

■ Arizona Center for Disability Law

Protection and Advocacy System for Arizona

Title II of the Americans with Disabilities Act (Re: State and Local Governments)

A Self-Advocacy Guide

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Funding for this document is provided by the United States Department of Health and Human Services - Administration on Developmental Disabilities and Center for Mental Health Services, United States Department of Education - Rehabilitation Services Administration.

Federal and state law can change at any time. If there is any question about the continued validity of any information in the handbook, contact the Arizona Center for Disability Law or an attorney in your community.

The purpose of this guide is to provide general information to individuals regarding their rights and protections under the law. It is not intended as a substitute for legal advice. You may wish to contact the Arizona Center for Disability Law or consult with a lawyer in your community if you require further information.

This guide is available in alternative formats upon request.

**TITLE II OF THE AMERICANS WITH DISABILITIES ACT
(Re: State and Local Governments)**

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Introduction

Title II of the Americans With Disabilities Act (ADA) prohibits State and local governments from discriminating against individuals on the basis of disability. Other titles of the ADA are as follows: Title I prohibits disability discrimination in employment; Title III prohibits such discrimination in public accommodations and commercial facilities, such as hotels, restaurants, and doctors' offices; and Title IV requires telephone companies to provide telecommunications relay services for individuals with hearing and/or speech disabilities.

This guide was prepared by the Arizona Center for Disability Law, which is a non-profit, public interest law firm. The Center provides free advocacy, information and referral services, legal research, community legal education, and, in selected cases, legal representation to individuals with disabilities and advocacy organizations. The Center is the protection and advocacy (P&A) system for Arizonans with mental and/or physical disabilities. Assistance is provided for disability-related issues in established priority areas. Information about the eligibility requirements and priorities is available from the Center. Assistance is provided according to program eligibility requirements, priorities, and staff availability.

This guide is not a substitute for legal advice. The Center recommends that persons obtain professional legal advice to resolve disputes regarding discrimination on the basis of disability.

The information in this guide is primarily from two publications of the U.S. Department of Justice: (1) "Title II Highlights," and (2) "Common Questions About Title II of the Americans With Disabilities Act (ADA)." These publications are available from the Center and the U.S. Department of Justice. (See page 10 for the telephone numbers and Internet address of the Department of Justice.) Although most of the information in this guide is quoted from these two publications, quotation marks have been omitted.

The Center has several other instructional guides, including guides relating to discrimination by governmental and private employers, schools and colleges, and public accommodations (such as doctors' offices, restaurants, etc.). If you would like a list of the guides, please call the Center at one of the telephone numbers on the cover page of this guide.

Title II of the Americans with Disabilities Act (“ADA”)

I. Who is Covered by Title II of the ADA

- * Title II of the ADA covers "public entities."
- * “Public entities” include any State or local government and any of its departments, agencies, or other instrumentalities.
- * All activities, services, and programs of public entities are covered, including activities of State legislatures and courts, town meetings, police and fire departments, motor vehicle licensing, and employment.
 - , Unlike section 504 of the Rehabilitation Act of 1973, which only covers programs receiving Federal financial assistance, Title II extends to all the activities of State and local governments whether or not they receive Federal funds.
- * Private entities that operate public accommodations, such as hotels, restaurants, theaters, retail stores, dry cleaners, doctors' offices, amusement parks, and bowling alleys, are not covered by Title II but are covered by Title III of the ADA.
- * Public transportation services operated by State and local governments are covered by regulations of the U.S. Department of Transportation.
 - , The Department of Transportation's regulations establish specific requirements for transportation vehicles and facilities, including a requirement that all new busses must be equipped to provide services to people who use wheelchairs.

II. Overview of Requirements

- * State and local governments **B**
 - , May not refuse to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability.
 - \$ For example, a city may not refuse to allow a person with epilepsy to use parks and recreational facilities.
 - , Must provide programs and services in an integrated setting, unless separate or

different measures are necessary to ensure equal opportunity.

, Must eliminate eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity, unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered.

\$ Requirements that tend to screen out individuals with disabilities, such as requiring a driver's license as the only acceptable means of identification, are also prohibited.

\$ Safety requirements that are necessary for the safe operation of the program in question, such as requirements for eligibility for drivers' licenses, may be imposed if they are based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

, Are required to make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result.

\$ For example, a city office building would be required to make an exception to a rule prohibiting animals in public areas in order to admit guide dogs and other service animals assisting individuals with disabilities.

, Must furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result. ("Auxiliary aids and services@include such services and devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TTYs), videotext displays, readers, taped texts, Brailled materials, and large print materials.)

, May provide special benefits, beyond those required by the regulation, to individuals with disabilities.

, May not place special charges on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as making modifications required to provide program accessibility or providing qualified interpreters.

, Shall operate their programs so that, when viewed in their entirety, the programs

are readily accessible to and usable by individuals with disabilities.

III. “Qualified Individual with a Disability”

- * Title II of the Americans with Disabilities Act provides comprehensive civil rights protections for "qualified individuals with disabilities."
- * An "individual with a disability" is a person who **B**
 - , Has a physical or mental impairment that substantially limits a "major life activity," or
 - , Has a record of such an impairment, or
 - , Is regarded as having such an impairment.
- * Examples of physical or mental impairments include, but are 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. Homosexuality and bisexuality are not physical or mental impairments under the ADA.
- * "Major life activities" include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, reproduction, and working.
- * Individuals who currently engage in the illegal use of drugs are not protected by the ADA when an action is taken on the basis of their current illegal use of drugs.
 - , However, individuals who currently engage in the illegal use of drugs may not be denied health services, or services provided in connection with drug rehabilitation, on the basis of their current illegal use of drugs, if the individuals are otherwise entitled to such services. But once such individuals are in a drug rehabilitation or treatment program, they may be terminated from the program if they engage in the illegal use of drugs while in the program.
- * "Qualified" individuals.
 - , A "qualified" individual with a disability is one who meets the essential eligibility

requirements for the program or activity offered by a public entity.

The "essential eligibility requirements" will depend on the type of service or activity involved.

\$ For some activities, such as State licensing programs, the ability to meet specific skill and performance requirements may be "essential."

\$ For other activities, such as where the public entity provides information to anyone who requests it, the "essential eligibility requirements" would be minimal.

IV. Program Access

* State and local governments **B**

Must ensure that individuals with disabilities are not excluded from services, programs, and activities because buildings are inaccessible.

Need not remove physical barriers, such as stairs, in all "existing@buildings, as long as they make their programs accessible to individuals who are unable to use an inaccessible existing facility. ("Existing@buildings and facilities are those whose construction began before January 27, 1992.)

Can provide the services, programs, and activities offered in the "existing@ facility to individuals with disabilities through alternative methods, if physical barriers are not removed, such as **B**

\$ Relocating a service to an accessible facility, e.g., moving a public information office from the third floor to the first floor of a building.

\$ Providing an aide or personal assistant to enable an individual with a disability to obtain the service.

\$ Providing benefits or services at an individual's home, or at an alternative accessible site.

May not carry an individual with a disability as a method of providing program access, except in "manifestly exceptional" circumstances.

Are not required to take any action that would result in a fundamental alteration

in the nature of the service, program, or activity or in undue financial and administrative burdens. However, public entities must take any other action, if available, that would not result in a fundamental alteration or undue burdens but would ensure that individuals with disabilities receive the benefits or services.

V. Integrated Programs

- * Integration of individuals with disabilities into the mainstream of society is fundamental to the purposes of the Americans With Disabilities Act.
- * Public entities may not provide services or benefits to individuals with disabilities through programs that are separate or different, unless the separate programs are necessary to ensure that the benefits and services are equally effective.
- * Even when separate programs are permitted, an individual with a disability still has the right to choose to participate in the regular program.
 - , For example, it would not be a violation for a city to offer recreational programs specially designed for children with mobility impairments, but it would be a violation if the city refused to allow children with disabilities to participate in its other recreational programs.
- * State and local governments may not require an individual with a disability to accept a special accommodation or benefit if the individual chooses not to accept it.

VI. Communications

- * State and local governments must ensure effective communication with individuals with disabilities.
- * Where necessary to ensure that communications with individuals with hearing, vision, or speech impairments are as effective as communications with others, the public entity must provide appropriate auxiliary aids.
 - , "Auxiliary aids" include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TTYs), videotext displays, readers, taped texts, Brailed materials, and large print materials.
 - , A public entity may not charge an individual with a disability for the use of an

auxiliary aid.

- * Telephone emergency services, including 911 services, must provide direct access to individuals with speech or hearing impairments who use TTYs and/or computer modems.
- * Public entities are not required to provide auxiliary aids that would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. However, public entities must still furnish another auxiliary aid, if available, that would not result in a fundamental alteration or undue burdens.

VII. New Construction and Alterations

- * Public entities must ensure that new buildings and facilities are free of architectural and communication barriers that restrict access or use by individuals with disabilities. (“New” buildings and facilities are those whose construction began after January 26, 1992.)
- * When a public entity undertakes alterations to an existing building, it must also ensure that the altered portions are accessible.
- * The ADA does not require retrofitting of “existing” buildings to eliminate barriers, but does establish a high standard of accessibility for “new” buildings.
 - , Public entities may choose between two technical standards for accessible design: The Uniform Federal Accessibility Standards (UFAS), established under the Architectural Barriers Act; or the Americans with Disability Act Accessibility Guidelines, adopted by the Department of Justice for places of public accommodation and commercial facilities covered by Title III of the ADA.
 - , The elevator exemption for small buildings under the ADA Accessibility Guidelines would not apply to public entities covered by Title II.

VIII. Enforcement

- * Individuals may bring lawsuits to enforce their rights under Title II of the ADA. The remedies available are the same as those provided under section 504 of the Rehabilitation Act of 1973. Those remedies include: (1) a court order requiring the governmental entity to do a specific act, such as provide a sign language interpreter or

make a building accessible to individuals who use a wheelchair; (2) monetary damages; and (3) a reasonable attorney's fee. (The U.S. Court of Appeals for the Ninth Circuit held that monetary damages are available for a violation of Title II only if the discrimination was intentional. Ferguson v. City of Phoenix, 157 F.3d 668 (9th Cir. 1998), cert. denied (June 7, 1999).)

- * Individuals may also file complaints with appropriate Federal administrative agencies.
 - , Regulations issued by the U.S. Department of Justice designate eight Federal agencies to handle complaints filed under Title II of the ADA.
 - , Complaints may also be filed with any Federal agency that provides financial assistance to the program in question, or with the Department of Justice, which will refer the complaint to the appropriate agency.
 - , See section IX below for more information on how to file a complaint with the U.S. Department of Justice and other Federal agencies.
- * Individuals may also file complaints with the State or local governmental entities that discriminated against them.
 - , See section X below for more information on how to file a complaint with a State or local governmental entity.

IX. Complaints to U.S. Department of Justice and Other Federal Agencies

- * Any individual who believes that he or she is a victim of discrimination prohibited by the ADA may file a complaint. Complaints on behalf of classes of individuals are also permitted.
- * Complaints should be in writing, signed by the complainant or an authorized representative; should contain the complainant's name and address; and should describe the public entity's alleged discriminatory action. A Discrimination Complaint Form is in the Appendix of this instructional guide (pages App. 2 through App. 4).
- * A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the designated agency for good cause shown.
- * Complaints may be sent to **B**

Disability Rights Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66738
Washington, D.C. 20035-6738

* Complaints may also be sent to agencies designated to process complaints under the regulation, or to agencies that provide Federal financial assistance to the program in question.

The following agencies are designated for enforcement of Title II for components of State and local governments that exercise responsibilities, regulate, or administer services, programs, or activities in the following functional areas **B**

- (1) Department of Agriculture: Farming and the raising of livestock, including extension services.
- (2) Department of Education: Education systems and institutions (other than health-related schools), and libraries.
- (3) Department of Health and Human Services: Schools of medicine, dentistry, nursing, and other health-related schools; health care and social service providers and institutions, including “grass-roots@ and community services organizations and programs; and preschool and daycare programs.
- (4) Department of Housing and Urban Development: State and local public housing, and housing assistance and referral.
- (5) Department of Interior: Lands and natural resources, including parks and recreation, water and waste management, environmental protection, energy, historic and cultural preservation, and museums.
- (6) Department of Justice: Public safety, law enforcement, and the administration of justice, including courts and correctional institutions; commerce and industry, including banking and finance, consumer protection, and insurance; planning, development, and regulation (unless otherwise assigned); State and local government support services; and all other government functions not assigned to other designated agencies.
- (7) Department of Labor: Labor and the work force.
- (8) Department of Transportation: Transportation, including highways, public transportation, traffic management (non-law enforcement), automobile licensing and inspection, and driver licensing.

X. Complaints to State and Local Governmental Entities

- * ADA grievance procedures must be adopted and published by State and local governmental entities that employ 50 or more persons. Those procedures must provide for prompt and equitable resolution of complaints alleging a violation of Title II of the ADA.
- * Individuals may file a complaint by taking the following steps. First, call the entity's ADA Coordinator and request: the entity's ADA grievance procedures; and the entity's ADA complaint form, if the entity has such a form. Second, file the complaint within the time limits specified in the grievance procedures, if time limits are specified.
- * Examples from Pima County of an ADA grievance procedure and an ADA complaint form are in the Appendix to this instructional guide (pages App. 5 through App. 7)

XI. Technical Assistance

- * The ADA requires that the Federal agencies responsible for issuing ADA regulations provide "technical assistance."
- * Technical assistance is the dissemination of information (either directly by a Federal agency or through grants and contracts) to assist the public, including individuals protected by the ADA and entities covered by the ADA, in understanding the ADA.
- * For additional information, contact:

Disability Rights Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66738 Washington, D.C 20035-6738

(800) 514-0301 (Voice)
(800) 514-0383 (TDD)

(202) 514-6193 (Electronic Bulletin Board).

- * The U.S. Department of Justice has an ADA Home Page at the following Internet address: <http://www.usdoj.gov/crt/ada/adahom1.htm>.

Common Questions and Answers About Title II of the ADA

1. **Q:** Does a public entity have to retrofit every “existing” municipal building in order to meet the accessibility requirements of the ADA? (An “existing” municipal building is one whose construction began before January 27, 1992.)

A: No. Title II of the ADA requires that a public entity make its programs accessible to people with disabilities, not necessarily each existing facility or part of such a facility. Program accessibility may be achieved by a number of methods. While in many situations providing access to facilities through structural methods, such as alteration of existing facilities and acquisition or construction of additional facilities, may be the most efficient method of providing program accessibility, the public entity may pursue alternatives to structural changes in order to achieve program accessibility. For example, where the second-floor office of a public welfare agency may be entered only by climbing a flight of stairs, an individual with a mobility impairment seeking information about welfare benefits can be served in an accessible ground floor location or in another accessible building. Similarly, a town may move a public hearing from an inaccessible building to a building that is readily accessible. When choosing among available methods of providing program accessibility, a public entity must give priority to those methods that offer services, programs, and activities in the most integrated setting appropriate.
2. **Q:** If a public entity opts to make structural changes in providing program accessibility, is the entity required to follow a particular design standard in making those changes?

A: Yes. When making structural changes to achieve program accessibility, a public entity must make those changes in accordance with the standards for new construction and alterations. See question #5.
3. **Q:** What is the time line for making structural changes?

A: Any structural changes that are required to achieve program accessibility must be made by January 26, 1995. Each public entity with 50 or more employees was required to complete a transition plan by July 26, 1992, setting forth the steps necessary to complete the changes.
4. **Q:** Are there any limitations on the program accessibility requirement?

- A:** Yes. A public entity does not have to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. This determination can only be made by the head of the public entity or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The determination that undue burdens would result must be based on all resources available for use in the program. If an action would result in such an alteration or such burdens, the public entity must take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.
5. **Q:** What architectural design standard must a public entity follow for “new” construction and alterations? (“New” construction is construction that began after January 26, 1992.)
- A:** Public entities may choose from two design standards for “new” construction and alterations. They can choose either the Uniform Federal Accessibility Standards (UFAS) or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG). ADAAG is the standard that must be used for privately-owned public accommodations and commercial facilities under Title III of the ADA. If ADAAG is chosen, however, public entities are not entitled to the elevator exemption (which permits certain privately-owned buildings under three stories or under 3,000 square feet per floor to be constructed without an elevator).
6. **Q:** Is the Federal Government planning to eliminate this choice and establish one design standard for “new” construction and alterations?
- A:** Yes. The Department of Justice is proposing to amend its current ADA Standards for Accessible Design (which incorporate ADAAG) to add sections dealing with judicial, legislative, and regulatory facilities, detention and correctional facilities, residential housing, and public rights-of-way. The proposed amendment would apply these Standards to new construction and alterations under Title II. Under the proposed rule, the choice between ADAAG and UFAS would be eliminated.
7. **Q:** A city wants to make accessibility alterations to city offices, which are located in an historic building listed in the National Register of Historic Places. Is the city prohibited from making changes? Which rules apply to the city? What if these alterations would destroy the historic nature of the building?

A: Alterations to historic properties must comply with the specific provisions governing historic properties in ADAAG or UFAS, to the maximum extent feasible. Under those provisions, alterations should be done in full compliance with the alterations standards for other types of buildings. However, if following the usual standards would threaten or destroy the historic significance of a feature of the building, alternative standards may be used. The decision to use alternative standards for that feature must be made in consultation with the appropriate historic advisory board designated in ADAAG or UFAS, and interested persons should be invited to participate in the decision-making process. The alternative requirements for historic buildings or facilities provide a minimal level of access. For example:

- (1) An accessible route is only required from one site access point (such as the parking lot).
- (2) A ramp may be steeper than is ordinarily permitted.
- (3) The accessible entrance does not need to be the one used by the general public.
- (4) Only one accessible toilet is required and it may be unisex.
- (5) Accessible routes are only required on the level of the accessible entrance.

8. **Q:** But what if complying with even these minimal alternative requirements will threaten or destroy the historic significance?

A: In such a case, which is rare, the public entity need not make the structural changes required by UFAS or ADAAG. If structural modifications that comply with UFAS or ADAAG cannot be undertaken, the Department of Justice's regulation requires that "program accessibility" be provided.

9. **Q:** Does a city have to provide curb ramps at every intersection on "existing" streets?

A: No. To promote both efficiency and accessibility, public entities may choose to construct curb ramps at every point where a pedestrian walkway intersects a curb, but they are not necessarily required to do so. Alternative routes to buildings that make use of existing curb cuts may be acceptable under the concept of program accessibility in the limited circumstances where individuals with disabilities need only travel a marginally longer route. In addition, the fundamental alteration and undue burden limitations may limit the number of curb ramps required. To achieve or maintain program accessibility, it may be appropriate to establish an ongoing procedure for installing curb ramps upon

request in areas frequented by individuals with disabilities as residents, employees, or visitors.

However, when streets, roads, or highways are newly built or altered, they must have ramps or sloped areas wherever there are curbs or other barriers to entry from a sidewalk or path. Likewise, when new sidewalks or paths are built or are altered, they must contain curb ramps or sloped areas wherever they intersect with streets, roads, or highways. Resurfacing beyond normal maintenance is an alteration. Merely filling potholes is considered to be normal maintenance.

10. **Q:** Where an “existing” public library's open stacks are located on upper floors with no elevator access, does the library have to install a lift or an elevator?

A: No. As an alternative to installing a lift or elevator, library staff may retrieve books for patrons who use wheelchairs. Staff must be available to provide assistance during the operating hours of the library.

11. **Q:** Does a municipal performing arts center that provides inexpensive balcony seats and more expensive orchestra seats have to provide access to the balcony seats?

A: No. In lieu of providing accessible seating on the balcony level, the city can make a reasonable number of accessible orchestra-level seats available at the lower price of balcony seats.

12. **Q:** Is a city required to modify its policies whenever requested in order to accommodate individuals with disabilities?

A: No. A public entity must make only “reasonable modifications” in its policies, practices, or procedures when necessary to avoid discrimination. If the public entity can demonstrate that a modification would fundamentally alter the nature of its service, program, or activity, it is not required to make the modification. For example, where a municipal zoning ordinance requires a set-back of 12 feet from the curb in the central business district and, in order to install a ramp to the front entrance of a pharmacy, the owner requests a variance to encroach on the set-back by three feet, granting the variance may be a reasonable modification of town policy. On the other hand, where an individual with an environmental illness requests a public entity to adopt a policy prohibiting the use of perfume or other scented products by its employees who come into contact with the public, adopting such a policy is not considered a "reasonable" modification of the public entity's personnel policy.

13. **Q:** Does the requirement for effective communication mean that a city has to put all of its documents in Braille?

A: Braille is not a "required" format for all documents. A public entity must ensure that its communications with individuals with disabilities are as effective as communications with others.

A public entity is required to make available appropriate auxiliary aids and services where necessary to ensure effective communication. Examples of auxiliary aids and services that benefit various individuals with vision impairments include magnifying lenses, qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or assistance in locating items.

The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved.

For example, for individuals with vision impairments, employees of the public entity can sometimes provide oral directions or read written instructions. In many simple transactions, such as paying bills, communications provided through such simple methods will be as effective as the communications provided to other individuals in similar transactions.

Many transactions, however, involve more complex or extensive communications than can be provided through such simple methods and may require the use of magnifying lenses, qualified readers, taped texts, audio recordings, Brailled materials, or large print materials.

14. **Q:** Must tax bills from public entities be available in Braille and/or large print? What about other documents?

A: Tax bills and other written communications provided by public entities are subject to the requirement for effective communication. Thus, where a public entity provides information in written form, it must, when requested, make that information available to individuals with vision impairments in a form that is usable by them. "Large print" versions of written documents may be produced on a copier with enlargement capacities. Brailled versions of documents produced by computers may be produced with a Braille printer, or audio tapes may be provided for individuals who are unable to read large print or do not use Braille. Brailled documents are not required if effective communication is provided by other means.

15. **Q:** Does a city have to arrange for a sign language interpreter every time staff members deal with people who are deaf or hard of hearing?

A: Sign language interpreters are not required for all dealings with people who are deaf or hard of hearing. A public entity is required to make available appropriate auxiliary aids and services where necessary to ensure effective communication.

Examples of auxiliary aids and services that benefit individuals with hearing impairments include qualified interpreters, note takers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TTYs), videotext displays, and exchange of written notes.

The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved.

For example, in brief, simple transactions, employees of the public entity can sometimes communicate with individuals who have hearing impairments through written materials and exchange of written notes. In many simple transactions, such as paying bills, communications provided through such simple methods will be as effective as the communications provided to other individuals in similar transactions.

Many transactions, however, involve more complex or extensive communications than can be provided through such simple methods and may require the use of qualified interpreters, assistive listening systems, videotext displays, or other aids or services.

16. **Q:** Do all city departments have to have TTYs to communicate with people who have hearing or speech impairments?

A: No. Public entities that communicate by telephone must provide equally effective communication to individuals with disabilities, including hearing and speech impairments. If telephone relay services, such as those required by Title IV of the ADA, are available, these services generally may be used to meet this requirement. Relay services involve a relay operator who uses both a standard telephone and a TTY to type the voice messages to the TTY user and read the TTY messages to the standard telephone user. Where such services are available, public employees must be instructed to accept and handle relayed calls in the normal course of business.

However, State and local agencies that provide emergency telephone services, including 911 services, must provide "direct access" to individuals who rely on a TTY or computer modem for telephone communication. Telephone access through a third party or through a relay service does not satisfy the requirement for direct access.

17. **Q:** Are there any limitations on a public entity's obligation to provide effective communication?

A: Yes. This obligation does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of its services, programs, or activities, or in undue financial and administrative burdens.

18. **Q:** Is there any money available to help local governments comply with the ADA?

A: Yes. Funding available through the Community Development Block Grant (CDBG) program at the U.S. Department of Housing and Urban Development may be used for accessibility purposes, such as installation of ramps, curb cuts, wider doorways, wider parking spaces, and elevators. Units of local government that have specific questions concerning the use of CDBG funds for the removal of barriers should contact their local HUD Office of Community Planning and Development or call the Entitlement Communities Division at HUD, (202) 708-1577, for additional information.

Arizonans with Disabilities Act

The Arizonans With Disabilities Act (“AzDA”) requires that the following buildings and facilities conform to Title II of the ADA: “buildings and facilities that are used by public entities [i.e., State and local governmental entities] and that are leased or constructed in whole or in part with the use of state or local monies, the monies of any political subdivision of this state or any combination of these monies.”

If a public entity has violated the above-quoted section of the AzDA, an individual may: (1) file a complaint with the Civil Rights Division of the Arizona Attorney General’s Office; and/or (2) file a lawsuit. To file a complaint with the Arizona Attorney General’s Office, the individual should call that Office at one of the following telephone numbers: (520) 628-6500 [Tucson, voice], (520) 628-6872 [Tucson, TTY], (602) 542-5263 [Phoenix, voice], (602) 542-5002 [Phoenix, TTY]. There is a deadline for filing a complaint with the Arizona Attorney General’s Office: the complaint must be filed “within one hundred eighty days after the occurrence or the termination of the discrimination.

To file a lawsuit, the individual should contact an attorney. The deadline for filing a lawsuit under the AzDA is “not later than two years after the occurrence or the termination of” the discrimination.



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 it to the address on page 3.

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: _____
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 this 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?

Agency or Court: _____

Address: _____

City, State and Zip Code: _____

Telephone Number: _____

Additional space for answers: _____

Signature: _____

Date: _____

Return to:

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights - NYAVE
Washington, DC 20530

ADA GRIEVANCE PROCEDURE
HUMAN RESOURCES DEPARTMENT
EMPLOYMENT RIGHTS
150 WEST CONGRESS STREET, 4TH FLOOR
(520) 740-8029

Pima County has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by federal and state law. Public Law #101-336 states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation, be denied the benefits of, or be subjected to discrimination in programs or activities sponsored by a public entity." This law prohibits discrimination in the areas of accessibility, communication, accommodation and employment. Title I (Employment) complaints shall be handled by Human Resources, utilizing the Pima County Discrimination Grievance Form.

All complaints should be addressed to:

Human Resources Department
Employments Rights
Attn: ADA Coordinator
150 West Congress Street, 4th floor
Tucson, Arizona 85701
(520) 740-8029

1. Except for allegations of employment discrimination involving terms or conditions of employment, or harassment, all ADA complaints will be reviewed under these procedures. (Allegations of employment discrimination will be processed pursuant to Merit System Rule 13.3.)
2. The Mediation process will be utilized prior to formal investigation of the complaint. If mediation is unsuccessful, an investigation, as may be appropriate, shall follow. This procedure affords all interested persons and their representatives an opportunity to submit relevant evidence regarding the complaint and provide for a prompt response.
3. A written determination and appropriate resolution, if any, shall be issued and a copy forwarded to the complainant and the department.
4. The complainant may request a reconsideration of the claim in instances where s/he is dissatisfied with the resolution by checking the appropriate box and forwarding the grievance form to the ADA Coordinator. An ADA ad hoc committee, comprised of the Director of Human Resources, the Supervisor of Employment Rights, a subject matter expert, if appropriate, and an "at large" member of the complainant's choice, will review the complaint and issue a written determination of its findings. If the complainant is still dissatisfied, s/he may request in writing a final review and determination from the County Administrator.
5. Human Resources shall maintain all files and records relating to the complaint(s) filed.
6. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies, such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.
7. These procedures shall not be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that Pima County Government complies with the ADA and associated regulations.

AMERICANS WITH DISABILITIES ACT (ADA) GRIEVANCE FORM

**PIMA COUNTY HUMAN RESOURCES DEPARTMENT
EMPLOYMENT RIGHTS
150 WEST CONGRESS STREET, 4TH FLOOR
(520) 740-8029**

INSTRUCTIONS FOR GRIEVANCE PROCEDURE

Complete this form and submit to the Pima County ADA Program Coordinator (ADA Coordinator) at the above address.

Name of Complainant: _____

Home Address: _____ Zip: _____

Home Phone: _____ Work Phone: _____ Today's Date: _____

A. BASIS OF COMPLAINT Check appropriate box (es)

- | | |
|----------------|----------------|
| Programs | Communications |
| Accessibility | Transportation |
| Accommodations | |
| Other | |

B. SUMMARY OF COMPLAINT

(Explain why you believe a violation of the ADA has occurred. Additional pages or relevant documentation may be attached.)

C. REMEDY REQUESTED

Signature of Complainant

Date

(OVER)

RESPONSE OF ADA PROGRAM COORDINATOR:

Signature _____ Date _____
Pima County ADA Program Coordinator

You may agree or disagree with the ADA Coordinator’s response by so indicating in the grievant response section below. Please return this form to the ADA Coordinator for filing or for further investigation.

COMPLAINANT RESPONSE Date Received _____

_____ I accept the action/response of the ADA Coordinator.

_____ I reject the action/response of the ADA Coordinator for the following reason(s):

Please check here if you wish to have this claim reconsidered.

Signature _____ Date _____
Complainant

**AMERICANS WITH DISABILITIES ACT (ADA) GRIEVANCE FORM
PIMA COUNTY OFFICE OF CIVIL AND EMPLOYMENT RIGHTS
130 WEST CONGRESS STREET, 10TH FLOOR
(520) 740-8029**

INSTRUCTIONS FOR GRIEVANCE PROCEDURE

Complete the front page of this form and submit it to the Pima County ADA Compliance Coordinator (ADA Coordinator) at the above address.

NAME OF COMPLAINANT _____

ADDRESS _____
Street City State Zip

PHONE NUMBER _____

A. BASIS OF COMPLAINT (Check appropriate box (es))

Programs	()	Communications	()
Accessibility	()	Transportation	()
Accommodations	()		
Other	()	_____	

B. SUMMARY OF COMPLAINT

[Explain why you believe a violation of the ADA has occurred. Additional pages or relevant documentation may be attached.]

C. REMEDY REQUESTED

Signature of Complainant

Date

RESPONSE OF ADA COMPLIANCE COORDINATOR

Signature _____ Date _____
Pima County ADA Compliance Coordinator

You may agree or disagree with the ADA Coordinator's response by so indicating in the grievant response section below. Please return this form to the ADA Coordinator for filing or for future investigation by an ADA ad hoc committee in the Office of Civil and Employment Rights.

GRIEVANT RESPONSE Date Received _____

- _____ I accept the action/response of the ADA Coordinator.
- _____ I reject the action/response of the ADA Coordinator for the following reason(s):

[] Please check here, if you wish to have this claim considered.

Signature _____ Date _____
Grievant