

# **Grievance Procedures**

For Persons Who Believe That the Court System Has  
Discriminated Against Them on the Basis of a Disability

## **Alaska Court System Policies Against Discrimination**

**It is the policy** of the Alaska Court System that discrimination based upon physical or mental disability has no place in the provision of governmental services, funds, goods, facilities, advantages or privileges. No qualified individual with a disability will be excluded, by reason of such disability, from participation in or be denied the benefits of the services, programs, or activities of the Alaska Court System, or be subjected to discrimination by the Alaska Court System.

**It is the policy** of the Alaska Court System that the services, programs, and activities of the court system be accessible to individuals with disabilities, as defined in the Americans With Disabilities Act of 1990.

**It is the policy** of the Alaska Court System that all contractors of the Alaska Court System be bound by the provisions of these policies, to the extent that they provide services, programs and activities in place of direct provision by the court system.

**It is the policy** of the Alaska Court System that the Alaska Court System shall not discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring; advancement; or discharge of employees; employee compensation; job training; and any other term, condition, and privilege of employment.

These procedures are promulgated pursuant to 28 CFR Part 35 Nondiscrimination On The Basis Of Disability In State And Local Government Services. 28 CFR §35.107 provides that a public entity that employs 50 or more persons must adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the regulations adopted pursuant to Title II of the Americans with Disabilities Act of 1990 (ADA).

## Introduction

This pamphlet describes the procedure for presenting a complaint to the court system based on Title II of the Americans with Disabilities Act of 1990.

## Complaints

- A. **Who may file.** If you believe that you or a specific class of individuals have been subjected to discrimination by the court system on the basis of a disability, you or an authorized representative may file a complaint.
- B. **Where to file.** You may file a complaint with the area court administrator of the judicial district in which the discrimination is alleged to have occurred. If the discrimination is alleged to have occurred in more than one judicial district, you may file a complaint in any such district. The area court administrator will refer your complaint to the appropriate grievance officer.
- C. **Time for filing.** You may file your complaint at any time following the date of the alleged discrimination. The grievance officer may reject your complaint if he or she determines that the passage of time precludes an adequate investigation or remedy. You may appeal a rejection to the administrative director within 15 days of mailing of the notice of rejection.
- D. **Contents of Complaint.** Your complaint must include everything listed in the definition of the term “complete complaint” on page 3.

## Acceptance of complaints

- A. **Receipt of complaints.** An area court administrator who receives a complaint shall promptly review the complaint to determine whether he or she has jurisdiction to serve as the grievance officer. If the area court administrator determines that he or she does not have jurisdiction, he or she shall promptly refer the complaint to the appropriate grievance officer, who may be another area court administrator, the clerk of the court of appeals, or the deputy director of the administrative office. Then area court administrator shall notify you of the referral. If the complaint alleges discrimination in more than one component of the court system, the affected grievance officers shall resolve the complaint jointly.
- B. **Notification of Receipt.** A grievance officer shall accept all complete complaints and shall promptly notify you of the receipt and acceptance of the complaint. If the grievance officer receives a complaint that is not complete, he or she shall notify you and specify the additional information that is needed to make the complaint a complete complaint. If you fail to complete the complaint, the grievance officer shall close the complaint.

## Resolution complaints

- A. **Informal Resolution.** The grievance officer shall investigate each complete complaint and attempt to resolve the matter informally with you. If you and the grievance officer agree on a manner by which your complaint could be resolved, the grievance officer will forward a recommendation stating the proposed informal resolution of the complaint to the administrative director. The director will adopt or reject the recommendation within five days of the director’s receipt of the recommendation. The decision of the administrative directors on the recommendation is final. The director will notify you of the decision.

- B. Formal Resolution.** If an informal resolution is not achieved, the grievance officer shall issue a Letter of Findings to you and the administrative director. The letter shall include findings of fact and a description of a remedy for each violation found.

If you disagree with the findings of fact or any proposed remedy, you may submit a written objection stating the basis for such disagreement to the administrative director within 15 days of the date of mailing of the Letter of Findings. The administrative director may accept or reject the finding or any proposed remedy, and will notify you of the final decision, within 20 days of the director's receipt of the Letter of Findings.

## Definitions

- A. "Complete complaint"** means a written statement that contains your name and address and describes the court system's alleged discriminatory action in sufficient detail to inform the court system of the nature and date of the alleged violation. It shall be signed by you or by someone authorized to do so on your behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.
- B. "Disability"** means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.
1. The phrase **"physical or mental impairment"** means
    - a. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or
    - b. any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The phrase "physical or mental impairment" includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

The phrase **"physical and mental impairment"** does not include homosexuality or bisexuality.
  2. The phrase "major life impairment" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

3. The phrase “has a record of such an impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one of more major life activities.
  4. The phrase **“is regarded as having an impairment”** means
    - a. has a physical or mental impairment that does not substantially limit major life activities but that is treated by the court system as constituting such a limitation.
    - b. has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment.
    - c. has none of the impairments defined in paragraph 1 of this definition but is treated by the court system as having such an impairment.
  5. The term **“disability”** does not include
    - a. transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior.
    - b. compulsive gambling, kleptomania, or pyromania; or
    - c. psychoactive substance use disorders resulting from current illegal use of drugs.
- C. “Individual”** means any person with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the court system.

Terms not defined herein have the meaning found in 28 CFR §35.104.

## **Area Court Administrators**

First District:                   Area Court Administrator  
P.O. Box 114100  
Juneau, AK 99811  
(907) 463-4753

Second District:                Area Court Administrator  
PO Box 1110  
Nome, AK 99762  
(907) 443-5216

Third District:                 Area Court Administrator  
825 W. 4th Avenue  
Anchorage, AK 99501  
(907) 264-0415

Fourth District:                Area Court Administrator  
101 Lacey Street  
Fairbanks, AK 99701  
(907) 452-9201

### **Administrative Director**

Alaska Court System 303 K Street  
Anchorage, AK 99501  
(907) 264-0547