

Community Relations

Accommodating Individuals with Disabilities 1

Individuals with disabilities shall be provided an opportunity to participate in all school-sponsored services, programs, or activities and will not be subject to illegal discrimination.² When appropriate, the District may provide to persons with disabilities aids, benefits, or services that are separate or different from, but as effective as, those provided to others.³

The District will provide auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program, or activity.⁴

Each service, program, website, or activity operated in existing facilities shall be readily accessible to, and useable by, individuals with disabilities. New construction and alterations to facilities existing before January 26, 1992, will be accessible when viewed in their entirety.⁵

Commented [KAS1]: We added website to the policy to clarify that Title II of the ADA applies to websites. Even though the law has always included websites, websites have emerged into everyday life since this law was passed. Adding website to the policy is a way to inform the community that websites are included under Title II of the ADA. The website accessibility regulatory issues are discussed in the f/ns of this policy.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law controls this policy's content.

² The Americans with Disabilities Act (~~ADA~~) of 1990 (~~ADA~~), 42 U.S.C. §§12101 *et seq.* The ADA covers all state and local governments, including those that receive no federal financial assistance. Title II of the ADA specifically contains accessibility requirements, (42 U.S.C. §§12131 *et seq.*). Its nondiscrimination provision states: "[s]ubject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. §12132.

The ~~U.S. Department~~Dept. of Justice, through its Civil Rights Division, is the key agency responsible for enforcing Title II. The regulations implementing Title II are found at 28 C.F.R. Part 35. For a comprehensive compliance toolkit, see: www.ada.gov/pccatoolkit/chap1toolkit.htm. This policy contains only the basic elements of the ADA's requirements.

The ADA Amendments Act (ADAAA) significantly changed the ADA's definition of disability. (42 U.S.C. §12102). It did not, however, amend any provision in Title II regarding accessibility requirements. Consult the board attorney regarding the ADAAA's impact, if any, on the district's Title II accessibility obligations.

See f/n 2 in policy 2:260, *Uniform Grievance Procedure*. While the U.S. Dept. of Justice (DOJ) under President Obama's Administration proposed regulations for public accommodations of websites (set to be final in 2018), President Trump signed an executive order in early 2017 entitled *Reducing Regulation and Controlling Regulatory Costs*, which makes it highly unlikely that the DOJ will issue any website regulations during the Trump Administration's tenure. Consult the board attorney about procedures for the superintendent to perform his or her duties outlined below in f/ns 6 and 8.

The Ill. Environmental Barriers Act (410 ILCS 25/) and the Ill. Accessibility Code (71 Ill.Admin.Code Part 400) ensure that "all applicable buildings and facilities in the State of Illinois, are so designed, constructed, and/or altered to assure the safety and welfare of all members of society and to be readily accessible to, and useable by, environmentally limited persons." (71 Ill.Admin.Code §400.110). **Note:** The Ill. Environmental Barriers Act, as amended by P.A. 99-582, ~~eff. 1-1-17~~, deleted the term "environmentally limited person," which until then had been defined in 410 ILCS 25/3 as "a person with a disability or condition who is restricted in the use of the built environment." Press boxes that "are in bleachers that have points of entry at only one level, and the aggregate area of the press box is no more than 500 square feet" do not have to comply with the Accessibility Code. (105 ILCS 5/10-20.51). The Ill. High School Assoc. refers to a *press box* as a "space ... set aside to provide for news media representatives covering the [event], whether they be from newspapers, radio stations, commercial television stations and/or cable television stations."

³ 28 C.F.R. §35.130(b). If separate services or programs are provided, a district may not deny the individual an opportunity to participate in the regular programming unless the accommodation would alter the fundamental nature of the program. (28 C.F.R. §35.130(b)).

⁴ Districts must provide auxiliary aids and services to ensure that no disabled individual is excluded or treated differently than other individuals, unless the district can show that taking such steps would fundamentally alter the nature of the function, program, or meeting or would be an undue burden. (28 C.F.R. §§35.160 and 35.164). The term "auxiliary aids and services" includes qualified interpreters, assistive listening devices, note takers, and written materials for individuals with hearing impairments; for individuals with vision impairments, the term includes qualified readers, taped texts, and ~~Brailled~~Brailed or large print materials. (28 C.F.R. §35.104).

The Superintendent or designee is designated the Title II Coordinator and shall:⁶

1. Oversee the District's compliance efforts, recommend necessary modifications to the School Board, and maintain the District's final Title II self-evaluation document, update it to the extent necessary, and keep it available for public inspection for at least ~~3~~three years after its completion date.⁷
2. Institute plans to make information regarding Title II's protection available to any interested party.⁸

Individuals with disabilities should notify the Superintendent or Building Principal if they have a disability that will require special assistance or services and, if so, what services are required.⁹ This notification should occur as far in advance as possible of the school-sponsored function, program, or meeting.

Individuals with disabilities may allege a violation of this policy or federal law by reporting it to the Superintendent or designated Title II Coordinator, or by filing a grievance under the Uniform Grievance Procedure.¹⁰

LEGAL REF.: Americans with Disabilities Act, 42 U.S.C. §§12101 et seq. and 12131 et seq.; 28 C.F.R. Part 35.
Rehabilitation Act of 1973 §104, 29 U.S.C. §794 (2006).
105 ILCS 5/10-20.51.
410 ILCS 25/, Environmental Barriers Act.
71 Ill.Admin.Code Part 400, Illinois Accessibility Code.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 4:150 (Facility Management and Expansion Programs)

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⁵ This requirement applies to construction commenced after January 26, 1992, ~~(28 C.F.R. §35.151)~~. Compliance methods include: equipment redesign, reassignment of services to accessible buildings, assignment of aids to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities (a district is not required to make structural changes in existing facilities where other methods are effective in achieving compliance), and use of accessible rolling stock or other conveyances. ~~(28 C.F.R. §35.150)~~.

⁶ Each district having 50 or more full or part-time employees must designate at least one employee to coordinate its efforts to comply with Title II, including complaint investigations. ~~(28 C.F.R. §35.107)~~.

⁷ A written evaluation of district services, policies, and practices should have been completed by January 26, 1993. Interested people should have been allowed to submit comments during the evaluation process. The final self-evaluation document must be kept for at least three years, be available for public inspection, and include a list of individuals and organizations consulted, a description of areas examined and any problems identified, and a description of any modifications. The record retention requirement applies to only those districts having 50 or more full or part-time employees. While January 26, 1996, has passed, this information is kept in the policy as it is an affirmative obligation.

⁸ Each district must make information regarding the ADA's protection available to any interested party. ~~(28 C.F.R. §35.106)~~. For example, a simple notice can be included in school newspapers, program or performance announcements, and registration material.

⁹ The superintendent decides the appropriate response on a case-by-case basis.

¹⁰ Adoption of ~~the-a Uniform-uniform Grievance-grievance Procedure-procedure~~ fulfills the ADA's requirement that each district having 50 or more employees adopt and publish a grievance procedure providing for prompt and equitable resolution of any complaint.