

**Accessibility Analysis,  
ADA Title II Self-evaluation,  
& Transition Plan**

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# Village of Oak Park

## Accessibility Analysis, ADA Title II Self-evaluation, & Transition Plan

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### 1. SCOPE

The scope of this analysis is to understand the basics of accessibility regulations and to provide an explanation of how the Village of Oak Park manages accessibility as it relates to existing environments and newly created environments.

Also pursuant to Americans with Disabilities Act Title II Regulations this document is also considered our overall Village evaluation.

# NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 ("ADA"), the **Village of Oak Park** will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

**Employment:** **Village of Oak Park** does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

**Effective Communication:** **Village of Oak Park** will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in **Village of Oak Park's** programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

**Modifications to Policies and Procedures:** **Village of Oak Park** will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in **Village of Oak Park** offices, even where pets are generally prohibited.

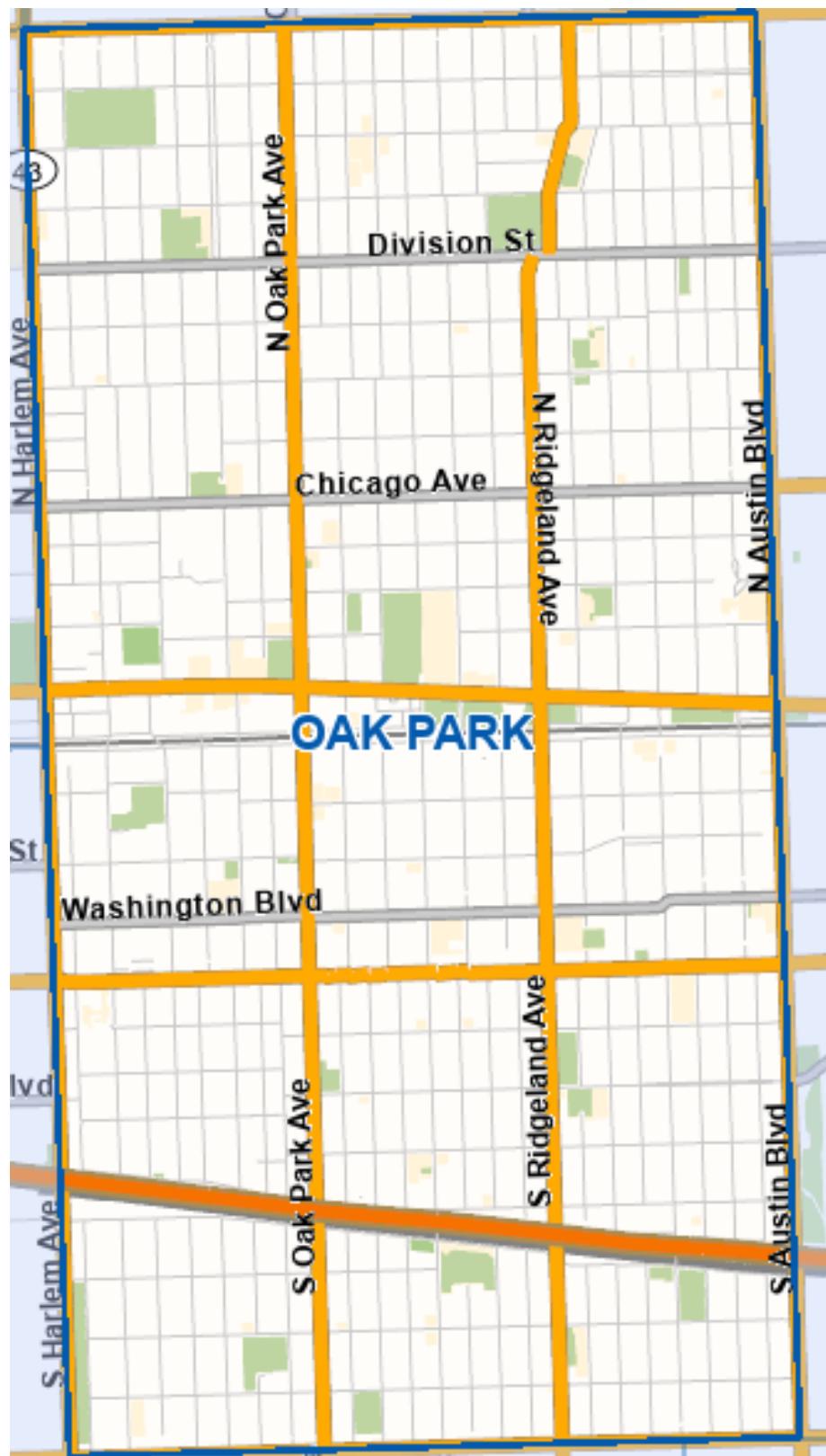
Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of **Village of Oak Park**, should contact the office of **Chief Building Official** as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the **Village of Oak Park** to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of **Village of Oak Park** is not accessible to persons with disabilities should be directed to **Chief Building Official at 708-383-6400.**

**Village of Oak Park** will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

Village of Oak Park MAP



# Village of Oak Park

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### 2. PURPOSE

The Village of Oak Park does not discriminate. The purpose of this analysis is to document and formalize the format, policy, and procedure of how the Village of Oak Park oversees and addresses accessibility and/or lack of. This analysis shall provide the Village of Oak Park staff and/or The Village of Oak Park -Disability Access Commission an opportunity to ensure The Village of Oak Park provides a more accessible environment.

As mandated by the federal government, staff has prepared a self-evaluation of barriers on Village properties and a transition plan on how and when the barriers will be removed.

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### 3. ADA STANDARDS-Title II Regulations

#### a. General Requirements & Authority

- The Village of Oak Park has a population greater than 50,000, therefore as mandated by Article II is required to establish an ADA Coordinator.
- The Village of Oak Park has designated the ADA Coordinator as the Chief Building Official. This gives the staff and public one individual to address when an accessibility question or issue arises.
  - Note: The Fire Department, Human Resources, and Police have their own training and ADA responsibilities.
- The ADA Coordinator has a direct e-mail at [ADACoordinator@oak-park.us](mailto:ADACoordinator@oak-park.us).
- The ADA Coordinator has a direct phone number which is 708-358-5432

Note: The Village of Oak Park does not have the authority over the Library District, Park District, Metra Station(s), and/or CTA Station(s).

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### ADA STANDARDS-Title II Regulations

#### b. Programs & Services

- All videoed public meetings shall have closed captioning.
- All public meetings shall be accessible. Accessibility assistance is offered for each public meeting.
  - All meeting notices/agendas shall have the following required notice;
  - *If you require assistance to participate in any Village program or activity, contact the ADA Coordinator at 708.358.5430 or e-mail [ADACoordinator@oak-park.us](mailto:ADACoordinator@oak-park.us) at least 48 hours before the scheduled activity.*

# Village of Oak Park

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### ADA STANDARDS-Title II Regulations

#### c. Grievance Policy

- i. The ADA Coordinator had established a grievance policy. This policy has established a procedure on how staff addresses accessibility violations, see below.

*The Chief Building Official is the designated ADA Coordinator. The Ada Coordinator shall receive ADA related complaints. The ADA Coordinator or designee shall investigate each complaint in a timely manner. Since each complaint is different and both the State and Federal accessibility codes are unfunded mandates the complaints are often forwarded to the Illinois States Attorney's Office should the situation cannot be addressed through the municipal level*

#### ***Village of Oak Park-Grievance Procedure under the Americans with Disabilities Act***

*This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the **Village of Oak Park**. The Village of Oak Park, Illinois's Personnel Policy governs employment-related complaints of disability discrimination.*

*The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.*

*The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:*

***Chief Building Official, 123 Madison Street, Oak Park Illinois 60302***

*Within 15 calendar days after receipt of the complaint, **The Chief Building Official** will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, **The Chief Building Official** designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the **Village of Oak Park** and offer options for substantive resolution of the complaint.*

*If the response by **The Chief Building Official** does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the **DCS Director, and/or Village Manager**.*

*Within 15 calendar days after receipt of the appeal, the **[City Manager/County Commissioner/ other appropriate high-level official]** or **[his/her]** designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the **DCS Director, and/or Village Manager** will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.*

*All written complaints received by **The Chief Building Official** appeals to the **DCS Director, and/or Village Manager**, and responses from these two offices will be retained by the **Village of Oak Park** for at least three years.*

## Village of Oak Park

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#### ADA STANDARDS-Title II Regulations

##### e. Web Page

- ii. The Village of Oak Park shall have a completely accessible web page. The Communication Department is adamant on maintaining a complete accessible web page.

## Village of Oak Park

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#### ADA STANDARDS-Title II Regulations

##### f. 911 REGISTRY

If you know of any residents with special needs that should be considered in an emergency please urge them to register with the Village to ensure first responders are aware when dispatched via a 911 call. Knowing that they are being dispatched to a home where someone may have a hearing or visual impairment, mobility limitation, cognitive impairment or uses an electrically powered medical device could prove vital to emergency medical personnel. Residents or their caregivers can register confidentially online at [www.oak-park.us/911registry](http://www.oak-park.us/911registry). A form also is available via email to [prepare@oak-park.us](mailto:prepare@oak-park.us) or by calling 708.358.5488.

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#### ADA STANDARDS-Title II Regulations

##### h. Parking Accommodation

It shall be the Village of Oak Park policy to accommodate accessible in specific parking locations as requested.

# Village of Oak Park

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### ADA STANDARDS-Title II Regulations

#### g-ADA Title II

### **Part 35 Nondiscrimination on the Basis of Disability in State and Local Government Services (as amended by the final rule published on August 11, 2016)**

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; 42 U.S.C. 12134, **12131, and 12205a**.

#### **Subpart A—General**

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##### **§ 35.101 Purpose and broad coverage.**

(a) *Purpose.* The purpose of this part is to **implement** subtitle A of title II of the Americans with Disabilities Act of 1990 (42 U.S. C. 12131–12134), **as amended by the ADA Amendments Act of 2008 (ADA Amendments Act) (Public Law 110–325, 122 Stat. 3553 (2008))**, which prohibits discrimination on the basis of disability by public entities.

(b) *Broad coverage.* The primary purpose of the ADA Amendments Act is to make it easier for people with disabilities to obtain protection under the ADA. Consistent with the ADA Amendments Act's purpose of reinstating a broad scope of protection under the ADA, the definition of "disability" in this part shall be construed broadly in favor of expansive coverage to the maximum extent permitted by the terms of the ADA. The primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations and whether discrimination has occurred, not whether the individual meets the definition of disability. The question of whether an individual meets the definition of disability under this part should not demand extensive analysis.

##### **§ 35.102 Application.**

- (a) Except as provided in paragraph (b) of this section, this part applies to all services, programs, and activities provided or made available by public entities.
- (b) To the extent that public transportation services, programs, and activities of public entities are covered by subtitle B of title II of the ADA, they are not subject to the requirements of this part.

##### **§ 35.103 Relationship to other laws.**

- (a) *Rule of interpretation.* Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the

Rehabilitation Act of 1973 or the regulations issued by Federal agencies pursuant to that title.

- (b) *Other laws.* This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws, or State or local laws (including State common law) that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

#### **§ 35.104 Definitions.**

For purposes of this part, the term—

*1991 Standards* means the requirements set forth in the ADA Standards for Accessible Design, originally published on July 26, 1991, and republished as Appendix D to 28 CFR part 36.

*2004 ADAAG* means the requirements set forth in appendices B and D to 36 CFR part 1191 (2009).

*2010 Standards* means the 2010 ADA Standards for Accessible Design, which consist of the 2004 ADAAG and the requirements contained in § 35.151.

*Act* means the Americans with Disabilities Act (Pub. L. 101-336, 104 Stat. 327, 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611).

*Assistant Attorney General* means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

*Auxiliary aids and services* include—

- (1) Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
- (2) Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
- (3) Acquisition or modification of equipment or devices; and
- (4) Other similar services and actions.

*Complete complaint* means a written statement that contains the complainant's name and address and describes the public entity's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of this part. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

*Current illegal use of drugs* means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

*Designated agency* means the Federal agency designated under subpart G of this part to oversee compliance activities under this part for particular components of State and local governments.

*Direct threat* means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided in § 35.139.

***Disability. The definition of disability can be found at § 35.108.***

*Drug* means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

*Existing facility* means a facility in existence on any given date, without regard to whether the facility may also be considered newly constructed or altered under this part.

*Facility* means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

*Historic preservation programs* means programs conducted by a public entity that have preservation of historic properties as a primary purpose.

*Historic properties* means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under State or local law.

*Housing at a place of education* means housing operated by or on behalf of an elementary, secondary, undergraduate, or postgraduate school, or other place of education, including dormitories, suites, apartments, or other places of residence.

*Illegal use of drugs* means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term illegal use of drugs does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

*Individual with a disability* means a person who has a disability. The term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use.

*Other power-driven mobility device* means any mobility device powered by batteries, fuel, or other engines—whether or not designed primarily for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this section. This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207(c)(2).

*Public entity* means—

- (1) Any State or local government;
- (2) Any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
- (3) The National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

*Qualified individual with a disability* means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

*Qualified interpreter* means an interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators.

*Qualified reader* means a person who is able to read effectively, accurately, and impartially using any necessary specialized vocabulary.

*Section 504* means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794), as amended.

*Service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of

emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

*State* means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

*Video remote interpreting (VRI) service* means an interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video images as provided in § 35.160(d).

*Wheelchair* means a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor locomotion. This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207 (c)(2).

### **§ 35.105 Self-evaluation.**

- (a) 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.
- (b) 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.
- (c) 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.
- (d) If a public entity has already complied with the self-evaluation requirement of a regulation implementing section 504 of the Rehabilitation Act of 1973, then the requirements of this section shall apply only to those policies and practices that were not included in the previous self-evaluation.

### **§ 35.106 Notice**

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.

### **§ 35.107 Designation of responsible employee and adoption of grievance procedures**

- (a) *Designation of responsible employee.* 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.
- (b) *Complaint procedure.* 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.

## § 35.108 Definition of disability

(a)

(1) ***Disability* means, with respect to an individual:**

- (i) **A physical or mental impairment that substantially limits one or more of the major life activities of such individual;**
- (ii) **A record of such an impairment; or**
- (iii) **Being regarded as having such an impairment as described in paragraph (f) of this section.**

(2) ***Rules of construction.***

- (i) **The definition of “disability” shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA.**
- (ii) **An individual may establish coverage under any one or more of the three prongs of the definition of “disability” in paragraph (a)(1) of this section, the “actual disability” prong in paragraph (a)(1)(i) of this section, the “record of” prong in paragraph (a)(1)(ii) of this section, or the “regarded as” prong in paragraph (a)(1)(iii) of this section.**
- (iii) **Where an individual is not challenging a public entity’s failure to provide reasonable modifications under § 35.130(b)(7), it is generally unnecessary to proceed under the “actual disability” or “record of” prongs, which require a showing of an impairment that substantially limits a major life activity or a record of such an impairment. In these cases, the evaluation of coverage can be made solely under the “regarded as” prong of the definition of disability, which does not require a showing of an impairment that substantially limits a major life activity or a record of such an impairment. An individual may choose, however, to proceed under the “actual disability” or “record of” prong regardless of whether the individual is challenging a public entity’s failure to provide reasonable modifications.**

(b)

(1) ***Physical or mental impairment* means:**

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or

(ii) Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.

(2) *Physical or mental impairment* includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

(3) *Physical or mental impairment* does not include homosexuality or bisexuality.

(c)

(1) *Major life activities* include, but are not limited to:

(i) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, writing, communicating, interacting with others, and working; and

(ii) The operation of a *major bodily function*, such as the functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive systems. The operation of a major bodily function includes the operation of an individual organ within a body system.

(2) *Rules of construction.*

(i) In determining whether an impairment substantially limits a major life activity, the term *major* shall not be interpreted strictly to create a demanding standard.

(ii) Whether an activity is a *major life activity* is not determined by reference to whether it is of *central* importance to daily life.

(d) *Substantially limits.*

(1) *Rules of construction.* The following rules of construction apply when determining whether an impairment substantially limits an individual in a major life activity.

(i) The term “substantially limits” shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. “Substantially limits” is not meant to be a demanding standard.

- (ii) The primary object of attention in cases brought under title II of the ADA should be whether public entities have complied with their obligations and whether discrimination has occurred, not the extent to which an individual's impairment substantially limits a major life activity. Accordingly, the threshold issue of whether an impairment substantially limits a major life activity should not demand extensive analysis.
- (iii) An impairment that substantially limits one major life activity does not need to limit other major life activities in order to be considered a substantially limiting impairment.
- (iv) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
- (v) An impairment is a disability within the meaning of this part if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. An impairment does not need to prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting. Nonetheless, not every impairment will constitute a disability within the meaning of this section.
- (vi) The determination of whether an impairment substantially limits a major life activity requires an individualized assessment. However, in making this assessment, the term "substantially limits" shall be interpreted and applied to require a degree of functional limitation that is lower than the standard for substantially limits applied prior to the ADA Amendments Act.
- (vii) The comparison of an individual's performance of a major life activity to the performance of the same major life activity by most people in the general population usually will not require scientific, medical, or statistical evidence. Nothing in this paragraph (d)(1) is intended, however, to prohibit or limit the presentation of scientific, medical, or statistical evidence in making such a comparison where appropriate.
- (viii) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures. However, the ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses or contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.
- (ix) The six-month "transitory" part of the "transitory and minor" exception in paragraph (f)(2) of this section does not apply to the "actual disability" or "record of" prongs of the definition of "disability." The effects of an impairment lasting or expected to last less than six months can be substantially limiting within the meaning of this section for establishing an actual disability or a record of a disability.

**(2) *Predictable assessments.***

- (i) The principles set forth in the rules of construction in this section are intended to provide for more generous coverage and application of the ADA's prohibition on

discrimination through a framework that is predictable, consistent, and workable for all individuals and entities with rights and responsibilities under the ADA.

(ii) Applying these principles, the individualized assessment of some types of impairments will, in virtually all cases, result in a determination of coverage under paragraph (a)(1)(i) of this section (the “actual disability” prong) or paragraph (a)(1)(ii) of this section (the “record of” prong). Given their inherent nature, these types of impairments will, as a factual matter, virtually always be found to impose a substantial limitation on a major life activity. Therefore, with respect to these types of impairments, the necessary individualized assessment should be particularly simple and straightforward.

(iii) For example, applying these principles it should easily be concluded that the types of impairments set forth in paragraphs (d)(2)(iii)(A) through (K) of this section will, at a minimum, substantially limit the major life activities indicated. The types of impairments described in this paragraph may substantially limit additional major life activities (including major bodily functions) not explicitly listed in paragraphs (d)(2)(iii)(A) through (K).

- (A) Deafness substantially limits hearing;
- (B) Blindness substantially limits seeing;
- (C) Intellectual disability substantially limits brain function;
- (D) Partially or completely missing limbs or mobility impairments requiring the use of a wheelchair substantially limit musculoskeletal function;
- (E) Autism substantially limits brain function;
- (F) Cancer substantially limits normal cell growth;
- (G) Cerebral palsy substantially limits brain function;
- (H) Diabetes substantially limits endocrine function;
- (I) Epilepsy, muscular dystrophy, and multiple sclerosis each substantially limits neurological function;
- (J) Human Immunodeficiency Virus (HIV) infection substantially limits immune function; and
- (K) Major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia each substantially limits brain function.

(3) *Condition, manner, or duration.*

- (i) At all times taking into account the principles set forth in the rules of construction, in determining whether an individual is substantially limited in a major life activity, it may be

useful in appropriate cases to consider, as compared to most people in the general population, the conditions under which the individual performs the major life activity; the manner in which the individual performs the major life activity; or the duration of time it takes the individual to perform the major life activity, or for which the individual can perform the major life activity.

- (ii) Consideration of facts such as condition, manner, or duration may include, among other things, consideration of the difficulty, effort or time required to perform a major life activity; pain experienced when performing a major life activity; the length of time a major life activity can be performed; or the way an impairment affects the operation of a major bodily function. In addition, the non-ameliorative effects of mitigating measures, such as negative side effects of medication or burdens associated with following a particular treatment regimen, may be considered when determining whether an individual's impairment substantially limits a major life activity.
- (iii) In determining whether an individual has a disability under the "actual disability" or "record of" prongs of the definition of "disability," the focus is on how a major life activity is substantially limited, and not on what outcomes an individual can achieve. For example, someone with a learning disability may achieve a high level of academic success, but may nevertheless be substantially limited in one or more major life activities, including, but not limited to, reading, writing, speaking, or learning because of the additional time or effort he or she must spend to read, write, speak, or learn compared to most people in the general population.
- (iv) Given the rules of construction set forth in this section, it may often be unnecessary to conduct an analysis involving most or all of the facts related to condition, manner, or duration. This is particularly true with respect to impairments such as those described in paragraph (d)(2)(iii) of this section, which by their inherent nature should be easily found to impose a substantial limitation on a major life activity, and for which the individualized assessment should be particularly simple and straightforward.

**(4) *Mitigating measures* include, but are not limited to:**

- (i) Medication, medical supplies, equipment, appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, and oxygen therapy equipment and supplies;
- (ii) Use of assistive technology;
- (iii) Reasonable modifications or auxiliary aids or services as defined in this regulation;
- (iv) Learned behavioral or adaptive neurological modifications; or
- (v) Psychotherapy, behavioral therapy, or physical therapy.

**(e) *Has a record of such an impairment.***

(1) An individual has a record of such an impairment if the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(2) *Broad construction.* Whether an individual has a record of an impairment that substantially limited a major life activity shall be construed broadly to the maximum extent permitted by the ADA and should not demand extensive analysis. An individual will be considered to fall within this prong of the definition of “disability” if the individual has a history of an impairment that substantially limited one or more major life activities when compared to most people in the general population, or was misclassified as having had such an impairment. In determining whether an impairment substantially limited a major life activity, the principles articulated in paragraph (d)(1) of this section apply.

(3) *Reasonable modification.* An individual with a record of a substantially limiting impairment may be entitled to a reasonable modification if needed and related to the past disability.

(f) *Is regarded as having such an impairment.* The following principles apply under the “regarded” as prong of the definition of “disability” (paragraph (a)(1)(iii) of this section):

(1) Except as set forth in paragraph (f)(2) of this section, an individual is “regarded as having such an impairment” if the individual is subjected to a prohibited action because of an actual or perceived physical or mental impairment, whether or not that impairment substantially limits, or is perceived to substantially limit, a major life activity, even if the public entity asserts, or may or does ultimately establish, a defense to the action prohibited by the ADA.

(2) An individual is not “regarded as having such an impairment” if the public entity demonstrates that the impairment is, objectively, both “transitory” and “minor.” A public entity may not defeat “regarded as” coverage of an individual simply by demonstrating that it subjectively believed the impairment was transitory and minor; rather, the public entity must demonstrate that the impairment is (in the case of an actual impairment) or would be (in the case of a perceived impairment), objectively, both “transitory” and “minor.” For purposes of this section, “transitory” is defined as lasting or expected to last six months or less.

(3) Establishing that an individual is “regarded as having such an impairment” does not, by itself, establish liability. Liability is established under title II of the ADA only when an individual proves that a public entity discriminated on the basis of disability within the meaning of title II of the ADA, 42 U.S.C. 12131–12134.

(g) *Exclusions.* The term “disability” does not include—

(1) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) Compulsive gambling, kleptomania, or pyromania; or

(3) Psychoactive substance use disorders resulting from current illegal use of drugs.

**Subpart B—General Requirements**

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**§ 35.130 General prohibitions against discrimination**

- (a) 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.
- (b)
  - (1) A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—
    - (i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
    - (ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
    - (iii) Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
    - (iv) Provide different or separate aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aids, benefits, or services that are as effective as those provided to others;
    - (v) Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the public entity's program;
    - (vi) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;
    - (vii) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.
  - (2) A public entity may not deny a qualified individual with a disability the opportunity to participate in services, programs, or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

- (3) A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration—
  - (i) That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;
  - (ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's program with respect to individuals with disabilities; or
  - (iii) That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control or are agencies of the same State.
- (4) A public entity may not, in determining the site or location of a facility, make selections—
  - (i) That have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or
  - (ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.
- (5) A public entity, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.
- (6) A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. The programs or activities of entities that are licensed or certified by a public entity are not, themselves, covered by this part.
- (7)
  - **(i)** 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.
  - **(ii) A public entity is not required to provide a reasonable modification to an individual who meets the definition of “disability” solely under the “regarded as” prong of the definition of disability at § 35.108(a)(1)(iii).**
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- (8) 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.

- (c) Nothing in this part prohibits a public entity from providing benefits, services, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities beyond those required by this part.
- (d) A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
- (e)
  - (1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit provided under the ADA or this part which such individual chooses not to accept.
  - (2) Nothing in the Act or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.
- (f) A public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the Act or this part.
- (g) A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.
- (h) A public entity may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities. However, the public entity must ensure that its safety requirements are based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities.
- **(i) Nothing in this part shall provide the basis for a claim that an individual without a disability was subject to discrimination because of a lack of disability, including a claim that an individual with a disability was granted a reasonable modification that was denied to an individual without a disability.**
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## § 35.131 Illegal use of drugs

- (a) *General.*
  - (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.
  - (2) A public entity shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who—
    - (i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

- (ii) Is participating in a supervised rehabilitation program; or
  - (iii) Is erroneously regarded as engaging in such use.
- (b) *Health and drug rehabilitation services.*
  - (1) A public entity shall not deny health services, or services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.
  - (2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.
- (c) *Drug testing.*
  - (1) This part does not prohibit a public entity from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.
  - (2) Nothing in paragraph (c) of this section shall be construed to encourage, prohibit, restrict, or authorize the conduct of testing for the illegal use of drugs.

### **§ 35.132 Smoking**

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in transportation covered by this part.

### **§ 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.

### **§ 35.134 Retaliation or coercion**

- (a) No private or public entity shall discriminate against any individual because that individual has opposed any act or practice made unlawful by this part, or because that individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the Act or this part.
- (b) No private or public entity shall coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or

enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the Act or this part.

## § 35.135 Personal devices and services

This part does not require a public entity to provide to individuals with disabilities personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing.

## § 35.136 Service animals

- (a) *General.* Generally, a public entity shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.
- (b) *Exceptions.* A public entity may ask an individual with a disability to remove a service animal from the premises if—
  - (1) The animal is out of control and the animal's handler does not take effective action to control it; or
  - (2) The animal is not housebroken.
- (c) *If an animal is properly excluded.* If a public entity properly excludes a service animal under § 35.136(b), it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.
- (d) *Animal under handler's control.* A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).
- (e) *Care or supervision.* A public entity is not responsible for the care or supervision of a service animal.
- (f) *Inquiries.* A public entity shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public entity may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, a public entity may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).
- (g) *Access to areas of a public entity.* Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a public entity's facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go.

- (h) *Surcharges*. A public entity shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If a public entity normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.
- (i) *Miniature horses*.
  - (1) *Reasonable modifications*. A public entity shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.
  - (2) *Assessment factors*. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a public entity shall consider—
    - (i) The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
    - (ii) Whether the handler has sufficient control of the miniature horse;
    - (iii) Whether the miniature horse is housebroken; and
    - (iv) Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.
  - (3) *Other requirements*. Paragraphs 35.136 (c) through (h) of this section, which apply to service animals, shall also apply to miniature horses.

### § 35.137 Mobility devices.

- (a) *Use of wheelchairs and manually-powered mobility aids*. A public entity shall permit individuals with mobility disabilities to use wheelchairs and manually-powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities in any areas open to pedestrian use.
- (b)
  - (1) *Use of other power-driven mobility devices*. A public entity shall make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the public entity can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the public entity has adopted pursuant to § 35.130(h).
  - (2) *Assessment factors*. In determining whether a particular other power-driven mobility device can be allowed in a specific facility as a reasonable modification under paragraph (b)(1) of this section, a public entity shall consider—
    - (i) The type, size, weight, dimensions, and speed of the device;

- (ii) The facility's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
- (iii) The facility's design and operational characteristics (e.g., whether its service, program, or activity is conducted indoors, its square footage, the density and placement of stationary devices, and the availability of storage for the device, if requested by the user);
- (iv) Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and
- (v) Whether the use of the other power-driven mobility device creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with Federal land management laws and regulations.

- (c)
  - (1) *Inquiry about disability.* A public entity shall not ask an individual using a wheelchair or other power-driven mobility device questions about the nature and extent of the individual's disability.
  - (2) *Inquiry into use of other power-driven mobility device.* A public entity may ask a person using an other power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability. A public entity that permits the use of an other power-driven mobility device by an individual with a mobility disability shall accept the presentation of a valid, State-issued, disability parking placard or card, or other State-issued proof of disability as a credible assurance that the use of the other power-driven mobility device is for the individual's mobility disability. In lieu of a valid, State-issued disability parking placard or card, or State-issued proof of disability, a public entity shall accept as a credible assurance a verbal representation, not contradicted by observable fact, that the other power-driven mobility device is being used for a mobility disability. A "valid" disability placard or card is one that is presented by the individual to whom it was issued and is otherwise in compliance with the State of issuance's requirements for disability placards or cards.

## § 35.138 Ticketing

- (a)
  - (1) For the purposes of this section, "accessible seating" is defined as wheelchair spaces and companion seats that comply with sections 221 and 802 of the 2010 Standards along with any other seats required to be offered for sale to the individual with a disability pursuant to paragraph (d) of this section.
  - (2) *Ticket sales.* A public entity that sells tickets for a single event or series of events shall modify its policies, practices, or procedures to ensure that individuals with disabilities have an equal opportunity to purchase tickets for accessible seating—

- (i) During the same hours;
  - (ii) During the same stages of ticket sales, including, but not limited to, pre-sales, promotions, lotteries, wait-lists, and general sales;
  - (iii) Through the same methods of distribution;
  - (iv) In the same types and numbers of ticketing sales outlets, including telephone service, in-person ticket sales at the facility, or third-party ticketing services, as other patrons; and
  - (v) Under the same terms and conditions as other tickets sold for the same event or series of events.
- (b) *Identification of available accessible seating.* A public entity that sells or distributes tickets for a single event or series of events shall, upon inquiry—
  - (1) Inform individuals with disabilities, their companions, and third parties purchasing tickets for accessible seating on behalf of individuals with disabilities of the locations of all unsold or otherwise available accessible seating for any ticketed event or events at the facility;
  - (2) Identify and describe the features of available accessible seating in enough detail to reasonably permit an individual with a disability to assess independently whether a given accessible seating location meets his or her accessibility needs; and
  - (3) Provide materials, such as seating maps, plans, brochures, pricing charts, or other information, that identify accessible seating and information relevant thereto with the same text or visual representations as other seats, if such materials are provided to the general public.
- (c) *Ticket prices.* The price of tickets for accessible seating for a single event or series of events shall not be set higher than the price for other tickets in the same seating section for the same event or series of events. Tickets for accessible seating must be made available at all price levels for every event or series of events. If tickets for accessible seating at a particular price level are not available because of inaccessible features, then the percentage of tickets for accessible seating that should have been available at that price level (determined by the ratio of the total number of tickets at that price level to the total number of tickets in the assembly area) shall be offered for purchase, at that price level, in a nearby or similar accessible location.
- (d) *Purchasing multiple tickets.*
  - (1) *General.* For each ticket for a wheelchair space purchased by an individual with a disability or a third-party purchasing such a ticket at his or her request, a public entity shall make available for purchase three additional tickets for seats in the same row that are contiguous with the wheelchair space, provided that at the time of purchase there are three such seats available. A public entity is not required to provide more than three contiguous seats for each wheelchair space. Such seats may include wheelchair spaces.
  - (2) *Insufficient additional contiguous seats available.* If patrons are allowed to purchase at least four tickets, and there are fewer than three such additional contiguous seat tickets available for purchase, a public entity shall offer the

next highest number of such seat tickets available for purchase and shall make up the difference by offering tickets for sale for seats that are as close as possible to the accessible seats.

- (3) *Sales limited to less than four tickets.* If a public entity limits sales of tickets to fewer than four seats per patron, then the public entity is only obligated to offer as many seats to patrons with disabilities, including the ticket for the wheelchair space, as it would offer to patrons without disabilities.
- (4) *Maximum number of tickets patrons may purchase exceeds four.* If patrons are allowed to purchase more than four tickets, a public entity shall allow patrons with disabilities to purchase up to the same number of tickets, including the ticket for the wheelchair space.
- (5) *Group sales.* If a group includes one or more individuals who need to use accessible seating because of a mobility disability or because their disability requires the use of the accessible features that are provided in accessible seating, the group shall be placed in a seating area with accessible seating so that, if possible, the group can sit together. If it is necessary to divide the group, it should be divided so that the individuals in the group who use wheelchairs are not isolated from their group.

- (e) *Hold-and-release of tickets for accessible seating.*
  - (1) *Tickets for accessible seating may be released for sale in certain limited circumstances.* A public entity may release unsold tickets for accessible seating for sale to individuals without disabilities for their own use for a single event or series of events only under the following circumstances—
    - (i) When all non-accessible tickets (excluding luxury boxes, club boxes, or suites) have been sold;
    - (ii) When all non-accessible tickets in a designated seating area have been sold and the tickets for accessible seating are being released in the same designated area; or
    - (iii) When all non-accessible tickets in a designated price category have been sold and the tickets for accessible seating are being released within the same designated price category.
  - (2) *No requirement to release accessible tickets.* Nothing in this paragraph requires a facility to release tickets for accessible seating to individuals without disabilities for their own use.
  - (3) *Release of series-of-events tickets on a series-of-events basis.*
    - (i) *Series-of-events tickets sell-out when no ownership rights are attached.* When series-of-events tickets are sold out and a public entity releases and sells accessible seating to individuals without disabilities for a series of events, the public entity shall establish a process that prevents the automatic reassignment of the accessible seating to such ticket holders for future seasons, future years, or future series so that individuals with disabilities who require the features of accessible seating and who become

newly eligible to purchase tickets when these series-of-events tickets are available for purchase have an opportunity to do so.

- (ii) *Series-of-events tickets when ownership rights are attached.* When series-of-events tickets with an ownership right in accessible seating areas are forfeited or otherwise returned to a public entity, the public entity shall make reasonable modifications in its policies, practices, or procedures to afford individuals with mobility disabilities or individuals with disabilities that require the features of accessible seating an opportunity to purchase such tickets in accessible seating areas.
- (f) *Ticket transfer.* Individuals with disabilities who hold tickets for accessible seating shall be permitted to transfer tickets to third parties under the same terms and conditions and to the same extent as other spectators holding the same type of tickets, whether they are for a single event or series of events.
- (g) *Secondary ticket market.*
  - (1) A public entity shall modify its policies, practices, or procedures to ensure that an individual with a disability may use a ticket acquired in the secondary ticket market under the same terms and conditions as other individuals who hold a ticket acquired in the secondary ticket market for the same event or series of events.
  - (2) If an individual with a disability acquires a ticket or series of tickets to an inaccessible seat through the secondary market, a public entity shall make reasonable modifications to its policies, practices, or procedures to allow the individual to exchange his ticket for one to an accessible seat in a comparable location if accessible seating is vacant at the time the individual presents the ticket to the public entity.
- (h) *Prevention of fraud in purchase of tickets for accessible seating.* A public entity may not require proof of disability, including, for example, a doctor's note, before selling tickets for accessible seating.
  - (1) *Single-event tickets.* For the sale of single-event tickets, it is permissible to inquire whether the individual purchasing the tickets for accessible seating has a mobility disability or a disability that requires the use of the accessible features that are provided in accessible seating, or is purchasing the tickets for an individual who has a mobility disability or a disability that requires the use of the accessible features that are provided in the accessible seating.
  - (2) *Series-of-events tickets.* For series-of-events tickets, it is permissible to ask the individual purchasing the tickets for accessible seating to attest in writing that the accessible seating is for a person who has a mobility disability or a disability that requires the use of the accessible features that are provided in the accessible seating.
  - (3) *Investigation of fraud.* A public entity may investigate the potential misuse of accessible seating where there is good cause to believe that such seating has been purchased fraudulently.

## § 35.139 Direct threat.

- (a) This part does not require a public entity to permit an individual to participate in or benefit from the services, programs, or activities of that public entity when that individual poses a direct threat to the health or safety of others.
- (b) In determining whether an individual poses a direct threat to the health or safety of others, a public entity must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

## **Subpart C—Employment**

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### **§ 35.140 Employment discrimination prohibited**

- (a) 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.
- (b)
  - (1) For purposes of this part, the requirements of title I of the Act, as established by the regulations of the Equal Employment Opportunity Commission in 29 CFR part 1630, apply to employment in any service, program, or activity conducted by a public entity if that public entity is also subject to the jurisdiction of title I.
  - (2) For the purposes of this part, the requirements of section 504 of the Rehabilitation Act of 1973, as established by the regulations of the Department of Justice in 28 CFR part 41, as those requirements pertain to employment, apply to employment in any service, program, or activity conducted by a public entity if that public entity is not also subject to the jurisdiction of title I.

### **§§ 35.141—35.148 [Reserved]**

## **Subpart D—Program Accessibility**

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### **§ 35.149 Discrimination prohibited.**

Except as otherwise provided in § 35.150, 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.

### **§ 35.150 Existing facilities**

- (a) *General.* A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

- (1) Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities;
- (2) Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or
- (3) 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. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with §35.150(a) of this part would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity.

- (b) *Methods.*
  - (1) *General.* A public entity may comply with the requirements of this section through such means as redesign or acquisition of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock or other conveyances, or any other methods that result in making its services, programs, 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. A public entity, in making alterations to existing buildings, shall meet the accessibility requirements of § 35.151. In choosing among available methods for meeting the requirements of this section, a public entity shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.
  - (2)
    - (i) *Safe harbor.* Elements that have not been altered in existing facilities on or after March 15, 2012, and that comply with the corresponding technical and scoping specifications for those elements in either the 1991 Standards or in the Uniform Federal Accessibility Standards (UFAS), Appendix A to 41 CFR part 101–19.6 (July 1, 2002 ed.), 49 FR 31528, app. A (Aug. 7, 1984) are not required to be modified in order to comply with the requirements set forth in the 2010 Standards.
    - (ii) The safe harbor provided in § 35.150(b)(2)(i) does not apply to those elements in existing facilities that are subject to

supplemental requirements (*i.e.*, elements for which there are neither technical nor scoping specifications in the 1991 Standards). Elements in the 2010 Standards not eligible for the element-by-element safe harbor are identified as follows—

- (A) *Residential facilities dwelling units*, sections 233 and 809.
- (B) *Amusement rides*, sections 234 and 1002; 206.2.9; 216.12.
- (C) *Recreational boating facilities*, sections 235 and 1003; 206.2.10.
- (D) *Exercise machines and equipment*, sections 236 and 1004; 206.2.13.
- (E) *Fishing piers and platforms*, sections 237 and 1005; 206.2.14.
- (F) *Golf facilities*, sections 238 and 1006; 206.2.15.
- (G) *Miniature golf facilities*, sections 239 and 1007; 206.2.16.
- (H) *Play areas*, sections 240 and 1008; 206.2.17.
- (I) *Saunas and steam rooms*, sections 241 and 612.
- (J) *Swimming pools, wading pools, and spas*, sections 242 and 1009.
- (K) *Shooting facilities with firing positions*, sections 243 and 1010.
- (L) *Miscellaneous*.
  - (1) *Team or player seating*, section 221.2.1.4.
  - (2) *Accessible route to bowling lanes*, section. 206.2.11.
  - (3) *Accessible route in court sports facilities*, section 206.2.12.

- (3) *Historic preservation programs*. In meeting the requirements of § 35.150(a) in historic preservation programs, a public entity shall give priority to methods that provide physical access to individuals with disabilities. In cases where a physical alteration to an historic property is not required because of paragraph (a)(2) or (a)(3) of this section, alternative methods of achieving program accessibility include—
  - (i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

- (ii) Assigning persons to guide individuals with handicaps into or through portions of historic properties that cannot otherwise be made accessible; or
    - (iii) Adopting other innovative methods.
  - (4) *Swimming pools, wading pools, and spas.* The requirements set forth in sections 242 and 1009 of the 2010 Standards shall not apply until January 31, 2013, if a public entity chooses to make structural changes to existing swimming pools, wading pools, or spas built before March 15, 2012, for the sole purpose of complying with the program accessibility requirements set forth in this section.
- 
- (c) *Time period for compliance.* Where structural changes in facilities are undertaken to comply with the obligations established under this section, such changes shall be made within three years of January 26, 1992, but in any event as expeditiously as possible.
- (d) *Transition plan.*
  - (1) 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, within six months of January 26, 1992, a transition plan setting forth the steps necessary to complete such changes. 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. A copy of the transition plan shall be made available for public inspection.
  - (2) If a public entity has responsibility or authority over streets, roads, or walkways, 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.
  - (3) 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.

- (4) If a public entity has already complied with the transition plan requirement of a Federal agency regulation implementing section 504 of the Rehabilitation Act of 1973, then the requirements of this paragraph (d) shall apply only to those policies and practices that were not included in the previous transition plan.

## § 35.151 New construction and alterations

- (a) *Design and construction.*
  - (1) Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992.
  - (2) *Exception for structural impracticability.*
    - (i) Full compliance with the requirements of this section is not required where a public entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.
    - (ii) If full compliance with this section would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.
    - (iii) If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities, (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with this section.
- (b) *Alterations.*
  - (1) Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.
  - (2) The path of travel requirements of § 35.151(b)(4) shall apply only to alterations undertaken solely for purposes other than to meet the program accessibility requirements of § 35.150.
  - (3)
    - (i) Alterations to historic properties shall comply, to the maximum extent feasible, with the provisions applicable to

historic properties in the design standards specified in § 35.151(c).

- (ii) If it is not feasible to provide physical access to an historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of § 35.150.
- (4) *Path of travel.* An alteration that affects or could affect the usability of or access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.
  - (i) *Primary function.* A “primary function” is a major activity for which the facility is intended. Areas that contain a primary function include, but are not limited to, the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public entity using the facility are carried out.
    - (A) Mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, and corridors are not areas containing a primary function. Restrooms are not areas containing a primary function unless the provision of restrooms is a primary purpose of the area, *e.g.*, in highway rest stops.
    - (B) For the purposes of this section, alterations to windows, hardware, controls, electrical outlets, and signage shall not be deemed to be alterations that affect the usability of or access to an area containing a primary function.
  - (ii) A “path of travel” includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility.
    - (A) An accessible path of travel may consist of walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements.

- (B) For the purposes of this section, the term “path of travel” also includes the restrooms, telephones, and drinking fountains serving the altered area.
- (C) *Safe harbor.* If a public entity has constructed or altered required elements of a path of travel in accordance with the specifications in either the 1991 Standards or the Uniform Federal Accessibility Standards before March 15, 2012, the public entity is not required to retrofit such elements to reflect incremental changes in the 2010 Standards solely because of an alteration to a primary function area served by that path of travel.
- (iii) *Disproportionality.*
  - (A) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20 % of the cost of the alteration to the primary function area.
  - (B) Costs that may be counted as expenditures required to provide an accessible path of travel may include:
    - (1) Costs associated with providing an accessible entrance and an accessible route to the altered area, for example, the cost of widening doorways or installing ramps;
    - (2) Costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls;
    - (3) Costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a text telephone (TTY); and
    - (4) Costs associated with relocating an inaccessible drinking fountain.
- (iv) *Duty to provide accessible features in the event of disproportionality.*
  - (A) When the cost of alterations necessary to make the path of travel to the altered area fully accessible is disproportionate to the cost of the

overall alteration, the path of travel shall be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

- (B) In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access, in the following order—
  - (1) An accessible entrance;
  - (2) An accessible route to the altered area;
  - (3) At least one accessible restroom for each sex or a single unisex restroom;
  - (4) Accessible telephones;
  - (5) Accessible drinking fountains; and
  - (6) When possible, additional accessible elements such as parking, storage, and alarms.

- *(v) Series of smaller alterations.*

- (A) The obligation to provide an accessible path of travel may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking.
- (B)
  - (1) If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alterations to the primary function areas on that path of travel during the preceding three-year period shall be considered in determining whether the cost of making that path of travel accessible is disproportionate.
  - (2) Only alterations undertaken on or after March 15, 2011, shall be considered in determining if the cost

of providing an accessible path of travel is disproportionate to the overall cost of the alterations.

- (c) *Accessibility standards and compliance date.*
  - (1) If physical construction or alterations commence after July 26, 1992, but prior to September 15, 2010, then new construction and alterations subject to this section must comply with either the UFAS or the 1991 Standards except that the elevator exemption contained at section 4.1.3(5) and section 4.1.6(1)(k) of the 1991 Standards shall not apply. Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.
  - (2) If physical construction or alterations commence on or after September 15, 2010, and before March 15, 2012, then new construction and alterations subject to this section may comply with one of the following: the 2010 Standards, UFAS, or the 1991 Standards except that the elevator exemption contained at section 4.1.3(5) and section 4.1.6(1)(k) of the 1991 Standards shall not apply. Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.
  - (3) If physical construction or alterations commence on or after March 15, 2012, then new construction and alterations subject to this section shall comply with the 2010 Standards.
  - (4) For the purposes of this section, ceremonial groundbreaking or razing of structures prior to site preparation do not commence physical construction or alterations.
  - (5) *Noncomplying new construction and alterations.*
    - (i) Newly constructed or altered facilities or elements covered by §§ 35.151(a) or (b) that were constructed or altered before March 15, 2012, and that do not comply with the 1991 Standards or with UFAS shall before March 15, 2012, be made accessible in accordance with either the 1991 Standards, UFAS, or the 2010 Standards.
    - (ii) Newly constructed or altered facilities or elements covered by §§ 35.151(a) or (b) that were constructed or altered before March 15, 2012 and that do not comply with the 1991 Standards or with UFAS shall, on or after March 15, 2012, be made accessible in accordance with the 2010 Standards.

#### Appendix to § 35.151(c)

Compliance Date for New Construction or Alterations

Applicable Standards

Before September 15, 2010	1991 Standards or UFAS
On or after September 15, 2010, and before March 15, 2012	1991 Standards, UFAS, or 2010 Standards
On or after March 15, 2012	2010 Standards

- (d) *Scope of coverage.* The 1991 Standards and the 2010 Standards apply to fixed or built-in elements of buildings, structures, site improvements, and pedestrian routes or vehicular ways located on a site. Unless specifically stated otherwise, the advisory notes, appendix notes, and figures contained in the 1991 Standards and the 2010 Standards explain or illustrate the requirements of the rule; they do not establish enforceable requirements.
- (e) *Social service center establishments.* Group homes, halfway houses, shelters, or similar social service center establishments that provide either temporary sleeping accommodations or residential dwelling units that are subject to this section shall comply with the provisions of the 2010 Standards applicable to residential facilities, including, but not limited to, the provisions in sections 233 and 809.
  - (1) In sleeping rooms with more than 25 beds covered by this section, a minimum of 5% of the beds shall have clear floor space complying with section 806.2.3 of the 2010 Standards.
  - (2) Facilities with more than 50 beds covered by this section that provide common use bathing facilities, shall provide at least one roll-in shower with a seat that complies with the relevant provisions of section 608 of the 2010 Standards. Transfer-type showers are not permitted in lieu of a roll-in shower with a seat, and the exceptions in sections 608.3 and 608.4 for residential dwelling units are not permitted. When separate shower facilities are provided for men and for women, at least one roll-in shower shall be provided for each group.
- (f) *Housing at a place of education.* Housing at a place of education that is subject to this section shall comply with the provisions of the 2010 Standards applicable to transient lodging, including, but not limited to, the requirements for transient lodging guest rooms in sections 224 and 806 subject to the following exceptions. For the purposes of the application of this section, the term "sleeping room" is intended to be used interchangeably with the term "guest room" as it is used in the transient lodging standards.
  - (1) Kitchens within housing units containing accessible sleeping rooms with mobility features (including suites and clustered sleeping rooms) or on floors containing accessible sleeping rooms with mobility features shall provide turning spaces that comply with section 809.2.2 of the 2010 Standards and kitchen work surfaces that comply with section 804.3 of the 2010 Standards.
  - (2) Multi-bedroom housing units containing accessible sleeping rooms with mobility features shall have an accessible route throughout the unit in accordance with section 809.2 of the 2010 Standards.
  - (3) Apartments or townhouse facilities that are provided by or on behalf of a place of education, which are leased on a year-round basis exclusively to graduate students or faculty, and do not contain any public use or common use areas available for educational programming, are not subject to the

transient lodging standards and shall comply with the requirements for residential facilities in sections 233 and 809 of the 2010 Standards.

- (g) *Assembly areas.* Assembly areas subject to this section shall comply with the provisions of the 2010 Standards applicable to assembly areas, including, but not limited to, sections 221 and 802. In addition, assembly areas shall ensure that—
  - (1) In stadiums, arenas, and grandstands, wheelchair spaces and companion seats are dispersed to all levels that include seating served by an accessible route;
  - (2) Assembly areas that are required to horizontally disperse wheelchair spaces and companion seats by section 221.2.3.1 of the 2010 Standards and have seating encircling, in whole or in part, a field of play or performance area shall disperse wheelchair spaces and companion seats around that field of play or performance area;
  - (3) Wheelchair spaces and companion seats are not located on (or obstructed by) temporary platforms or other movable structures, except that when an entire seating section is placed on temporary platforms or other movable structures in an area where fixed seating is not provided, in order to increase seating for an event, wheelchair spaces and companion seats may be placed in that section. When wheelchair spaces and companion seats are not required to accommodate persons eligible for those spaces and seats, individual, removable seats may be placed in those spaces and seats;
  - (4) Stadium-style movie theaters shall locate wheelchair spaces and companion seats on a riser or cross-aisle in the stadium section that satisfies at least one of the following criteria—
    - (i) It is located within the rear 60% of the seats provided in an auditorium; or
    - (ii) It is located within the area of an auditorium in which the vertical viewing angles (as measured to the top of the screen) are from the 40th to the 100th percentile of vertical viewing angles for all seats as ranked from the seats in the first row (1st percentile) to seats in the back row (100th percentile).
- (h) *Medical care facilities.* Medical care facilities that are subject to this section shall comply with the provisions of the 2010 Standards applicable to medical care facilities, including, but not limited to, sections 223 and 805. In addition, medical care facilities that do not specialize in the treatment of conditions that affect mobility shall disperse the accessible patient bedrooms required by section 223.2.1 of the 2010 Standards in a manner that is proportionate by type of medical specialty.
- (i) *Curb ramps.*
  - (1) Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.
  - (2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways.

- (j) *Facilities with residential dwelling units for sale to individual owners.*
  - (1) Residential dwelling units designed and constructed or altered by public entities that will be offered for sale to individuals shall comply with the requirements for residential facilities in the 2010 Standards including sections 233 and 809.
  - (2) The requirements of paragraph (1) also apply to housing programs that are operated by public entities where design and construction of particular residential dwelling units take place only after a specific buyer has been identified. In such programs, the covered entity must provide the units that comply with the requirements for accessible features to those pre-identified buyers with disabilities who have requested such a unit.
- (k) *Detention and correctional facilities.*
  - (1) New construction of jails, prisons, and other detention and correctional facilities shall comply with the 2010 Standards except that public entities shall provide accessible mobility features complying with section 807.2 of the 2010 Standards for a minimum of 3%, but no fewer than one, of the total number of cells in a facility. Cells with mobility features shall be provided in each classification level.
  - (2) *Alterations to detention and correctional facilities.* Alterations to jails, prisons, and other detention and correctional facilities shall comply with the 2010 Standards except that public entities shall provide accessible mobility features complying with section 807.2 of the 2010 Standards for a minimum of 3%, but no fewer than one, of the total number of cells being altered until at least 3%, but no fewer than one, of the total number of cells in a facility shall provide mobility features complying with section 807.2. Altered cells with mobility features shall be provided in each classification level. However, when alterations are made to specific cells, detention and correctional facility operators may satisfy their obligation to provide the required number of cells with mobility features by providing the required mobility features in substitute cells (cells other than those where alterations are originally planned), provided that each substitute cell—
    - (i) Is located within the same prison site;
    - (ii) Is integrated with other cells to the maximum extent feasible;
    - (iii) Has, at a minimum, equal physical access as the altered cells to areas used by inmates or detainees for visitation, dining, recreation, educational programs, medical services, work programs, religious services, and participation in other programs that the facility offers to inmates or detainees; and,
    - (iv) If it is technically infeasible to locate a substitute cell within the same prison site, a substitute cell must be provided at another prison site within the corrections system.
  - (3) With respect to medical and long-term care facilities in jails, prisons, and other detention and correctional facilities, public entities shall apply the 2010

Standards technical and scoping requirements for those facilities irrespective of whether those facilities are licensed.

## **§ 35.152 Jails, detention and correctional facilities, and community correctional facilities.**

- (a) *General.* This section applies to public entities that are responsible for the operation or management of adult and juvenile justice jails, detention and correctional facilities, and community correctional facilities, either directly or through contractual, licensing, or other arrangements with public or private entities, in whole or in part, including private correctional facilities.
- (b) *Discrimination prohibited.*
  - (1) Public entities shall ensure that qualified inmates or detainees with disabilities shall not, because a facility is 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.
  - (2) Public entities shall ensure that inmates or detainees with disabilities are housed in the most integrated setting appropriate to the needs of the individuals. Unless it is appropriate to make an exception, a public entity—
    - (i) Shall not place inmates or detainees with disabilities in inappropriate security classifications because no accessible cells or beds are available;
    - (ii) Shall not place inmates or detainees with disabilities in designated medical areas unless they are actually receiving medical care or treatment;
    - (iii) Shall not place inmates or detainees with disabilities in facilities that do not offer the same programs as the facilities where they would otherwise be housed; and
    - (iv) Shall not deprive inmates or detainees with disabilities of visitation with family members by placing them in distant facilities where they would not otherwise be housed.
  - (3) Public entities shall implement reasonable policies, including physical modifications to additional cells in accordance with the 2010 Standards, so as to ensure that each inmate with a disability is housed in a cell with the accessible elements necessary to afford the inmate access to safe, appropriate housing.

## **§§ 35.153—35.159 [Reserved]**

### **Subpart E—Communications**

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#### **§ 35.160 General.**

- (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.
- (2) For purposes of this section, “companion” means a family member, friend, or associate of an individual seeking access to a service, program, or activity of a public entity, who, along with such individual, is an appropriate person with whom the public entity should communicate.
- (b)
  - (1) A public entity shall furnish appropriate 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.
  - (2) The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.
- (c)
  - (1) A public entity shall not require an individual with a disability to bring another individual to interpret for him or her.
  - (2) A public entity shall not rely on an adult accompanying an individual with a disability to interpret or facilitate communication except—
    - (i) In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
    - (ii) Where the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.
  - (3) A public entity shall not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available.
- (d) *Video remote interpreting (VRI) services.* A public entity that chooses to provide qualified interpreters via VRI services shall ensure that it provides—
  - (1) Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality

- video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;
- (2) A sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of his or her body position;
- (3) A clear, audible transmission of voices; and
- (4) Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI.

### **§ 35.161 Telecommunications.**

- (a) Where a public entity communicates by telephone with applicants and beneficiaries, text telephones (TTYs) or equally effective telecommunications systems shall be used to communicate with individuals who are deaf or hard of hearing or have speech impairments.
- (b) When a public entity uses an automated-attendant system, including, but not limited to, voice mail and messaging, or an interactive voice response system, for receiving and directing incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including TTYS and all forms of FCC-approved telecommunications relay system, including Internet-based relay systems.
- (c) A public entity shall respond to telephone calls from a telecommunications relay service established under title IV of the ADA in the same manner that it responds to other telephone calls.

### **§ 35.162 Telephone emergency services**

Telephone emergency services, including 911 services, shall provide direct access to individuals who use TDD's and computer modems.

### **§ 35.163 Information and signage**

- (a) A public entity shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.
- (b) A public entity shall provide signage at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each accessible entrance of a facility.

### **§ 35.164 Duties**

This subpart does 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. In those circumstances where personnel of the public entity

believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with this subpart would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this subpart would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the public entity.

## §§ 35.165—35.169 [Reserved]

## **Subpart F—Compliance Procedures**

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### **§ 35.170 Complaints**

- (a) *Who may file.* An individual who believes that he or she or a specific class of individuals has been subjected to discrimination on the basis of disability by a public entity may, by himself or herself or by an authorized representative, file a complaint under this part.
- (b) *Time for filing.* A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the designated agency for good cause shown. A complaint is deemed to be filed under this section on the date it is first filed with any Federal agency.
- (c) *Where to file.* An individual may file a complaint with any agency that he or she believes to be the appropriate agency designated under subpart G of this part, or with any agency that provides funding to the public entity that is the subject of the complaint, or with the Department of Justice for referral as provided in §35.171(a)(2).

### **§ 35.171 Acceptance of complaints**

- (a) *Receipt of complaints.*
  - (1)
    - (i) Any Federal agency that receives a complaint of discrimination on the basis of disability by a public entity shall promptly review the complaint to determine whether it has jurisdiction over the complaint under section 504.
    - (ii) If the agency does not have section 504 jurisdiction, it shall promptly determine whether it is the designated agency under subpart G of this part responsible for complaints filed against that public entity.
  - (2)
    - (i) If an agency other than the Department of Justice determines that it does not have section 504 jurisdiction and is not the designated agency, it shall promptly refer the complaint to the

appropriate designated agency, the agency that has section 504 jurisdiction, or the Department of Justice, and so notify the complainant.

- (ii) When the Department of Justice receives a complaint for which it does not have jurisdiction under section 504 and is not the designated agency, it may exercise jurisdiction pursuant to § 35.190(e) or refer the complaint to an agency that does have jurisdiction under section 504 or to the appropriate agency designated in subpart G of this part or, in the case of an employment complaint that is also subject to title I of the Act, to the Equal Employment Opportunity Commission.
- (3)
  - (i) If the agency that receives a complaint has section 504 jurisdiction, it shall process the complaint according to its procedures for enforcing section 504.
  - (ii) If the agency that receives a complaint does not have section 504 jurisdiction, but is the designated agency, it shall process the complaint according to the procedures established by this subpart.
- (b) *Employment complaints.*
  - (1) If a complaint alleges employment discrimination subject to title I of the Act, and the agency has section 504 jurisdiction, the agency shall follow the procedures issued by the Department of Justice and the Equal Employment Opportunity Commission under section 107(b) of the Act.
  - (2) If a complaint alleges employment discrimination subject to title I of the Act, and the designated agency does not have section 504 jurisdiction, the agency shall refer the complaint to the Equal Employment Opportunity Commission for processing under title I of the Act.
  - (3) Complaints alleging employment discrimination subject to this part, but not to title I of the Act shall be processed in accordance with the procedures established by this subpart.
- (c) *Complete complaints.*
  - (1) A designated agency shall accept all complete complaints under this section and shall promptly notify the complainant and the public entity of the receipt and acceptance of the complaint.
  - (2) If the designated agency receives a complaint that is not complete, it shall notify the complainant and specify the additional information that is needed to make the complaint a complete complaint. If the complainant fails to complete the complaint, the designated agency shall close the complaint without prejudice.

## § 35.172 Investigations and compliance reviews.

- (a) The designated agency shall investigate complaints for which it is responsible under § 35.171.
- (b) The designated agency may conduct compliance reviews of public entities in order to ascertain whether there has been a failure to comply with the nondiscrimination requirements of this part.
- (c) Where appropriate, the designated agency shall attempt informal resolution of any matter being investigated under this section, and, if resolution is not achieved and a violation is found, issue to the public entity and the complainant, if any, a Letter of Findings that shall include—
  - (1) Findings of fact and conclusions of law;
  - (2) A description of a remedy for each violation found (including compensatory damages where appropriate); and
  - (3) Notice of the rights and procedures available under paragraph (d) of this section and §§ 35.173 and 35.174.
- (d) At any time, the complainant may file a private suit pursuant to section 203 of the Act, 42 U.S.C. 12133, whether or not the designated agency finds a violation.

### **§ 35.173 Voluntary compliance agreements**

- (a) When the designated agency issues a noncompliance Letter of Findings, the designated agency shall—
  - (1) Notify the Assistant Attorney General by forwarding a copy of the Letter of Findings to the Assistant Attorney General; and
  - (2) Initiate negotiations with the public entity to secure compliance by voluntary means.
- (b) Where the designated agency is able to secure voluntary compliance, the voluntary compliance agreement shall—
  - (1) Be in writing and signed by the parties;
  - (2) Address each cited violation;
  - (3) Specify the corrective or remedial action to be taken, within a stated period of time, to come into compliance;
  - (4) Provide assurance that discrimination will not recur; and
  - (5) Provide for enforcement by the Attorney General.

### **§ 35.174 Referral.**

If the public entity declines to enter into voluntary compliance negotiations or if negotiations are unsuccessful, the designated agency shall refer the matter to the Attorney General with a recommendation for appropriate action.

### **§ 35.175 Attorney's fees.**

In any action or administrative proceeding commenced pursuant to the Act or this part, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

#### **§ 35.176 Alternative means of dispute resolution.**

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Act and this part.

#### **§ 35.177 Effect of unavailability of technical assistance.**

A public entity shall not be excused from compliance with the requirements of this part because of any failure to receive technical assistance, including any failure in the development or dissemination of any technical assistance manual authorized by the Act.

#### **§ 35.178 State immunity.**

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

#### **§§ 35.179—35.189 [Reserved]**

### **Subpart G—Designated Agencies**

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#### **§ 35.190 Designated Agencies.**

- (a) The Assistant Attorney General shall coordinate the compliance activities of Federal agencies with respect to State and local government components, and shall provide policy guidance and interpretations to designated agencies to ensure the consistent and effective implementation of the requirements of this part.
- (b) The Federal agencies listed in paragraph (b)(1)-(8) of this section shall have responsibility for the implementation of subpart F of this part for components of State and local governments that exercise responsibilities, regulate, or administer services, programs, or activities in the following functional areas.
  - (1) *Department of Agriculture*: All programs, services, and regulatory activities relating to farming and the raising of livestock, including extension services.
  - (2) *Department of Education*: All programs, services, and regulatory activities relating to the operation of elementary and secondary education systems and institutions, institutions of higher education and vocational education (other than schools of medicine, dentistry, nursing, and other health-related schools), and libraries.

- (3) *Department of Health and Human Services*: All programs, services, and regulatory activities relating to the provision of health care and social services, including schools of medicine, dentistry, nursing, and other health-related schools, the operation of health care and social service providers and institutions, including "grass-roots" and community services organizations and programs, and preschool and daycare programs.
- (4) *Department of Housing and Urban Development*: All programs, services, and regulatory activities relating to state and local public housing, and housing assistance and referral.
- (5) *Department of Interior*: All programs, services, and regulatory activities relating to lands and natural resources, including parks and recreation, water and waste management, environmental protection, energy, historic and cultural preservation, and museums.
- (6) *Department of Justice*: All programs, services, and regulatory activities relating to law enforcement, public safety, and the administration of justice, including courts and correctional institutions; commerce and industry, including general economic development, banking and finance, consumer protection, insurance, and small business; planning, development, and regulation (unless assigned to other designated agencies); state and local government support services (e.g., audit, personnel, comptroller, administrative services); all other government functions not assigned to other designated agencies.
- (7) *Department of Labor*: All programs, services, and regulatory activities relating to labor and the work force.
- (8) *Department of Transportation*: All programs, services, and regulatory activities relating to transportation, including highways, public transportation, traffic management (non-law enforcement), automobile licensing and inspection, and driver licensing.
- (c) Responsibility for the implementation of subpart F of this part for components of State or local governments that exercise responsibilities, regulate, or administer services, programs, or activities relating to functions not assigned to specific designated agencies by paragraph (b) of this section may be assigned to other specific agencies by the Department of Justice.
- (d) If two or more agencies have apparent responsibility over a complaint, the Assistant Attorney General shall determine which one of the agencies shall be the designated agency for purposes of that complaint.
- (e) When the Department receives a complaint directed to the Attorney General alleging a violation of this part that may fall within the jurisdiction of a designated agency or another Federal agency that may have jurisdiction under section 504, the Department may exercise its discretion to retain the complaint for investigation under this part.

## §§ 35.191—35.999 [Reserved]

# Village of Oak Park

## Accessibility Analysis, ADA Title II Self-evaluation, & Transition Plan

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### 4. PUBLIC PROPERTY-

- a. New Construction
- d. The Village of Oak Park-Public Works Department-Engineering Division oversees all new construction in the public right-of-way throughout the Village.
- e. The Village requires detailed drawings of all proposed new construction from their sub-contractors. The plans are required to be designed by state of Illinois licensed professionals. Staff reviews the plans to ensure the new construction complies with all applicable codes.
- f. If the Village of Oak Park employees are performing the work in the public right-of-way, the State of Illinois Licensed Engineers designs the accessible details. Any and all improvements shall meet the current mandates.
- g. The following codes apply to new construction;
  - a. International Building Code Chapter 11
  - b. State of Illinois Accessibility Code
  - c. Fair Housing Act
  - d. Americans with Disabilities Act
  - e. Illinois Department of Transportation
- b. PUBLIC PROPERTY-Public Facilities
- h. The Village of Oak Park-Public Works Department-Building Maintenance Division is responsible for the oversight of Village of Oak Park public buildings. The Village of Oak Park oversees; Village Hall, Fire Station(s), Public Works Facility, parking garages/parking lots and other miscellaneous public venues.
- i. If maintenance or new construction work is required at a Village of Oak Park facility, the Village requires detailed drawings of all proposed new construction from their sub-contractors. Staff reviews the plans to ensure the new construction complies with the applicable codes. If the Village of Oak Park employees are performing the work, the State of Illinois Licensed Engineers designs the accessible routes.
- j. The following codes apply to new construction;
  - a. Illinois Department of Transportation

# Village of Oak Park

## Accessibility Analysis, ADA Title II Self-evaluation, & Transition Plan

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### 5. TRANSITION PLAN to remove known barriers (5-2021)

Facility	Location	Barrier	Barrier Removal Solution	Budget year of Barrier Removal
Village Hall	123 Madison			
		Lombard Ramp	Reconfigure	TBD
		Ext. Courtyard Ramp	Reconfigure	TBD
PW Service Center	201 South Blvd	Lacking concrete slab next to door lever	Add additional landing	TBD
		Lacking a ramp at curb	Add a curb ramp	TBD
		None documented		
Fire House #1	100 N Euclid			
		None documented		
Fire House #2	202 Augusta			
		None documented		
Fire House #3	900 S East			
		None documented		
Parking	See list below			
		None documented		
Police Dept.	See PD			
		None documented		
Personnel/HR	See HR			
		None documented		
Park District	Not in Jurisdiction			n/a
Libraries	Not in Jurisdiction			n/a
Parking				
	Holly Court 1128 Ontario	3rd floor exit sign is broken		TBD
		1st floor interior auto-opener inoperable and exterior lobby auto opener not accessible, 2nd floor auto-opener inoperable.		TBD
		Level 6 auto-opener inoperable.		TBD
		Level 5 auto-opener inoperable, Level 6 - no auto-opener.		TBD
		Signage is missing throughout		TBD

		East public walk leading into facility has bollards and equipment curb encroaching into 36 inch walk, one side of east entry crosswalk is missing tactile warning on ramp.		TBD
		Employee toilet facilities do not contain ADA hardware.		TBD
		Tactile Characters and Braille is absent on the majority of signage for this facility		TBD
	150 Forest Garage 932 Lake			
		Call button signage excludes braille and is not always located above modified call button locations.		TBD
		Street level entrance threshold bevel greater than 1/2".		TBD
		L1 Auto-opener available on exterior sides of lobby doors but not available inside lobby to exit, L2 Auto-opener does not fully open door, LL Auto-opener is not available		TBD
		L3 Auto-opener doesn't fully open door, L4 Auto-Openers are not available, LL Auto-opener is not available		TBD
		Symbol signage is not posted on elevators or accessible routes		TBD
		Assistance signage does not include braille		TBD
	Avenue Garage 720 North			
		No visible address was located on front of building		TBD
		Symbol signage is not posted on elevators or accessible routes		TBD

		Exterior ADA entrance to lobby has substantial elevation change from alley to door entrance - approx. 1.5 in.		TBD
		L1 auto-opener is inoperable, L5 and L6 doors jamb close on frame making it difficult to open - 5lb max.		TBD
		Call options available in lobbies for all services (should include Braille) 707.8		TBD
	<b>HS Garage 137 S Scoville</b>			
		Tactile Characters and Braille is absent on the majority of signage for this facility		
		Call button signage excludes braille and is not always located next to modified call button locations		
		Call options available in lobbies for all services (should include Braille) 707.8		

## VOP Lots, Enclaves and Garages Addresses - March 2019

Note: It is the Policy of the Parking Department to install accessible parking spaces in lots that have assigned spaces as needed. (Some assigned lots may lack accessible spaces in comparison to the amount of spaces.)

LOT #	TYPE	DESCR	STR. NO	STREET_NAME	LESSOR
1	LOT	Euclid Avenue, north of Harrison Street	833	S EUCLID AVE	VOP
2	Garage	Avenue Parking Garage, North Boulevard, east of Oak Park Avenue	720	NORTH BLVD	VOP
3	LOT	Marion Street, south of Lake	120	N MARION	VOP
7	LOT	Chicago Avenue, east of Harlem Avenue	1124	CHICAGO AVE	VOP
10	LOT	North Blvd. W of Forest	1000	NORTH BLVD	VOP
11	LOT	Fifth Third Bank drive thru, northwest corner of Wesley and Harrison	726	WESLEY AVE	Fifth Third Bank
12	LOT	Nineteenth Century Club, Forest Avenue, north of Lake Street	178	FOREST AVE	19th Century Club
13	LOT	U.S. Bank drive thru, Lake Street, west of Grove Avenue	835	LAKE ST	US Bank
15	LOT	Oak Park Avenue, south of Garfield Street	924	S OAK PARK	VOP
16	LOT	Calvary Memorial church, Lake Street, east of the church, W of Kenilworth	926	LAKE ST	Calvary Church
18	Garage	Holley Court Garage, Ontario Street, east of Harlem Avenue	1125	ONTARIO ST	VOP
19	Garage	OPRF High School Garage, northwest corner of Lake Street and Scoville Avenue	137	N SCOVILLE	OPRF High School
22	LOT	Pilgrim Church, Lake Street, west of Elmwood Avenue	450	LAKE ST	Pilgrim Church
24	LOT	Taylor Avenue, north of Madison Street	438	S TAYLOR AVE	VOP
25 A	Enclave	Adams Street, west of Austin Boulevard	11	ADAMS ST	VOP
25 F	Enclave	Fillmore Street, west of Austin Boulevard	7	FILLMORE ST	VOP
25 I	Enclave	Iowa Street, west of Austin Boulevard	15	IOWA ST	VOP
25 P	Enclave	Pleasant Street, west of Austin Boulevard	12	PLEASANT ST	VOP
25 S	Enclave	Superior Street, west of Austin Boulevard	16	SUPERIOR ST	VOP
25 V	Enclave	Van Buren Street, west of Austin Boulevard	12	VAN BUREN ST	VOP
29	LOT	Garfield Street, east of Euclid Avenue	715	GARFIELD ST	VOP

30	LOT	Austin Boulevard, north of Jackson Boulevard	225	S AUSTIN	VOP
31	LOT	Austin Boulevard, north of Randolph Street	200	N AUSTIN	VOP
32	Garage	Lake & Forest Garage, northeast corner of Lake Street and Forest Avenue	938	LAKE ST	VOP
33	LOT	Humphrey Avenue, south of Harrison Street	913	S HUMPHREY	VOP
34	Enclave	South Boulevard, east of Ridgeland Avenue	300	SOUTH BLVD	VOP
35	LOT	South Boulevard, west of Austin Boulevard	2	SOUTH BLVD	VOP
36	LOT	Washington Boulevard, west of Austin Boulevard	14	WASHINGTON	VOP
37	Enclave	Grove Avenue, north of Roosevelt Road	1190	S GROVE AVE	VOP
39	Enclave	Harvard Street, west of Austin Boulevard	8	HARVARD ST	VOP
44	LOT	Southwest corner of Madison Street and Highland Avenue	301	MADISON ST	Harvey/Madison Development LLC
45	Enclave	Madison Street, east of Ridgeland Avenue	321	MADISON ST	VOP
46 (B, C, D, E, F, G)	LOT	Cuyler Street, south of Washington Boulevard	401	S CUYLER	Percy Julian
47	LOT	Village Hall, Lombard Avenue south of Madison Street	123	MADISON ST	VOP
48E	Enclave	East side of Cuyler Avenue, south of Madison Street	500	S CUYLER	VOP
48W	Enclave	West side of Cuyler Avenue, south of Madison Street	501	S CUYLER	VOP
50 N	Enclave	Humphrey Avenue, north of Lake Street	118	N HUMPHREY	VOP
51 N	Enclave	Humphrey Avenue, north of Chicago Avenue	500	N HUMPHREY	VOP
51 S	Enclave	Humphrey Avenue, south of Chicago Avenue	434	N HUMPHREY	VOP
53	LOT	Rehm Pool, southeast corner of Garfield Street and East Avenue	515	GARFIELD ST	Park District
54	Enclave	Flournoy Street, east of Taylor Avenue	101	FLOURNOY ST	VOP
55	LOT	North Boulevard, east of Kenilworth Avenue	834	NORTH BLVD	VOP
56	LOT	Madison Street, west of Harvey Avenue	237	MADISON ST	Harvey/Madison Development LLC
58	LOT	Southeast corner of Madison Street and Highland Avenue	245	MADISON ST	Harvey/Madison Development LLC
59	LOT	Southwest corner of South Boulevard and Kenilworth Avenue	117	S KENILWORTH	US Bank
61	Enclave	South side of North Boulevard, from Humphrey Avenue to Austin Boulevard	36	NORTH BLVD	VOP

<b>62 E</b>	LOT	IDOT Office Building, Harrison Street, east of Gunderson Avenue	445	HARRISON ST	IDOT
<b>62 W</b>	LOT	IDOT Office Building, Harrison Street, west of Gunderson Avenue	445	HARRISON ST	IDOT
<b>64</b>	Enclave	North side of South Boulevard, from west of Taylor Avenue to Lombard Avenue	119	SOUTH BLVD	VOP
<b>65</b>	Enclave	North side of South Boulevard, from Lombard Avenue to Harvey Avenue	112	SOUTH BLVD	VOP
<b>66</b>	Enclave	South side of North Boulevard, from Bishop Quarter Lane to East Avenue	600	NORTH BLVD	VOP
<b>66 N</b>	Enclave	South side of North Boulevard, from Euclid Avenue to Bishop Quarter Lane	636	NORTH BLVD	VOP
<b>67</b>	Enclave	East side of Lombard Avenue, south of Lake Street	100	N LOMBARD	VOP
<b>68</b>	LOT	Austin Boulevard, north of Harrison Street	508	S AUSTIN	VOP
<b>70</b>	Enclave	East side of East Avenue, south of Washington Boulevard	400	S EAST AVE	VOP
<b>71 E</b>	Enclave	East side of Euclid Avenue, north of Madison Street	440	S EUCLID AVE	VOP
<b>71 W</b>	Enclave	West side of Euclid Avenue, north of Madison Street	441	S EUCLID AVE	VOP
<b>72</b>	Enclave	North side of Garfield Street, from Clinton Avenue to Wenonah Avenue	936	GARFIELD ST	VOP
<b>73</b>	Enclave	Northeast corner of Humphrey Avenue and Madison Street	444	S HUMPHREY	VOP
<b>74</b>	Enclave	North side of Madison Street, from Taylor Avenue to Lombard Avenue	108	MADISON ST	VOP
<b>79</b>	LOT	CVS Pharmacy parking lot, Roosevelt Road west of Euclid Avenue	728	ROOSEVELT	CVS
<b>81</b>	Enclave	Marion Street, north of Randolph Street	240	S MARION ST	VOP
<b>82</b>	Enclave	Humphrey Avenue, north of Washington Boulevard	340	S HUMPHREY	VOP
<b>83</b>	Enclave	Taylor Avenue, north of Washington Boulevard	340	S TAYLOR AVE	VOP
<b>85</b>	LOT	Brooks Middle School, 325 S. Kenilworth Avenue	321	S KENILWORTH	Brooks School
<b>86</b>	Enclave	Scoville Avenue, north of Washington Boulevard	329	S SCOVILLE	VOP
<b>87</b>	Enclave	Harrison Street, east of East Avenue	541	HARRISON ST	VOP
<b>90</b>	Enclave	Thomas Street, west of Austin Boulevard	6	THOMAS ST	VOP
<b>91</b>	Enclave	Wesley Avenue, north of Madison Street	431	WESLEY AVE	VOP
<b>92</b>	Enclave	East side of Lombard Avenue, north of Madison Street	440	S LOMBARD	VOP
<b>93</b>	LOT	Harrison Street Bible Church, Taylor Avenue south of Harrison Street	901	S TAYLOR AVE	Harrison St.Bible Church

94	Enclave	Wisconsin Avenue, south of Madison Street	511	WISCONSIN	VOP
96	LOT	North Boulevard, west of Oak Park Avenue	824	NORTH BLVD	US Bank
97	Enclave	Washington Boulevard, east of Ridgeland Avenue	331	WASHINGTON	VOP
98	Enclave	Harrison Street, east of Maple Avenue	1119	HARRISON ST	VOP
99	Enclave	Humphrey Avenue, south of North Avenue	1236	N HUMPHREY	VOP
100	Enclave	Clinton Avenue, north of Madison Street	437	CLINTON AVE	VOP
101	Enclave	Humphrey Avenue, south of Lake Street	101	N HUMPHREY	VOP
102	Enclave	Lombard Avenue, north of Roosevelt Road	1190	S LOMBARD	VOP
103	Lot	Lyman Avenue, south of Harrison Street	915	LYMAN AVE	VOP
104	Enclave	Harvey Avenue, north of Madison Street	441	S HARVEY AVE	VOP
107	Enclave	Cuyler Avenue, north of Madison Street	430	S CUYLER AVE	VOP
109	Enclave	West side of Scoville Avenue, south of Washington Boulevard	407	S SCOVILLE	VOP
110	Enclave	Scoville Avenue, north of Madison Street	432	S SCOVILLE	VOP
111	LOT	Greenfield Avenue, west of Austin Boulevard	7	GREENFIELD	VOP
112	Enclave	North Boulevard, from Cuyler Avenue to Ridgeland Avenue	300	NORTH BLVD	VOP
114	LOT	Austin Boulevard, south of Harrison Street	612	S AUSTIN	VOP
116	LOT	Madison east of Oak Park Avenue	710	MADISON ST	VOP
118	LOT	Holley Ct. west of Marion Street	1106	HOLLEY CT.	VOP
120	LOT	Marion & North Ave.	1275	MARION CT.	VOP
NB10	Enclave	South side of North Boulevard, east of Forest Avenue to west of Kenilworth Avenue	963	NORTH BLVD	VOP
SB1	Enclave	North side of South Boulevard, from Humphrey Avenue to Taylor Avenue	36	SOUTH BLVD	VOP
SB2	Enclave	North side of South Boulevard, between Harvey Avenue and Cuyler Avenue	238	SOUTH BLVD	VOP
SB3	Enclave	North side of South Boulevard, between Ridgeland Avenue and Elmwood Avenue	400	SOUTH BLVD	VOP
SB4	Enclave	North side of South Boulevard, between Elmwood Avenue and East Avenue	400	SOUTH BLVD	VOP
SB5	Enclave	North side of South Boulevard, between East Avenue and Wesley Avenue	600	SOUTH BLVD	VOP

<b>SB6</b>	Enclave	North side of South Boulevard, between Euclid Avenue and Oak Park Avenue	700	SOUTH BLVD	VOP
<b>SB6E</b>	Enclave	North side of South Boulevard, between Wesley Avenue and Euclid Avenue	650	SOUTH BLVD	VOP
<b>SB7</b>	Enclave	North side of South Boulevard, between Oak Park Avenue and Kenilworth Avenue	800	SOUTH BLVD	VOP
<b>SB8</b>	Enclave	North side of South Boulevard, between Kenilworth Avenue and Clinton Avenue	900	SOUTH BLVD	VOP
<b>SB9</b>	Enclave	North side of South Boulevard, between Clinton Avenue and Home Avenue	931	SOUTH BLVD	VOP
<b>SB10</b>	Enclave	North side of South Boulevard, from Home Avenue east toward metered spaces	1002	SOUTH BLVD	VOP
<b>SB11</b>	Enclave	North side of South Boulevard, east of Harlem	1120	SOUTH BLVD	VOP

# Village of Oak Park

## Accessibility Analysis, ADA Title II Self-evaluation, & Transition Plan

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### 6. PRIVATE PROPERTY-

#### c. New commercial & multifamily construction

- k. The Village of Oak Park-Development Customer Services Department-Permit Processing Division is responsible for permitting all new commercial & multifamily construction on private property throughout the Village.
- l. The Village requires detailed drawings of all proposed new commercial & multifamily construction by a State of Illinois licensed design professional. The Village of Oak Park- Permit Processing Division staff reviews the private property plans to ensure the new construction complies with the applicable codes. While, the Village Engineering Division staff reviews the public property plans to ensure the new construction complies with the applicable code(s).
- m. Staff obtains certifications and attends accessibility seminars whenever possible.
- n. The following codes apply to new construction;
  - a. International Building Code Chapter 11
  - b. State of Illinois Accessibility Code
  - c. Fair Housing Act
  - d. Americans with Disabilities Act
  - e. Illinois Department of Transportation
- d. Existing commercial & multifamily properties
  - The Village of Oak Park does not have the authority to regulate existing and/or pre-existing ADA violations on commercial or multifamily properties.
  - The Village of Oak Park policy is to direct the complainant to file with the applicable agency which may be;
    - Illinois Attorney General-Disability Rights Bureau
    - HUD, US Department of Housing and Urban Development

# Village of Oak Park

## Accessibility Analysis, ADA Title II Self-evaluation, & Transition Plan

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### 7. DISABILITY ACCESS COMMISSION

The Village of Oak Park does not discriminate. The Village of Oak Park is serious on its stance to prevent any discrimination against the disabled by establishing the Disability Access Commission.

The Village of Oak Park Disability Access Commission's Mission is to advise the Village Board in facilitating full participation in community activities by persons with disabilities, to bring persons with disabilities into the mainstream of Oak Park life by recognizing that persons with disabilities can lead proud and productive lives, to promote universal access throughout the Village, and to heighten public awareness to the needs of Villagers with disabilities.

#### Commission Regulations:

- Membership: 7 members
- Qualifications: N/A
- Length of Term: 3 years
- Meeting Schedule: Meets at 7 p.m., the fourth Wednesday of every month at the Oak Park Public Library unless otherwise noted on the agenda.
- The commission meeting minutes are accessible on the Village web page.

#### **Article 33 2-33-1: CREATION:**

There is hereby created and established in and for the Village of Oak Park a commission to be hereafter known as the Disability Access Commission, which shall consist of the following members:

- A. Chairperson;
- B. Six (6) members;
- C. The Chief Building Inspector/Access Advisor for the Village of Oak Park, as an ex officio member.

The members and chairperson shall be appointed by the President with the consent of the Village Board. Members shall serve without compensation and shall initially be appointed as follows: a chairperson and two (2) members for one year, two (2) members for two (2) years, and two (2) members for three (3) years. Thereafter, the chairperson and all members shall be appointed for three (3) year terms. (Ord. 2012-0-07, 2-6-2012)

#### **2-33-2: OBJECTIVES:**

The purpose of the Disability Access Commission is to advise the Village in its efforts to facilitate full participation in community activities by its disabled residents, to bring disabled persons into the mainstream of Oak Park life by recognizing that disabled persons can lead proud and productive lives, to promote universal access throughout the Village, and to heighten public awareness. (Ord. 2012-0-07, 2-6-2012)

**2-33-3: DUTIES:**

- A. Recommend to the Village Board the removal of barriers to the participation of disabled in Village programs and activities.
- B. Recommend to the Village Board the removal of physical barriers to disabled access to Village owned property and buildings and provide advisory assistance to the Department of Code Enforcement in the removal of such barriers.
- C. Cooperate with and provide support to other Village commissions, committees, task forces, and departments in their efforts to facilitate and promote universal access.
- D. Provide advice to any entity within the Village which seeks assistance from the Commission on how to better serve the needs of the disabled beyond minimal requirements of the law.
- E. Identify appropriate respite care agencies in Oak Park and, with prior Village approval, make this information available to the public.
- F. Develop and present to the Village a plan to increase awareness in both the public and private sector, regarding the rights and abilities of disabled persons.
- G. Work with the Manager's office to establish seminars and workshops that promote public awareness of accessibility issues.
- H. Establish and carry out a program to recognize excellence in providing access to disabled persons within the Village which will make the public aware of businesses and institutions which are accessible.
- I. Create a guidebook to accessible facilities, programs and activities in Oak Park, which guidebook may be made available to the public with the approval of the Village Board.
- J. Work with Public Works Department to develop and maintain a safe route map showing the location of all accessible public paths of travel in Oak Park, which map may be made available to the public with the approval of the Village Board.
- K. Advise appropriate Village staff on accessibility requirements, as requested.
- L. Evaluate the accessibility of buildings and services within the Village and encourage appropriate Village Code Department staff to initiate staff communication with building owners and/or managers regarding the insufficiency of accessibility in their buildings.
- M. Promote additional participation on the Commission by disabled persons and disability service providers in Oak Park. (Ord. 1999-0-2, 2-1-99)

**2-33-4: POWERS:**

- A. The Commission shall serve as an advisory body to the Village Board of Trustees on matters of accessibility for the disabled and shall hold such public hearings on the issues of accessibility as the Board, from time to time, shall assign to the Commission.
- B. The Commission shall advise Village staff, as requested, on issues involving the interpretation of the Federal, State and/or Municipal codes on accessibility with respect to building accessibility issues.
- C. The Commission shall assist Village staff, as requested, in mediation of disputes originating from interpretation of this Code with respect to building accessibility issues.
- D. The Commission shall conduct, with Village approval, public awareness, public education and public service programs with regard to accessibility for the disabled. (Ord. 1999-0-2, 2-1-99)

## WORK PLAN

ESTIMATED STAFF WORK TIME IN SUPPORT OF WORK PLAN: 20 hours in addition to monthly meetings

### **ENABLING LANGUAGE:**

#### **2-33-1: CREATION:**

There is hereby created and established in and for the Village of Oak Park a commission to be hereafter known as the Disability Access Commission, which shall consist of the following members:

- A. Chairperson;
- B. Eight (8) members;
- C. the Chief Building Inspector/Access Advisor for the Village of Oak Park, as an ex officio member.

The members and chairperson shall be appointed by the President with the consent of the Village Board. Members shall serve without compensation and shall initially be appointed as follows: a chairperson and two (2) members for one year, three (3) members for two (2) years, and three (3) members for three (3) years. Thereafter, the chairperson and all members shall be appointed for three (3) year terms. (Ord. 1999-0-2, 2-1-99)

#### **2-33-2: OBJECTIVES:**

The purpose of the Disability Access Commission is to advise the Village in its efforts to facilitate full participation in community activities by its disabled residents, to bring disabled persons into the mainstream of Oak Park life by recognizing that disabled persons can lead proud and productive lives, to promote universal access throughout the Village, and to heighten public awareness. (Ord. 1999-0-2, 2-1-99)

#### **2-33-3: DUTIES:**

- A. Recommend to the Village Board the removal of barriers to the participation of disabled in Village programs and activities.
- B. Recommend to the Village Board the removal of physical barriers to disabled access to Village-owned property and buildings and provide advisory assistance to the Department of Code Enforcement in the removal of such barriers.
- C. Cooperate with and provide support to other Village commissions, committees, task forces, and departments in their efforts to facilitate and promote universal access.
- D. Provide advice to any entity within the Village which seeks assistance from the Commission on how to better serve the needs of the disabled beyond minimal requirements of the law.
- E. Identify appropriate respite care agencies in Oak Park and, with prior Village approval, make this information available to the public.
- F. Develop and present to the Village a plan to increase awareness in both the public and private sector, regarding the rights and abilities of disabled persons.

G. Work with the Manager's office to establish seminars and workshops that promote public awareness of accessibility issues.

H. Establish and carry out a program to recognize excellence in providing access to disabled persons within the Village which will make the public aware of businesses and institutions which are accessible.

I. Create a guidebook to accessible facilities, programs and activities in Oak Park, which guidebook may be made available to the public with the approval of the Village Board.

J. Work with Public Works Department to develop and maintain a safe route map showing the location of all accessible public paths of travel in Oak Park, which map may be made available to the public with the approval of the Village Board.

K. Advise appropriate Village staff on accessibility requirements, as requested.

L. Evaluate the accessibility of buildings and services within the Village and encourage appropriate Village Code Department staff to initiate staff communication with building owners and/or managers regarding the insufficiency of accessibility in their buildings.

M. Promote additional participation on the Commission by disabled persons and disability service providers in Oak Park. (Ord. 1999-0-2, 2-1-99)

**2-33-4: POWERS:**

A. the Commission shall serve as an advisory body to the Village Board of Trustees on matters of accessibility for the disabled and shall hold such public hearings on the issues of accessibility as the Board, from time to time, shall assign to the Commission.

B. the Commission shall advise Village staff, as requested, on issues involving the interpretation of the Federal, State and/or Municipal codes on accessibility with respect to building accessibility issues.

C. the Commission shall assist Village staff, as requested, in mediation of disputes originating from interpretation of this Code with respect to building accessibility issues.

D. the Commission shall conduct, with Village approval, public awareness, and public education and public service programs with regard to accessibility for the disabled. (Ord. 1999-0-2, 2-1-99)

# Village of Oak Park

## Accessibility Analysis, ADA Title II Self-evaluation, & Transition Plan

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### 8. ADA Coordinator TOOL KIT

#### Reference Materials

- The ADA Coordinator utilizes the ADA Checklist for Existing Facilities published by the ADA.
- The ADA Coordinator utilizes the “Planning Accessible Meeting & Events” published by the American Bar Association.

#### Reference Regional Groups

- The ADA Coordinator is a member and participates in the Metropolitan Mayor’s Caucus of ADA Coordinators.

### f. Reference Organizations

- **Great Lake ADA Center**  
[www.adagreatlakes.org](http://www.adagreatlakes.org) Great Lakes ADA Center (link is external)  
University of Illinois at Chicago  
Institute on Disability & Human Development (MC 728)  
1640 West Roosevelt Road, Room 405  
Chicago, IL 60608  
312-413-1407 (V) \*  
TTY: 312-413-5765  
312-767-0377\*\*  
312-413-1856  
adata@adagreatlakes.org (link sends e-mail)  
[www.adagreatlakes.org](http://www.adagreatlakes.org) (link is external)
- **National Association of Ada Coordinators**  
[Adacoordinators.org](http://Adacoordinators.org)

### g. HEARING IMPAIRED INTERPRETER RESOURCES

- **Central Area Interpreter Referral Services**  
4801 Southwick Dr  
Matteson IL 60443  
312-895-4300  
Cairs.net

#### **CAIRS Emergency After Hours Service**

CAIRS Emergency After Hours Service (EAS) Team provides interpreting services during non-business hours (Monday to Friday 5:00 PM to 9:00 AM, Saturday and

Sunday all day) for emergency medical assignments in the greater Chicago area. Let our special EAS Team of several dozen licensed interpreters help put your mind at ease! To contact CAIRS EAS, please call 312-895-4300.

- **Chicago Hearing Society**  
1444 W Willow Street  
Chicago IL 60642  
773-248-9121  
[Chicagoheariningsociety.org](http://Chicagoheariningsociety.org)

Now partnering with CaptionAccess to provide you with VRI (Video Remote Interpreting). [Contact us](#) for more information or fill out your request below.

#### **New Customers**

New Customers will need to establish an account with CHS. Please electronically complete our [Business Customer Service Agreement and Credit Account Form](#). The forms can also be emailed to us at [CHSInterp@anixter.org](mailto:CHSInterp@anixter.org) or faxed to us at 773-442-0619. Once we receive all approved documents, we will assign you a unique account number. With that account number, you can proceed to our on-line request form to make your official request for interpreter services.

If you do not receive a reply within one business day, please contact us at [CHSInterp@anixter.org](mailto:CHSInterp@anixter.org) or Voice: 773-248-9121 ext. 312 or Videophone: 773-598-8927 to confirm that your request has been received. For emergencies, please submit a request online and call 866-251-0220 as coordinators are available 24/7.

#### **Returning Customers**

- If you are a returning customer, please fill out the form below to request an interpreter. We will get back to you as soon as possible [American Academy of Audiology](#)  
[www.audiology.org](http://www.audiology.org)
- American Speech Language Hearing Association  
[www.asha.org](http://www.asha.org)
- American Tinnitus Association  
[www.ata.org](http://www.ata.org)
- Association of Late Deafened Adults  
[www.alda.org](http://www.alda.org)
- Better Hearing Institute  
[www.betterhearing.org](http://www.betterhearing.org)
- Hearing Loss Association of America  
[www.hearingloss.org](http://www.hearingloss.org)
- Hearing Loss Prevention  
[www.howsyourhearing.org](http://www.howsyourhearing.org)
- Turn it to the Left  
[www.turnittotheleft.com](http://www.turnittotheleft.com)

## **h. VISUALLY IMPAIRED INTERPETER RESOURCES**

- Closed captioning is on all Village meeting broadcasts.
- The council chambers have an audio system where headphones are supplied by the audio-visual department

### Literary Resources

- [Online Dakota Information Network ODIN](#) (Library catalogs)
- [Learning Ally](#) Making Reading Accessible for all
- [Book share](#) An accessible online library for people with print disabilities
- [Seedlings](#) Braille Books for Children
- [Paths to Literacy](#) - for Students who are blind or visually impaired
- [National Library Services for the Blind and Physically Handicap \(NLS\)](#)
- [National Instructional Materials Access Center \(NIMAC\)](#)

### Braille Resources

- [BANA - Braille Authority of North America](#)
- [National Braille Association](#)
- [National Braille Press](#) Promoting Braille Literacy, Braille Books & Other Braille Publications
- [Free Braille Resources](#) provided by NDVS/SB
- [Guide to Braille Resources](#)

### State Agencies Affiliated with NDVS/SB

- [North Dakota State Portal](#)
- [North Dakota Dual Sensory Project](#)
- [North Dakota Department of Public Instructions \(DPI\)](#)
- [North Dakota State Library](#)
- [Division of Vocational Rehabilitation](#)

### Parent & Family Resources

- [Family Connect](#) For parents of children with Visual Impairments
- [VisionAware.org](#) - Resources for Independent Living with Vision Loss
- [WonderBaby.org](#) Resources for Parents of Blind & Disabled Babies & Children
- [Little Bear Sees](#) Helping Visually Impaired Children learn to see
- [Family Voice of North Dakota](#) - aims to achieve family-centered care for all children and youth with special health care needs and/or disabilities

## Support Organizations

- [American Council of the Blind](#) (ACB)
- [National Federation of the Blind](#) - (NFB)
- [North Dakota Association of the Blind](#) (NDAB)
- [ND Assistive](#) (Formerly IPAT)
- [American Printing House for the Blind](#) - (APH)

## Orientation & Mobility Organizations

- [Leader Dogs for the Blind](#)
- [Academy for Certification of Vision Rehabilitation & Education Professionals](#)  
(ACVREP)

## Vocational/Career Resources

- [AFB Career Connect](#)

## Educational Standards for Visually Impaired Students

- [National Agenda for the Education of Children & Youth with Visual Impairments, Including Those with Multiple Disabilities](#)
- [Students with Visual Impairments in North Dakota Schools](#) (pdf)

## Village of Oak Park

### Accessibility Analysis, ADA Title II Self-evaluation, & Transition Plan

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#### 9. IN CONCLUSION

In conclusion, The Village of Oak Park strives to be in full ADA compliance and does not discriminate. The Village of Oak Park seeks to quickly identify barriers and is adamant to remove the barriers in a timely manner.

The Village of Oak Park policies, processes, and procedures comply with all applicable state, and federal laws, and regulations. “The Policy of the Village is to provide equal employment opportunity for qualified persons and not discriminate against any employee in violation of federal or state law because of race, religion, color, sex, age, national origin, physical or mental disability, ancestry, or sexual orientation.”