

EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION

A9.900 ADA COMPLAINT PROCEDURE FOR MEMBERS OF THE PUBLIC WHO HAVE COMPLAINTS REGARDING DISABILITY ACCESS TO UNIVERSITY SERVICES, PROGRAMS, AND ACTIVITIES

1. Purpose

To implement the complaint procedure requirement of Title II of the Americans with Disabilities Act (ADA) of 1990. Title II extends coverage of Section 504 of the Rehabilitation Act of 1973 to include all services, programs, and activities of state and local governments and requires public entities to adopt and publish complaint procedures covering members of the public who allege discrimination on the basis of disability. The purpose of this requirement is to provide a mechanism for resolving complaints at the local level without requiring complainants to go directly to the federal level. It also promotes voluntary compliance with Title II of the ADA, which states in pertinent part [Subpart B.§35.130(a)]: "No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity."

2. Objectives

To provide prompt and equitable resolution of complaints alleging discrimination on the basis of disability.

3. Applicability

Complaints may be filed under this procedure by any member of the public who is not covered by other University procedures and who believes that she or he or a specific class of individuals has been subjected to discrimination on the basis of disability with regard to services, programs, and activities provided or made available by the University. Members of the University community should refer to UH System-wide Administration Procedure A9.920 (Discrimination Complaint Procedure for Employees, Students, and Applicants for Employment or Admission) which covers discrimination on the basis of disability and is the appropriate procedure for University students, employees, and applicants for employment or applicants for admission to academic programs.

4. Complaint Procedure

Members of the public are encouraged to resolve their concerns informally by contacting the department or relevant campus administrator who can assist them. If this is not reasonable under the circumstances, the complaining party may contact the campus EEO/AA Coordinator, as follows:

- a) Complaints should be in writing. Alternative means of filing complaints, such as telephone or personal interview, will be made available for persons with disabilities. Verbal complaints should be documented by the EEO/AA Coordinator.

Complaint statements must contain:

- i. The name and address of the complainant, and
- ii. A description of the alleged discrimination in sufficient detail to permit follow up or investigation.

The complaint may also include any evidence which supports the allegation.

- b) Complaints should be filed as soon as possible but no later than 180 calendar days from the date of the alleged discrimination.
- c) Complaints should be addressed to the campus EEO/AA Coordinator.
- d) The EEO/AA Coordinator or designee(s) will seek to resolve the complaint informally or investigate, as appropriate. Investigations will be completed within 90 calendar days of the date the complaint was filed. Time may be extended as appropriate, on a case-by-case basis, provided the complainant and respondent are notified in writing.
- e) If an investigation is conducted, the EEO/AA Coordinator or designee(s) will submit a brief fact-finding report to the Campus Administrator who has authority over the issue (e.g. Community College provost, UH Hilo Vice Chancellor, UH Manoa Vice President, UH West Oahu Dean or Director, or their respective designees). The Campus Administrator or designee will make a determination on the merits of the case and send the complainant and respondent a written decision or description of the resolution within 30 calendar days of receipt of the fact-finding report. The decision will be sent to the complainant's and respondent's last known addresses; the parties are responsible for notifying the EEO/AA Coordinator of any change of address. The deadline for rendering a decision may be extended for 30 additional calendar days, provided the complainant and respondent are notified in writing.
- f) The complainant or respondent may request a reconsideration of the decision. The request for reconsideration must explain why the Campus Administrator's decision or resolution should be overturned. The request should be made to the Chancellor or designee within 30 calendar days of receipt of the Campus Administrator's decision. This deadline for filing an appeal may be extended for 30 additional calendar days, provided the complainant or respondent notifies the Chancellor in writing.
- g) The Chancellor or designee will reconsider the case and send the complainant and respondent a final written decision or resolution within 30 calendar days of receipt of the appeal. The deadline for rendering a decision may be extended for 30 additional calendar days, provided the complainant and respondent are notified in writing.

5. Non-exclusivity

Use of this complaint procedure is not a prerequisite to the pursuit of other remedies, e.g., state or federal agency complaint options.

6. Notice

Chancellors are responsible for issuing this complaint procedure to their campuses and for publicizing the name, title, address, and phone number of the EEO/AA Coordinator or designee responsible for handling ADA/Section 504 complaints.

7. Non-retaliation

The University prohibits retaliation against any individual because that individual has opposed any act or practice made unlawful by the ADA or Section 504 of the Rehabilitation Act, or because that individual has made a complaint, served as a witness, or participated in any manner in an investigation under this procedure. Complaints of retaliation will be handled as separate charges using the procedure outlined in part 4 above. Any member of the University community who engages in retaliation will be subject to discipline