



# Handling ADA Complaints and Grievances

Strategies for Avoiding Enforcement Inquiries and Litigation

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# ADA Overview



Title I – Employment

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Title II – State and Local  
Government

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Title III – Public  
Accommodations

## Title I - Employment

This title is designed to help people with disabilities access the same employment opportunities and benefits available to people without disabilities. Employers **MUST** provide reasonable accommodations to qualified applicants or employees.





## Title II - State and Local Government

Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of state or local governments.





## Title II - Administrative Requirements

Title II requires the following of public entities to become compliant with the ADA.

All public entities must:

- Conduct a self- evaluation
- Provide public notice about the ADA

Public entities with 50 or more employees are also required to:

- Designate an employee to oversee Title II compliance
- Establish a grievance procedure
- Develop a transition plan if structural changes are necessary for achieving program accessibility





## Title III - Public Accommodations

This title prohibits private places of public accommodation from discriminating against individuals with disabilities. Examples of public accommodations include privately-owned, leased or operated facilities like hotels, restaurants, retail merchants, doctor's offices, golf courses, private schools, day care centers, health clubs, sports stadiums, movie theaters, and so on.

It also requires public accommodations to remove barriers in existing buildings where it is easy to do so without much difficulty or expense.





# Implications for HR Practitioners

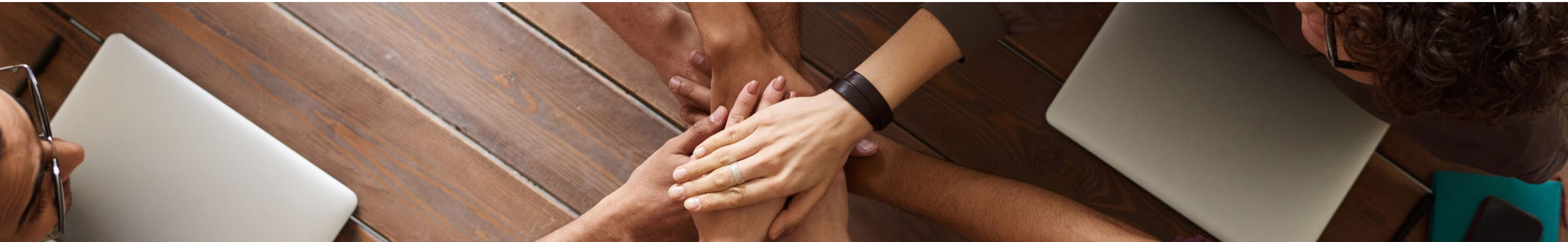




# Implications for HR Practitioners

Organizations must be equipped to provide prompt and equitable resolution of Title I and Title II grievances.

- Who qualifies?
- Handling formal vs. informal requests
- Who are my in-house stakeholders?

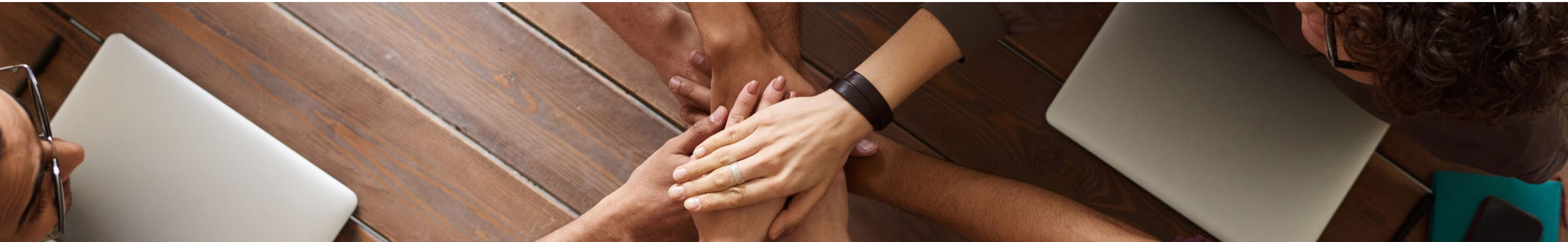




# Implications for HR Practitioners

An effective policy should include guidelines for applicants, customers and employees timelines and identify points-of-contact to obtain resolution to grievances.

- Make available to all interested members
- Post in common areas of public buildings, website, or disseminate as necessary
- Provide the notice in alternative formats





# Implications for HR Practitioners

## Attraction and Selection of Candidates

Does your organization take into account various methods or formats during application, screening and interview for a role with your agency?

Are there physical/sensory requirements for the job?

## Employee Onboarding

How are new employees made aware of processes related to your grievance procedure?

## Behavioral Health Concerns

What guidelines have been communicated to internal stakeholders to identify and offer Employee Assistance Programs (EAPs) or other forms of counseling?

## Episodic and Non-Visible Illnesses

Are programs available which safeguard employees with addiction, recovery or rehabilitation due to substance abuse?

## Permanent Restrictions

What mechanism is being used to ensure consistent application of temporary and/or alternative offerings within your organization?





## Case Study - Title I

A public works employee was involuntarily removed from work due to divulging a medical condition related to pregnancy. The department is concerned that the employee is unable to properly perform essential job functions (i.e. driving commercial vehicle, lifting, bending, stooping). After the employee provided a written complaint to HR, the public works director was provided a recommendation to allow the employee to resume work with temporary accommodation.



## Case Study - Title II

A customer arrived at a historic site for a tour for a field trip. The patron approached the facility with a registered service animal. An employee stopped the visitor and asked questions about the dog. The customer replied that it was a registered service animal, and it was determined that the dog was an emotional support animal. Staff provided instruction that the state does not recognize emotional support animals and that the customer would not be able to enter with their animal. The customer was unable to accompany their daughter on the field trip due to becoming argumentative and alleged the historic site was discriminating despite paying for a ticket for the school field trip.





# Practical Considerations for ADA Coordinators



## The grievance procedures should include:

- A description of how and where a complaint under Title II may be filed with the government entity;
- If a written complaint is required, a statement notifying potential complainants that alternative means of filing will be available to people with disabilities who require such alternative;
- A description of the timeframes and processes to be followed by the complainant and the government entity;
- Information on how to appeal an adverse decision; and
- A statement of how long complaint files will be retained





# Practical Considerations for ADA Coordinators

- What's Your Point of View?
- Strengthening Your ADA Toolkit
- How Can I Be an Effective ADA Coordinator?
- Creating Your ADA Team
- ADA Complaints and Grievances
- Minimizing Risks to Your Organization
- Be Proactive, Not Reactive





# What's Your Point of View?

- What is your perspective about your role as an ADA Coordinator?
- Why are you an ADA Coordinator?
- How do you feel when you hear the words complaint or grievance?







# Strengthening Your ADA Toolkit

- ADA Coordinator Training—Challenge yourself to participate in a variety of trainings and other educational programs on regular basis.
- Disability Community Engagement—Educate yourself about the members of your disability community and then be intentional about engaging them.
- Agency/Organizational training—Provide opportunities for your organization to participate in ADA training. Also, consider offering unconscious/implicit bias training.



# How Can I Be An Effective ADA Coordinator?

Effective ADA Coordinators:

- Study the ADA and related laws
- Understand their organization
- Seek opportunities to engage with a diverse group of people with disabilities





# How Can I Be An Effective ADA Coordinator?

- Develop skills in negotiation and mediation
- Work cooperatively with others
- Stay Organized
- Analyze the issues
- Know when to ask for help





# Creating Your ADA Team

Effectively handling an ADA complaint or grievance requires a team effort.

Who are the key players on your team?

- Organizational Leadership
- Managers
- Front-line team members
- Finance/Budget Personnel
- Facilities Management/Staff





# Creating Your ADA Team

Who are the key players on your team?

- Risk Management
- Procurement/Contracts
- Local ADA community and partnership organizations
- Members of the Disability Community
- Legal Staff
- Other ADA Coordinators







# ADA Complaints and Grievances

A complaint or grievance was filed because a person with a disability believes that the provisions of the ADA have been violated.

Therefore, when handling an ADA complaint or grievance focus on:

- Understanding why the complaint or grievance was filed
- Listening
- Conducting and documenting a thorough and impartial investigation
- Timely responses and follow-up
- Compliance with the ADA



# Minimizing Risks to Your Organization





# Be Proactive, Not Reactive

- Engage with employees, customers, contractors, and others that come into contact with your organization
- Engage members of the disability community
- Implement measures to identify and address training gaps
- Conduct self-evaluations
- Develop Transition Plans







# Commonly Used Resources

→ [ADA Best Practices Toolkit](#)

→ [EEOC Enforcement Guidance on Reasonable Accommodation](#)

→ [Job Accommodation Network](#)

→ [Southeast ADA Center](#)

→ [State of Georgia ADA Coordinator's Office](#)



Questions?





# Contact Us



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Thank you!