Americans with Disabilities Act Compliance

Presented by the Institute for Public Administration
University of Delaware
Persons with Disabilities in Delaware

- 2010 American Community Survey reports a disability prevalence rate of 11.9% nationally and 12.3% in Delaware
- It is estimated that there are 108,444 Delawareans with disabilities
- The increase in Delaware’s aging population will lead to a corresponding increase in persons with disabilities
What is ADA?

- The Americans with Disabilities Act (ADA) of 1990 is a comprehensive civil rights law that addresses the needs of people with disabilities.
- It prohibits discrimination in employment, public services, public accommodations, and telecommunications.

Source: blogs.denison.edu
Americans with Disabilities Act Compliance

- Standards for ADA compliance (including those related to roadways, sidewalks, and pedestrian pathways) originate with the U.S. Access Board.
- The ADA recognizes the need to eliminate structural and architectural barriers for all new or altered facilities.
- Design and construction under state and local codes must comply with ADA. Codes must provide accessibility that equals or exceeds the ADA requirements.

Source: ada.gov
Reasons for ADA Compliance

Legal Consequences

Economic Benefits

Source: vetstreet.com

Source: thelabradorretrieverclub.com

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Legal Consequences

Reasonable accommodation to persons with disabilities is not a guideline, but rather a law

- ADA case law does not exempt small communities and has not made allowances for inadequate funding
- Noncompliance leads to civil suits and tort liability cases
- Courts have upheld ADA requirements for all owners of public facilities, including rights of way

Source: hospitaliryrisksolutions.com

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Economic Benefits

- People with disabilities are an integral part of the economy, representing $200 billion in discretionary spending.
- Noncompliance bars people with disabilities from locations of employment, transportation, consumer and government services, and daily activities.
- Poverty is more prevalent and lasts longer in populations of people with disabilities.

Source: ada.gov
ADA Compliance Self-Evaluations

Title II of the ADA requires state and local governments to:

• Perform ADA compliance self-evaluations
• Ensure equal access to services, programs, and activities
• Incorporate stakeholder input in development of ADA Transition Plans

Source: migcom.com
Transition Plans

After a self-evaluation is complete, transition plans:

• Must be created to address barriers to facilities, programs, services, transportation, and telecommunications

• Must include a timeline and projected costs

• Provide a grievance procedure

Removing barriers, such as a step to an entrance, is required when readily achievable.

Source: ada.gov
ADA Coordinators

State and local governments must appoint ADA coordinators to oversee self-evaluations and carry out transition plans in order to ensure compliance.

Source: adacoordinator.org
Standards for Accessible Design


- Follow requirements of the 2010 ADA *Standards* for buildings, building sites, and facilities located outside the public right of way
- Consider the proposed guidelines issued in 2011 for pedestrian facilities in the public right-of-way
- Consider proposed guidelines issued in 2013 for accessibility of shared-use paths
The Role of Public Entities

ADA Title II states that public entities (state and local governments):

• May not exclude persons with disabilities from participation in or be denied the benefits of the services, programs, or activities; or be subjected to discrimination.

• Must ensure that all public facilities and services must be readily accessible to and usable by individuals with disabilities.

• Must address barriers to community services, transportation, facilities, and telecommunications.

Source: Delaware T2 Center
Local Ordinances

Local ordinances should be detailed, prescriptive, and:

• Adopt ADAAG, PROWAG, and other U.S. Access Board guidelines/standards by reference
• Adopt DelDOT standards by reference
• Address responsibilities for maintenance, removal of barriers, timelines for action, acceptable standards, and enforcement:
  – Snow and ice removal
  – Obstructions (e.g. temporary construction, vegetation)
Provide Accessible Pedestrian Facilities

Local governments are responsible for ensuring that walkways and sidewalks:

• Meet 2010 ADA Standards for Accessible Design.
• Remain accessible during construction and alterations
• Are free from temporary or intermittent encroachments (e.g., trash cans, vegetation, or work-zone signage, snow and ice)
• Are safe and barrier free

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Source: deldot.gov

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Ensure Maintenance of Facilities

To ensure ADA compliance, local governments need to:

• Enforce building and property maintenance codes
• Inspect facilities and address any issues ranging from structural damage to vegetation overgrowth.
• Keep sidewalks, transit stops and stations, and municipal parking areas free from snow, ice, and debris.

Source: ada.gov
Provide Winter Maintenance of Pedestrian Facilities

Local governments should:

- Ensure winter maintenance of pedestrian facilities
- Enforce ordinances that require property owners to keep sidewalks clear of snow and ice
- Create Winter Maintenance-Management Plans
- Develop programs to assist older adults and persons with disabilities

Illustration used with permission by Jack Maypole
See IPA’s publication at: http://www.ipa.udel.edu/publications/SnowRemoval.pdf

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Common Barriers to Local Government ADA Compliance

1. False believe that small entities are exempt
2. Lack of access to services and programs in existing facilities
3. Inability to eliminate structural and architectural barriers to historically significant facilities
4. Facilities, services, programs do not meet guides, guidelines, and standards
5. Lack of access to information and communication technology (ITC)
6. Outdated local codes, ordinances, and regulations
7. Lack of Next-Generation 9-1-1 or Smart 911 Systems
8. Adaptation of public safety policies, practices, and procedures
9. Lack of follow up on self-evaluations and ADA Transition Plans
Are Small Entities Exempt?

- Some municipalities falsely believe that due to their small size, or the fact that their services existed before the ADA, that they are exempt from compliance.
- ALL local governments need to comply with ADA and develop transition plans.
- Compliance regulations are slightly different for entities with less than 50 employees.

Source: ada.gov
Building and Facility Accessibility

• Municipal buildings that are not ADA compliant can prevent people with disabilities from receiving services and attending programs

• Facilities in existing buildings must be updated, including:
  – Restrooms, customer service counters, toilets, doorways, ramps, aisles, seating, recreation facilities, parking

• If accommodations can not be made, the program should be moved to alternate, compliant site.

Source: universal-accessibility.com
Historically Significant Facilities

- ADA updates can compromise the historic integrity of some facilities.
- Governments need to make efforts to be compliant “to the maximum extent feasible” with adaptations:
  - Adding visual or auditory aids
  - Installing curb ramps with truncated domes for people that have visual impairments or mobility limitation

Source: thc.state.tx.us
Guides, Guidelines, and Standards

U.S. Access Board provides guidelines/standards for:

- Accessible routes
- Curb ramp installation, including the need for detectable warnings (truncated domes)
- Accessible public rights of way
- Design of sidewalks and curb ramps, including width and slope

For more information, see: www.access-board.gov/guidelines-and-standards

Source: ada.gov
Access to information and communication technology (ICT)

Local governments must:

• Provide assistive listening devices, Braille, or other aids at public events and meetings if requested

• Make municipal website designs accessible, see:
  – Web Content Accessibility Guidelines at
    www.w3c.org/WAI/Resources

Source: ada.gov

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Local Codes, Ordinances & Regulations

Local governments should:

• Amend and update building codes, property maintenance codes, zoning ordinances, and other regulations to meet ADA requirements

• Incorporate stakeholder input in ADA Transition Plans/updates

• Encourage or incentivize Universal Design

• Foster community education and outreach
• “New and Emerging Technologies 911 Improvement Act of 2008” requires the provision of 911 services on IP-enabled voice service providers

• Public safety answering points (PSAPs) that respond to emergency 911 calls must:
  – Provide services in the form of direct access to Text Telephone (TTY), AND
  – Provide direct access to and with individuals who use other text, and video-based telecommunications products and systems
Smart911™ is:

• An online service allows a resident to create a Safety Profile for his/her household and pre-load information in that profile should someone ever need to call 9-1-1.

• Voluntary and free to use

• Available in New Castle and Sussex Counties and coming to other locations in Delaware soon.

Sign up at: www.smart911.com
Public Safety

• Public safety officers must be trained to accommodate persons with disabilities.
• Public safety departments must modify policies, practices, and procedures to ensure safety and equality for all citizens.

Source: ada.gov
Self-Evaluations/Transition Plans

State and local governments often fail to:

• Complete required self-evaluations and transition plans
• Establish milestones and deadlines to meet compliance
• Develop a course of action (e.g., installation of curb ramps) based on priority needs

Source: deldot.gov
Technical Assistance for Delaware Municipalities

- The Delaware T$^2$ Center provides transportation-engineering advice on issues related to ADA compliance
- Download these Delaware T2 Center Technical Briefs at: http://sites.udel.edu/dct/t2-center/
  - Americans with Disabilities Act
  - Why ADA Matters
  - ADA Physical Requirements
  - Pedestrian Passage Corridors for Sidewalks
  - Civil Suits (Tort Liability)

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Suggested Reading

• Access Board ADAAG: http://www.access-board.gov/adaag/html/adaag.htm
• Access Board public right of way background: http://www.access-board.gov/prowac/index.htm
• ADA small town guide: http://www.ada.gov/smtown.pdf
• DelDOT curb ramp design guidance: http://www.deldot.gov/information/pubs_forms/manuals/dgm/pdf/1-16_curb_ramps.pdf
• Equal Opportunity for Individuals with Disabilities, ADA, 42 U.S.C. §12101 et seq., http://www.law.cornell.edu/uscode/42/usc_sup_01_42_10_126.html
• U.S. Access Board: http://www.access-board.gov/index.htm
Additional Resources


Sources (Photos)

- http://www.ada.gov/lawenfcomm.htm
- http://blogs.denison.edu/library/
- http://www.wdde.org/22096-markell-state-state
- http://www.adainformation.org/
- http://www.ada.gov/comprob.htm
Thank You

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Funded by:

With support from:

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