



PRISON LAW OFFICE
General Delivery, San Quentin, CA 94964
Telephone (510) 280-2621 ☐ Fax (510) 280-2704
www.prisonlaw.com

Director:
Donald Specter

Managing Attorney:
Sara Norman

Staff Attorneys:
Rana Anabtawi
Patrick Booth
Steven Fama
Alison Hardy
Sophie Hart
Corene Kendrick
Rita Lomio
Margot Mendelson
Shira Tevah

Your Responsibility When Using this Information:

This information is not intended to be legal advice about the facts in your case, but it will give you more information about your rights and what you can do to help yourself. When we wrote this document we did our best to give you useful and accurate information, because we know that people often have difficulty obtaining legal information in prison or jail and we cannot provide specific advice everyone who requests it. Also, the laws change frequently and are subject to differing interpretations. We do not always have the resources to make changes to this material every time the law changes. If you use this document, it is your responsibility to make sure that the law has not changed and applies to your situation.

Information about the ADA (Americans with Disabilities Act) (updated March 2020)

We received your request for information or advice about the Americans with Disabilities Act (ADA). Unfortunately we are not able to write individual responses to everyone who writes to us. This letter contains some general information about the ADA, for people in California state prisons and people in other types of custody. We hope you will find this information helpful.

What is the ADA?

The ADA is a federal law that prohibits discrimination against people with some types of disabilities. The ADA is in Title 42 of the United States Code (USC) beginning at section 12101. Title II of the ADA prohibits discrimination by “public entities” in the provision of all “services, programs, and activities.” The California Department of Corrections and Rehabilitation (CDCR) is a public entity. Therefore, the CDCR has an obligation to make its programs, services, and activities accessible even if you have a disability, as long as you are otherwise eligible for those programs, services, and activities. Other agencies, like county sheriffs’ departments (who are responsible for county jails) and the Department of State Hospitals (who are responsible for state mental health facilities), also are public entities and must comply with the ADA.

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Who Is Protected by the ADA?

You are protected under the ADA if you have a physical or mental impairment that substantially limits one or more major life activities, such as taking care of yourself, walking, seeing, hearing, speaking, breathing, learning, or working.

You must be “otherwise qualified” for the program, service, or activity in which you want to participate. That means that you must meet the basic eligibility requirements for the program, service, or activity. For example, if you are in Level IV housing, you are not entitled to the privileges available to people in Level I facilities. However, you are “otherwise qualified” for Level I privileges if you meet the general eligibility requirements for Level I but you need reasonable modifications, removal of architectural barriers, or aids so that you can participate in the programs, services, or activities that are available to people housed in Level I facilities.

The ADA covers people in prison, jail, and state hospitals, and people on parole, PRCS, or other supervision. The ADA also covers visitors, callers, and correspondents. For example, if you are in custody with access to phone calls, and you want to call a friend who is deaf on a TDD line, the prison, jail, or state hospital staff must allow you to do so.

There are on-going class action lawsuits under which CDCR is supposed to provide assistance and accommodations for people in prison and on parole who have certain types of disabilities. If you have a mobility, vision, hearing, speech, learning, or kidney disability, you are covered by the *Armstrong* case. If you are a prisoner with a developmental disability, you are covered by the *Clark* case. In each of those cases, CDCR agreed to adopt Remedial Plans with policies and procedures for identifying and providing accommodations for people with those types of disabilities. You should be able to find copies of the *Armstrong* and *Clark* Remedial Plans in the prison law library. You can also get more information on the *Armstrong* and *Clark* cases by writing to Prison Law Office, General Delivery, San Quentin, CA 94964, which is one of the law offices that is monitoring whether CDCR is complying with the Remedial Plans.

Can I Ask for Reasonable Accommodations Under the ADA? Can I File a Grievance or Administrative Appeal about an ADA Violation?

If you want to ask a public entity to provide a reasonable accommodation for your disability or if you think your rights under the ADA are being violated by any public entity, there are ways you can try to fix the problem. Your options will depend on what public agency is involved. The following subsections describe the options available for issues that involve (1) a CDCR prison or CDCR parole, (2) a Board of Parole Hearings (BPH) proceeding, (3) a county jail or county supervision (such as PRCS, probation, or mandatory supervision) and (4) anyone with a disability whose rights are being violated by any federal, state, or county public entity.

(1) CDCR Prison or Parole

If you are in a CDCR prison or on CDCR parole, CDCR has a procedure you can use to ask for fair treatment, reasonable accommodations, or access to CDCR services, activities, or programs. The process is governed by the *Armstrong* and *Clark* Remedial Plans and the CDCR, *1824 Desk Reference Manual*. (See 15 CCR § 3085.)

You should fill out a yellow CDCR Form 1824 Reasonable Accommodation Request (*not* a regular CDCR 602 Form) and submit it to the appeals office. You do not need to seek informal review before filing an 1824 form. Fill out the 1824 form and sign and date the form. You can ask staff to help you fill out the form.

Your 1824 should be screened for urgent medical or mental health issues within one day after it is received by the appeals office. Your 1824 should then be reviewed by a Reasonable Accommodation Panel (RAP) during the weekly RAP meeting. The RAP includes medical and custody staff. The RAP should provide you with a response within 30 calendar days after your 1824 was received by the appeals office.

If you do not agree with the RAP response, you can appeal by following the instructions near the bottom of the response. The instructions should tell you to file either a Form 602-HC or a Form 602. Any request that needs to be addressed by medical staff should go on a 602-HC, and any request that needs to be addressed by custody staff should go on a 602. In your 602-HC or 602, explain why you disagree with the RAP response and what action you are requesting; attach a copy of the RAP response. If you do not agree with the response to your 602-HC or 602, you can send your 602-HC or 602 for Headquarters level review. The normal 602-HC and 602 time limits for filing and responses apply. For more information on CDCR grievances and administrative appeals, write to Prison Law Office, General Delivery, San Quentin, CA 94964. More information is also on the Resources page at www.prisonlaw.com and in *The California Prison and Parole Law Handbook* (2019), which should be in your prison law library.

(2) BPH Proceedings

The BPH makes many types of decisions about discretionary release on parole, such as life parole, elderly prisoner parole, youth offender parole, non-violent offender (Proposition 57) parole, and medical parole. You can request accommodations for your disability during your BPH proceedings and raise issues about disability discrimination by the BPH. As part of the *Armstrong* class action case, the BPH adopted a procedure and forms for such requests and complaints. You can request an accommodation using the BPH Form 1073. If you want accommodations for an upcoming hearing, a correctional counselor or Classification and Parole Representative (C&PR) should do the initial paperwork and send it to the BPH ADA Unit Coordinator for review. If your request is denied, you can immediately appeal the denial prior to the hearing by using BPH Form 1074. (*Armstrong v. Davis* (N.D. Cal. Aug. 4, 2000) No. C94-2307CW, Stipulation and Order Approving Defendant's Policies and Procedures, VIII.A and B; 15 CCR § 2251.5.) You can also get more information on the *Armstrong* BPH procedures by writing to Prison Law Office, General Delivery, San Quentin, CA 94964, on

the Resources page at www.prisonlaw.com and in *The California Prison and Parole Law Handbook* (2019) in your prison law library.

(3) County Jail or Local Supervision

The general rules on county jail grievances are in the California Code of Regulations (CCR), title 15, § 1073. A jail's procedures for ADA requests or grievances should be discussed in the jail's orientation handbook; if you cannot find the rules or forms, ask a staff member. You can also ask probation staff or other supervision staff about how to file an ADA request or grievance. The procedures the time limits for filing and responding, and the number of levels of appeal review may vary from county to county.

(4) Anyone with a Disability

Anyone can file an ADA complaint with the U.S. Department of Justice about violations of the ADA by any part of a state or local government, such as CDCR, county jails, state hospitals, or state courts. The ADA Title II Complaint Form and information about ADA complaints is attached here. You can also get the complaint form by writing to the U.S. Department of Justice, 950 Pennsylvania Avenue NW, Civil Rights Division, Disability Rights Section, Washington, D.C. 20530 or online at www.ada.gov. The complaint form is also available in Spanish.

Can I File a Lawsuit if I am Not Satisfied with the Response to My Request, Grievance or Administrative Appeal?

You may be able to file a legal action in court if a public entity does not accommodate your disability needs or discriminates against you on the basis of your disability. However, in most cases, a court will not consider your issues unless you have first gone through all levels of the prison, parole, jail, or probation department grievance and appeal process; this is called "exhausting your administrative remedies." If you are seeking money damages from a state public entity, you may also have to file a government claim form with the California Department of General Services, Office of Risk and Insurance Management.

There are several types of court actions you might be able to file depending on factors such as the types of issues you want to raise and whether you are seeking injunctive relief (an order telling the public entity to do something or stop doing something), money damages, or both. The most common types of court actions for raising disability issues are state habeas corpus petitions, state tort lawsuits, and federal civil rights lawsuits. You can get more information on each of these types of lawsuits by sending a written request to Prison Law Office, General Delivery, San Quentin, CA 94964. *The California Prison and Parole Law Handbook* (2019), which should be in your prison law library, also has information on these topics. In addition, information on various types of court actions and the *Handbook* are available for free on the Resources pages at www.prisonlaw.com.

(Enc: ADA complaint form and information)

How to File an ADA Complaint

[En Español](#)

OMB Control No. 1190-0009. Form Expiration Date: September 30, 2021

You can file an Americans with Disabilities Act (ADA) complaint alleging disability discrimination against a State or local government or a public accommodation (private business including, for example, a restaurant, doctor's office, retail store, hotel, etc.). A complaint can be filed online using the link below, by mail, or by facsimile.

To file an ADA complaint online:

[Americans with Disabilities Act Discrimination Online Complaint Form](#)

Instructions for submitting attachments are on the form.

To file an ADA [complaint by mail](#), send the completed ADA complaint form to:

US Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section
Washington, D.C. 20530

To file an ADA [complaint by facsimile](#), fax the completed ADA complaint form to: (202) 307-1197

Please keep a copy of your complaint and the original documents for your own records.

Common Questions About Filing a Complaint

1. [How can I file an ADA complaint with the Department of Justice?](#)
2. [What information should my ADA complaint include?](#)
3. [What accommodations may I request if I cannot prepare my own ADA complaint because of my disability?](#)
4. [What happens after my complaint is received?](#)
5. [How can I find out the status of my complaint?](#)
6. [What happens if my complaint is referred for possible mediation?](#)
7. [What happens if my complaint is opened for investigation?](#)
8. [How will the information in my complaint be used?](#)

1. How can I file an ADA complaint with the Department of Justice?

If you believe that you or another person has been discriminated against by an entity covered by the ADA, you may file a complaint with the Disability Rights Section (DRS) in the Department of Justice. You may submit your complaint online or by mail or facsimile. (Letters and packages sent to the DRS by U.S. Mail are delayed for security screening.) All new complaints are subject to processing and review.

2. What information should my ADA complaint include?

Provide the following information:

- A. Your full name, address, the telephone numbers where we can reach you during the day and evening, and the name of the party discriminated against (if known);
- B. The name and address of the business, organization, institution, or person that you believe has committed the discrimination;
- C. A brief description of the acts of discrimination, the dates they occurred, and the names of individuals involved;
- D. Other information you believe necessary to support your complaint, including copies (not originals) of relevant documents; and
- E. Information about how to communicate with you effectively. Please let us know if you want written communications in a specific format (e.g., large print, Braille, electronic documents) or require communications by video phone or TTY.

You may use [the ADA online complaint form](#) for any ADA complaint, **but you are not**

required to do so.

3. What accommodations may I request if I cannot prepare my own ADA complaint because of my disability?

If you are unable to write because of your disability and are unable to submit a complaint online, by mail, or facsimile, the Department can assist you by scribing your complaint by phone or, for individuals who communicate by American Sign Language, by videophone.

Contact the ADA Information Line at 1-800-514-0301 (voice) or 1-800-514-0383 (TTY) to schedule an appointment. Please be advised that it may take two weeks or more for Department staff to contact you.

4. What happens after my complaint is received?

After the complaint is received and reviewed, we will inform you of our action, which may include:

- A. Contacting you for additional information or copies of relevant documents;
- B. Referring your complaint for possible resolution through the ADA Mediation Program;
- C. Referring your complaint to the United States Attorney's Office in your area for investigation;
- D. Referring your complaint to another federal agency with responsibility for the types of issues you have raised.
- E. Investigating your complaint; or
- F. Considering your complaint for possible litigation by the Department of Justice.

We cannot investigate or litigate every complaint. If we are unable to take any action on your complaint, we will send you a letter telling you this.

5. How can I find out the status of my complaint?

We review each complaint carefully. Because we receive a large volume of ADA complaints from people throughout the United States, our review can take up to three months. If you have not heard from us by the end of this three-month period, you can find out the status of your complaint by calling the ADA Information Line at 1-800-514-0301 (voice) or 1-800-514-0383 (TTY). A member of our staff will contact you to tell you if your complaint has been received and if it is still under consideration for possible action.

6. What happens if my complaint is referred for possible mediation?

The [ADA Mediation Program](#) is an important part of ADA compliance. Using professional ADA-trained mediators throughout the United States, mediation is a confidential, voluntary way to resolve ADA complaints fairly and quickly. Types of complaints most appropriate for this program include barrier removal, program accessibility, effective communication, and modification of policies, practices, and procedures. If we determine that your complaint is appropriate for mediation, we will contact you and the entity you complained about to find out if you are both willing to participate in mediation.

7. What happens if my complaint is opened for investigation?

If your complaint is opened for investigation, an investigator or attorney will be assigned and will contact you to obtain additional information.

During the investigation, the attorney or investigator will not necessarily make a determination about whether or not an ADA violation has occurred. If he or she believes there is a pattern or practice of discrimination or the complaint raises an issue of general public importance, DRS may attempt to negotiate a formal settlement of the matter, or may file a lawsuit in federal court on behalf of the United States. We do not act as an attorney for, or representative of, *the complainant*.

8. How will the information in my complaint be used?

This information collection is for the purpose of allowing the Department of Justice's Disability Rights Section (DRS) to engage in authorized civil rights compliance and enforcement activities. Providing the information is voluntary, except that failure to provide such information may result in DRS being unable to process your complaint. The Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131-12134, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, authorize the solicitation of the information for this form. DRS will not disclose your name or other identifying information about you unless it is necessary for enforcement activities against an entity alleged to have violated federal law, required to be disclosed under the Freedom of Information Act, 5 U.S.C. § 552, disclosure is permitted pursuant to the Privacy Act, or is

otherwise required by law.

For other questions, call the ADA Information Line at 1-800-514-0301 (voice) or 1-800-514-0383. ADA Specialists are available to answer questions on Monday, Tuesday, Wednesday, and Friday from 9:30 a.m. to 5:30 p.m. (Eastern Time). On Thursday, the Information Line is staffed from 12:30 p.m. to 5:30 p.m. (Eastern Time).

Paperwork Reduction Act Statement

This request is in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. § 3507. This information collection is for the purpose of allowing the Department of Justice's Disability Rights Section (DRS) to engage in authorized civil rights compliance and enforcement activities. Providing the information is voluntary, except that failure to provide such information may result in DRS being unable to process your complaint. The estimated average burden associated with this collection is 45 minutes per response, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden may be sent to DRS by email at: DRS.PRA@crt.usdoj.gov. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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[68 Fed. Reg. 47610, 611 at https://www.gpo.gov/fdsys/pkg/FR-2003-08-11/pdf/03-20342.pdf](https://www.gpo.gov/fdsys/pkg/FR-2003-08-11/pdf/03-20342.pdf)

[70 Fed. Reg. 43904 at https://www.gpo.gov/fdsys/pkg/FR-2005-07-29/pdf/05-14944.pdf](https://www.gpo.gov/fdsys/pkg/FR-2005-07-29/pdf/05-14944.pdf)

[82 Fed. Reg. 24147 at https://www.gpo.gov/fdsys/pkg/FR-2017-05-25/pdf/2017-10780.pdf](https://www.gpo.gov/fdsys/pkg/FR-2017-05-25/pdf/2017-10780.pdf)

Title II of the ADA Section 504 of the Rehabilitation Act of 1973 Discrimination Complaint Form

U.S. Department of Justice
Civil Rights Division
Disability Rights Section

OMB Control No. 1190-0009. Form Expiration Date: September 30, 2021

Instructions: Please fill out this form completely, in black ink or type. Sign and return 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:

State, and Zip Code:

City,

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 the 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?

Yes _____ No _____

Agency or Court: _____

Address: _____

City, State and Zip Code: _____

Telephone Number: _____

Additional space for answers:

Signature: _____

Date: _____

To file an ADA complaint by mail, send this completed form to:

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section
Washington, D.C. 20530

To file an ADA complaint by facsimile, fax this completed form to: (202) 307-1197

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70 Fed. Reg. 43904 at <https://www.gpo.gov/fdsys/pkg/FR-2005-07-29/pdf/05-14944.pdf>

82 Fed. Reg. 24147 at <https://www.gpo.gov/fdsys/pkg/FR-2017-05-25/pdf/2017-10780.pdf>

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