

ADA Audio Conference Series March 18, 2014

This session is scheduled to begin at
2:00pm Eastern Time

Real-Time Captioning and the PowerPoint presentation are available through the Webinar Platform. Audio Connection is available through the webinar platform/telephone/Mobile App depending on what you registered for.

1

Listening to the Session

- ▶ The audio for today's webinar is being broadcast through your computer or via telephone for those that registered for that option.
- ▶ If using your computer, please make sure your speakers are turned on or your headphones are plugged in:
 - You can control the audio broadcast via the Audio & Video panel. You can adjust the sound by "sliding" the sound bar left or right.
 - If you are having sound quality problems check your audio controls by going through the Audio Wizard which is accessed by selecting the microphone icon on the Audio & Video panel



2

Listening to the Webinar, *continued*

MOBILE Users (iPhone, iPad, or Android device
(including Kindle Fire HD))

Individuals may listen** to the session using the
Blackboard Collaborate Mobile App (Available Free
from the Apple Store, Google Play or Amazon)



**Closed Captioning is not visible via the Mobile App and there is limited accessibility for screen reader/Voiceover users

3

Captioning



- ▶ Real-time captioning is provided during this session via the webinar platform.
- ▶ The caption screen can be accessed by choosing the  icon in the Audio & Video panel. ↓



- ▶ Once selected you will have the option to resize the captioning window, change the font size and save the transcript.

4

Submitting Questions



- ▶ If you are listening by phone you will be instructed by the Operator on how to ask a question.
- ▶ Via Webinar platform you may type and submit questions in the Chat Area Text Box or press Control-M and enter text in the Chat Area. You will not be able to see the question after you submit it but it will be viewable by the presenters.
- ▶ If you are connected via a mobile device you may submit questions in the chat area within the App
- ▶ Questions may also be emailed to webinars@ada-audio.org



Please note: This webinar is being recorded and can be accessed on the ADA Audio Conference Series website at www.ada-audio.org within 24 hours after the conclusion of the session. The edited written transcript will be posted at this same site within 7 business days following the conclusion of the session.

5

Customize Your View



- ▶ Resize the Whiteboard where the Presentation slides are shown to make it smaller or larger by choosing from the drop down menu located above and to the left of the whiteboard. The default is "fit page"



6

Customize Your View *continued*



- ▶ Resize/Reposition the Chat, Participant and Audio & Video panels by “detaching” and using your mouse to reposition or “stretch/shrink”. Each panel may be detached using the ☰ icon in the upper right corner of each panel.

7

Setting Preferences



- ▶ Depending on your system settings you may receive visual and audible notifications when individuals enter/leave the webinar room or when other actions are taken by participants. This can be distracting.
- ▶ To turn off notifications (audible/visual)
 - Select “Edit” from the tool bar at the top of your screen
 - From the drop down menu select “Preferences”
 - Scroll down to “General”
 - select “Audible Notifications” Uncheck anything you don’t want to receive and “apply”
 - Select “Visual Notifications” Uncheck anything you don’t want to receive and “apply”
 - For Screen Reader User – Set preferences through the setting options within the Activity Window (Ctrl+slash opens the activity window)

8

Technical Assistance



- ▶ If you experience any technical difficulties during today’s session:
 1. **In webinar platform:** Send a private chat message to the host by double clicking “Great Lakes ADA” in the participant list. A tab titled “Great Lakes ADA” will appear in the chat panel. Type your comment in the text box and “enter” (Keyboard - F6, Arrow up or down to locate “Great Lakes ADA” and select to send a message); or
 2. **By Email** webinars@ada-audio.org; or
 3. **Call** 877-232-1990 (V/TTY)

8

WHAT'S YOUR PLAN?
Part Three
Bringing It All Together:
Transition Plans, Barrier Removal
Plans, and Action Plans

Irene Bowen
James Terry

March 18, 2014

10

Instructors

Irene Bowen, JD, PA

President, ADA One, LLC
Former Deputy Chief, Disability Rights Section, US DOJ
Former Deputy General Counsel, Access Board

James Terry, AIA, LEED-AP, CASp

Chief Executive Officer, Evan Terry Associates, P.C.

11



CAUTION

The content provided in this presentation is for informational purposes only. Neither the content nor delivery of the content is or shall be deemed to be legal advice or a legal opinion. The audience cannot rely on the content delivered as applicable to any circumstance or fact pattern. The information provided is not a substitute for professional legal advice.

12

Overview of sessions

- Part One: Getting Started
- Part Two: A Hands-on Approach to Self-Evaluations
- Part Three: Bringing It All Together: Transition Plans, Barrier Removal Plans, and Action Plans

13

Refresh

- Goal is compliance
- Regulations and requirements
- Areas of examination and terminology
 - Equal opportunity – includes communication, policies, practices
 - “Policies and practices”
 - Physical access – buildings, facilities, equipment
 - “Program accessibility”

14

Last time

- Critical decisions
- Stages of self-evaluation
 - Plan
 - Gather information
 - Analyze and report
 - Plan for remediation
- Preparing for a transition plan/barrier removal plan

15

Action plan builds on critical decisions made earlier

- Type of analysis
- Level of reporting
 - Town/city or
 - Department or
 - Each program, service or activity
- Granularity/level of detail
- All at once, or in phases
- Electronic information or not
- Checklist or narrative or combination

16

Things to do

- Draft recommendations
 - Have departments draft their own pieces?
- Meet with departments
- Public input
- Final plan



17

Organizing an action plan

- By department
- By program
- By category of activity
 - Communication
 - Meetings
 - Separate programs
 - Procurement
 - Emergency evacuation
- By type of recommendation

18

Possible types of recommendations

- Centralized policy changes, including for program access
- Centralized procedures
- Centralized training
- Department-specific action steps

19

What about facilities?

- Remember: physical changes go in the transition plan
- Other facility-related changes go in the action plan
 - Centralized booking of accessible space
 - Moving furniture, classes, events
 - Maintaining accessible features
 - Training

20

Example: maintenance

Accessible features must be maintained in operable working condition.

- Lifts
- Clear space
- Grab bars
- Parking
- Automatic doors
- Sidewalks



21

Typical action steps (1)

- Direct staff to discontinue practices that are discriminatory (“red flags”)
 - Asking companions to assist with communication (e.g., to interpret, read) or provision of services (e.g., health care)
 - Asking forbidden questions about service animals
 - Denying interpreters, auxiliary formats
- Create and/or publicize --
 - Title II notice of nondiscrimination
 - Identity of ADA Coordinator
 - Grievance procedures

22

Typical action steps (2)

- Develop an administrative order setting out --
 - Responsibilities of ADA Coordinator
 - Responsibilities of department liaisons
 - Processes for obtaining interpreters, alternate formats, accessible meeting space, etc.
 - Process/form for making decisions as to fundamental alteration, undue burden
 - Means of monitoring activities by contractors
 - Ensuring broadcasts and videos are accessible

23

Typical action steps (3)

- Train emergency responders on interaction with people with disabilities
- Train staff in large facilities to assist people trying to find a service.
- Train staff on how to use telecommunication relay services

24

Keep on it

- Assign tasks to individuals, departments, program managers
- Assign deadlines
- Ensure accountability
- Make it part of the job description
- Fund the follow-up

25



26

Program Access Through Transition Planning

(And Other ADA Title II Facilities Requirements)

27

When do program access requirements apply under Title II ?

- Program access requirements related to facility access apply in addition to requirements for new construction and alterations, and in addition to self evaluation requirements related to communications, policies, and procedures.
- When no new construction or alterations are taking place, there is still an obligation to remove barriers to program access.

28

How do you achieve program access?

- Provide programs, services, or activities in accessible places so that your program, when seen as a whole is accessible, but be careful about distance, convenience, and integration.
- Remove barriers in those areas that people with disabilities will need to go to participate in your programs, activities and services.

29

Program access is more flexible than the Standards but may require more:

- A facility with heavy exterior doors will probably need to have at least one automatic door opener.
- You may be required to have more accessible parking spaces than required by the Standards.

30

Program access does not require:

- That you take actions that would change the fundamental nature of the program.
- That you take steps that would create an undue financial and administrative burden.
- Undue financial burden must be decided at the top when looking at the entire budget and is a much higher obligation than the readily achievable obligation of Title III.

31

Transition Planning Considerations

- I. Overview of the requirements of the law for physical & program access
- II. Breadth and scope of coverage
- III. Types of physical barriers
- IV. Alternative methods
- V. What must be included in the plan
- VI. Which Standards?
- VII. Logical approaches to providing physical access

32

Transition Planning Considerations

- VIII. Facility selection for program access
- IX. Surveying facilities for program access
- X. Information needed
- XI. Barrier prevention and monitoring
- XII. Leased facilities
- XIII. TP practicalities
- XIV. Funding the work

33

I. Overview of requirements for physical and/or program access

- a. New Construction commenced after January 26, 1992
- b. Alterations commenced after January 26, 1992
- c. Facilities where programs, activities, and services take place (with some exceptions)
 - 1. Unaltered areas of existing facilities
 - 2. Leased facilities
 - 3. Facilities controlled by others

34

II. Typical breadth of facility types covered

- a. City and town halls and administrative centers
- b. Courthouses
- c. Jails, Prisons, and detention centers
- d. Police stations
- e. Fire stations
- f. Sheriffs' departments

35

II. Typical breadth of facility types covered (cont'd)

- a. Polling places
- b. Parking decks
- c. Health care delivery centers
- d. Childcare centers
- e. Teen activities centers
- f. Senior activities centers
- g. Emergency shelters

36

II. Typical breadth of facility types covered (cont'd)

- n. Animal shelters
- o. Libraries
- p. Museums
- q. Fairgrounds
- r. Convention centers
- s. Auditoriums and theaters
- t. Baseball and football stadiums
- u. Visitors centers

37

II. Typical breadth of facility types covered (cont'd)

- v. Parks, also including
 - i. Public Gardens
 - ii. Recreation centers
 - iii. Golf courses
 - iv. Ice skating rinks
 - v. Public swimming and wading pools
 - vi. Playgrounds
 - vii. Ball fields

38

II. Typical breadth of facility types covered (cont'd)

- v. Parks, also including (cont'd)
 - viii. Bleachers
 - ix. Tennis centers
 - x. Band shells
 - xi. Gazebos
 - xii. Marinas and fishing facilities
 - xiii. Nature trails
 - xiv. Shared use paths

39

II. Typical breadth of facility types covered (cont'd)

- w. Airports, public transportation stops, and transit stations
- x. Public rights of way elements
- y. Waste disposal/landfill facilities open to public use
- z. All other public entity owned and/or controlled public facilities

40

III. Types of physical obstacles listed most frequently in DOJ Agreements

- a. Parking
- b. Curb ramps
- c. Routes from public transportation, accessible parking, streets and/or sidewalks to accessible entrances
- d. Routes through the facilities
- e. Doors and door hardware
- f. Ramps and handrails
- g. Stairs and handrails

41

III. Types of physical obstacles listed most frequently in DOJ Agreements (cont'd)

- h. Elevator cabs and lobbies
- i. Platform lifts
- j. Rest rooms, accessible plumbing fixtures, and accessories
- k. Showers and bathing facilities
- l. Dressing and locker rooms
- m. Alarms
- n. Signage (all required types)

42

III. Types of physical obstacles listed most frequently in DOJ Agreements (cont'd)

- o. Drinking fountains
- p. Telephones
- q. Service and ticket sales counters
- r. Concession stands and gift shops
- s. Wheelchair seating in assembly areas
- t. Access to stages and performing areas
- u. Assistive listening systems
- v. Libraries

43

IV. Physical access v. alternative methods

- a. Physical access is not required to every facility where alternative methods are as effective in providing program access, but, where structural changes are required, a transition plan is required.

44

IV. Physical access v. alt. methods (cont'd)

- b. Alternative methods for compliance in existing facilities may include
 - i. Redesigning equipment
 - ii. Reassigning services to accessible buildings
 - iii. Assigning aides to beneficiaries or home visits
 - iv. Delivery of services at alternate sites
 - v. Alteration of existing facilities
 - vi. Construction of new, accessible facilities
 - vii. Use of accessible rolling stock or other conveyances
 - viii. Other methods to achieve "readily accessible to and usable by"

45

V. Regulatory “requirements” of what must be included in a transition plan

- a. Identify all physical obstacles (**barriers**) in the facilities that limit program access
- b. Detail the **methods** that will be used to make the facilities accessible
- c. **Schedule** the steps to be taken each year to achieve compliance
- d. **Name of official responsible** for implementation

46

VI. Determine which Standards will be used to identify barriers

- a. 2010 ADA Standards
- b. 1991 ADA Stds. or UFAS (for Safe Harbor)
- c. State and/or Local Standards (SH ?)
- d. Rehab. Act - Section 504 program access standard
- e. Public right of way
- f. Shared use paths
- g. Outdoor developed areas

47

VII. Logical approach Option “A” for identifying barriers and removing them for physical access

- a. **Identify every program offered and evaluate each program for barriers.** Remove, then:
 - i. Train program-setting employees to recognize and avoid barriers when moving and adding programs and services and when scheduling all public activities and events
 - ii. Update transition plan, secure funding, and eliminate barriers every time programs move or are added to inaccessible facilities or areas within facilities

48

VII. Logical approach Option "B" for identifying barriers and removing them for physical access

- b. Identify areas** in every facility where programs are offered and then identify all barriers in those areas. Remove them, then:
 - i. Train program-setting employees to schedule programs, services, public activities and events only in areas of facilities that are already physically accessible
 - ii. Update transition plan, secure funding, and eliminate barriers only when programs move or are added to the few remaining inaccessible facilities or areas within facilities

49

VIII. Select facilities where programs will be offered to achieve program access

- a. Verify ALL programs, services, and activities will be accessible
- b. If not all accessible at every location, geographically dispersed at convenient locations

50

VIII. Select facilities where programs will be offered to achieve program access (cont'd)

- c. If not all accessible, consider how facilities are used
 - 1. Example – two auditoriums: BOTH must be accessible
 - 2. Example – twenty swimming pool facilities: SOME must be accessible
 - i. Swim meets must be held only at accessible pools
 - ii. Swimming lessons must be offered at accessible pools

51

IX. Survey facilities to identify physical obstacles (barriers) that limit program access

(Details on this process are covered in other programs.)

52

X. Additional information needed about each facility, each barrier, and each solution

Additional information is needed about each facility, each barrier, and each solution and care must be taken to organize that information to communicate the barriers information effectively, to make decisions consistently and appropriately, and to efficiently coordinate and implement the plan.

53

X. a. Facility information

- i. Facility name (and numerical identifier if one is used)
- ii. Facility type (if one is used)
- iii. Date of initial occupancy and last major renovation (if any)
- iv. Address of facility
- v. ADA contact/coordinator at facility
- vi. ADA contact's phone number
- vii. Date facility was surveyed to identify barriers to be removed
- viii. Name and phone number(s) of ADA surveyor(s)

54

X. a. Facility information (Cont'd)

- ix. Surveyor's notes about any difficulties encountered during survey and any questions that need to be answered before the facility is ready for inclusion in final transition plan
- x. If desired, which spaces, features, and/or elements of the facility are already accessible and need no further work
- xi. Executive summary of physical barriers identified
- xii. Overall photograph(s) of the facility for general reference

55

X. a. Facility information (Cont'd)

xiii. After physical barrier removal is complete:

1. Date last physical barrier was removed
2. Name of individual certifying all work was completed as noted below
3. Certifier's contact information
4. General notes and exceptions

56

X. b. Physical barrier information

- i. Unique barrier identification number
- ii. Exact location of physical barrier
 1. Described in words
 2. Marked on a floor or site plan
- iii. Description of existing condition that is non-compliant
- iv. Description of what is required for program access
- v. Reference(s) and figure numbers from the Standards
- vi. Photograph(s) of the barrier showing the problem in context and in detail

57

X. b. Physical barrier information (cont'd)

vii. Analysis codes for prioritizing barrier removal if not all will be fixed immediately

1. Use Code (How much is the area or element used by the Public and/or who controls it?)

Possible Examples:

- HP – High Public use
- GP – General Public use
- MP – Minimal Public use
- EV – Evacuation route or emergency exit
- L – Landlord controlled area or element
- G – Other Governmental entity or agency
- T – Tenant controlled area or element

58

X. b. Physical barrier information (cont'd)

vii. Analysis codes for prioritizing barrier removal if not all will be fixed immediately (cont'd)

2. DOJ Code (simplified priorities from Title III regulations)

- 1 - Access into the facility (out of the weather)
- 2 - Access to programs, activities, and services
- 3 - Access to toilet rooms
- 4 - Access to other elements
- 5 - Duplicate of other space or element being fixed

59

X. b. Physical barrier information (cont'd)

vii. Analysis codes for prioritizing barrier removal if not all will be fixed (cont'd)

3. Severity Code (How bad is this specific barrier now?)

- A - Safety consideration for people with disabilities
- B - Blocks access to a significant number of people with disabilities
- C - Major inconvenience to a significant number of people with disabilities and blocks access for some
- D - Minor inconvenience to most people with disabilities, major to few, blocks almost none
- E - Fails stricter state requirement (optional)
- F - Fully compliant element (optional)

60

X. c. Detailed methods to achieve compliance

- i. Description of proposed physical solution
- ii. Cost estimates or level of effort required for proposed method of correction
- iii. Any additional requirements of State Standards that will apply
- iv. Possible alternative method(s)...

61

X. c. Detailed methods to achieve compliance (cont'd)

- v. If an alternative or administrative method will be used in lieu of physical barrier removal:
 - 1. Cost estimate or level of effort for proposed alternative method
 - 2. How the alternative or administrative method will be communicated to and coordinated with those responsible for implementing it
 - 3. Identify any difficulties expected with continued dependence on this method
 - 4. Name and position of individual(s) approving alternative
 - 5. Decisionmakers' contact information

62

X. c. Detailed methods to achieve compliance (cont'd)

- vi. After decision re: physical fix or alternative method
 - 1. Who will be responsible for the work
 - a. Specific department, and/or
 - b. Operations staff
 - c. Custodial/Housekeeping staff
 - d. Maintenance staff
 - i. Locksmith
 - ii. Landscaper
 - iii. Carpenter
 - iv. Plumber
 - v. Electrician
 - vi. Other

63

X. c. Detailed methods to achieve compliance (cont'd)

- e. Capital improvements group
- f. Legal
 - i. Landlord
 - ii. Tenant
 - iii. Other government agency

vii. After physical barrier removal is complete:

1. Date barrier was removed
2. Name of individual certifying that work was completed as noted below
3. Certifier's contact information

64

X. c. Detailed methods to achieve compliance (cont'd)

viii. After physical barrier removal is complete: (Cont'd)

4. Notes and exceptions
 - a. Differences between initial transition plan and actual physical work completed
 - b. Reasons for changes to physical barrier removal
 - c. Who approved changes
 - d. Date of approval

65

X. d. Streets, sidewalks, and curb ramps plan

- i. Decide whether to use an automated system or a manual method for identifying barriers
- ii. If a manual method, use survey forms with diagrams to assess all existing conditions consistently and develop/select solutions in the field when possible
- iii. Survey only once and collect all information needed for decisions and management of process
- iv. Setting priorities (discussed during last session)

66

X. e. Organizing and communicating the information

- i. Difficulties with hard copy data, plans, & spreadsheets
- ii. Database with standard analysis options and tailored reports
- iii. Database live on a secure internet server with layered access for specific user types
- iv. Photos (before and after)
- v. Site and floor plans of facilities, parks, etc
- vi. Geographic information systems to manage PROW and site data and document process (GIS)
- vii. Map(s) showing all facilities with accessible ones noted
- viii. Map(s) showing most accessible routes (keep updated)

67

XI. Barrier prevention and monitoring

- i. Conducting plan reviews of new projects during design and verifying construction in the field
- ii. Checking alterations projects
- iii. Watching and training maintenance staff
- iv. Training and overseeing custodial staff
- v. Coordinating with operations personnel
- vi. Working with public service representatives
- vii. Following up with vendors and suppliers
- viii. Verifying access to new and changing programs

68

XII. Leased facilities

- i. Under title II, a state or local government should attempt to lease accessible facilities. If they can not, then the program access requirements will apply to the facility that is leased.
- ii. Necessary changes will need to be negotiated with the landlord.
- iii. Refusal on the part of the landlord does not make the changes technically infeasible.

69

XIII. TP practicalities

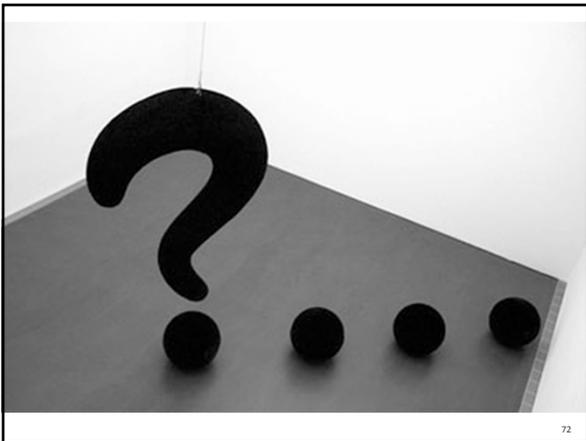
- i. Access to programs vs. facility access
- ii. Setting priorities when the budget is limited
- iii. Which survey details will you collect?
- iv. Coordinating accessible facility solutions with the operations, maintenance, procurement, and various program providers to assure consistent “program access” in practice
- v. Tracking and communicating what you are doing, what you’ve done, and how to use it

70

XIV. Funding the work

- a. **Stop the processes that are creating new barriers**
 - i. Training ALL design and construction team members
 - ii. ADA plan reviews of new construction and alterations
 - iii. Reviews and approvals of standard accessible products
 - iv. Training and support for maintenance and operations teams
- b. **Look for opportunities and methods to piggyback ADA work onto other projects**
 - i. Ongoing maintenance work
 - ii. New construction, additions, and alterations projects
- c. **Seek new funding sources**
 - i. Donations and partnership projects
 - ii. State funding sources
 - iii. Federal funding sources (CDBG, FEMA, Direct, etc.)

71



72

CONTACT

Irene Bowen, J.D.
President, ADA One, LLC
9 Montvale Court
Silver Spring, MD 20904

Web site: <http://ADA-One.com>

301.879.4542 (O)
301.236.0754 (F)



73

CONTACT

James L.E. Terry, AIA, CASp
CEO, Evan Terry Associates, P.C.
One Perimeter Park So. #200S
Birmingham, AL 35243

www.EvanTerry.com
jterry@evanterry.com

205.972.9100 (O)
205.972-9110 (F)



74



Thank you for participating in today's
ADA-Audio Conference Session

The next scheduled session is:

"Googling: Job Applicants"

April 15, 2014

www.ada-audio.org

877-232-1990 (V/TTY)

75
