

Executive Order No. 147

TO: All Departments and Agencies Under the Mayor

FROM: Michael B. Hancock, Mayor

DATE: October 5, 2020

SUBJECT: Compliance with and Implementation of the Americans with Disabilities Act

PURPOSE: This Executive Order reinforces the priority and importance of compliance with and implementation of the requirements of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 1201, et seq., as amended (“ADA”) among departments of the City and County of Denver (“City”).

- 1.0 **Applicable Authority:** The applicable authority relevant to the provisions and requirements of this Executive Order No. 147 are found in Sections 2.2.10 (A) & (C) of the Charter of the City.
- 2.0 **Mission:** Partner with city agencies to promote equal access to services, programs, and facilities by ensuring implementation and compliance with Title II of the ADA, and other local and federal laws affecting people with disabilities.
- 3.0 **Background:** The ADA is a comprehensive civil rights law enacted by Congress in 1990. It provides a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities in all areas of public life.

Title II of the ADA covers the programs, activities, and services of non-federal public entities. As local government, the City must comply with all requirements described in Title II of the ADA. Under the requirements of this title,

“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” (Department of Justice, ADA Title II Regulations, Subpart B § 35.130, General prohibitions against discrimination).

This prohibition of exclusion applies to both physical and programmatic accessibility, meaning that, for services, programs, and activities to accessible and non-discriminatory,

“A public entity may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible. A public entity's services, programs, or activities, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as “program accessibility,” applies to all existing facilities of a public entity” (ADA, Title II Technical Assistance Manual II-5.1000).

When choosing a method of providing program access, public entities are required to prioritize the method that results in the most integrated setting appropriate to encourage interaction among all users, including individuals with disabilities. Compliance with these requirements provides equality of opportunity.

“Individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services” (ADA, Title II Technical Assistance Manual II-3.3000).

- 3.1 **New construction.** Public entities are required to ensure that newly constructed public facilities are accessible (DOJ, 2010 ADA Standards for Accessible Design, Chapter 2, 201 Application, 201.1 Scope). This standard applies to all areas, including interior and exterior spaces, of new construction and elements provided at the sites. In rare circumstances where incorporation of accessibility features is “structurally impracticable” in new construction, full compliance is not required, but public entities must fully demonstrate and document the applicable accessibility standards that are structurally impracticable to meet.
- 3.2 **Alterations to existing facilities.** Alterations to existing public facilities that affect or could affect the usability of a public facility should be undertaken in such a manner that accessibility is ensured to the maximum extent feasible. The phrase “to the maximum extent feasible” applies where the nature of an existing public facility makes it virtually impossible for a planned alteration to comply fully with applicable accessibility standards. These specific alterations should then aim to provide the maximum physical accessibility feasible.
- 3.3 **Self-evaluations.** Self-evaluations and transition plans are legislatively required documents under ADA Title II that provide a framework for the continuous improvement of a public entity’s programs and facilities for people with disabilities. These should be living documents that are regularly updated as programs and services change, barriers are removed, new facilities are built, and existing facilities are altered.

Self-evaluations must: 1) evaluate all services, policies, procedures, and practices offered by a public entity; 2) identify and provide recommendations for modifications that govern administration of the public entity’s services, policies, and practices; and 3) involve people with disabilities in the self-evaluation process (Department of Justice, ADA Title II Regulations Subpart A § 35.105 Self-evaluation).
- 3.4 **Transition plans.** Transition plans are designed to outline a strategy for remediation of barriers identified in self-evaluations. Transition plans must: 1) identify barriers and feasible solutions to each barrier; 2) establish a timeline for removing barriers; 3) identify the person responsible for title II compliance; and 4) involve people with disabilities in the preparation of the Plan (Department of Justice, ADA Title II Regulations Subpart D § 35.150(d) Transition plan).
- 3.5 **Reasonable accommodations.** In order to provide individuals with disabilities an equally effective opportunity to participate in or benefit from the programs, activities, and

services of the City, it may be necessary to provide accommodations to individuals with disabilities:

“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” (Department of Justice, ADA Title II Regulations Subpart B § 35.130, General prohibitions against discrimination).

- 4.0 **Director:** The Division of Disability Rights (“DDR”) is the City division tasked with ensuring compliance with and implementation of Title II of the ADA. The DDR shall be headed by a Director, serving as a Career Service Authority employee under the Agency for Human Rights and Community Partnerships (“HRCP”).
- 5.0 **Agency/Departmental Liaisons:** Each City agency/department will designate at least one existing staff member as its ADA Liaison. Liaisons will periodically report to DDR for the purposes of training, data collection and tracking, and City-wide reporting.
- 6.0 **Responsibilities:** The DDR shall coordinate on behalf of the City the efforts of agencies and departments to meet its obligations under all settlement agreements and consent decrees involving the City under Title II of the ADA (collectively, “Settlement Agreements”). The DDR shall provide:
 - 6.1 **Technical Guidance.** Provide technical guidance on various accessibility standards to other City agencies and departments.
 - 6.2 **Policies and Procedures.** Implement and propose changes to policies and procedures on a City-wide basis to ensure equitable access for people with disabilities.
 - 6.3 **Implementation.** Assist agencies and departments with meeting the City’s obligations. The DDR will manage, track, and provide reports relative to the budget for all Settlement Agreements.
 - 6.4 **Program and Project Management.** Provide technical guidance on various accessibility standards of all projects, including all reporting and communication related to Title II ADA Settlement Agreements, improvement of existing facilities, and modifications of existing programs, services, and activities.
 - 6.5 **Partner Relationships.** Work with community partners to identify allocated needs, responsibilities, and opportunities among the City and its partners to accomplish the goals of Title II of the ADA within the City.
 - 6.6 **Program Communication and Community Outreach.** Lead the City’s efforts to provide information and outreach to community partners, interested members of the general public, and other stakeholders.

6.7 Leadership. Guide the City and its departments and agencies through the critical path items to ensure the City fulfills its obligations under Title II ADA including all obligations resulting from Settlement Agreements, as well as City-wide compliance, including but not limited to:

6.7.1 Self-evaluation and Transition Plan. Overseeing the development and management of the City's self-evaluation and transition plan, as well as compliance reviews related to Title II of the ADA.

6.7.2. Grievances. Providing oversight of the City's grievance and modification request procedures pursuant to Title II of the ADA.

6.7.3 Oversight and Training of Agency/Departmental ADA Liaisons. The DDR will work closely with identified ADA Liaisons to provide resources and training to their respective agencies and departments. The ADA Liaisons will: 1) respond to requests for modifications or complaints directed to their agency or department; 2) provide resources and guidance to staff in their agency or department; 3) provide technical expertise where appropriate; and 4) periodically document and report efforts to the DDR.

7.0 **Duration:** The DDR by Executive Order will continue until the rescission of this Executive Order and shall not automatically terminate.

8.0 **Cooperation:** All City agencies and departments under the Mayor shall cooperate with the DDR in accomplishing the goals and responsibilities outlined in this Executive Order.

9.0 **Memorandum Attachments:** The procedures for implementing this Executive Order may be defined by Memorandum Attachments to the Executive Order which shall become part of the Executive Order.

Executive Order No. 147 is:

Approved for Legality:

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Kristin M. Bronson
City Attorney

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Michael B. Hancock
Mayor

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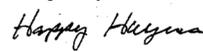
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Kim Day
Executive Director of Aviation

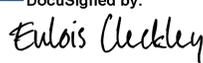
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Brandon Gainey
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Murphy Robinson
Executive Director of Safety

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Don Mares
Executive Director of Human Services

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Laura E. Aldrete
Executive Director of Community Planning
and Development

MEMORANDUM No. 147A

TO: All Departments and Agencies Under the Mayor

FROM: Mayor Michael B. Hancock, Mayor

DATE: October 5, 2020

SUBJECT: Agency/Departmental ADA Liaisons

This Memorandum No. 147A shall be attached to and become a part of Executive Order No. 147, dated October 5, subject "Compliance with and Implementation of the Americans with Disabilities Act." Executive Order No. 147 establishes the requirement that all City agencies or departments will designate at least one existing staff member as an ADA Liaison, to serve as point person in engaging with the Division of Disability Rights efforts to ensure ADA Title II compliance.

1. ADA Liaison qualifications: The designated ADA Liaison should be someone who is sufficiently familiar with the operations of the agency/department to understand the impact of ADA guidance, familiar with the roles and responsibilities of agency staff, and invested with an appropriate level of authority to provide guidance and implement decisions.
2. The Division of Disability Rights will work closely with identified ADA Liaisons to provide resources and training to their respective agencies and departments. The ADA Liaisons will:
 - a. Serve as the point person within their agency or department to engage with the Division of Disability Rights;
 - b. provide resources and guidance to staff in their agency or department;
 - c. provide technical expertise to the Division of Disability Rights where appropriate; and
 - d. periodically document and report efforts to the Division of Disability Rights.
3. The Division of Disability Rights will provide training for all newly identified ADA Liaisons and annual supplemental training for all continuing ADA Liaisons who have completed the initial training course. Training will be a mix of individual and group training, depending upon need, availability, and turnover. Training may either be provided in-person or virtually. Training will consist of elements such as: ADA Liaison role, responsibilities, and expectations, Etiquette training, Person-first language utilization, Service animal FAQ, Title II of the ADA requirements.