

Existing Facilities and Program Accessibility



James A. Bostrom
Deputy Chief
Disability Rights Section
U. S. Department of Justice

1

...Program Access

2

Program Access

No qualified individual with a disability shall, because a public entity's facilities are inaccessible or unusable,

- Be excluded from participation;
- Be denied benefits of programs;
- Be subjected to discrimination.

3

Existing Facilities

Operate each service or activity so that, when viewed in its entirety, it is accessible to and usable by people with disabilities.

Applies to ALL facilities.

4

Examples of Program Access

- ▶ Relocating a service to an accessible facility, e.g., moving a public information office from the third floor to the first floor of a building.
- ▶ Providing an aide to enable an individual with a disability to obtain the service.
- ▶ Providing benefits or services at an individual's home, or at an alternative accessible site.

5

Integration

Must give priority to methods that provide services, programs, and activities in the most integrated setting appropriate.

6

“When Viewed in its Entirety”

- ▶ Look at each program or program component – how do people participate generally?
- ▶ Identify locations in specific geographic areas – county by county, town by town, or neighborhood by neighborhood.
- ▶ What services or programs are offered at each location? Who is the intended audience/customer base?

7

“When Viewed in its Entirety”

- ▶ Which locations are accessible and to what extent?
- ▶ How well dispersed are the accessible locations? How convenient are they?
- ▶ What is the ratio of accessible vs. inaccessible locations in a geographic area (if applicable)?
- ▶ What are existing barriers to participation?

8

Program Access

(Not) Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities;

(Not) Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or

(Not) Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.

9

Program Access

▶ Exceptions:

- ✓ fundamental alteration in the nature of the service, program, or activity
- ✓ undue financial and administrative burdens.
- ✓ BUT, public entities must take any other action that would ensure that individuals with disabilities receive the benefits or services.

▶ May not carry an individual with a disability as a method of providing program access, except in “manifestly exceptional” circumstances.

10

Self-Evaluations and Transition Plans & The Importance of the ADA Coordinator

11

Program Access

- ▶ I already did them 20 years ago!!!!
 - ✓ Times change - so do facilities, programs, and staff, and..... the 2010 ADA requirements.
- ▶ I think we did them 20 years ago, but I can't find it anywhere!!!!
 - ✓ See above.
- ▶ I just got here and I don't know anyone or where anything is – help!!
 - ✓ Hang in there.

12

Planning for Success

- ▶ The 2010 revised regulations do not specifically require a new self-evaluation or transition plan. So, are we off the hook?
- ▶ How can you plan to meet compliance obligations without assessing where you are now and where you need to go?
- ▶ Completing an assessment, developing a plan, and following through may serve as evidence of a good faith effort to comply.

13

Self-Evaluation

- ▶ **Assess.** A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.
- ▶ **Seek Input.** A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

14

Self-Evaluation

Keep records. A public entity that employs 50 or more persons shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:

- (1) A list of the interested persons consulted;
- (2) A description of areas examined and any problems identified; and
- (3) A description of any modifications made.

15

Transition Plan

- ▶ **Make a Plan.** In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity that employs 50 or more persons shall develop....a transition plan setting forth the steps necessary to complete such changes.
- ▶ **Seek Input.** A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments.
- ▶ **Let the Public Know.** A copy of the transition plan shall be made available for public inspection.

16

Transition Plan

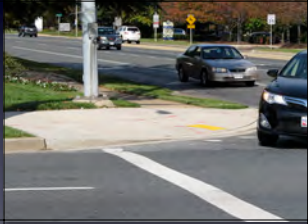
The plan shall, at a minimum –

- ▶ (i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
- ▶ (ii) Describe in detail the methods that will be used to make the facilities accessible;
- ▶ (iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and
- ▶ (iv) Indicate the official responsible for implementation of the plan. !!!!!!!!!

17

Transition Plan

...its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the Act, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.



18

Street Level Pedestrian Walkways...



19

How Do We Begin? Gather People & Resources

- ▶ Identify and locate the people needed to make decisions. Facilities staff, department representatives, and management.
- ▶ Identify the people you can count on – allies who will support and help you.
- ▶ Identify people with disabilities in the community.

20

Make Some Initial Decisions

- ▶ What will we assess?
 - ✓ Each physical structure?
 - ✓ Each individual program?
 - ✓ A combination of both?
- ▶ Some programs, by their nature, may be best suited to one method over the other method.
- ▶ What works is what works – design an approach the best fits your own structure and needs.
- ▶ Don't forget what has already been done – build upon it.

21

Questions to Ask (and Answer)

- ▶ Understand your agency's programs, activities and services:
 - ✓ What are they?
 - ✓ What are they intended to do?
 - ✓ Why are they carried out or delivered in the manner they are?
 - ✓ What is the underlying purpose of them?
 - ✓ What, if any, eligibility requirements exist for each program? Are they necessary?
- ▶ Assess institutional commitment - does one exist? Can it be built?

22

More Questions to Ask

- ▶ Review original (1990s) self-evaluation and transition plans. Do you know where they are - both in terms of physical location AND content?
- ▶ How current are the self-evaluation and transition plan?
- ▶ What has changed or no longer exists?
- ▶ What is new? What do we need to address now that we didn't before?

23

More Questions to Ask

- ▶ Know who has responsibility for what. What are YOUR responsibilities? Who has responsibilities for program access, policy, and facilities issues? EEO?
- ▶ Do we have an ADA Coordinator?
- ▶ Do we have a grievance procedure?

24

Where Do I Go From Here?

- ▶ Understand the requirements of the ADA. Don't be afraid to ask and use resources. There are NO stupid questions.
- ▶ Never, ever be afraid to say "I don't know" to anyone. Always promise to get back to them.
- ▶ Set realistic, achievable timeframes for all your activities. Don't set yourself up for failure.

25

Where Do I Go From Here?

- ▶ Develop your own support network. Developing relationships is important:
 - ✓ With the people at this conference and in this room. Chances are they have experienced what you are dealing with and have some good suggestions. You don't have to feel alone.
 - ✓ Reach out and develop relationship with the disability community in your area. They can identify priorities, help to develop a realistic compliance plan, and provide other valuable input.
 - ✓ Contact and develop relationships with designated Federal agencies — they can be your friend.
 - ✓ Keep DOJ and the ADA Network on speed dial.

26

Self-Evaluations and Transition Plans

New Requirements in the 2010 Standards

27

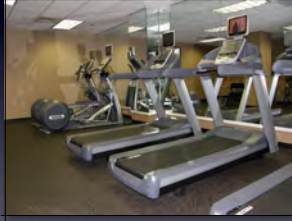
Sections 234 – 243 & Chapter 10: Recreation Facilities

- ▶ Amusement Rides
- ▶ Recreational Boating Facilities
- ▶ Exercise Machines and Equipment
- ▶ Fishing Piers and Platforms
- ▶ Golf Facilities
- ▶ Miniature Golf Facilities
- ▶ Play Areas
- ▶ Swimming Pools, Wading Pools, and Spas
- ▶ Shooting Facilities with Firing Positions

28

Exercise Facilities

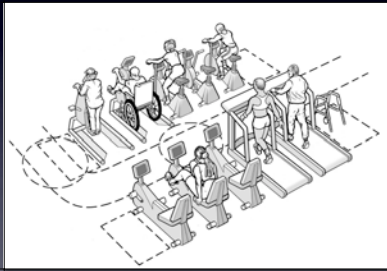
Section 236 Exercise Machines and Equipment
Section 1004 Exercise Machines and Equipment



29

Exercise Machines

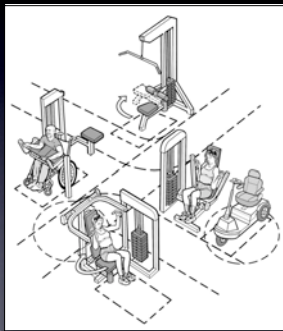
At least one of each type...



30

Exercise Machines

Accessible route and shared clear floor space...



31

Fishing Piers and Platforms

Sections 237 and 1005



32

Golf Facilities

Section 238 Golf Facilities

Section 1006 Golf Facilities



33

Miniature Golf Facilities

Section 239
Miniature Golf
Facilities



Section 1007
Miniature Golf
Facilities



34

Play Areas

Section 240
Play Areas

Section 1008
Play Areas



35

Swimming Pools, Wading Pools, and Spas



36

235 & 1003 Recreational Boating Facilities



37

Recreational Boating Facilities



38

35.130(b)(7)

Reasonable Modification

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.

39

Accessible Taxi -- Aisle Location



40

Accessible Taxi Zone?



41

Modification of Policies...



42

215 and 702 Fire Alarm Systems



43

§35.133 Maintenance of Accessible Features

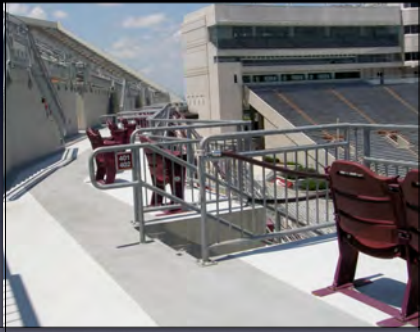
- (a) A public entity shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the Act or this part.
- (b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.
- (c) If the 2010 Standards reduce the technical requirements or the number of required accessible elements below the number required by the 1991 Standards, the technical requirements or the number of accessible elements in a facility subject to this part may be reduced in accordance with the requirements of the 2010 Standards.

44



45

§35.133 Maintenance...



46

§ 35.160 General -- Communications...

(a)(1) 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.

47

Security Check at Dorm Entry



48

Two-Way Communications -- Building Entry



Control or operating mechanism?
Height and accessible route?
Non-verbal communication?

49

Two-Way Communications -- Building Entry



Sections
230
and
708

50

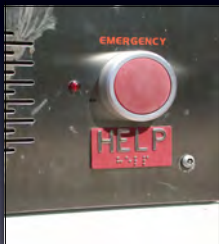
Emergency Call Stations

Not on Accessible Route



51

Emergency Call Stations



52

Communication?



53

Questions



54
