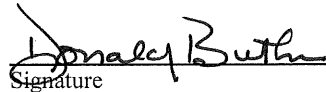


ARIZONA DEPARTMENT OF AGRICULTURE

SUBSTANTIVE POLICY STATEMENT

**AMERICANS WITH DISABILITIES ACT
GRIEVANCE PROCEDURE**


Signature

Oct. 29, 2012
Effective Date

Supersedes February 11, 2011 version

*This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

SCOPE

This Grievance Procedure has been established to meet the requirements of the Americans with Disabilities Act (Act). *See* 28 C.F.R. § 35.107(b). It may be used by anyone who is not an employee of the Department wishing to file a complaint or grievance alleging discrimination on the basis of disability in the Department's provision of services, programs, or activities, including employment practices and policies. Department employees desiring to file a complaint alleging discrimination on the basis of disability must follow the Complaint Procedures described in the Department's *Discrimination & Harassment* policy.

PROCEDURE

Most problems or complaints can be solved by clarification of rules or services between the parties involved, either through an informal or formal discussion. If this discussion does not resolve the complaint or problem in a way that is satisfactory to all parties, a formal complaint or grievance should be filed with the Department in writing.

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

Job Applicant Complaints

Formal, written complaints by job applicants alleging discrimination or harassment relating to the procedures used in the selection or evaluation process should be submitted as soon as possible, but no later than 90 days after the action giving rise to the complaint, to the Department's human resources representative at the address shown below under "Other Complaints." The Department's human resources representative shall evaluate the complaint and notify the applicant of the final action to be taken.

Other Complaints

All other formal complaints or grievance should also be submitted as soon as possible, but no later than 60 days after the alleged violation, to the Department's Americans with Disabilities Act Coordinator:

Human Resources
Arizona Department of Agriculture
1688 West Adams Street
Phoenix, Arizona 85007
(602) 542-4315
TTY: (800) 367-8939

Within 15 days after receipt of the grievance, the Coordinator or his designee will meet with the complainant to discuss the grievance and possible resolutions. Within 15 days after that meeting, the Coordinator or his designee will respond in writing, and where appropriate, in a format accessible to the complainant. The response will explain the position of the Department and offer options for substantive resolution of the grievance.

If the response from the Coordinator or his designee does not satisfactorily resolve the issue, the complainant may appeal the decision within 15 days after receipt of the response to the Director of the Department.

Within 15 days of the receipt of an appeal, the Director or his designee will meet with the complainant to discuss the grievance and possible resolutions. Within 15 days after that meeting, the Director or his designee will respond in writing, and where appropriate, in a format accessible to the complainant. The response will contain a final resolution of the grievance.

The Department will keep written grievances, appeals and responses for at least three years.

PROTECTION AGAINST RETALIATION

Any person who believes that she or he is being or has been subjected to discrimination on the basis of disability is encouraged to promptly report the conduct to the Americans With Disabilities Act Coordinator without fear of reprisal. The Department will not tolerate or permit retaliation against any person who makes a report of discrimination on the basis of disability.

OTHER RIGHTS AND REMEDIES

This Grievance Procedure does not affect other rights and remedies under federal and state statutes prohibiting discrimination on the basis of disability. Persons who believe that they have been subjected to discrimination because of their disability may also file charges of employment discrimination with the Arizona Attorney General's Civil Rights Division and with the Equal Employment Opportunity Commission. Charges filed with the Arizona Civil Rights Division must be filed within 180 days following the most recent act of discrimination; charges filed with the Equal Employment Opportunity Commission must be filed within 300 days following the most recent act of discrimination, except that allegations of discrimination because of mental disability must be filed within 180 days of the most recent act of discrimination. The filing of a complaint of discrimination pursuant to this Grievance Procedure will not toll those statutes of limitations. No person who elects to file a charge with either the Arizona Attorney General's Civil Rights Division or the Equal Employment Opportunity Commission, or who testifies in an investigation by either of those agencies, will be retaliated against or denied internal rights or remedies on account of that charge filing or testimony.

References:

Americans with Disabilities Act of 1990: 42 U.S.C. § 12101 *et seq.*, 47 U.S.C. § 225 *et seq.*

Americans with Disabilities Act Amendment Act of 2008 (ADAAA): U.S. Public Law 110-325
28 C.F.R. Part 35

28 C.F.R. § 35.107(b).

A.A.C. R2-5A-104(E)(1) & R2-5A-308.