

## Sample Forms and Guidance on the Five (5) Administrative Requirements of the Americans with Disabilities Act, ADA, for public entities

The Americans with Disabilities Act, ADA, is federal civil rights law. The ADA outlines obligations for Title II, state & local governments, and chief among these are a municipalities duty to provide access and opportunity to their facilities, programs, services, and activities for all members of the public. Further, Title II of the ADA requires that state and local government entities **do not discriminate against people with disabilities** in their facilities, programs, services, and activities. ADA, Title II implementing regulations require that state and local governments take the following five steps to bring a “public entity” (aka “municipality” and/or City & Town) into compliance with the law:

### 1. Designate a Responsible Employee:

Any municipality with fifty or more employees must designate at least one employee to coordinate ADA compliance (i.e. the “ADA Coordinator”). 28 CFR §35.107(a) This is to ensure that the public and other individuals in the public entity have a point person who is familiar with ADA requirements. The ADA coordinator’s contact information should be provided to the public, and their job is to ensure ADA compliance and to investigate grievances on programs, services, practices and employment.

### 2. Provide Notice of ADA Requirements:

All municipalities regardless of size must provide information to employees, participants, applicants and other interested parties regarding the rights and protections afforded by Title II, including information about how the Title II requirements apply to its particular programs, services, and activities. 28 CFR §35.106 It is up to the entity’s head to decide how this will be done, but traditionally it is done through postings, general/job announcements, and through the use of graphic symbols (e.g. the International Symbol of Access”).

### 3. Establish a Grievance Procedure:

All municipalities with fifty or more employees must adopt and publish grievance procedures providing for prompt and equitable resolution of grievances arising under Title II, and municipalities with fewer than fifty employees must still resolve complaints. 28 CFR §35.107(b) Grievance procedures should include the following: how to submit a grievance; a two-step review process that allows for appeal; reasonable time frames for review and resolution; and should encourage good record-keeping.

### 4. Conduct a Self-Evaluation:

All municipalities-regardless of size-must conduct a comprehensive review of the entity’s current policies and practices, including communications and employment through a “self-evaluation.” 28 CFR §35.105 Through the self-evaluations, the public entity must: 1) identify any policies or practices that do not comply with Title II requirements and 2) modify policies and practices to bring them into compliance. Municipalities with fifty or more employees must keep the following self-evaluation information available for public inspection for at least three years: 1) a list of interested persons consulted about the self-evaluation, 2) a description of the areas examined and any problems identified, and 3) a description of any modifications made.

### 5. Develop a Transition Plan:

Municipalities with fifty or more employees must develop a transition plan when structural changes to existing facilities are necessary in order to make a program, service, or activity accessible to people with disabilities. 28 CFR §35.150(d) Regulations require that at a minimum the transition plan 1) identify physical obstacles that limit the accessibility of programs, services or activities to people with disabilities, 2) describe the methods to be used to make the facilities accessible; 3) provide a schedule for making the access modifications (and on a yearly basis for modifications taking more than a year to complete), and 4) indicate the public official responsible for implementation of the transition plan.

**Guidance:**

The following links are resources to assist you in meeting the above-mentioned obligations:

- A. ADA Coordinator, Notice & Grievance Procedure (ADA Best Practices Tool Kit for State & Local Governments):  
<https://www.ada.gov/pcatoolkit/chap2toolkit.htm>
- B. ADA Title II Action Guide for State and Local Governments:  
<http://www.adaactionguide.org/>
- C. ADA Guide for Small Towns:  
<https://www.ada.gov/smtown.htm#anchor23806>
- D. The ADA Title II Technical Assistance Manual:  
<https://www.ada.gov/taman2.html>
- E. ADA Update: A Primer for State and Local Governments:  
[https://www.ada.gov/regs2010/titleII\\_2010/title\\_ii\\_primer.html](https://www.ada.gov/regs2010/titleII_2010/title_ii_primer.html)

*Title II ADA regulations define a "public entity" as: (1) Any State or local government; (2) Any department, agency, special purpose district, or other instrumentality of a State or States or local government; and (3) The National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act). 28 CFR §35.104*

**Sample Form for Designating a Responsible Employee  
Placed on City/Town Letterhead**

**ADA Coordinator Designation Form**

ADA Coordinator Name:

Name of City/Town Department that ADA Coordinator Works:

Job Title:

E-Mail:

Phone:

Address:

Date Appointed:

Is This Appointment:      Permanent      OR      Acting

Does this ADA Coordinator report directly to the appointing authority?      Yes      OR      No

Are the ADA Coordinator Duties      Full-Time      OR      Part-Time

Direct Supervisor (Name and Title):

Appointing Authority Signature:

Date:

ADA Coordinator Signature:

Date:

*Please send copy of completed form to:  
The Massachusetts Office On Disability, 1 Ashburton Place, Room 1305  
or email to [mod-info@state.ma.us](mailto:mod-info@state.ma.us) , or fax to 617 727-0965*

**Sample Public Posting for Providing Notice of Non Discrimination**  
*Placed on City/Town Letterhead*

**PUBLIC NOTICE**

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

Employment: \_\_\_\_\_ does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

Effective Communication: \_\_\_\_\_ will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in \_\_\_\_\_ programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: \_\_\_\_\_ will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in \_\_\_\_\_ offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of \_\_\_\_\_, should contact the office of \_\_\_\_\_ as soon as possible but no later than 48 hours before the scheduled event.

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

Complaints that a program, service, or activity of \_\_\_\_\_ is not accessible to persons with disabilities should be directed to \_\_\_\_\_.

\_\_\_\_\_ will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

## Sample Grievance Procedure

### GRIEVANCE PROCEDURE UNDER THE AMERICANS WITH DISABILITIES ACT

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). This may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the \_\_\_\_\_.

The \_\_\_\_\_'s Personnel Policy governs employment-related complaints of disability discrimination. The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to: \_\_\_\_\_

Within 15 calendar days after receipt of the complaint, \_\_\_\_\_ or \_\_\_\_\_ designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, \_\_\_\_\_ or \_\_\_\_\_ designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the \_\_\_\_\_ and offer options for substantive resolution of the complaint.

If the response by \_\_\_\_\_ or \_\_\_\_\_ designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the \_\_\_\_\_ or \_\_\_\_\_ designee.

Within 15 calendar days after receipt of the appeal, the \_\_\_\_\_ or \_\_\_\_\_ designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the \_\_\_\_\_ or \_\_\_\_\_ designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by \_\_\_\_\_ or \_\_\_\_\_ designee, appeals to the \_\_\_\_\_ or \_\_\_\_\_ designee, and responses from these two offices will be retained by the \_\_\_\_\_ for at least three years.

## Self-Evaluation

**II-8.2000 Self-evaluation.** All public entities subject to title II of the ADA must complete a self-evaluation by January 26, 1993 (one year from the effective date of the Department's regulation).

Does the fact that a public entity has not completed its self-evaluation until January 26, 1993, excuse interim compliance? No. A public entity is required to comply with the requirements of title II on January 26, 1992, whether or not it has completed its self-evaluation.

Which public entities must retain a copy of the self-evaluation? A public entity that employs 50 or more employees must retain its self-evaluation for three years. Other public entities are not required to retain their self-evaluations but are encouraged to do so because these documents evidence a public entity's good faith efforts to comply with title II's requirements.

What if a public entity already did a self-evaluation as part of its obligations under section 504 of the Rehabilitation Act of 1973? The title II self-evaluation requirement applies only to those policies and practices that previously had not been included in a self-evaluation required by section 504. Because most section 504 self-evaluations were done many years ago, however, the Department expects that many public entities will re-examine all their policies and practices. Programs and functions may have changed significantly since the section 504 self-evaluation was completed. Actions that were taken to comply with section 504 may not have been implemented fully or may no longer be effective. In addition, section 504's coverage has been changed by statutory amendment, particularly the Civil Rights Restoration Act of 1987, which expanded the definition of a covered "program or activity." Therefore, public entities should ensure that all programs, activities, and services are examined fully, except where there is evidence that all policies were previously scrutinized under section 504.

What should a self-evaluation contain? A self-evaluation is a public entity's assessment of its current policies and practices. The self-evaluation identifies and corrects those policies and practices that are inconsistent with title II's requirements. As part of the self-evaluation, a public entity should:

- 1) Identify all of the public entity's programs, activities, and services; and
- 2) Review all the policies and practices that govern the administration of the public entity's programs, activities, and services.

Normally, a public entity's policies and practices are reflected in its laws, ordinances, regulations, administrative manuals or guides, policy directives, and memoranda. Other practices, however, may not be recorded and may be based on local custom.

Once a public entity has identified its policies and practices, it should analyze whether these policies and practices adversely affect the full participation of individuals with disabilities in its programs, activities, and services. In this regard, a public entity should be mindful that although its policies and practices may appear harmless, they may result in denying individuals with disabilities the full participation of its programs, activities, or services. Areas that need careful examination include the following:

- 1) A public entity must examine each program to determine whether any physical barriers to access exist. It should identify steps that need to be taken to enable these programs to be made accessible when viewed in their entirety. If structural changes are necessary, they should be included in the transition plan (see II-8.3000).
- 2) A public entity must review its policies and practices to determine whether any exclude or limit the participation of individuals with disabilities in its programs, activities, or services. Such policies or practices must be modified, unless they are necessary for the operation or provision of the program, service, or activity.

The self-evaluation should identify policy modifications to be implemented and include complete justifications for any exclusionary or limiting policies or practices that will not be modified.

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

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

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

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

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

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

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

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

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

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

13) If a public entity limits or denies participation in its programs, activities, or services based on drug usage, it should make sure that such policies do not discriminate against former drug users, as opposed to individuals who are currently engaged in illegal use of drugs.

If a public entity identifies policies and practices that deny or limit the participation of individuals with disabilities in its programs, activities, and services, when should it make changes? Once a public entity has identified policies and practices that deny or limit the participation of individuals with disabilities in its programs, activities, and services, it should take immediate remedial action to eliminate the impediments to full and equivalent participation. Structural modifications that are required for program accessibility should be made as expeditiously as possible but no later than January 26, 1995.

Is there a requirement for public hearings on a public entity's self-evaluation? No, but public entities are required to accept comments from the public on the self-evaluation and are strongly encouraged to consult

with individuals with disabilities and organizations that represent them to assist in the self-evaluation process. Many individuals with disabilities have unique perspectives on a public entity's programs, activities, and services. For example, individuals with mobility impairments can readily identify barriers preventing their full enjoyment of the public entity's programs, activities, and services. Similarly, individuals with hearing impairments can identify the communication barriers that hamper participation in a public entity's programs, activities, and services.

## Transition Plan

**II-8.3000 Transition plan.** Where structural modifications are required to achieve program accessibility, a public entity with 50 or more employees must do a transition plan by July 26, 1992, that provides for the removal of these barriers. Any structural modifications must be completed as expeditiously as possible, but, in any event, by January 26, 1995.

What if a public entity has already done a transition plan under section 504 of the Rehabilitation Act of 1973? If a public entity previously completed a section 504 transition plan, then, at a minimum, a title II transition plan must cover those barriers to accessibility that were not addressed by its prior transition plan. Although not required, it may be simpler to include all of a public entity's operations in its transition plan rather than identifying and excluding those barriers that were addressed in its previous plan.

Must the transition plan be made available to the public? If a public entity has 50 or more employees, a copy of the transition plan must be made available for public inspection.

What are the elements of an acceptable transition plan? A transition plan should contain at a minimum --

- 1) A list of the physical barriers in a public entity's facilities that limit the accessibility of its programs, activities, or services to individuals with disabilities;
- 2) A detailed outline of the methods to be utilized to remove these barriers and make the facilities accessible;
- 3) The schedule for taking the necessary steps to achieve compliance with title II. If the time period for achieving compliance is longer than one year, the plan should identify the interim steps that will be taken during each year of the transition period; and,
- 4) The name of the official responsible for the plan's implementation.