

CALTRANS GRIEVANCE SUBMITTAL & PROCESSING PROCEDURE

BRIANA PELUSO

ADA COORDINATOR

SPONSORED BY: CALTRANS OFFICE OF CIVIL RIGHTS

OVERVIEW

- **Purpose**

- To share, inform and educate California's local agencies about Caltrans ADA grievance submittal and processing procedure
- Caltrans procedures may be a template for our local agencies to utilize
- To avoid potential litigation

- **Summary**

- 28 CFR §35.107 (Code of Federal Regulations)
 - Caltrans' posted ADA grievance procedure and timelines
- Caltrans' grievance intake and processing procedure
 - Effective communication with the grievant
 - The Appeal Process
 - Closing a grievance case

28 CFR §35.107

- 28 CFR §35.107(a)
 - *Designation of responsible employee.* A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. **The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.**

28 CFR §35.107 continued

- 28 CFR §35.107(b)
 - *Complaint procedure.* A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.
- [Office of Civil Rights](#)
- [Grievance Procedure \(PDF\)](#)

The ADA Infrastructure Program

- [ADA Class Action Settlement Agreement \(PDF\)](#)
- [ADA Notice \(PDF\)](#)
- [Contact ADA Infrastructure Program](#)
- [Frequently Asked Questions \(PDF\)](#)
- [Grievance Procedure \(PDF\)](#)
- [Transition Plan](#)

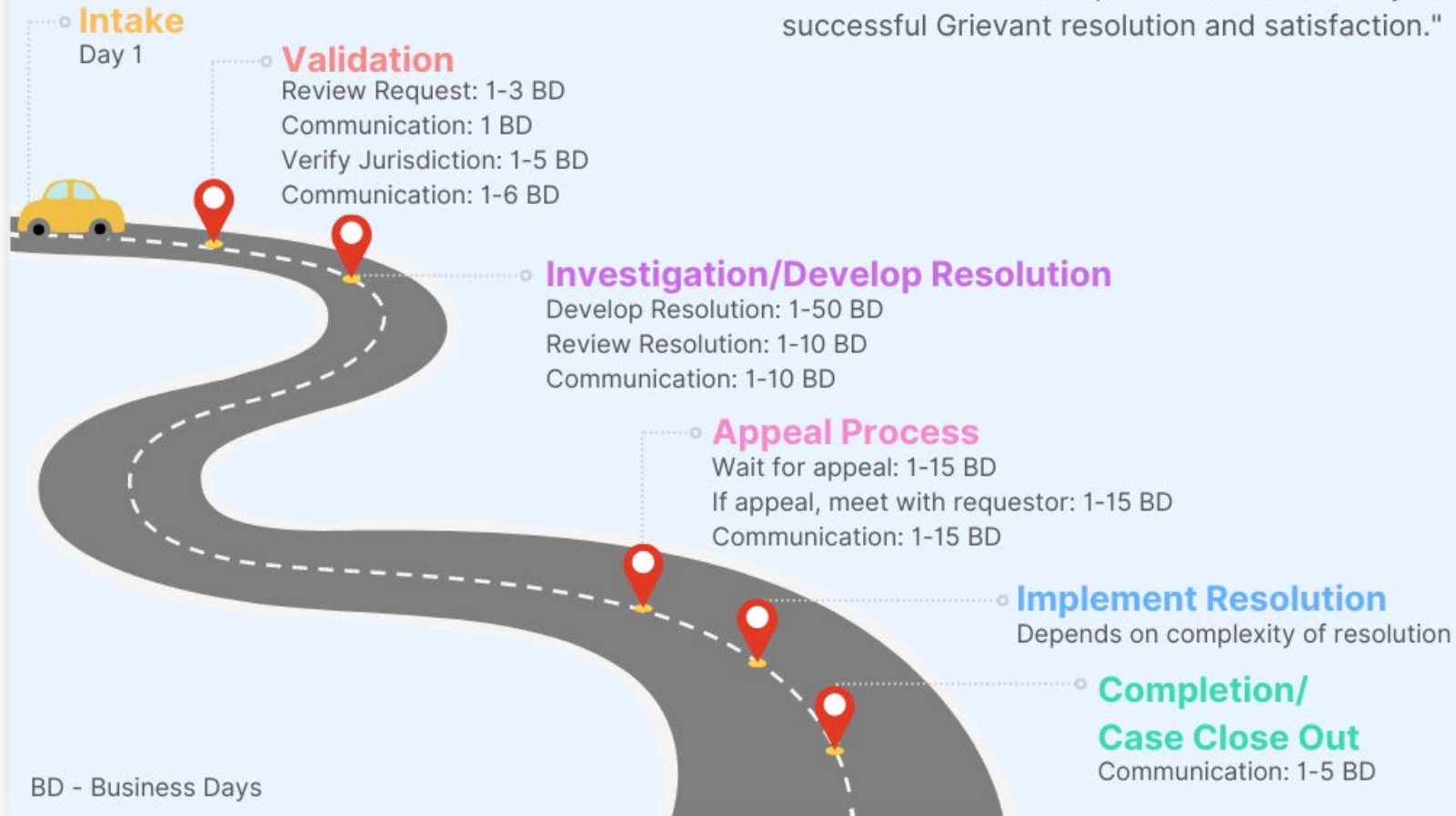
GRIEVANCE PROCEDURE

- Submittal Processes for the Public
- Intake
- Validation: Review Request/Verify Jurisdiction
 - Is it an actual ADA access request?
 - If not, identify and inform the appropriate entity
 - Does Caltrans own it?
 - If not, identify and inform the appropriate entity
 - Communication*
- Investigation and Develop Resolution
- Appeal Process
- Implement Resolution
- Completion/Case Close Out

**We have a formal correspondence template for each type of communication with the requestor and other appropriate agencies/entities/divisions.*

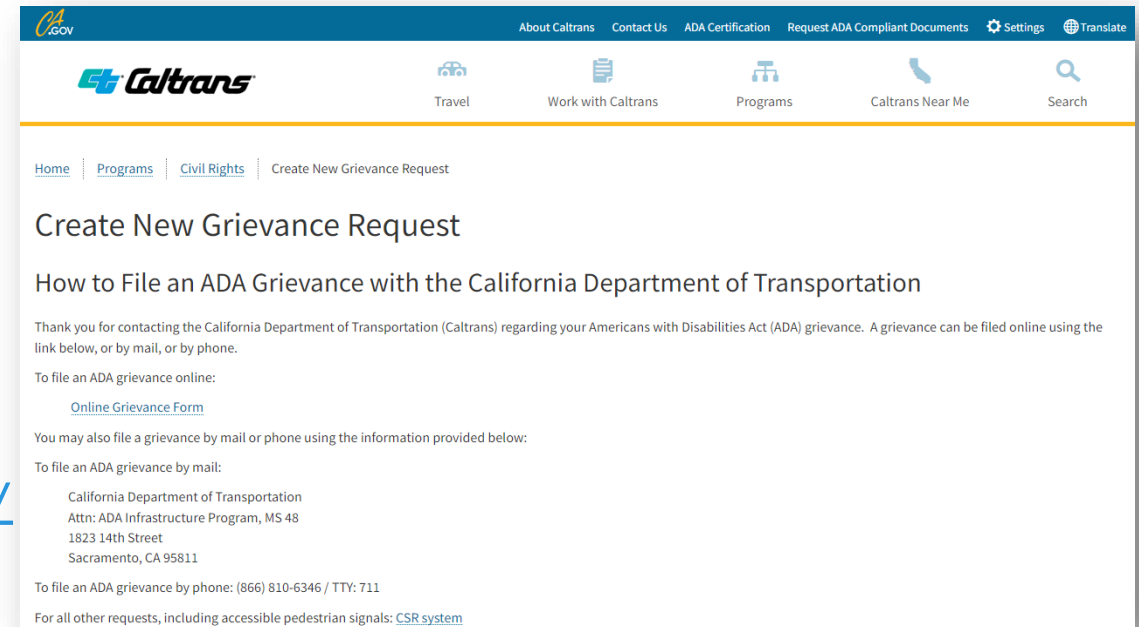
Grievance Procedure Timeline

"A well thought out Grievance Procedure is the foundation component of the roadway to successful Grievant resolution and satisfaction."



SUBMITTAL PROCESSES

- Per Caltrans' posted procedure, a grievance may be submitted one of five ways:
 - Through the online portal and database system
 - By mail
 - E-mail to ada.compliance.office@dot.ca.gov
 - Toll free ADA phone number
 - Contact the ADA Coordinator directly



**Caltrans inputs all grievances received into the database system to ensure effective communication, timelines, records and project tracking, and resolution fulfillment are achieved.*

INTAKE

- Any member of the public can submit a complaint/grievance
- Complaints/grievances submitted online are received in our database system
 - Database system assigns a case number
 - All records and correspondence are stored and referenced by individual case number
- With other methods (mail, email, to ADA Coordinator), Caltrans will input the complaints/grievances into our database system

SAMPLE CASE

The screenshot displays the ADAPT web application interface. At the top, a dark blue navigation bar contains the ADAPT logo (a wheelchair icon with the text 'ADAPT' below it) and menu items: 'Cases', 'Transition Plan', 'Reports', 'Admin', and 'Help'. Below the navigation bar is a sidebar with a dark blue header 'Request Details' and a list of menu items: 'Requester Information', 'Photos', 'Documents', 'Communication', 'Project Information', and 'Jurisdiction Verification'. The main content area shows the details for Case #: 0000011053, with a status of 'Intake' and an 'Assign Engineer' button. The case details are presented as a list of key-value pairs:

Requester	Briana Peluso
Address	123 Antelope Road at I-80 onramp, Citrus Heights, CA 95610
City	Citrus Heights
County	SACRAMENTO
District	3
Route	80
Direction of Travel	Westbound
Cross Street	Antelope
Reason	Test case
Submitted On	September 29, 2022 8:51 AM

VALIDATION: REVIEW REQUEST/ VERIFY JURISDICTION

- All requests will be validated prior to assignment and investigation
 1. The ADA Case Manager will review and validate that the request is an actual ADA access request
 2. The ADA Case Manager will validate that the request pertains to Caltrans' Infrastructure
 3. Process timeline begins upon receipt

VALIDATION

- **Does Caltrans own it?**

- Requests that do not pertain to roadways under Caltrans' jurisdiction will be forwarded to the appropriate agency or internal responsible division
- A formal letter will be sent to the requestor and the local/private agency ADA Program or ADA Coordinator
 - The requestor will be notified with the local/private agency's contact information
 - The local/private agency will be notified with the requestor's grievance and contact information
- Once forwarded, the case will be closed

VALIDATION continued

- **Other requests/complaints that are Caltrans' responsibility, but not ADA related.**
 - Will be forwarded to the internal responsible division
 - A formal letter will be sent to the requestor and the internal division
 - The requestor will be notified with the internal division's contact information
 - The internal division will be notified with the requestor's grievance and contact information
 - Once forwarded, the case will be closed
 - Common request examples:
 - Potholes
 - Landscaping
 - Closed roadways

VALIDATION continued

- **It is an ADA barrier and Caltrans owns it.**
 - Caltrans will address access requests that pertain specifically to Caltrans infrastructure (physical structures) such as sidewalks, curb ramps, signals, etc.
 - A formal acknowledgement letter will be sent to the requestor
 - Next, the case will proceed to investigation and develop resolution by assigning the case to the appropriate District ADA Engineer

INVESTIGATION AND DEVELOP RESOLUTION

- District ADA Engineer will investigate and develop a proposed resolution to remove the ADA barrier
 - The investigation process is at the discretion of the District ADA Engineer
- Upon completion of the investigation, the District ADA Engineer will work with their internal teams to add the barrier removal to an existing project or create a new project for programming
- Once the resolution is developed, the District ADA Engineer will input the proposed resolution and project information into the database system

INVESTIGATION AND DEVELOP RESOLUTION *continued*

- The database system will notify the ADA Case Managers with the proposed resolution, project and timeline
- The ADA Case Managers will review the proposed resolution
- Once confirmed, a formal letter with the proposed resolution and project information, if available, will be sent to the requestor

APPEAL PROCESS

- If the response by the Caltrans representative does not satisfactorily resolve the issue, the grievant or their designee may appeal the decision with Caltrans within 15 working days after receipt of the response
- Within 15 working days of the receipt of appeal, a Caltrans representative will meet with the grievant to discuss the grievance and possible resolutions
- Within 15 working days of that meeting, the Caltrans representative will respond in writing, and if requested, can be in an accessible format such as large print, Braille, or audio tape, with a final resolution of the grievance

**Caltrans has received minimal appeals since we started this process. The most common appeal has been related to the timeline for removal of the ADA barrier.*

IMPLEMENT RESOLUTION

- Once the proposed resolution has been agreed upon by all parties, whether there has been an appeal or not, the ADA Case Manager will assign the case to the District ADA Engineer to implement the resolution
- The ADA Case Manager will communicate with the District ADA Engineer to track the project's progress

COMPLETION/ CASE CLOSE OUT

- Once the District ADA Engineer confirms the project has been completed and the ADA barrier has been removed, the ADA Case Manager will notify the requestor of completion before closing the case
- A formal letter will be sent to the requestor to notify and summarize the completion of the ADA barrier removal
- Next, the case will be closed

ARE YOU COMPLIANT?

- **What does it mean to be at risk if your agency is non-compliant with 28 CFR §35.107?**
 - Members of the community have a legal right to submit a formal grievance if they believe they are being denied access to programs, services, and activities that your agency is responsible for
 - In the event your agency does not have a posted formal grievance submittal procedure and a listed ADA Coordinator with all contact information, you are non-compliant
 - There is a significant risk to all agencies who do not have this grievance procedure posted for potential litigation. In the event a member of the community file suit and you do not have a publicly disclosed grievance procedure, you will not be able to defend yourselves in court

RESOURCES

- [Office of Civil Rights](#)
- [ADA Infrastructure Program](#)
- [Grievance Procedure \(PDF\)](#)
- [Create New Grievance Request](#)
 - [Online Grievance Form](#)
- [FAQs \(PDF\)](#)
- [Contact Us](#)
- [28 CFR §35](#)

Contact ADA Infrastructure Program

Department of Transportation
ADA Infrastructure Program
1120 N Street, MS 48
Sacramento, CA 95814
(916) 324-1999
ada.compliance.office@dot.ca.gov

Q&A?

