

Rapid Research Report

What happens to civil rights complaints under the Americans with Disabilities Act during a federal government shutdown?

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Executive Summary

This report will discuss how a lapse in federal government appropriations, also referred to as a government shutdown, may impact civil rights complaints under the Americans with Disabilities Act (“ADA”). On October 1, 2025, the United States federal government entered a shutdown (“2025 Shutdown”) after Congress failed to pass appropriations legislation for the 2026 fiscal year, which started October 1, 2025.¹ The government remained in shutdown status for 43 days until November 12, 2025.² During the 2025 Shutdown, federal agencies paused several government services and furloughed hundreds of thousands of employees.³ As a result, many civil rights cases under the ADA were temporarily paused.

This report will discuss what complainants and respondents can expect during a government shutdown with respect to a civil rights complaint under the ADA. Specifically, the report will outline what complainants can expect from the federal agencies that address ADA complaints in employment, housing, and other contexts. Civil rights violations can emerge in myriad contexts outside of employment and housing. While these violations are no less significant than those discussed below, this report will primarily use employment and housing as a lens through which to view civil rights complaints under the ADA during a federal government shutdown. When relevant, the report will highlight information pertinent to the states the Rocky Mountain ADA Center serves, namely, Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

Introduction

As many readers know, individuals with disabilities who experience discrimination may file a complaint under the ADA at several federal agencies, including, but not limited to: the Equal Employment Opportunity Commission (“EEOC”), the Department of Education, the Department of Transportation, the Department of Justice Civil Rights Division (“DOJ”), and, in limited circumstances, the U.S. Department of Housing and Urban Development (“HUD”).⁴ Typically, if an individual with disabilities feels they have been discriminated against, they must file a complaint to the correct

agency within a particular timeframe, a statute of limitations, that is prescribed by statute or case law. The ADA itself does not contain an explicit statute of limitations. Therefore, the statute of limitations can depend upon which title of the ADA is invoked, the nature of an individual's claims, the relevant state's statute of limitations for analogous claims, like personal injury claims, and other factors.⁵ For example, to file an employment discrimination complaint with the EEOC under Title I, an individual must typically do so within 180 calendar days from the last date that the discrimination occurred. However, that deadline is extended to 300 calendar days if the complaint is filed with a state or local fair employment practice agency.⁶ In other areas, a person might have two years to file a complaint for a Title II ADA claim.

After receiving a complaint, also called a charge, the relevant federal agency evaluates it and acts according to its own internal procedures, which are further discussed below. During a government shutdown, agency staff reviewing charges and investigating cases are often furloughed, which pauses the review of any charge, case, or claim. The following three sections will discuss the relevant federal agencies, the complaint process at each agency, and how a civil rights complaint under the ADA might be implicated at that agency during a government shutdown.

Employment

Title I of the ADA prohibits discrimination against people with disabilities in the context of employment.⁷ The EEOC is the primary federal agency tasked with enforcing the ADA in the context of employment.⁸ By way of background, this section will briefly outline the EEOC process when the government is not in shutdown status. If an individual with disabilities believes she has been discriminated against in the context of employment, she may contact the EEOC with questions by phone, mail, or in person at regional offices throughout the country.⁹ The process of filing a charge of discrimination with the EEOC depends on whether the individual filing is a federal employee or not. If the person who believes she has been discriminated against is a federal employee, Section 501 of the Rehabilitation Act of 1973 covers that individual.¹⁰ The ADA does not directly apply to federal employees in this circumstance; however, Section 501 uses the same standards and definitions as the ADA for what qualifies as a disability.¹¹ The

definitions of “disability”, “qualified individual”, and “reasonable accommodation” are the same under Section 501 and Title I of the ADA.¹² A federal employee must first contact the Equal Employment Opportunity (“EEO”) Counselor at the agency where she works, worked, or applied for a job within 45 days.¹³ Then, the EEO counselor will provide the choice of EEO counseling or alternative dispute resolution, and the agency itself will investigate the case, rather than the EEOC.¹⁴ Once the agency has issued its final decision regarding the case, if the employee disagrees with the outcome of the case, they may appeal the decision to the EEOC or challenge it in federal district court.¹⁵

If the individual who thinks she has been discriminated against is *not* a federal employee, she may file a charge directly with the EEOC.¹⁶ The EEOC will do an initial evaluation of the charge for any procedural or timeliness issues.¹⁷ For example, if an individual employee, also called a complainant, has filed a charge too late (outside the 180- or 300- day timelines discussed herein), the EEOC cannot proceed with the case. However, if the case is timely, the EEOC will then assign an investigator to the case and send a notice of the charge to the complainant’s employer, also called the respondent.¹⁸

At this point, the EEOC may ask the employer and employee to engage in mediation to try to resolve the case.¹⁹ The timeline for the EEOC to offer mediation can depend on the circumstances of each case and could range anywhere from one week to several months. Both parties must accept the offer to mediate in order for mediation to occur. If the EEOC does not ask the parties to mediate, if one or both parties declines to mediate, or if the parties’ mediation fails, the employer is typically asked to provide a written response answering the charge, and an investigation will begin.²⁰

An investigation most often involves interviews with the complainant(s), respondent(s), and witness(es), as well as the gathering of evidence. Throughout an investigation, the EEOC seeks to determine whether reasonable cause exists to believe discrimination has occurred.²¹ After an investigation, if the EEOC is unable to find that reasonable cause exists to believe discrimination occurred, the agency will send the complainant a Notice of Right to Sue, which provides the complainant with the right to sue in court.²² A complainant who brings an employment charge under the ADA with the EEOC is unable to proceed to court without this notice.²³ If the EEOC has not resolved

a complainant's charge within 180 days of the filing of the charge, the individual may request a Notice of Right to Sue at that time.²⁴

New and Ongoing Cases at the EEOC

During government shutdowns in the past, including the 2025 Shutdown, the EEOC and other federal agencies have furloughed large portions of their staff.²⁵ During the 2025 Shutdown, the EEOC furloughed approximately 93 percent of its staff.²⁶ The EEOC's 2025 Contingency Plan, a document that federal agencies are required to publish prior to a shutdown, identified various functions that were excepted from the government shutdown, meaning such activities were required to continue by law, regardless of a shutdown status.²⁷ Practically speaking, the furlough of large numbers of EEOC staff during a shutdown means that the EEOC will not assign a staff member to process charges, schedule mediations, investigate charges, or otherwise move existing or new cases under the ADA forward. Therefore, people seeking to file a charge will typically be unable to contact the EEOC to ask questions prior to filing a charge, and it is unlikely that a complainant will hear back from the EEOC regarding their case until a shutdown ends. However, the EEOC does continue to process any appeals and other requests for reconsideration of cases during a government shutdown.²⁸ Therefore, if the EEOC has already investigated an individual's case and provided a determination that the individual disagrees with prior to a government shutdown, she may appeal that determination or file a request for reconsideration during a shutdown.²⁹ Due to the shortage of EEOC staff, these activities may take longer than they would outside of a shutdown status.

As discussed above, the EEOC enforces strict time limits on the filing of charges.³⁰ It is important to note that these time limits still apply during a government shutdown, and employees will not be excused for filing a late charge due to the shutdown, unless the EEOC or the Congress indicates otherwise.³¹ Many employees are required to file a charge with the EEOC within 180 days of the last instance of discrimination.³² However, that deadline can be extended to 300 days if the charge is filed with a state or local fair employment practice agency.³³ For example, as discussed, the federal government was in shutdown status from October 1, 2025 to November 12, 2025. If an individual last experienced discrimination on October 27, 2025, during the

2025 Shutdown, he still must file a charge with the EEOC by April 25, 2026, 180 days after the last date of discrimination, or August 23, 2026, 300 days after the last date of discrimination. Individuals with disabilities should keep these strict deadlines in mind during a government shutdown because neglecting to file a charge within the required time period may prevent the person from pursuing a claim under the ADA.

During a government shutdown, employees with disabilities may file a pre-charge inquiry or a formal charge with the EEOC if they believe the 180- or 300-day clock on their claim will expire during the shutdown.³⁴ A pre-charge inquiry is a way for the EEOC to determine if the ADA, or other anti-discrimination laws that the EEOC enforces, cover a particular individual's circumstances before filing a formal charge.³⁵ In contrast to a formal charge, filing a pre-charge inquiry does not require the EEOC to notify an individual's employer and does not start a formal investigation. On the other hand, when an individual files a formal charge, the EEOC notifies an employer within 10 days of the filing and the EEOC must promptly begin an investigation.

Typically, an individual can either file a pre-charge inquiry form provided by the EEOC or speak with an EEOC investigator.³⁶ However, during a government shutdown, complainants cannot speak with furloughed investigators and thus are only able to use the online pre-charge inquiry form. As discussed, filing this pre-charge inquiry during a government shutdown allows an individual to contact the EEOC if she thinks the time to file a charge may expire during the shutdown.³⁷ For example, during the 2025 Shutdown, the EEOC provided guidance stating that if an individual was within 60 days of the statute of limitations expiring, or if an individual was unsure of when their time may expire, they should file a pre-charge inquiry using the online EEOC Public Portal.³⁸ The EEOC indicated that it would only contact a complainant if that individual's statute of limitations was within 14 days of expiring.³⁹

During government shutdowns prior to 2025, the EEOC portal and pre-charge inquiry forms have remained open and available to the public. However, during the 2025 Government Shutdown, many individuals reported that the EEOC and other federal portals were not accepting submissions. Should this be the case during future shutdowns, individuals should continue to monitor the portal for availability, document

any attempts to file, and also consider other enforcement resources, as discussed below.

In some cases, the EEOC may choose to extend certain timelines or deadlines for particular cases. After the 2025 Shutdown, the EEOC extended certain processing timelines for federal employees by 43 calendar days, the length of time of the 2025 Shutdown.⁴⁰ Specifically, the EEOC extended timelines related to filing motions and responses, discovery requests and responses, and notices of appeal, among other deadlines.⁴¹ Extensions are rare, so it is important for all complainants to adhere to the typical non-shutdown deadlines unless or until they hear otherwise.

If a person has filed a charge with the EEOC during or shortly before a government shutdown, she will more than likely not hear anything about her case until the government shutdown ends.⁴² Individuals with a pending charge should not expect to hear any updates regarding their case until a government shutdown ends. If an individual has an active pending charge with the EEOC that was filed before a shutdown begins, all hearings, mediations, and investigations are paused during a government shutdown.⁴³ Furthermore, individuals with new or pending cases may not receive an immediate update upon the reopening of the government. This is in part due to a large backlog that is typically created during a government shutdown. For example, in the 2024 fiscal year (October 1, 2023 – September 30, 2024), the EEOC received 88,531 charges of discrimination, which results in an average of approximately 242 charges per day.⁴⁴ The 2025 Shutdown lasted 43 days, meaning EEOC employees would have a 43-day backlog of newly filed charges. Using the 2024 statistics by way of illustration, the EEOC may have received over 10,400 charges during the 43-day 2025 Shutdown. When EEOC employees returned to work upon the restoration of appropriations, they faced both the work that was slated to take place during those 43 days, such as hearings and mediations, in addition to the significant backlog of new cases generated during the 2025 Shutdown. Even if an individual does not hear anything regarding a new or pending case immediately after a government shutdown, it is prudent for complainants to continue to maintain accurate records of their case and to be on the lookout for any communication from the EEOC regarding the case.

Respondent employers should also keep case deadlines in mind. Again, because many EEOC staff members are in furlough status, they are similarly unable to communicate with respondent employers regarding a particular case until appropriations are restored. Nevertheless, the applicable deadlines in any given case still apply to respondent employers during a government shutdown unless the EEOC or Congress indicates otherwise. During a government shutdown, employers should plan to abide by all case deadlines absent any further notification from the EEOC or Congress. Finally, because complainants can file charges of discrimination throughout a government shutdown, employers may receive an influx of notifications of charges filed once the shutdown ends and appropriations are restored. With this in mind, employers may also want to monitor the status of any shutdown and be aware that they may receive a larger number of charges once it ends.

Federal Court Cases

Individuals seeking a remedy for employment discrimination under the ADA might want to look to federal courts as an alternative remedy to the EEOC when EEOC staff are furloughed during a government shutdown. In contrast to furloughed EEOC staff, federal judges and certain court staff continue to work during a government shutdown due to constitutional requirements.⁴⁵ However, it is important to note that under Title I of the ADA, an individual must first file a complaint with the EEOC before proceeding to court.⁴⁶ An employee cannot directly proceed to federal court without first filing with the EEOC and receiving a Notice of Right to Sue, discussed above.⁴⁷ This is often referred to as the ADA's requirement to "exhaust administrative remedies" prior to filing in court. Therefore, during a government shutdown, employees with potential discrimination claims should still turn to the EEOC first. If an individual has received a Notice of Right to Sue prior to the commencement of a government shutdown, it is important that the individual files a case in federal court within 90 days of receipt of the Notice of Right to Sue.⁴⁸ For example, if an individual received a Notice of Right to Sue on September 28, 2025, the individual must have filed her case in federal court before December 27, 2025. The 90-day deadline would not be extended due to a government shutdown unless the EEOC or Congress indicates otherwise.

Similar to internal agency deadlines, deadlines in federal court still apply during a government shutdown unless a party files a motion to extend a deadline and the judge grants that motion. When a federal shutdown begins, many federal attorneys who are assigned to EEOC cases in active litigation will file a motion to extend an upcoming deadline slated to take place during a shutdown. Attorneys do so because the litigation of that case is not considered an excepted activity and therefore the attorney cannot work on the matter during the shutdown.⁴⁹ If the judge grants that motion, that case is effectively paused until appropriations are restored and the government attorneys can return to work.⁵⁰ If the judge does not grant the motion, federal attorneys must continue to work on the case and that litigation would then be considered an excepted activity.⁵¹

Other Enforcement Resources

Individuals who seek other ADA enforcement resources beyond the EEOC during a government shutdown can look to state and local governments across the Rocky Mountain region, many of which have fair employment practices agencies. These agencies are responsible for enforcing a particular state's anti-discrimination laws and may be able to provide guidance regarding disability discrimination and the ADA in employment.⁵² In the Rocky Mountain region, such agencies include: the Colorado Civil Rights Division, the North Dakota Department of Labor and Human Rights,⁵³ the South Dakota Division of Human Rights,⁵⁴ and the Utah Antidiscrimination and Labor Division.⁵⁵ These agencies will continue to operate during a government shutdown as their funding is state- or local-based rather than federal.

Housing

Federal civil rights cases rooted in disability discrimination in housing are usually brought under the Fair Housing Act.⁵⁶ The Fair Housing Act prohibits discrimination based on a series of protected categories in the rental, sale, or advertising of housing.⁵⁷ Most situations that involve housing discrimination fall exclusively under the Fair Housing Act; however, limited instances of discrimination adjacent to the context of housing may also, or alternatively, fall under Titles II and III of the ADA. Title II of the ADA prohibits discrimination in state and local government programs, and Title III of the

ADA prohibits discrimination against people with disabilities in public accommodations.⁵⁸ Therefore, while most housing discrimination complaints fall under the purview of the Fair Housing Act, some also implicate the ADA.

For example, if an individual with disabilities feels they have been wrongly denied a reasonable accommodation for their disability for an assistance animal in their rental unit, the individual could file a complaint under the Fair Housing Act. If an individual who is a wheelchair user alleges that the leasing office of a rental complex is physically inaccessible, he could file a complaint under Title III of the ADA, because a leasing office is a public accommodation.⁵⁹ Public accommodations in the housing context can also include pools, gyms, and other facilities at a housing complex, if those facilities are open to the public.

HUD is the primary federal enforcement agency for violations of the Fair Housing Act, whereas DOJ is the primary federal enforcement agency for the ADA.⁶⁰ If a complaint implicates both the Fair Housing Act and the ADA, HUD and DOJ typically coordinate their efforts in investigating and litigating such a case. Depending on the statutes invoked and the specific claims, an individual may file a housing discrimination complaint with HUD and/or DOJ. Further, under Title II of the ADA, DOJ has designated HUD as the agency to investigate complaints against public housing agencies and complaints that implicate state/local housing programs.⁶¹ Therefore, both HUD and DOJ's processes during a government shutdown may be relevant for complainants, depending on their case. The intricacies of the Fair Housing Act and ADA can be complex, so individuals seeking to file a complaint under one or both of these laws should contact HUD, DOJ, or another local fair housing or disability rights organization to learn more. This section will discuss housing complaints that are brought at HUD, and the next section will discuss other complaints brought at DOJ.

The complaint and case investigation process at HUD is relatively similar to that of the EEOC. When the government is operating normally, individuals can contact HUD at any time regarding a discrimination question as it pertains to disability and whether the ADA applies.⁶² If a person has experienced discrimination, they participate in the HUD intake process to determine if HUD has jurisdiction over the alleged discrimination. If HUD has jurisdiction, the individual files a complaint, an investigator is assigned, and

the case proceeds through investigation, which includes interviews, evidence gathering, and more.⁶³ During and after the completion of the investigation, HUD may help the complainant(s) and respondent(s) conciliate the case by reaching a voluntary agreement.⁶⁴ If the parties are unable to resolve the case, HUD then determines whether reasonable cause exists to believe discrimination has occurred.⁶⁵ If HUD determines that reasonable cause exists, HUD will issue a Determination of Reasonable Cause and a Charge of Discrimination.⁶⁶ HUD then typically refers the case to DOJ to be tried before a Federal District Court or a HUD Administrative Law judge, depending on the parties' preferences.⁶⁷

New and Ongoing Cases at HUD

In the context of civil rights complaints in housing during a government shutdown, similar principles to those discussed above with respect to complaints for employment apply. Like EEOC staff, large numbers of HUD staff are furloughed during a government shutdown, as they were during the 2025 Shutdown.⁶⁸ Within HUD, the majority of staff who investigate complaints implicating the ADA in the Office of Fair Housing and Equal Opportunity are usually furloughed. Because most HUD staff who address disability discrimination complaints are typically furloughed, complainants and respondents who have an ongoing case with HUD likely will not have any communication with the agency during a government shutdown. However, individuals who have experienced disability discrimination before or during a government shutdown in the context of housing may still file a complaint with HUD during a shutdown.⁶⁹ HUD's 2025 Contingency Plan indicated that HUD's online complaint form was still available throughout the 2025 Shutdown and that complainants could alternatively mail a complaint form to the agency.⁷⁰ However, the agency noted that HUD staff would not address or answer any voicemails until appropriations were restored.⁷¹ As discussed above, if the HUD portal is not available during a government shutdown, individuals should continue to monitor the portal and consider other state and local enforcement resources.

Individuals who seek to file a complaint under the ADA should continue to keep specific deadlines in mind and continue to retain accurate records, even if they cannot contact HUD staff during a shutdown. If a complaint implicates both the ADA and the

Fair Housing Act, an individual likely has one year from the date discrimination last occurred to file a complaint with HUD and typically two years to file a complaint in state or federal court.⁷² Respondents, including housing providers, landlords, and other individuals, should also continue to keep any response or requests for evidence deadlines in mind as such deadlines are unlikely to be extended during a government shutdown.

Similar to the backlog of EEOC complaints, a housing complaint under the ADA filed at HUD during a government shutdown would likely only be addressed once appropriations are restored and staff are taken off furlough status. Along the same lines, a government shutdown may create a significant backlog of complaints that would be addressed in turn when appropriations are restored.

Federal Court Cases

Unlike complainants at the EEOC, complainants who have experienced disability discrimination in the context of housing and seek to file a complaint do not have to file an administrative complaint with HUD, nor do they have to wait for a Notice of Right to Sue to pursue claims in court. Instead, a complainant may file a complaint directly in court.⁷³ As discussed above, the statute of limitations for ADA claims under Titles II and III of the ADA can be complex and often depends on the particular facts of an individual's case and the state in which the discrimination occurred.⁷⁴ Therefore, if an individual chooses to pursue a claim in federal court, the statute of limitations associated with an ADA claim may be longer than it would be if the person pursued the claim with HUD. The benefits and challenges to pursuing a claim with HUD or in federal court often depend on the facts of each case, so complainants might want to consult additional resources to make an informed decision about which pathway may best suit their case.

Other Enforcement Resources

If individuals face long delays in the adjudication of a disability discrimination complaint in housing due to a government shutdown, they may turn to state agencies who investigate such claims. For example, an individual with a disability in Colorado

who believes they have been discriminated against under the ADA based on disability in the context of housing may file a complaint with the Colorado Civil Rights Division (“CCRD”).⁷⁵ CCRD is the Colorado state agency that enforces the Colorado Anti-Discrimination Act (“CADA”).⁷⁶ CADA prohibits discrimination based on a variety of protected classes, including disability, in housing and other contexts.⁷⁷ State agencies that address fair housing discrimination exist across the Rocky Mountain region, including: Montana Department of Labor & Industry’s Human Rights Bureau,⁷⁸ North Dakota Department of Labor and Human Rights,⁷⁹ South Dakota Fair Housing Ombudsman,⁸⁰ and the Utah Anti-Discrimination & Labor Division.⁸¹ Many Rocky Mountain states are also home to non-profit housing organizations, many of which work to eliminate disability discrimination in housing and may be able to offer other resources to individuals with disabilities. Such organizations include: Disability Law Colorado,⁸² Montana Fair Housing,⁸³ High Plains Fair Housing Center (North Dakota),⁸⁴ South Dakota Housing Development Authority,⁸⁵ and Disability Law Center (Utah).⁸⁶

Other Contexts and DOJ

Complainants who experience discrimination outside of housing or employment may bring a complaint under the ADA in a variety of other contexts, including those that implicate state and local governments, like public hospitals and public schools, or private businesses that serve the public, like restaurants, doctor’s offices, stores, and hotels.⁸⁷ However, DOJ is not responsible for all non-housing and employment complaints. For example, the Federal Communications Commission enforces Title IV of the ADA which relates to telecommunication services.⁸⁸

Outside of shutdown status, an individual can typically contact DOJ to receive assistance regarding the appropriate federal agency for their complaint. DOJ’s investigation process for an ADA complaint is also akin to that of the EEOC and HUD. DOJ reviews a complaint and may initially refer the parties to the ADA Mediation Program, a federal program that provides mediation or alternative dispute resolution to try to resolve the complaint without using the court system.⁸⁹ If DOJ finds that the complaint is best handled by the relevant federal agency that enforces the subject

matter of the complaint, DOJ may also refer the complaint to that agency or collaborate with the agency.⁹⁰ If DOJ does not refer the case to another agency or to mediation, DOJ investigates the complaint which can result in a settlement or a lawsuit in court.⁹¹ Due to high case volumes, DOJ's review of a complaint may take up to three months during a non-shutdown status.⁹²

New and Ongoing Cases at DOJ

Individuals who seek to file a new ADA complaint with DOJ during a shutdown may or may not be able to access the portal to do so. During government shutdowns prior to the 2025 Shutdown, the DOJ complaint portal remained open and available, even if potential complainants are unable to reach DOJ staff by phone or email. However, during the 2025 Shutdown, the DOJ portal was inaccessible, and many individuals were unable to file complaints. Should this happen again in the future, complainants should continue to monitor the portal or consider state and local enforcement resources.⁹³

If complainants can access the portal, they nevertheless will not hear anything from DOJ regarding a new or existing complaint until after appropriations are restored. Just like charges and complaints filed at EEOC and HUD, strict time limits apply to ADA claims and complaints with DOJ. Typically, if an individual chooses to file an administrative ADA complaint with DOJ, he likely needs to file within 180 days of the most recent instance of discrimination.⁹⁴ However, as discussed above, the time limit for a particular ADA claim may depend on the facts and circumstances of a case. As above, complainants should keep these timelines in mind, because failing to file a complaint within the relevant time period may prevent them from pursuing their claims. However, as discussed above, complainants are not required to file Title II and Title III claims with DOJ, and they may proceed to a private suit in court if desired.⁹⁵ Pursuing claims in court, rather than through the DOJ administrative process, may allow for a filing time limit that is longer than 180 days.⁹⁶

Unlike EEOC and HUD, DOJ did not suffer the same staff furloughs during the 2025 Shutdown; however, the 2025 Shutdown still impacted DOJ's work significantly. DOJ's 2025 Contingency Plan indicated that approximately 89% of DOJ staff were

exempted from furlough for various reasons, including because their activities were necessary under the law, their positions are funded by sources other than annual appropriations, and for other reasons.⁹⁷ However, within DOJ itself, the Disability Rights Section of the Civil Rights Division typically manage ADA complaints.⁹⁸ While fewer DOJ staff may be furloughed during a shutdown, complainants or respondents in an ADA case with DOJ should not necessarily expect business as usual, because large portions of staff in the Civil Rights Division are likely furloughed and prohibited from working on ADA cases during a shutdown. Attorneys assigned to disability rights cases typically cannot conduct interviews, site visits, or do any other kind of investigating during a government shutdown.

For complainants and respondents who have an active or pending ADA complaint before DOJ, their experience during a government shutdown is largely similar to that of EEOC or HUD complainants. Investigations at DOJ are paused during a government shutdown and the process is essentially frozen until appropriations are restored.

Federal Court Cases

As discussed above, an individual need not pursue an administrative complaint with DOJ prior to filing a lawsuit in court.⁹⁹ The complainant may pursue a private complaint in court independent of any agency administrative investigation. Alternatively, a complainant may have proceeded through the DOJ investigation process prior to a shutdown, and her case may be in federal court litigation after the investigation is complete. While the administrative process at DOJ may have certain advantages, including an investigation and potential representation at no cost to a complainant, pursuing a complaint privately in federal court can have other advantages. The best strategy for each case depends on the individual complainant and the facts of the case, so it is most prudent for a complainant to consider her options and discuss them with a disability rights organization or other advisor, if possible. The status of a complaint in court during a government shutdown may depend slightly on the circumstance in which a complainant finds himself. If a complainant has independently pursued a complaint in federal court, his case may proceed as normal, because many judges and court staff

continue to work during a government shutdown.¹⁰⁰ However, if an individual's case is in federal court litigation through the DOJ process with government attorney representatives from DOJ, those representatives may be furloughed and may be required to ask the assigned judge for an extension or stay of the case until the shutdown ends.¹⁰¹ Whether an extension is granted depends upon the specific judge assigned to the case.¹⁰² As discussed above, if the judge grants an extension, the case is effectively paused until appropriations are restored. If not, the case will proceed as it normally would.

Other Enforcement Resources and Changes at DOJ

As discussed above, some state and local governments in the Rocky Mountains have anti-discrimination laws that are similar to the ADA which state and local bodies enforce.¹⁰³ During a government shutdown, individuals can contact disability rights organizations, relevant state or local agencies, private attorneys, or other resources to understand what other enforcement avenues they may turn to. For example, if an individual with a mobility device is unable to board a city bus due to a lack of a functioning lift and ramp, the individual could typically contact DOJ to file a complaint under Title II of the ADA because a city bus is a local government service. If the government is in shutdown status and that person fears long wait times or other issues with an agency investigation, the individual could turn to a local disability rights organization or attorney to file a private complaint in court or contact a local or state agency that addresses discrimination complaints.

Conclusion

During a government shutdown, individuals with disabilities who experience discrimination and seek to file a complaint under the ADA should proceed as they normally would absent a government shutdown. Individuals filing complaints should identify the correct government agency for their type of claim, keep strict time deadlines in mind to preserve their rights, and continue to retain accurate records. However, individuals should not expect to hear from federal agencies regarding their cases until

appropriations are restored, and they may face longer case processing times due to the shutdown.

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