

ADA Self-Evaluation and Transition Plan for the City of Melrose

Part 1 of 2

Part 1: Executive Summaries:

Part A – Executive Summary

Part B – Evaluation of Nondiscriminatory
Policies and Practices

Part C – Legal Overview

January, 2023



Institute for Human Centered Design

Prepared by the



560 Harrison Avenue, Unit 401

Boston, MA 02118

617.695.1225

www.IHCDesign.org

City of Melrose

Part A – Executive Summary



Prepared by the



560 Harrison Avenue, Unit 401
Boston, MA 02118
617.695.1225 voice/tty
www.IHCDesign.org

Introduction

The Institute for Human Centered Design (IHCD) has prepared this report on behalf of the City of Melrose as part of the City's ongoing effort to assess the current level of ADA compliance in programs, services and activities and City-owned facilities. In preparing for this report, IHCD teams surveyed the City's portfolio of facilities and properties that were included in the Request for Proposal.

The facility survey set includes twelve (12) municipal buildings and ten (10) public schools and their playgrounds. The accessibility survey of those facilities includes all the spaces where the City offers programs, services and activities to members of the public. The outdoor facility set includes 25 parks/outdoor areas. The accessibility survey of those spaces encompassed elements such as accessible routes, walking surfaces, slopes, picnic tables, play areas and recreational areas.

IHCD submitted separate reports for each facility that was surveyed. To assist in prioritizing accessibility improvements to ensure compliance with Title II of the ADA, each of the building and outdoor area reports includes an overview that identifies the most substantial accessibility issues and order of magnitude cost estimates for corrective action. Additionally, a detailed catalog that supplements the ADA Self-Evaluation narrative overview is also included. The catalog provides element-by-element photos of compliance issues, location and measurements - when applicable - accompanied by recommendations and cost estimation for each accessibility issue. Please note that IHCD only provided cost estimations for indoor elements; cost associated with accessibility renovations for exterior elements was not included.

In addition, a set of spreadsheets detailing priorities for corrective action organized by survey location and including order-of-magnitude costs was provided to the City of Melrose. When the City presents findings and recommendations to the community and receives feedback, some recommendations may need cost adjustment. Once fully updated, these spreadsheets are a capital planning and budgeting resource – “ADA Transition Plan” – and are intended as a long-term tool to update as work is completed. The City should make a good faith effort to complete the work in a reasonable time (IHCD recommends a three to five-year period). The ADA regulations do not set out precise timeframes to complete the work; IHCD bases the recommended timeframes on conversations with the Department of Justice and their Project Civic Access settlement agreements with municipalities. Together, the ADA Self-Evaluation and ADA Transition Plan will enable the City to make substantial progress in meeting its ADA responsibilities.

IHCD also submitted a complete assessment of the City's policies, practices and procedures. The ADA administrative requirements help ensure that the needs of people with disabilities are addressed in all services, programs and activities that the City provides. See the complete summary in *Part B – Evaluation of Non – Discriminatory Policies and Practices in Programs, Services and Activities* report. In addition, IHCD through its New England ADA Center provided an ADA training on Title II requirements including effective communication to City employees.

The recommendations for corrective action that apply to policies, practices and procedures of the City are not included in the ADA Transition Plan since the Transition Plan spreadsheet is limited to capital accessibility issues. Policy, practices and procedure recommendations are a blueprint for meeting compliance responsibilities other than capital expenses.

Most of the City-owned facilities that have been recently altered or renovated are substantially accessible and meet most architectural requirements. Continued facility alterations, and/or renovations will significantly reduce barriers and help realize the City's commitment to inclusion and equal rights. In the meantime, the greatest problems posed by existing barriers can be ameliorated by establishing policies and procedures to accommodate members of the community with disabilities. It is worth noting that the City has taken several significant steps in this direction:

- The City of Melrose has hired a consultant (IHCD) to undertake its ADA self-evaluation (as the basis for the City's Transition Plan).
- At the time of this assessment, the City of Melrose has named Paul Johnson, the Building Commissioner/Director of Inspection Services as the ADA Coordinator. IHCD was informed that Mr. Johnson is no longer with the City, and as of the time of this writing no replacement for filling the role of ADA Coordinator has been named.
- The City of Melrose has a Notice of Nondiscrimination.
- The City of Melrose has developed a Grievance Procedure.
- In 2020, the City of Melrose established a Commission on Disability (COD), aligned with the Commonwealth of Massachusetts requirements for such commissions. As it has become established, the COD has undertaken a series of activities to advance inclusion of people with disabilities in the City, and was the entity that developed and submitted the application to the Massachusetts Office on Disability (MOD) for funding of the Self-

Evaluation and Transition Plan.

After passage of the ADA in 1991, under Title II of the ADA, the City of Melrose was required to complete a Self-Evaluation and Transition Plan. Melrose last completed a Self-Evaluation and Transition Plan in 1996. Since that time, along with changes in City buildings and infrastructure, there have been updates to both the federal ADA Standards (in 2010) and to the state code (in 2006).

IHCD's review and recommendations for City-owned facilities is based on compliance with the 2010 ADA Standards for Accessible Design if an element or elements are not compliant with the 1991 ADA Standards and/or 521 CMR of the regulations of the Massachusetts Architectural Access Board. Best practice and inclusive design recommendations are also provided for most properties. Inclusive design recommendations include elements that are not required in the accessibility standards but may create enhanced experiences for all users.

Many key facilities are generally usable by people with disabilities but are not in full compliance with current accessibility requirements. Melrose City Hall, for instance, provides access to many programs and can be accessed by most people because the building features accessible entrances and has an interior accessible route to all floors. Yet some of the key areas, such as the City clerk's office, the tax collector's office and the treasurer/parking clerk office lack accessible service counters, a key component to access some of the services provided by the City. The Milano Center is another example of a facility that provides access to its programs but yet lacks fully accessible parking spaces. Also, while the building has accessible single-user toilet rooms, they each requires some renovations in order to be fully accessible and useable by individuals with disabilities. Other locations where the City provides key programs are the Steel House and the McCarthy House. The multi-user toilet rooms serving the area where residents gather on the first floor are not accessible, and should be made accessible if they are used by members of the public and/or residents of those buildings.

The City may comply with the requirements of Title II of the ADA through means such as reassignment of programs or services to accessible buildings or delivery of services at alternate accessible sites. The City may also comply with the requirements by renovation or alteration of existing facilities and/or construction of new facilities, or any other methods that result in making the City's programs, services and activities readily accessible to and usable by individuals with disabilities. Note that a public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with its Title II obligations.

In choosing among available methods for meeting the requirements of the ADA, the City of Melrose should give priority to those methods that offer programs, services, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

In order to comply with ADA Title II program accessibility obligations, the City of Melrose should consider:

1. Relocation of programs, services, and activities to an accessible location within a current facility.

Often the simplest solution is for the City is to use what it already has in place. IHCD strongly recommends the relocation of programs, services, and activities to accessible locations within current facilities when possible.

2. Relocation of programs, services, and activities to an accessible location in another facility.

When it is not possible to relocate them to an accessible location within the current facility, programs, services, and activities should be relocated to an accessible facility.

3. Renovation and/or alteration of City facilities to ensure access to programs, services, and activities.

The City may consider the renovation of its facilities or the provision of new accessible facilities to ensure that programs, services, and activities are offered in the most integrated setting appropriate.

Note that any corrective actions needed to ensure program accessibility must comply with the requirements of the 2010 ADA Standards and/or 521 CMR, the Regulations of the Massachusetts Architectural Access Board (MAAB). Furthermore, when completing alterations and/or renovations, keep in mind that an alteration that decreases the accessibility of a building below the requirements for new construction at the time of the alteration is prohibited.

To determine which buildings must be made accessible, the City should consider:

- How to provide the program in the most integrated setting appropriate;
- The locations where the activities are offered;
- Which facilities are accessible and to what extent.

The analysis of existing conditions that encompasses the basis for the Self-Evaluation is based on observations and documentation completed by IHCD team during site visits. Facilities surveyed include the following:

City Buildings: The Public Library and the Tremont Street Fire Station were part of the Request for Proposal, but during the time IHCD team was conducting the surveys of the City facilities, the Library was undergoing major renovations and IHCD Team was told that the Tremont Street Fire Station did not provide public programming. Therefore, these two locations were not surveyed.

City Buildings		
City Hall	Police Station	Tremont Street Fire Station*
Beebe Estate	Central Fire Station	Wyoming Cemetery
Memorial Hall	East Side Fire Station	Steel House
Milano Center	Melrose City Yard	McCarthy House
Mt. Hood Park Building and Golf Course	Melrose Public Library*	

*Facilities not surveyed.

Key Recommendations for Municipal Facilities:

- Ensure there is an accessible route from all arrival points to areas in the buildings where public programs, services, and activities are provided. For example, at the Milano Center, the curb ramps from the parking lot to the accessible entrance present excessive running and cross slopes, and both the Police Station and the Wyoming Cemetery office lack an accessible route to the main entrance – which is up a set of stairs in both buildings.
- If parking is provided, ensure fully accessible parking spaces are provided in the correct manner, number and location. There are issues with accessible parking at multiple locations such as lack of or noncompliant accessible parking spaces, access aisles and signs. For example, the parking space at the Beebe Estate has excessive running and cross slopes at the designated accessible parking space.
- Ensure that fully accessible toilet rooms are provided in each building that has a toilet room or toilet rooms available for use by members of the public. For instance, the toilet room at the East Side Fire Station is not accessible. The station does not offer public programming except for the use of a public toilet room. Where it is technically infeasible to provide accessible multi-user toilet rooms, provide an accessible single-user toilet room usable by all genders in the same area as the existing multi-user toilet rooms.
- Ensure that where programs, services, or activities are offered that there is a sufficient

number of accessible features (accessible counters, accessible work surfaces, etc.). For instance, the Alderman’s Chambers at City Hall lacks an accessible work surface (with knee and toe clearance) and the Department of Public Works City Yard does not have an accessible service counter. Particular attention should be given to facilities where key services are being offered to many members of the community like City Hall or the Police Station.

- If audible communication is integral to the use of a space, provide a compliant assistive listening system and a sign with the International Symbol of Access for Hearing Loss to inform visitors of its availability. This should be a priority in the Tierney Hall of the Milano Center and the assembly area at Memorial Hall.
- At the Police Station, the holding cells are not accessible. However, making them compliant may be technically infeasible. The City should ensure that program accessibility is provided as needed by transferring detainees to an accessible holding location such as a County Correctional Facility.
- Assembly areas such as Memorial Hall should have accessible routes provided to the stage and contain accessible wheelchair spaces with companion seating. In addition, designated aisle seats that are identified by the International Symbol of Accessibility (ISA) and have folding or retractable armrests must be provided.

Public School Buildings: IHCD reviewed the following school buildings and their outdoor areas including the parking lots, playgrounds and fields.

Public School Buildings	
Roosevelt Elementary School	Franklin Elementary School
Melrose High School	Horace Mann School
Melrose Middle School	Ripley School
Lincoln Elementary School	Herbert Hoover School
Decius Beebe Elementary School	Winthrop School

Key Recommendations for School Buildings:

For *Program Accessibility* purposes, IHCD surveyed one classroom per grade and all the classrooms that provide unique programs such as art classrooms, labs, etc.

Feedback from members of the Melrose Commission on Disability noted *“that for elementary school students, some students with disabilities attend specific schools that are best able to support their disability and accommodation needs.”*

Some key issues to emphasize at Melrose Public Schools include the following:

- Ensure at least one fully accessible entrance and exit is provided at each school.
- Ensure that the minimum maneuvering clearance at classroom doors is maintained. Most schools have the space to provide the minimum required 18 inches of pull-side maneuvering clearance on the latch side of doors, but in many cases, the space is obstructed by the location of cabinets, furniture, or trash cans.
- Ensure that specialized classrooms (e.g., labs, art rooms, photography room, etc.) have accessible work surfaces.
- Ensure that accessible sinks (with knee and toe clearance) are provided in at least one classroom per grade, if a sink or sinks are provided in those rooms. If accessible sinks are already provided, ensure they have insulated pipes and that no stored items are placed underneath the sink. If a panel is provided under the lavatory or sink to protect the pipes, ensure the required knee and toe clearance is maintained.
If sinks are provided in specialized classrooms (e.g., art rooms, photography room, etc.); ensure the sinks are accessible (with knee and toe clearance).
- Ensure that fully accessible toilet rooms are provided in each school building. As mentioned before, where it is technically infeasible to provide accessible multi-user toilet rooms, provide an accessible single-user toilet room available to all genders in the same area as the existing multi-user toilet rooms.
- If there is a toilet room in unique rooms such as a nurse's office, ensure that a fully accessible toilet room is provided. This includes maintaining the clear floor space at all fixtures by keeping the required clear space free of any storage.
- Ensure that all elements in the classrooms are within reach range (e.g., first aid kits, dispensers, etc.).
- If audible communication is integral to the use of a space, provide a compliant assistive listening system and a sign with the International Symbol of Access for Hearing Loss to inform visitors of its availability.
- Ensure that fully accessible locker rooms are provided. This includes accessible shower facilities, compliant benches, accessible lockers, and compliant changing rooms.

Issues were often encountered with signage. Below are recommendations regarding the most common signage accessibility issues.

1. Signs that designate permanent rooms and spaces, such as classrooms, conference rooms and egress signs should:
 - have raised characters duplicated in braille;
 - have braille located below the corresponding text;

- have a minimum 18” by 18” clear floor space centered on the tactile characters;
 - be located on the wall, alongside the door, on the latch side (door handle) of the door; where a tactile sign is provided at double doors with one (1) active leaf, the sign should be located on the inactive leaf; where a tactile sign is provided at double doors with two (2) active leaves, the sign should be located to the right of the right hand door; where there is no wall space at the latch side of a single door or at the right side of double doors, signs should be located on the nearest adjacent wall.
2. When not all entrances are accessible, accessible entrances should have signage containing the International Symbol of Accessibility (ISA). In addition, inaccessible entrances and exits should have directional signs indicating the location of the nearest accessible entrances/exits.
 3. When illuminated exit signs are provided at accessible exits, the sign must include an illuminated International Symbol of Accessibility (ISA).
 4. When not all public toilet rooms in a facility are accessible, accessible toilet rooms should have signage with the International Symbol of Accessibility (ISA). In addition, inaccessible toilet rooms should have directional signs indicating the location of the nearest accessible toilet room.

Parks and Outdoor Facilities: In addition to the municipal facilities, IHCD also surveyed the following parks/outdoor facilities:

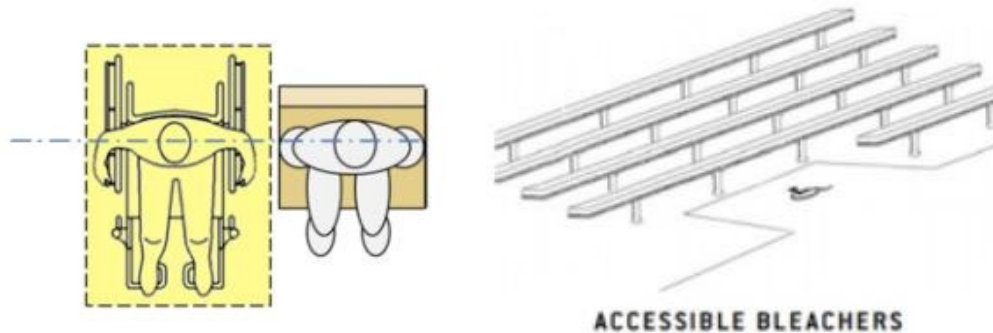
Parks/Outdoor Facilities		
Common	Lewis Monk Field	Dunton Park
Conant Field	Morelli Field	Drinkingwater Tot Lot
Fred Green Field	Knoll Soccer Complex	Eli Pond Park
Franklin Field	Foss Park	Livermore Park
Hesseltine Park	Bowden Park	Mary Foley Park
Lebanon Park	Colby Park	Lyons Courts
Lincoln Park	Crystal St. Tennis Courts	Milano Park
Messengers Field	DesForges Park	Warren Park
Poplar Island*		

*No public programming is offered at this location, so it was not surveyed.

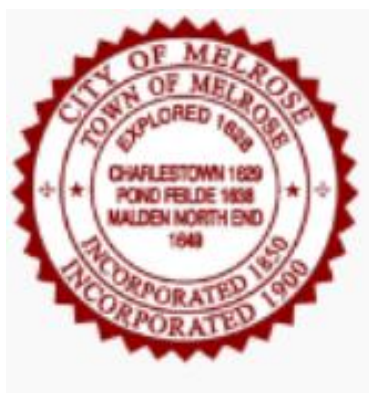
Key Recommendations for Parks and Outdoor Facilities:

- Ensure there is an accessible route to all elements in the parks/outdoor spaces (baseball fields, basketball courts, playgrounds, picnic areas, toilet facilities, etc.).
- Ensure there is a stable and firm clear floor space adjacent to the bench at team seating areas and spectator seating areas at the baseball fields, softball fields, soccer fields,

basketball courts, etc., and that there is an accessible route to the seating. See the following diagrams:



- Ensure that accessible routes are provided to and around playgrounds and to play components. In addition, ensure that an impact-attenuating accessible route is provided under each play component.
Note that the Massachusetts Architectural Access Board (MAAB) does not consider engineered wood fiber (EWF) to comply with its regulation requiring an accessible route to and around playground equipment.
- Provide an accessible route to at least one bench in each distinct area of each park where benches are provided.
- Ensure that at least 5% but no less than one amenity, such as picnic tables, portable toilets, etc. is accessible and is located on an accessible route.



City of Melrose, Massachusetts

PART B – Evaluation of Non-discriminatory Policies & Practices in Programs, Services & Activities

Prepared by the



560 Harrison Avenue,
Unit 401
Boston, MA 02118
617.695.1225 v/tty
www.IHCDesign.org

Part B – Evaluation of Nondiscriminatory Policies & Practices in Programs, Services & Activities

Introduction

In an effort to provide and maintain compliance with the American with Disabilities Act (ADA), the City of Melrose contracted with the Institute for Human Centered Design (IHCD) to undertake a comprehensive assessment of its policies, practices and procedures as well as its facilities to determine compliance with the requirements of the Americans with Disabilities Act (ADA). The review and recommendations provided in this assessment also go beyond strict compliance assessment to recommend enhancements to current conditions that would result in a more usable, inclusive and welcoming environment for members of the Melrose community.

Information about corrective action will include recommendations based on Title II of the ADA for each aspect that requires action, as well as recommended “*best practices*”.

The assessment included nondiscrimination in policies, practices and procedures for all of the City’s programs, services and activities including those related to effective communication and policies, practices and procedures relative to employment.

Corrective action is needed in policies and procedures to create written policies that would ensure the City of Melrose’s compliance with applicable laws. In addition, the City may wish to consider making a commitment to a more accessible website. Choosing to make the website completely accessible would make it available to site visitors who use assistive technology such as screen readers as well as to website visitors with a mix of other functional limitations. The website is also a valuable asset in communicating the City’s commitment to equal opportunity for people with disabilities through a clear statement and contact information for the ADA Coordinator. It can also provide a helpful opportunity to share information about accessible routes to reaching the City’s programs and activities including meetings and requesting effective communication or modification of policies.

This report summarizes IHCD’s findings of ADA Title II compliance. The information pertinent to this assessment was obtained by an online ADA questionnaire developed by the Institute for Human Centered Design (IHCD) and submitted by departments from the City of Melrose, and from the City’s website. IHCD received twenty (20) department questionnaire responses.

This mix of sources constitutes the basis for this compliance assessment report. It is clear that the City understands many of its obligations under Title II of the ADA, but additional steps are necessary to ensure that people with disabilities enjoy the same opportunities to participate in its programs, services and activities as Melrose residents without disabilities.

Analysis

Title II of the ADA prohibits discrimination on the basis of disability. Specifically, Title II requires that:

No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity (28 CFR Part 35.200 (a)).

This report is divided into sections where these requirements apply. Each section includes the applicable citation from Title II of the ADA; IHCD's summary of findings after reviewing answers from the ADA questionnaire and information from the website and other previously mentioned sources. It also includes IHCD's recommendations for the City of Melrose to implement.

I – Designation of Responsible Employee

Title II of the ADA makes clear that a public entity that employs 50 or more persons must designate a responsible employee and adopt grievance processes.

A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph. (28 CFR Part 35.207 (a)).

Title II provides little specific guidance for implementing this requirement but the primary role of the designated employee, also called the ADA Coordinator, is making sure that the City is in compliance with the ADA.

Finding

At the time of this assessment, the City of Melrose had named Paul Johnson, the Building Commissioner/Director of Inspection Services as the ADA Coordinator. IHCD was informed that Mr.

Johnson is no longer with the City, and as of the time of this writing no replacement for filling the role of ADA Coordinator has been named.

Information about Melrose's ADA Coordinator including name, contact information and role could not be found on the City's website. Of the twenty (20) respondents, four (4) respondents identified Paul Johnson as the ADA Coordinator (please note that Mr. Johnson is no longer with the City). In addition, one (1) respondent identified Margot Fleischman as the ADA Coordinator. Fifteen (15) respondents indicated the City had not appointed an ADA Coordinator or were unsure if an ADA Coordinator had been appointed. The City's Employment Manual on page 8 indicates that an employee should contact Human Resources.

Recommendations

The City should consider clarifying for its entire community, including City employees, the name, phone number, email address and scope of responsibilities of the ADA Coordinator. Highlighting this information will improve compliance and make for more efficient operations with respect to meeting the needs of members of the public with disabilities. An example would be to include the ADA Coordinator's contact information on the City's website, the Human Resources webpage, and on all public meeting notices.

Furthermore, clarification regarding the ADA Coordinator role and responsibilities will:

- Make it easier for the City to be proactive in meeting the needs of members of the public with disabilities.
- Help the City to develop and articulate a clear vision and mission with regard to members of the public with disabilities.
- Reduce confusion and improve the City's day-to-day operations with respect to members of the public with disabilities.
- Permit employees to respond more quickly to needs as they arise because they can identify a primary contact for addressing their concerns.
- Build in-house expertise and capacity.
- Prevent confusion and help ensure that candidates for employment, employees, and the public have a clear understanding of their responsibilities and rights under the ADA.

II – Grievance Procedures

Title II of the ADA requires a public entity to adopt an adequate grievance process.

A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part. (28 CFR Part 35.207 (b))

Findings

The Human Resources Department has a formal Grievance Procedure that includes the complete contact information for Paul Johnson. At the time of this assessment, the City of Melrose had named Paul Johnson, the Building Commissioner/Director of Inspection Services as the ADA Coordinator. IHCD was informed that Mr. Johnson is no longer with the City, and as of the time of this writing no replacement for filling the role of ADA Coordinator has been named.

However, seventeen (17) of the twenty (20) survey respondents were not aware of the Grievance Procedure that the City adopted in order to meet its ADA obligations. When asked if they have a Grievance Procedure, respondents indicated “no” or “not certain” or “not that I am aware of” or “I don’t know.” IHCD could not find the Grievance Procedure on the City’s website.

Recommendations

The City should take steps to clarify and post its Grievance Procedure for members of the public and City employees. The City could decide to adopt the Grievance Procedure from the Human Resources Department as the city-wide procedure since a separate policy is not required by the ADA.

IHCD recommends the following:

- Distribute the Grievance Procedure to all department heads, and post copies of it in noticeable locations in each of the City’s public buildings.
- Ensure City employees and the public are aware of the Grievance Procedure process and that City employees can provide information to members of the public about the process when appropriate.
- Post the Grievance Procedure on the City’s website.
- Ensure good record keeping for all complaints submitted and documentation for steps taken towards resolution. Maintain records for a reasonable length of time.

The Melrose Commission on Disability recommends the following:

- When a new ADA Coordinator is appointed, we recommend that it be an individual who has sufficient expertise, time, and resources to fulfill all the responsibilities of the position in a way that is fully responsive to the needs of the community, including implementing the wide range

of recommendations within this report and the Transition Plan, and serving as the city's liaison to the Disability Commission.

III – Notice

Title II of the ADA requires that public entities notify participants of its non-discrimination policies:

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part. (28 CFR Part 35.206)

Findings

The City of Melrose has an ADA Notice of Nondiscrimination. From the responses submitted by staff it seems that the City of Melrose does not have a uniform policy regarding the posting of ADA Nondiscrimination Notices for members of the public. When asked, three (3) respondents indicated that an ADA Notice is posted outside the Human Resources office and on the City's bulletin board. However, seventeen (17) respondents indicated that the ADA Notice is "not posted" or "not that I am aware of" or "have not seen them."

Recommendations

The City should take steps to clarify the posting of the Notice of Nondiscrimination policy to comply with the ADA Title II that states that public entities shall take initial steps to notify program/service participants, beneficiaries and employees of its obligations.

Furthermore, by adopting a uniform policy, the City of Melrose has an opportunity to share information with the community. For example, the City informs the community about upcoming meetings and other happenings through the City's website, meeting agendas, and social media. These communications are opportunities to include a short ADA Notice of Nondiscrimination.

IHCD recommends:

- Publish the ADA Notice in all the materials and communications distributed by the City (e.g., reports, contracts, agendas, meeting notes, applications, social media, etc.).
- Post copies in public locations in the City's municipal buildings.
- Distribute the ADA Notice to all department heads. Copies should also be provided in alternate formats, to any person upon request.

- Post the ADA Notice on the City’s website homepage.
- Update and include the ADA Coordinator’s name, title, address, telephone number and email address on materials and publications that contain general information disseminated to staff and members of the public.

IV – Reasonable Modification of Policies, Practices and Procedures

Title II of the ADA requires state and local governments to modify its policies when necessary to avoid discrimination:

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. (28 CFR Part 32.200 (b)(7))

Findings

From the responses from the ADA questionnaire, it looks like most respondents are not aware of a formal process nor have the departments developed a department-specific reasonable modification process (this was the case for seventeen (17) out of twenty (20) respondents). However, staff are able and willing to assist community members as needed. Some responses include “*Most times we are able to accommodate ...*” or “*we meet disabled persons outside, in the Milano Center, or at their car when conditions are unsafe or their physically unable to navigate into the building*” or “*... offer a homebound service in partnership with the Council on Aging.*”

It was an instance in the past where someone with a disability has asked for an accommodation in one of their programs and they were “*unsuccessful meeting their needs.*”

Recommendations

The City should develop written policies and procedures for providing reasonable modifications to ensure compliance with the ADA.

IHCD recommends:

- Ensure that City employees can provide information to members of the public about the process of requesting reasonable modification of policies when appropriate.
 - Update and include the ADA Coordinator’s name, address, telephone number and email and the process for requesting reasonable modifications on materials and publications that contain general information disseminated to staff and members of the public.
-

- Post the process for requesting reasonable modifications on the City’s website.
- Ensure staff is training to provide assistance upon request.

IHCD through its New England ADA Center, can provide training for the City of Melrose on the City’s ADA obligations. The training would include the administrative requirements and providing reasonable modifications that would be appropriate for department heads and public-facing City staff. The training would build confidence about rights and responsibilities and building capacity within the City to comply with this important element of the ADA.

The Melrose Commission on Disability recommends the following:

- Training on meeting the requirements of the ADA should be part of the orientation process for all new employees, and should continue as needed on a regular basis as needed.

V – Eligibility Criteria

A Title II entity may not impose eligibility criteria that may prevent a person with a disability from participating in its programs, services or activities:

A public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity, unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered. (28 CFR Part 35.200 (8)).

This requires that ADA Title II entities may not impose eligibility criteria that either screen out persons with disabilities, unless it can show that such requirements are necessary for the provision of the service, program or activity.

Findings

Several programs within the City of Melrose have eligibility criteria. There are eligibility criteria for Property Tax Exemptions - age, income limits, Veterans Service-connected disability status, etc. and the Veterans’ Services that primarily assist Veterans and their families The Library also have eligibility criteria regarding age for certain programs to ensure “*programming is appropriate for the audience.*” Some other programs have age eligibility criteria such as the Council on Aging. These requirements might be necessary for the provision of the service, program or activity, and are permitted under the ADA.

There are also eligibility criteria for positions listed in the job descriptions for the City, but they are consistent with the requirements regarding employment.

VI – Employment and Reasonable Accommodations

Title II of the ADA prohibits discrimination on employment on the basis of disability:

No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any service, program, or activity conducted by a public entity. (28 CFR Part 35.140 (a)).

Under the ADA, an employer has to provide reasonable accommodations to qualified individuals with disabilities who are employees or applicants for employment, unless to do so would cause undue hardship (significant difficulty or expense). A reasonable accommodation may include modifying work schedules, job restructuring, and making facilities used by employees readily accessible to employees with a disability.

Findings

The City of Melrose has an Equal Employment Opportunity statement on the City's website: <https://www.cityofmelrose.org/human-resources/pages/career-opportunities> and a section within the Employee Manual identifies the ADA as a law the City complies with.

From the responses received from the ADA staff questionnaire, there is no evidence that the City has failed to provide reasonable accommodations to its employees. Most department heads indicated that their department has a nondiscrimination policy and reasonable accommodation policies in place.

Recommendations

- Provide information on the ADA and who to contact regarding reasonable accommodation requests for job applicants and municipal employees on the Human Resources webpage and provide a direct link to the Grievance Procedure.
- Within the Employee Manual, clearly state the contact information for the ADA Coordinator, the process for requesting reasonable accommodations and information on the Grievance Procedure.
- Review documents and replace the term "handicapped" with "disability."
- IHCD recommends that City of Melrose employees familiarize themselves with the excellent, free, national resources from the Job Accommodation Network (JAN) (<https://askjan.org>).

VII – Effective Communication through Auxiliary Aids and Services

Title II entities are required to provide appropriate auxiliary aids and services to ensure “*effective communication*” with people with disabilities. This obligation applies to all members of the public with disabilities including job applicants, program participants and people who are seeking information about the City’s programs, services or activities. Specifically, Title II requires that:

A public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others. (28 CFR Part 35.200 (a)).

Auxiliary aids and services are devices or services that enable effective communication for people who have vision, hearing, or speech disabilities (communication disabilities), or use different ways to communicate. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved (e.g., a query at a service counter in the City offices, a staff meeting, a job description, etc.).

The obligation to communicate effectively with people who have disabilities applies to the presentation and exchange of information in all forms including sound, print, graphics and voice. Furthermore, this requirement may include but is not limited to providing sign language interpreters, telephone handset amplifiers, Telecommunication Devices for Deaf persons (TDD’s), note takers, written materials for persons who are deaf or hard of hearing or transcripts, braille, digital or audio information for persons who are blind or have difficulty seeing.

The decision about which auxiliary aid is appropriate should evolve from a consultation between the ADA Title II entity (City of Melrose) and individuals with disabilities wherever possible to ensure effective communication. In many cases, more than one type of auxiliary aid or service may make effective communication possible. While consultation is always strongly encouraged to achieve effective communication, the City of Melrose is required to give primary consideration to the requests of individuals with disabilities. The effective communication obligation does not require the City to take any action that would result in a fundamental alteration in the nature of its services, programs or activities or that would impose an undue financial and administrative burden.

Findings

There is no evidence that the City has failed to provide effective communication when required. But from the department responses, it seems that clarifying procedures for providing effective

communication could be beneficial. Several respondents indicated a willingness to work with *“someone one-on-one”* or *“... happy to verbally provide any information that is written or web-based”* and the Human Resources *“does its best to accommodate any employee or retiree by verbally explaining ... to anyone who may be visually impaired or blind.”* A respondent also indicated that they would provide assistance upon request.

A few concerns from staff responses include:

- *“... we could definitely improve our website.”*
- *“Our public computers have text enlargement software, but we do not have a screen reader.”*
- *“...does not have enough assistive listening devices and that some documents on the website are not accessible.”*
- *“... need solutions for this opportunity”* or *“need assistance”*
- *“...there are several pdf documents and things posted on our website that are not ADA compliant.”*
- *“Some older movies do not have subtitle options.”*

It is not clear if information available in print format is currently available in alternate electronic formats or on the website.

Some of the videos that IHCD reviewed have captions. It is important to note that several respondents expressed a desire for guidance on how to provide information in an accessible manner which should be seen as an opportunity for the City of Melrose to provide a training on this subject.

Recommendations

The City should maintain and publicize clear processes for members of the public and employees to request auxiliary aids and services:

- Distribute the Effective Communication Notice to all department heads; publish it in a local newspaper of general circulation serving the City; in all materials regarding the City’s programs, services or activities and on the City’s website home page, and social media. Copies should also be posted in prominent locations in the City’s public buildings.
- Staff should clearly understand the responsibility to provide auxiliary aids and services where necessary to afford qualified individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity. (28 CFR Part 35.153 (b)). Staff should also clearly understand the process for requesting auxiliary aids and services when needed.

- Staff needs to understand the scheduling time necessary in requesting a sign language interpreter or a Computer-Assisted Real Time Interpreter (CART) through the Commission for the Deaf and Hard of Hearing or another provider. Interpreters must be qualified.

Note: A “qualified” interpreter means someone who is able to interpret effectively, accurately, and impartially, both receptively (i.e., understanding what the person with the disability is saying) and expressively (i.e., having the skill needed to convey information back to that person) using any necessary specialized vocabulary.

- Members of the public also need to have a clear understanding of the process for requesting auxiliary aids and services and the time period in which a request should be made. This is especially true if it involves ASL interpreters, CART, or special equipment such as assistive listening devices that may need to be rented. This information should be included in the general information for the public as well as on the City’s website.
- Ideally, the City should develop a system for training staff to meet these responsibilities especially knowing the processes for securing braille, making large print, other types of accessible formats, understanding how to request interpreters and the length of time needed prior to an event. It is also important that staff know how to use and maintain the assistive listening systems and other special devices for effective communication with people with disabilities.
- In determining what type of auxiliary aid or service is necessary to comply with Title II of the ADA, the City should give primary consideration to the expressed preference for a particular auxiliary aid or service by deaf and hard of hearing individuals. Primary consideration means that the City of Melrose will inquire as to the choice of auxiliary aid or service of the person with a disability and will honor the expressed choice unless the City can demonstrate that another equally effective means of communicating is available.

IHCD, through its New England ADA Center, can provide training for the City of Melrose on effective communication that would be appropriate for department heads and public-facing City staff in order to build confidence about rights and responsibilities and building capacity within the City to comply with this important element of the ADA.

Sample of Effective Communication request:

“The City of Melrose is committed to the full participation of people with disabilities. Any person with a disability who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in the City’s programs, services, activities

and committee meetings, should contact the office of the ADA Coordinator (Name, Address, Phone number and Email) as soon as possible but no later than 48 hours before the scheduled event.” (*if the City needs 2 or 3 weeks or longer to ensure an interpreter, then it must be clearly stated).*

- Ensure that information and resources at each department interacting with the public are available in an accessible format. That could be done by having a large print sign at each department and on each department’s portion of the website stating:
“All of our materials are available, upon request, in accessible format such as audio, large print or braille.”
- Ensure that staff interacting with the public is fully trained on how to respond to TTY/Video calls and relay calls for telephone communications with people who are deaf, have difficulty hearing or have speech disabilities.

Even though there is a fundamentally changed pattern among people who are deaf or hard-of-hearing in relation to communication technology, TTY remains a compliance requirement. Because of these advances in communication technology, some people who are deaf and people with speech disabilities no longer have TTYs in their homes and rely instead on instant messaging, text messaging, email, or the video communication features of computers.

- Ensure that the City’s website and other web-based services are accessible to people with disabilities. It is the Department of Justice position that when services are provided on a website, those services too must be made accessible. (see www.ada.gov/mclennan_pca/mclennan_sa.html Section K on Web Based Services and Programs)
- To avoid any Information and Communication Technology (ICT) issues, the City of Melrose should commit to fixes and maintenance of the website accessibility. All staff should undergo training on accessibility best practices for posting web content and creating accessible documents. All third-party software should be properly vetted for compliance with WCAG 2.0 AA and section 508 of the Rehabilitation Act.
- Ensure that all the fillable forms on the City’s website are accessible to people with disabilities. IHCD recommends providing web forms or accessible fillable PDF’s for all the forms available on the City’s website.
- Ensure that all the videos available on the City’s website and social media are captioned.
- Include alternative text descriptions for all photographs and images available on the City’s website and social media.

- The City should provide podcast transcripts of each podcast within a reasonable time such as before the release of the next podcast in each podcast series.
- Additionally, under Title II of the ADA, emergency programs, services and activities must be accessible to people with disabilities. Ensure that the City takes the necessary steps to effectively communicate with people with disabilities and make the emergency plan available on the City’s website and update the emergency procedure as often as is necessary.

Also, it is the Department of Justice position that police stations provide sign language interpreters in a timely manner when requested.

- Non-scheduled Interpreter Requests: A “non-scheduled interpreter request” means a request for an interpreter made by an inmate, visitor, companion, or other member of the public, who is deaf or hard of hearing with less than two (2) hours advanced notice. For non-scheduled interpreter requests, the interpreter shall be provided no more than two (2) hours from the time of the request for an interpreter if the service is provided through a contract interpreting service or a staff interpreter who is located off-site or 30 minutes from the request for an interpreter if the service is provided through a Video Remote Interpreting service.
- Scheduled Interpreter Requests: A “scheduled interpreter request” is a request for an interpreter made two (2) or more hours before the services of the interpreter are required. For scheduled interpreter requests, the Police Department will make a qualified interpreter available at the time of the scheduled appointment. If an interpreter fails to arrive for the scheduled appointment, upon notice that the interpreter failed to arrive, the Police Department will immediately use reasonable efforts to call an interpreter service for another qualified interpreter or provide a Video Remote Interpreting service.

VIII – Emergency Preparedness, Evacuation Plans, and Emergency Shelters

While a review of the City of Melrose’s emergency preparedness, evacuation plans and emergency shelters was not part of this RFP, as evidenced by recent U.S. Department of Justice’s (DOJ) Project Civic Access settlement agreements, DOJ’s views on emergency preparedness, shelters and evacuation plans are critical components of a City’s responsibilities related to accessibility.

Recommendations

- Visibly post up-to-date floor plans for all buildings.
- Post information about evacuating people unable to use stairs.
- Develop evacuation plans for each facility.

- Ensure that the input and needs of staff and visitors with disabilities are included in all phases of emergency management planning. When developed, involve the participation of members of the municipal Commission on Disability.
- Ensure that communication with members of the public with disabilities is as effective as communication with any members of the public.
- Make the evacuation procedure available on the City's website in an accessible format and update the evacuation procedure as often as necessary.
- As plans are developed or revised, adopt policies to ensure that community evacuation plans enable people with disabilities, including those who have mobility, vision, hearing, or cognitive disabilities, mental illness, or other functional limitations, to safely self-evacuate or to be evacuated by others. Until all emergency shelters are accessible with parking, exterior routes, entrances, interior routes to the shelter area, and accessible toilet rooms serving the shelter area, the City should identify and widely publicize to the public, including persons with disabilities and the organizations that serve them, the locations of the most accessible emergency shelters.

For more information related to emergency preparedness see the following:

- Making Community Emergency Preparedness and Response Programs Accessible to People with Disabilities - <http://www.ada.gov/emergencyprepguide.htm>
- ADA Tool kit: Emergency Management - <http://www.ada.gov/pcatoolkit/chap7emergencymgmt.pdf>
- *FEMA Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters* - http://www.fema.gov/pdf/about/odc/fnss_guidance.pdf

Additionally, IHCD recommends considering engaging the National Fire Protection Association (NFPA) for evacuation training and guidance, providing and load verifying backup power source for elevator to address Functional Needs Support Services (FNSS) emergency shelter needs, installing one or more accessible showers to meet emergency shelter needs and providing backup power for charging batteries for wheelchairs or breathing equipment and refrigeration for medication to meet emergency shelter needs.

Reference List

ADA Action Guide for State and Local Governments:

- www.adaactionguide.org

Department of Justice:

- Americans with Disabilities Act Title II Regulations:
http://www.ada.gov/regs2020/titleII_2020/titleII_2020_regulations.htm
- Making Community Emergency Preparedness and Response Programs Accessible to People with Disabilities - <http://www.ada.gov/emergencyprepguide.htm>

Federal Emergency Management Agency (FEMA):

- FEMA Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters - http://www.fema.gov/pdf/about/odc/fnss_guidance.pdf

Job Accommodation Network (JAN):

- <http://www.askjan.org>

New England ADA Center:

- <https://www.newenglandada.org>

City of Melrose

Part C – Legal Overview



Prepared by the



560 Harrison Avenue, Unit 401
Boston, MA 02118
617.695.1225 voice/tty
www.IHCDesign.org

Legal Overview

The City of Melrose is obligated by both federal laws and state codes concerning the rights of people with disabilities in the daily provision of programs, services, and activities. At the end of this report, there is a comprehensive list of relevant laws.

Federal Obligation: American with Disabilities Act (ADA)

Based on the 1964 Civil Rights Act and expanding upon the obligations of the 1973 Rehabilitation Act, the 1990 ADA prohibits discrimination against people with disabilities. The ADA provides civil rights protections to individuals with disabilities similar to those afforded to individuals on the basis of race, color, sex, national origin, age, and religion. The cornerstone of Title II of the ADA, which applies to state and local governments, is clear: no qualified person with a disability may be excluded from participating in, or denied the benefits of, the programs, services, and activities provided by state and local governments because of a disability.

The 2008 Amendments to the ADA (ADAAA), signed into law on September 25, 2008, describes in more detail the range of conditions covered by the civil rights protections of the ADA. The amendments expand the definition of “disability” to include impairments that substantially limit a major life activity and states that when determining whether someone qualifies as having a disability, one cannot take into account assistive devices, auxiliary aids, accommodations, medical therapies and supplies. The amendments also address episodic disabilities that may go into remission but still can significantly limit a major life activity when active, such as epilepsy and post-traumatic stress disorder. The ADA defines a disability as¹:

- A physical or mental impairment that substantially limits one or more major life activities (i.e., working, talking, hearing, seeing, caring for one's self);
- Having a record of a physical or mental impairment that substantially limits one or more major life activities;
- Being regarded by others as having an impairment such as individuals with severe facial scarring.

¹ To learn more about qualified individuals with disabilities or to read the full text of the ADA, please visit <http://www.ada.gov>

It is important to stress that the primary obligation of public entities such as the City of Melrose, under Title II of the Americans with Disabilities Act, is to ensure that, when viewed in their entirety, the programs, services, and activities offered are equally available to people with disabilities. The City is required to follow the 2010 ADA Standards for Accessible Design in new construction and alterations. The 2010 ADA Standards must also be used for corrective actions if existing conditions do not comply with the original ADA Accessibility Guidelines.

Municipalities also must relocate programs or otherwise provide access to programs located in inaccessible older facilities (e.g., facilities built before the ADA went into effect on January 26, 1992). Ensuring program access may require capital investment when there is no alternative solution and should be a priority for corrective action.

Note that the websites of Title II entities are also considered “*programs*” and should be accessible to the standards of the Web Content Accessibility Guidelines 2.0 AA.

The City must **communicate effectively** with people who have hearing, vision, or speech disabilities. The City is also required to make reasonable modifications to policies, practices, and procedures where necessary to ensure the equal participation of people with disabilities. Whatever is written or spoken must be as clear and understandable to people with hearing, vision, or speech disabilities as it is for people who do not have disabilities. In addition, the ADA requires the provision of “auxiliary aid and service” to meet the responsibility for effective communication. Auxiliary aid and service refer to readers, notetakers, sign language interpreters, assistive listening systems, open and closed captioning, text telephones (TTYs), videophones, information provided in large print, braille, audible, or electronic formats, and other tools for people who have communication disabilities.

Following the passage of the ADA, the Department of Justice issued the 1991 ADA Standards for Accessible Design to address physical access to facilities and transportation. These standards were based almost exclusively on the US Access Board’s guidelines (ADA Accessibility Guidelines – ADAAG). In 1994, slight technical amendments were made. Then in 2004, the US Access Board issued new guidelines that were promptly adopted by the US Department of Transportation and other federal agencies. But only in 2010 did the Department of Justice issue a revised and updated ADA Standard called the 2010 ADA Standards for Accessible Design (2010 ADA Standards) that would apply to all Title II and Title III entities. These standards revised requirements for policies such as ticketing and service animals, and for physical elements such as assembly seating, established construction tolerances for certain elements and formalized long-standing guidelines for play areas, golf courses, recreational boating facilities, swimming pools, and other recreational facilities.

Facilities that meet or exceed the 1991 ADA Standards are not required to make changes to the new 2010 ADA Standards except in the case of renovation. For elements that are non-compliant, the corrective measures must align with the 2010 ADA Standards. It is not expected that the buildings will meet or be brought up to all of the 2010 ADA Standards absent significant or total renovation. State and local governments must ensure that individuals with disabilities are not excluded from services, programs, and activities because buildings are inaccessible. This means Title II entities do not need to remove physical barriers, such as stairs, in all existing buildings, as long as they make their programs accessible to individuals who are unable to use an inaccessible existing facility.

Alterations to historic properties under the ADA

Alterations to historic properties must comply with the specific provisions governing historic properties in the 2010 ADA Standards, to the maximum extent feasible. Under those provisions, alterations should be done in full compliance with the alterations standards for other types of buildings. However, if following the usual standards would threaten or destroy the historic significance of a feature of the building, alternative solutions may be used. The decision to use alternative solutions for that feature must be made in consultation with the appropriate historic advisory board as designated in the 2010 ADA Standards (for Massachusetts, the Massachusetts Historical Commission), and interested persons should be invited to participate in the decision-making process.

Note that any corrective actions needed to ensure program accessibility would also have to comply with the requirements of the 2010 ADA Standards for historic facilities.

State Obligation:

Massachusetts Constitutional Amendment – Article 114

The Massachusetts Constitution states:

“No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity within the Commonwealth.”

Article 114 is written broadly. It prohibits discrimination based on disability on any level within the state, not just for recipients of state or federal funds. For example, City meetings must be held in an accessible location with sign language interpreters provided if needed, and the City cannot refuse to do business with an individual based on the person’s disability.

Massachusetts Architectural Access Board

The Architectural Access Board (AAB) is a regulatory agency whose mandate is to develop and enforce regulations designed to make public buildings accessible to, functional for and safe for use by persons with disabilities. See the Rules and Regulations of the Architectural Access Board 521 CMR. In addition to writing regulations, the Board decides on variance requests, provides training on its regulations, issues advisory opinions and makes decisions on complaints. Local building inspectors are responsible for enforcing the regulations which are a specialized section of the Massachusetts Building Code. See 780 CMR.

The construction, reconstruction, remodeling, alteration, or change of use of a building or facility that is open to the public triggers the authority of the Architectural Access Board. New construction must fully comply.

For renovation, remodeling, or alteration:

- The work being done must comply with the regulations.
- If the work done in any 36-month period is greater than \$100,000, the “work being performed” is required to comply. In addition, an accessible entrance and an accessible toilet room, telephone and drinking fountain (if toilets, telephones and drinking fountains are provided) shall also be provided.
- If the work done in a 36-month period is more than 30% of the “full and fair cash value” of the building², the entire building must come into compliance.

Enforcement: Anyone can file a complaint with the Architectural Access Board. The Board has the authority to issue variances and/or impose fines of up to \$1000 per violation per day of noncompliance with its order.

² This is usually the assessed value established by the City. See 521 C.M.R. § 5.38 for details about establishing value where no assessment exists.

Building Facilities Overview

Under Title II of the ADA, the City of Melrose must make sure that “No qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity” [28 CFR Part 35.149].

A public entity may not deny the benefits of its programs, services, and activities to individuals with disabilities because its facilities are inaccessible. This means that each program, service and activity of the City, when viewed in its entirety, must be readily accessible to and usable by individuals with disabilities.” This requirement is known as Program Accessibility [28 CFR Part 35.150].

The program accessibility requirement does not necessarily require the City to make each existing facility accessible or to take any action that would threaten or destroy the historic significance of a historic property. Or require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of the program or in an undue financial and administrative burden.

The City may comply with the requirements through such means as redesign or acquisition of equipment, reassignment of services to accessible buildings, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, or any other methods that result in making the City’s programs, services, or activities readily accessible to and usable by individuals with disabilities. A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section.

In choosing among available methods for meeting the requirements of this section, a public entity shall give priority to those methods that offer programs, services, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

Outdoor Facilities Overview

The program accessibility obligation does not typically require that every outdoor area be made accessible. As noted before, “when viewed in its entirety” applies to programs for which there are multiple locations for comparable programs. Usually, a public entity determines which method it will use for meeting its program accessibility obligations. When structural changes

are made to existing facilities, the changes must comply with the 2010 ADA Standards for Accessible Design. When choosing to purchase equipment or to make structural changes, the public entity should factor in the financial resources required to maintain program accessibility.

Over time, the City will need to reassess its compliance with program accessibility, and it may become necessary to acquire new accessible equipment or make structural modifications.

It is important to note that those elements in existing facilities that are subject to supplemental requirements of the 2010 ADA Standards (*e.g.* elements for which there are neither technical nor scoping specifications in the 1991 Standards) such as (C) *Recreational boating facilities*; (D) *Exercise machines and equipment*; (E) *Fishing piers and platforms*; (H) *Play areas*; (J) *Swimming pools, wading pools, and spas*; and (L) *Miscellaneous - (1) Team or player seating and Accessible route in court sports facilities*, need to be brought into compliance.³

³ As described in 28 CFR 35.150(b)(2)(i) Title II ADA Regulations

Reference List

Federal Laws:

- Americans with Disabilities Act (ADA)
- 2010 ADA Standards for Accessible Design

State Law:

- 521 CMR Massachusetts Architectural Access Board – Rules and Regulations

Guidance:

- ADA Action Guide for State and Local Governments: <https://www.adaactionguide.org>
- ADA Checklist for Existing Facilities: <https://www.adachecklist.org>
- Outdoor Developed Areas: A Summary of Accessibility Standards for Federal Outdoor Developed Areas: <https://www.access-board.gov/attachments/article/1637/outdoor-guide.pdf>
- US Access Board: <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/guide-to-the-ada-standards/animations>