

**COUNTY OF SAN DIEGO
ADMINISTRATIVE MANUAL**

SUBJECT: AMERICANS WITH DISABILITIES ACT, TITLE II,
PROCEDURES AND FILING OF COMPLAINTS. ITEM
NUMBER **0010-09**

DATE: JULY 25, 2011 PAGE 1 OF 5

Purpose

To establish County-wide procedures for:

1. Compliance with the requirements of the Americans with Disabilities Act (ADA) as amended in the ADA Amendments Act of 2008, regarding access to County of San Diego **public services, programs, activities, facilities and communications** by individuals with disabilities; and
2. Documentation, investigation and resolution of all **complaints** alleging violation or failure to comply with the requirements of title II, subtitle A of the ADA, Public Law 101-336.

Background

The ADA of 1990, title II, subtitle A prohibits discrimination on the basis of disability by public entities, and applies to all public services, programs and activities provided or made available by the County. The implementing rule, 28 Code of Federal Regulations (CFR) Part 35, establishes requirements for general prohibitions against discrimination; prohibition of employment discrimination; provision of program accessibility in existing facilities and accessibility in new construction; and provision of equally effective communications to persons with disabilities by public entities.

The County is required to provide information to applicants, participants, beneficiaries, and other interested parties to inform them of their rights and protections afforded by the ADA, as they apply to County services, program and activities (§35.106 Notice).

The County, as a public entity that employs 50 or more persons, is required to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under 28 CFR Part 35, including investigation of any complaint alleging its noncompliance or alleging any actions that would be prohibited under this part of the ADA. The County is required to adopt and publish a grievance procedure providing for prompt and equitable resolution of complaints (§35.107 Designation of responsible employee and adoption of grievance procedures).

Policy

The Board of Supervisors is committed to eliminating discrimination on the basis of disability in all services, programs and activities provided or made available by the County, and to compliance with the ADA. On January 30, 1996 the Board adopted Policy F-49, Americans with Disabilities Act: Accessible Programs and Facilities. This action established County policy on facilities and program accessibility, equally effective communications, and related administrative responsibilities. The Chief Administrative Officer was directed to include in the Administrative Manual procedures required for implementation of Policy F-49.

Definitions

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Accessible: Describes a site, building, facility or portion thereof that is readily accessible to, and usable by a person with a disability, and complies with the guidelines adopted under the ADA, and with state code.

County ADA Coordinator: County employee designated by the Chief Administrative Officer to coordinate the County's efforts to comply with and carry out its responsibilities under 28 CFR Part 35, including investigation and resolution of any complaint alleging its noncompliance or alleging any actions that would be prohibited under this part of the ADA.

Departmental ADA Coordinator: Employee in a County department designated by the appointing authority to coordinate the department's efforts to comply with and carry out the department's responsibilities under the ADA, and to assist the County ADA Coordinator in the County's overall compliance efforts.

Person with a disability: A qualified individual with a disability as defined under the ADA and 28 CFR Part 35.

Program accessibility: Alternative means of providing public services, programs and activities such that a person with a disability is not excluded from participation in, or denied the benefits of the same, because facilities are inaccessible or unusable by individuals with disabilities.

Procedure

1. Notice. A notice of the County's policy of non-discrimination shall be posted in public view in every County facility. The notice shall include the name, address and telephone number of the County ADA Coordinator, and a responsible local contact, if applicable. A sample Notice is appended to this item.
2. Program and facility accessibility. Departments shall take such actions as are necessary to provide access to their services, programs and activities. Where physical changes to facilities are required or desired in order to provide program access, the department shall request funds for such activities as part of their Capital Improvement Requests. Accessibility shall be considered as an essential part of facility planning and development. The standards adopted by the Department of Justice, ADA Accessibility Guidelines (ADAAG), and the California Code of Regulations (CCR), Title 24 building standards shall be used by the County in new construction and alterations.
3. Communications accessibility. The departments shall take such actions as are necessary to insure that communications with members of the public with disabilities are as effective as communications with others. Where equipment or services are required or desired in order to provide communication access, the department shall request funds for these as part of their budget requests. Communication accessibility shall be considered as an essential part of program planning and development.

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- A. Upon reasonable notice, the departments shall furnish requested aids and/or services; such as assistive listening devices, sign language interpreters, readers, or other services or devices, to afford a person with a disability an equal opportunity to participate in and enjoy the benefits of a service, program or activity.
- B. The departments shall insure that alternate telecommunications systems, such as text telephones, open or closed captioning, relay services, or other services or devices, are available for use in communicating with persons with hearing or speech impairments, and that department personnel are aware of these systems and trained in their use.
- C. The departments shall insure that information and signage affords persons with disabilities; including mobility, vision and hearing impairments; the opportunity to obtain information as to the existence and location of accessible services, activities and facilities.

Complaint Procedure

Any person who believes that he or she is victim of discrimination on the basis of disability by the County of San Diego, or by an agent of the County, may file a complaint. A complaint form and instructions are appended to this item.

1. Accepting Complaints

- A. The departments shall insure that copies of the appended complaint forms are made available at all public locations under their control, and shall insure that department personnel are aware of the complaint procedure, and are available to assist members of the public in obtaining, completing and filing complaints.
- B. Complaints shall be accepted for delivery to the Departmental ADA Coordinator/Departmental Human Resources Officer at all County offices.

2. Filing Complaints

- A. Complaints shall be made in writing, and signed by the complainant or an authorized representative. (Complainants may authorize a County employee as their representative for the purpose of making a complaint by telephone or other telecommunication system.)
- B. Complaints should contain the complainant's name, address and telephone number, the date and location of the occurrence, and a description of the facts or circumstances resulting in the complaint.
- C. Complaints shall be filed within sixty (60) calendar days after the occurrence resulting in the complaint.

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- D. Complaints shall be filed to the County ADA Coordinator by ordinary mail, delivery, or electronic documents. Complaints shall be deemed filed as of the date of receipt by the County ADA Coordinator.
 - E. Complaints may be amended by the complainant, upon showing of good cause. Complaints and or amendments may be withdrawn by the complainant at any time. Amendments and withdrawals shall be made in writing, and shall be filed to the County ADA Coordinator by ordinary mail, delivery, or electronic request.
3. Investigation of Complaints
- A. Within ten (10) working days of receipt of a complaint, the County ADA Coordinator shall provide an acknowledgment to the complainant by telephone, ordinary mail, or electronic response (at the request of the complainant).
 - B. Within fifteen (15) working days of receipt, the County ADA Coordinator shall make a determination as to whether the complaint is timely and founded on an issue of noncompliance with the requirements of 28 CFR Part 35, and whether the complainant is a qualified individual with a disability.
 - C. If the complaint is not timely, not founded on an issue of noncompliance with 28 CFR 35, or if the complainant is not a qualified individual with a disability, the County ADA Coordinator may dismiss the complaint. The County ADA Coordinator shall provide a written explanation of the reason for the determination to the complainant.
 - D. Notwithstanding any requirements listed herein, the Departmental ADA Coordinator may investigate and seek resolution to any complaint which evinces potential risk to the County.
 - E. If the complaint is founded on an issue of noncompliance with 28 CFR 35, the County ADA Coordinator shall immediately open an investigation.
 - F. If the County ADA Coordinator opens an investigation, a copy of the complaint, and any amendments, shall be sent to the Departmental ADA Coordinator, and any individuals against whom a complaint is filed.
 - G. All County staff are required to cooperate with the investigation of a complaint.
4. Resolution of Complaints
- A. The County ADA Coordinator and the involved department(s) shall seek early resolution of complaints through informal means.

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- B. Within forty-five (45) working days of receipt of the complaint the County ADA Coordinator shall complete an investigation.
- C. As an interim measure, the County ADA Coordinator may require the involved department(s) to implement immediate programmatic changes in the provision of services, programs and activities.
- D. The County ADA Coordinator shall prepare a written report to the Chief Administrative Officer. This report shall include a description of the complaint, findings of fact, a description of any corrective actions taken, and recommendations. The County ADA Coordinator shall insure that the complainant and all parties to the complaint receive copies of the report.
- E. Copies of complaints and reports of resolution shall be maintained on file at the office of the County ADA Coordinator for a period of three years, and shall be made available upon request to interested members of the public, subject to County policy on release of public documents.

Approved



Walter F. Ekard
Chief Administrative Officer

Responsible Department(s)
Department of Human Resources