



Kansas LTAP Fact Sheet

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Local Requirements for ADA Compliance

By Chris Wichman

Title II of the federal Americans with Disabilities Act (ADA) requires that local governments make their facilities and services accessible to persons with disabilities. This requirement applies to all state and local governments regardless of size. An ongoing self-evaluation is a local government's primary tool to document and track how it provides access for their disabled residents. Having a report and a plan for compliance also diminish the possibility of adverse findings in accessibility-related lawsuits. Local governments with 50 or more employees are also required to have someone appointed as an ADA coordinator with certain responsibilities outlined by law, and a formal transition plan towards compliance.

While not required, a best practice in ADA compliance is to engage an advisory board of local stakeholders and disability advocates for advice, review, and public input.

This article will provide a brief overview of requirements for ADA compliance for public entities, and guidance on working with advisory boards.

Required of ALL public entities: Self-evaluation to identify barriers and (reasonable) solutions to access

To ensure compliance with Title II, governments should have completed by 1993 a **self-evaluation**, a process required by ADA for all public entities regardless of number of employees. Self-evaluation results in a comprehensive report on local barriers for persons with disabilities. It pinpoints the facilities, programs and services that must be modified or relocated to be accessible to all residents.

The ADA does not require that all barriers identified in the self-evaluation report be removed; rather it requires that all programs be accessible if possible. Providing accessibility is required unless doing so would fundamentally alter a program, service, or activity or result in undue financial or administrative burdens.



An example of an undue financial or administrative burden would be to require that curb ramps be immediately installed on all sidewalks in a community. The FHWA guidance is more realistic. It says that one way to ensure the proper integration of curb ramps throughout a city is to set a series of milestones (progress dates) for curb ramp compliance. The guidance suggests first focusing on government facilities, transit services, places of public accommodation, and business districts, followed by walkways serving residential areas. It also may be appropriate for a city government to establish an ongoing procedure for installing curb ramps upon request in both residential and

nonresidential areas frequented by individuals with disabilities. 28 C.F.R. §§ 35.150(d)(2); 35.151(e). This guidance allows local governments a degree of flexibility to find the most cost-effective and case-specific strategy to address each accessibility barrier.

Required for MANY governments: Transition plan, ADA coordinator, and grievance procedure

A **transition plan** can be another product of self-evaluation, which moves from barriers to solutions. A transition plan is required by the ADA for public entities with 50 or more employees.

A transition plan identifies how and when the identified barriers will be made accessible and who is responsible for removing the identified barriers.

The ADA also requires that public entities with 50 or more employees designate at least one employee to coordinate ADA compliance. This **coordinator** is the lead on compliance efforts and the contact person for community members with accessibility grievances. (The ADA requires that a **formal grievance procedure** be established in these municipalities.)

The following are duties of an ADA coordinator:



- Administering and writing a self-evaluation report of barriers in city services and facilities;
- Establishing a complaint/grievance procedure to respond to the public;
- Developing a transition plan if structural changes are needed to achieve Title II compliance for accessibility;
- Revisiting the self-evaluation report every three years.

Good for ANY community: An advisory board

While not required by law, engaging an **advisory group of citizens and stakeholders** is considered a best practice for ADA compliance. Advisory boards commonly set priorities and monitor progress of the transition plan or self-evaluation report, educate the public, and participate in the grievance process.

The City of Hutchinson established their advisory group specifically as a grievance board soon after the ADA legislation was passed. But the board's role has expanded since then. According to Meryl Dye, Hutchinson ADA coordinator, now the primary role of the group is oversight. She said the Board "ensure[s] that the City is staying on top of new accessibility issues and new regulations, as things are changing all the time." Dye also applauds the Board's efforts in developing outreach and education programs to raise awareness of disability issues in the City. Dye said an advisory board can serve an important role in a community by advocating for continued community involvement and investment in creating better accessibility.

The City of Lawrence has not created an official ADA advisory board, but instead works closely with a local access task force organized by Independence Inc., a nonprofit center supporting independent living for persons with disabilities. The City's ADA coordinator, Tammy Bennett, said the task force has been invaluable for advice on addressing case-specific accessibility issues.

In Bennett's opinion, an advisory group will be most effective if it represents diverse disabilities and associated needs. It is important to include members (disabled or not) who are passionate about advocating for accessibility and who understand a variety of needs and situations. An advisory board can be either an official appointed board or

just an informal group of passionate and informed citizens.

Conclusion

Make sure someone in your local government is familiar with the ADA requirements that fit your situation and that you have a plan in place for compliance. Forming an ADA advisory board is a best practice for staying current on local accessibility issues and regulations. Overall, a well-monitored self-evaluation, with ongoing, active citizen involvement serves as a demonstration of good faith to the community for compliance with the access requirements of the ADA, thereby reducing accessibility barriers and, hopefully, the number of grievances filed and negative results in lawsuits. ■

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Sources:

- ADA guide for Small Towns. <http://www.ada.gov/smtown.htm#anchor23806>.
- ADA and City Governments: Common Problems. <http://www.ada.gov/comprob.htm>.
- ADA Coordinator ToolKit. <http://www.dbtacnorthwest.org/tools/tool-kits/ada-coordinators>.
- ADA Best Practices Tool Kit for State and Local Governments. <http://www.ada.gov/pcatoolkit/toolkitmain.htm>.
- Tammy Bennett, City of Lawrence ADA Coordinator. Phone interview, June 18, 2012.
- Meryl Dye, City of Hutchinson ADA Coordinator. Phone Interview, June 22, 2012.