

# Transportation Disadvantaged Local Coordinating Board Member Guidebook

January 2018

# CONTENTS

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TRANSPORTATION DISADVANTAGED INTRODUCTION	1
THE ROLE OF THE PLANNING AGENCY	3
PLANNING TASKS & DUE DATES	5
LOCAL COORDINATING BOARD MEMBERS	9
FLORIDA STATUTE CHAPTER 427	12
RULE CHAPTER 41-2	32
CTD COMMISSIONERS & ADVISORS	45
LCB AND PLANNING AGENCY OPERATING GUIDELINES	48
LCB BYLAWS	57
LCB GRIEVANCE GUIDELINES FOR TD SERVICES	64
LCB COMPLAINT & GRIEVANCE PROCEDURES	72
SUNSHINE LAW OPEN GOVERNMENT UPDATE	76
SUNSHINE LAW OVERVIEW	82
FLORIDA STATUTE CHAPTER 286 (SUNSHINE LAW)	100
FLORIDA STATUTE CHAPTER 112 (VOTING CONFLICTS)	102
GLOSSARY OF TERMS AND ABBREVIATIONS	104
TD PROGRAM OVERVIEW	119

## **Transportation Disadvantaged**

### **Who are the Transportation Disadvantaged (TD)?**

The ability to access transportation is vital to our quality of life. Those persons who are unable to transport themselves or purchase transportation due to physical or mental disability, income status, or age are considered transportation disadvantaged. These members of the community are therefore dependent upon others to obtain access to health care and social services, education, employment, shopping and other life sustaining activities.

**The Florida Commission for the Transportation Disadvantaged (FCTD)** is the policy setting board that is legislatively responsible for oversight and coordination of transportation disadvantaged services statewide. The mission of Florida's TD program is to ensure the availability of efficient, cost-effective, and quality transportation services for transportation disadvantaged persons. Responsibilities of the FCTD include:

- Develop policies and procedures for the coordination of governmental funding for transportation disadvantaged services
- Appoint all Community Transportation Coordinators (CTCs), and approve Memorandum of Agreement/Transportation Disadvantaged Service Plans
- Develop standards for the CTC and operators, and minimum performance standards for the delivery of services
- Manage and oversee the TD Trust Fund

More information about the FCTD is available at their website: <http://www.dot.state.fl.us/ctd/>.

### **Why coordinate human service transportation?**

It is a common sense approach for eliminating duplication and fragmentation. It allows for building of local coalitions, promoting increased support from locally elected officials and contributing to people's quality of life.

### **What is the Transportation Disadvantaged Local Coordinating Board (LCB)?**

The Transportation Disadvantaged LCB was established in Broward County in 1990 by the Broward Metropolitan Planning Organization, as the Local Coordinating Board (**LCB**) for Transportation Disadvantaged Services. The LCB serves to identify local service needs and provide information, advice and direction to the Community Transportation Coordinator (**CTC**) on the coordination of services to be provided to the transportation disadvantaged. The LCB focuses on compliance with state requirements for transportation disadvantaged planning and ensuring that public transportation is accessible to everyone, including the transportation

disadvantaged. The LCB appoints a Grievance Committee to hear and investigate complaints from agencies, users, transportation operators, potential users of the system, and the CTC; make recommendations to the Coordinating Board or to the FCTD, when local resolution cannot be found, for improvement of service. All meetings are open to the public and listed on the MPO Calendar.

The Florida Administration Code (FAC) 41-2.012 establishes the membership composition for the local coordinating boards, which includes representatives of health and human services agencies, the elderly and disabled, citizens and a representative from the private transportation industry.

### **What is the Community Transportation Coordinator (CTC)?**

The Community Transportation Coordinator is the entity that ensures that transportation services funded through federal, state and local sources are coordinated countywide to achieve cost-effectiveness and efficiency. Together, the Broward MPO and the CTC develop the Transportation Disadvantaged Service Plan (**TDSP**). The objectives of the TDSP are consistent with state and local legislative and administrative requirements, and provide a blueprint of transportation disadvantaged services with a framework for service performance evaluation to meet the needs of the community. Since 1990, the Broward County Board of County Commissioners has been the designated CTC, operating through Broward County Transit (**BCT**)/Paratransit Services. BCT's TOPS Program is the provider of transportation services for TD eligible persons. More information about Paratransit services is available at the BCT website: <http://www.broward.org/BCT>.

## **The Planning Agency**

### ***What does the Planning Agency Do?***

**Learning Objectives:** Understand the role of the Designated Official Planning Agency in serving the Local Coordinating Board in facilitating meetings and conducting business.

### **Designation**

The Designated Official Planning Agency is the official body designated by the Commission to fulfill the functions of transportation disadvantaged planning. Metropolitan Planning Organizations serve as the official planning agency in urbanized areas. In areas not covered by a Metropolitan Planning Organization, agencies eligible for selection as Planning Agencies include County or City governments, Regional Planning Councils, Metropolitan Planning Organizations from other areas, or Local Planning Organizations who are currently performing planning activities in the designated service areas. The continuation of designation by the Commission is conditioned on the agency's resources, capabilities and actual performance in implementing the responsibilities and requirements of Chapter 427, Florida Statutes, and Rule 41-2, Florida Administrative Code.

### **Roles**

The Planning Agency provides an avenue to ensure that transportation disadvantaged planning is accomplished within the service area and provides sufficient staff support and resources to enable the Local Coordinating Board to fulfill its responsibilities.

### **Responsibilities**

Transportation Improvement Plans, Local Government Comprehensive Plans, Regional Policy Plans and Long Range Transportation Plans are tools that planning agencies develop to identify transportation needs, improvements and costs. To ensure that the needs and improvements of the Transportation Disadvantaged Program are addressed, Chapter 427, Florida Statutes, and Rule 41-2, Florida Administrative Code, require planning agencies to include a Transportation Disadvantaged element in these plans.

Chapter 427.015, Florida Statutes, Rule 41-2.009, Florida Administrative Code and the Transportation Disadvantaged Planning Grant Agreement outline specific duties and tasks the planning agency must complete in providing sufficient staff support and resources to enable the Local Coordinating Board to fulfill its responsibilities. These duties and tasks include, but are not limited to:

- Appointing and maintaining membership of the Local Coordinating Board.
- Assisting with the scheduling of all local Coordinating Board meetings, including committee meetings, public hearings, emergency meetings and regular quarterly meetings.
- When necessary, and in cooperation with the Local Coordinating Board, solicit and recommend a Community Transportation Coordinator.
- Prepare the planning sections of the Transportation Disadvantaged Service Plan.

Category	Chapter 427				Rule 41-2				Planning Grant				Operating Guidelines			
Attend at least on Commission-sponsored training, including but not limited to, the Commission's quarterly regional meetings, the Commission;s annual training workshop , or other sponsored training.				x												
Attend at least one Commission meeting each year within budget/staff/schedule availability.				x												
Notify Commission staff of local TD concerns that may require special investigations.				x												
Provide training for newly-appointed LCB members.				x												
Provide assistance to the CTC, purchasing agencies, and others, as needed, which may include participation in, and initiating when necessary, local or regional meetings to discuss TD needs, service evaluation and opportunities for service improvements.				x												
Assist the CTD in joint reviews of the CTC.				x												
Implement recommendations identified in the Commission's QAPE reviews.				x												
Submit Quarterly Progress Reports to the CTD.				x												
Submit copy of financial reporting packages of audits.				x												
Prepare agendas for LCB meetings consistent with the LCB and Planning Agency Operating Guidelines.				x											x	
Prepare official minutes of local coordinating board meetings. For committee meetings, prepare minutes in the form of a brief summary of basic points, discussions, decisions, and recommendations to the full board. Keep records of all meetings for at least three years.				x											x	
Provide at least one public hearing annually by each LCB and assist the CTD, as requested, in co-sponsoring public hearings.				x											x	
Provide staff support for committees of the LCB.				x											x	
Develop and update annually by-laws for LCB approval.				x											x	
Develop, annually update, and implement LCB grievance procedures in accordance with the Commission guidelines.				x											x	
Maintain a current membership roster and mailing list of LCB members				x											x	
Provide public notice of LCB meetings and local public hearings.				x											x	
DOPA shall provide two week notice of all LCB meetings.															x	
DOPA shall provide all LCB meeting materials to members no less than one week in advance and the agenda shall include a public participation opportunity.															x	
DOPAs shall provide, if possible, one week notice of Emergency LCB meetings.															x	
DOPA may appoint a multi-county LCB.															x	
Non-agency alternates are appointed by DOPA.															x	
DOPA considers rescinding appointment of members who miss three consecutive meetings															x	
Assist the LCB in its review and when making its recommendations regarding the approval of MOA and TDSP															x	
Assist the LCB with an annual evaluation of the CTC.															x	
Assist the LCB in the review of coordination strategies.															x	

Category	Chapter 427 Rule 41-2 Planning Grant Operating Guidelines			
When necessary and in cooperation with the LCB, solicit and recommend a CTC.	x	x	x	x
Collect and review proposed funding applications involving TD funds consistent with Chapter 427, FS, and Rule 41-2, FAC, and provide recommendations to the LCB.	x	x	x	x
Each DOPA shall provide each LCB with sufficient staff support and resources to enable the LCB to fulfill its responsibilities.	x	x		x
DOPA appoints LCB Chair.	x	x		x
Develop and maintain a process for the appointment and reappointment of voting and non-voting members to the LCB.	x		x	x
Ensure the LCB conducts, at a minimum, an annual evaluation of the CTC.	x		x	
In developing the TIP each MPO or DOPA shall include a realistic estimate of cost and revenue that will be derived from TD services in the area.	x			
Jointly, with the CTC and the LCB, develop the TDSP		x	x	x
Ensure the LCB annually reviews coordination contracts to advise the CTC whether the continuation of said contracts provide the most cost effective and efficient transportation available, consistent with Rule 41-2, FAC.		x	x	x
Report the actual expenditures of direct federal and local government transportation funds to the CTC for the TD no later than 9/15.		x	x	
DOPAs shall include a TD element in their Transportation Improvement Program.		x		
Review and comment on AOR for submittal to the LCB, and forward comments/concerns to the Commission			x	
Review the TDSP and recommend action to the LCB.			x	
Encourage integration of "TD" issues into local and regional comprehensive plans. Ensure activities of the LCB and CTC are consistent with local and state comprehensive planning activities including the Florida Transportation Plan.			x	
Encourage the CTC to work cooperatively with local WAGES coalitions established in Chapter 414, FS, and provide assistance in the development of innovative transportation services for WAGES participants.			x	
Provide the LCB with quarterly reports of TD planning accomplishments and expenditures as outlined in the planning grant agreement and any other activities related to the TD program including but not limited to consultant contracts, special studies, and marketing efforts.			x	



# TRANSPORTATION DISADVANTAGED TASKS AND DUE DATES

## Planning

<i><b>Task</b></i>	<i><b>Reference</b></i>	<i><b>Due Date</b></i>
Planning Grant Application	41-2.014(2)(b)	Annually
CTC Evaluation	41-2.012 (5)(b)	Annually (Evaluation for previous Fiscal Year)
TD Service Plan (TDSP) Updates	41-2.011(3) 41-2.011(9) 41-2.009(4)	Annually/4th Quarter
Progress Report & Reimbursement Invoice	Planning Contract	Quarterly
Annual Public Hearing	Planning Contract	Annually
Annual Actual Budget Expenditures	41-2.007(5) 41-2.0162(6)	September 15
Review AOR Data and submit to LCB for Approval	Planning Contract	Annually/1st Quarter
By-Laws	41-2.012(5)(a)	Annually/1st Quarter
LCB Membership List	41-2.012(5)(a)	Annually/1st Quarter
Grievance Committee Appointments	41-2.012(5)(c)	Annually
CTC Evaluation Sub-Committee Appointments	41-2.012(5)(b)	Annually
LCB Meeting Schedule	41-2.012(2)	Annually/1st Quarter
LCB Meeting Agendas	Planning Contract	Quarterly
LCB Meeting Minutes	41-2.012(5)(a)	Quarterly
Elect the Vice Chairperson	41-2.012(2)	Annually
CTC Selection	41-2.010	Every five (5) years

## CTC

<b>Task</b>	<b>Reference</b>	<b>Due Date</b>
Trip & Equipment Grant Application	41-2.014(2)(a)	Annually
Annual Operation Report (AOR)	41-2.007(7) 41-2.007(8) 41-2.0011(4) 41-2.0162(3)	September 15
MOA (Must be approved by LCB)		Every 5 years (same as CTC Selection)

## CTC/STP (Medicaid)

<b>Task</b>	<b>Reference</b>	<b>Due Date</b>
Trip Travel Expense Report	Medicaid NET Contract	Monthly/Due 15 Calendar days after the end of the month
Performance Measures	Medicaid NET Contract	Monthly/Due 10 Calendar days after the end of the month
No-Show Medicaid Beneficiary Report	Medicaid NET Contract	Monthly/Due 10 Calendar days after the end of the month
Grievance System Summary Report	Medicaid NET Contract	Quarterly/Due 30 Calendar days after the end of the Quarter
Audited Financial Statement	Medicaid NET Contract	Annually/Due within 180 Calendar days after the end of the fiscal year
Safety Compliance Self-Certification	Medicaid NET Contract	Annually/Due January 15th of each calendar year
Performance Measures Certification	Medicaid NET Contract	Annually/Due November 1st
Emergency Management Plan	Medicaid NET Contract	Annually/Due June 1st
Critical Incident Report	Medicaid NET Contract	Upon Occurrence
Systems Outage Notifications/Business Disruption Report	Medicaid NET Contract	Upon Occurrence
Minority Participation Report	Medicaid NET Contract	Upon Request

**TRANSPORTATION DISADVANTAGED (TD)  
LOCAL COORDINATING BOARD (LCB)  
MEMBERSHIP AS OF OCTOBER 2017**

MEMBERS	ALTERNATES
<b>COMMISSION PRESIDENT SANDY JOHNSON, (CHAIR)</b> CITY OF LIGHTHOUSE POINT 2200 NORTHEAST 38TH STREET LIGHTHOUSE POINT, FL 33064 e-mail: rjgator12@aol.com TEL: 954-943-6500	N/A
<b>EDITH LEDERBERG (VICE CHAIR)</b> AGING & DISABILITY RESOURCE CENTER 5300 HIATUS ROAD SUNRISE, FL 33351 TEL: 954-745-9567 FAX: 954-745-9584 <b>(REPRESENTS: DEPARTMENT OF ELDER AFFAIRS)</b> AGENCY e-mail: Lederbee@adrcbroward.org	<b>SHIRLEY SNIPES, PLANNER</b> AGING & DISABILITY RESOURCE CENTER 5300 HIATUS ROAD SUNRISE, FL 33351 TEL: 954-745-9567 FAX: 954-745-9584 e-mail: snipes@adrcbroward.org
<b>DIANE SMITH</b> IMPACT BROWARD 4701 NW 33 AVENUE FT. LAUDERDALE, FL 33309 TEL: 954-484-7117 FAX: 954-484-8292 <b>(CITIZEN ADVOCATE)</b> 11/30/2016 e-mail: dsmith@impactbroward.org	<b>VERA SHARITT</b> 911 SW 29 <sup>TH</sup> STREET FT.LAUDERDALE, FL 33315 TEL:954-764-7236 FAX: e-mail:
<b>SYSTEM USER</b> Vacant	<b>SYSTEM USER</b> Vacant
<b>TOM RYAN</b> 1511 N HIATUS ROAD PEMBROKE PINES, FL 33026 TEL: 954-443-8745 <b>(REPRESENTS PERSONS WITH DISABILITIES)</b> 11/30/2018 e-mail: seekers2@bellsouth.net	<b>HARRY KEMBER</b> 806 CYPRESS BLVD, #403 POMPANO BEACH, FL 33069 TEL: 954-545-6090 11/30/2018 e-mail: hmk@bellsouth.net
<b>ROBERT J. SIEDLECKI</b> 5890 RODMAN STREET HOLLYWOOD, FL 33023 TEL: 954-558-3131 <b>(REPRESENTS PERSONS OVER 60)</b> 11/30/2016 e-mail: RJSiedlecki@aol.com	Vacant
<b>SHARON ROSS</b> 4619 POINCIANA STREET, #2 LAUDERDALE BY THE SEA, FL 33308 TEL: 954-776-7488 <b>(REPRESENTS VETERANS' CONCERNS)</b> 11/30/2016 e-mail: sfross@mindspring.com	<b>VETERANS' COMMUNITY</b> <b>PHILLIP DAVIS</b> 1903 SOUTHWEST 149 <sup>TH</sup> AVENUE MIRAMAR, FL 33027 TEL: (404) 374-3311 e-mail: professordavis@yahoo.com

**TRANSPORTATION DISADVANTAGED (TD)  
LOCAL COORDINATING BOARD (LCB)  
MEMBERSHIP AS OF OCTOBER 2017**

<b>MEMBERS</b>	<b>ALTERNATES</b>
<b>ECONOMICALLY DISADVANTAGED</b> Vacant	<b>ECONOMICALLY DISADVANTAGED</b> Vacant
<b>CAROLYN BROWNLEE-FULLER</b> <b>BROWARD COUNTY SCHOOL BOARD</b> <b>3831 NW 10<sup>TH</sup> AVENUE</b> <b>OAKLAND PARK, FL 33309</b> <b>TEL: 754-321-4406 FAX: 754-321-4527</b> <b>(REPRESENTS PUBLIC EDUCATION)</b> <b>12/31/2018</b> <b>e-mail: carolyn.brownlee-fuller@browardschools.com</b>	<b>CHRISTINE JENKINS</b> <b>BROWARD COUNTY SCHOOL BOARD</b> <b>3831 NW 10<sup>TH</sup> AVENUE</b> <b>OAKLAND PARK, FL 33309</b> <b>TEL: 754-321-4402 FAX: 754-321-4527</b> <b>e-mail: christine.jenkins@browardschools.com</b>
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<b>SUE GALLAGHER</b> <b>CHILDREN'S SERVICES COUNCIL OF BROWARD COUNTY</b> <b>6600 WEST COMMERCIAL BOULEVARD,</b> <b>LAUDERHILL, FL 33319</b> <b>TEL: 954-377-1671 FAX: 954-377-1683</b> <b>(REPRESENTS CHILDREN AT RISK)</b> <b>12/31/2018 e-mail: sgallagher@cscbroward.org</b>	<b>KEISHA GREY</b> <b>CHILDREN'S SERVICES COUNCIL OF BROWARD COUNTY</b> <b>6600 WEST COMMERCIAL BOULEVARD,</b> <b>LAUDERHILL, FL 33319</b> <b>TEL: 954-377-1671 FAX: 954-377-1683</b> <b>12/31/2018 e-mail: kgrey@cscbroward.org</b>
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<b>JUDITH C. ELFONT</b> <b>BROWARD COUNTY HEALTH DEPARTMENT</b> <b>780 SW 24<sup>TH</sup> STREET</b> <b>FT. LAUDERDALE, FL 33315</b> <b>TEL: 954-467-4761</b> <b>(REPRESENTS LOCAL MEDICAL COMMUNITY)</b> <b>AGENCY e-mail: Judith.Elfont@flhealth.gov</b>	<b>BARBARA BATEMAN</b> <b>BROWARD COUNTY HEALTH DEPARTMENT</b> <b>780 SW 24<sup>TH</sup> STREET</b> <b>FT. LAUDERDALE, FL 33315</b> <b>TEL: 954-467-4700 x-5725</b> <b>e-mail: Barbara.Bateman@flhealth.gov</b>

**TRANSPORTATION DISADVANTAGED (TD)  
LOCAL COORDINATING BOARD (LCB)  
MEMBERSHIP AS OF OCTOBER 2017**

MEMBERS	ALTERNATES
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For complaints, questions or concerns about civil rights or nondiscrimination, or for special requests under the American with Disabilities Act, please contact: Christopher Ryan, Title VI Coordinator at (954) 876-0036 or [ryanc@browardmpo.org](mailto:ryanc@browardmpo.org).

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## The 2017 Florida Statutes

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[Chapter 427](#)

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SOCIAL WELFARE SPECIAL TRANSPORTATION AND COMMUNICATIONS SERVICES

### CHAPTER 427

### SPECIAL TRANSPORTATION AND COMMUNICATIONS SERVICES

#### PART I

#### TRANSPORTATION SERVICES

(ss. 427.011-427.017)

#### PART II

#### TELECOMMUNICATIONS ACCESS SYSTEM

(ss. 427.701-427.708)

#### PART III

#### ASSISTIVE TECHNOLOGY DEVICE WARRANTY ACT

(ss. 427.801-427.806)

#### PART I

#### TRANSPORTATION SERVICES

427.011 Definitions.

427.012 The Commission for the Transportation Disadvantaged.

427.013 The Commission for the Transportation Disadvantaged; purpose and responsibilities.

427.0135 Purchasing agencies; duties and responsibilities.

427.015 Function of the metropolitan planning organization or designated official planning agency in coordinating transportation for the transportation disadvantaged.

427.0155 Community transportation coordinators; powers and duties.

427.0157 Coordinating boards; powers and duties.

427.0158 School bus and public transportation.

427.0159 Transportation Disadvantaged Trust Fund.

427.016 Expenditure of local government, state, and federal funds for the transportation disadvantaged.

427.017 Conflicts with federal laws or regulations.

**427.011 Definitions.**—For the purposes of ss. 427.011-427.017:

(1) “Transportation disadvantaged” means those persons who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk or at-risk as defined in s. 411.202.

(2) “Metropolitan planning organization” means the organization responsible for carrying out transportation planning and programming in accordance with the provisions of 23 U.S.C. s. 134, as provided in 23 U.S.C. s. 104(f) (3).

(3) “Agency” means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or any other unit or entity of the state or of a city, town, municipality, county, or other local governing body or a private nonprofit transportation service-providing agency.

(4) “Transportation improvement program” means a staged multiyear program of transportation improvements, including an annual element, which is developed by a metropolitan planning organization or designated official planning agency.

(5) “Community transportation coordinator” means a transportation entity recommended by a metropolitan planning organization, or by the appropriate designated official planning agency as provided for in ss. 427.011-427.017 in an area outside the purview of a metropolitan planning organization, to ensure that coordinated transportation services are provided to the transportation disadvantaged population in a designated service area.

(6) “Transportation operator” means one or more public, private for-profit, or private nonprofit entities engaged by the community transportation coordinator to provide service to transportation disadvantaged persons pursuant to a coordinated system service plan.

(7) “Coordinating board” means an advisory entity in each designated service area composed of representatives appointed by the metropolitan planning organization or designated official planning agency, to provide assistance to the community transportation coordinator relative to the coordination of transportation services.

(8) “Purchasing agency” means a department or agency whose head is an ex officio, nonvoting adviser to the commission, or an agency that purchases transportation services for the transportation disadvantaged.

(9) “Paratransit” means those elements of public transit which provide service between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and provider of the service. Paratransit service is provided by taxis, limousines, “dial-a-ride,” buses, and other demand-responsive operations that are characterized by their nonscheduled, nonfixed route nature.

(10) “Transportation disadvantaged funds” means any local government, state, or available federal funds that are for the transportation of the transportation disadvantaged. Such funds may include, but are not limited to, funds for planning, Medicaid transportation, administration, operation, procurement, and maintenance of vehicles or equipment and capital investments. Transportation disadvantaged funds do not include funds for the transportation of children to public schools.

(11) “Coordination” means the arrangement for the provision of transportation services to the transportation disadvantaged in a manner that is cost-effective, efficient, and reduces fragmentation and duplication of services.

(12) “Nonsponsored transportation disadvantaged services” means transportation disadvantaged services that are not sponsored or subsidized by any funding source other than the Transportation Disadvantaged Trust Fund.

**History.**—ss. 1, 9, ch. 79-180; s. 4, ch. 80-414; ss. 1, 3, ch. 84-56; ss. 1, 14, ch. 89-376; s. 57, ch. 90-306; s. 5, ch. 91-429; s. 82, ch. 92-152; s. 63, ch. 94-237; s. 2, ch. 2008-203.

**427.012 The Commission for the Transportation Disadvantaged.**—There is created the Commission for the Transportation Disadvantaged in the Department of Transportation.

(1) The commission shall consist of seven members, all of whom shall be appointed by the Governor, in accordance with the requirements of s. 20.052.

(a) Five of the members must have significant experience in the operation of a business, and it is the intent of the Legislature that, when making an appointment, the Governor select persons who reflect the broad diversity of the business community in this state, as well as the racial, ethnic, geographical, and gender diversity of the population of this state.

(b) Two of the members must have a disability and use the transportation disadvantaged system.

(c) Each member shall represent the needs of the transportation disadvantaged throughout the state. A member may not subordinate the needs of the transportation disadvantaged in general in order to favor the needs of others residing in a specific location in the state.

(d) Each member shall be appointed to a term of 4 years. A member may be reappointed for one additional 4-year term.

- (e) Each member must be a resident of the state and a registered voter.
- (f) At any given time, at least one member must be at least 65 years of age.
- (g) The Secretary of Transportation, the Secretary of Children and Families, the executive director of the Department of Economic Opportunity, the executive director of the Department of Veterans' Affairs, the Secretary of Elderly Affairs, the Secretary of Health Care Administration, the director of the Agency for Persons with Disabilities, and a county manager or administrator who is appointed by the Governor, or a senior management level representative of each, shall serve as ex officio, nonvoting advisors to the commission.
- (h) A member may not, within the 5 years immediately before his or her appointment, or during his or her term on the commission, have or have had a financial relationship with, or represent or have represented as a lobbyist as defined in s. 11.045, the following:
  - 1. A transportation operator;
  - 2. A community transportation coordinator;
  - 3. A metropolitan planning organization;
  - 4. A designated official planning agency;
  - 5. A purchaser agency;
  - 6. A local coordinating board;
  - 7. A broker of transportation; or
  - 8. A provider of transportation services.
- (2) The chairperson shall be appointed by the Governor, and the vice chairperson of the commission shall be elected annually from the membership of the commission.
- (3) Members of the commission shall serve without compensation but shall be allowed per diem and travel expenses, as provided in s. 112.061.
- (4) The commission shall meet at least quarterly, or more frequently at the call of the chairperson. Four members of the commission constitute a quorum, and a majority vote of the members present is necessary for any action taken by the commission.
- (5) The Governor may remove any member of the commission for cause.
- (6) Each candidate for appointment to the commission must, before accepting the appointment, undergo background screening under s. 435.04 by filing with the Department of Transportation a complete set of fingerprints taken by an authorized law enforcement agency. The fingerprints must be submitted to the Department of Law Enforcement for state processing, and that department shall submit the fingerprints to the Federal Bureau of Investigation for federal processing. The Department of Transportation shall screen the background results and inform the commission of any candidate who does not meet level 2 screening standards. A candidate who has not met level 2 screening standards may not be appointed to the commission. The cost of the background screening may be borne by the Department of Transportation or the candidate.
- (7) The commission shall appoint an executive director who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such personnel as may be necessary to perform adequately the functions of the commission within budgetary limitations. Employees of the commission are exempt from the Career Service System.
- (8) The commission shall appoint a technical working group that includes representatives of private paratransit providers. The technical working group shall advise the commission on issues of importance to the state, including information, advice, and direction regarding the coordination of services for the transportation disadvantaged. The commission may appoint other technical working groups whose members may include representatives of community transportation coordinators; metropolitan planning organizations; regional planning councils; experts in insurance, marketing, economic development, or financial planning; and persons who use transportation for the transportation disadvantaged, or their relatives, parents, guardians, or service professionals who tend to their needs.
- (9) The commission is assigned to the office of the secretary of the Department of Transportation for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control, supervision, and direction of the department.



(10) The commission shall develop a budget pursuant to chapter 216. The budget is not subject to change by the department staff after it has been approved by the commission, but it shall be transmitted to the Governor, as head of the department, along with the budget of the department.

**History.**—ss. 2, 8, 9, ch. 79-180; s. 5, ch. 80-414; s. 73, ch. 81-167; s. 76, ch. 83-55; ss. 2, 3, ch. 84-56; ss. 2, 14, ch. 89-376; s. 29, ch. 91-282; s. 5, ch. 91-429; s. 83, ch. 92-152; s. 64, ch. 94-237; s. 10, ch. 96-387; s. 204, ch. 99-8; s. 118, ch. 99-385; s. 9, ch. 2005-255; s. 1, ch. 2006-61; s. 3, ch. 2008-203; s. 342, ch. 2011-142; s. 59, ch. 2012-5; s. 242, ch. 2014-19.

**427.013 The Commission for the Transportation Disadvantaged; purpose and responsibilities.**—The purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged. The goal of this coordination is to assure the cost-effective provision of transportation by qualified community transportation coordinators or transportation operators for the transportation disadvantaged without any bias or presumption in favor of multioperator systems or not-for-profit transportation operators over single operator systems or for-profit transportation operators. In carrying out this purpose, the commission shall:

- (1) Compile all available information on the transportation operations for and needs of the transportation disadvantaged in the state.
- (2) Establish statewide objectives for providing transportation services for the transportation disadvantaged.
- (3) Develop policies and procedures for the coordination of local government, federal, and state funding for the transportation disadvantaged.
- (4) Identify barriers prohibiting the coordination and accessibility of transportation services to the transportation disadvantaged and aggressively pursue the elimination of these barriers.
- (5) Serve as a clearinghouse for information about transportation disadvantaged services, training, funding sources, innovations, and coordination efforts.
- (6) Assist communities in developing transportation systems designed to serve the transportation disadvantaged.
- (7) Unless otherwise provided by state or federal law, ensure that all procedures, guidelines, and directives issued by purchasing agencies are conducive to the coordination of transportation services.
- (8)(a) Ensure that purchasing agencies purchase all trips within the coordinated system, unless they have fulfilled the requirements of s. 427.0135(3) and use a more cost-effective alternative provider that meets comparable quality and standards.
- (b) Unless the purchasing agency has negotiated with the commission pursuant to the requirements of s. 427.0135(3), provide, by rule, criteria and procedures for purchasing agencies to use if they wish to use an alternative provider. Agencies must demonstrate that the proposed alternative provider can provide a trip of comparable quality and standards for the clients at a lower cost than that provided within the coordinated system, or that the coordinated system cannot accommodate the agency's clients.
- (9) Unless the purchasing agency has negotiated with the commission pursuant to the requirements of s. 427.0135(3), develop by rule standards for community transportation coordinators and any transportation operator or coordination contractor from whom service is purchased or arranged by the community transportation coordinator covering coordination, operation, safety, insurance, eligibility for service, costs, and utilization of transportation disadvantaged services. These standards and rules must include, but are not limited to:
  - (a) Minimum performance standards for the delivery of services. These standards must be included in coordinator contracts and transportation operator contracts with clear penalties for repeated or continuing violations.
  - (b) Minimum liability insurance requirements for all transportation services purchased, provided, or coordinated for the transportation disadvantaged through the community transportation coordinator.
- (10) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of ss. 427.011-427.017.
- (11) Approve the appointment of all community transportation coordinators.
- (12) Have the authority to apply for and accept funds, grants, gifts, and services from the Federal Government, state government, local governments, or private funding sources. Applications by the commission for local

government funds shall be coordinated through the appropriate coordinating board. Funds acquired or accepted under this subsection shall be administered by the commission and shall be used to carry out the commission's responsibilities.

(13) Make an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1 of each year.

(14) Consolidate, for each state agency, the amounts of each agency's actual expenditures, together with the actual expenditures of each local government and directly federally funded agency and the amounts collected by each official planning agency.

(15) Prepare a statewide 5-year transportation disadvantaged plan which addresses the transportation problems and needs of the transportation disadvantaged, which is fully coordinated with local transit plans, compatible with local government comprehensive plans, and which ensures that the most cost-effective and efficient method of providing transportation to the disadvantaged is programmed for development.

(16) Review and approve memorandums of agreement for the provision of coordinated transportation services.

(17) Review, monitor, and coordinate all transportation disadvantaged local government, state, and federal fund requests and plans for conformance with commission policy, without delaying the application process. Such funds shall be available only to those entities participating in an approved coordinated transportation system or entities which have received a commission-approved waiver to obtain all or part of their transportation through another means. This process shall identify procedures for coordinating with the state's intergovernmental coordination and review procedures and s. 216.212(1) and any other appropriate grant review process.

(18) Develop an interagency uniform contracting and billing and accounting system that shall be used by all community transportation coordinators and their transportation operators.

(19) Develop and maintain a transportation disadvantaged manual.

(20) Design and develop transportation disadvantaged training programs.

(21) Coordinate all transportation disadvantaged programs with appropriate state, local, and federal agencies and public transit agencies to ensure compatibility with existing transportation systems.

(22) Designate the official planning agency in areas outside of the purview of a metropolitan planning organization.

(23) Develop need-based criteria that must be used by all community transportation coordinators to prioritize the delivery of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

(24) Establish a review procedure to compare the rates proposed by alternate transportation operators with the rates charged by a community transportation coordinator to determine which rate is more cost-effective.

(25) Conduct a cost-comparison study of single-coordinator, multicoordinator, and brokered community transportation coordinator networks to ensure that the most cost-effective and efficient method of providing transportation to the transportation disadvantaged is programmed for development.

(26) Develop a quality assurance and management review program to monitor, based upon approved commission standards, services contracted for by an agency, and those provided by a community transportation operator pursuant to s. 427.0155.

(27) Ensure that local community transportation coordinators work cooperatively with local workforce development boards established in chapter 445 to provide assistance in the development of innovative transportation services for participants in the welfare transition program.

(28) In consultation with the Agency for Health Care Administration and the Department of Transportation, develop an allocation methodology that equitably distributes all transportation funds under the control of the commission to compensate counties, community transportation coordinators, and other entities providing transportation disadvantaged services. The methodology shall separately account for Medicaid beneficiaries. The methodology shall consider such factors as the actual costs of each transportation disadvantaged trip based on prior-year information, efficiencies that a provider might adopt to reduce costs, results of the rate and cost comparisons conducted under subsections (24) and (25), as well as cost efficiencies of trips when compared to the

local cost of transporting the general public. This subsection does not supersede the authority of the Agency for Health Care Administration to distribute Medicaid funds.

(29) Incur expenses for the purchase of advertisements, marketing services, and promotional items.

<sup>1</sup>(30) For the 2017-2018 fiscal year and notwithstanding any other provision of this section:

(a) Allocate, from funds provided in the General Appropriations Act, to community transportation coordinators who do not receive Urbanized Area Formula funds pursuant to 49 U.S.C. s. 5307 to provide transportation services for persons with disabilities, older adults, and low-income persons so they may access health care, employment, education, and other life-sustaining activities. Funds allocated for this purpose shall be distributed among community transportation coordinators based upon the Transportation Disadvantaged Trip and Equipment allocation methodology established by the commission.

(b) Award, from funds provided in the General Appropriations Act, competitive grants to community transportation coordinators to support transportation projects to:

1. Enhance access to health care, shopping, education, employment, public services, and recreation;
2. Assist in the development, improvement, and use of transportation systems in nonurbanized areas;
3. Promote the efficient coordination of services;
4. Support inner-city bus transportation; and
5. Encourage private transportation providers to participate.

(c) This subsection expires July 1, 2018.

**History.**—ss. 3, 9, ch. 79-180; s. 6, ch. 80-414; s. 274, ch. 81-259; ss. 1, 3, ch. 84-56; ss. 3, 14, ch. 89-376; s. 5, ch. 91-429; s. 84, ch. 92-152; s. 65, ch. 94-237; s. 17, ch. 98-57; s. 113, ch. 98-200; s. 119, ch. 99-385; s. 102, ch. 2000-165; s. 25, ch. 2000-266; s. 2, ch. 2006-61; s. 4, ch. 2008-203; s. 105, ch. 2016-62; s. 21, ch. 2016-216; s. 47, ch. 2017-71.

<sup>1</sup>**Note.**—Section 47, ch. 2017-71, amended subsection (30) “[i]n order to implement Specific Appropriation 1868 of the 2017-2018 General Appropriations Act.”

**427.0135 Purchasing agencies; duties and responsibilities.**—Each purchasing agency, in carrying out the policies and procedures of the commission, shall:

(1) Use the coordinated transportation system for provision of services to its clients, unless each department or purchasing agency meets the criteria outlined in rule or statute to use an alternative provider.

(2) Pay the rates established in the service plan or negotiated statewide contract, unless the purchasing agency has completed the procedure for using an alternative provider and demonstrated that a proposed alternative provider can provide a more cost-effective transportation service of comparable quality and standards or unless the agency has satisfied the requirements of subsection (3).

(3) Not procure transportation disadvantaged services without initially negotiating with the commission, as provided in s. 287.057(3)(e)12., or unless otherwise authorized by statute. If the purchasing agency, after consultation with the commission, determines that it cannot reach mutually acceptable contract terms with the commission, the purchasing agency may contract for the same transportation services provided in a more cost-effective manner and of comparable or higher quality and standards. The Medicaid agency shall implement this subsection in a manner consistent with s. 409.908(18) and as otherwise limited or directed by the General Appropriations Act.

(4) Identify in the legislative budget request provided to the Governor each year for the General Appropriations Act the specific amount of money the purchasing agency will allocate to provide transportation disadvantaged services.

(5) Provide the commission, by September 15 of each year, an accounting of all funds spent as well as how many trips were purchased with agency funds.

(6) Assist communities in developing coordinated transportation systems designed to serve the transportation disadvantaged. However, a purchasing agency may not serve as the community transportation coordinator in any designated service area.

(7) Ensure that its rules, procedures, guidelines, and directives are conducive to the coordination of transportation funds and services for the transportation disadvantaged.

(8) Provide technical assistance, as needed, to community transportation coordinators or transportation operators or participating agencies.

**History.**—ss. 4, 14, ch. 89-376; s. 5, ch. 91-429; s. 66, ch. 94-237; s. 4, ch. 95-394; s. 10, ch. 96-417; s. 26, ch. 2000-266; s. 5, ch. 2008-203; s. 34, ch. 2010-151; s. 16, ch. 2013-154; s. 32, ch. 2016-65; s. 26, ch. 2017-129.

**427.015 Function of the metropolitan planning organization or designated official planning agency in coordinating transportation for the transportation disadvantaged.—**

(1) In developing the transportation improvement program, each metropolitan planning organization or designated official planning agency in this state shall include a realistic estimate of the cost and revenue that will be derived from transportation disadvantaged services in its area. The transportation improvement program shall also identify transportation improvements that will be advanced with such funds during the program period. Funds required by this subsection to be included in the transportation improvement program shall only be included after consultation with all affected agencies and shall only be expended if such funds are included in the transportation improvement program.

(2) Each metropolitan planning organization or designated official planning agency shall recommend to the commission a single community transportation coordinator. However, a purchasing agency may not serve as the community transportation coordinator in any designated service area. The coordinator may provide all or a portion of needed transportation services for the transportation disadvantaged but shall be responsible for the provision of those coordinated services. Based on approved commission evaluation criteria, the coordinator shall subcontract or broker those services that are more cost-effectively and efficiently provided by subcontracting or brokering. The performance of the coordinator shall be evaluated based on the commission's approved evaluation criteria by the coordinating board at least annually. A copy of the evaluation shall be submitted to the metropolitan planning organization or the designated official planning agency, and the commission. The recommendation or termination of any community transportation coordinator shall be subject to approval by the commission.

(3) Each metropolitan planning organization or designated official planning agency shall request each local government in its jurisdiction to provide the actual expenditures of all local and direct federal funds to be expended for transportation for the disadvantaged. The metropolitan planning organization or designated official planning agency shall consolidate this information into a single report and forward it, by September 15, to the commission.

**History.**—ss. 6, 9, ch. 79-180; ss. 1, 3, ch. 84-56; ss. 5, 14, ch. 89-376; s. 5, ch. 91-429; s. 67, ch. 94-237; s. 27, ch. 2000-266; s. 6, ch. 2008-203.

**427.0155 Community transportation coordinators; powers and duties.—**Community transportation coordinators shall have the following powers and duties:

(1) Execute uniform contracts for service using a standard contract, which includes performance standards for operators.

(2) Collect annual operating data for submittal to the commission.

(3) Review all transportation operator contracts annually.

(4) Approve and coordinate the utilization of school bus and public transportation services in accordance with the transportation disadvantaged service plan.

(5) In cooperation with a functioning coordinating board, review all applications for local government, federal, and state transportation disadvantaged funds, and develop cost-effective coordination strategies.

(6) In cooperation with, and approved by, the coordinating board, develop, negotiate, implement, and monitor a memorandum of agreement including a service plan, for submittal to the commission.

(7) In cooperation with the coordinating board and pursuant to criteria developed by the Commission for the Transportation Disadvantaged, establish eligibility guidelines and priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

(8) Have full responsibility for the delivery of transportation services for the transportation disadvantaged as outlined in s. 427.015(2).

(9) Work cooperatively with local workforce development boards established in chapter 445 to provide assistance in the development of innovative transportation services for participants in the welfare transition program.

**History.**—ss. 6, 14, ch. 89-376; s. 5, ch. 91-429; s. 85, ch. 92-152; s. 68, ch. 94-237; s. 18, ch. 98-57; s. 103, ch. 2000-165; s. 7, ch. 2008-203; s. 22, ch. 2016-216.

**427.0157 Coordinating boards; powers and duties.**—The purpose of each coordinating board is to develop local service needs and to provide information, advice, and direction to the community transportation coordinators on the coordination of services to be provided to the transportation disadvantaged. The commission shall, by rule, establish the membership of coordinating boards. The members of each board shall be appointed by the metropolitan planning organization or designated official planning agency. The appointing authority shall provide each board with sufficient staff support and resources to enable the board to fulfill its responsibilities under this section. Each board shall meet at least quarterly and shall:

- (1) Review and approve the coordinated community transportation disadvantaged service plan, including the memorandum of agreement, prior to submittal to the commission;
- (2) Evaluate services provided in meeting the approved plan;
- (3) In cooperation with the community transportation coordinator, review and provide recommendations to the commission on funding applications affecting the transportation disadvantaged;
- (4) Assist the community transportation coordinator in establishing eligibility guidelines and priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.
- (5) Review the coordination strategies of service provision to the transportation disadvantaged in the designated service area; and
- (6) Evaluate multicounty or regional transportation opportunities.
- (7) Work cooperatively with local workforce development boards established in chapter 445 to provide assistance in the development of innovative transportation services for participants in the welfare transition program.

**History.**—ss. 7, 14, ch. 89-376; s. 5, ch. 91-429; s. 86, ch. 92-152; s. 19, ch. 98-57; s. 104, ch. 2000-165; s. 8, ch. 2008-203; s. 23, ch. 2016-216.

**427.0158 School bus and public transportation.**—

- (1) The community transportation coordinator shall maximize the use of public school transportation and public fixed route or fixed schedule transit service for the transportation of the transportation disadvantaged.
- (2) The school boards shall cooperate in the utilization of their vehicles to enhance coordinated transportation disadvantaged services by providing information as requested by the community transportation coordinator and by allowing the use of their vehicles at actual cost upon request when those vehicles are available for such use and are not transporting students.
- (3) The public transit fixed route or fixed schedule system shall cooperate in the utilization of its regular service to enhance coordinated transportation disadvantaged services by providing the information as requested by the community transportation coordinator. The community transportation coordinator may request, without limitation, the following information:
  - (a) A copy of all current schedules, route maps, system map, and fare structure;
  - (b) A copy of the current charter policy;
  - (c) A copy of the current charter rates and hour requirements; and
  - (d) Required notification time to arrange for a charter.

**History.**—ss. 8, 14, ch. 89-376; s. 5, ch. 91-429; s. 9, ch. 2008-203.

**<sup>1</sup>427.0159 Transportation Disadvantaged Trust Fund.**—

- (1) There is established in the State Treasury the Transportation Disadvantaged Trust Fund to be administered by the Commission for the Transportation Disadvantaged. All fees collected for the transportation disadvantaged program under s. 320.03(9) shall be deposited in the trust fund.



(2) Funds deposited in the trust fund shall be appropriated by the Legislature to the commission and shall be used to carry out the responsibilities of the commission and to fund the administrative expenses of the commission.

(3) Funds deposited in the trust fund may be used by the commission to subsidize a portion of a transportation disadvantaged person's transportation costs which is not sponsored by an agency, only if a cash or in-kind match is required. Funds for nonsponsored transportation disadvantaged services shall be distributed based upon the need of the recipient and according to criteria developed by the Commission for the Transportation Disadvantaged.

(4) A purchasing agency may deposit funds into the Transportation Disadvantaged Trust Fund for the commission to implement, manage, and administer the purchasing agency's transportation disadvantaged funds, as defined in s. 427.011(10).

**History.**—ss. 9, 14, ch. 89-376; s. 5, ch. 91-429; s. 87, ch. 92-152; s. 69, ch. 94-237; s. 21, ch. 2000-257; s. 61, ch. 2001-62; s. 10, ch. 2008-203.

<sup>1</sup>**Note.**—Section 22, ch. 2000-257, provides that “[n]otwithstanding any other law to the contrary the requirements of sections 206.46(3) and 206.606(2), Florida Statutes, shall not apply to any funding, programs, or other provisions contained in this act.”

#### **427.016 Expenditure of local government, state, and federal funds for the transportation disadvantaged.**

(1)(a) All transportation disadvantaged funds expended within the state shall be expended to purchase transportation services from community transportation coordinators or public, private, or private nonprofit transportation operators within the coordinated transportation system, except when the rates charged by proposed alternate operators are proven, pursuant to rules generated by the Commission for the Transportation Disadvantaged, to be more cost-effective and are not a risk to the public health, safety, or welfare. However, in areas where transportation suited to the unique needs of a transportation disadvantaged person cannot be purchased through the coordinated system, or where the agency has met the rule criteria for using an alternative provider, the service may be contracted for directly by the appropriate agency.

(b) This subsection does not preclude a purchasing agency from establishing maximum fee schedules, individualized reimbursement policies by provider type, negotiated fees, or any other mechanism, including contracting after initial negotiation with the commission, which the agency considers more cost-effective and of comparable or higher quality and standards than those of the commission for the purchase of services on behalf of its clients if it has fulfilled the requirements of s. 427.0135(3) or the procedure for using an alternative provider. State and local agencies shall not contract for any transportation disadvantaged services, including Medicaid reimbursable transportation services, with any community transportation coordinator or transportation operator that has been determined by the Agency for Health Care Administration, the Department of Legal Affairs Medicaid Fraud Control Unit, or any state or federal agency to have engaged in any abusive or fraudulent billing activities.

(2) Each year, each agency, whether or not it is an ex officio, nonvoting adviser to the Commission for the Transportation Disadvantaged, shall identify in the legislative budget request provided to the Governor for the General Appropriations Act the specific amount of any money the agency will allocate for the provision of transportation disadvantaged services. Additionally, each state agency shall, by September 15 of each year, provide the commission with an accounting of the actual amount of funds expended and the total number of trips purchased.

(3) Each metropolitan planning organization or designated official planning agency shall annually compile a report accounting for all local government and direct federal funds for transportation for the disadvantaged expended in its jurisdiction and forward this report by September 15 to the commission.

**History.**—ss. 5, 9, ch. 79-180; ss. 1, 3, ch. 84-56; ss. 10, 14, ch. 89-376; s. 5, ch. 91-429; s. 88, ch. 92-152; s. 70, ch. 94-237; s. 5, ch. 95-394; s. 11, ch. 2008-203.

**427.017 Conflicts with federal laws or regulations.**—Upon notification by an agency of the Federal Government that any provision of this act conflicts with federal laws or regulations, the state or local agencies involved may take any reasonable steps necessary to assure continued federal funding. Further, it is the legislative intent that the conflict shall not affect other provisions or applications of this act that can effectively be

implemented without implementation of the provision in question, and to this end, the provisions of this act are declared severable.

**History.**—ss. 7, 9, ch. 79-180; ss. 1, 3, ch. 84-56; s. 14, ch. 89-376; s. 5, ch. 91-429.

## PART II TELECOMMUNICATIONS ACCESS SYSTEM

427.701 Title.

427.702 Findings, purpose, and legislative intent.

427.703 Definitions.

427.704 Powers and duties of the commission.

427.705 Administration of the telecommunications access system.

427.706 Advisory committee.

427.707 Exemption from liability.

427.708 Certain public safety and health care providers required to purchase and operate TDD's.

**427.701 Title.**—This part may be cited as the “Telecommunications Access System Act of 1991.”

**History.**—s. 1, ch. 91-111.

**427.702 Findings, purpose, and legislative intent.**—

(1) The Legislature finds and declares that:

(a) Telecommunications services provide a rapid and essential communications link among the general public and with essential offices and organizations such as police, fire, and medical facilities.

(b) All persons should have basic telecommunications services available to them at reasonable and affordable costs.

(c) A significant portion of Florida's hearing impaired and speech impaired populations has profound disabilities, including dual sensory impairments, which render normal telephone equipment useless without additional specialized telecommunications devices, many of which cost several hundred dollars.

(d) The telecommunications system is intended to provide access to a basic communications network between all persons, and that many persons who have a hearing impairment or speech impairment currently have no access to the basic telecommunications system.

(e) Persons who do not have a hearing impairment or speech impairment are generally excluded from access to the basic telecommunications system to communicate with persons who have a hearing impairment or speech impairment without the use of specialized telecommunications devices.

(f) There exists a need for a telecommunications relay system whereby the cost for access to basic telecommunications services for persons who have a hearing impairment or speech impairment is no greater than the amount paid by other telecommunications customers.

(g) The Federal Government, in order to carry out the purposes established by Title II of the Communications Act of 1934, as amended, by the enactment of the Americans with Disabilities Act, endeavored to ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing impaired and speech impaired persons in the United States.

(h) Title IV of the Americans with Disabilities Act mandates that the telecommunications companies providing telephone services within the state shall provide telecommunications relay services on or before July 25, 1993, to persons who are hearing impaired or speech impaired within their certificated territories in a manner that meets or exceeds the requirements of regulations to be prescribed by the Federal Communications Commission.

(2) It is the declared purpose of this part to establish a system whereby the citizens of Florida who are hearing impaired, speech impaired, or dual sensory impaired have access to basic telecommunications services at a cost no greater than that paid by other telecommunications services customers, and whereby the cost of specialized telecommunications equipment necessary to ensure that citizens who are hearing impaired, speech impaired, or

dual sensory impaired have access to basic telecommunications services and the provision of telecommunications relay service is borne by all the telecommunications customers of the state.

(3) It is the intent of the Legislature:

(a) That a telecommunications access system be established to provide equitable basic access to the telecommunications network for persons who are hearing impaired, speech impaired, or dual sensory impaired.

(b) That the telecommunications access system includes a telecommunications relay service system that meets or exceeds the certification requirements of the Federal Communications Commission.

(c) That the telecommunications access system includes the distribution of telecommunications devices for the deaf that are compatible with the telecommunications relay service system and has the capability of incorporating new technologies as they develop.

(d) That the telecommunications access system includes the distribution of specialized telecommunications devices necessary for hearing impaired, speech impaired, or dual sensory impaired persons to access basic telecommunications services.

(e) That the telecommunications access system ensures that users of the telecommunications relay service system pay rates no greater than the rates paid for functionally equivalent voice communications services.

(f) That the telecommunications access system be as cost-efficient as possible without diminishing the effectiveness or the quality of the system.

(g) That the telecommunications access system uses state-of-the-art technology for specialized telecommunications devices and the telecommunications relay service and encourages the incorporation of new developments in technology, to the extent that it has demonstrated benefits consistent with the intent of this act and is in the best interest of the citizens of this state.

(h) That the value of the involvement of persons who have hearing or speech impairments, and organizations representing or serving those persons, be recognized and such persons and organizations be involved throughout the development, establishment, and implementation of the telecommunications access system through participation on the advisory committee as provided in s. 427.706.

(i) That the total cost of providing telecommunications relay services and distributing specialized telecommunications devices be spread equitably among and collected from customers of all local exchange telecommunications companies.

**History.**—s. 1, ch. 91-111.

**427.703 Definitions.**—As used in this part:

(1) “Administrator” means a corporation not for profit incorporated pursuant to the provisions of chapter 617 and designated by the Florida Public Service Commission to administer the telecommunications relay service system and the distribution of specialized telecommunications devices pursuant to the provisions of this act and rules and regulations established by the commission.

(2) “Commission” means the Florida Public Service Commission.

(3) “Deaf” means having a permanent hearing impairment and being unable to discriminate speech sounds in verbal communication, with or without the assistance of amplification devices.

(4) “Dual sensory impaired” means having both a permanent hearing impairment and a permanent visual impairment and includes deaf/blindness.

(5) “Hard of hearing” means having a permanent hearing impairment which is severe enough to necessitate the use of amplification devices to discriminate speech sounds in verbal communication.

(6) “Hearing impaired” or “having a hearing impairment” means deaf or hard of hearing and, for purposes of this part, includes being dual sensory impaired.

(7) “Local exchange telecommunications company” means a telecommunications company certificated by the commission to provide telecommunications services within a specific geographic area.

(8) “Operating fund” means the fund established, invested, managed, and maintained by the administrator for the exclusive purpose of implementing and administering the provisions of this act pursuant to commission rules and regulations.



(9) “Ring signaling device” means a mechanism, such as a flashing light, which visually indicates that a communication is being received through a telephone line. This term also means a mechanism such as an adjustable volume ringer and buzzer which audibly and loudly indicates an incoming telephone communication.

(10) “Speech impaired” or “having a speech impairment” means having a permanent loss of verbal communication ability which prohibits normal usage of a standard telephone handset.

(11) “Specialized telecommunications device” means a TDD, a volume control handset, a ring signaling device, or any other customer premises telecommunications equipment specifically designed or used to provide basic access to telecommunications services for a hearing impaired, speech impaired, or dual sensory impaired person.

(12) “Surcharge” means an additional charge which is to be paid by local exchange telecommunications company subscribers pursuant to the cost recovery mechanism established under s. 427.704(4) in order to implement the system described herein.

(13) “Telecommunications company” includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision of the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term “telecommunications company” does not include an entity which provides a telecommunications facility exclusively to a certificated telecommunications company, or a specialized mobile radio service operator, a private radio carrier, a radio common carrier, a cellular radio telecommunications carrier, or a cable television company providing cable service as defined in 47 U.S.C. s. 522.

(14) “Telecommunications device for the deaf” or “TDD” means a mechanism which is connected to a standard telephone line, operated by means of a keyboard, and used to transmit or receive signals through telephone lines.

(15) “Telecommunications facility” includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within this state.

(16) “Telecommunications relay service” means any telecommunications transmission service that allows a person who is hearing impaired or speech impaired to communicate by wire or radio in a manner that is functionally equivalent to the ability of a person who is not hearing impaired or speech impaired. Such term includes any service that enables two-way communication between a person who uses a telecommunications device or other nonvoice terminal device and a person who does not use such a device.

(17) “Volume control handset” means a telephone which has an adjustable control for increasing the volume of the sound being produced by the telephone receiving unit or by the telephone transmitting unit.

*History.—*s. 1, ch. 91-111.

#### **427.704 Powers and duties of the commission.—**

(1) The commission shall establish, implement, promote, and oversee the administration of a statewide telecommunications access system to provide access to telecommunications relay services by persons who are hearing impaired or speech impaired, or others who communicate with them. The telecommunications access system shall provide for the purchase and distribution of specialized telecommunications devices and the establishment of statewide single provider telecommunications relay service system which operates continuously. To provide telecommunications relay services and distribute specialized telecommunication devices to persons who are hearing impaired or speech impaired, at a reasonable cost the commission shall:

(a) Investigate, conduct public hearings, and solicit the advice and counsel of the advisory committee established pursuant to s. 427.706 to determine the most cost-effective method for providing telecommunications relay service and distributing specialized telecommunications devices.

(b) Ensure that users of the telecommunications relay service system pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as duration of the call, time of day, and distance from the point of origination to the point of termination.

(c) Ensure that the telecommunications access system protects the privacy of persons to whom services are provided and that all operators maintain the confidentiality of all relay service messages.

(d) Ensure that the telecommunications relay service system complies with regulations adopted by the Federal Communications Commission to implement Title IV of the Americans with Disabilities Act.

(2) The commission shall designate as the administrator of the telecommunications access system a corporation not for profit organized for such purposes and incorporated pursuant to chapter 617. For the purposes of this part, the commission may order telecommunications companies to form such a corporation not for profit.

(3)(a) The commission shall select the provider of the telecommunications relay service pursuant to procedures established by the commission. In selecting the service provider, the commission shall take into consideration the cost of providing the relay service and the interests of the hearing impaired and speech impaired community in having access to a high-quality and technologically advanced telecommunications system. The commission shall award the contract to the bidder whose proposal is the most advantageous to the state, taking into consideration the following:

1. The appropriateness and accessibility of the proposed telecommunications relay service for the citizens of the state, including persons who are hearing impaired or speech impaired.
2. The overall quality of the proposed telecommunications relay service.
3. The charges for the proposed telecommunications relay service system.
4. The ability and qualifications of the bidder to provide the proposed telecommunications relay service as outlined in the request for proposals.
5. Any proposed service enhancements and technological enhancements which improve service without significantly increasing cost.
6. Any proposed inclusion of provision of assistance to deaf persons with special needs to access the basic telecommunications system.
7. The ability to meet the proposed commencement date for the telecommunications relay service.
8. All other factors listed in the request for proposals.

(b) The commission shall consider the advice and counsel of the advisory committee in the development of the request for proposals. The request for proposals shall include, but not be limited to:

1. A description of the scope and general requirements of the telecommunications relay service, including the required compliance with regulations adopted by the Federal Communications Commission to implement Title IV of the Americans with Disabilities Act, the required service provisions and service limitations, system design, service provider qualifications, and service description, type of calls to be provided, and charges to the users.
2. A description of the telecommunications relay service system standards.
3. A description of information to be provided by the bidder, including service provider qualifications, cost information, including cost per call and startup costs, a description of the system design, including network access and facilities to be provided, and relay operator standards.
4. A description of service provider reporting requirements.

(c) The commission shall establish a request for a proposals review committee, which shall include commission staff and designated members of the advisory committee, to review the proposals received by the commission and recommend a telecommunications relay service provider to the commission for final selection. By agreeing to serve on the review committee, each member of the review committee shall agree that he or she currently does not have and will not have any interest or employment, either directly or indirectly, with potential bidders that would conflict in any manner or degree with his or her performance on the committee.

(d) To the extent a bidder desires any portion of its proposal to be considered proprietary, confidential business information, the bidder shall make such request concurrent with filing its proposal and justify its request as provided in s. 364.183.

(4)(a) The commission shall establish a mechanism to recover the costs of implementing and maintaining the services required pursuant to this part which shall be applied to each basic telecommunications access line. In establishing the recovery mechanism, the commission shall:

1. Require all local exchange telecommunications companies to impose a monthly surcharge on all local exchange telecommunications company subscribers on an individual access line basis, except that such surcharge shall not be imposed upon more than 25 basic telecommunications access lines per account bill rendered.
2. Require all local exchange telecommunications companies to include the surcharge as a part of the local service charge that appears on the customer's bill, except that the local exchange telecommunications company

shall specify the surcharge on the initial bill to the subscriber and itemize it at least once annually.

3. Allow the local exchange telecommunications company to deduct and retain 1 percent of the total surcharge amount collected each month to recover the billing, collecting, remitting, and administrative costs attributed to the surcharge.

(b) The commission shall determine the amount of the surcharge based upon the amount of funding necessary to accomplish the purposes of this act and provide the services on an ongoing basis; however, in no case shall the amount exceed 25 cents per line per month.

(c) All moneys received by the local exchange telecommunications company, less the amount retained as authorized by subparagraph (4)(a)3., shall be remitted to the administrator for deposit in appropriate financial institutions regulated under state or federal law and used exclusively to fund the telecommunications access system provided for herein.

(d) The surcharge collected by the local exchange telecommunications companies is not subject to any sales, use, franchise, income, municipal utility, gross receipts, or any other tax, fee, or assessment, nor shall it be considered revenue of the local exchange telecommunications companies for any purpose.

(e) From the date of implementing the surcharge, the commission shall review the amount of the surcharge at least annually and shall order changes in the amount of the surcharge as necessary to assure available funds for the provision of the telecommunications access system established herein. Where the review of the surcharge determines that excess funds are available, the commission may order the suspension of the surcharge for a period which the commission deems appropriate.

(5) The commission shall require each local exchange telecommunications company to begin assessing and collecting the surcharge in the amount of 5 cents per access line per month on bills rendered on or after July 1, 1991, for remission to the administrator for deposit in the operational fund. Each local exchange telecommunications company shall remit moneys collected to the administrator. On August 15, 1991, each local exchange telecommunications company shall begin remitting the moneys collected to the administrator on a monthly basis and in a manner as prescribed by the commission. The administrator shall use such moneys to cover costs incurred during the development of the telecommunications relay services and to establish and administer the specialized telecommunications devices system.

(6) The commission shall establish a schedule for completion of specific stages of the telecommunications relay service development and implementation except that the statewide telecommunications relay service shall commence on or before June 1, 1992.

(7) The commission shall require the administrator to submit financial statements for the distribution of specialized telecommunications devices and the telecommunications relay service to the commission quarterly, in the manner prescribed by the commission.

(8) The commission shall adopt rules and may take any other action necessary to implement the provisions of this act.

(9) The commission shall prepare an annual report on the operation of the telecommunications access system, which shall be available on the commission's Internet website. Reports must be prepared in consultation with the administrator and the advisory committee appointed pursuant to s. 427.706. The reports must, at a minimum, briefly outline the status of developments in the telecommunications access system, the number of persons served, the call volume, revenues and expenditures, the allocation of the revenues and expenditures between provision of specialized telecommunications devices to individuals and operation of statewide relay service, other major policy or operational issues, and proposals for improvements or changes to the telecommunications access system.

*History.*—s. 1, ch. 91-111; s. 11, ch. 2000-334; s. 139, ch. 2010-102.

#### **427.705 Administration of the telecommunications access system.—**

(1) Consistent with the provisions of this act and rules and regulations established by the commission, the administrator shall:

(a) Purchase, store, distribute, and maintain specialized telecommunications devices, either directly or through contract with third parties, or a combination thereof.

(b) Administer advertising and outreach services as required by the commission, either directly or through contract with third parties, or a combination thereof.

(c) Administer training services for recipients of specialized telecommunications devices and for telecommunications relay service users as directed by the commission through contract with third parties.

(d) Establish and maintain an operational fund with appropriate financial institutions regulated under state or federal law, and receive moneys from the local exchange telecommunications companies and deposit such moneys in the operational fund.

(e) Develop, test, and implement an accounting system and internal controls and procedures to receive, safeguard, and disperse moneys in the operational fund as directed by the commission.

(f) Develop and implement procedures for an independent audit and for compliance with commission reporting requirements, as directed by the commission.

(g) Administer and control the award of money to all parties incurring costs in implementing and maintaining the telecommunications access system, equipment, and technical support services in accordance with the provisions of this act.

(2) The administrator shall be audited annually by an independent auditing firm to assure proper management of any revenues it receives and disburses. The administrator's books and records shall be open to the commission and to the Auditor General for review upon request. The commission shall have the authority to establish fiscal and operational requirements for the administrator to follow in order to ensure that the administrative costs of the system are reasonable.

(3) The administrator may apply to the commission for an adjustment in the amount of the monthly surcharge that a local exchange telecommunications company must impose on its customers. Prior to applying to the commission for such an adjustment, the commission may require the administrator to employ an independent accounting firm to perform an audit of the accounts of the administrator and the service providers relevant to the surcharge and file a report with the commission.

(4) In contracting for the provision of distribution of specialized telecommunications devices, outreach services, and training of recipients, the administrator shall consider contracting with organizations that provide services to persons who are hearing impaired or speech impaired.

(5) The administrator shall provide for the distribution of specialized telecommunications devices to persons qualified to receive such equipment in accordance with the provisions of this act. The administrator shall establish procedures for the distribution of specialized telecommunications devices and shall solicit the advice and counsel and consider the recommendations of the advisory committee in establishing such procedures. The procedures shall:

(a) Provide for certification of persons as hearing impaired, speech impaired, or dual sensory impaired. Such certification process shall include a statement attesting to such impairment by a licensed physician, audiologist, speech-language pathologist, hearing aid specialist, or deaf service center director; by a state-certified teacher of the hearing impaired; by a state-certified teacher of the visually impaired; or by an appropriate state or federal agency. The licensed physician, audiologist, speech-language pathologist, hearing aid specialist, state-certified teacher of the hearing impaired, or state-certified teacher of the visually impaired providing statements which attest to such impairments shall work within their individual scopes of practice according to their education and training. The deaf service center directors and appropriate state and federal agencies shall attest to such impairments as provided for in the procedures developed by the administrator.

(b) Establish characteristics and performance standards for specialized telecommunications devices determined to be necessary, and for the selection of equipment to be purchased for distribution to qualified recipients. The characteristics and standards shall be modified as advances in equipment technology render such standards inapplicable.

(c) Provide for the administrator to apply for, contract for, receive, and expend for the purposes of this part any appropriation, grant, gift, or donation from the Federal Government or any other public or private source.

(d) Require the administrator to purchase the equipment required by this part on a competitively bid basis, so that the best value per unit may be obtained on the equipment selected for purchase, unless the equipment is

available from only one source, or the total amount of the subject transaction does not exceed \$5,000.

(6) All names, addresses, and telephone numbers provided to the Florida Public Service Commission or administrator by applicants for specialized telecommunications devices are confidential and exempt from the provisions of s. 119.07(1). The information shall be released to contractors only to the extent necessary for assignment and shipment of equipment, for provision of training in the use of equipment, and for inventory reconciliation purposes. Neither the administrator or any contractor shall release this information nor use it for any other purpose.

(7) The administrator shall assume responsibility for distribution of specialized telecommunications devices.

(8) The administrator shall submit financial statements to the commission quarterly, in the manner prescribed by the commission.

**History.**—s. 1, ch. 91-111; s. 1, ch. 92-2; s. 278, ch. 96-406; s. 52, ch. 99-5; s. 12, ch. 2000-334.

#### **427.706 Advisory committee.—**

(1) The commission shall appoint an advisory committee to assist the commission with the implementation of the provisions of this part. The committee shall be composed of no more than 10 persons and shall include, to the extent practicable, the following:

- (a) Two deaf persons recommended by the Florida Association of the Deaf.
- (b) One hearing impaired person recommended by Self-Help for the Hard of Hearing.
- (c) One deaf and blind person recommended by the Coalition for Persons with Dual Sensory Disabilities.
- (d) One speech impaired person recommended by the Florida Language Speech and Hearing Association.
- (e) Two representatives of telecommunications companies.
- (f) One person with experience in providing relay services recommended by the Deaf Service Center Association.

(g) One person recommended by the Advocacy Center for Persons with Disabilities, Inc.

(h) One person recommended by the Florida League of Seniors.

(2) The advisory committee shall provide the expertise, experience, and perspective of persons who are hearing impaired or speech impaired to the commission and to the administrator during all phases of the development and operation of the telecommunications access system. The advisory committee shall advise the commission and the administrator on the quality and cost-effectiveness of the telecommunications relay service and the specialized telecommunications devices distribution system. The advisory committee may submit material for inclusion in the annual report prepared pursuant to s. 427.704.

(3) Members of the committee shall not be compensated for their services but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061. The commission shall use funds from the Florida Public Service Regulatory Trust Fund to cover the costs incurred by members of the advisory committee.

**History.**—s. 1, ch. 91-111; s. 45, ch. 94-324; s. 18, ch. 95-327; s. 140, ch. 2010-102; s. 4, ch. 2012-177.

**427.707 Exemption from liability.**—Neither the commission, the administrator, the provider of the telecommunications relay service, nor any agent, employee, representative, or officer of the foregoing shall be liable for any claims, actions, damages, or causes of action arising out of or resulting from the establishment, participation in, or operation of the telecommunications relay service, except where there is malicious purpose or wanton and willful disregard of human rights, safety, or property in the establishment, participation in, or operation of the telecommunications relay service.

**History.**—s. 1, ch. 91-111.

#### **427.708 Certain public safety and health care providers required to purchase and operate TDD's.—**

(1) The central communications office of each county sheriff's department shall purchase and continually operate at least one TDD.

(2)(a) The central communications office of each police department and each firefighting agency in a municipality with a population of 25,000 to 250,000 shall purchase and continually operate at least one TDD.



- (b) The central communications office of each police department and each firefighting agency in a municipality with a population exceeding 250,000 persons shall purchase and continually operate at least two TDD's.
- (3) Each hospital as defined in s. 395.002 shall purchase and continually operate at least one TDD.
- (4) Each emergency telephone number "911" system, as provided in s. 365.171, and each agency receiving automatically routed calls through such a system shall purchase and continually operate at least one TDD.
- (5) Each public safety office, health care provider, and emergency telephone number "911" system required to obtain a TDD pursuant to this section shall continuously operate and staff such equipment on a 24-hour basis.
- (6) Each office or organization required to purchase TDD's pursuant to this section shall buy such equipment which meets the same specifications as those selected by the commission.
- (7) Each office or organization required to operate TDD's pursuant to this section shall utilize equipment in accordance with standards established by the commission.

**History.**—s. 1, ch. 91-111; s. 80, ch. 92-289; s. 46, ch. 94-324; s. 19, ch. 95-327.

### PART III ASSISTIVE TECHNOLOGY DEVICE WARRANTY ACT

427.801 Short title.

427.802 Definitions.

427.803 Express warranty.

427.804 Repair of nonconforming assistive technology devices; refund or replacement of devices after attempt to repair; sale or lease of returned device; arbitration; limitation of rights.

427.805 Waiver.

427.806 Action for damages.

**427.801 Short title.**—This part may be cited as the "Assistive Technology Device Warranty Act."

**History.**—s. 1, ch. 97-47.

**427.802 Definitions.**—As used in this part:

- (1) "Assistive technology devices" means manual wheelchairs, motorized wheelchairs, motorized scooters, voice-synthesized computer modules, optical scanners, talking software, braille printers, environmental control devices for use by a person with quadriplegia, motor vehicle adaptive transportation aids, devices that enable persons with severe speech disabilities to in effect speak, personal transfer systems, and specialty beds, including a demonstrator, that a consumer purchases or accepts transfer of in this state for use by a person with a disability.
- (2) "Person with a disability" means any person who has one or more permanent physical or mental limitations that restrict his or her ability to perform the normal activities of daily living and impede his or her capacity to live independently.
- (3) "Assistive technology device dealer" means a person who is engaged in the business of selling assistive technology devices.
- (4) "Assistive technology device lessor" means a person who leases an assistive technology device to a consumer, or holds the lessor's rights, under a written lease.
- (5) "Collateral costs" means expenses incurred by a consumer in connection with the repair of a nonconformity, including the costs of obtaining an alternative assistive technology device.
- (6) "Consumer" means any of the following:
  - (a) The purchaser of an assistive technology device, if the assistive technology device was purchased from an assistive technology device dealer or manufacturer for purposes other than resale.
  - (b) A person to whom the assistive technology device is transferred for purposes other than resale, if the transfer occurs before the expiration of an express warranty applicable to the assistive technology device.
  - (c) A person who may enforce the warranty.

(d) A person who leases an assistive technology device from an assistive technology device lessor under a written lease.

(7) “Demonstrator” means an assistive technology device used primarily for the purpose of demonstration to the public.

(8) “Early termination cost” means any expense or obligation that an assistive technology device lessor incurs as a result of both the termination of a written lease before the termination date set forth in that lease and the return of an assistive technology device to a manufacturer pursuant to this section. The term includes a penalty for prepayment under a financial arrangement.

(9) “Early termination saving” means any expense or obligation that an assistive technology device lessor avoids as a result of both the termination of a written lease before the termination date set forth in the lease and the return of an assistive technology device to a manufacturer pursuant to this section. The term includes an interest charge that the assistive technology device lessor would have paid to finance the assistive technology device or, if the assistive technology device lessor does not finance the assistive technology device, the difference between the total amount for which the lease obligates the consumer during the period of the lease term remaining after the early termination and the present value of that amount at the date of the early termination.

(10) “Manufacturer” means a business entity that manufactures or produces assistive technology devices for sale and agents of that business entity, including an importer, a distributor, a factory branch, a distributor branch, and any warrantors of the manufacturer’s assistive technology device, but not including an assistive technology device dealer.

(11) “Nonconformity” means a condition or defect of an assistive technology device which substantially impairs the use, value, or safety of the device and which is covered by an express warranty applicable to the assistive technology device, but does not include a condition or defect that is the result of abuse, neglect, excessive wear, or unauthorized modification or alteration of the assistive technology device by a consumer.

(12) “Reasonable attempt to repair” means, within the terms of an express warranty applicable to a new assistive technology device:

(a) A maximum of three efforts by the manufacturer, the assistive technology device lessor, or any of the manufacturer’s authorized assistive technology device dealers to repair a nonconformity that is subject to repair under the warranty; or

(b) The passage of at least 30 cumulative days during which the assistive technology device is out of service because of a nonconformity that is covered by the warranty.

**History.**—s. 1, ch. 97-47; s. 17, ch. 99-307; s. 3, ch. 2001-214.

**427.803 Express warranty.**—A manufacturer who sells a new assistive technology device to a consumer, either directly or through an assistive technology device dealer, shall furnish the consumer with an express warranty for the assistive technology device. The duration of the express warranty must be at least 1 year after first delivery of the assistive technology device to the consumer. In the absence of an express warranty from the manufacturer, the manufacturer is considered to have expressly warranted to the consumer of an assistive technology device that, for a period of 1 year after the date of first delivery to the consumer, the assistive technology device will be free from any condition or defect that substantially impairs the value of the assistive technology device to the consumer.

**History.**—s. 1, ch. 97-47; s. 18, ch. 99-307; s. 4, ch. 2001-214.

**427.804 Repair of nonconforming assistive technology devices; refund or replacement of devices after attempt to repair; sale or lease of returned device; arbitration; limitation of rights.**—

(1) If a new assistive technology device does not conform to an applicable express warranty and the consumer reports the nonconformity to the manufacturer, the assistive technology device lessor, or any of the manufacturer’s authorized assistive technology device dealers and makes the assistive technology device available for repair within 1 year after first delivery or return of the assistive technology device to the consumer, the nonconformity must be repaired at no charge to the consumer.

(2) If, after a reasonable attempt to repair, the nonconformity is not repaired, the manufacturer, at the direction of a consumer as defined in s. 427.802(6)(a)-(c), must do one of the following:

(a) Accept return of the assistive technology device and replace the assistive technology device with a comparable new assistive technology device and refund any collateral costs.

(b) Accept return of the assistive technology device and refund to the consumer and to any holder of a perfected security interest in the consumer's assistive technology device, as the interest may appear, the full purchase price plus any finance charge amount paid by the consumer at the point of sale, and collateral costs.

(c) With respect to a consumer as defined in s. 427.802(6)(d), accept return of the assistive technology device, refund to the assistive technology device lessor and to any holder of a perfected security interest in the assistive technology device, as the interest may appear, the current value of the written lease, and refund to the consumer the amount that the consumer paid under the written lease plus any collateral costs.

(3) The current value of the written lease equals the total amount for which the lease obligates the consumer during the period of the lease remaining after its early termination plus the assistive technology device dealer's early termination costs and the value of the assistive technology device at the lease expiration date if the lease sets forth the value, less the assistive technology device lessor's early termination savings.

(4) To receive a comparable new assistive technology device or a refund due under paragraph (2)(a), a consumer must offer to the manufacturer of the assistive technology device having the nonconformity to transfer possession of the assistive technology device to the manufacturer. No later than 30 days after the offer, the manufacturer shall provide the consumer with the comparable assistive technology device or refund. When the manufacturer provides the comparable assistive technology device or refund, the consumer shall return the assistive technology device having the nonconformity to the manufacturer, along with any endorsements necessary to transfer real possession to the manufacturer.

(5) To receive a refund due under paragraph (2)(b), a consumer must offer to return the assistive technology device having the nonconformity to its manufacturer. No later than 30 days after the offer, the manufacturer shall provide the refund to the consumer who paid for or the provider who billed a third party payor source for the assistive technology device. The provider shall return the manufacturer's refund to the third party payor source, unless the provider was not reimbursed by the third party payor. When the manufacturer provides the refund, the consumer shall return to the manufacturer the assistive technology device having the nonconformity.

(6) To receive a refund due under paragraph (2)(c), an assistive technology device lessor must offer to transfer possession of the assistive technology device having the nonconformity to its manufacturer. No later than 30 days after the offer, the manufacturer shall provide the refund to the assistive technology device lessor. When the manufacturer provides the refund, the assistive technology device lessor shall provide to the manufacturer any endorsements necessary to transfer legal possession to the manufacturer.

(7) A person may not enforce the lease against the consumer after the consumer receives a refund due under paragraph (2)(c).

(8) An assistive technology device that is returned by a consumer or assistive technology device lessor in this state, or by a consumer or assistive technology device lessor in another state under a similar law of that state, may not be sold or leased again in this state, unless full disclosure of the reasons for return is made to any prospective buyer or lessee.

(9) Each consumer may submit any dispute arising under this part to an alternative arbitration mechanism established pursuant to chapter 682. Upon notice by the consumer, all manufacturers must submit to such alternative arbitration.

(10) Such alternative arbitration must be conducted by a professional arbitrator or arbitration firm appointed under chapter 682 and any applicable rules. These procedures must provide for the personal objectivity of the arbitrators and for the right of each party to present its case, to be in attendance during any presentation made by the other party, and to rebut or refute such a presentation.

(11) This part does not limit rights or remedies available to a consumer under any other law.

**History.**—s. 1, ch. 97-47; s. 19, ch. 99-307; s. 5, ch. 2001-214; s. 44, ch. 2001-279.



**427.805 Waiver.**—Any waiver by a consumer of rights under this part is void.

**History.**—s. 1, ch. 97-47.

**427.806 Action for damages.**—In addition to pursuing any other remedy, a consumer may bring an action to recover damages for any injury caused by a violation of this part. The court shall award a consumer who prevails in such an action twice the amount of any pecuniary loss, together with costs, disbursements, and reasonable attorney’s fees, and any equitable relief that the court determines is appropriate.

**History.**—s. 1, ch. 97-47.

**CHAPTER 41-2**  
**COMMISSION FOR THE TRANSPORTATION DISADVANTAGED**

41-2.001	Purpose (Repealed)
41-2.002	Definitions
41-2.003	Commission Organization and Personnel (Repealed)
41-2.005	Member Department Responsibilities (Repealed)
41-2.006	Insurance, Safety Requirements and Standards
41-2.007	Reporting Requirements
41-2.008	Contractual Arrangements
41-2.009	Designated Official Planning Agency
41-2.010	Selection of Community Transportation Coordinator
41-2.011	Community Transportation Coordinator Powers and Duties
41-2.012	Coordinating Board Structure and Duties
41-2.013	Transportation Disadvantaged Trust Fund
41-2.014	Grants Program
41-2.015	Expenditure of Local Government, State, and Federal Funds for the Transportation Disadvantaged
41-2.016	Accessibility (Repealed)
41-2.0161	Program Monitoring of Performance (Repealed)
41-2.0162	Chronological Listing of Report Dates
41-2.018	Public Comment

**41-2.001 Purpose.**

*Rulemaking Authority 427.013(9) FS. Law Implemented 120.53(1), 427.011-427.017 FS. History--New 5-2-90, Amended 6-17-92, 7-11-95, Repealed 7-15-12.*

**41-2.002 Definitions.**

For purposes of this rule chapter, the following definitions will apply:

(1) “Americans with Disabilities Act” is a federal law, P.L. 101-336, signed by the President of the United States on July 26, 1990.

(2) “Coordination Contract” means a written contract between the Community Transportation Coordinator and an agency who receives transportation disadvantaged funds and performs some, if not all, of its own transportation services, as well as transportation services to others, when shown to be more effective and more efficient from a total system perspective. The contract reflects the specific terms and conditions that will apply to those agencies who perform their own transportation, as well as joint utilization and cost provisions for transportation services to and from the community transportation coordinator.

(3) “Designated Official Planning Agency” means the official body or agency designated by the Commission to fulfill the functions of transportation disadvantaged planning in areas not covered by a Metropolitan Planning Organization. The Metropolitan Planning Organization shall serve as the designated official planning agency in areas covered by such organizations.

(4) “Designated Service Area” means a geographical area recommended by a designated official planning agency, subject to approval by the Commission, which defines the community where coordinated transportation services will be provided to the transportation disadvantaged.

(5) “Emergency” means any occurrence, or threat thereof, whether accidental, natural or caused by man, in war or in peace, which results or may result in substantial denial of transportation services to a designated service area for the transportation disadvantaged population.

(6) “Emergency Fund” means transportation disadvantaged trust fund monies set aside to address emergency situations and which can be utilized by direct contract, without competitive bidding, between the Commission and an entity to handle transportation services during a time of emergency.

(7) “Florida Coordinated Transportation System” (FCTS) means a transportation system responsible for coordination and service provisions for the transportation disadvantaged as outlined in Chapter 427, F.S.

(8) “Local Government” means an elected and/or appointed public body existing to coordinate, govern, plan, fund and administer public services within a designated, limited geographic area within the state.

(9) “Local Government Comprehensive Plan” means a plan that meets the requirements of Sections 163.3177 and 163.3178, F.S.

(10) “Memorandum of Agreement” is the state contract for transportation disadvantaged services purchased with federal, state or local government transportation disadvantaged funds. This agreement is between the Commission and the Community Transportation Coordinator and recognizes the Community Transportation Coordinator as being responsible for the arrangement of the provision of transportation disadvantaged services for a designated service area.

(11) “Public Transit” means the transporting of people by conveyances or systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be governmentally or privately owned. Public transit specifically includes those forms of transportation commonly known as “paratransit”.

(12) “Regional Planning Council (RPC)” means the organization created under the provisions of Section 186.504, F.S.

(13) “Reserve Fund” means transportation disadvantaged trust fund monies set aside each budget year to insure adequate cash is available for incoming reimbursement requests when estimated revenues do not materialize.

(14) “State Fiscal Year” means the period from July 1 through June 30 of the following year.

(15) “Transportation Disadvantaged Service Plan” means an annually updated plan jointly developed by the designated official planning agency and the Community Transportation Coordinator which contains a development plan, service plan, and quality assurance components. The plan shall be approved and used by the local Coordinating Board to evaluate the Community Transportation Coordinator.

(16) “Transportation Operator” means one or more public, private for profit or private nonprofit entities engaged by the community transportation coordinator to provide service to transportation disadvantaged persons pursuant to a coordinated transportation development plan.

(17) “Transportation Operator Contract” means a written contract between the Community Transportation Coordinator and the Transportation Operators, as approved by the Commission, that outlines the terms and conditions for any services to be performed.

(18) “Trust Fund” means the Transportation Disadvantaged Trust Fund authorized in Section 427.0159, F.S., and administered by the Commission.

*Rulemaking Authority 427.013(10) FS. Law Implemented 427.011-427.017 FS. History—New 5-2-90, Amended 6-17-92, 1-4-94, 7-11-95, 5-1-96, 10-1-96, 3-10-98, 8-10-09.*

#### **41-2.003 Commission Organization and Personnel.**

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.012 FS. History—New 5-2-90, Amended 6-17-92, 3-10-98, Repealed 7-15-12.*

#### **41-2.005 Member Department Responsibilities.**

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.0135 FS. History—New 5-2-90, Amended 6-17-92, 6-15-93, 7-11-95, 3-10-98, Repealed 1-7-16.*

#### **41-2.006 Insurance, Safety Requirements and Standards.**

(1) The Community Transportation Coordinator, shall ensure compliance with the minimum liability insurance requirement of \$100,000 per person and \$200,000 per incident, which are comparable to Section 768.28(5), F.S., limits, for all transportation services purchased or provided for the transportation disadvantaged through the Community Transportation Coordinator. The Community Transportation Coordinator will indemnify and hold harmless the Local, State, and Federal governments and their entities, departments, and the Commission from any liabilities arising out of or due to an accident or negligence on the part of the Community Transportation Coordinator and all Transportation Operators under contract to them.

(2) Each Community Transportation Coordinator, and any Transportation Operators from whom transportation service is purchased with local government, state or federal transportation disadvantaged funds, shall ensure the purchaser that their operations and services are in compliance with the safety requirements as specified in Section 341.061(2)(a), F.S. and Chapter 14-90, F.A.C.

(3) Each Community Transportation Coordinator, and any Transportation Operators from whom service is purchased or funded by local government, state or federal transportation disadvantaged funds shall assure the purchaser of their continuing compliance

with the applicable state or federal laws relating to drug testing (specifically, Section 112.0455, F.S.; Rule 14-17.012 and Chapters 59A-24 and 60L-19, F.A.C.; and 41 U.S.C. 701; 49 C.F.R., Parts 29 and 382; and 46 C.F.R., Parts 4, 5, 14 and 16).

(4) The Community Transportation Coordinator and any Transportation Operator from whom service is purchased or arranged by the Community Transportation Coordinator shall adhere to Commission approved standards. These standards include:

(a) Drug and alcohol testing for safety sensitive job positions within the coordinated system regarding pre-employment, randomization, post-accident, and reasonable suspicion as required by the Federal Highway Administration and the Federal Transit Administration;

(b) An escort of a passenger and dependent children are to be transported as locally negotiated and identified in the local Transportation Disadvantaged Service Plan;

(c) Use of child restraint devices shall be determined locally as to their responsibility, and cost of such device in the local Transportation Disadvantaged Service Plan;

(d) Passenger property that can be carried by the passenger and/or driver in one trip and can safely be stowed on the vehicle, shall be allowed to be transported with the passenger at no additional charge. Additional requirements may be negotiated for carrying and loading rider property beyond this amount. Passenger property does not include wheelchairs, child seats, stretchers, secured oxygen, personal assistive devices, or intravenous devices;

(e) Vehicle transfer points shall provide shelter, security, and safety of passengers;

(f) A local toll free phone number for complaints or grievances shall be posted inside the vehicle. The TD Helpline phone number 1(800) 983-2435 shall also be posted inside all vehicles of the coordinated system. The local complaint process shall be outlined as a section in the local Transportation Disadvantaged Service Plan including, advising the dissatisfied person about the Commission's Ombudsman Program as a step within the process as approved by the local Coordinating Board. All rider information/materials (brochures, user's guides, etc.) will include the TD Helpline phone number;

(g) Out of service area trips shall be provided when determined locally and approved by the local Coordinating Board, except in instances where local ordinances prohibit such trips;

(h) Interior of all vehicles shall be free from dirt, grime, oil, trash, torn upholstery, damaged or broken seats, protruding metal or other objects or materials which could soil items placed in the vehicle or provide discomfort for the passenger;

(i) Billing requirements of the Community Transportation Coordinator to subcontractors shall be determined locally by the local Coordinating Board and provided in the local Transportation Disadvantaged Service Plan. All bills shall be paid within 7 working days to subcontractors, after receipt of said payment by the Community Transportation Coordinator, in accordance with Section 287.0585, F.S.;

(j) Passenger/trip data base must be maintained or accessible by the Community Transportation Coordinator on each rider being transported within the system;

(k) Adequate seating for paratransit services shall be provided to each rider and escort, child, or personal care attendant, and no more passengers than the registered passenger seating capacity shall be scheduled or transported in a vehicle at any time. For transit services provided by transit vehicles, adequate seating or standing space will be provided to each rider and escort, child, or personal care attendant, and no more passengers than the registered passenger seating or standing capacity shall be scheduled or transported in a vehicle at any time;

(l) Drivers for paratransit services, including coordination contractors, shall be required to announce and identify themselves by name and company in a manner that is conducive to communications with the specific passenger, upon pickup of each rider, group of riders, or representative, guardian, or associate of the rider, except in situations where the driver regularly transports the rider on a recurring basis. Each driver must have photo identification that is in view of the passenger. Name patches, inscriptions or badges that affix to driver clothing are acceptable. For transit services, the driver photo identification shall be in a conspicuous location in the vehicle;

(m) The paratransit driver shall provide the passenger with boarding assistance, if necessary or requested, to the seating portion of the vehicle. The boarding assistance shall include opening the vehicle door, fastening the seat belt or utilization of wheel chair securement devices, storage of mobility assistive devices, and closing the vehicle door. In the door-through-door paratransit service category, the driver shall be required to open and close doors to buildings, except in situations in which assistance in opening/closing building doors would not be safe for passengers remaining on the vehicle. Assisted access must be in a dignified manner. Drivers may not assist wheelchair up or down more than one step, unless it can be performed safely as determined by the passenger, guardian, and driver;

(n) Smoking is prohibited in any vehicle. Requirements for drinking and eating on board the vehicle will be addressed in the local Transportation Disadvantaged Service Plan;

(o) The Community Transportation Coordinator and the local Coordinating Board shall jointly develop a policy on passenger no-shows. Assessing fines to passengers for no-shows is acceptable but such policy and process shall be identified in the local Transportation Disadvantaged Service Plan;

(p) All vehicles providing service within the coordinated system, shall be equipped with two-way communications in good working order and audible to the driver at all times to the base;

(q) All vehicles providing service within the coordinated system, shall have working air conditioners and heaters in each vehicle. Vehicles that do not have a working air conditioner or heater will be scheduled for repair or replacement as soon as possible;

(r) First Aid policy shall be determined locally and provided in the local Transportation Disadvantaged Service Plan;

(s) Cardiopulmonary Resuscitation policy shall be determined locally and provided in the local Transportation Disadvantaged Service Plan;

(t) Driver background screening shall be determined locally, dependent upon purchasing agencies' requirements, and provided in the local Transportation Disadvantaged Service Plan;

(u) In areas where fixed route transportation is available, the Community Transportation Coordinator should jointly establish with the Local Coordinating Board (LCB) a percentage of total trips that will be placed on the fixed route system;

(v) The Community Transportation Coordinator should establish and address the passenger pick-up windows in the local Transportation Disadvantaged Service Plan. This policy should also be communicated to contracted operators, drivers, purchasing agencies and passengers;

(w) The Community Transportation Coordinator and the LCB should jointly establish and address the percentage of trips that will be on-time in the local Transportation Disadvantaged Service Plan. This performance measure should be communicated to contracted operators, drivers, purchasing agencies, and passengers. This measure should also be included as a part of the Community Transportation Coordinator's evaluation of its contracted operators, and the LCB's evaluation of the Community Transportation Coordinator;

(x) The Community Transportation Coordinator should establish and address in the local Transportation Disadvantaged Service Plan a minimum 24 hour advanced notification time to obtain services. This policy should be communicated to contracted operators, purchasing agencies and passengers;

(y) The Community Transportation Coordinator and the LCB should jointly establish and address in the service plan a performance measure to evaluate the safety of the coordinated system. This measure should be used in the Community Transportation Coordinator's evaluation of the contracted operators, and the LCB's evaluation of the Community Transportation Coordinator;

(z) The Community Transportation Coordinator and the LCB should jointly establish and address in the local service plan a performance measure to evaluate the reliability of the vehicles utilized in the coordinated system. This measure should be used in the Community Transportation Coordinator's evaluation of the contracted operators, and the LCB's evaluation of the Community Transportation Coordinator;

(aa) This performance measure can be used to address the accessibility of the service. The Community Transportation Coordinator and the LCB should jointly determine if a standard for a call hold time is needed in the coordinated system and address this in the local service plan. If determined to be necessary, this standard should be included in the LCB's evaluation of the Community Transportation Coordinator;

(bb) The Community Transportation Coordinator and the LCB should jointly establish and address in the local service plan a performance measure to evaluate the quality of service provided within the coordinated system. The measure should be used in the Community Transportation Coordinator's evaluation of the contracted operators, and the LCB's evaluation of the Community Transportation Coordinator.

*Rulemaking Authority 427.013(9) FS. Law Implemented 287.0585, 427.011(11), 427.013, 427.0155, 427.0157, 768.28 FS. History—New 5-2-90, Amended 6-17-92, 5-1-96, 10-1-96, 3-10-98, 6-3-01, 7-3-03.*

#### **41-2.007 Reporting Requirements.**

(1) Each state agency shall, by September 15 of each year, provide the Commission with an accounting of the actual amount of

funds expended and the total number of trips purchased during the previous fiscal year.

(2) Each Designated Official Planning Agency shall provide to the Commission prior to each state fiscal year, an estimate of all transportation disadvantaged funds anticipated to be available for the upcoming state fiscal year budget. The estimate shall include the following information:

(a) Each local government agency within jurisdiction of the Official Planning Agency shall report an estimate of the direct federal funds and local government transportation disadvantaged funds anticipated to be available through the coordinated system for the upcoming state fiscal year to the Official Planning Agency, and

(b) The Official Planning Agency shall request from each federal government agency within its jurisdiction, an estimate of the direct federal transportation disadvantaged funds anticipated to be available through the coordinated system for the upcoming state fiscal year.

(3) The estimate mentioned in subsection (2) above shall include the following information identified by county:

(a) A brief description of the project or program;

(b) The dollar amount of transportation disadvantaged funds reported by categories of Coordinated, Non-Coordinated, Transportation Alternatives, or Other if applicable; and

(c) The estimated number of one-way passenger trips to be provided reported by categories of Coordinated, Non-Coordinated, Transportation Alternatives, or Other if applicable.

(4) Each Metropolitan Planning Organization or designated official planning agency shall annually compile a report accounting for all local government and direct federal funds for transportation for the disadvantaged expended in its jurisdiction, and forward this report by September 15 to the Commission.

(5) Upon receipt of the state agency and Official Planning Agency combined annual budget estimates, the Commission shall develop and distribute a statewide report outlining the expected expenditures for all transportation disadvantaged services through the coordinated system for the state fiscal year.

(6) Each Community Transportation Coordinator shall by September 15 of each year report required operating statistics to the Commission. The operational statistics will be compiled into a report by the Commission and utilized as a part of the analysis of the Community Transportation Coordinator's performance evaluation and the trip and equipment grant distribution. The Community Transportation Coordinator's report shall be reviewed by the Coordinating Board with a copy provided to the Metropolitan Planning Organization or Designated Official Planning Agency.

(7) Each Community Transportation Coordinator shall utilize the Chart of Accounts defined in the American Association of State Highway and Transportation Officials, Inc., Comprehensive Financial Management Guidelines For Rural and Small Urban Public Transportation Providers, dated September 1992, incorporated herein by reference, for its financial management. A copy of this document may be obtained from the Commission office located at 2740 Centerview Drive, Suite 1A, Tallahassee, Florida 32301. A copy of the document may also be viewed at Comprehensive Financial Management Guidelines on the Commission's website at [www.dot.state.fl.us/ctd/](http://www.dot.state.fl.us/ctd/). Community Transportation Coordinators with existing and equivalent accounting systems will not be required to adopt this Chart of Accounts but will be required to prepare all reports, invoices, and fiscal documents relating to the transportation disadvantaged functions and activities using the chart of accounts and accounting definitions as outlined in the above referenced manual.

(8) The Commission shall make an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1 of each year. The report will contain a summary of the Commission's accomplishments for the preceding state fiscal year, the most current operational statistics for transportation disadvantaged services, identified unmet needs and a financial status of the Transportation Disadvantaged Trust Fund. Copies of the report will also be made available to member departments, Metropolitan Planning Organizations, Designated Official Planning Agencies and Community Transportation Coordinators, and others upon request.

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.012(8), 427.013(3), (7), (8), (9), (12), (13), (16), 427.0135(1), 427.015(1) FS. History—New 5-2-90, Amended 6-17-92, 11-17-92, 1-4-94, 7-11-95, 5-1-96, 3-10-98, 12-6-09, 3-5-13.*

#### **41-2.008 Contractual Arrangements.**

The following contractual arrangements will be required of the Community Transportation Coordinator:

(1) A Memorandum of Agreement will be required and shall be a binding contract between the Commission and a Community Transportation Coordinator. It shall be utilized as the contract recognizing the Community Transportation Coordinator as a State

contract vendor for a designated service area. The format of the Memorandum of Agreement will contain the Commission's minimum requirements and shall be utilized by the Community Transportation Coordinator. The Coordinating Board shall approve the Memorandum of Agreement prior to submittal to the Commission.

(2) Transportation Operator Contract. The Community Transportation Coordinator shall enter into a standard contract, as approved by the Commission, with each Transportation Operator as to specific terms and conditions that apply to each Transportation Operator for services to be performed. The contract shall include the minimum requirements contained in the Memorandum of Agreement and other local requirements for local service delivery. The Community Transportation Coordinator will be responsible for monitoring the terms of the contract.

(3) Coordination Contract. The Community Transportation Coordinator shall enter into a Coordination Contract to show the specific terms and conditions, as outlined in the Memorandum of Agreement with those agencies who receive transportation disadvantaged funds and who, from a total system approach, can perform more effectively and more efficiently their own transportation under those conditions not covered in Rule 41-2.015, F.A.C., herein. The contract shall include the requirements of reporting, insurance, safety, and other terms that apply equally to any transportation operator. The contract also shall include any relative information regarding joint utilization and cost arrangements for the provision of transportation services to and from the coordinator. The Community Transportation Coordinator will be responsible for monitoring the terms of the contract. The contract shall be approved by the Coordinating Board and shall be reviewed annually to determine whether the continuation of said contract arrangement is the most cost effective and efficient utilization that is possible.

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.013(10), (15), 427.015(2), 427.0155(7), 427.0157(1) FS. History--New 5-2-90, Amended 6-17-92, 7-11-95, 10-1-96, 3-10-98.*

#### **41-2.009 Designated Official Planning Agency.**

(1) Metropolitan Planning Organizations shall serve as the designated official planning agency in urbanized areas. In areas not covered by a Metropolitan Planning Organization, agencies eligible for selection as Designated Official Planning Agencies include County or City governments, Regional Planning Councils, Metropolitan Planning Organizations from other areas, or Local Planning Organizations who are currently performing planning activities in designated service areas. Eligibility for continued designation by the Commission will be conditioned on the agency's resources, capabilities and actual performance in implementing the responsibilities and requirements of Chapter 427, F.S.

(2) Metropolitan Planning Organizations and Designated Official Planning Agencies shall include a Transportation Disadvantaged element in their Transportation Improvement Program (TIP). Such element shall include a project and program description, the planned costs and anticipated revenues for the services, identification of the year the project or services are to be undertaken and implemented, and assurances that there has been coordination with local public transit and local government comprehensive planning bodies, including input into the mass transit or other elements of local and regional comprehensive planning activities. Areas not required to develop a federally-required TIP shall report equivalent information in the Transportation Disadvantaged Service Plan.

(3) Each Designated Official Planning Agency shall provide each Coordinating Board with sufficient staff support and resources to enable the Coordinating Board to fulfill its responsibilities. In areas where a Metropolitan Planning Organization or Designated Official Planning Agency serves as the Community Transportation Coordinator and desires to utilize the same staff for the Coordinating Board, such agency shall abstain from any official actions that represent a conflict of interest, specifically in the evaluation process of the Community Transportation Coordinator.

(4) In consultation with the Community Transportation Coordinator and Coordinating Board, each Metropolitan Planning Organization or Designated Official Planning Agency shall develop and annually update, a Transportation Disadvantaged Service Plan. The Transportation Disadvantaged Service Plan shall be developed in a manner which assures that local planning agencies, responsible for preparing comprehensive plans, have the opportunity to review and comment on it, and shall not be inconsistent with applicable local government comprehensive plans, MPO long range comprehensive plans, transit development plans, and other local, regional, and state transportation plans. The Transportation Disadvantaged Service Plan shall be reviewed for final disposition by the Coordinating Board and the Commission.

(5) Consolidate the annual budget estimates of local and directly funded federal government transportation disadvantaged funds and forward to the Commission no later than the beginning of each state fiscal year.

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.013(21), 427.015 FS. History--New 5-2-90, Amended 6-17-92, 1-4-94, 3-10-98.*

#### **41-2.010 Selection of Community Transportation Coordinator.**

(1) Designation, selection, or revocation of designation of any Community Transportation Coordinator shall be subject to the approval of the Commission.

(2) Selection of agencies as Community Transportation Coordinators or Transportation Operators may be negotiated without competitive acquisition, upon the recommendation of the Metropolitan Planning Organization or Designated Official Planning Agency that it is in the best interest of the transportation disadvantaged. This includes circumstances such as emergencies, or insufficient competition availability.

(3) Selection of the Community Transportation Coordinator will be accomplished through public competitive bidding or proposals in accordance with applicable laws and rules.

(4) In cases where selection is accomplished by a request for proposal (RFP), the RFP shall, at a minimum, identify the following information:

(a) The scope and nature of the services and coordination required, and a request for the proposer's plan to provide same.

(b) A request that the proposer identify the resources, and accounting system techniques to be used in their audit trail for all services.

(c) A request that the proposer identify their organizational structure and key personnel, their financial capacity, equipment resources, and experience and qualifications, including the most recent financial audit by a certified public accountant in accordance with Section 216.349, F.S.

(d) A request that the proposer demonstrate the ability to coordinate a multitude of funding and service provisions, in addition to serving the needs of the general public or other transportation disadvantaged.

(e) A request that the proposer identify specific means by which it plans to comply with the provisions of the Americans with Disabilities Act, P.L. 101-336, Chapter 760, F.S., and any applicable local regulations governing disabled accessibility requirements, access to transportation, and discrimination.

(f) A demonstration by the proposer of plans for the provision of the most economically cost effective, quality services to the transportation disadvantaged, and plans which demonstrate coordination with the public school system, local public transit systems, private sector operators and other governmental agencies that provide services to the transportation disadvantaged within the designated service area.

(g) A demonstration by the proposer of plans to comply with safety requirements as specified in Section 341.061, F.S.

(h) An indication by the proposer of plans to comply with any state, federal, or local laws relating to drug testing.

(i) A sample Memorandum of Agreement for review by the respondent.

(j) A statement advising proposers of any local resources that exist or are planned that should be recognized in the bidders proposal.

(5) The announcement of the request for proposal shall be published in at least the largest general circulation newspaper in the designated service area and in the Florida Administrative Register. The advertised announcement shall include the time, date and place of a public meeting to provide information and answer questions about the request for proposal.

(6) Upon evaluation of the proposals, each Metropolitan Planning Organization or Designated Official Planning Agency, upon consultation with the Coordinating Board, shall recommend to the Commission a Community Transportation Coordinator.

(7) Upon resignation or termination of any Community Transportation Coordinator, the Metropolitan Planning Organization or Designated Official Planning Agency shall complete the recommendation process for a new Community Transportation Coordinator within 90 days after termination date for non-bid Community Transportation Coordinators and within 150 days after termination date for bid/RFP Community Transportation Coordinators. In the absence of these circumstances, the requirements of subsection 41-2.010(8), F.A.C., below shall apply.

(8) In cases of termination of the Community Transportation Coordinator, or in unforeseen emergencies, the Commission shall work with the Metropolitan Planning Organization or Designated Official Planning Agency and the Coordinating Board in an expeditious manner to provide for the continuation of services to the transportation disadvantaged in the designated service area, by providing or arranging the necessary technical assistance.

(9) The utilization of firms defined as minority business enterprises shall be encouraged to the extent possible utilizing the most recent certified minority business listing published by the Florida Department of Management Services.

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.013(10), (15), 427.015(2), 427.0155(7), 427.0157 FS. History—New 5-2-90, Amended 6-17-92, 7-11-95, 10-1-96, 3-10-98, 4-8-01.*



#### **41-2.011 Community Transportation Coordinator Powers and Duties.**

(1) Each Community Transportation Coordinator shall be responsible for the short-range operational planning, administration, monitoring, coordination, arrangement, and delivery of transportation disadvantaged services originating within their designated service area on a full-time basis. Local management personnel with day-to-day decision making authority must be physically located in each designated service area, unless otherwise authorized by the Commission.

(2) Where cost effective and efficient, the Community Transportation Coordinator shall subcontract or broker transportation services to Transportation Operators. The Coordinating Board is authorized to recommend approval or disapproval of such contracts to the Community Transportation Coordinator, providing the basis for its recommendation. Within 30 days of its receipt of the Coordinating Board's recommendation, the Community Transportation Coordinator shall accept or reject the recommendation, providing written reasons for its rejection. All Transportation Operator contracts shall be reviewed annually by the Community Transportation Coordinator and the Coordinating Board as to the effectiveness and efficiency of the Transportation Operator or the renewal of any Coordination Contracts previously approved. Each Community Transportation Coordinator will ensure the terms set forth for monitoring said Transportation Operators and Coordination Contractors are in compliance with standards pursuant to Rule 41-2.006, F.A.C.

(3) Pursuant to the conditions set forth in the Memorandum of Agreement, the Community Transportation Coordinator shall develop, implement, and monitor an approved Transportation Disadvantaged Service Plan. This plan shall be approved by the Coordinating Board and forwarded to the Commission for review and final disposition.

(4) Each Community Transportation Coordinator shall submit a report on operational statistics by September 15, each year to the Commission. A copy should also be provided to the Metropolitan Planning Organization or Designated Official Planning Agency.

(5) The Community Transportation Coordinator shall maximize the utilization of school bus and public transit services in accordance with Section 427.0158, F.S. Any utilization data shall be included in operational statistics provided to the coordinated system.

(6) In cooperation with the local Coordinating Board, the Community Transportation Coordinator shall review all applications for local government, federal and state transportation disadvantaged funds submitted from or planned for use in their designated service area. If funds are recommended for approval, the Community Transportation Coordinator, in cooperation with the Coordinating Board, will develop and implement cost-effective coordination strategies for their use and integration into the coordinated system.

(7) Funding to support the Community Transportation Coordinator's functions associated with documented coordination activities may be obtained from a coordination fee as part of each trip arranged, from subsidies received or both and upon approval by the Coordinating Board.

(8) Each Community Transportation Coordinator shall be aware of all of the transportation disadvantaged resources available or planned in their designated service area in order to plan, coordinate, and implement the most cost effective transportation disadvantaged transportation system possible under the conditions that exist in the designated service area.

(9) Contractual administration of Community Transportation Coordinators shall be accomplished through a Memorandum of Agreement between the Commission and the Community Transportation Coordinator in accordance with the procedures of the Commission. Transportation services purchased from or arranged by the Community Transportation Coordinator will be billed to purchasing agencies by the Community Transportation Coordinator at the rates identified in the approved Transportation Disadvantaged Service Plan or Coordination Contract and recognize any special conditions as specified by the purchasing agency. Payment for services will be made directly to the Community Transportation Coordinator unless otherwise agreed upon, in writing, by the purchaser and the Community Transportation Coordinator. Other contractual arrangements shall be followed as specified in this rule chapter.

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.0155 FS. History—New 5-2-90, Amended 6-17-92, 6-15-93, 7-11-95, 5-1-96, 10-1-96, 3-10-98.*

#### **41-2.012 Coordinating Board Structure and Duties.**

The purpose of the Coordinating Board is to identify local service needs and to provide information, advice, and direction to the Community Transportation Coordinator on the coordination of services to be provided to the transportation disadvantaged through the Florida Coordinated Transportation System (FCTS). Each Coordinating Board is recognized as an advisory body to the

Commission in its service area. The members of the Coordinating Board shall be appointed by the Metropolitan Planning Organization or the Designated Official Planning Agency. A Coordinating Board shall be appointed in each county. However, when agreed upon in writing, by all Boards of County Commissions in each county to be covered in the service area, multi-county Coordinating Boards may be appointed. The structure and duties of the Coordinating Board shall be as follows:

(1) The Metropolitan Planning Organization or Designated Official Planning Agency shall appoint one elected official to serve as the official chairperson for all Coordinating Board meetings. The appointed chairperson shall be an elected official from the county that the Coordinating Board serves. For a multi-county Coordinating Board, the elected official appointed to serve as Chairperson shall be from one of the counties involved.

(2) The Coordinating Board shall hold an organizational meeting each year for the purpose of electing a Vice-Chairperson. The Vice-Chairperson shall be elected by a majority vote of a quorum of the members of the Coordinating Board present and voting at the organizational meeting. The Vice-Chairperson shall serve a term of one year starting with the next meeting. In the event of the Chairperson's absence, the Vice-Chairperson shall assume the duties of the Chairperson and conduct the meeting.

(3) In addition to the Chairperson, except for multi-county Coordinating Boards which shall have as a representative an elected official from each county, including the Chairperson, one of whom shall be elected Vice-Chairperson, the following agencies or groups shall be represented on the Coordinating Board, in every county as voting members:

- (a) A local representative of the Florida Department of Transportation;
- (b) A local representative of the Florida Department of Children and Family Services;
- (c) A local representative of the Public Education Community which could include, but not be limited to, a representative of the District School Board, School Board Transportation Office, or Headstart Program in areas where the School District is responsible;
- (d) In areas where they exist, a local representative of the Florida Division of Vocational Rehabilitation or the Division of Blind Services, representing the Department of Education;
- (e) A person recommended by the local Veterans Service Office representing the veterans of the county;
- (f) A person who is recognized by the Florida Association for Community Action (President), representing the economically disadvantaged in the county;
- (g) A person over sixty representing the elderly in the county;
- (h) A person with a disability representing the disabled in the county;
- (i) Two citizen advocate representatives in the county; one who must be a person who uses the transportation service(s) of the system as their primary means of transportation;
- (j) A local representative for children at risk;
- (k) In areas where they exist, the Chairperson or designee of the local Mass Transit or Public Transit System's Board, except in cases where they are also the Community Transportation Coordinator;
- (l) A local representative of the Florida Department of Elderly Affairs;
- (m) An experienced representative of the local private for profit transportation industry. In areas where such representative is not available, a local private non-profit representative will be appointed, except where said representative is also the Community Transportation Coordinator;
- (n) A local representative of the Florida Agency for Health Care Administration;
- (o) A representative of the Regional Workforce Development Board established in Chapter 445, F.S.; and
- (p) A representative of the local medical community, which may include, but not be limited to, kidney dialysis centers, long term care facilities, assisted living facilities, hospitals, local health department or other home and community based services, etc.

(4) Except for the Chairperson, the non-agency members of the Board shall be appointed for three year staggered terms with initial membership being appointed equally for one, two, and three years. The Chairperson shall serve until elected term of office has expired or otherwise replaced by the Designated Official Planning Agency. No employee of a community transportation coordinator shall serve as a voting member of the coordinating board in an area where the community transportation coordinator serves. However, community transportation coordinators and their employees are not prohibited from serving on a coordinating board in an area where they are not the coordinator. However, an elected official serving as Chairperson of the coordinating board, or other governmental employees that are not employed for the purpose of making provisions for transportation and are not directly supervised by the community transportation coordinator shall not be precluded from serving as voting members of the coordinating board.

(5) The Board shall meet at least quarterly and shall perform the following duties in addition to those duties specifically listed in

Section 427.0157, F.S.:

(a) Maintain official meeting minutes, including an attendance roster, reflecting official actions and provide a copy of same to the Commission and the Chairperson of the designated official planning agency.

(b) Annually, provide the Metropolitan Planning Organization or Designated Official Planning Agency with an evaluation of the Community Transportation Coordinator's performance in general and relative to Commission and local standards as referenced in Rule 41-2.006, F.A.C., and the performance results of the most recent Transportation Disadvantaged Service Plan. As part of the Coordinator's performance, the local Coordinating Board shall also set an annual percentage goal increase for the number of trips provided within the system for ridership on public transit, where applicable. In areas where the public transit is not being utilized, the local Coordinating Board shall set an annual percentage of the number of trips to be provided on public transit. The Commission shall provide evaluation criteria for the local Coordinating Board to use relative to the performance of the Community Transportation Coordinator. This evaluation will be submitted to the Commission upon approval by the local coordinating board.

(c) Appoint a Grievance Committee to process and investigate complaints, from agencies, users, transportation operators, potential users of the system and the Community Transportation Coordinator in the designated service area, and make recommendations to the Coordinating Board or to the Commission, when local resolution cannot be found, for improvement of service. The Coordinating Board shall establish a process and procedures to provide regular opportunities for issues to be brought before such committee and to address them in a timely manner. Rider brochures or other documents provided to users or potential users of the system shall provide information about the complaint and grievance process including the publishing of the Commission's TD Helpline service when local resolution has not occurred. All materials shall be made available in accessible format, upon request by the citizen. Members appointed to the committee shall be voting members of the Coordinating Board.

(d) All coordinating board members should be trained on and comply with the requirements of Section 112.3143, F.S., concerning voting conflicts of interest.

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.0157 FS. History—New 5-2-90, Amended 6-17-92, 11-16-93, 1-4-94, 7-11-95, 5-1-96, 10-1-96, 3-10-98, 4-8-01, 12-17-02, 7-3-03.*

#### **41-2.013 Transportation Disadvantaged Trust Fund.**

The Commission shall annually evaluate and determine each year's distribution of the Transportation Disadvantaged Trust Fund. Funds available through the Transportation Disadvantaged Trust Fund for non-sponsored transportation services and planning activities shall be applied only after all other potential funding sources have been used and eliminated. Grant funds shall not be used to supplant or replace funding of transportation disadvantaged services which are currently funded to a recipient by any federal, state, or local governmental agency. Monitoring of this mandate will be accomplished as needed by the Commission and all agencies funding transportation disadvantaged services. The use of minority-owned businesses is encouraged, utilizing the most recent certified companies published by the Department of Management Services. Funds deposited and appropriated into the Trust Fund will be utilized for:

(1) Commission administrative and operating expenses, including financial assistance, through a grant agreement, to designated official planning agencies to assist the Commission in implementing the program in each local area.

(2) A Grants Program to provide for the funding of non-sponsored trips, including the purchase of capital equipment.

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.013, 427.0159, 427.016 FS. History—New 5-2-90, Amended 6-17-92, 1-5-93, 6-26-94, 7-11-95, 3-10-98, 2-20-13.*

#### **41-2.014 Grants Program.**

(1) Eligible Applicants. Grant funds will be allocated annually to the following entities:

(a) Community Transportation Coordinators who have an executed Memorandum of Agreement.

(b) Metropolitan Planning Organizations or Designated Official Planning Agencies approved by the Commission.

(2) Types of Grants.

(a) Trip and Equipment Related. Trip and equipment related grant funds may be used for the provision of non-sponsored transportation disadvantaged services and for the purchase of capital equipment to be used for services provided to the transportation disadvantaged. Capital equipment expenditures will be limited to no more than 25% of the Commission participation and the required match.

(b) Planning Related. Planning related grant funds may be used by an eligible Metropolitan Planning Organization or

Designated Official Planning Agency to assist the Commission in their responsibilities at the local level as identified in Chapter 427, F.S., including support to the local Coordinating Board.

(3) Match Requirement. Eligible grant recipients for the trip and equipment grants only, must provide at least 10% of the total project cost as a local match. The match must be cash generated from local sources. Voluntary dollar collections do not require a match.

(4) Distribution of Grant Funds. On or about December 15 of each year, the Commission shall allocate a portion identified as the Grants Program of the Transportation Disadvantaged Trust Fund in the following manner:

(a) An annual amount of \$1,372,060 of the Grants Program shall be designated for planning grants to assist the Commission with implementation and maintenance of the program at the local level. Beginning with the 2002/2003 grant cycle, the annual cap will be adjusted by the same percentage increase equivalent to state employees as set by the Legislature.

(b) The voluntary dollar collections will be returned to the county where said funds were collected. The voluntary dollar collections shall be designated for additional trips at the local level.

(c) The remaining portion of funds, except as specified in paragraph 41-2.014(4)(b), F.A.C., will be appropriated for the Grants Program and designated for trip and equipment related grants, subject to limitations of paragraphs 41-2.014(1)(a) and (2)(a), F.A.C.

(5) Distribution of Trip and Equipment Related Grant Funds. Each eligible applicant's allocation will be determined for the county or counties within the designated service area for which the applicant provides coordinated transportation disadvantaged services.

(a) In order to maintain system and service stability, the Commission's Fiscal Year 99/00 Allocation of Trip and Equipment Grant Funds, dated 02/99, incorporated herein by reference, shall be the base allocation for each subsequent year's distribution for trip and equipment related grant funds. No county shall receive less than the base allocation unless the Commission's five year cash-flow forecast falls below the Fiscal Year 99/00 levels allocated to the trip and equipment grant related program.

(b) If the level of funding available for distribution to the trip and equipment grant program falls below the base as stated in paragraph 41-2.014(5)(a), F.A.C., a proportionate adjustment to the base allocation will be made. Such adjustment will be based on the five year cash-flow forecast of the Commission, and each county's share of the Fiscal Year 99/00 trip and equipment related grant allocation.

(c) Allocation of additional trip and equipment grant funds above the amount used in the base allocation will be allocated to eligible applicants based on a comparative ranking of all eligible applicants in each of the following four categories:

1. The applicant's total county area in square miles as a percentage of the total square miles of all eligible applicants.
2. Total system passenger trips provided as a percentage of all eligible applicant trips reported.
3. Total system vehicle miles traveled as a percentage of all eligible applicants vehicle miles traveled and reported.
4. Total county population as a percentage of the total population of all eligible applicants.

(d) Each category will represent one fourth of the trip related grant funds.

(e) The latest required operational statistics report which is submitted by September 15 of each year will be used for obtaining the applicant's coordinated vehicle miles and coordinated passenger trips data. For purpose of this section, coordinated vehicle miles or passenger trips shall not include those services provided through an approved transportation alternative.

(6) Distribution of Planning Related Grants. Planning related grant funds will be apportioned for distribution to the planning agencies as follows:

(a) 25% of the planning allocation shall be divided into shares equal to the percentage of population each county has relative to the total state population, with each planning agency receiving a share for each county within its jurisdiction;

(b) 75% of the planning allocation shall be divided into shares equal to the number of counties throughout the state, with each planning agency receiving no more than one share for each county within its jurisdiction. Eligible applicants not requiring the total amount of funding available may recommend to the Coordinating Board that any excess funds be allocated to the Community Transportation Coordinator for additional non-sponsored trip needs. The Commission shall reallocate any eligible excess funds to that particular county or service area's normal allocation. A local cash match of at least 10% shall be required to obtain this additional allocation.

(7) All grant applicants will provide their request for funds to the Commission no later than October 1 each year, unless otherwise approved by the Commission.

(8) Prioritization of Non-sponsored Transportation Services. The Community Transportation Coordinator, with approval of the Coordinating Board, shall have the authority to prioritize trips for non-sponsored transportation disadvantaged services which are

purchased with Transportation Disadvantaged Trust Funds. Any prioritization of trips or eligibility criteria which is developed shall consider all of the following criteria:

- (a) Cost Effectiveness and Efficiency.
- (b) Purpose of Trip.
- (c) Unmet Needs.
- (d) Available Resources.

*Rulemaking Authority 427.013(9), 427.013(10) FS. Law Implemented 427.013, 427.0159, 427.016 FS. History—New 5-2-90, Amended 6-17-92, 7-21-93, 6-26-94, 10-1-96, 3-10-98, 1-13-04.*

#### **41-2.015 Expenditure of Local Government, State, and Federal Funds for the Transportation Disadvantaged.**

(1) Any agency purchasing transportation services or providing transportation funding for the transportation disadvantaged with transportation disadvantaged funds shall expend all transportation disadvantaged funds through a contractual arrangement with the community transportation coordinator or an approved coordination provider except as provided in subsections (2) and (3) below.

(2) When it is better suited to the unique and diverse needs of a transportation disadvantaged person, the sponsoring agency may purchase or provide transportation by utilizing the following alternatives:

- (a) Privately owned vehicle of an agency volunteer or employee;
- (b) State owned vehicles;
- (c) Privately owned vehicle of a family member or custodian;
- (d) Common carriers, such as commercial airlines or bus; and
- (e) Emergency medical vehicles.

(3) The sponsoring agency may utilize other modes of transportation when the community transportation coordinator determines it is unable to provide or arrange the required service. Information pertaining to these denials for service shall be reported by the community transportation coordinator on a quarterly basis or more frequently as specified by the local coordinating board.

(4) All agency applications for transportation disadvantaged operating and capital assistance funds beyond those identified in the normal state legislative budget process shall be made available to the Coordinating Board for such review.

(5) The Commission shall request all funding requests containing a transportation disadvantaged fund component from the Florida State Clearinghouse. Said funding request shall be reviewed by the Commission. The Commission will respond when there are funding requests that conflict with the intent and provisions of Chapter 427, F.S., and the rules thereof.

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.013(16), 427.016 FS. History—New 5-2-90, Amended 6-17-92, 7-11-95, 3-10-98.*

#### **41-2.016 Accessibility.**

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.013(4) FS. History—New 5-2-90, Amended 6-17-92, Repealed 7-15-12.*

#### **41-2.0161 Program Monitoring of Performance.**

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.013 FS. History—New 6-17-92, Amended 5-1-96, Repealed 1-7-16.*

#### **41-2.0162 Chronological Listing of Report Dates.**

The following reports are listed in chronological order by due date and the recipient of the report:

- (1) January 1 – Commission Annual Report due to Governor and Legislature.
- (2) September 15 – Annual Operating Report of Community Transportation Coordinator due to Commission.
- (3) September 15 – Transportation Improvement Programs in urbanized areas due to Commission.
- (4) September 15 – Annual report of the actual amount of funds expended and trips purchased due from each state agency.
- (5) September 15 – Annual report accounting for all local government and direct federal funds for transportation for the disadvantaged expended in its jurisdiction due from each designated official planning agency or metropolitan planning organization.

*Rulemaking Authority 427.013(9) FS. Law Implemented 427.013, 427.0135, 427.015, 427.0155, 427.016 FS. History—New 6-17-92, Amended 6-15-93, 1-4-94, 7-11-95, 5-1-96, 3-10-98, 8-10-09.*

#### **41-2.018 Public Comment.**

The Commission for the Transportation Disadvantaged invites and encourages all members of the public to provide comment on matters or propositions before the Commission or a committee of the Commission. The opportunity to provide comment shall be subject to the following:

(1) Members of the public will be given an opportunity to provide comment on subject matters before the Commission after an agenda item is introduced at a properly noticed Commission meeting.

(2) Members of the public shall be limited to five (5) minutes to provide comment. This time shall not include time spent by the presenter responding to questions posed by Commission members, staff or Commission counsel. The chair of the Commission may extend the time to provide comment if time permits.

(3) Members of the public shall notify Commission staff in writing of his or her interest to be heard on a proposition or matter before the Commission. The notification shall identify the person or entity, indicate its support, opposition, or neutrality, and identify who will speak on behalf of a group or faction of persons.

*Rulemaking Authority 286.0114 FS. Law Implemented 286.0114 FS. History--New 2-13-14.*



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### Commissioners

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**Commissioner David Darm**



**Commissioner Rebecca "Becki" Forsell**  
Yes! of America United, Inc.



**Commissioner Dane Grey**  
Elite Parking Services America, Inc.

**Commissioner Dr. Robin D. Tellez**  
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### **\*\* VACANT \*\***

County Manager or Administrator  
Appointed by the Governor

Our Mission - To insure the availability of efficient, cost-effective, and quality transportation services for transportation disadvantaged persons.



Florida Commission for the



# **Transportation Disadvantaged**

## **LOCAL COORDINATING BOARD AND PLANNING AGENCY OPERATING GUIDELINES**

Issued By:

**FLORIDA COMMISSION FOR THE TRANSPORTATION DISADVANTAGED**

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## I. INTRODUCTION

The purpose of these guidelines is to give clear instructions and uniform guidance in the administration, duties, and operating practices of local Coordinating Boards (LCB) and Planning Agencies.

## II. PURPOSE OF THE LOCAL COORDINATING BOARD

The purpose of each LCB is to identify local service needs and to provide information, advice and direction to the Community Transportation Coordinator (CTC) on the coordination of services to be provided to the transportation disadvantaged within their local service area. In general, the LCB is considered an advisory body. (Section 427.0157, Florida Statutes).

## III. ADMINISTRATION OF THE LOCAL COORDINATING BOARD

### A. Planning Agency Responsibilities

The Metropolitan Planning Organization (MPO) or Designated Official Planning Agency (DOPA), also uniformly referred to as the Planning Agency, shall provide the LCB with sufficient staff support and resources to enable the LCB to fulfill its responsibilities as set forth in Chapter 427, Florida Statutes. These responsibilities include providing sufficient staff to manage and oversee the duties of the LCB. This includes, but is not limited to, scheduling meetings; training board members; evaluating cost effectiveness; working with the CTC to update and/or develop the local Transportation Disadvantaged Service Plan (TDSP); preparing, duplicating, and distributing meeting packets; and other necessary administrative duties and costs, as appropriate.

### B. Meetings

The LCB shall meet at least quarterly. All meetings, including committee meetings, will function under the "Government in the Sunshine Law." All meetings will provide opportunity for public comments on their agenda. Planning Agency staff shall make every effort to secure a quorum. In situations where a quorum is not obtained, the members present may elect to either:

1. Cancel the meeting and reschedule the meeting at a later date, or,
2. Continue to meet and discuss agenda items for informational purposes only. Agenda items that need formal action shall be presented at a future meeting where a quorum is present.

LCB Members can participate (and vote) in meetings via conference call, however, a physical quorum must be present to vote on action items.

### C. Meeting Notices

#### 1. Full Board Meeting Notices

All LCB meetings, public workshops/meetings, committee meetings, etc., shall be advertised, at a minimum, in the largest general circulation newspaper in the designated service area prior to the meeting.

Meeting notice shall include date, time, and location, general nature/subject of the meeting, and a contact person and number to call for additional information and request accessible formats.

Planning Agency staff shall provide the agenda and meeting package to the Commission, LCB members and all other interested parties prior to the meeting. Special consideration to the advanced delivery time of certain technical or detailed documents, such as the TDSP, shall be given for additional review time. The agenda shall include a public participation opportunity.

2. Emergency Meeting Notices and Committee Meeting Notices

Planning Agency staff shall give the Commission, LCB members and all interested parties one week notice, if possible, of the date, time, location, and proposed agenda for the LCB committee meetings and emergency meetings. Meeting materials shall be provided as early as possible. Emergency/Committee Meetings shall be advertised at a minimum, in the largest general circulation newspaper in the designated service area as soon as possible prior to the meeting.

3. Agenda Action Items

Many of the action items for LCB review and approval are grant deliverables for the Planning Agency. Lack of a quorum will impact the payment of such grant deliverables and may require emergency meetings. Planning grant deliverables requiring LCB review and/or approval are:

- LCB By-Laws
- LCB Grievance Procedures
- TDSP
- Annual Operating Report
- LCB's Evaluation of the CTC

D. Minutes

Planning Agency staff is responsible for preparing and maintaining an official set of minutes for each LCB meeting regardless of the presence of a quorum. The minutes shall be prepared in a reasonable time following the meeting and shall include an attendance roster indicating what agency, organization or position each member represents and reflect a summary of official actions taken by the LCB. The record of official actions shall include who made and seconded the motion, as well as who voted for and against the motions. If there is no quorum, action items will be tabled until the next LCB meeting. Minutes shall reflect that no official action was taken and provide a summary of discussion. Meeting minutes shall be provided at the next regularly scheduled LCB meeting for approval. Copies of approved minutes shall be sent to the Commission in the quarterly report. Committee meetings minutes may be in the form of a brief summary of basic points, discussions, decisions, and recommendations to the full board.

#### IV. LOCAL COORDINATING BOARD MEMBERSHIP

##### A. OFFICERS

###### 1. CHAIRPERSON

The Planning Agency shall appoint an elected official to serve as the official Chairperson for all LCB meetings. The appointed chairperson shall be an elected official from the county that the LCB serves (41-2.012(1) FAC). For a multi-county LCB, the Chairperson shall be from one of the counties involved. ~~The Chairperson shall serve until their elected term of office has expired or otherwise replaced by the Designate Official Planning Agency. The Planning Agency shall replace or reappoint the Chairperson at the end of his/her term.~~

###### 2. VICE-CHAIRPERSON

The LCB shall hold an annual organizational meeting for the purpose of electing a Vice-Chairperson (41-2.012(2) FAC). The Vice Chairperson shall be elected by a majority vote of a quorum of the members of the LCB members. The Vice Chairperson shall serve a term of one year starting with the first meeting after the election. For a multi-county board, an elected official not serving as the Chairperson shall serve as Vice Chairperson. In the event of the Chairperson's absence, the Vice Chairperson shall assume the duties of the Chairperson and conduct the meeting. The Vice Chairperson may serve more than one term.

##### B. VOTING MEMBERS

1. An elected official from the service area, serving as the chairperson;
2. A local representative of the Florida Department of Transportation;
3. A local representative of the Florida Department Children and Family Services;
4. A representative of the Public Education Community which could include, but not be limited to, a representative of the District School Board, School Board Transportation Office, or Headstart Program in areas where the School District is responsible;
5. In areas where they exist, a local representative of the Florida Division of Vocational Rehabilitation or the Division of Blind Services, representing the Department of Education;
6. A person who is recognized by the Veterans Service Office representing the veterans in the county;
7. A person who is recognized by the Florida Association for Community Action (President) representing the economically disadvantaged in the county;
8. A person over sixty representing the elderly in the county;
9. A person with a disability representing the disabled in the county;
10. Two citizen advocate representatives in the county; one who must be a person who uses the transportation service(s) of the system as their primary means of transportation;
11. A local representative for children at risk;

12. In areas where they exist, the Chairperson or designee of the local Mass Transit or Public Transit System's Board, except in cases where they are also the CTC.
13. A local representative of the Florida Department of Elder Affairs;
14. An experienced representative of the local private for profit transportation industry. In areas where such representative is not available, a local private non-profit representative will be appointed except where said representative is also the CTC. In cases where no private for-profit or private non-profit representatives are available in the service area, this position will not exist on the LCB;
15. A local representative of the Florida Agency for Health Care Administration;
16. A representative of the Regional Workforce Development Board established in Chapter 445, Florida Statutes; and
17. A representative of the local medical community, which may include, but not be limited to, kidney dialysis centers, long term care facilities, assisted living facilities, hospitals, local health department or other home and community based services, etc.

It is the intent of the Commission for the membership of every LCB to not only consist of individuals who represent the appropriate governmental agencies or groups of people as defined above, but also for the membership to represent, to the maximum degree possible a cross section of their local community.

No employee of a CTC shall serve as voting member of the LCB. However, an elected official serving as Chairperson of the Coordinating Board, or other governmental employees that are not employed for the purpose of making provisions for transportation and are not directly supervised by the CTC shall not be precluded from serving as voting members of the LCB.

**C. TECHNICAL ADVISORS – NON-VOTING MEMBERS**

Upon a majority vote of a quorum of the LCB, technical advisors may be approved for the purpose of providing the LCB with technical advice as necessary.

**D. MULTI-COUNTY COORDINATING BOARDS - 41-2.012(1) FAC**

The Planning Agency may recommend multi-county LCBs to meet the service needs of the transportation disadvantaged in two or more counties based on these guidelines, and when agreed upon in writing by all county commissions in each county to be covered in the service area. The multi-county LCB will be made up of the same membership of the aforementioned single-county LCB with the following exception: An elected official from each county of the multi-county service area will be appointed to the LCB, one of which will serve as Chair of the LCB and one as the Vice Chair. The recommendation of a multi-county LCB shall be presented to the Commission for approval.



E. ALTERNATES

1. Alternates are to be appointed in writing to the Planning Agency by an agency representative. Non-agency alternates may be appointed by the Planning Agency, if desired.
2. Each alternate may vote only in the absence of that member on a one-vote-per-member basis.
3. Alternates for a LCB member who cannot attend a meeting must be a representative of the same interest as the primary member.

V. TERMS OF APPOINTMENT

Except for the Chairperson and state agency representatives, the members of the LCB shall be appointed for three year staggered terms with initial memberships being appointed equally for one, two and three years to avoid a significant turnover during a particular period (41-2.012(4) FAC). The Chairperson shall serve until their elected term of office has expired or otherwise replaced by the Designate Official Planning Agency.

VI. ATTENDANCE

The Planning Agency shall review, and consider rescinding, the appointment of any member of the LCB who fails to attend three consecutive meetings. The Planning Agency must complete attendance roster for each local coordinating board meeting. LCB Members can participate (and vote) in meetings via conference call, however, a physical quorum must be present to vote on action items.

VII. BY-LAWS AND PARLIAMENTARY PROCEDURES

The LCB shall develop and adopt a set of by-laws. The by-laws shall state that the LCB will conduct business using parliamentary procedures according to Robert's Rules of Order. The by-laws shall be reviewed, updated (if necessary), and adopted annually. It is recommended that the by-laws are reviewed and approved during the first quarter (July-September). Approved by-laws shall be submitted to the Commission.

VIII. LOCAL COORDINATING BOARD DUTIES

The LCB shall:

- A. Review and make recommendations regarding the approval of the Memorandum of Agreement between the newly recommended CTC and the Commission.
- B. Annually review, make recommendations and approve the Transportation Disadvantaged Service Plan (TDSP). The LCB shall ensure that the TDSP has been developed by involving all appropriate parties in the process, to include, but not be limited to, the public, planning agency staff, and the CTC.
- C. Annually, provide the MPO/planning agency with an evaluation of the CTC's performance in general and relative to Insurance, Safety Requirements and Standards as referenced in Rule 41-2.006, FAC, and the performance results of the most recent TDSP (41-2.012(5)(b) FAC). As part of the CTC's performance, the LCB shall also set an annual percentage goal increase (or establish a percentage)

for the number of trips provided within the system to be on public transit where such services are available. The LCB shall utilize the Commission's Quality Assurance Performance Evaluation Tool to evaluate the performance of the CTC. This evaluation Tool and Summary will be submitted to the Commission upon approval by the LCB. In areas where a planning agency serves as the CTC, the planning agency shall abstain from any official actions that represent a conflict of interest, especially in the evaluation process of the CTC.

- D. In cooperation with the CTC, review and provide recommendations to the Commission and the MPO or Designated Official Planning Agency, on all applications for local government, state or federal funds relating to transportation of the transportation disadvantaged in the designated service area to ensure that any expenditures within the designated service area are provided in the most cost effective and efficient manner (427.0157(3), FS). The accomplishment of this requirement shall include the development and implementation of a process by which the Coordinating Board and CTC have an opportunity to become aware of any federal, state or local government funding requests and provide recommendations regarding the expenditure of such funds. Such funds may include expenditures for operating, capital or administrative needs. Such a process should include at least:
  - 1. The review of applications to ensure that they are consistent with the TDSP. This review shall consider:
    - a) The need for the requested funds or services;
    - b) Consistency with local government comprehensive plans;
    - c) Coordination with local transit agencies, including the CTC;
    - d) Consistency with the TDSP;
    - e) Whether such funds are adequately budgeted amounts for the services expected; and,
    - f) Whether such funds will be spent in a manner consistent with the requirements of coordinated transportation laws and regulations.
  - 2. Notify the Commission of any unresolved funding requests without delays in the application process.
- E. When requested, assist the CTC in establishing eligibility guidelines and trip priorities.
- F. Review coordination strategies or service provision to the transportation disadvantaged in the designated service area to seek innovative ways to improve cost effectiveness, efficiency, safety, operating hours and types of service in an effort to increase ridership to a broader population (427.0157(5) FS). Such strategies should include:

1. Supporting inter- and intra-county agreements to improve coordination as a way to reduce costs for service delivery, maintenance, insurance, or other identified strategies; and
  2. Seeking the involvement of the private and public sector, volunteers, public transit, school districts, elected officials and others in any plan for improved service delivery.
- G. Appoint a Grievance Committee to serve as a mediator to hear and investigate grievances, from agencies, users, transportation operators, potential users of the system, and the CTCs in the designated service area, and make recommendations for the local Coordinating Board or to the Commission, when local resolution cannot be found, for improvement of service. The LCB shall establish a process and procedure to provide regular opportunities for issues to be brought before such committee and to address them in a timely manner in accordance with the Commission's Local Grievance Guidelines. Rider brochures or other documents provided to users or potential users of the system shall provide information about the complaint and grievance process including the publishing of the Commission's TD Helpline service when local resolution has not occurred. All materials shall be made available in accessible format, upon request by the citizen. Members appointed to the committee shall be voting members of the LCB. (41-2.012(5)(c), FAC).
- H. Annually review coordination contracts to advise the CTC whether the continuation of said contract provides the most cost effective and efficient transportation available (41-2.008(3) FAC).
- I. Annually hold at a minimum, one Public Meeting/Workshop for the purpose of receiving input regarding unmet needs or any other areas that relate to the local transportation services. The public meeting/workshop will be held at a place and time that is convenient and accessible to the general public. In order that additional funding is not used or needed to accommodate this requirement, it is recommended that the public meeting/workshop be held in conjunction with a regular business meeting of the Coordinating Board (immediately following or prior to the LCB meeting).
- NOTE: This must be a completely separate meeting not simply an opportunity to provide public comment during the quarterly LCB meeting. The public meeting/workshop must be noticed as a separate meeting, have its own agenda and minutes. A public meeting/workshop held jointly with the Commission will satisfy this annual requirement.
- J. All coordinating board members should be trained on and comply with the requirements of Section 112.3143, Florida Statutes, concerning voting conflicts of interest (41-2.012(5)(d) FAC).

- K. Work cooperatively with regional workforce development boards established in chapter 445 to provide assistance in the development of innovative transportation services for participants in the welfare transition program (427.0157(7), FS).
- L. Evaluate multi county or regional transportation opportunities (427.0157(6), FS).



**LOCAL COORDINATING BOARD  
For  
TRANSPORTATION DISADVANTAGED SERVICES**

**LCB  
BYLAWS**

**May 15, 2017**

# **BYLAWS OF THE LOCAL COORDINATING BOARD FOR TRANSPORTATION DISADVANTAGED**

## **1.0 The Local County Coordinating Board (LCB).**

1.01 Preamble. The LCB has been created by an action of the Broward Metropolitan Planning Organization acting as the Designated Official Planning Agency for Broward County, Florida. These rules, which constitute the bylaws of the LCB, shall serve to guide the proper functioning of the transportation disadvantaged coordination process by the LCB for Broward County, Florida. These rules provide general procedures and policies for the LCB fulfilling the requirements of the applicable provisions of Chapter 427, Florida Statutes and Rule 41-2, Florida Administrative Code.

1.02 Interpretation. All provisions contained in these rules shall be interpreted to be consistent with applicable state and federal law.

### **1.03 Membership.**

1.031 The membership of the LCB shall be consistent with Rule 41-2, F.A.C.

1.032 Each member of the LCB, except the chairperson, shall have an alternate.

- (1) Non-agency alternates shall be appointed by the LCB on the recommendation of the member. Agency alternates shall be designated by the Agency. Alternates shall be proposed within sixty (60) days of a member's appointment.
- (2) In the absence of a proposal from the non-agency member, staff as defined in Section 1.07 Administration herein, shall propose a non-agency alternate.
- (3) Alternates acceptance by the LCB shall be accomplished by vote of the LCB.
- (4) Each alternate may vote only in the absence of the member the alternate represents.

- (5) It shall be the obligation of the regular member to provide five (5) business days' notice to alternate and staff that the regular member will or will not attend a meeting.

1.033 Each member is expected to demonstrate interest in the activities of the LCB through regular attendance at scheduled meetings. Staff shall maintain attendance records and shall send a notice to any member and alternate after two (2) missed consecutive meetings. Staff shall notify the LCB of any member or his/her alternate who fails to attend three (3) consecutive meetings. The LCB shall then vote to notify the MPO and member of such absence, provided however, that the LCB shall notify the CTD if any state agency voting member or his/her alternate fails to attend three (3) consecutive meetings. The MPO may review and consider remedial action including rescinding the appointment of any such member.

#### 1.04 Appointment, Qualification and Terms of Office.

1.041 The MPO shall appoint all members to serve on the LCB.

1.042 The non-agency members shall serve a staggered three-year term, expiring November 30.

1.043 The LCB members must be qualified, as specified in Rule 41-2, F.A.C., in order to retain membership.

1.044 A member appointed to a vacant position will complete that unexpired term.

#### 1.05 Officers and Duties.

1.051 The chairperson is an elected official appointed by the MPO.

1.052 The LCB shall hold an election at its organizational meeting each year to select a vice-chairperson. The vice-chairperson shall be elected by a majority of those present and voting.

1.053 The chairperson shall preside at all meetings and workshops. In the absence of the chairperson, or at the chairpersons direction, the vice-chairperson shall temporarily assume the powers and duties of the chairperson.



1.054 In the absence of the chairperson and vice-chairperson, those present shall elect a chairperson pro tem.

1.06 Duties.

1.061 The LCB shall review and approve the Memorandum of Agreement (MOA) between the CTD and CTC and the Transportation Disadvantaged Service Plan prior to submittal to the Commission for the Transportation Disadvantaged (CTD).

1.062 The LCB shall conduct an annual performance evaluation of the Community Transportation Coordinator (CTC), using evaluation criteria developed by the CTD. The results of this evaluation shall be forwarded to the MPO for its use in recommending the designation of a new entry, or continuance of an existing entity as the CTC.

1.063 In cooperation with the CTC, the LCB shall review and provide recommendations to the CTD of funding applications affecting the transportation disadvantaged.

1.064 The LCB member government agencies will provide for LCB review, all applications or purchase of service requests for client services which contain funds for transportation disadvantaged services.

1.065 The Board shall consolidate annual expenditures of direct federal funds and local government funds used within the service area to provide transportation disadvantaged services and forward the report to the CTD.

1.07 Administration.

1.071 Staff to the MPO, as directed by the MPO Executive Director, shall act as the staff of the LCB.

1.072 Staff to the LCB is responsible for managing and overseeing the operations of the Board.

1.073 Staff to the LCB is responsible for scheduling meetings, preparing meetings agendas and agenda packages, and other necessary administrative duties.

1.08 Meetings, Workshops, and Public Hearings.

- 1.081 The regular meeting of the LCB shall be held as often as necessary, however, the LCB shall meet at least quarterly on the fourth Monday of such month, at a time and place designated by the LCB. Meeting dates and times may be changed by the LCB Chairperson or MPO Staff to accommodate holidays or for other reasons.
- 1.082 The organizational meeting of the LCB shall be held at the first regular meeting in each calendar year.
- 1.083 Special and emergency meetings of the LCB may be called by the Chairperson or MPO Staff. Special meetings may also be called on the initiative of three or more members petitioning the chairperson.
- 1.084 The LCB may choose to hold workshops and public hearings when it is deemed necessary or required by agreement with the CTD.
- 1.085 LCB meetings, and public hearings shall be open to the public and minutes from each meeting shall be available to the public upon request.
- 1.086 LCB meetings and public hearings must be advertised in accordance with State Law and County Ordinance.
- 1.087 Except as otherwise provided in these rules, the most recent edition of Roberts-Rules of Order, shall be used to conduct all meetings of the LCB and its committees.

1.09 Quorum and Voting.

- 1.091 A majority of the total membership of the LCB shall constitute a quorum. A quorum must be present at all meetings other than workshops and public hearings. Any member may attend the LCB meeting by audio interactive telephone conference, including voting; however, no member attending the meeting by audio interactive telephone conference may be counted as establishing a quorum.
- 1.092 All members present must vote on all actions requiring a vote unless there is a stated conflict of interest. Voting by full roll call will be conducted as necessary to fulfill the requirements of the Florida Commission for the Transportation Disadvantaged Planning Grant Agreement.

1.093 No motion may be approved by the LCB except upon the affirmative vote of a majority of the members present. Voting by full roll call will be conducted as necessary to fulfill the requirements of the Florida Commission for the Transportation Disadvantaged Planning Grant Agreement.

1.10 Committees.

1.101 Committees shall be designated by the Chairperson of the LCB, as necessary, to investigate and report on specific subject areas of interest to the LCB.

1.102 The LCB will approve designation of a committee by an affirmative vote of a majority of those present.

1.103 A committee, as named by the chairperson, shall consist of at least three (3) LCB members or designated alternates in the event that a LCB member gives adequate notice to such alternate of inability to attend.

1.104 No motion may be approved by a committee except upon the affirmative vote of a majority of the full committee.

1.11 General Policies. General policies shall also apply to all committees of the LCB.

1.111 The adoption of major reports, studies, plans, and programs shall be by majority vote, or if requirements, dictate, by resolution of the LCB. All committees and subcommittees of the LCB shall make recommendations, unless a more formal document is specifically required by a state or federal law, regulation, or grant procedure.

1.112 Changes in the provisions of these rules may be made only by a two-thirds (2/3) vote of the appointed LCB members. Any changes in the provisions of these rules must first be placed on the agenda and advertised prior to the meeting in which a vote will take place.

1.113 The LCB and its committees shall maintain a broad perspective covering the range of all modes of transportation and associated facilities in all recommended planning work programs so that proper study and evaluation of transportation disadvantaged needs shall result in a coordinated transportation service plan, balanced with respect to area wide needs and properly related to area wide

comprehensive plan goals and objective.

1.12 Grievance Committee.

- 1.121 The LCB may refer to a Grievance Committee any complaints which have not been resolved to the satisfaction of both parties, and any issues concerning Chapter 427, F.S., and/or Rule 41-2, F.A.C., which have a direct impact on service delivery.
- 1.122 The Grievance Committee shall serve as a mediator to process and to investigate grievances and other pertinent issues, only as referred to it by the LCB, recommending resolutions to the LCB in a timely manner.
- 1.123 The LCB may accept, reject, or take action on the recommendations of the Grievance Committee.
- 1.124 The Citizen Advocate member who is a user of the transportation disadvantaged system shall serve on the Grievance Committee.

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Florida Commission for the



**Transportation  
Disadvantaged**

**LOCAL GRIEVANCE GUIDELINES  
FOR TRANSPORTATION  
DISADVANTAGED SERVICES**

Prepared by the

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## I. INTRODUCTION

The Commission for the Transportation Disadvantaged oversees, through contractual arrangements, a coordinated system of local transportation disadvantaged service providers in the state. At the local level Community Transportation Coordinators are responsible for the provision of service. The service area for which the Community Transportation Coordinator is responsible is, at a minimum, an entire county, but can include more than one county. The Community Transportation Coordinator can be a transportation operator and actually provide transportation service, or it can form a network of providers by contracting all or some of the service to other transportation operators.

Another key entity involved in the development, monitoring, support, and evaluation of the local service delivery system is the local Coordinating Board. Each county or service area has a local Coordinating Board to provide information, guidance and advice on the local coordinated system.

The purpose of these guidelines is to provide information and uniform guidance in regard to local grievance practices and procedures. It is to be applied by Community Transportation Coordinators and local Coordinating Boards in developing and implementing their local grievance procedures.

It is the intent of the Commission for the Transportation Disadvantaged to encourage resolution of grievances at the local level, and to educate the passengers, funding agencies, and any other interested parties about the grievance process(es).

## II. FORMAL GRIEVANCE VS. SERVICE COMPLAINTS

As you develop your Grievance process(es), it is very important that we define and delineate the differences between what a formal grievance is, pursuant to Chapter 427 F.S. and Rule 41-2 F.A.C., and what daily service complaints are. Daily service complaints are routine in nature, occur once or several times in the course of a days' service, and are usually resolved immediately within the control center of the Community Transportation Coordinator. However, if left or unresolved, a routine service complaint can mushroom into a formal grievance. Further discussion of the differences between a Formal Grievance and a Service Complaint follows:

### A. SERVICE COMPLAINT

Service complaints are routine incidents that occur on a daily basis, are reported to the driver or dispatcher, or to other individuals involved with the daily operations, and are resolved within the course of a reasonable time period suitable to the complainant. Local service complaints are driven by the inability of the Community Transportation Coordinator or transportation operators, not local service standards established by the Community Transportation Coordinator and local Coordinating Board. If the Community Transportation Coordinator is also an operator, their statistics on service complaints should be

included. Local standards should be developed regarding the reporting and parameters of service complaints.

Example:

Service Complaints may include but are not limited to:

- Late trips (late pickup and or late dropoff)
- No-show by transportation operator
- No-show by client
- Client behavior
- Driver behavior
- Passenger discomfort
- Service denial (refused service to client without an explanation as to why, i.e. may not qualify, lack of TD funds, etc.)

**B. FORMAL GRIEVANCE**

A formal grievance is a written complaint to document any concerns or an unresolved service complaints regarding the operation or administration of TD services by the Transportation Operator, Community Transportation Coordinator, designated official planning agency (DOPA), or local Coordinating Board. The Grievant, in their formal complaint, should demonstrate or establish their concerns as clearly as possible.

Example:

Formal Grievances may include but are not limited to:

- Chronic or reoccurring or unresolved Service Complaints  
(Refer to description of service complaints)
- Violations of specific laws governing the provision of TD services i.e. Chapter 427 F.S., Rule 41-2 FAC and accompanying documents, Sunshine Law, ADA.
- Contract disputes (Agencies/Operators)
- Coordination disputes
- Bidding disputes
- Agency compliance
- Conflicts of interest
- Supplanting of funds
- Billing and /or accounting procedures

Again, these guidelines are to be used to focus on the minimum requirements in drafting and finalizing the formal grievances. This is a guide to assist in setting local standards for determining the process(es) to resolve formal grievances.



### III. HEARING AND DETERMINING A GRIEVANCE

There is a distinct difference between "hearing" a grievance, and "hearing and determining" a grievance. There is no bar to a person or entity listening to or "hearing" a grievance. An entity may even investigate them, from a purely fact-finding perspective, as long as it does not, in the course of its investigation, impose requirements on third parties that are not supported by statute or contractual agreement.

However, when an entity makes a determination of the rights, duties, privileges, benefits, or legal relationships of a specified person or persons, it is exercising "adjudicative" or "determinative" powers. Deciding a grievance between two independent parties may fall within these parameters, depending on the nature of the grievance.

It should be noted that Chapter 427, F.S. grants no adjudicative powers to anyone. However, Rule 41-2, F.A.C. does provide for grievance processes at the local level:

#### 1. LOCAL COORDINATING BOARD GRIEVANCE PROCESS

Rule 41-2.012(5)(f), F.A.C., provides for the local Coordinating Board to appoint a grievance committee to serve as a mediator to process and investigate complaints from agencies, users, potential users of the system and the Community Transportation Coordinator in the designated service area, and make recommendations to the local Coordinating Board (LCB) for improvement of service. Whereas the committee makes recommendations to the local Coordinating Board, and the local Coordinating Board is also an advisory body, neither entity has the authority to "hear and determine" a grievance. They only have the authority to "hear" and advise. It should be noted that even though the local Coordinating Board does not have determinative powers, the recognition of problems by the various members of the local Coordinating Board is a very useful mechanism to resolve many issues. In addition, it should be noted that since the local Coordinating Board is involved in the development and approval of the Transportation Disadvantaged Service Plan, and the annual evaluation of the Community Transportation Coordinator, there is considerable avenue for the local Coordinating Board to influence changes where needed.

This authority to hear and advise is the grievance procedure that is currently in place by all local Coordinating Boards and is a part of the Commission for the Transportation Disadvantaged planning grant deliverables. This procedure should not imply "determinative" powers, nor should the Commission for the Transportation Disadvantaged be included in the process as a final arbiter. However, the Commission for the Transportation Disadvantaged could be the recipient of a recommendation by the local Coordinating Board in matters pertaining to "the system" or matters within the contractual control of the Commission for the Transportation Disadvantaged. Further the Commission for the Transportation Disadvantaged may choose to listen to a grievance, with the

understanding that the Commission for the Transportation Disadvantaged is limited in its authority to rule on the grievance.

## 2. COMMUNITY TRANSPORTATION COORDINATOR GRIEVANCE PROCESS

The Transportation Disadvantaged Service Plan must be developed consistently with the Coordinated Transportation Contracting Instructions, incorporated by reference in Rule 41-2.002(27), F.A.C. Pursuant to these instructions, the Operations Element must contain at a minimum, the step-by-step process that the Community Transportation Coordinator uses to address "Service Complaints" and "Formal Grievances". The "Formal Grievance" part of this is intended to be the step-by-step process which allows for "hearing and determination" activities within the Community Transportation Coordinator's organization.

Therefore, it will provide steps by which a formal written grievance can be "heard" and a "determinative" action can be taken. The Community Transportation Coordinator's grievance procedure should ultimately end at its Board of Directors, Board of County Commissioners, Owner or whoever else is legally responsible for the actions of the Community Transportation Coordinator.

Apart from these grievance processes, aggrieved parties with proper standing may also have recourse through the Chapter 120, F.S., administrative hearings process or the judicial court system.

## IV. MINIMUM REQUIREMENTS FOR FORMAL GRIEVANCE PROCEDURES BY COMMUNITY TRANSPORTATION COODINATOR & LOCAL COORDINATING BOARD

The following paragraphs contain minimum requirements for the development of grievance procedures by the Community Transportation Coordinator and local Coordinating Board as authorized by the Commission for the Transportation Disadvantaged pursuant to Chapter 427, Florida Statutes and Rule 41-2, F.A.C.

Formal grievance processes by the LCB or Community Transportation Coordinator shall be open to addressing concerns by any person or agency including but not limited to: Purchasing agencies, Users, Potential users, Private-for-profit operators, Private-nonprofit operators, Community Transportation Coordinator's, designated official planning agencies, Elected officials, and drivers.

### A. The minimum guidelines for the local Coordinating Board's formal grievance procedures are:

1. The local Coordinating Board's formal grievance procedures should state that all grievances filed must be written and contain the following:

- The Name and Address of the complainant;
- A statement of the grounds for the grievance and supplemented by supporting documentation, made in a clear and concise manner; and
- An explanation by the complainant of the improvements needed to address the complaint.

2. All local Coordinating Board's must make a written copy of their grievance procedures available known to anyone, upon request.
3. Local Coordinating Board's grievance procedures should make known to whom and where grievances are to be sent.
4. The local Coordinating Board's grievance procedures must specify a maximum amount of days (not to exceed 60) that the local Coordinating Board has to respond to Grievant.
5. The local Coordinating Board will render a response in writing providing explanation or recommendations regarding the grievance.
6. The local Coordinating Board grievance subcommittee must review all grievances and report accordingly to the full local Coordinating Board.
7. All documents pertaining to the grievance process will be made available, upon request, in a format accessible to persons with disabilities.
8. If the local Coordinating Board receives a grievance pertaining to the operation of services under the Community Transportation Coordinator, that grievance should be passed on to the Community Transportation Coordinator for their response to be included in the local Coordinating Board's response.

B. The minimum guidelines for the Community Transportation Coordinator's formal grievance procedures regarding service and administrative complaints are:

1. The Community Transportation Coordinator's grievance procedures should state that all grievances filed must be written and contain the following:
  - The name and address of the complainant;
  - A statement of the grounds for the grievance and supplemented by supporting documentation, made in a clear and concise manner;
  - An explanation of the relief desired by the complainant.
2. All Community Transportation Coordinators and transportation subcontractors (including coordination contractors) must make a

written copy of their grievance procedures and rider policies available to anyone, upon request.

3. All Community Transportation Coordinators and transportation subcontractors (including coordination contractors) must post the contact person and telephone number for access to information regarding reporting service complaints or filing a formal grievance in each of their vehicles in plain view of riders.
4. Grievance procedures must specify a minimum amount of days (not to exceed 15 working days) to respond to Grievant in writing noting the date of receipt and the date by which a decision will be made.
5. The Community Transportation Coordinator will render a decision in writing, giving the complainant an explanation of the facts that lead to the Community Transportation Coordinator's decision and provide a method or ways to bring about a resolution.
6. All documents pertaining to the grievance process will be made available, upon request, in a format accessible to persons with disabilities.
7. The Board of Directors, Owners, or whoever is legally responsible must receive a copy of the grievance and response.

The desire to integrate the Community Transportation Coordinator and local Coordinating Board formal grievance process(es) is a local option. Any desire to involve the Commission for the Transportation Disadvantaged can be accomplished only after the local process is completed. The last step in every local process must be to refer the grievant to the Commission for the Transportation Disadvantaged Grievance Procedures. These procedures were established to address grievances that are brought to the Commission. To file a grievance with the Commission, the customer may begin the process by contacting the Commission through the TD Helpline at (800) 983-2435 or via mail at: Florida Commission for the Transportation Disadvantaged; 605 Suwannee Street, MS-49; Tallahassee, FL 32399-0450 or by email at [www.dot.state.fl.us/ctd](http://www.dot.state.fl.us/ctd) Upon request, the Commission will provide the customer with an accessible copy of the Commission's Grievance Procedures.

However, Chapter 427, F.S. does not expressly confer the power or authority for the Commission for the Transportation Disadvantaged to "hear and determine" a grievance between two third parties. The Commission for the Transportation Disadvantaged can listen to grievances and it can investigate them from a fact-finding perspective. It cannot be the "judge" or "arbiter" of the grievance in the sense of determining that one party's version of the facts is right and the other is wrong, and order the wrong party to somehow compensate the right party. On the other hand, the grievance may bring to light a problem within "the system". Similarly, if the grievance showed that one of the parties

with whom the Commission for the Transportation Disadvantaged contracts was acting so aberrantly as to not be in compliance with its contract, the Commission for the Transportation Disadvantaged could exercise whatever contractual rights it has to correct the problem.

Accordingly, the Commission for the Transportation Disadvantaged ' may take part in the grievance process, if it wants to, for purposes of listening to the grieving parties and gathering the facts of the matter. It may not decide the grievance, where doing so would amount to an exercise of adjudicative powers.

Medicaid complaints, appeals, and grievances will be addressed through the Medicaid Grievance System. All procedures must include a referral to Medicaid Fair Hearing, which are conducted through the Department of Children and Families.



**LOCAL COUNTY COORDINATING BOARD  
For  
TRANSPORTATION DISADVANTAGED SERVICES**

**LCB**

**COMPLAINT & GRIEVANCE PROCEDURES**

**May 15, 2017**

## **COMPLAINT PROCEDURES**

1. The client or client's advocate contacts the Call Center, using the telephone number posted in the vehicles, and expresses dissatisfaction with the service citing a date and time and the reason for the complaint. If the complaint is related to matters of policy, the CTC explains that the service provided was within the CTC's scope of service and closes the matter.
2. If the complaint is not about a matter of policy, the Call Center records the complaint in the Computerized Transportation Management System (CTMS). The CTMS assigns a tracking number to the complaint.
  - a) After taking the complaint, the call center will ask the client if they want the tracking number and to be advised of the resolution outcome.
  - b) If the client says yes, the call center must note the request on the complaint form that is sent to the CTC; CTC will follow up with the client.
  - c) If a client says no, then the complaint is tracked and documented in the usual manner.
3. The CTC forwards the complaint to the appropriate contractor who is required to respond to safety complaints immediately and other complaints within 24 hours.
4. The contractor responds to the complaint, either acknowledging that the complaint is valid, or disputing the complaint with documentation showing that the contractor was in compliance with its contract. If the contractor determines that the complaint is valid, the contractor also informs the CTC that it is taking corrective action.
5. The CTC determines whether or not the documentation is sufficient or that the complaint is valid.
6. The client is contacted by the CTC and advised of the resolution of the complaint and, if valid, the corrective action taken by the contractor.

If the client is not satisfied with the CTC's explanation of the complaint resolution, the CTC should inform the client that it will look further into the matter if the client is willing to forward a written explanation. The following Grievance Procedures would then apply:

## **GRIEVANCE PROCEDURES**

1. A letter stating the problem is sent to the Community Transportation Coordinator (CTC) Program Manager. The letter should outline the nature of the alleged complaint, the transportation operator involved and, where applicable, the date, time and place where the incident occurred.

2. A written response to the complainant on the status of the complaint must be transmitted by the CTC Program Manager within ten (10) working days of the receipt of the letter. In addition, the written response shall advise grievant of the following:

a) The existence of the Ombudsman helpline and provide grievant with the helpline's toll free telephone numbers; and

3. If the complainant is not satisfied with the reply or if the complaint has not been settled to the satisfaction of the complainant, the complainant may, within ten (10) working days of receiving the CTC Program Manager's response, request that a meeting be convened by the CTC Program Manager. The CTC Program Manager must schedule the meeting, within ten (10) working days of the notice by the complainant that such a meeting is requested, with the person or agency registering the complaint, the CTC Program Manager, the operator under contract, and the contracting agency.

4) If the complaint cannot be resolved as outlined above, the complainant must notify the CTC Program Manager by certified mail, return receipt requested, within ten (10) working days of the date of the meeting, of the complainant's intention to appeal the decision to the Coordinating Board.

5) Upon receipt of complainant's letter requesting appeal, the CTC Program Manager shall request the Coordinating Board to consider said appeal and to convene the Grievance Committee.

## **GRIEVANCE COMMITTEE PROCEDURES**

1) The Grievance Committee has the power to hold hearings, conduct investigations and take testimony in all matters relating to complaints or grievances brought before the Committee.

2) If the CTC Program Manager receives notice of an appeal, a notice of hearing is served on the operator stating the nature of the complaint and the time and place of the hearing scheduled before the Grievance Committee.

3) Notice provided by the CTC Program Manager must provide the operator of services with no less than ten (10) days, excluding Saturdays, Sundays and legal holidays, written notice of the time, date, and place of the hearing. The said Notice of Hearing must be sent by certified mail, return receipt requested, to the last known address of the operator of the services.

4) In any hearing before the Grievance Committee irrelevant, immaterial or unduly repetitious evidence will be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs will be admissible whether or not such evidence would be admissible in the courts of Florida.

5) Each party has the right to be represented by counsel, to call and examine witnesses, to introduce exhibits, to examine opposing witnesses on any relevant matter, even though the matter was not covered under direct examination, and to impeach any witness regardless of which party first called the witness to testify.

6) After an evidentiary hearing, the Grievance Committee submits to the Coordinating Board its recommended order consisting of findings of fact, conclusions of law and



recommendations.

7) The Coordinating Board may adopt the recommended order as its final order. The Coordinating Board may reject or modify the conclusions of law and recommend final action, but may not reject or modify the findings of fact, unless it first determines from a review of the complete record and states with particularity in its final order, that the findings of fact were not based on competent substantial evidence or that the proceedings in which the findings were based did not comply with the essential requirements of law.

8) All meetings and hearings must be open to the public and advertised, but the public will not be given the opportunity to participate. Minutes will be kept at each hearing.

9) Appeal from the decision of the Coordinating Board is by certiorari to the circuit court in accordance with the Florida Rules of Appellate Procedure.

10) CTC will submit to the LCB board the following reports by the last LCB meeting of the fiscal year:

- Grievance report and the resolution(s).
- A comprehensive annual TD rider's report which includes number of riders and number of trips provided.

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REVISED 06-22-15

REVISED 05-15-17

LCB grievance

# **2011 Open Government Update**

Patricia R. Gleason

## **SUNSHINE LAW**

### **A. Scope of the Sunshine Law**

- Florida's Government in the Sunshine Law, commonly referred to as the Sunshine Law, provides a right of access to governmental proceedings at both the state and local levels. The law is equally applicable to elected and appointed boards and has been applied to any gathering of two or more members of the same board to discuss some matter which will foreseeably come before that board for action.
- There are three basic requirements
  - 1) Meetings of public boards or commissions must be open to the public;
  - 2) Reasonable notice of such meetings must be given; and
  - 3) Minutes of the meetings must be taken, promptly recorded and open to public inspection.
- Advisory boards created pursuant to law or ordinance or otherwise established by public agencies are subject to the Sunshine Law, even though their recommendations are not binding upon the agencies that create them.
- Generally, the Sunshine Law does not apply to private organizations providing services to a state or local government, unless the private entity has been created by a public entity, there has been a delegation of the public entity's governmental functions, or the private organization plays an integral part in the decision-making process of the public entity.
- Neither Legislature nor the courts are subject to the Sunshine Law. There is a constitutional provision that provides access to legislative meetings but it is not as strict as the Sunshine Law. However, if legislators are appointed to serve on a board subject to the Sunshine Law, the legislator members are subject to the same Sunshine Law requirements as the other board members.
- Meeting of staff are not ordinarily subject to the Sunshine Law. However, when a staff member ceases to function in a staff capacity and is appointed to a committee which is delegated authority normally within the public board or commission, the staff member loses his or her identity as staff while working on the committee and the Sunshine Law is applicable to the committee. It is the nature of the act performed, not the makeup of the committee or the proximity of the act to the final decision, which determines whether a committee composed of staff is subject to the Sunshine Law.
- Only the Legislature can create an exemption to the Sunshine Law (by a 2/3 vote) and allow a board to close a meeting.

- Board members may not use e-mail or the telephone to conduct a private discussion about board business. Board members may send a “one-way” communication to each other as long as the communication is kept as a public record and there is no response to the communication except at an open public meeting. Accordingly, any “one-way” communications (for example one board member wants to forward an article to the board members for information) should be distributed by the board office so that they can be preserved as public records and ensure that any response to the communication is made only at a public meeting.
- While a board member is not prohibited from discussing board business with staff or a nonboard member, these individuals cannot be used as a liaison to communicate information between board members. For example, a board member cannot ask staff to poll the other board members to determine their views on a board issue.

#### B. Board meetings

- Board members are not prohibited from using written ballots to cast a vote as long as the votes are made openly at a public meeting, the name of the person who voted and his or her selection are written on the ballot, and the ballots are maintained and made available for public inspection in accordance with the Public Records Act.
- While boards may adopt reasonable rules and policies to ensure orderly conduct of meetings, the Sunshine Law does not allow boards to ban nondisruptive videotaping, tape recording, or photography at public meetings.
- Board meetings should be held in buildings that are open to the public. This means that meetings should not be held in private homes.
- The phrase “open to the public” means open to all who choose to attend. Boards are not authorized to exclude some members of the public (i.e. employees or vendors) from public meetings.

#### C. Penalties

- Any member of a board or commission or of any state agency or authority of a county, municipal corporation, or political subdivision who *knowingly* violates the Sunshine Law is guilty of a misdemeanor of the second degree. An unintentional violation may be prosecuted as a noncriminal infraction resulting in a civil penalty up to \$500.
- The Sunshine Law provides that no resolution, rule, regulation or formal action shall be considered binding except as taken or made at an open meeting.
- Recognizing that the Sunshine Law should be construed so as to frustrate all evasive devices, the courts have held that action taken in violation of the law was

void *ab initio*.

- Where, however, a public board or commission does not merely perfunctorily ratify or ceremoniously accept at a later open meeting those decisions which were made at an earlier secret meeting but rather takes "independent final action in the sunshine," the board's decision may stand.

## **PUBLIC RECORDS**

### **A. Scope of Public Records Law**

- Section 119.011(12), Florida Statutes, defines "public records" to include:
  - all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.
- The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge.
- All such materials, regardless of whether they are in final form, are open for public inspection unless the Legislature has exempted them from disclosure.
- There is no "unfinished business" exception to the public inspection and copying requirements of the Public Records Act. If the purpose of a document prepared in connection with the official business of a public agency is to perpetuate, communicate, or formalize knowledge, then it is a public record regardless of whether it is in final form or the ultimate product of an agency.
- Although a right of access exists under the Constitution to all three branches of government, the Public Records Act, as a legislative enactment, does not apply to the Legislature or the judiciary.
- A "public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency" is also subject to the requirements of the Public Records Act.
- E-mail messages made or received by public officers or employees in connection with official business are public records and subject to disclosure in the absence of a statutory exemption from public inspection.

### **B. Providing public records**

- The Public Records Act requires no showing of purpose or "special interest" as a condition of access to public records.
- The custodian is not authorized to deny a request to inspect and/or copy public

records because of a lack of specifics in the request.

- A custodian of public records and his or her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith.
- The Public Records Act does not contain a specific time limit (such as 24 hours or 10 days) for compliance with public records requests. The Florida Supreme Court has stated that the only delay in producing records permitted under Chapter 119, Florida Statutes, is the reasonable time allowed the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt.
- An agency is not authorized to establish an arbitrary time period during which records may or may not be inspected.
- Nothing in Chapter 119, Florida Statutes, requires that a requesting party make a demand for public records in person or in writing.
- A custodian is not required to give out *information* from the records of his or her office. The Public Records Act does not require a town to produce an employee, such as the financial officer, to answer questions regarding the financial records of the town.
- The fact that a particular record is also maintained by another agency does not relieve the custodian of the obligation to permit inspection and copying in the absence of an applicable statutory exemption.
- An agency may not refuse to allow public records made or received in the normal course of business to be inspected or copied if requested to do so by the maker or sender of the document.
- A custodian of a public record who contends that a record or part of a record is exempt from inspection must state the basis for the exemption, including the statutory citation to the exemption. Additionally, upon request, the custodian must state in writing and with particularity the reasons for the conclusion that the record is exempt from inspection.
- There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Act and confidential. If information is made confidential in the statutes, the information is not subject to inspection by the public and may be released only to those persons and entities designated in the statute. On the other hand, if the records are not made confidential but are simply exempt from the mandatory disclosure requirements in section 119.07(1)(a), Florida Statutes, the agency is not prohibited from disclosing the documents in all circumstances.
- The general rule is that records which would otherwise be public under state law are unavailable for public inspection only when there is an absolute conflict

between federal and state law relating to confidentiality of records. If a federal statute requires particular records to be closed and the state is clearly subject to the provisions of such statute, then pursuant to the Supremacy Clause of the United States Constitution, Article VI, section 2, United States Constitution, the state must keep the records confidential.

#### C. Fees

- Providing access to public records is a statutory duty imposed by the Legislature upon all record custodians and should not be considered a profit-making or revenue-generating operation. Thus, public information must be open for inspection without charge unless otherwise expressly provided by law.
- Section 119.07(4)(d), Florida Statutes, authorizes the imposition of a special service charge to inspect or copy public records when the nature or volume of public records to be inspected is such as to require extensive use of information technology resources, or extensive clerical or supervisory assistance, or both. The charge must be reasonable and based on the labor or computer costs actually incurred by the agency.
- If no fee is prescribed elsewhere in the statutes, section 119.07(4)(a)1., Florida Statutes, authorizes the custodian to charge a fee of up to 15 cents per one-sided copy for copies that are 14 inches by 8 ½ inches or less. An agency may charge no more than an additional 5 cents for each two-sided duplicated copy.
- The courts have upheld an agency's requirement of a reasonable deposit or advance payment of the applicable statutory fees in cases where a large number of records have been requested. In such cases, the fee should be communicated to the requestor before the work is undertaken.

#### D. Penalties

- A person who has been denied the right to inspect and/or copy public records under the Public Records Act may bring a civil action against the agency to enforce the terms of Ch. 119.
- In addition to judicial remedies, section 119.10(1)(b), Florida Statutes, provides that a public officer who knowingly violates the provisions of section 119.07(1), Florida Statutes, is subject to suspension and removal or impeachment and is guilty of a misdemeanor of the first degree, punishable by possible criminal penalties of one year in prison, or \$1,000 fine, or both.

### **Practical Tips for Agencies**

Here are some examples of things that should be avoided when processing Ch. 119 requests:

1. A reporter makes a request for copies of several letters and is told, "It is 3 o'clock and we close at 5, and all requests must go through the general counsel."

2. We cannot process your request unless you put it in writing.
3. We cannot process your request until you fill out this form.
4. We cannot process your request unless you first show us your driver's license.
5. Why do you want these records?
6. You can look at the records, but we are not going to make copies.
7. You have asked for the email you requested to be placed on a disc, but we are not going to do that; you can only get a written transcript.
8. You cannot have these records because the document you have requested is a draft and has not yet been approved by management.
9. You cannot have these records because you filed a lawsuit against this agency, and you must use the discovery process to obtain any records from this agency.
10. You cannot have these records because the employee who drafted them has stored them in his locked office, and he won't be back for 6 months.

### **III. Additional Resources**

1. Office of Attorney General Pam Bondi [www.myfloridalegal.com](http://www.myfloridalegal.com)
2. First Amendment Foundation [www.floridafaf.org](http://www.floridafaf.org)
3. Office of Governor Rick Scott Open Government Office [www.flgov.com](http://www.flgov.com)

September 2011

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# **2011 SUNSHINE LAW OVERVIEW**

**Patricia R. Gleason  
Special Counsel for Open Government  
Attorney General Pam Bondi**



# SCOPE OF THE SUNSHINE LAW

- ✗ Florida's Government in the Sunshine Law, commonly referred to as the Sunshine Law, provides a right of access to governmental proceedings at both the state and local levels. The law is equally applicable to elected and appointed boards and has been applied to any gathering of two or more members of the same board to discuss some matter which will foreseeably come before that board for action.

# SCOPE OF THE SUNSHINE LAW

There are three basic requirements :

- 1) Meetings of public boards or commissions must be open to the public
- 2) Reasonable notice of such meetings must be given
- 3) Minutes of the meetings must be taken, promptly recorded and open to public inspection

# SCOPE OF THE SUNSHINE LAW

- ✗ Advisory boards created pursuant to law or ordinance or otherwise established by public agencies are subject to the Sunshine Law, even though their recommendations are not binding upon the agencies that create them.

# SCOPE OF THE SUNSHINE LAW

- ✗ Neither Legislature nor the courts are subject to the Sunshine Law. There is a constitutional provision that provides access to legislative meetings but it is not as strict as the Sunshine Law. However, if legislators are appointed to serve on a board subject to the Sunshine Law, the legislator members are subject to the same Sunshine Law requirements as the other board members.



# SCOPE OF THE SUNSHINE LAW

- ✗ Meeting of staff are not ordinarily subject to the Sunshine Law. However, when a staff member ceases to function in a staff capacity and is appointed to a committee which is delegated authority normally within the public board or commission, the staff member loses his or her identity as staff while working on the committee and the Sunshine Law is applicable to the committee. It is the nature of the act performed, not the makeup of the committee or the proximity of the act to the final decision, which determines whether a committee composed of staff is subject to the Sunshine Law.

# SCOPE OF THE SUNSHINE LAW

- ✘ Only the Legislature can create an exemption to the Sunshine Law (by a 2/3 vote) and allow a board to close a meeting. *Exemptions are narrowly construed.*

# SCOPE OF THE SUNSHINE LAW

- ✗ Board members may not use e-mail or the telephone to conduct a private discussion about board business. Board members may send a “one-way” communication to each other as long as the communication is kept as a public record and there is no response to the communication except at an open public meeting. Accordingly, any “one-way” communications (for example one board member wants to forward an article to the board members for information) should be distributed by the board office so that they can be preserved as public records and ensure that any response to the communication is made only at a public meeting.



# SCOPE OF THE SUNSHINE LAW

- ✘ While a board member is not prohibited from discussing board business with staff or a nonboard member, these individuals cannot be used as a liaison to communicate information between board members.
- ✘ For example, a board member cannot ask staff to poll the other board members to determine their views on a board issue.



# BOARD MEETINGS

- ✘ Board members are not prohibited from using written ballots to cast a vote as long as the votes are made openly at a public meeting, the name of the person who voted and his or her selection are written on the ballot, and the ballots are maintained and made available for public inspection in accordance with the Public Records Act.

# BOARD MEETINGS

- ✘ While boards may adopt reasonable rules and policies to ensure orderly conduct of meetings, the Sunshine Law does not allow boards to ban non-disruptive videotaping, tape recording, or photography at public meetings.

# BOARD MEETINGS

- ✘ Board meetings should be held in buildings that are open to the public. This means that meetings should not be held in private homes.

# BOARD MEETINGS

- ✘ The phrase “open to the public” means open to all who choose to attend. Boards are not authorized to exclude some members of the public (i.e. employees or vendors) from public meetings.



# PENALTIES

- ✘ Any member of a board or commission or of any state agency or authority of a county, municipal corporation, or political subdivision who *knowingly* violates the Sunshine Law is guilty of a misdemeanor of the second degree. An unintentional violation may be prosecuted as a noncriminal infraction resulting in a civil penalty up to \$500.

# PENALTIES

- ✘ The Sunshine Law provides that no resolution, rule, regulation or formal action shall be considered binding except as taken or made at an open meeting.

# PENALTIES

- ✘ Recognizing that the Sunshine Law should be construed so as to frustrate all evasive devices, the courts have held that action taken in violation of the law was void *ab initio*.

# PENALTIES

- ✘ Where, however, a public board or commission does not merely perfunctorily ratify or ceremoniously accept at a later open meeting those decisions which were made at an earlier secret meeting but rather takes "independent final action in the sunshine," the board's decision may stand.



# ADDITIONAL RESOURCES

1. Office of Attorney General Pam Bondi website:  
<http://www.myfloridalegal.com>
2. Office of Governor Rick Scott website:  
<http://www.flgov.com>
3. Florida First Amendment Foundation website:  
<http://www.floridafaf.org>

## The 2017 Florida Statutes

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[Title XIX](#)

[Chapter 286](#)

[View Entire Chapter](#)

PUBLIC BUSINESS

PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS

### **286.011 Public meetings and records; public inspection; criminal and civil penalties. —**

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

(3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(c) Conduct which occurs outside the state which would constitute a knowing violation of this section is a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(4) Whenever an action has been filed against any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision to enforce the provisions of this section or to invalidate the actions of any such board, commission, agency, or authority, which action was taken in violation of this section, and the court determines that the defendant or defendants to such action acted in violation of this section, the court shall assess a reasonable attorney's fee against such agency, and may assess a reasonable attorney's fee against the individual filing such an action if the court finds it was filed in bad faith or was frivolous. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission. However, this subsection shall not apply to a state attorney or his or her duly authorized assistants or any officer charged with enforcing the provisions of this section.

(5) Whenever any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision appeals any court order which has found said board, commission, agency, or authority to have violated this section, and such order is affirmed, the court shall assess a reasonable attorney's fee for the appeal against such board, commission, agency, or authority. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission.

(6) All persons subject to subsection (1) are prohibited from holding meetings at any facility or location which discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in such a manner as to unreasonably restrict public access to such a facility.

(7) Whenever any member of any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision is charged with a violation of this section and is subsequently acquitted, the board or commission is authorized to reimburse said member for any portion of his or her reasonable attorney's fees.

(8) Notwithstanding the provisions of subsection (1), any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision, and the chief administrative or executive officer of the governmental entity, may meet in private with the entity's attorney to discuss pending litigation to which the entity is presently a party before a court or administrative agency, provided that the following conditions are met:

(a) The entity's attorney shall advise the entity at a public meeting that he or she desires advice concerning the litigation.

(b) The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures.

(c) The entire session shall be recorded by a certified court reporter. The reporter shall record the times of commencement and termination of the session, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the session shall be off the record. The court reporter's notes shall be fully transcribed and filed with the entity's clerk within a reasonable time after the meeting.

(d) The entity shall give reasonable public notice of the time and date of the attorney-client session and the names of persons who will be attending the session. The session shall commence at an open meeting at which the persons chairing the meeting shall announce the commencement and estimated length of the attorney-client session and the names of the persons attending. At the conclusion of the attorney-client session, the meeting shall be reopened, and the person chairing the meeting shall announce the termination of the session.

(e) The transcript shall be made part of the public record upon conclusion of the litigation.

**History.**—s. 1, ch. 67-356; s. 159, ch. 71-136; s. 1, ch. 78-365; s. 6, ch. 85-301; s. 33, ch. 91-224; s. 1, ch. 93-232; s. 210, ch. 95-148; s. 1, ch. 95-353; s. 2, ch. 2012-25.

## The 2017 Florida Statutes

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<a href="#">Title X</a>	<a href="#">Chapter 112</a>	<a href="#">View Entire Chapter</a>
PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS	

### **112.3143 Voting conflicts.—**

(1) As used in this section:

(a) “Principal by whom retained” means an individual or entity, other than an agency as defined in s. [112.312\(2\)](#), that for compensation, salary, pay, consideration, or similar thing of value, has permitted or directed another to act for the individual or entity, and includes, but is not limited to, one’s client, employer, or the parent, subsidiary, or sibling organization of one’s client or employer.

(b) “Public officer” includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(c) “Relative” means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

(d) “Special private gain or loss” means an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer, his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:

1. The size of the class affected by the vote.
2. The nature of the interests involved.
3. The degree to which the interests of all members of the class are affected by the vote.
4. The degree to which the officer, his or her relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.

The degree to which there is uncertainty at the time of the vote as to whether there would be any economic benefit or harm to the public officer, his or her relative, business associate, or principal and, if so, the nature or degree of the economic benefit or harm must also be considered.

(2)(a) A state public officer may not vote on any matter that the officer knows would inure to his or her special private gain or loss. Any state public officer who abstains from voting in an official capacity upon any measure that the officer knows would inure to the officer’s special private gain or loss, or who votes in an official capacity on a measure that he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained other than an agency as defined in s. [112.312\(2\)](#); or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer, shall make every reasonable effort to disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes. If it is not possible for the state public officer to file a memorandum before the vote, the memorandum must be filed with the person responsible for recording the minutes of the meeting no later than 15 days after the vote.

(b) A member of the Legislature may satisfy the disclosure requirements of this section by filing a disclosure form created pursuant to the rules of the member’s respective house if the member discloses the information required by this subsection.

(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. [112.312\(2\)](#); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(b) However, a commissioner of a community redevelopment agency created or designated pursuant to s. [163.356](#) or s. [163.357](#), or an officer of an independent special tax district elected on a one-acre, one-vote basis, is not prohibited from voting, when voting in said capacity.

(4) No appointed public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer, without first disclosing the nature of his or her interest in the matter.

(a) Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, prior to the meeting in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(b) In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(c) For purposes of this subsection, the term "participate" means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer's direction.

(5) If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

(6) Whenever a public officer or former public officer is being considered for appointment or reappointment to public office, the appointing body shall consider the number and nature of the memoranda of conflict previously filed under this section by said officer.

**History.**—s. 6, ch. 75-208; s. 2, ch. 84-318; s. 1, ch. 84-357; s. 2, ch. 86-148; s. 5, ch. 91-85; s. 3, ch. 94-277; s. 1408, ch. 95-147; s. 43, ch. 99-2; s. 6, ch. 2013-36.

## COMMISSION FOR THE TRANSPORTATION DISADVANTAGED GLOSSARY OF TERMS AND ABBREVIATIONS

The following glossary is intended to coordinate terminology within the Florida Coordinated Transportation System. It is imperative that when certain words or phrases are used, the definition must be universally acknowledged.

**Accidents:** when used in reference to the AOR, the total number of reportable accidents that occurred whereby the result was either property damage of \$1000.00 or more, or personal injury that required evacuation to a medical facility, or a combination of both.

**(AER) Actual Expenditure Report:** an annual report completed by each state member agency and each official planning agency, to inform the Commission in writing, before September 15 of each year, of the specific amount of funds the agency expended for transportation disadvantaged services.

**Advance Reservation Service:** shared or individual paratransit service that is readily delivered with at least prior day notification, seven days a week, 24 hours a day.

**Agency:** an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or any other unit or entity of the state or of a city, town, municipality, county, or other local governing body or a private non-profit transportation service providing entity.

**(ADA) Americans with Disabilities Act:** a federal law, P .L. 101-336, signed by the President of the United States on July 26, 1990 providing protection for persons with disabilities.

**(AOR) Annual Operating Report:** an annual report prepared by the community transportation coordinator detailing its designated service area operating statistics for the most recent operating year.

**(APR) Annual Performance Report:** an annual report issued by the Commission for the Transportation Disadvantaged that combines all the data submitted in the Annual Operating Reports and the CTD Annual Report.

**(ASE) Automotive Service Excellence:** a series of tests that certify the skills of automotive technicians in a variety of maintenance areas.

**Availability:** a measure of the capability of a transportation system to be used by potential riders, such as the hours the system is in operation, the route spacing, the seating availability, and the pick-up and delivery time parameters.

**Bus:** any motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons for compensation.

**Bus Lane:** a street or highway lane intended primarily for buses, either all day or during specified periods, but used by other traffic under certain circumstances.

**Bus Stop:** a waiting, boarding, and disembarking area, usually designated by distinctive signs and by curbs or pavement markings.

**(CUTR) Center for Urban Transportation Research:** a research group located at the University of South Florida's College of Engineering.

**(CMBE) Certified Minority Business Enterprise:** any small business concern which is organized to engage in commercial transactions, which is domiciled in Florida, and which is at least 51 percent owned by minority persons and whose management and daily operations are controlled by such persons. These businesses should be certified by the Florida Department of Management Services.

**Chapter 427, Florida Statutes:** the Florida statute establishing the Commission for the Transportation Disadvantaged and prescribing its duties and responsibilities.

**Commendation:** any documented compliment of any aspect of the coordinated system, including personnel, vehicle, service, etc.

**(CDL) Commercial Driver's License:** a license required if a driver operates a commercial motor vehicle, including a vehicle that carries 16 or more

passengers (including the driver), or a vehicle weighing more than 26,000 pounds.

**Commission:** the Commission for the Transportation Disadvantaged as authorized in Section 427.013, Florida Statutes.

**(CTD) Commission for the Transportation Disadvantaged:** an independent agency created in 1989 to accomplish the coordination of transportation services provided to the transportation disadvantaged. Replaced the Coordinating Council on the Transportation Disadvantaged.

**(CTC) Community Transportation Coordinator:** (formerly referred to as “coordinated community transportation provider”) a transportation entity competitively procured or recommended by the appropriate official planning agency and local Coordinating Board and approved by the Commission, to ensure that safe, quality coordinated transportation services are provided or arranged in a cost effective manner to serve the transportation disadvantaged in a designated service area.

**Competitive Procurement:** obtaining a transportation operator or other services through a competitive process based upon Commission-approved procurement guidelines.

**Complaint:** any documented customer concern involving timeliness, vehicle condition, quality of service, personnel behavior, and other operational policies.

**Complete (or Full) Brokerage:** type of CTC network in which the CTC does not provide any on-street transportation services itself, but contracts with transportation operators or coordination contractors for the delivery of all transportation services.

**Coordinated Transportation System:** includes the CTC, the transportation operators and coordination contractors under contract with the CTC, the official planning agency, and local Coordinating Board involved in the provision of service delivery to the transportation disadvantaged within the designated service area.



**Coordinated Trips:** passenger trips provided by or arranged through a CTC.

**Coordinating Board:** an entity in each designated service area composed of representatives who provide assistance to the community transportation coordinator relative to the coordination of transportation disadvantaged services.

**Coordination:** the arrangement for the provision of transportation services to the transportation disadvantaged in a manner that is cost effective, safe, efficient, and reduces fragmentation and duplication of services. Coordination is not the same as total consolidation of transportation disadvantaged services in any given service area.

**Coordination Contract:** a written contract between the community transportation coordinator and an agency who receives transportation disadvantaged funds and performs some, if not all of, its own services, as well as services to others, when such service has been analyzed by the CTC and proven to be a safer, more effective and more efficient service from a total system perspective. The Commission's standard contract reflects the specific terms and conditions that will apply to those agencies who perform their own transportation, as well as joint utilization and cost provisions for transportation services to and from the coordinator.

**Deadhead:** the miles or hours that a vehicle travels when out of revenue service. From dispatch point to first pick-up, and from last drop-off to home base, or movements from home base to maintenance garage or fuel depot, and return.

**Demand Response:** a paratransit service that is readily delivered with less than prior day notification, seven days a week, 24 hours a day. This service can be either an individual or shared ride.

**Designated Service Area:** a geographical area subject to approval by the Commission, which defines the community where coordinated transportation services will be provided to the transportation disadvantaged.

**Disabled Passenger:** anyone with a physical or mental impairment that substantially limits at least one of the major life activities (i.e., caring for one's self, walking, seeing, hearing, speaking, learning).

**Dispatcher:** the person responsible for having every scheduled run leave the yard or garage on time and maintain a schedule, matching the work force with the work load on a minute-by-minute basis. In demand-response transportation, the person who assigns the customers to vehicles and notifies the appropriate drivers.

**Driver Hour:** the period of one hour that a person works whose main responsibility is to drive vehicles.

**Economies of Scale:** cost savings resulting from combined resources (e.g., joint purchasing agreements that result in a lower cost per gallon or quantity discount for fuel).

**Effectiveness Measure:** a performance measure that indicates the level of consumption per unit of output. Passenger trips per vehicle mile is an example of an effectiveness measure.

**Efficiency Measure:** a performance measure that evaluates the level of resources expended to achieve a given level of output. An example of an efficiency measure is operating cost per vehicle mile.

**Emergency:** any occurrence, or threat thereof, whether accidental, natural or caused by man, in war or in peace, which results or may result in substantial denial of services to a designated service area for the transportation disadvantaged.

**Emergency Fund:** transportation disadvantaged trust fund monies set aside to address emergency situations and which can be utilized by direct contract, without competitive bidding, between the Commission and an entity to handle transportation services during a time of emergency.

**Employees:** the total number of persons employed in an organization.

**Fixed Route:** (also known as Fixed Route/Fixed Schedule) service in which the vehicle (s) repeatedly follows a consistent time schedule and stopping points over the same route, whereby such schedule, route or service is not at the users request (e.g. conventional city bus, fixed guideway).

**(FAC) Florida Administrative Code:** a set of administrative codes regulating the state of Florida.

**(FCTS) Florida Coordinated Transportation System:** a transportation system responsible for coordination and service provisions for the transportation disadvantaged as outlined in Chapter 427, Florida Statutes.

**(FDOT) Florida Department Of Transportation:** a governmental entity. The CTD is housed under the Florida Department of Transportation for administrative purposes.

**(FS) Florida Statutes:** the laws governing the state of Florida.

**(FTE) Full Time Equivalent:** a measure used to determine the number of employees based on a 40-hour work week. One FTE equals 40 work hours per week.

**(FAC) Fully Allocated Costs:** the total cost, including the value of donations, contributions, grants or subsidies, of providing coordinated transportation, including those services which are purchased through transportation operators or provided through coordination contracts.

**General Trips:** passenger trips by individuals to destinations of their choice, not associated with any agency program.

**Goal:** broad conditions that define what the organization hopes to achieve.

**Grievance Process:** a formal plan that provides a channel for the adjustment of grievances through discussions at progressively higher levels of authority, culminating in mediation, if necessary.

**In Service:** the time a vehicle begins the route to provide transportation service to the time the route is completed.

**In-Take Clerk/Reservationist:** an individual whose primary responsibility is to accept requests for trips, enter dates on requests, determine eligibility and provide customer service.

**Latent Demand:** demand that is not active (i.e., the potential demand of persons who are not presently in the market for a good or service).

**Limited Access:** the inability of a vehicle, facility or equipment to permit entry or exit to all persons. Lack of accessibility of vehicle, facility or other equipment.

**Load Factor:** the ratio of use to capacity of equipment or a facility during a specified time period.

**Local Government:** an elected and/or appointed public body existing to coordinate, govern, plan, fund, and administer public services within a designated, limited geographic area of the state.

**Local Government Comprehensive Plan:** a plan that meets the requirements of Sections 163.3177 and 163.3178, Florida Statutes.

**(LCB) Local Coordinating Board:** an entity in each designated service area composed of representatives appointed by the official planning agency. Its purpose is to provide assistance to the community transportation coordinator concerning the coordination of transportation disadvantaged services.

**(MIS) Management Information System:** the mechanism that collects and reports key operating and financial information for managers on a continuing and regular basis.

**(MOA) Memorandum of Agreement:** the state contract included in the transportation disadvantaged service plan for transportation disadvantaged services purchased by federal, state, or local government transportation disadvantaged funds. This agreement is between the Commission and the community transportation coordinator and recognizes the community transportation coordinator as being responsible for the arrangement of the

provision of transportation disadvantaged services for a designated service area.

**(MPO) Metropolitan Planning Organization:** the area-wide organization responsible for conducting the continuous, cooperative and comprehensive transportation planning and programming in accordance with the provisions of 23 U.S.C. s. 134, as provided in 23 U.S.C. s. 104(f)(3). Also serves as the official planning agency referred to in Chapter 427, F.S.

**Network type:** describes how a community transportation coordinator provides service, whether as a complete brokerage, partial brokerage, or sole provider.

**Non-coordinated Trip:** a trip provided by an agency, entity, or operator who is in whole or in part subsidized by local, state, or federal funds, and who does not have coordination/operator contract with the community transportation coordinator.

**Nonsponsored Trip:** transportation disadvantaged services that are sponsored in whole by the Transportation Disadvantaged Trust Fund.

**Objective:** specific, measurable conditions that the organization establishes to achieve its goals.

**Off Peak:** a period of day or night during which travel activity is generally low and a minimum of transit service is operated.

**(OPA) Official Planning Agency:** the official body or agency designated by the Commission to fulfill the functions of transportation disadvantaged planning. The Metropolitan Planning Organization shall serve as the planning agency in areas covered by such organizations.

**Operating Cost:** the sum of all expenditures that can be associated with the operation and maintenance of the system during the particular period under consideration.

**Operating Cost per Driver Hour:** operating costs divided by the number of driver hours, a measure of the cost efficiency of delivered service.

**Operating Cost per Passenger Trip:** operating costs divided by the total number of passenger trips, a measure of the efficiency of transporting riders. One of the key indicators of comparative performance of transit properties since it reflects both the efficiency with which service is delivered and the market demand for the service.

**Operating Cost per Vehicle Mile:** operating costs divided by the number of vehicle miles, a measure of the cost efficiency of delivered service.

**Operating Environment:** describes whether the community transportation coordinator provides service in an urban or rural service area.

**Operating Expenses:** sum of all expenses associated with the operation and maintenance of a transportation system.

**Operating Revenues:** all revenues and subsidies utilized by the operator in the provision of transportation services.

**Operating Statistics:** data on various characteristics of operations, including passenger trips, vehicle miles, operating costs, revenues, vehicles, employees, accidents, and roadcalls.

**Operator Contract:** a written contract between the community transportation coordinator and a transportation operator to perform transportation services.

**Organization Type:** describes the structure of a community transportation coordinator, whether it is a private-for-profit, private non-profit, government, quasi-government, or transit agency.

**Paratransit:** elements of public transit that provide service between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon between the user and the provider of the service. Paratransit services are provided by sedans, vans, buses, and other vehicles.

**Partial Brokerage:** type of CTC network in which the CTC provides some of the on-street transportation services and contracts with one or more other

transportation operators, including coordination contractors, to provide the other portion of the on-street transportation disadvantaged services, including coordination contractors.

**Passenger Miles:** a measure of service utilization which represents the cumulative sum of the distances ridden by each passenger. This is a duplicated mileage count. For example: If 10 people ride together for 10 miles, there would be 100 passenger miles.

**Passenger Trip:** a unit of service provided each time a passenger enters the vehicle, is transported, then exits the vehicle. Each different destination would constitute a passenger trip. This unit of service is also known as a one-way passenger trip.

**Passenger Trips per Driver Hour:** a performance measure used to evaluate service effectiveness by calculating the total number of passenger trips divided by the number of driver hours.

**Passenger Trips per Vehicle Mile:** a performance measure used to evaluate service effectiveness by calculating the total number of passenger trips divided by the number of vehicle miles.

**Performance Measure:** statistical representation of how well an activity, task, or function is being performed. Usually computed from operating statistics by relating a measure of service output or utilization to a measure of service input or cost.

**Potential TD Population:** (formerly referred to as TD Category I) includes persons with disabilities, senior citizens, low income persons, and high risk or at risk children. These persons are eligible to receive certain governmental and social service agency subsidies for program-related trips.

**Program Trip:** a passenger trip supplied or sponsored by a human service agency for the purpose of transporting clients to and from a program of that agency (e.g., sheltered workshops, congregate dining, and job training).

**Public Transit:** means the transporting of people by conveyances or systems of conveyances traveling on land or water, local or regional in

nature, and available for use by the public. Public transit systems may be governmental or privately owned. Public transit specifically includes those forms of transportation commonly known as paratransit.

**Purchased Transportation:** transportation services provided for an entity by a public or private transportation provider based on a written contract.

**(RFB) Request for Bids:** a competitive procurement process.

**(RFP) Request for Proposals:** a competitive procurement process.

**(RFQ) Request for Qualifications:** a competitive procurement process.

**Reserve Fund:** transportation disadvantaged trust fund monies set aside each budget year to insure adequate cash is available for incoming reimbursement requests when estimated revenues do not materialize.

**Revenue Hours:** total vehicle hours used in providing passenger transportation, excluding deadhead time.

**Revenue Miles:** the total number of paratransit service miles driven while TD passengers are actually riding on the vehicles. This figure should be calculated from first passenger pick-up until the last passenger drop-off, excluding any breaks in actual passenger transport. For example: if 10 passengers rode 10 miles together, there would be 10 revenue miles.

**Ridesharing:** the sharing of a vehicle by clients of two or more agencies, thus allowing for greater cost efficiency and improved vehicle utilization.

**Roadcall:** any in-service interruptions caused by failure of some functionally necessary element of the vehicle, whether the rider is transferred or not. Roadcalls exclude accidents.

**Rule 41-2, F.A.C.:** the rule adopted by the Commission for the Transportation Disadvantaged to implement provisions established in Chapter 427, F.S.



**Scheduler:** a person who prepares an operating schedule for vehicles on the basis of passenger demand, level of service, and other operating elements such as travel times or equipment availability.

**Shuttle:** a transit service that operates on a short route, or in a small geographical area, often as an extension to the service of a longer route.

**Sole Source:** (also referred to as Sole Provider) network type in which the CTC provides all of the transportation disadvantaged services.

**Sponsored Trip:** a passenger trip that is subsidized in part or in whole by a local, state, or federal government funding source (not including monies provided by the TD Trust Fund).

**Standard:** something established by authority, custom, or general consent as a model or example.

**Stretcher Service:** a form of non-emergency paratransit service whereby the rider is transported on a stretcher, litter, gurney, or other device that does not meet the dimensions of a wheelchair as defined in the Americans with Disabilities Act.

**Subscription Service:** a regular and recurring service in which schedules are prearranged, to meet the travel needs of riders who sign up for the service in advance. The service is characterized by the fact that the same passengers are picked up at the same location and time and are transported to the same location, and then returned to the point of origin in the same manner.

**(SSPP) System Safety Program Plan:** a documented organized approach and guide to accomplishing a system safety program set forth in Florida Rule 14-90.

**Total Fleet:** this includes all revenue vehicles held at the end of the fiscal year, including those in storage, emergency contingency, awaiting sale, etc.

**(TQM) Total Quality Management:** a management philosophy utilizing measurable goals and objectives to achieve quality management practices.

**Transportation Alternative:** those specific transportation services that are approved by rule to be acceptable transportation alternatives, and defined in s. 427.018, F. S.

**(TD) Transportation Disadvantaged:** those persons, including children as defined in s. 411.202 F.S., who because of physical or mental disability, income status, or inability to drive due to age or disability are unable to transport themselves or to purchase transportation and have no other form of transportation available. These persons are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, or medically necessary or life-sustaining activities.

**Transportation Disadvantaged Funds:** any local government, state or available federal funds that are for the transportation of the transportation disadvantaged. Such funds may include, but are not limited to, funds for planning, Medicaid transportation, transportation provided pursuant to the ADA, administration of transportation disadvantaged services, operation, procurement and maintenance of vehicles or equipment, and capital investments. Transportation disadvantaged funds do not include funds expended by school districts for the transportation of children to public schools or to receive service as a part of their educational program.

**Transportation Disadvantaged Population:** (formerly referred to as TD Category II) persons, including children, who, because of disability, income status, or inability to drive due to age or disability are unable to transport themselves.

**(TDSP) Transportation Disadvantaged Service Plan:** a three-year implementation plan, with annual updates developed by the CTC and the planning agency which contains the provisions of service delivery in the coordinated transportation system. The plan shall be reviewed and recommended by the local Coordinating Board.

**Transportation Disadvantaged Trust Fund:** a fund administered by the Commission for the Transportation Disadvantaged in which all fees collected for the transportation disadvantaged program shall be deposited. The funds deposited will be appropriated by the legislature to the Commission to carry

out the Commission's responsibilities. Funds that are deposited may be used to subsidize a portion of a transportation disadvantaged person's transportation costs which are not sponsored by an agency.

**Transportation Operator:** a public, private for profit, or private non-profit entity engaged by the community transportation coordinator to provide service to the transportation disadvantaged pursuant to an approved coordinated transportation system transportation disadvantaged service plan.

**Transportation Operator Contract:** the Commission's standard coordination/operator contract between the community transportation coordinator and the transportation operator that outlines the terms and conditions for any services to be performed.

**Trend Analysis:** a common technique used to analyze the performance of an organization over a period of time.

**Trip Priorities:** various methods for restricting or rationing trips.

**Trip Sheet:** a record kept of specific information required by ordinance, rule or operating procedure for a period of time worked by the driver of a public passenger vehicle in demand-response service. Also known as a driver log.

**(UPHC) Unduplicated Passenger Head Count:** the actual number of people that were provided paratransit transportation services, not including personal care attendants, non-paying escorts, or persons provided fixed schedule/fixed route service.

**Unmet Demand:** the number of trips desired but not provided because of insufficient service supply.

**Urbanized Area:** a city (or twin cities) that has a population of 50,000 or more (central city) and surrounding incorporated and unincorporated areas that meet certain criteria of population size of density.

**(USDHHS) U.S. Department of Health and Human Services:** a federal agency regulating health and human services.

**(USDOT) U.S. Department of Transportation:** a federal agency regulating the transportation field.

**Van Pool:** a prearranged ride-sharing service in which a number of people travel together on a regular basis in a van. Van pools are commonly a company-sponsored van that has a regular volunteer driver.

**Vehicle Inventory:** an inventory of vehicles used by the CTC, transportation operators, and coordination contractors for the provision of transportation disadvantaged services.

**Vehicle Miles:** the total distance traveled by revenue vehicles, including both revenue miles and deadhead miles.

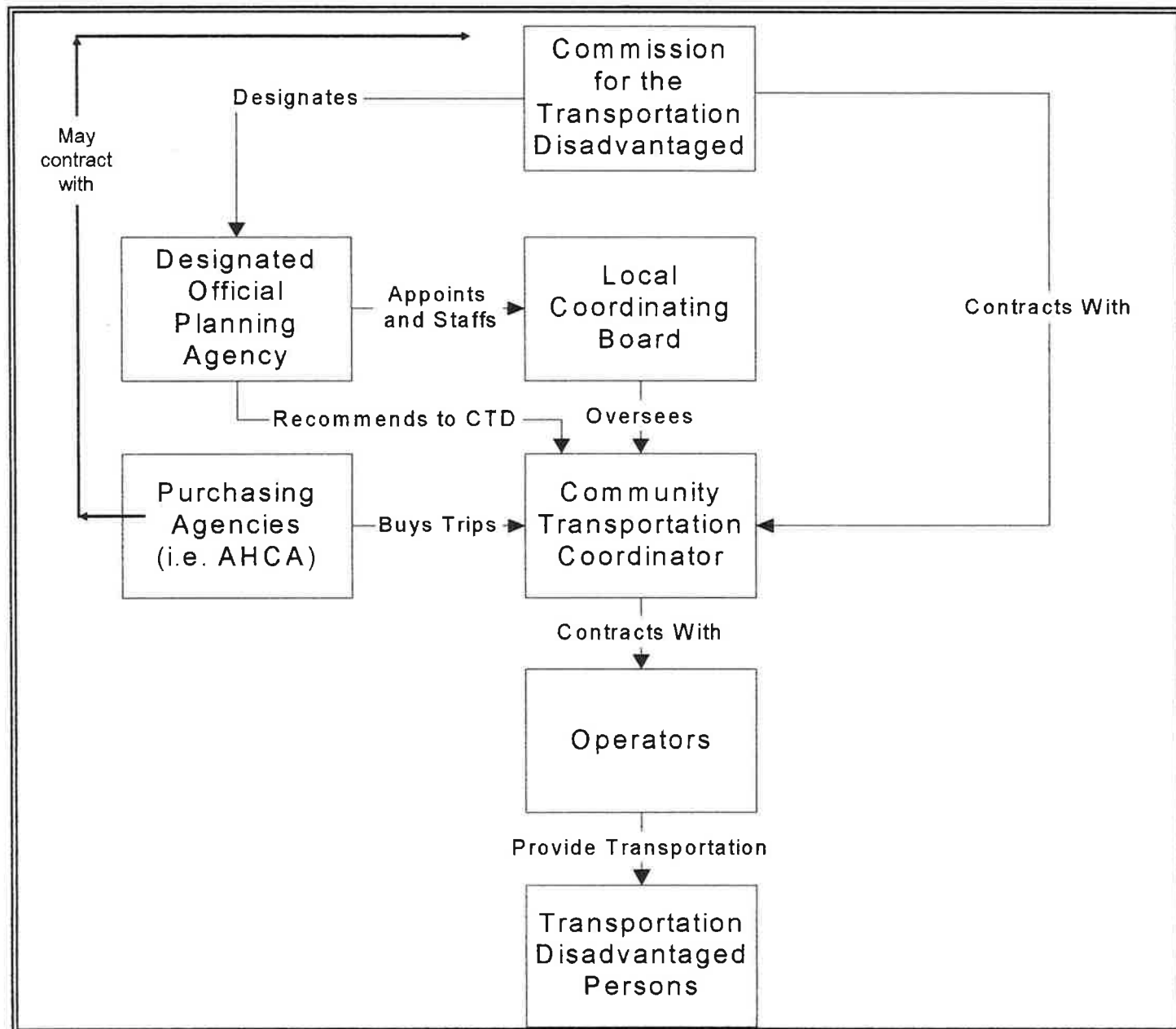
**Vehicle Miles per Vehicle:** a performance measure used to evaluate resource utilization and rate of vehicle depreciation, calculated by dividing the number of vehicle miles by the total number of vehicles.

**Vehicles:** number of vehicles owned by the transit agency that are available for use in providing services.

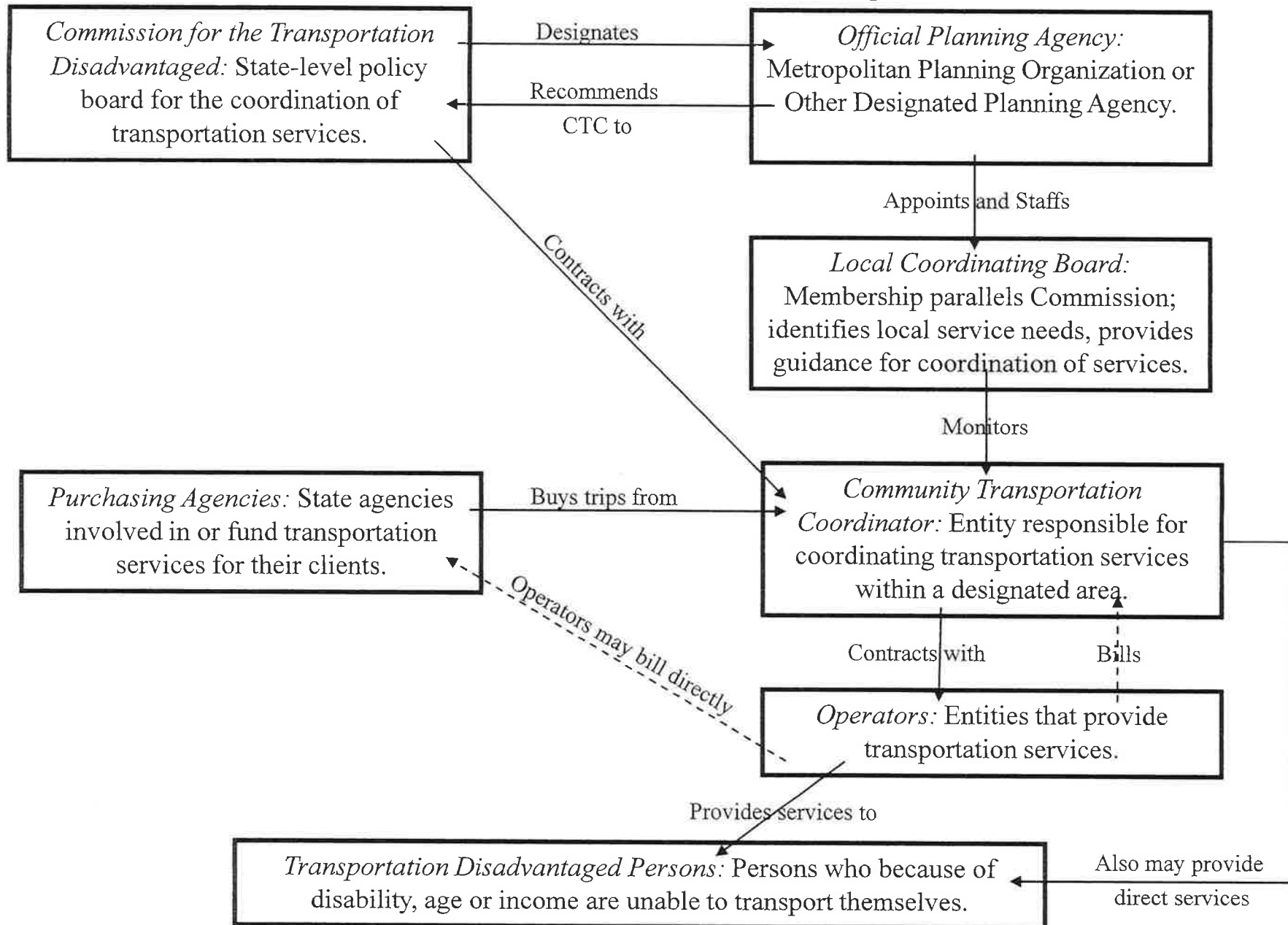
**Volunteers:** individuals who do selected tasks for the community transportation coordinator or its contracted operator, for little or no compensation.

**Will-Calls:** these are trips that are requested on a demand response basis, usually for a return trip. The transportation provider generally knows to expect a request for a will-call trip, but can not schedule the trip in advance because the provider does not know the exact time a passenger will call to request his/her trip.

## Organization of Florida's Coordinated Transportation Program



# TD Program Concept Chart



# How the Florida TD Program Works

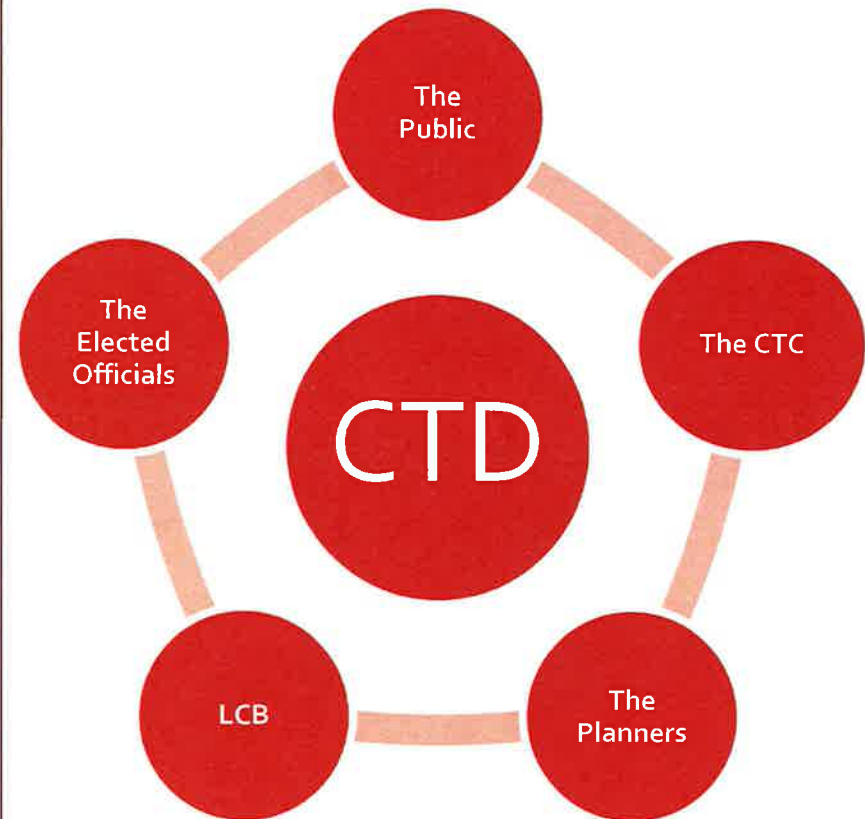
The Public/Rider Calls the CTC

CTC's are competitively procured by the Planning Agency

The Planning Agency staffs the Local Coordinating Board (LCB)

The LCB Evaluates and Provides Guidance to the CTC

The LCB is Chaired by a Locally Elected Official



# **Florida Commission for the Transportation Disadvantaged**

## **Customer's Rights and Responsibilities**

### ***SAFETY:***

#### **CUSTOMERS HAVE THE RIGHT TO:**

1. trips in air-conditioned and heated vehicles;
2. safe, clean, properly equipped, and smoke-free vehicles;
3. properly fastened seatbelts and/or mobility device tie downs;
4. vehicle transfer points that are sheltered, secure and safe;
5. a properly identified driver;
6. adequate seating, to include ample space for service animals.
7. assistance in maneuvering mobility devices up and down at a minimum one step; and
8. Community Transportation Coordinator (CTC) policy on medical emergency during transport.

#### **CUSTOMERS ARE RESPONSIBLE TO:**

1. be ready and waiting for vehicle in a safe location for \_\_\_\_ minutes;
2. keep seat belts and mobility device tie downs secure until vehicle stops;
3. remain seated until vehicle comes to a complete stop;
4. report any safety hazards;
5. keep wheelchairs or other mobility aids in good condition;
6. not tamper with or operate vehicle equipment;
7. address car-seat provision with the CTC;
8. make CTC aware of customer's physical and/or mental conditions prior to transport; and
9. adhere to policy for violent and/or disruptive behavior.

### ***COURTESY:***

#### **CUSTOMERS HAVE THE RIGHT TO:**

1. professional, courteous, and properly trained drivers
2. assistance while getting in and out of vehicle and to the seat; and
3. assistance with up to \_\_\_\_ packages;

#### **CUSTOMERS ARE RESPONSIBLE TO:**

1. call in trip cancellations within \_\_\_\_;
2. inform CTC of all pertinent information regarding trip;
3. present the correct fare;



4. be ready at time of pick-up; and
5. ensure personal hygiene.

## **COMPLAINTS:**

### **CUSTOMERS HAVE THE RIGHT TO:**

1. file complaints without fear of retaliation;
2. prompt investigations and effective resolutions; and
3. current and complete program information.

### **CUSTOMERS ARE RESPONSIBLE TO:**

1. file complaints in a timely manner (state local time frame),
2. providing CTC with pertinent information.

## **SERVICE:**

### **CUSTOMERS HAVE THE RIGHT TO:**

1. pick-ups between \_\_\_\_ minutes before and \_\_\_\_ minutes after;
2. expect driver to wait \_\_\_\_ minutes, but no longer than \_\_\_\_ minutes;
3. toll-free accessibility to the CTC;
4. be delivered to an appointment on time;
5. the CTC's policy on standing orders; and
6. the CTC's policy on no-shows.

### **CUSTOMERS ARE RESPONSIBLE TO:**

1. advise the reservationist of appointment times;
2. accept a shared-ride service;
3. schedule trip requests \_\_\_\_ days in advance; and
4. provide own wheelchair and/or escort.

## *CTD Helpline Program*

***If you have questions or concerns please call (800) 983-2435 or email John Irvine at [John.Irvine@dot.state.fl.us](mailto:John.Irvine@dot.state.fl.us).***

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The CTD Helpline was created in 1994 to provide transportation disadvantaged customers with an avenue to voice concerns about the coordinated transportation system and also as a means to provide information about the TD program.

The helpline is a part of the Quality Assurance Program being implemented by the Commission for the Transportation Disadvantaged. CTD Helpline staff intake calls, listen and document concerns of the consumer, provide callers with information, refer callers to the appropriate local area, and maintain a database on information from all callers.

All calls that concern local TD services will be referred to the appropriate local staff for follow-up. However, the CTD Helpline staff will follow-up with the customers to insure their concern has been addressed.

In addition, the CTD Helpline staff assist callers in resolving consumer concerns by acting as an advocate or mediator on the caller's behalf.

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- Helpline hours of operation are 8:00 a.m. to 5:00 p.m. Monday through Friday, with voice mail capabilities for evenings and weekends.

- The CTD Helpline phone number is: 1-800-983-2435.

Customer Rights and Responsibilities