

**Utah Division of Parks and Recreation Americans with Disabilities Act Grievance Procedure**

The Utah Division of Parks and Recreation is committed to accessibility in our programs, services, events and facilities. If you believe you have been discriminated against at one of our programs, services, events or facilities on the basis of a disability, please complete following the grievance procedure outlined below.

**Definitions.**

 (1) "ADA Coordinator" means the employee assigned by the executive director to investigate and facilitate the prompt and equitable resolution of complaints filed by qualified persons with disabilities.

 (2) "Division" means the Division of Parks and Recreation

 (4) “Department” means the Department of Natural Resources

 (5) "Designee" means an individual appointed by the executive director or a director to investigate allegations of ADA non-compliance in the event the ADA Coordinator is unable or unwilling to conduct an investigation for any reason, including a conflict of interest. A designee does not have to be an employee of the Division; however, the designee must have a working knowledge of the responsibilities and obligations required of employers and employees by the ADA.

 (6) "Director" means the head of the Division.

 (7) "Executive Director" means the executive director of the Department.

 (8) "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.

 (9) "Major life activities" means activities that are of essential importance to daily life, such as caring for oneself, performing manual tasks, walking, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, and working. A major life activity also includes the operation of a major bodily function, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

 (10) "Qualified Individual" means an individual who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Department. A "qualified individual" also includes an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position that individual holds or desires.

**Filing of Complaints.**

 (1) Any qualified individual may file a complaint alleging noncompliance with Title II of the Americans with Disabilities Act, as amended, or the federal regulations promulgated thereunder.

 (2) Qualified individuals shall file their complaints with the Division's ADA Coordinator, unless the complaint alleges that the ADA Coordinator was non-compliant, in which case qualified individuals shall their complaints with the Division's designee.

 (3) Qualified individuals shall use the Division’s [*Americans with Disabilities Act Discrimination Complaint Form*](https://stateparks.utah.gov/wp-content/uploads/sites/13/2019/06/UPR-ADA-Grievance-Form-1.docx) to convey their complaints within 30 days after the date of the alleged noncompliance to facilitate the prompt and effective consideration of pertinent facts and appropriate remedies; however, the Executive Director has the discretion to direct that the grievance process be utilized to address legitimate complaints filed more than30 days after alleged noncompliance.

 (6) If the complainant is unable to fill out and email the Division’s *Americans with Disabilities Act Discrimination Complaint Form* on their own, they may contact the Division by phone, or by another accessible format suitable to the complainant, and a designated staff person will ask the complainant the questions on the form and fill in the answers for them. When the form is completed, the designated staff person will read back all of the answers to the complainant to make sure they have taken the information down correctly.

 (7) By the filing of a complaint, the complainant authorizes all necessary parties to conduct a confidential review of all relevant information, including records classified as private or controlled under the Government Records Access and Management Act (Utah Code, Title 63G, Chapter 2) and relevant information otherwise protected by statute, rule, regulation, or other law.

**Investigation of Complaints.**

 (1) The ADA Coordinator or Designee shall acknowledge receipt of complaint by emailing or phoning complainant, or notifying complainant by another accessible format suitable to the complainant.

(2) Within the period of 30 working days after the acknowledgement of receipt of the complaint, the ADA Coordinator or Designee shall investigate complaints to the extent necessary to assure all relevant facts are collected and documented.

 (3) The ADA Coordinator or Designee may seek assistance from the Attorney General's staff, and the Department's human resource staff in determining what action, if any, should be taken on the complaint. The ADA Coordinator or Designee may also consult with the Director of the Division in making a recommendation.

 (4) The ADA Coordinator or Designee shall consult with representatives from other state agencies that may be affected by the decision, including the Office of Planning and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General before making any recommendation that would:

(a) involve an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item so that it would require a separate appropriation;

 (b) require facility modifications; or

 (c) require reassignment to a different position.

**R13-3-5. Recommendation and Decision.**

 (1) By 30 working days after receiving the complaint, the ADA Coordinator or Designee shall recommend to the Director what action, if any, should be taken on the complaint. The recommendation shall be in writing or in another accessible format suitable to the complainant.

 (2) If the ADA Coordinator or Designee is unable to make a recommendation within the 30 working day period, the complainant shall be notified in writing, or in another accessible format suitable to the complainant, stating why the recommendation is delayed and what additional time is needed.

 (3) The Director may confer with the ADA Coordinator or Designee and the complainant and may accept or modify the recommendation to resolve the complaint. The Director shall render a decision within 15 working days after the receipt of the recommendation from the ADA Coordinator or Designee. The Director shall take all reasonable steps to implement the decision. The Director's decision shall be in writing, or in another accessible format suitable to the complainant, and shall be promptly delivered to the complainant.

**Appeals.**

 (1) The complainant may appeal the Director's decision to the Executive Director within ten (10) working days after the complainant's receipt of the Director's decision.

 (2) The appeal shall be in writing or in another accessible format reasonably suited to the complainant's ability.

 (3) The Executive Director may name a Designee to assist on the appeal. The ADA Coordinator and the Director's Designee are not allowed to be the Executive Director's Designee for the appeal.

 (4) In the appeal the complainant shall describe in sufficient detail why the decision does not effectively address the originally submitted complaint.

 (5) The Executive Director or Designee shall review the ADA Coordinator's recommendation, the Director's decision, and the points raised on appeal prior to reaching a decision. The Executive Director may direct additional investigation as necessary. The Executive Director shall consult with representatives from other state agencies that would be affected by the decision, including the Office of Planning and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General before making any decision that would:

(a) involve an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item so that it would require a separate appropriation;

 (b) require facility modifications; or

 (c) require reassignment to a different position.

 (6) The Executive Director shall issue a final decision within 15 working days after receiving the complainant's appeal. The decision shall be in writing, or in another accessible format suitable to the complainant, and shall be promptly delivered to the complainant.

 (7) If the Executive Director or designee is unable to reach a final decision within the 15 working day period, the complainant shall be notified in writing, or by another accessible format suitable to the complainant, why the final decision is being delayed and the additional time needed to reach a final decision.

**Record Classification.**

 (1) Records created as part of the Division’s Grievance Procedure and the Division’s *Americans with Disabilities Act Discrimination Complaint Form* are to be classified as"protected."

(2) Portions of the record pertaining to the complainant's medical condition shall be classified as "private."

(3) The written decision of the Division Director or Executive Director shall be classified as "public."