

National Aeronautics and Space Administration

Headquarters

Washington, DC 20546-0001



March 31, 2015

Reply to Attn of: Office of Diversity and Equal Opportunity

Certified, Return Receipt Requested

Dr. Mark B. Rosenberg
President
Florida International University
11200 Southwest 8 Street
Modesto A. Maidique Campus, PC-528
Miami, Florida 33199-0001

Dear President Rosenberg:

The National Aeronautics and Space Administration (NASA) has completed a compliance review of the Florida International University (FIU or the University), a recipient of NASA financial assistance. This limited scope review, focused on the Department of Earth and Environment (DEE or the program), was conducted pursuant to the Age Discrimination Act of 1975 (Age Act or the Act), as amended, 42 U.S.C. §§ 6101, *et seq.* and NASA's implementing regulations at 14 C.F.R. Part 1252, which prohibit discrimination on the basis of age in programs and activities receiving Federal financial assistance through NASA. The review was conducted to determine whether FIU was in compliance with NASA's Age Act regulations; specifically, to ensure that the DEE program provides equal educational opportunity regardless of age. Please find enclosed a copy of NASA's report of the compliance review and the NASA Age Act regulations.

Based on an evaluation of the data provided by FIU and from on-site interviews and observations, we find FIU and the DEE program to be in compliance with NASA Age Act regulations. More specifically, we find that FIU and the DEE program are meeting Age Act legal obligations and are implementing policies and procedures appropriate to achieving equality of access for all students, regardless of age. In fact, there are many strengths in FIU's and DEE's programs regarding Age Act compliance. For example, the University does not require transfer students, or students who have been out of school for more than one year, to submit SAT/ACT scores. Also, the University and DEE present a flexible model for program completion, which allows for alternative methods of meeting course requirements and a reasonable time within which to complete the degree programs.

In terms of areas for improvement, NASA recommends that the University enhance its civil rights informational and training materials to clarify the application of the Age Discrimination Act, and provide practical examples of how the Act may affect the University, such as ensuring equal opportunities for both traditionally and non-traditionally aged students. NASA also recommends that the University clarify and disseminate adequate information about its internal discrimination

complaints policy and procedures, including rights, obligations, timelines, and other potential remedies.

In addition, DEE may wish to consider broader changes to institutional policy that would expand access for non-traditionally aged learners to programs and services through expanded night-time and weekend course offerings, and alternative forms of program delivery, *e.g.*, greater focus on online platforms and video-taping. While the Age Discrimination Act does not require affirmative efforts that may facilitate education for non-traditionally aged (and other) students, such efforts are entirely consistent with the purpose and intent of the Act and NASA's implementing regulations.

NASA has provided specific recommendations regarding these and other equal opportunity matters. We are pleased to note that FIU reports it has already begun implementation of some of our key recommendations (see Compliance Report, Appendix A). We will contact FIU in one year to follow up on its progress in implementing these recommendations.

FIU has been very helpful in facilitating the review prior to, during, and after the on-site visit. NASA wishes to thank FIU's Director and Title IX Coordinator, Equal Opportunity Programs and Diversity, Ms. Shirlyon McWhorter, as well as the faculty, staff and students of the DEE program for their participation in the review.

Under the Freedom of Information Act, it may be necessary to release the report and related records on request. If NASA receives such a request, it will seek to protect, to the extent provided by law, personal information which, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

If you have any questions regarding this correspondence, please contact Mr. David R. Chambers, Age Discrimination Act Compliance Program Manager, on 202-358-2128 at david.r.chambers@nasa.gov.

Sincerely,



Brenda R. Manuel
Associate Administrator for
Diversity and Equal Opportunity

Enclosures

cc:

Dr. Rosemary Hickey-Vargas, Chair, Department of Earth & Environment
Dr. Jaffus Hardrick, Ed.D. Vice President, Division of Human Resources
Ms. Shirlyon, McWhorter, Director, Equal Opportunity Programs and Diversity



FLORIDA INTERNATIONAL UNIVERSITY

DEPARTMENT OF EARTH AND ENVIRONMENT

AGE DISCRIMINATION ACT COMPLIANCE REPORT



Office of Diversity and Equal Opportunity

March 2015

TABLE OF CONTENTS

INTRODUCTION	3
A. Background	3
B. Scope	3
C. Methodology	4
COMPLIANCE ANALYSIS	5
A. Formal Indicators of Institutional Support for Compliance	5
B. Admissions Policies and Outreach Efforts	8
C. Enrollment Data and Access to Programs and Facilities	10
CONCLUSION	15
RESPONSE TO NASA AGE ACT COMPLIANCE RECOMMENDATIONS	16

INTRODUCTION

A. Background

As a federal grant-awarding agency, NASA evaluates grant recipient compliance with the Age Discrimination Act of 1975 ("the Age Act" or "the Act").¹ This compliance review of Florida International University (also referred to as "FIU" or the "University") and, in particular, its Department of Earth and Environment ("DEE"), a NASA grant program recipient, was conducted by NASA under the authority of the Age Act and its companion NASA regulations.² This review focused on ensuring that FIU and DEE are complying with the law and the NASA regulations. More specifically, the focus of the review was on whether, or the extent to which, FIU and DEE are fulfilling their obligations under the Act to implement policies and procedures consistent with the goal of equality of access for all students, regardless of age.

B. Scope

The Age Act and NASA regulations prohibit discrimination based on age in any program or activity receiving Federal financial assistance. Unlike the Age Discrimination in Employment Act ("ADEA"), which is designed to protect individuals over the age of 40 in the employment setting, the Age Discrimination Act of 1975 does not define the protected category of beneficiary by a specific age or age range. In other words, the Age Act is designed to protect individuals of any age in programs receiving Federal financial assistance.³

NASA's Age Act regulations provide tools for effective oversight and monitoring of the Act's requirements. Each recipient is required to sign a written assurance that it will comply with the regulations and avoid discrimination based on age.⁴ The University, as a recipient of NASA grants, has signed the required assurances. In addition, NASA may require recipients to provide, upon request, information and reports, including self-evaluative information, which NASA determines necessary to ascertain whether the recipient is complying with the Act and its regulations.⁵ Under this provision, NASA limited the scope of its review to the University and DEE's methods of administration regarding three substantive measures of compliance:

1. Formal Indicators of Institutional Support for Compliance: NASA examined institutional policies and procedures demonstrating knowledge of and commitment to the requirements of the Age Act,

¹ See, 42 U.S.C. §§ 6101 to 6107.

² See, 14 C.F.R. Part 1252.

³ The applicability of the Age Act to all ages is aptly illustrated by a recent case involving a "child prodigy" at the University of Connecticut who was denied enrollment in a class that required fieldwork in Africa. The student's mother has alleged that the denial violates Federal law and the university's antidiscrimination policy. See, http://chronicle.com/blogPost/13-Year-Old-Prodigy-Claims-age/21813/?sid=pm&utm_source=pm&utm_medium=en. In the context of DEE programs, a parallel might include an Advanced Field Excursion, such as the 10 day trip to Death Valley, California, organized by the Graduate Student Earth Science Association.

⁴ See, 14 C.F.R. § 1252.302(a).

⁵ See, 14 C.F.R. §1252.302(b) and §1252.303.

including compliance “infrastructure”, such as policies and procedures, as well as notice and education on these.

2. **Admissions Policies and Outreach Efforts:** NASA analyzed admissions policies and institutional outreach efforts that eliminate or limit potential barriers to entry, and may also attract non-traditionally aged students. For purposes of this review, NASA defined “non-traditionally aged” students as undergraduates over the age of 25 when first enrolled as freshmen, and graduate students age 30 or older when starting their graduate program.⁶

3. **Access to Programs and Facilities:** NASA examined DEE’s efforts to ensure equality of access to educational offerings and benefits, including an assessment of current enrollment levels of non-traditionally aged students as compared with national statistics, the academic and other support services necessary to achieve degrees from the undergraduate, master’s and Ph.D. programs.

C. Methodology

This compliance review was conducted in three phases. The first phase, the Pre-Onsite, consisted of a “desk-audit” review, in which the University submitted responses to information requests on the three compliance indicators. In September 2013, NASA conducted the second phase of the review, the onsite component of our assessment of FIU and DEE. This included interviewing officials charged with anti-discrimination compliance, the Chairs of several of the component programs, as well as DEE faculty and staff. NASA also conducted interviews with a sampling of non-traditionally aged DEE students from the undergraduate, graduate, and Ph.D. programs. A total of 17 students were interviewed (14 undergraduates, one graduate, and two Ph.D. candidates). Ages of undergraduate students ranged from 25 to 47, and ages of the three graduate and Ph.D. students ranged from 30 to 57. Finally, NASA interviewed key officials designated by the school, who were either charged with oversight functions or would have knowledge of various aspects of the EO program as it pertained to non-traditionally aged students and their ability to achieve equal access.

Upon return from the onsite visit, NASA synthesized all of the data to develop the institutional profile and compliance analysis contained in this report. The compliance analysis is intended to offer findings, recommendations, and promising practices for better ensuring equal opportunity regardless of age.

⁶ The National Center for Education Statistics (NCES) acknowledges there is no precise definition for the term “non-traditional student,” but suggests that part-time status and age are common elements in most definitions. Generally “traditionally” aged undergraduates are between the ages of 18 to 24. NCES used this as a demarcation based on the age at which students are considered financially independent for purposes of financial aid. NCES, “Special Analysis 2002 Nontraditional Undergraduates,” Institute of Education Sciences, U.S. Department of Education, <http://nces.ed.gov/programs/coe/2002/analyses/nontraditional/sa01.asp#ft3>. See also, “Nontraditional Students Enrich U.S. College Campuses: Older students value challenging courses with real-world applications” (April 29, 2008) (referring to “non-traditional college age students age 25 or older”). Accessed at: <http://www.america.gov/st/educ-english/2008/April/200804281212291CJsamohT0.3335382.html>.

COMPLIANCE ANALYSIS

In the sections that follow, each of the three substantive measures of compliance that are the focal points of this review is examined. Findings of fact and compliance recommendations are provided for each measure and promising practices are cited, as appropriate. NASA notes with approval that FIU has provided a detailed rendering of its efforts to date to address NASA's Age Act compliance recommendation (see Appendix A, p. 17).

A. Formal Indicators of Institutional Support for Compliance

This measure of compliance is defined as formal institutional policies, procedures and programs designed, at least in part, to achieve the goals of the Age Act. This includes the University's efforts to provide mechanisms to address concerns raised by students regarding age, including the apparatus in place to address potential violations of the law, and to foster awareness of the law's requirements. Addressed below are: 1) compliance infrastructure, including staffing, resources, internal discrimination complaints procedures and monitoring; and 2) notice to and education for the academic community as to their rights under the law.

1. Analysis

a. Compliance Infrastructure

FIU has three positions whose functions relate to equal opportunity and civil rights located within its Office of Equal Opportunity Programs and Diversity (EOPD), including a Director, Assistant Director, and Coordinator.⁷ EOPD resides in the Division of Human Resources ("DHR") Office. This is not ideal because the DHR and the human resources function is typically associated with laws and compliance dealing with employment discrimination in the workplace, and not equal opportunity issues in education, i.e., for students.

The school has a formal anti-discrimination policy, known as FIU-103.⁸ Although the Age Act is not specifically mentioned, it is clear that FIU-103 encompasses complaints of disparate treatment based on age. FIU informed NASA that in the past five years, there has been only one student complaint based on age and this did not arise in DEE.⁹ The University reports that the U.S. Department of Education Office for Civil Rights (OCR) administratively closed the student's case, finding that the University used a "comparable process, applied the appropriate legal standards and secured remedies consistent with OCR standards."

⁷ See, http://hr.fiu.edu/index.php?name=equal_opportunity_programs.

⁸ The main link to FIU-103 can be found by accessing the school's website's Compliance and Compliance Office pages at <http://policies.fiu.edu/> and <http://compliance.fiu.edu/ethics.htm>, entitled "Compilation of Applicable Laws, University Regulations and University Policies." From there one can link to the anti-discrimination policy provided by FIU Regulation 103, along with a number of other regulations and rules of governance. <http://regulations.fiu.edu/regulation>.

⁹ See, FIU Information Response, at Section I (A) (2).

NASA did not find that FIU monitors compliance with the Age Act and only recently has it started keeping track of retention rate information, which may or may not have a focus concentrating on age. Therefore, there is no way to determine whether the FIU policies and practices, both formal and informal, are effective to mitigate any disadvantages for non-traditionally aged students. By comparison, however, it appears that FIU prepares Annual Accountability Reports¹⁰ and Fact Books,¹¹ which capture data with respect to ethnicity, gender, and student type (i.e., first-time, transfer, and graduate).

b. Notice and Education

On FIU's "Compliance Regulations" web page,¹² which includes FIU-103, NASA could find no reference to the Age Act. There is also a "Compliance Tools and Links" page.¹³ However, none of the web pages seems to assist in linking or providing information about the Age Act. Further, NASA engaged in its own general web-search of the University's regulations page and FIU main website by entering the terms "Age Discrimination Act of 1975," but no results or references appear to the Act outside of FIU-103.

NASA is concerned by the lack of information about the Age Act regulation and protections on EOPD's website. The information currently on the site might say serve to confuse in some instances. For example, in the EOPD's description of its services and mission, the first paragraph defines protected as "people over 40." This is clearly a reference to the legal protections offered to persons in an employment setting, and not students or others in a learning environment seeking equality of access. A student or interested party under 40 years of age is not likely to be aware of the distinction between the Age Discrimination in Employment Act of 1967 (covering employees 40 and over), and the Age Discrimination Act of 1975 (covering all persons regardless of age participating in or seeking to participate in a federally funded program), and thus could immediately conclude there was no recourse as a student under the Age Act if they are not 40 or above. This is a critical distinction and the lack of appropriate delineation between the two laws is problematic as it might lead to a mistaken impression that the Age Discrimination Act of 1975 pertains to employment situations, when that is not its primary goal, or that it only applies to persons over age 40, which is inaccurate.¹⁴

Interviews of the school's senior administration and faculty, including those administering the NASA grants, indicated that they had no knowledge of the Age Act *per se*, and are not consciously alerted to look for challenges that may face non-traditionally aged students in the learning environment. Many of the interviews also revealed that administration and faculty did not know the formal policies and procedures around the reporting of any form of EO complaint, including the procedures around

¹⁰ See, http://opir.fiu.edu/annual_report.htm.

¹¹ See, <http://opir.fiu.edu/factbook.htm>.

¹² See, note 13.

¹³ http://compliance.fiu.edu/tools_links.htm.

¹⁴ The applicable age statute for employment purposes is the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621.

FIU-103. Further, many of the faculty had not had formal training on equal opportunity, either regarding employment or education, in several years, at least since their initial orientations. In fact, several noted they were not aware of the Age Act or the “nontraditionally aged” versus “traditionally aged” dichotomy until the NASA review.

While most of the faculty understood that the EOPD would be the appropriate resource for raising a complaint or concerns relating to EO, students said they would use a common sense approach, taking steps or seeking guidance to remediate the situation within the administrative hierarchy of the school. They were, however, unfamiliar with the name of the responsible office or official. This is not uncommon but it is also not optimal, and it appears more can be done to communicate information about civil rights protections to the student body. From the interviews with faculty and school administrators, NASA concludes that there is little, if any, ongoing training after orientation takes place, and they are not surveyed to provide feedback or recommendations about practices or issues in the discrimination or equality of access contexts, including challenges facing non-traditionally aged students (see Recommendations below).

2. Recommendations

Coordination Role, Policy Dissemination and Educational Opportunities. NASA recommends that FIU:

- (i) Establish a “coordination” type functional role, modeled on those of related statutes, such as Title IX and Section 504 of the Rehabilitation Act, that encompasses the Age Act, and publicly disseminate information on this new coordination role to the FIU community.
- (ii) Establish on the EOPD website a clear distinction between laws addressing equal employment opportunity, such as the ADEA, and those addressing equal opportunity in federally funded programs (including educational programs), such as the Age Act.
- (iii) Provide enhanced web accessibility for EOPD by linking it directly from the FIU homepage or most prominent page available.
- (iv) Ensure that DEE and other NASA funded programs post on their websites the NASA brochure on equal opportunity laws (including the Age Act) pertaining to grant recipient institutions.¹⁵
- (v) Develop and deploy an expanded EO training as part of mandatory faculty and student orientation/training, that clearly distinguishes between employment related laws, such as the ADEA, and laws designed to ensure equality of access to federally funded programs, such as the Age Act.

¹⁵ Electronic copies of this brochure are accessible at <http://odeo.hq.nasa.gov/documents/nondiscrimination.pdf>. Hard-copies may be acquired by contacting the NASA Office of Diversity and Equal Opportunity (<http://odeo.hq.nasa.gov/contact.html>).

B. Admissions Policies and Outreach Efforts

1. Analysis

This area of inquiry was designed to evaluate FIU and DEE admissions, outreach, and communications efforts in light of the Age Discrimination Act's mandate to ensure equal opportunity regardless of age. NASA sought to determine whether, consistent with this mandate, FIU and DEE reach out to students of both traditional and non-traditional age (i.e., undergraduate students aged 25 or over and graduate students aged 30 or over).

a. Admissions

Prospective FIU undergraduate students are required to submit scores from either the Scholastic Aptitude Test (SAT) or American College Testing (ACT).¹⁶ However, FIU allows for an alternative admission standard for undergraduates, which includes a profile assessment and enables the University to consider other factors, such as improvement in high school record, family educational background, socioeconomic status, military service, or other special circumstances.¹⁷ The alternative admission profile assessment suggests that the University values and respects the needs of traditional and non-traditional students by providing for an alternative method for admission. As a result, this policy can work to remove potential obstacles to non-traditionally aged learners insofar as the ability to gain admission.

b. Outreach¹⁸

This area of inquiry was designed to measure the University's efforts to market to and encourage the application and participation of non-traditionally aged or adult learners. During her interview with NASA, the Director, EOPD, indicated that the school was attempting to attract non-traditionally aged students, particularly in the form of veterans, women, and people with children. She noted that, as a public institution, FIU is far less expensive than private schools, and therefore, tends to attract students who may have budgetary and other concerns. Also, as a commuter-based school, the school's model is naturally geared toward the needs of the non-traditionally aged student.

The Assistant Director for Student Transfer and Transitional Services stated in her interview that FIU conducts a great deal of outreach with junior colleges and other universities in the State. She indicated that they have counselors present on site at the Miami Dade and Broward Community Colleges to assist and advise potential transfer students. While these programs are not specifically

¹⁶ See, <http://admissions.fiu.edu/how/freshman.php>.

¹⁷ See, Regulation 6.002, Admission of Undergraduate First-Time-in-College, Degree-Seeking Freshmen, at [http://www.flbog.edu/documents_regulations/regulations/6%20002%20Admission%20of%20Undergraduate%20FTIC%20Freshmen%20\(mv%20edits\).pdf](http://www.flbog.edu/documents_regulations/regulations/6%20002%20Admission%20of%20Undergraduate%20FTIC%20Freshmen%20(mv%20edits).pdf).

¹⁸ The sections on University College and the Continuing and Professional Studies Initiative are described in detail in the next section, dedicating to program access. NASA addressed the items in this section as well, but focused on the University's goals of outreach to nontraditionally aged students.

aimed at non-traditionally aged students, there are several features of FIU highlighted to potential transfer students, which would benefit them. For example, they are informed that FIU offers part-time programs, evening classes, and online classes, and it offers childcare and a medical center (see also "Access" section).

FIU and DEE attempt to show diversity of the student population through visual imagery on their respective websites, depicting the presence and participation of adult learners. While many students interviewed indicated that they paid no attention to images in printed materials or on the website, a few students indicated that they saw a variety of student ages represented in campus materials.

2. Recommendations

a. Regular Examination of Student Statistics by Age. FIU and DEE should regularly examine application, acceptance, and retention statistics of the student population by age. Such periodic self-audits could help to ensure that there is not an abnormal disparity or deviation in the numbers of students in or from any category of age group. They also could assist in further exploring the impact of current policies and practices on non-traditionally (and traditionally) aged learners, allowing for an institutional assessment as to any potential issues regarding key facets of the program (e.g., admissions, outreach, or access to programs and facilities). In turn, a better understanding of student perceptions in these areas may help to craft policies and strategies to address concerns raised.

b. Outreach Efforts. To help increase its non-traditionally aged student population, DEE may wish to consider following FIU's example by improving outreach to include learning institutions, organizations, and/or employers among which they are likely to reach non-traditionally aged learners. In addition, FIU and DEE may wish to consider exploring scholarships that are targeted toward non-traditionally aged students, including veterans and disabled veterans.

3. Promising Practice

Waiver of SAT/ACT Scores for Transfer Students and Other Flexibilities. FIU does not require transfer students to submit SAT/ACT scores. This could assist non-traditionally aged learners, many of whom fall into this category, because it removes the reliance on SAT/ACT scores, which could otherwise serve to eliminate from consideration a disproportionate number of applicants. In addition, military personnel may petition for credit for military training, which may serve to lessen their course load and take years off of their forecasted program of study. Although the University requires that students meet all Core Curriculum Requirements in addition to meeting program requirements, it allows for transfer credits and credits with certain exams, e.g., Advanced Placement, Cambridge and Excelsior. It appears that the University and DEE present a flexible model, which allows for alternative methods of meeting course requirements and a reasonable time within which to complete their programs.

C. Enrollment Data and Access to Programs and Facilities

1. Analysis

This aspect of NASA's inquiry focused on student enrollment and students' access to FIU and DEE programs, facilities, amenities, and services, specifically, the extent to which the data and other information reviewed indicate that the University and DEE are taking appropriate steps to ensure equal access to programs and resources regardless of age.

a. Enrollment Data and National Comparison

NASA examined statistics available from the U.S. Census for 2010 and 2011 published by the National Center for Education Statistics (NCES). According to U.S. Census data for 2011, of the full-time student population, 63% was under age 25, while 37% was age 25 or older. According to the 2010 Census data, 70% of the students enrolled in undergraduate programs were under age 24,¹⁹ while approximately 30% were age 25 or older. A snapshot of the graduate enrollment for the same time period shows that 54% of graduate learners were under age 30, while 46% were above 30. The NCES reports that between 2000 and 2010, the percentage increase in the number of non-traditionally aged students (age 25 and over) has been larger than the percentage increase in the number of traditionally aged students. NCES further reports that this pattern is expected to continue. Between 2000 and 2010, the enrollment of students under age 25 increased by 34%, while enrollment of students 25 and over rose 42% during the same period. From 2010 to 2020, NCES projects a rise of 11% in enrollments of students under 25, and a rise of 20% in enrollments of students 25 and over.

DEE's full-time non-traditionally aged population ratios met or exceeded the Census ratios for full-time, non-traditionally aged students in 2011 (63% under age 25; 37% age 25 or older).²⁰ FIU is to be commended for its high participation rate among non-traditionally aged students. Further, DEE's 5-year average full-time non-traditionally aged student ratios show a level slightly higher than that of the Census population. At the same time, FIU/DEE data shows that over the past 5 years, the number of non-traditionally aged full-time students has fluctuated up and down from a high of 45% non-traditionally aged to a low of 38%. NASA is unable to determine, without further information, whether this reflects in any way on efforts of the University or DEE. The same logic holds true for the profile and percentages associated with part-time students at FIU and DEE, where the 5-year average shows that the number of non-traditionally aged learners exceeded traditionally aged students. Nevertheless, there is a consistent downward trend in the ratio of non-traditionally aged part time

¹⁹ The ages ranged from 14 to 24 years of age.

²⁰ An important caveat to comparing Census data to FIU data is that Census data for 2011 was not broken down by the same age groupings as FIU, nor was it broken down by full-time or part-time students, or graduate versus undergraduate students. Similarly, FIU/DEE data was not broken into subcategories of graduate versus undergraduate students.

students to traditionally aged part time students over this 5-year period, which may warrant further inquiry to determine causation (see “Recommendations” below).

b. Course Offerings

Student interviews indicated that most felt there was adequate access to courses in their program of study, but noted that due to the nature of the program and the specialization of higher level courses, certain classes were offered during a single session and required students to build their schedules around those critical courses. One challenge presented by part-time students in particular was the inability to schedule classes “back-to-back,” sometimes creating blocks of down time in their schedules that were too short to allow sufficient time to report to work for any meaningful period of time.

In its Information Response concerning flexible scheduling, FIU cited to a link for the College of Business and their MBA degree,²¹ which offers flexible schedules (nights, weekends) for working professionals. However, it does not appear that DEE offers the same flexible schedules. Such flexibilities would help facilitate educational opportunities for non-traditionally aged learners seeking degrees in the Environmental and Earth Sciences fields. Student interviews revealed that there are some limited opportunities to attend classes during the evening, on the weekends, or online, but they noted that those opportunities decreased as the course material became more specialized.

Limited DEE courses are offered on-line. With respect to course offerings, the lack of evening or weekend courses at DEE may have the effect of, among other things, discouraging an otherwise well-qualified nontraditionally aged learner from applying to the University’s programs and, in particular, the DEE program. While the Age Act regulations do not require recipients of federal financial assistance to take such steps, the DEE program may wish to consider greater emphasis on night and weekend course offerings and other forms of alternative program delivery (see “Recommendations” below).

c. Academic Advising and Administrative Services

Academic advising is offered in-person (undergraduate and graduate) at the Modesto campus during the work week from 8:00 a.m. until 6:00 p.m.²² Otherwise, one may contact the department or seek the service, by contacting a program representative or an advisor using email or an on-line “chat” function. There also appears to be an extensive amount of on-line tools and resources, including a comprehensive FAQ list.²³ The advising module is broken down to some degree by programs or curriculums and by student type, such as freshmen, graduate students, or continuing education student. All students interviewed spoke highly of their advisors and indicated that they felt they had

²¹ See, FIU’s Response at Section I (B) (3)(b) at page 8; http://business.fiu.edu/chapman/mba_programs.cfm.

²² See, <https://ugrad.fiu.edu/advising/semesterhrs.html>.

²³ See, https://ugrad.fiu.edu/advising/faq_index.html.

good access to advising resources; their advisors were readily available to them and kept in regular contact with their students.

As to administrative services such as the Admissions, Registrar, and Financial Aid Offices, these are physically located on FIU's Modesto campus. Although there are no weekend hours, FIU makes up for this with a robust web presence, obviating the need for in-person access. FIU's Onestop portal serves as the on-line gateway to many, if not all, of the school's administrative services for both undergraduate and graduate students. While this information is not directly available from the DEE website, that site links directly to the associated pages for ready access to them. Necessary assistance appears to be available through email or live chat, including through mobile applications.

The school also takes advantage of the use of social media applications such as Facebook and Twitter in order to post critical information around admissions and to link back to its site. NASA did not see any obstacles to learners of any age in accessing this information or taking advantage of the on-line process.

d. Student Resources

NASA examined a number of student resources to assess the extent to which these programs afford equal opportunity regardless of age, and whether the various programs and services are engaging in any innovative practices that may enhance student experiences for both traditionally and non-traditionally aged students. Overall, FIU and DEE fared well in this assessment.

(i) Career Services. A review of FIU's Career Services page of the Division of Student Affairs website, shows that the University provides many different and varied programs related to career services, counseling, and placement. The site refers to and identifies a full-time staff dedicated to career and placement advising. In addition, students may use email, Skype, phone calls, and attend webinars to expand the schedule and accommodate their needs outside of normal business hours. Career Services offers training in resume writing, interview skills, job searching, networking, selecting internships, and salary negotiations, as well as a number of school-arranged job fairs and "Meet and Greet" events at various campuses. The only issue affecting non-traditionally aged students would be the scheduling of these programs during traditional weekly workday hours. However, the Interim Director of the Career Services Office indicated that, from time to time, her office was offering career fairs and other events during evening hours.

(ii) Commuter Services. FIU referred NASA to a Commuter Services resource, under the umbrella of the Office of Orientation.²⁴ However, under the newly revised website for the Office of Orientation and Parent Programs, there is no longer a link to Commuter Services.²⁵ There remains a link to a database to obtain off-campus housing, but no other references or information on hours, routes, in-bound shuttle services, parking policies, and parking locations, or other items of interest to

²⁴ See, <http://orientation.fiu.edu>.

²⁵ See, <http://orientation.fiu.edu/index.html>.

commuters. There does not appear to be any commuter student oriented student organizations (see "Recommendations" below).

(iv) Child Care Services. The University offers childcare and early education for children 2 1/2 to 5 years of age through its Children's Creative Learning Center (CLLC). Information gathered during student interviews on CLLC showed mixed impressions and some misimpressions. Students who were aware of the child care programs thought they were excellent, but noted that the wait list to gain admittance was long, sometimes as long as one year. Others thought that the services were available only to professors. Still others wished that the program provided childcare for infants (see "Recommendations" below).

(v) Health Care Services. The Student Health Services Office offers programs relating to health concerns, such as coping with stress, school-life balance, victim empowerment, and the like. They also conduct campaigns such as "Flu Prevention" and "Random Acts of Wellness." One way in which the office reaches out to the non-traditionally aged student population is to speak for a few moments every semester with non-traditionally aged students. Also, it should be note that student health plans allow for dependents at an additional cost.

(vi) Housing. Neither the University's website²⁶ nor the documents submitted by it indicate that on-campus housing is available for couples or those with families, and the information contained on the site only pertains to on campus residence halls for students who would be living on campus full-time, which one would conclude is the traditional learner (under 25). However, as previously mentioned, a link for off-campus housing is offered on the Orientation Office webpage,²⁷ but there is no specific information provided with respect to family housing and the page only appears to contain listings of various properties for rental to students. The DEE website makes no reference to housing or living accommodations.

e. Adult Learning Programs

FIU's University College ("UC") is an institution designed for adult learning that emphasizes the following programs: Executive and Professional Education, FIU Broward Programs, FIU Online, Legal Studies Institute, Osher Lifelong Learning Institute, and Training and Specialty Courses. FIU further demonstrates its commitment to adult learning through its Continuing and Professional Studies (CAPS) initiative, which offers education and training programs with options for distance learning, alternative scheduling, and community-based academic credit and non-credit programs. CAPS carries out its mission to extend lifelong learning opportunities to adult and non-traditional students by providing increased access to University programs.

FIU has a Veteran and Military Affairs Office, which is specifically geared to veterans, active duty, reservists, and eligible dependents. Services offered include an online application to use the G.I. Bill,

²⁶ See, <http://www.housing.fiu.edu/index.html>.

²⁷ See, http://orientation.fiu.edu/?page_id=150.

assistance in completing forms, personal counseling, fee deferments, fee waivers for decorated veterans, tutorial assistance, and work-study jobs.

One final example of outreach to non-traditionally aged students was highlighted in the FIU News article entitled, "FIU helps limited-income students and families secure financial aid for college." This article advertised an event in which experts were on hand to assist students in completing the Free Application for Federal Student Aid (FAFSA) form. The event was open "to all college-bound students regardless of age," and noted that it was geared to all individuals, "[w]hether a traditional student right out of high school or an adult who is returning or pursuing higher education for the first time."²⁸

Through its programs dedicated to returning workers and professionals, and veterans, FIU has demonstrated a commitment to populations most likely to contain higher numbers of non-traditionally aged students. However, while the wider institution has programs that can greatly benefit students of all ages, DEE does not appear to be making any particular efforts in this arena. While NASA recognizes that DEE is under no obligation under the Age Act to do so, there are program enhancements DEE may wish to consider in strengthening its diversity and inclusion efforts regarding non-traditionally aged students (see "Recommendations" below).

2. Recommendations

a. Data Collection. FIU and DEE collected and provided this demographic data to NASA in response to our information request for this compliance review. NASA would suggest that FIU and its components, including DEE, review demographics of student population by age in order to identify the patterns of growth and retention between traditionally and non-traditionally aged students. This effort should be undertaken in collaboration with the Office of Equal Opportunity (EO) Programs and Diversity and other University stakeholders. Data gathered should be utilized to help inform both University and departmental EO policy and practices.

b. Greater Emphasis on Expansion of Educational Program Delivery. DEE may wish to consider expansion of its educational programs, examining some of the program models established by the UC and CAPS programs for their applicability to DEE. For example, DEE may wish to consider greater emphasis on course offerings that are available on-line, on weekends, or in the evenings. In taking steps toward policy changes along these lines, the University may wish to consider a thorough institution-wide review of access to programs and services, including a survey of students with responses broken down by age, full or part-time status, and other demographic categories. The driving factor in such a review would be to better determine whether additional efforts, particularly within DEE, should be undertaken to make educational programs and services more accessible. In this regard DEE, perhaps drawing on and utilizing the expertise of the University College program, may wish to consider on-line learning courses, evening and weekend

²⁸ See, <http://news.fiu.edu/2010/01/fiu-helps-limited-income-students-and-families-secure-financial-aid-for-college/10444>.

classes, and video-taping of lectures. Such efforts may be appropriate in both the undergraduate and graduate setting.

b. Commuter Services. FIU should assess whether there is a need to re-establish a Commuter Services organization to provide a support network for such students, who, having less of a physical presence on campus, may have a greater need for such a network.

c. Child Care Services. As child care services may be particularly important to the non-traditionally aged student and may very well be a factor in whether such a well-qualified potential student decided to attend the University. Regardless, FIU may wish to improve the information dissemination about the program and/or consider enlarging the program to better meet the needs of the students.

3. Promising Practice

Retention Related Efforts. The FIU Student Transfer and Transitional Services audits of incoming transfer students are geared toward providing the maximum number of credits possible and included granting credit for some work-life experiences and veterans' service. In addition, the University offered a free online webinar presentation entitled, "Academic Advising for Student Retention and Persistence, Understanding and Addressing the needs of Adult Learners," which was geared toward training advisors on ways to support the adult learner.²⁹ Also, the University requires that students meet "Core Curriculum" requirements. At present, it does not appear that FIU or DEE set a limit on how long a student can take to complete an undergraduate or graduate degree. One professor noted that the goal is for graduate students to complete their master's degree within six years and their Ph.D. in nine years. It appears that the University and DEE present a flexible model, which allows for alternative methods of meeting course requirements and a reasonable time within which to complete their programs. This too demonstrates a commitment to both traditionally and non-traditionally aged learners.

CONCLUSION

Based upon its limited scope review, NASA finds that FIU is in compliance with Age Act regulations. In fact, there are many strengths in FIU's programs regarding Age Act compliance. For example, the University does not require transfer students, or students who have been out of school for more than one year, to submit SAT/ACT scores. Also, University and DEE present a flexible model for program completion.

²⁹ <https://ugrad.fiu.edu/flyers/Feb2Webinar.pdf>

In terms of areas for improvement, NASA recommends that the University enhance its civil rights informational and training materials to clarify the application of the Age Discrimination Act, and provide practical examples of how the Act may affect the University, such as ensuring equal opportunities for both traditionally and non-traditionally aged students. NASA also recommends that the University clarify and disseminate adequate information about its internal discrimination complaints policy and procedures, including rights, obligations, timelines, and other potential remedies.

In addition, DEE may wish to consider broader changes to institutional policy that would expand access for non-traditionally aged learners to programs and services through expanded night-time and weekend course offerings, and alternative forms of program delivery, *e.g.*, greater focus on online platforms and video-taping. While the Age Discrimination Act does not require affirmative efforts that may facilitate education for non-traditionally aged (and other) students, such efforts are entirely consistent with the purpose and intent of the Act and NASA's implementing regulations.

APPENDIX A. FLORIDA INTERNATIONAL UNIVERSITY RESPONSE TO NASA AGE ACT COMPLIANCE RECOMMENDATIONS

March 12, 2015

Florida International University

- 1) Establish a “coordination” type functional role, modeled on those required under other grant related statutes, such as Title IX and Section 504 of the Rehabilitation Act, that encompasses the Age Act, and publicly disseminate information on this new coordination role to the FIU community.
The Division of Human Resources has sent an official communication to the University Community that explains the Age Act and indicates the additional functional role of the Director of the Office of Equal Opportunity Programs & Diversity as the Age Act Coordinator. The Office of Equal Opportunity Programs & Diversity has updated its website to include the role under the job functions of the Director.
- 2) Establish on the EOPD website as a clear distinction between laws addressing equal employment opportunity, such as the ADEA, and those addressing equal opportunity federally funded programs (including educational programs), such as the Age Act.
The Office of Equal Opportunity Programs and Diversity has updated its website to include a page entitled “Employment Laws.” This page lists all of the equal opportunity laws associated with federally funded programs and general employment laws addressing equal opportunity.
- 3) Provide enhanced web accessibility for EOPD by linking it directly from the FIU homepage or most prominent page available.
The Office of Equal Opportunity Programs and Diversity website is now linked directly to the FIU homepage.
- 4) Ensure that DEE and other NASA funded programs post on their websites the NASA brochure on equal opportunity laws (including the Age Act) pertaining to grant recipient institutions
The FIU Department of Earth and Environment has linked the NASA equal opportunity brochure on their homepage. Notice has also gone out to the University Community advising all NASA funded programs to post the brochure.
- 5) Develop and deploy an expanded EO training as part of mandatory faculty and student orientation/training, that clearly distinguishes between employment related laws, such as the ADEA, and laws designed to ensure equality of access to federally funded programs, such as the Age Act.
The Office of Equal Opportunity Programs & Diversity offers a Fall Diversity Lunch and Learn Training Series and participates in monthly New Employee Orientations. Through these mediums and others we are able to address employment laws to the University Community. We have incorporated the Age Act into all training materials accordingly.
- 6) Regular Examination of Student Statistics by Age. FIU and DEE should regularly examine application, acceptance, and retention statistics of the student population by age. Such

periodic self-audits could help to ensure that there is not an abnormal disparity or deviation in the numbers of students in or from any category of age group. They also could assist in further exploring the impact of current policies and practices on non-traditionally (and traditionally) aged learners, allowing for an institutional assessment as to any potential issues regarding key facets of the program (*e.g.*, admissions, outreach, or access to programs and facilities). In turn, a better understanding of student perceptions in these areas may help to craft policies and strategies to address concerns raised.

The Office of Equal Opportunity Programs, the Department of Earth and Environment and the Office of Student Access and Success will conduct a yearly self-audit to regularly examine student statistics by Age. The Office of Student Access and Success is tasked with diversity initiatives in the recruitment and retention of students. The current Vice-President of the Division of Human Resources also has a dual-role as the Vice-Provost for Student Access and Success. Therefore, the synergy to complete the self-audit of student statistics by age is currently in place.

The University has recently updated the non-discrimination policy which includes specific information regarding the Age Act. The policy will be approved by the Board of Trustees in April.

- 7) **Outreach Efforts.** To help increase its non-traditionally aged student population, DEE may wish to consider following FIU's example by improving outreach to include learning institutions, organizations, and/or employers among which they are likely to reach non-traditionally aged learners. In addition, FIU and DEE may wish to consider exploring scholarships that are targeted toward non-traditionally aged students, including veterans and disabled veterans.

DEE actively participates in several outreach efforts to recruit non-traditionally students and offer specialized programs in the community.

- **As part of the USDA-funded grant program, the Agroecology Program conducts a number of recruitment and publicity events throughout the year. We share the department program information on bachelor's and master's degree with the attendees. Our Annual Agroecology Symposium and Summer Teachers workshop held at FIU normally get participation from a large number of non-traditional students. Department faculty conduct special workshops for parents and students on the Department programs at the South Florida Regional Science Competitions.**
- **Public workshops and certificates to benefit veterans and other members of the community interested in sustainable agriculture and horticulture**
- **A Professional Science Master of Environmental Policy and Management degree offered week nights and Saturdays for working students.**
- **FIU's Agroecology Program within the Department of Earth and Environment has an alliance with Miami-Dade College North Campus to guide them in their gardening and Horticultural activities. In addition, students from Miami-Dade College are provided opportunities to participate in Agroecology internships at FIU. At least 6 Miami-Dade College students have participated in these internships in the last year.**
- **FIU's Agroecology Program has established a Veterans and Small Farmer Outreach (VeSFO) Program in Homestead, FL. This program offers monthly workshops aimed at assisting**

small farmers and veterans interested in farming. In addition, prospective farmers can apply for a \$1000 paid training on farm production and management. See agroecology.fiu.edu/programs/vesfo for more information.

- **FIU's Department of Earth and Environment is now offering a Professional Science Master of Environmental Policy and Management degree with classes taught on week nights and Saturdays for working students. The program started in Fall of 2014 with 11 students and is looking to expand to 20 students in Fall 2015.**
- 8) Data Collection. FIU and DEE collected and provided this demographic data to NASA in response to our information request for this compliance review. NASA would suggest that FIU and its components, including DEE, review demographics of student population by age in order to identify the patterns of growth and retention between traditionally and non-traditionally aged students. This effort should be undertaken in collaboration with the Office of Equal Opportunity (EO) Programs and Diversity and other University stakeholders. Data gathered should be utilized to help inform both University and departmental EO policy and practices.
- EOPD along with DEE and the University will review demographics of student population by age in order to identify the patterns of growth and retention between traditionally and non-traditionally aged students.**
- 9) Greater Emphasis on Expansion of Educational Program Delivery. DEE may wish to consider expansion of its educational programs, examining some of the program models established by the UC and CAPS programs for their applicability to DEE. For example, DEE may wish to consider greater emphasis on course offerings that are available on-line, on weekends, or in the evenings. In taking steps toward policy changes along these lines, the University may wish to consider a thorough institution-wide review of access to programs and services, including a survey of students with responses broken down by age, full or part-time status, and other demographic categories. The driving factor in such a review would be to better determine whether additional efforts, particularly within DEE, should be undertaken to make educational programs and services more accessible. In this regard DEE, perhaps drawing on and utilizing the expertise of the University College program, may wish to consider on-line learning courses, evening and weekend classes, and video-taping of lectures. Such efforts may be appropriate in both the undergraduate and graduate setting.

Since the audit was done, DEE has expanded its online offerings. All of the required courses and many of the electives for the B.A. in Sustainability and the Environment are offered online, and the degree itself can be entirely earned online. Online courses increasingly incorporate active learning strategies, including videotaped lectures and student presentations. Online courses through University College are compliant with the American with Disabilities Act.

DEE accepts transfer students, with and without an AA, and has a flexible advising policy so that students receive credit for past undergraduate studies. This allows students to complete their undergraduate degrees as quickly as possible. There has been the expansion of online and dual enrollment classes. In addition a fully online undergraduate

degree as well as a weekend/evening Master's degree offers maximum flexibility to the community of students.

- 10) Commuter Services. FIU should assess whether there is a need to re-establish a Commuter Services organization to provide a support network for such students, who, having less of a physical presence on campus, may have a greater need for such a network.

The University made a conscious decision to dissolve the Office of Commuter Services and integrate "commuter services" into all areas of student life at FIU. More than 95% of the students at FIU are commuter students, therefore it is imperative that the entire University community cater primarily to the needs of commuting students. Services such as extended office hours, online classes and Virtual Orientations have been implemented to accommodate commuter and non-traditional students. Students may also bring their children and families to the Advising and Registration Days. The University provides several services for commuting students to assist them while on campus including lockers, microwaves and refrigerators, a lounge with computers, study space throughout the campus and information on campus programs and resources.

- 11) Child Care Services. As child care services may be particularly important to the non-traditionally aged student and may very well be a factor in whether such a well-qualified potential student decided to attend the University, Regardless, FIU may wish to improve the information dissemination about the program and/or consider enlarging the program to better meet the needs of the students.

The Children's Creative Learning Center (CCLC) at FIU is a nationally accredited educational preschool for children 2 ½ to 5 years old; established in 1975. The Center is a self-supported University Auxiliary and a Department within the Division of Student Affairs. There are no plans at this time to enlarge the center, however the University will provide students with additional information about childcare services in the area. We will also consider making engaging providers about student discounts similar to the employee discounts that we offer. All part time and temporary student employees are eligibility to participate in the employee discount program.

Students are made aware of the services during orientation, the CCLC website, flyers and one of their office that is located in the Graham Center (student center). There is also a wall in the Graham Center that advertises the services of the CCLC.

Submitted by,

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