

IN THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA


ADMINISTRATIVE ORDER A-2010-12-B

SECOND AMENDED ADMINISTRATIVE ORDER REGARDING THE
AMERICANS WITH DISABILITIES ACT OF 1990
(amending only the attached documents to properly name of General Counsel)

WHEREAS, the Undersigned having considered the Americans with Disability Act of 1990 and the Amendments to Florida Rule of Judicial Administration 2.540 it is therefore,

ORDERED AND ADJUDGED that the attached documents regarding the Americans with Disabilities Act of 1990; the Amendments to the Notices to Persons with Disability (as amended at Fla. R. Jud. Admin 2.540); and the internal grievance procedure as outlined herein shall apply to all courts within the jurisdiction of the Fifth Judicial Circuit.

DONE AND ORDERED in Chambers, in Brooksville, Hernando County, Florida, this 6th day of Aug., 2020.


DANIEL S. MERRITT, JR.
CHIEF JUDGE
FIFTH JUDICIAL CIRCUIT

Americans with Disabilities Act of 1990

Designation of Responsible Person and Internal Grievance Procedure for the Fifth Judicial Circuit

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 providing for prompt and equitable resolution of complaints alleging noncompliance 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 Fifth 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 this procedure is to establish a mechanism for resolving complaints without requiring the complainant to resort to federal complaint procedures. However, complainants would not be required to exhaust this grievance procedure before they could file a complaint at the federal level.

It is the intent of the Fifth Judicial Circuit that complainants be consulted and advised, and that communications be maintained, at each step of the grievance process. It is further the intent of the Fifth Judicial Circuit to engage alternative dispute resolution techniques whenever necessary and at any point in the grievance process.

III. Definitions

- A. *Americans with Disabilities Act (ADA)* - Public Law 101-336, the Americans 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 that 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 28C.F.R. §35.104.
- CI. *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.
- CII. *Office of the General Counsel* -An operational division of the Fifth Judicial Circuit.
- CIII. *Office of the Trial Courts Administrator* -The administrative office of the Fifth Judicial Circuit.
- CIV. *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 noncompliance or alleging any actions that would be prohibited by Title II of the ADA.
- CV. *State Courts System* -All Florida courts at both appellate and trial levels.
- CVI. *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 Responsible Person

The General Counsel for the Fifth Judicial Circuit is hereby designated as the ADA Coordinator for the Fifth Circuit and all complaints and/or grievance shall be sent directly to:

Roy L. Wolgamuth, Esquire
General Counsel
Lake County Courthouse
550 W. Main Street
Tavares, FL 32778

V. Grievances

A complaint shall contain the following minimum information:

- A. Name, address, and telephone number of the complainant on whose behalf the complaint is being made.
- B. The court facility in which the violation is alleged to have occurred.
- C. A complete statement of the grievance and the facts upon which it is based.
- D. The desired remedy or solution requested.
- E. The names of any witnesses who can provide supportive or relative information.

VI. Procedure for Grievances Relating to the Fifth Judicial Circuit

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 upon a show of good cause.

B. Assessment and Determination of Team Members

- 1. The ADA coordinator will determine which function(s) of the court is at issue: facilities, programs, services, benefits, or activities.
- 2. The ADA coordinator will notify the Chief Judge of the Fifth Judicial Circuit, the Trial Court Administrator and Office of the General Counsel of the complaint.
- 3. A team consisting of the ADA coordinator, the Trial Court Administrator and the General Counsel shall address the complaint. Individual(s) who are charged in the complaint with alleged discriminatory conduct shall not be a member of the team.

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 member representing the Office of the General Counsel will determine the legal sufficiency of the complaint.

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. The court may 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 not later than thirty (30) working days from the date the complaint was filed.
2. A record of the grievance shall be maintained for three (3) years; the record shall be located with the ADA coordinator.

Americans with Disabilities Act of 1990
Statement of Grievance

Name of Individual Making the Complaint _____

Address _____

City _____

State _____

Zip _____

Day Telephone _____

Evening Telephone _____

Complete the following section if the complaint is being filed by a
person other than the individual making the complaint:

Complaint Filed By _____

Title (if appropriate) _____

Firm (if appropriate) _____

Address _____

City _____

State _____

Zip _____

Day Telephone _____

Evening Telephone _____

This section is for court use only:

Date Filed _____ *Time Filed* _____

Complaint Taken By _____
Staff Person's Name

Complainant's Last Name _____

1. Name the court or court facility in which the violation is alleged to have occurred

2. Describe what happened that led to the decision to file this complaint. (If necessary, use an additional page to complete the statement.)

Complainant's Last Name _____

3. State the desired remedy or the solution requested

4. List those witnesses who can provide information that supports or is relevant to your complaint

Witness _____

Address _____

City _____

State _____

Zip _____

Day Telephone _____

Evening Telephone _____

Witness _____

Address _____

City _____

State _____

Zip _____

Day Telephone _____

Evening Telephone _____

