that would:

- Threaten the safe operation of a program or service, OR result in a "fundamental alteration" of the essential nature of the entity's programs or services

3. EFFECTIVE COMMUNICATION: A government office has a duty to communicate in a way that a person with a disability can understand. This includes someone who is deaf or blind. The government is to provide equipment or services that are needed for communication.

Examples:

- Sign language interpreter (if writing notes is not effective)
- Large print documents or Braille printing
- Readers or note takers (for a student at a state college)

Governments are to provide the aid or service requested by the person with the disability. However, they can turn down that request if it would (1) fundamentally alter the nature of their program, service, or activity or (2) would result in undue financial and administrative burdens. Even then, the government must provide the most effective communication that is feasible. They cannot charge extra for communication services.

4. ACCESSIBILITY OF GOVERNMENT BUILDINGS: The ADA's basic requirement is that government *programs* be available to people with disabilities. One way for a program to be available is making the building or place physically accessible to people with disabilities. Under the ADA, government buildings built or altered since 1991 must be accessible. This includes the building's parking areas, doors, and restrooms. In an older building that is not accessible, the government should offer its service in some other way. For example, if a social service agency is located in an inaccessible office, it could meet an applicant with a mobility disability at some other place that is accessible.

### **Enforcement of Your Rights**

If you believe your ADA rights are being violated, you can:

- Complain to the state or government agency where the problem is. Every government with at least 50 employees must have an "ADA Coordinator" and a way for you to file a

grievance (complaint). For a smaller government, write to the head of the government, such as the mayor.

- File a complaint with the federal government. A federal complaint can be sent to the US Department of Justice. A complaint can be sent directly to other federal departments, depending the kind of complaint you have. For example complaints about state or local colleges would go to the US Department of Education; complaints about city or county parks would go the US Department of the Interior. A full listing where to send federal complaint is included in this packet.
- File a lawsuit in federal court. You are not required to file a complaint before filing a lawsuit. For more information about filing a lawsuit you may wish to contact a private attorney. If you do not know of one, you may contact the Lawyer Referral Service at 1-800-868-2284.

**This packet includes the following:**

- Contact List for More Information (See Page 4)
- Where to File Your Discrimination Complaint (See Page 5)
- Department of Justice Title II Discrimination Complaint Form (See Page 7)

This publication is funded by the U.S. Department of Health and Human Services (the Administration for Community Living and the Substance Abuse and Mental Health Services Administration). It does not necessarily represent the official views of the funding authorities.

P&A does not discriminate on the basis of disability, race, color, creed, national origin, ethnicity, ancestry, citizenship, age, religion, sex or sexual orientation, veteran status or any other class protected by law in the provision of its programs or services. Pete Cantrell is P&A's designated coordinator for Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

ADA April 2017

## **CONTACT LIST FOR MORE INFORMATION**

### **SOUTHEAST ADA CENTER**

1419 Mayson Street NE  
Atlanta, GA 30324  
1-800-949-4232 (V/TTY)  
404-541-9001(Voice) 404-541-9002 (Fax)  
Website: [www.ADAsoutheast.org](http://www.ADAsoutheast.org)  
Email: [ADAsoutheast@law.syr.edu](mailto:ADAsoutheast@law.syr.edu)

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### **US DEPARTMENT OF JUSTICE INFORMATION HOTLINE**

1-800-514-0301 (voice) 1-800-514-0383 (TTY)  
[www.usdoj.gov/crt/ada/adahom1.htm](http://www.usdoj.gov/crt/ada/adahom1.htm)

### **US DEPARTMENT OF JUSTICE**

Where to file a complaint:

On Line in English: [https://www.ada.gov/filing\\_complaint.htm](https://www.ada.gov/filing_complaint.htm)

On Line in Spanish: <https://www.ada.gov/complaint/?language=es>

By Mail:

**US Department of Justice**  
**950 Pennsylvania Avenue, NW**  
**Civil Rights Division**  
**Disability Rights Section – 1425 NYAV**  
**Washington, D.C. 20530**

By FAX: (202) 307-1197

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### **Disability Rights Education & Defense Fund (DREDF)**

3075 Adeline Street, Suite 210  
Berkeley, CA 94703  
510.644.2555 (Voice) 510-841-8645 (Fax/TTY)  
[www.dredf.org](http://www.dredf.org)

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### **ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ACCESS BOARD)**

1331 F Street NW, Suite 1000  
Washington, DC 2004-1111  
1-800-872-2253 (voice) 1-800-993-2822 (TTY)  
(202) 272-0081 (Fax)  
[www.access-board.gov](http://www.access-board.gov)

## **Title II—WHERE TO FILE YOUR DISCRIMINATION COMPLAINT**

**STATE/LOCAL GOVERNMENT AGENCIES:** State or local government agencies with 50 or more employees are required to designate an ADA Coordinator and to adopt grievance procedures to resolve complaints of ADA violations. If the agency that you believe discriminated against you has 50 or more employees, ask to speak to the ADA Coordinator (ADA Coordinators are sometimes called Disability Coordinators or 504 Coordinators). You may also file a grievance. For smaller government agencies, contact the office of the person in charge of the agency and ask how you can file a complaint. This could be the mayor's office or a commissioner's office.

**FEDERAL GOVERNMENT AGENCIES:** If you are not satisfied with action on your grievance by your local/state government agency, or if you do not wish to file a grievance, you may file a complaint of discrimination with the federal government. Complaints of discrimination under Title II are investigated by several different federal agencies. See DESIGNATED AGENCIES list below. You may always file your complaint with the Department of Justice; however, it may take some time for them to forward your complaint to the appropriate agency. If you can file with the appropriate agency, it may result in quicker action on your complaint.

### **DESIGNATED FEDERAL AGENCIES FOR FILING COMPLAINTS**

[https://www.ada.gov/ada\\_fed\\_resources.htm](https://www.ada.gov/ada_fed_resources.htm)

- Department of Agriculture: All programs, services, and regulatory activities relating to farming and the raising of livestock, including extension services. Complaints should be sent to: U.S. Department of Agriculture; Director, Office of Adjudication; 1400 Independence Avenue, SW; Washington, DC 20250.  
<https://www.fsis.usda.gov/wps/portal/informational/aboutfsis/civil-rights>
- Department of Education: All programs, services, and regulatory activities relating to the operation of elementary and secondary education systems and institutions, institutions of higher education and vocational education (other than schools of medicine, dentistry, nursing and other health-related schools), and libraries. Complaints should be sent to: Office for Civil Rights; U.S. Department of Education; 400 Maryland Avenue, SW; Washington, D.C. 20202-1475. <https://www2.ed.gov/about/offices/list/ocr/addresses.html>
- Department of Health and Human Services: All programs, services and regulatory activities relating to the provision of health care and social services, including schools of medicine, dentistry, nursing and other health-related schools, the operation of health care and social service providers and institutions, including grass-roots and community services organizations and programs, and preschool and day care programs. Complaints should be sent to: Centralized Case Management Operations; U.S. Department of Health and Human Services; 200 Independence Avenue, SW; Room 509F HHH Bldg.; Washington, D.C. 20201.  
<https://www.hhs.gov/ocr/index.html>
- Department of Housing and Urban Development: All programs and services and regulatory activities relating to state and local public housing, and housing assistance and referral. Complaints should be sent to: Assistant Secretary for Fair Housing and Equal Opportunity,

Department of Housing and Urban Development, 451 7<sup>th</sup> Street, SW, Washington, D.C. 20410 OR Atlanta Regional Office, U.S. Department of Housing and Urban Development Southeast Office 40 Marietta Street Atlanta, GA 30303  
[https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/](https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/)

- Department of the Interior: All programs and services and regulatory activities relating to lands and natural resources, including parks and recreation, water and waste management, environmental protection, energy, historic and cultural preservation, and museums. Complaints should be sent to: Director, Office of Civil Rights, Department of the Interior, 1849 C Street, NW, Washington, D.C. 20547 <https://www.doi.gov/pmb/eo/Public-Civil-Rights>
- Department of Justice: All programs, services and regulatory activities relating to law enforcement, public safety and the administration of justice, including courts and correctional institutions; commerce and industry, including general economic development, banking and finance, consumer protection, insurance, and small business; planning, development and regulation (unless assigned to other designated agencies); state and local government support services (e.g., audit, personnel, comptroller, administrative services); all other government functions not assigned to other designated agencies. Complaints should be sent to: US Department of Justice 950 Pennsylvania Avenue, NW, Civil Rights Division Disability Rights Section – 1425 NYAV Washington, D.C. 20530 [https://www.ada.gov/filing\\_complaint.htm](https://www.ada.gov/filing_complaint.htm)
- Department of Labor: All programs, services and regulatory activities relating to labor and the work force. Complaints should be sent to: Director, Civil Rights Center, ATTN Office of External Enforcement, Department of Labor, 200 Constitution Avenue, NW, Room N-4123, Washington, D.C. 20210 <https://www.dol.gov/oasam/programs/crc/>
- Department of Transportation: All programs about local public transportation services, such as city buses and public rail transit (e.g. subways, commuter rails, Amtrak). Public transportation authorities may not discriminate against people with disabilities. They must comply with requirements for accessibility in newly purchased vehicles, make good faith efforts to purchase or lease accessible used buses, remanufacture buses in an accessible manner, and, unless it would result in an undue burden, provide paratransit where they operate fixed-route bus or rail systems. Paratransit is a service where individuals who are unable to use the regular transit system independently (because of a physical or mental impairment) are picked up and dropped off at their destinations. Questions and complaints about public transportation should be directed to: Office of Civil Rights, Federal Transit Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, D.C. 20590 [www.fta.dot.gov/ada](http://www.fta.dot.gov/ada)

[Available at: <https://www.ada.gov/t2cmpfrm.htm>]

**U.S. Department of Justice**  
Civil Rights Division  
*Disability Rights Section*

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OMB No. 1190-0009

**Title II of the Americans with Disabilities Act**  
**Section 504 of the Rehabilitation Act of 1973**  
**Discrimination Complaint Form**

Instructions: Please fill out this form completely, in black ink or type. Sign and return to the address on page 10.

Complainant: \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone: Home: \_\_\_\_\_

Business: \_\_\_\_\_

Person Discriminated Against:  
(if other than the complainant) \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone: Home: \_\_\_\_\_

Business: \_\_\_\_\_

Government, or organization, or institution which you believe has discriminated:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

County: \_\_\_\_\_

City: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

When did the discrimination occur? Date: \_\_\_\_\_

Describe the acts of discrimination providing the name(s) where possible of the individuals who discriminated (use space on page 3 if necessary):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Have efforts been made to resolve this complaint through the internal grievance procedure of the government, organization, or institution?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes: what is the status of the grievance?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Has the complaint been filed with another bureau of the Department of Justice or any other Federal, State, or local civil rights agency or court?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes:

Agency or Court: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date Filed: \_\_\_\_\_

Do you intend to file with another agency or court? Yes \_\_\_\_\_ No \_\_\_\_\_

Agency or Court: \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Additional space for answers:

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Return to:

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, NW  
Disability Rights - NYAV  
Washington, D.C. 20530

**Paperwork Reduction Act Statement:**

A federal agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Public burden for the collection of this information is estimated to average 45 minutes per response. Comments regarding this collection of information should be directed to the Department Clearance Officer, U.S. Department of Justice, Justice Management Division, Office of the Chief Information Officer, Policy and Planning Staff, Two Constitution Square, 145 North Street, N.E., Room 2E-508, Washington, D.C. 20530.

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