

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
PROCEDURES FOR SECTION 504 AND SECTION 508 COMPLAINTS

I. Filing a Complaint

Who may file a complaint?

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance. Section 508 of the Act requires Federal agencies to ensure that all electronic and information technology is accessible to individuals with disabilities to the same extent that the technology is accessible to individuals without disabilities, unless doing so would impose an undue burden on the agency (see Notice of Rights, accessible at <https://www.fmshrc.gov/eeo-policies>).

Any person, whether a Commission employee or a member of the public, who believes that he or she has been discriminated against on the basis of a disability (either individually or as a member of a class) in violation of section 504, and/or has found the Commission's electronic and information technology to be inaccessible in violation of section 508, may file a complaint under these procedures.

What constitutes a complaint?

Complaints must be in writing, and must contain the name and contact information of the complainant and a description of the alleged discriminatory action and/or non-compliance. The Commission will keep the identities of complainants confidential except as necessary to carry out the purpose of Section 504 and/or Section 508.

Where and when must complaints be filed?

Complaints alleging violations of Section 504 or 508 shall be filed with the 504/508 Complaint Coordinator, Michael Chirico (mchirico@fmshrc.gov), within one hundred and eighty calendar days of the alleged act of discrimination or non-compliance. Complaints may be filed by email or first class mail. The complaint is deemed received on the date it is actually received by the Complaint Coordinator, or, if mailed, on the date it is postmarked.

II. Processing a Complaint

Receipt and Status Notification

Within 14 calendar days of the Commission's receipt of the complaint, the Complaint Coordinator shall notify the complainant of receipt and inform the complainant whether the complaint is (1) accepted for investigation, (2) insufficient, or (3) rejected.

If the complaint is insufficient (for example, it alleges a violation of section 508 but does not describe an instance in which Commission technology was inaccessible), the notification shall explain the insufficiency. The complainant then has 30 calendar days to remedy the complaint. If the complainant fails to do so, the complaint shall be dismissed without prejudice.

If the complaint is rejected, the notification shall explain the reason for the rejection. A complaint may be rejected if:

- The complaint is untimely;
- The issue described does not fall within the scope of section 504 and/or 508; or
- An entity other than the Commission was responsible for the alleged discrimination or non-compliance. In such instances, the Complaint Coordinator shall make reasonable efforts to direct the complainant to the appropriate entity with which to file the complaint.

Investigation of the Complaint

Complaints which are accepted shall be referred to the relevant Commission personnel for investigation. (This may include the EEO Director, Disability Program Coordinator, Section 508 Coordinator, and/or additional personnel). This investigation must afford all interested persons an opportunity to submit information relevant to the complaint. The investigator(s) shall maintain records of the investigation.

Assistance in resolving the complaint through informal means is available during this investigation (and at any time during the initial processing or appeal of the complaint).

Determination and Notification

Within 90 calendar days of the Commission's receipt of the complaint, the complainant shall be notified of the results of the investigation in a Determination Letter, which shall contain:

- Findings of fact;
- Findings as to whether a violation occurred;
- Descriptions of the remedies to be undertaken by the Commission for each violation found; and
- Notice of the right to appeal (see Part III).

III. Appeals

Complainants may appeal the findings and/or remedies stated in the Determination Letter within 30 calendar days of receipt. Appeals should be clearly marked "Appeal of Section 504 Decision" or "Appeal of Section 508 Decision," and should contain specific objections explaining why the complainant believes the initial determination was wrong. A copy of Determination Letter must be attached.

Appeals should be submitted to the Complaint Coordinator, who will then forward the appeal to the Chairman of the Commission.

The Chairman shall have access to the records of the initial investigation. Timely appeals shall be decided by the Chairman solely based on the records of the initial investigation. The Chairman shall issue a written decision in response to the appeal no later than 30 calendar days after its filing.

IV. Other Matters

Accommodations

The Commission will make appropriate arrangements to ensure that individuals with disabilities are provided reasonable accommodations, as needed, to participate in this complaint process. Requests for accommodations may be made to the Complaint Coordinator, who will forward such requests to the Commission's Disability Program Coordinator.

EEO Complaints

Commission employees or applicants should note that complaints under section 504 or 508 may also constitute a complaint under section 501 of the Rehabilitation Act, which prohibits disability-based discrimination against federal employees or applicants. Information on filing a discrimination complaint under Section 501 is available on the Commission's website (<https://www.fmshr.gov/documents/eo-discrimination-complaint-process>).