

APPENDIX A – POLICY & PROCEDURES MEMO



October 4, 2017

Mr. Mitchell S. Austin, AICP, CNU-A
Urban Planner/Bicycle & Pedestrian Coordinator
City of Punta Gorda
326 W. Marion Avenue
Punta Gorda, FL 33950

Subject: Agreement U2015102, City of Punta Gorda – Final Report on Review of ADA Policies and Procedures Including Policies and Processes Suggestions for Adoption or Consideration

Dear Mr. Austin:

As required by Task 4 under the ADA Transition Plan project for the City of Punta Gorda, Tindale Oliver has reviewed the requirements for policies and procedures necessary for the City to be compliant with the requirements of the Americans with Disabilities Act (ADA). The following information provides suggestions and determinations concerning the policies, procedures, and practices either currently employed by the City or our suggested actions to meet minimum ADA requirements and to achieve full compliance with the law.

Normally, a public entity's policies and practices are reflected in its laws, ordinances, regulations, administrative manuals or guides, policy directives, and memoranda. Other practices, however, may not be recorded and may be based on local custom. Our review of the existing City policies and procedures as published or posted for public review included an interview of Mr. Philip Wickstrom, Human Resources Manager on September 20, 2016, to discuss the review of policies and procedures. Mr. Wickstrom is the City's designated ADA Coordinator.

The City has identified its policies and practices and appears to have analyzed whether these policies and practices adversely affect the full participation of individuals with disabilities in its programs, activities, and services. In this regard, the City should be mindful that although its policies and practices may appear harmless, they may result in denying individuals with disabilities the full participation of its programs, activities, or services and should be systematically reviewed over time to ensure changed environments or processes have not affected policies or procedures. Areas that need careful examination include the following:

- 1) The City must examine each program to determine whether any physical barriers to access exist. It should identify steps that need to be taken to enable these programs to be made accessible when viewed in their entirety. If structural changes are necessary, they should be included in the ADA Transition Plan.
- 2) The City must review its policies and practices to determine whether any exclude or limit the participation of individuals with disabilities in its programs, activities, or services. Such policies or practices must be modified, unless they are necessary for the operation or provision of the program, service, or activity. The self- evaluation should identify policy modifications to be

implemented and include complete justifications for any exclusionary or limiting policies or practices that will not be modified.

3) The City should review its policies to ensure that it communicates with applicants, participants, and members of the public with disabilities in a manner that is as effective as its communications with others. If the City communicates with applicants and beneficiaries by telephone, it should ensure that TDD's or equally effective telecommunication systems are used to communicate with individuals with impaired hearing or speech. Finally, if the City provides telephone emergency services, it should review its policies to ensure direct access to individuals who use TDD's and computer modems.

4) The City should review its policies to ensure that they include provisions for screen readers for individuals with visual impairments; interpreters or other alternative communication measures, as appropriate, for individuals with hearing impairments; and amanuenses for individuals with manual impairments. A method for securing these services should be developed, including guidance on when and where these services will be provided. Where equipment is used as part of the City's program, activity, or service, an assessment should be made to ensure that the equipment is usable by individuals with disabilities, particularly individuals with hearing, visual, and manual disabilities. Additionally, the City should have policies that ensure that its equipment is maintained in operable working order.

5) A review should be made of the procedures to evacuate individuals with disabilities from City buildings during an emergency. This may require the installation of visual and audible warning signals and special procedures for assisting individuals with disabilities from a facility during an emergency.

6) A review should be conducted of the City's written and audio-visual materials to ensure that individuals with disabilities are not portrayed in an offensive or demeaning manner.

7) If the City operates historic preservation programs, it should review its policies to ensure that it gives priority to methods that provide physical access to individuals with disabilities.

8) The City should review its policies to ensure that its decisions concerning a fundamental alteration in the nature of a program, activity, or service, or a decision that an undue financial and administrative burden will be imposed by Title II, are made properly and expeditiously.

9) The City should review its policies and procedures to ensure that individuals with mobility impairments are provided access to public meetings.

10) The City should review its employment practices to ensure that they comply with other applicable nondiscrimination requirements, including section 504 of the Rehabilitation Act and the ADA regulation issued by the Equal Employment Opportunity Commission.

11) The City should review its building and construction policies to ensure that the construction of each new facility or part of a facility, or the alteration of existing facilities after January 26, 1992, conforms to the standards designated under the Title II regulation.

12) A review should be made to ascertain whether measures have been taken to ensure that employees of the City are familiar with the policies and practices for the full participation of individuals with disabilities. If appropriate, training should be provided to employees.

13) If the City limits or denies participation in its programs, activities, or services based on drug usage, it should make sure that such policies do not discriminate against former drug users, as opposed to individuals who are currently engaged in illegal use of drugs. Should the City identify policies and practices that deny or limit the participation of individuals with disabilities in its programs, activities, and services, it should take immediate remedial action to eliminate the impediments to full and equivalent participation. Structural modifications that are required for program accessibility should be made as expeditiously as possible and in concert with the final ADA Transition Plan.

Notice to the public. On its web site, the City has published a statement on the ADA Compliance page of the Human Resources section, that adequately defines the non-discrimination requirements under Title I of the ADA (Employment), but the City must also provide information on Title II's requirements to applicants, participants, beneficiaries, and other interested persons. The notice shall explain Title II's applicability to the City's services, programs, or activities. The City shall provide such information as the head of the City determines to be necessary to apprise individuals of Title II's prohibitions against discrimination. We have worked with the City to draft an acceptable statement to be published at the City's discretion.

Methods used to provide information include the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the City's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio. In providing the notice, the City must comply with the Title II requirements for effective communication, including alternate formats, as appropriate.

The ADA requires that a public agency that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and fulfill its responsibilities under Title II, including the investigation of complaints. Also required by the ADA, the City must adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by Title II. The City has provided a posting of the grievance procedure on its web site for public access.

The City must make available the name, office address, and telephone number of any designated employee. As mentioned earlier, Mr. Philip Wickstrom is the designated ADA Coordinator for the City. This information is provided in the ADA non-discrimination statement and again in the grievance procedure posting on the City's web site.

The notice is required to include relevant information regarding Title II of the ADA, and how it applies to the programs, services, and activities of the public entity. The target audience for the public notice includes applicants, beneficiaries, and other people interested in the City's programs, activities, or services. The audience is expansive and includes everyone who interacts, or would potentially interact, with the City of Punta Gorda.

Although an acceptable draft statement has been drafted and discussed with City staff, the following sample notice should generally be a one page document in standard sans serif font and include brief statements about:

- employment;
- effective communication;
- making reasonable modifications to policies and programs;
- not placing surcharges on modifications or auxiliary aids and services; and
- filing complaints.

SAMPLE NOTICE:

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

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

Employment: the City of Punta Gorda 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: the City of Punta Gorda will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City of Punta Gorda 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: the City of Punta Gorda 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 the City of Punta Gorda offices, even where pets are generally prohibited.



Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Punta Gorda, should contact the office of **[Mr. Philip Wickstrom, ADA Coordinator]** as soon as possible but no later than 48 hours before the scheduled event.

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

Complaints that a program, service, or activity of the City of Punta Gorda is not accessible to persons with disabilities should be directed to **[Mr. Philip Wickstrom, ADA Coordinator]**.

The City of Punta Gorda 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.

How and where should the notice be provided?

It is the obligation of the City of Punta Gorda to determine the most effective way of providing notice to the public about their rights and the public entity's responsibilities under the ADA.

Publishing and publicizing the ADA notice is not a one-time requirement. The City should provide the information on an ongoing basis, whenever necessary. If used, the radio, newspaper, television, or mailings, the notice should be re-published and re-broadcast periodically.

Some Ways to Provide Notice to Interested Persons

- Include the notice with **job applications**
- Publish the notice periodically in **local newspapers**
- Broadcast the notice in public service announcements on **local radio and television stations**
- Publish the notice on the government entity's **website** (ensure that the website is accessible)
- Post the notice **at all facilities**
- Include the notice in **program handbooks**
- Include the notice in **activity schedules**
- Announce the notice at **meetings** of programs, services, and activities
- Publish the notice as a **legal notice** in local newspapers
- Post the notice in bus shelters or other **public transit stops**

Establishing and Publishing Grievance Procedures

Local governments with 50 or more employees are required to adopt and publish procedures for resolving grievances arising under Title II of the ADA. Grievance procedures set out a system for resolving complaints of disability discrimination in a prompt and fair manner.

Neither Title II nor its implementing regulations describe what ADA grievance procedures must include. However, the Department of Justice has developed a model grievance procedure that is included at the end of this chapter.

The grievance procedure should include:

- a description of how and where a complaint under Title II may be filed with the government entity;
- if a written complaint is required, a statement notifying potential complainants that alternative means of filing will be available to people with disabilities who require such an alternative;
- a description of the time frames and processes to be followed by the complainant and the government entity;
- information on how to appeal an adverse decision; and

- a statement of how long complaint files will be retained.

Once a state or local government establishes a grievance procedure under the ADA, it should be distributed to all agency heads. Post copies in public spaces of public building and on the government's website. Update the procedure and the contact information as necessary.

In addition, the procedure must be available in alternative formats so that it is accessible to all people with disabilities.

SAMPLE GRIEVANCE PROCEDURE NOTICE

CITY OF PUNTA GORDA GRIEVANCE PROCEDURE NOTICE 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 complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of Punta Gorda. The City of Punta Gorda's Personnel Policy governs employment-related complaints of disability discrimination.

The complaint should be 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 complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint 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 violation to:



Mr. Philip Wickstrom
ADA Coordinator and Human Resources Manager
326 West Marion Avenue, Punta Gorda, FL 33950

Within 15 calendar days after receipt of the complaint, Mr. Wickstrom, or his designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, Mr. Wickstrom, or his designee will respond in writing, 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 City of Punta Gorda and offer options for substantive resolution of the complaint.

If the response by Mr. Wickstrom, or his designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the **[City Manager/County Commissioner/ other appropriate high-level official]** or **[his/her]** designee.

Within 15 calendar days after receipt of the appeal, the **[City Manager/County Commissioner/ other appropriate high-level official]** or **[his/her]** designee will meet with the complainant to

discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the **[City Manager/County Commissioner/ other appropriate high-level official]** or **[his/her]** designee 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 Mr. Wickstrom, or his designee, appeals to the **[City Manager/County Commissioner/ other appropriate high-level official]** or **[his/her]** designee, and responses from these two offices will be retained by the **[public entity]** for at least three years.
