



Self-Evaluations and Transition Plans: Some Considerations will begin at 2 pm ET

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- Or visit the ADA National Network website at adata.org.

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About Your Hosts...

- TransCen, Inc.
 - Improving lives of people with disabilities through meaningful work and community inclusion
- Mid-Atlantic ADA Center, a project of TransCen, Inc.
 - Funded by National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), Administration for Community Living, U.S. Department of Health and Human Services



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Self-Evaluations and Transition Plans: Some Considerations



Mid-Atlantic ADA Center
Webinar

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The 2010 Standards for Accessible Design: Compliance Dates Safe Harbor Supplemental Requirements

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Safe Harbor – Existing Facilities

- Elements that *comply* with the corresponding requirements for those elements in the 1991 Standards *do not need to be modified* to meet the 2010 Standards unless those elements are altered on or after March 15, 2012.
- Safe Harbor *does not apply* to those elements in existing facilities that are not subject to specific requirements in the 1991 Standards.

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Supplemental Requirements: No Safe Harbor

- Amusement Rides;
- Recreational Boating Facilities;
- Exercise Machines and Equipment;
- Fishing Piers and Platforms;
- Golf and Miniature Golf Facilities;
- Play Areas;
- Saunas and Steam Rooms;
- Swimming Pools, Wading Pools and Spas;
- Shooting Positions with Firing Positions; and
- Miscellaneous: Team/Player Seating, Accessible Routes to Bowling Lanes and Court Sports Facilities.

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Noncomplying Facilities

Noncomplying title II and title III facilities, i.e., facilities built after the compliance date for the 1991 Standards, but that are **not** in compliance with those standards, **must** be modified as follows:

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Noncomplying Facilities Continued

- **Before March 15, 2012**, had the choice of:
 - ❖ 1991 Standards
 - ❖ 2010 Standards
 - ❖ UFAS (Title II only)
- **On or after March 15, 2012**, covered entities must bring their noncomplying facilities into compliance with the 2010 Standards.

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What Standards Apply to Existing Facilities?

- **Title II — Program accessibility**
- **Title III — Readily achievable barrier removal**

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Let's talk a bit about

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.....Program Access

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State and Local Governments: Program Access

NOT a new concept. Language can be found in:

- ❖ Title II of the ADA, and
- ❖ Section 504 of the Rehabilitation Act: recipients of federal financial assistance.

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Basic Principles

- Equal opportunity
- Integration
- Inclusion in planning

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Program Accessibility

- No qualified individual with a disability shall, *because a public entity's facilities are inaccessible or unusable,*
 - Be excluded from participation;
 - Be denied benefits of programs;
 - Be subjected to discrimination.

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Existing facilities

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

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Examples of Program Access

- Relocating a service to an accessible facility, e.g., moving a public information office from the third floor to the first floor of a building.
- Providing benefits or services at an individual's home, or at an alternative accessible site.
- Making structural changes.

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Integration

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

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“When Viewed in Its Entirety”

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

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“When Viewed in Its Entirety” ... Part II

- Which locations are accessible and to what extent?
- How well dispersed are the accessible locations? How convenient are they?
- What are existing barriers to participation?

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Program Access

- Limitations:
 - ❖ fundamental alteration in the nature of the service, program, or activity
 - ❖ undue financial and administrative burdens.
 - ❖ BUT, public entities must take any other action that would ensure that individuals with disabilities receive the benefits or services.
- May not carry an individual with a disability as a method of providing program access, except in “manifestly exceptional” circumstances.

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Self-Evaluations and Transition Plans

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Title II Compliance: Another Refresher

- Self-evaluation of policies and practices by January 26, 1993 (all public entities, regardless of number of employees)
- Transition plan (for physical modifications) by July 26, 1992 (if 50 or more employees)
- Physical modifications complete by January 26, 1995, “...but in any event as expeditiously as possible.”

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The Important Role of the ADA Coordinator

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We Need to do WHAT?

- I already did them 23 years ago!!!!
 - ❖ Times change - so do facilities, programs, and staff, and..... the ADA regulations.
- I think we did them 23 years ago, but I can't find it anywhere!!!!
 - ❖ See above.
- Well, maybe we didn't do them 23 years ago – help!!
 - ❖ There is no time like the present.

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Planning for Success

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

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Self-Evaluation

- **Assess.** A public entity shall, within one year of the effective date of this part, evaluate its current *services, policies, and practices*, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

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What To Assess

- Presence of physical barriers: what needs to be done to provide access?
- Policies: do they unnecessarily exclude people with disabilities?
- Communication: is there a policy to provide effective communication with people with disabilities?

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What To Assess

- Employment policies and procedures: do eligibility criteria or other policies/practices discriminate against employees and applicants with disabilities?
- Grievance procedure: has one been developed? (*Required* for entities with 50 or more employees.)
- Training: is a program in place to train employees on the ADA?

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Self-Evaluation – Cont.

- **Seek Input.** A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

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Self-Evaluation

- (c) **Keep records.** A public entity that *employs 50 or more persons* shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:
 - ❖ (1) A list of the interested persons consulted;
 - ❖ (2) A description of areas examined and any problems identified; and
 - ❖ (3) A description of any modifications made.

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Transition Plan

- **Make a Plan.** *In the event that structural changes to facilities will be undertaken to achieve program accessibility*, a public entity that *employs 50 or more persons* shall develop.... a transition plan setting forth the steps necessary to complete such changes.

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Transition Plan – Cont.

- **Seek Input.** A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments.
- **Let the Public Know.** A copy of the transition plan shall be made available for public inspection.

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What's In the Transition Plan?

- The plan shall, at a minimum –
 - ❖ (i) **Identify** physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
 - ❖ (ii) **Describe** in detail the methods that will be used to make the facilities accessible;

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What's In the Transition Plan?

- ❖ (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. !

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How Do We Begin? Gather People & Resources

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

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Make Some Initial Decisions

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

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Questions to Ask (and Answer)

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

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More Questions to Ask

- Review original (1990s) self-evaluation and transition plans. Do you know where they are - both in terms of physical location AND content?
- How current are the self-evaluation and transition plan?
- What has changed or no longer exists?
- What is new?

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More Questions to Ask

- What do we need to address now that we didn't before?
- Know who has responsibility for what. What are YOUR responsibilities? Who has responsibilities for program access, policy, and facilities issues? EEO?
- Do we have an ADA Coordinator?
- Do we have a grievance procedure?

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Where Do I Go From Here?

- Understand the requirements of the ADA. Don't be afraid to ask and use resources. There are NO stupid questions.
- Develop your own support network. Developing relationships is important:
 - ❖ Find other ADA Coordinators. Chances are they have experienced what you are dealing with and have some good suggestions. You don't have to feel alone.
 - ❖ Reach out and develop relationship with the disability community in your area. They can identify priorities, help to develop a realistic compliance plan, and provide other valuable input.
 - ❖ Contact and develop relationships with designated Federal agencies — they can be your friend.
 - ❖ Keep DOJ and the ADA Network on speed dial.

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Where Do I Go From Here?

- Respond to inquiries, complaints, or compliments (they will come!) in a timely manner - even if you don't know what the answer is. Outline realistic, clear, and measurable steps, including time lines, in your grievance procedure and adhere to them.
- Don't EVER be afraid to ask questions or say you don't know the answer or to ask questions. Nobody knows the answer to every question!

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Resources

Regulations, appendices, standards are available at DOJ's ADA web site at www.ada.gov.

For answers to specific questions, DOJ toll-free confidential ADA information line:

800-514-0301 (Voice)

800-514-0383 (TTY)

ADA National Network

800-949-4232 (Voice/TTY)

www.adata.org

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 - TransCen.org
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