

TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER XIV: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

PART 425
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section

425.10	Purposes
425.20	Definitions
425.30	Procedure
425.40	Designated Coordinator Level
425.50	Final Level
425.60	Accessibility
425.70	Case-By-Case Resolution

AUTHORITY: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and authorized by Section 4 of the Children and Family Services Act [20 ILCS 505/4].

SOURCE: Adopted at 36 Ill. Reg. 12303, effective July 20, 2012; amended at 41 Ill. Reg., effective June 6, 2017.

Section 425.10 Purposes

- a) This grievance procedure is established pursuant to the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) (ADA) and specifically Section 35.107 of the Title II regulations (28 CFR 35) requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. Should any individual desire to review the ADA or its regulations to understand the rights, privileges and remedies afforded by it, please contact the Designated Coordinator:

DCFS ADA Officer
1921 South Indiana
Chicago IL 60616
(312)808-5000

DCFS.OfficeofAffirmativeAction@illinois.gov

- b) In general, the ADA requires that each program, service and activity offered by the Department of Children and Family Services, when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.
- c) It is the intention of the Department to foster open communication with all individuals requesting readily accessible programs, services and activities. The Department encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

(Source: Amended at 41 Ill. Reg., effective June 6, 2017)

AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

June 15, 2017 - P.T. 2017.06

Section 425.20 Definitions

"Act" or "ADA" means the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.).

"Complainant" is an individual with a disability who files a Grievance Form provided by the Department under this procedure.

"Department" means the Department of Children and Family Services.

"Designated Coordinator" is the person appointed by the Department who is responsible for the coordination of efforts of the Department to comply with and carry out its responsibilities under Title II of the ADA, including investigation of grievances filed by complainants. (See 28 CFR 35.107.)

"Director" means the Director of the Department of Children and Family Services.

"Disabilities" shall have the same meaning as set forth in the ADA.

"Grievance" is any complaint under the ADA that is reduced to writing by an individual with a disability who meets the essential eligibility requirements for participation in or receipt of the benefits of a program, activity or service offered by the Department and believes he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the Department or has been subject to discrimination by the Department.

"Grievance Form" is prescribed for the purpose of filing a grievance under this Part and includes information such as name, address, phone number, nature of the grievance, with specificity, including date of incident, time, place and witnesses if applicable.

"Qualified Individual with a Disability" means an individual 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 Department.

Section 425.30 Procedure

- a) Grievances must be submitted in accordance with procedures established in Sections 425.40 and 425.50. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this Part are in calendar days, unless otherwise stated, and may be extended by mutual agreement, in writing, by the complainant and the reviewer, at the Designated Coordinator and/or the Final Levels described in Section 425.50.

AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

June 15, 2017 - P.T. 2017.06

- b) A complainant's failure to submit a grievance, or to submit or appeal it to the next level of procedure within the specified time limits, shall mean that the complainant has withdrawn the grievance or has accepted the last response from the Department given during the grievance procedure.
- c) The Department shall, upon being informed of an individual's desire to file a formal grievance, instruct the individual how to receive a copy of this Part and the Grievance Form.

Section 425.40 Designated Coordinator Level

- a) If an individual desires to file a grievance, the individual shall promptly, but no later than 180 days after the alleged discrimination, submit the grievance to the Designated Coordinator in writing on the Grievance Form prescribed for that purpose. The Grievance Form must be completed in full in order to receive proper consideration by the Designated Coordinator.
- b) Upon request, assistance in completing the Grievance Form shall be provided by the Department.
- c) The Designated Coordinator, or his/her representative, shall investigate the grievance and, if the grievance is found to be valid, shall make reasonable efforts to resolve it. The Designated Coordinator shall provide a written response to the complainant and Director within 15 business days after receipt of the Grievance Form.

Section 425.50 Final Level

- a) If the grievance is not resolved at the Designated Coordinator Level to the satisfaction of the complainant, the complainant may submit a copy of the Grievance Form and Designated Coordinator's response to the Director for final review. The complainant shall submit these documents to the Director, together with a short written statement explaining the reasons for dissatisfaction with the Designated Coordinator's written response, within 15 business days after receipt by the complainant of the Designated Coordinator's response.
- b) Within 15 business days, the Director shall appoint a three-member panel to review the grievance at the Final Level. One member shall be designated chair. The panel shall schedule a review of the grievance, which shall commence no later than 15 business days after the last member of the panel is appointed.
- c) Complainant shall be afforded an opportunity to appear before the panel. Complainant shall have a right to appoint a representative to appear on his or her behalf. The panel shall review the Designated Coordinator's written response and may conduct interviews and seek advice as it deems appropriate.

AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

June 15, 2017 - P.T. 2017.06

- d) Upon agreement of at least two of the panel members, but not later than 15 business days after the review described in subsection (b), the panel shall make recommendations in writing to the Director as to the proper resolution of the grievance. All recommendations shall include reasons for those recommendations and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a recommendation to the Director in writing and shall sign the recommendation.
- e) Within 15 business days after receipt of recommendations from a panel, the Director or designee shall approve, disapprove or modify the panel recommendations; shall render a decision on those recommendations in writing; shall state the basis for his or her decision; and shall cause a copy of the decision to be served on the parties. The Director's decision shall be final. If the Director disapproves or modifies the panel's recommendations, the Director may include written reasons for that disapproval or modification.
- f) The Grievance Form, the Designated Coordinator's response, the statement of the reasons for dissatisfaction, the recommendations of the panel, and the decision of the Director shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

Section 425.60 Accessibility

The Department shall ensure that all stages of the grievance procedure are readily accessible to and usable by individuals with disabilities.

Section 425.70 Case-By-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the Department. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainants should rely.