

Grievance Procedure Under The Americans with Disabilities Act

This Grievance Procedure is established in accordance with the Americans with Disabilities Act of 1990 (ADA). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services by or access to activities, programs or facilities of the City of New Braunfels.

Any person who believes that he or she, individually, as a member of the disabled community, has been subject to discrimination prohibited by the Americans with Disabilities Act, Sections 504 or 508 of the Rehabilitation Act of 1973, as amended, may file a complaint with the City of New Braunfels. A complaint may also be filed by a representative on behalf of such a person or group.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Scott McClelland, ADA Coordinator
550 Landa Street
New Braunfels, Texas 78130
830-221-4248
smcclelland@newbraunfels.gov

In order to have the complaint considered under ADA, the complaint must be filed no later than 60 days after:

- The name, address, and phone number of complainant;
- The name of alleged discriminating official(s), if applicable;
- The date of the alleged act of discrimination; or
- The date the person(s) became aware of the alleged act(s) of discrimination; or
- Where there has been a continuing course of conduct, the date on which that conduct was discovered;
- A statement of the complaint.

In either case, the City of New Braunfels may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for doing so.

Within 10 calendar days after receipt of the complaint, the ADA Coordinator or his designee will acknowledge receipt of the complaint. Within 15 calendar days after acknowledgement of receipt of the complaint, the ADA Coordinator or his designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or his designee will respond in writing, and where appropriate, in a format accessible

to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the city and offer options for substantive resolution of the complaint.

If the response by the ADA Coordinator or his designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the City Manager.

Within 15 calendar days after receipt of the appeal, the City Manager or his designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the City Manager or his designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the ADA Coordinator or his designee, appeals to the City Manager or his designee, and responses from these two offices will be retained by the City of New Braunfels for at least three years.

Grievance Appeals Process Under The Americans with Disabilities Act

The Department of Justice (DOJ) Title II regulation requires a public entity that employs 50 or more persons to “adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part,” but it does not mention specifically what the grievance procedures should include. 28 CFR 35.107(b). Specifically, 28 CFR 35.107(b)(4) requires the entity to have an appeals process. the City of New Braunfels grievance appeals process is as follows:

1. Complainant may appeal outcome within 15 days of the decision. He/she must:
 - a. Document the request to appeal.
 - b. Submit to Appeals Team to the ADA Coordinator for review.
2. The Appeals Team must review the reason for the appeal. Consider the following.
 - a. Violation with no resolution,
 - b. Violation with a resolution but time of barrier removal is unreasonable, and
 - c. Do not agree with the resolution.
3. The Appeals Team reviews the request to:
 - a. Determine if Agree/Disagree,
 - b. Provide rationale & supportive documentation, and/or
 - c. Provide new alternatives.
4. The Appeals Team returns the request to ADA Coordinator to:
 - a. Make necessary changes
 - b. Provide the response to the Complainant
5. The ADA Coordinator informs the Complainant of the decision.