GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2008-69
April 25, 2008

SUBJECT: Designation of the Office of Disability Rights to Coordinate the Americans with Disabilities Act Compliance Program in the District of Columbia and Assignment of Related Responsibilities to Other District Government Agencies

ORIGINATING AGENCY: Office of Disability Rights

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(11), and section 3(b)(1) of the Disability Rights Protection Act of 2006, effective March 8, 2007 (D.C. Law 16-239; D.C. Official Code § 2-1431.02(b)(1) (2007 Repl.), and in accordance with the provisions of the Americans with Disabilities Act (ADA), approved July 26, 1990, 104 Stat. 327, 42 U.S.C. § 12101 *et seq.*, it is hereby **ORDERED** that:

I. Purpose

The purposes of this Order are to designate an agency of the District of Columbia government as the coordinating agency for ADA purposes, and to assign related responsibilities to other District government agencies.

II. Designation

The Office of Disability Rights (ODR) is hereby designated to coordinate and oversee compliance with the ADA by agencies of the District government.

III. Functions

A. All District of Columbia agencies shall:

1. Appoint an agency ADA Coordinator;

2. Complete an ADA self-evaluation to determine the status of ADA Compliance;

3. Prepare an annual ADA implementation plan;

4. Submit ADA self-evaluation and annual implementation plan for approval to ODR, 441 4th Street N.W., Suite 729 N, Washington, D.C. 20001, by July 1st of each year;

5. Adopt policies and procedures to provide effective communication and reasonable modifications of policies for people with disabilities under the ADA;

6. Adopt policies and procedures to provide reasonable accommodations for employees and applicants with disabilities under the ADA; and

7. Establish and publish uniform grievance procedures for prompt and equitable resolution of complaints alleging violations of the ADA.

B. Specified Agency Functions:

1. The Office of Disability Rights shall:

a. Be responsible for providing training and technical assistance to government entities regarding compliance with the ADA;

b. Provide technical assistance to the Public Service Commission, which is responsible for ensuring that companies offering telephone services to the general public comply with the ADA;

c. Provide technical assistance to all District government agencies for the development of their ADA self-evaluation and implementation plans;

d. Provide disability sensitivity and disability rights training to District government agencies;

e. Coordinate and facilitate the provision of sign language interpretation, real-time captioning, Braille, taped text, and other auxiliary aids for people with disabilities by District government agencies;

f. Provide informal pre-complaint investigation and dispute resolution regarding disability rights disputes involving District government agencies;

g. Provide disability rights expertise to the Office of Human Rights, Department of Human Resources, Office of Property Management, Department of Consumer and Regulatory Affairs, Department of Transportation, and other District government agencies in developing disability-related policies, procedures, practices, and facilities;

h. Coordinate the efforts District government agencies involved with providing services to people with disabilities in institutional and

community-based settings, and develop and oversee the District government's Olmstead Plan; and

i. Assess and evaluate the compliance of District government agencies with the ADA and other disability rights laws.

2. The Office of Human Rights (OHR) shall:

   a. Provide awareness and sensitivity training to private employers to encourage the hiring of persons with disabilities; and provide technical assistance to private employers regarding reasonable accommodations for employees with disabilities;

   b. Answer specific questions of private employers regarding available accommodations for employees with specific needs;

   c. Investigate complaints and charges of disability discrimination and enforce compliance with the ADA, the federal Fair Housing Act (FHA), the federal Rehabilitation Act of 1973, the Human Rights Act of 1977 (D.C. Law 2-38; D.C. Official Code §§ 2-1401.01 *et seq.*), and Mayor's Order No. 75-230, dated October 31, 1975;

   d. Exercise jurisdiction over complaints and allegations of discrimination based on disability, seeking conciliation and settlement before the adjudication of liability and determination of remedies.

   e. Take necessary and appropriate steps to ensure that all labor, employment, and training service programs administered, implemented, or conducted by the District government are (i) submitted to the OHR ADA Compliance Officer for review and (ii) comply with the provisions of the ADA; and

   f. Take necessary and appropriate steps so that procedures for equal employment opportunity and access enforcement are adequate to protect persons with disabilities against unlawful discrimination.

3. The Department of Human Resources (DCHR) shall:

   a. Review and modify any employment criteria or tests that unlawfully screen out qualified applicants with disabilities;

   b. Take appropriate steps to ensure that recruitment and outreach efforts for the filling of vacancies include persons with disabilities;

   c. Through the Office of Labor Relations and Collective Bargaining, review all contracts and agreements with labor unions,

organizations providing training, and apprenticeship programs for compliance with Title I of the ADA, and recommend changes when appropriate;

d. Review and amend, as necessary and appropriate, grievance procedures for District government job applicants and employees with disabilities;

e. Review and amend, as necessary and appropriate, policies on pre-employment physical examinations, so that such examinations do not discriminate against applicants with disabilities;

f. Accept referral of employees who, because of disabilities, require assistance in job restructuring or placement into different work settings; and

g. Establish guidelines and review requests for reasonable accommodations.

4. The Office of Property Management (OPM) shall:

a. Provide assistance with regard to the removal of existing architectural or structural barriers to accessibility in buildings owned or occupied by the District government; and provide guidance and direction in the design and construction of new facilities, streets, sidewalks, ramps, or other infrastructure standards;

b. Take measures to ensure that all physical sites, buildings, and attendant facilities constructed by the District government comply with provisions of the FHA, the ADA, and the Rehabilitation Act of 1973, relative to accessibility of facilities;

c. Take measures to ensure that all physical sites, buildings, and attendant facilities proposed to be leased or purchased by the District government comply with the ADA, the Rehabilitation Act of 1973, and the FHA relative to accessibility of facilities; and

d. Provide technical assistance to non-governmental entities regarding compliance with Title III of the ADA.

5. The Department of Consumer and Regulatory Affairs (DCRA) shall:

a. Provide assistance to agencies in regard to the enforcement and interpretation of building codes and specifications on all properties owned or occupied by District government agencies and programs;

b. Take appropriate measures to enforce and provide that permits for new construction and major renovation of all public and private buildings conform to the ADA; and

c. Approve reasonable modifications of building code, zoning, and other regulations within DCRA's purview when called for by the ADA and FHA.

6. The District Department of Transportation shall:

a. Take appropriate measures to provide for compliance with Subtitle B (public transportation) of Title II of the ADA;

b. Take measures to ensure that all streets, sidewalks, and attendant facilities owned or occupied by the District government comply with the provisions of Title II of the ADA; and take any measures necessary to remove architectural barriers in streets, sidewalks, and attendant facilities owned or occupied by the District government; and

c. Designate the District of Columbia representatives to serve on the regional Paratransit Coordinating Committee, which advises the Washington Metropolitan Area Transit Authority regarding compliance with ADA public transportation requirements.

7. The Office of Risk Management shall:

a. Review claims, determine eligibility, and provide disability related workers compensation for District employees;

b. Provide return-to-work planning for District employees with disabilities receiving disability related workers compensation; and

c. Plan and oversee emergency evacuation planning for District agencies to ensure inclusion of individuals with disabilities.

IV. Citizens Advisory Body

The District of Columbia Commission on Persons with Disabilities (formerly, the Mayor's Committee on Persons with Disabilities) shall:

1. Serve in an advisory capacity to ODR in coordinating District government compliance with the ADA; and

2. Prepare and submit to the ODR Director an annual report on District government ADA compliance three months after the end of each calendar year.

V. Applicability

The provisions of this Order shall be applicable to every department or agency under the direction and authority of the Mayor and all other District government agencies, whether or not under the direction and authority of the Mayor, with respect to operations that serve citizens of the District of Columbia.

VI. Privileges and Obligations

Nothing in this Order is intended to create any legal rights or privileges in any third parties. This Order is also not intended to impose upon the District government any obligations other than as may apply to public entities under the ADA.

VII. Repeal

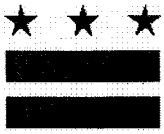
This Order repeals Mayor's Order 2006-58, dated May 23, 2006.

VIII. EFFECTIVE DATE: This Order shall become effective immediately.

ADRIAN M. FENTY
MAYOR

ATTEST: _____
STEPHANIE D. SCOTT
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Legal Counsel Division

MEMORANDUM

TO: **Eve L. Hill**
Director
Office of Disability Rights

FROM: **Wayne C. Witkowski**
Deputy Attorney General
Legal Counsel Division

DATE: **April 9, 2008**

SUBJECT: **Draft Mayor's Order Designating ODR as ADA Coordinating Agency (AM-06-195 B)**

This responds to your request that this Office review the above-referenced draft Mayor's Order (Order) for legal sufficiency.

The Order[1] would, principally, designate the Office of Disability Rights to coordinate and oversee the District government's compliance with the Americans with Disabilities Act of 1990 (ADA), approved July 26, 1990, 104 Stat. 327, 42 U.S.C. § 12101 *et seq.*, and assign ADA-related responsibilities to other District government agencies.[2]

I find the attached revised draft of the Order[3] to be legally sufficient.[4]

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[1] The Order is authorized by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, D.C. Official Code § 1-204.22(11) (2006 Repl.), and section 3(b)(1) of the Disability Rights Protection Act of 2006, effective March 8, 2007, D.C. Law 16-239, D.C. Official Code § 2-1431.02(b)(1) (2007 Repl.).

[2] The Order would also repeal Mayor's Order 2006-58, dated May 23, 2006, which designated the Office of Risk Management as the coordinating agency for ADA purposes.

[3] The revised draft reflects comments by Assistant Attorney General John J. Grimaldi, II, Legal Counsel Division, as approved by you.

[4] The Order has also been approved as to form by the Office of Documents and Administrative Issuances.

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If you have questions regarding this memorandum, please contact either Mr. Grimaldi at 724-5198, or me at 724-5524.

WCW/jjg

Attachment (as stated)