

FEB 25 2014 NP/CAS

RESOLUTION
of the
ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS
regarding

NONDISCRIMINATION AND THE AMERICANS WITH
DISABILITIES ACT

RESOLUTION NO. 2014- M-07

WHEREAS, the United States federal government enacted Title VI of the Civil Rights Act of 1964 ("Title VI") to end discrimination based on race, color, or national origin, and the Americans with Disabilities Act of 1990 ("ADA") to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; and

WHEREAS, Title II of the ADA ("Title II") regulates public entities, including local governments; and

WHEREAS, Orange County, in compliance with Title VI and Title II, has established a non-discrimination policy, named an ADA Coordinator, and established a Disability Advisory Board, and builds public facilities and infrastructure in compliance with ADA standards; and

WHEREAS, in further compliance with Title II, Orange County has made, and will continue to make, reasonable accommodations to allow persons with disabilities to access county facilities, infrastructure, programs, services, and activities; and

WHEREAS, Title II does not require Orange County to take any action that would result in a fundamental alteration in the nature of county facilities, infrastructure, programs, services, or activities, or that would result in undue financial and administrative burdens; and

WHEREAS, Orange County is hereby reaffirming its commitment to compliance with the Civil Rights Act and ADA and their provisions.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY (the "BCC"):

Section 1. The foregoing premises are incorporated herein and are found to be fair and accurate statements.

Section 2. The ADA and Title II Coordinator for Orange County shall

continue to be located at the Orange County Office on Disability, 2100 East Michigan Street, 2nd Floor, Orlando, FL 32806, # 407.836.6568.

Section 3. Orange County's non-discrimination policy and complaint procedure are attached hereto as Exhibit "A."

Section 4. Any person wishing to file a complaint regarding the county's compliance with the requirements of the ADA may submit such complaint in accordance with the Grievance Procedure attached hereto as Exhibit "B."

Section 5. Orange County will continue to assure that its programs, services, and activities are being conducted in a non-discriminatory manner.

Section 6. Orange County will continue to build public facilities and infrastructure in compliance with ADA standards, and will execute a "Florida Department of Transportation (FDOT) Nondiscrimination Agreement." Such agreement is part of its certification that Orange County will comply with all standards of FDOT's "Nondiscrimination Policy Statement," attached hereto as Exhibit "C." This certification includes the assurance that Appendix A from the Nondiscrimination Policy Statement and Form FHWA 1273 will be included in all Orange County "Local Agency Partner" contracts, subcontracts, and agreements to ensure Title VI compliance.

Section 7. This Resolution shall take effect upon adoption by the Board.

ADOPTED THIS ___ DAY OF FEB 25 2014, 2014.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor

Date: 2.25.14

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: *Katil Smith*
Deputy Clerk

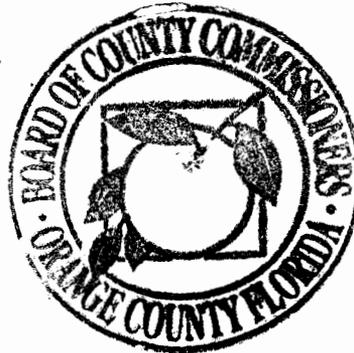


Exhibit "A"

Orange County's non-discrimination policy and complaint procedure:

It is hereby declared that equal opportunity and non-discrimination shall be the County's policy, extending equal opportunities to every person, regardless of race, religion, sex, color, age, disability, or national origin. It is also the policy of the County that persons doing business shall recognize and comply with this policy, and that the County shall not expend public funds in a manner that would encourage, perpetuate, or foster discrimination.

Any person wishing to file a complaint in connection with this policy shall present such complaint, in writing, to the Office of Professional Standards ("OPS.") Such complaint must be filed no later than sixty (60) days after the alleged incident, and shall state with specificity the alleged violation(s). OPS shall forward a copy of such complaint to the appropriate division manager, and all individuals identified therein, by hand delivery or certified mail. The individual against whom an allegation is made may respond in writing within twenty (20) calendar days from the date of receipt of the complaint. A copy of any response shall be provided by OPS to the complainant via U.S. Mail.

OPS shall conduct such investigation as deemed appropriate. If OPS finds insufficient evidence to form a belief that a violation of Orange County Code has occurred, OPS will notify the complainant and recipient of such, and take no further action. If OPS has reasonable grounds to believe a violation of Orange County Code has occurred, then conciliation shall be sought. In the event of a failure to resolve an issue through conciliation, all evidence shall be submitted to the appropriate Department / Division head for further action. Any parties not satisfied with the results of the OPS investigation and/or County action may exercise their right to file with another relevant agency, jurisdiction, or court of law.

Exhibit "B"

2-page Orange County grievance procedure attached

Grievance Procedure under The Americans with Disabilities Act

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (ADA). It may be used by anyone who wishes to file a concern alleging discrimination on the basis of disability in the provision of services, activities, or programs. The County's personnel policy governs employment related concerns of disability discrimination.

The concern should be made in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date and description of the problem. Alternative means of filing the concern, such as personal interviews or a tape recording of the concern will be made available for persons with disabilities upon request.

The concern should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged discrimination.

Grievance Notice under the Americans with Disabilities Act

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), unincorporated Orange County Government will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs or activities.

Employment: Orange County Government does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

Effective Communication: Orange County Government will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in programs, services and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: Orange County Government will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services and activities. For example, individuals with service animals are welcomed in county offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or services for effective communication, or a modification of policies or procedures to participate in a program, service, or activity should contact the department office or the ADA Program Office as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require unincorporated Orange County Government to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Concerns that a program, service, or activity is not accessible to persons with disabilities should be directed to the respective program activity office or to the ADA Program Office or designee.

Orange County will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

Within fifteen (15) days after receipt of the concern, the designated program office or designee will meet with the complainant to discuss the concern and the possible resolution. Within 15 days of the meeting, a letter shall be written and where appropriate, in a format accessible to the complainant, such as large print, Braille or audio tape. The response will explain the position of the public entity and offer options for substantive resolution.

If the response does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision with 15 calendar days after receipt of the response to an appropriate high level official.

Within 15 days after receipt of the appeal, the appropriate high level official or designee will meet with the complainant to discuss the concern and possible resolution. Within 15 days calendar days after the meeting, the appropriate high-level official will respond in writing and where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the ADA Program office or designee, appeals to the appropriate high level official or designee, and responses from these two office will be retained by Orange County records for at least three years.

Exhibit "C"

3-page Florida Department of Transportation
"Nondiscrimination Policy Statement" attached

TITLE VI/ NONDISCRIMINATION POLICY STATEMENT

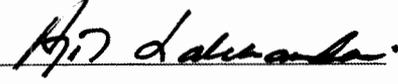
The (Name of Recipient) assures the Florida Department of Transportation that no person shall on the basis of race, color, national origin, sex, age, disability, family or religious status, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 and the Florida Civil Rights Act of 1992 be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any program or activity whether it is federally funded or not.

The (Name of Recipient) further agrees to the following responsibilities with respect to its programs and activities:

1. Designate a Title VI Specialist that has a responsible position within the organization and access to the Recipient's Chief Executive Officer.
2. Issue a policy statement signed by the Chief Executive Officer, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the Recipient's organization and to the general public. Such information shall be published where appropriate in languages other than English.
3. Insert the clauses of *Appendix A* of this agreement in every contract subject to the Acts and the Regulations
4. Develop a complaint process and attempt to resolve complaints of discrimination against sub-recipients. Complaints against the Recipient shall immediately be forwarded to the District Title VI Coordinator.
5. Participate in trainings on Title VI and other nondiscrimination authorities for the Recipient's employees and their recipients of federal highway funds.
6. Take affirmative action to correct any deficiencies found by the Florida Department of Transportation or the USDOT within a reasonable time period, not to exceed ninety (90) calendar days.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, properties, discounts or other federal financial assistance under all programs and activities and is binding on it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest and other participants in the Recipient's programs. The person whose signature appears below is authorized to sign this assurance on behalf of the Recipient.

Dated: 2.27.14

By: 

County Administrator

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

(1.)**Compliance with Regulations:** The Contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

(2.)**Nondiscrimination:** The Contractor, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3.)**Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.

(4.)**Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation*, the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, and/or the *Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the *Florida Department of Transportation*, the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, and/or the *Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.

(5.)Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the *Florida Department of Transportation* shall impose such contract sanctions as it or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
- b. cancellation, termination or suspension of the contract, in whole or in part.

(6.)Incorporation of Provisions: The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the *Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event a Contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.