

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

IN RE: AMERICANS WITH DISABILITIES)
ACT - DESIGNATION OF)
COORDINATOR AND GRIEVANCE)
PROCEDURE)
_____)

ADMINISTRATIVE ORDER
NO: 2.14

FILED

FEB 05 2007

CHARLIE GREEN
CLERK COUNTY COURT
BY _____ D.C.

I. AUTHORITY

Federal regulations implementing the Americans With Disabilities Act of 1990 (ADA) require public entities with 50 or more employees to designate a responsible employee and adopt grievance procedures which provide for the prompt and equitable resolution of complaints alleging noncompliance with the ADA or complaints alleging any actions that would be prohibited under title II of the ADA (28 C.F.R. 35.107).

II. INTENT AND PURPOSE

It is the intent of the Twentieth Judicial Circuit to fully comply with the ADA and to assure equity, fairness and full participation in the judicial system for persons with disabilities.

The purpose of the procedure set forth in this order is to establish a mechanism for resolving complaints without requiring the complainant to resort to federal complaint procedures. Nonetheless, complainants are not required to exhaust this grievance procedure before filing a complaint at the federal level.

It is the intent of the Twentieth Judicial Circuit that complainants be consulted and advised and that communications be maintained at each step of the grievance process. It is also the intent of the Twentieth Judicial Circuit to utilize alternative dispute resolution techniques whenever required, necessary or mutually agreed upon at any point during the grievance process.

III. DEFINITIONS

- A. Americans With Disabilities Act (ADA) - Public Law 101- 336, the American With Disabilities Act of 1990, which prohibits discrimination on the basis of disability.
- B. ADA Coordinator - Same as "Responsible Employee."
- C. Disability or Persons with Disabilities - With respect to an individual, a physical or mental impairment which substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such an impairment as defined in Public Law 101-336 and 28 C.F.R. 35.104.

- D. Grievance - A formal complaint made by a person, or on behalf of a person, alleging that he or she has been subjected to unlawful discrimination or inaccessibility to facilities, programs, services, benefits or activities on the basis of a disability.
- E. Responsible Employee - An employee designated to coordinate a public entity's efforts to comply with and carry out its responsibilities under title II of the ADA. These responsibilities include any investigation and/or follow through of any complaint alleging non-compliance or alleging any actions that would be prohibited by title II of the ADA.
- F. State Courts System - All Florida courts at both appellate and trial levels.
- G. Title II - The second section of the ADA that prohibits discrimination on the basis of disability in state and local government services.

IV. **DESIGNATION OF COORDINATOR**

The ADA coordinator (who shall be the "responsible employee" as set forth above) for the Twentieth Judicial Circuit is:

Ken Kellum
Court Operations Manager
Lee County Justice Center
1700 Monroe Street
Fort Myers, Florida 33901
(239) 533-1700

V. **GRIEVANCES**

- A. A formal grievance shall be instituted by filing a complaint.
- B. Each complaint shall contain the following minimum information:
 - 1. The name, address and telephone number of the complainant on whose behalf the complaint is being made.
 - 2. The court facility in which the violation is alleged to have occurred.
 - 3. A complete statement of the grievance and the facts upon which it is based.
 - 4. The desired remedy or solution requested.

5. The names of any witnesses who can provide supportive or relevant information.

VI. **GRIEVANCE PROCEDURE**

A. Filing

1. Complaints must be filed with the ADA coordinator no later than one hundred eighty (180) days from the date of the alleged violation.
2. The filing deadline may be extended by the coordinator upon a showing of good cause made prior to the expiration of the 180 day period set forth in paragraph A.1. above.

B. Assessment and Determination of Team Members

1. The ADA coordinator will determine which functions of the court are at issue: facilities, programs, services, benefits and/or activities.
2. The ADA coordinator will notify the Chief Judge and the Court Administrator of the complaint.
3. A team consisting of at least three (3) people, one of whom must be the ADA coordinator (unless he is the subject of the complaint), shall address the complaint. Individual(s) who are charged in the complaint with alleged discriminatory conduct shall not be a member of the team.
4. The team will involve representatives from county government entities in the resolution of the complaint when the complaint involves a court facility, program, service, benefit or activity that is under the authority of or provided by county government.

C. Fact Finding

1. The team, or a member of the team, will review the complaint with the complainant.
2. The team, or a member of the team, will interview witnesses who can provide supportive or relative information and complete the fact finding.

D. Test of Legal Sufficiency

1. The team, or a member of the team, shall determine the legal sufficiency of the complaint.
2. In making any such determination, the team shall consult the Staff Attorneys' office for the Twentieth Judicial Circuit Court.

E. Action

1. If a complaint is legally deficient, the complaint shall immediately be brought to closure.
2. If a complaint is legally sufficient, the team will establish a course of action to resolve the complaint.
3. To the extent necessary, the court will make reasonable modifications to its programs, services, benefits and activities to ensure future compliance with the ADA.
4. When appropriate, and to the extent necessary, the court will work with county government to make reasonable modifications to court facilities, programs, services, benefits and activities that are under the authority of or provided by county government to ensure future compliance with the ADA.
5. The court make invoke the course of action described in the regulations implementing the ADA (28 C.F.R. 35.164) when modifications would result in a fundamental alteration in the nature of a service, program or activity or in undue financial and administrative burdens.

F. Closure, Notification and Records Retention

1. The ADA coordinator shall communicate the results of the investigation and the chosen course of action to the complainant in writing not later than thirty (30) days from the date the complaint was filed.
2. In instances where a grievance against the Twentieth Judicial Circuit is filed with the ADA coordinator of the State Courts System, the ADA coordinator shall also communicate the results of the investigation and the chosen course of action to the ADA coordinator of the State Courts System in writing not later than thirty (30) days from the date the complaint was filed.

3. A record of the grievance shall be maintained for three (3) years and shall be located with the ADA coordinator.

DONE AND ORDERED in Chambers at Fort Myers, Lee County, Florida, this 02nd day of February, 2007.

Hugh D. Hayes
Hugh D. Hayes
Chief Judge

History. - Administrative Order 2.14 (January 13, 1993); Administrative Order 2.14 (January 19, 1994); Administrative Order 2.14 (October 1, 1997); Administrative Order 2.14 (Nov. 1, 2004).

I certify this document to be
a true and correct copy of the
original on file in my office,
Charlie Green, Clerk Circuit
Court, Lee County, Florida
Dated: 2-14-07
By: Am
Deputy Clerk