

# City does not ensure Americans with Disabilities Act compliance

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Photo source: Disabled and Here Project

We noted compliance risks for the City related to the Americans with Disabilities Act during an audit of emergency preparedness but the risks were outside of the audit's scope. We are calling attention to them here so City Council and the public can act with urgency to address them.

- City did not complete an evaluation or plan to achieve compliance \_\_\_\_\_ 1
- Most City bureaus do not have sufficient Americans with Disabilities Act expertise \_\_\_\_\_ 2
- City does not have a system for monitoring and enforcing compliance with the Americans with Disabilities Act \_\_\_\_\_ 3
- Office of Equity & Human Rights should work with Council to address these concerns \_\_\_\_\_ 4



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## **City does not ensure Americans with Disabilities Act compliance**

The Americans with Disabilities Act prohibits discrimination on the basis of disability to enable equal access and full participation. City Council has a 30-year history of expressing its commitment to comply with the Act after its passage in 1990 ([see timeline](#)). We observed, however, that the declarations need to be backed up with actions and resources to ensure that all City programs and services are accessible to Portlanders with disabilities. We believe the grave nature of the risks call for Council and the Office of Equity & Human Rights to develop a plan to achieve compliance with the Act and allocate resources to ensure it is implemented.

## **City did not complete an evaluation or plan to achieve compliance**

The Act requires a self-evaluation to help local governments identify and correct programmatic, architectural, and administrative barriers to accessibility.

The City completed a self-evaluation in 1993 but has not updated it since then. Without an updated citywide self-evaluation, the plan the City developed in 2014 specifically to remove physical barriers to accessibility may not address all of them. The City also does not have a current assessment of whether its policies, practices, or procedures limit access for people with disabilities.

[View the City's Americans with Disabilities Act Title II Transition Plan Update \(2014\)](#)

The City also lacks a strategy for achieving citywide compliance with the Act. The City's Disability Program, formerly part of Facilities Services in the Office of Management and Finance, was transferred to the Office of Equity & Human Rights in 2014. The Equity Office presented its first strategic plan to Council in June 2021. The plan allots three more years to develop criteria to move the City into alignment with the Act. The plan does not provide concrete steps to help the City comply with the law, such as conducting a citywide self-evaluation and evaluating performance.

[View the Office of Equity & Human Rights' strategic plan 2021-24](#)

[View the Americans with Disabilities Best Practices Tool Kit for State and Local Governments](#)

### **Most City bureaus do not have sufficient Americans with Disabilities Act expertise**

Under the City's commission form of government, bureaus are responsible for ensuring that their programs and services comply with the Americans with Disabilities Act. However, most bureaus have not hired dedicated accessibility staff with needed expertise.

### **What is an Americans with Disabilities Act Title II Self-Evaluation?**

A self-evaluation is a comprehensive review of all of a public entity's facilities, programs, policies, and practices to assess whether they exclude or limit participation by people with disabilities. It should cover general nondiscrimination provisions, communications, program and facility accessibility, and web accessibility.

A self-evaluation identifies the actions – beyond changes to physical structures – needed to comply with the Act. For example, a public entity may need to modify policies and procedures, review websites for accessibility, arrange for auxiliary aids and services (such as assistive listening devices, sign language interpreters, and alternative formats), and train staff on the Act's requirements and the entity's request and complaint procedures to ensure that its programs, activities, and services are accessible. And as services and technology change, self-evaluations should be updated.

After conducting a self-evaluation a transition plan is developed for structural changes and modification of policies and procedures.

Each bureau is required to designate a staff person to increase access and remove barriers for persons with disabilities, assist with accommodation requests, and resolve complaints alleging discrimination based on disability. Some bureaus do not have a person in this role, and many bureaus have assigned employees who do not have the time, expertise, or authority needed to ensure that programs and services are accessible.

The City's Disability Program in the Office of Equity & Human Rights is responsible for supporting bureau efforts and ensuring compliance with the Act. As of 2018 the Program had two employees. Currently, the Program facilitates quarterly meetings for bureau disability coordinators, provides accessibility guidance, and intermittently has the capacity to educate bureaus about their responsibilities under the law. Given the lack of expertise at bureaus, this is not sufficient to provide the level of education and technical assistance needed to build competency across the City.

### **City does not have a system for monitoring and enforcing compliance with the Americans with Disabilities Act**

The Act requires the City to develop procedures for prompt resolution of complaints alleging discrimination based on a person's disability. The City's procedures require complaints to be filed with the bureau responsible for the facility, service, or practice that is the subject of the complaint. That bureau is responsible for resolving the complaint and forwarding it to the Equity Office. Some bureaus, however, do not have employees who understand the law's requirements or how to investigate and resolve complaints, and the Equity Office does not track or monitor complaints.

We recommended in a 2016 audit that the City clarify roles and responsibilities for responding to complaints and collect and analyze data about complaints. The Equity Office improved the complaint procedures and developed complaint guidance for City staff. More work is needed to train staff, develop a system to collect and track complaints, and ensure that complaints are appropriately resolved.

[View our 2016 Americans with Disabilities Act audit](#)

The City still has no mechanism to hold bureaus accountable for complying with the Act. The Disability Program in the Office of Equity & Human Rights does not have the capacity or authority needed to monitor compliance and hold bureaus accountable. Council authorized the Program to evaluate compliance among bureaus, but the Program had not developed administrative rules and a process to implement the directive.

### **Office of Equity & Human Rights should work with Council to address these concerns**

The Office of Equity & Human Rights should work with Council to develop a plan to ensure compliance with the American with Disabilities Act and allocate resources to ensure the plan is implemented. Based on our prior audit work and observations in this report, it should include implementing the Department of Justice guidance, conducting a citywide self-evaluation, building Americans with Disabilities Act expertise, and developing a system for monitoring and enforcing citywide compliance.

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### **City Council's long history of commitments to Americans with Disabilities Act 1992-2020**

#### **February 5, 1992**

[Resolution 34945](#) reaffirmed the City's intent to comply with the Act and affirmed Council policy that all City programs, services, and activities are accessible to people with disabilities.

#### **May 5, 1993**

[Resolution 35135](#) affirmed Council's policy to provide access to City programs, activities, and services by approving the City's Americans with Disabilities Act Title II Transition Plan. In October, the City updated the Title II Transition Plan.

#### **October 17, 2001**

[Resolution 36035](#) established a Strategic Development Plan, which called for an Americans with Disabilities Act Coordinating Committee to establish a citywide committee to coordinate the Americans with Disabilities Act initiative and training.

#### **November 2006**

Established the Portland Citizens Disability Advisory Committee to promote engagement with the disability community.

**December 2008**

[Resolution 36658](#) created the Portland Commission on Disability and stated that Portland “is committed to providing equal access and opportunity to its services, programs and activities for all persons with disabilities.”

**July 21, 2010**

Mayor Sam Adams’ [20th Anniversary of the Americans with Disabilities Act proclamation](#) reaffirmed the principles of equality and inclusion and recommitting our efforts to reach full compliance.

**September 21, 2011**

[Ordinance 184880](#) created the Office of Equity and Human Rights, which will lead with race and ethnicity and address disparities for people with disabilities.

**April 25, 2012**

[Resolution 36918](#) adopted the Portland Plan, which includes actions to remove Americans with Disabilities Act barriers to City programs, services, and activities.

**June 6, 2012**

Council approved a [consultant contract](#) to redevelop the City’s Americans with Disabilities Act Title II Transition Plan. [The contract was amended](#) May 29, 2013.

**October 9, 2013**

[Ordinance 186277](#) reaffirmed the City’s previous policies to comply with Americans with Disabilities Act Title II and authorized the Chief Administrative Officer to adopt rules for implementing the City’s Title II policy and program.

**August 13, 2014**

[Ordinance 186755](#) amended City administrative rules to reflect the transfer of Americans with Disabilities Act Title II and Civil Rights Title VI compliance programs from the Office of Management and Finance to the Office of Equity and Human Rights.

**November 6, 2014**

Council accepted the [Americans with Disabilities Act Title II Transition Plan Update](#). Council accepted [a plan supplement for Parks facilities](#) on September 9, 2015 and for [performing arts venues](#) on March 22, 2017.

**November 19, 2014**

[Ordinance 186898](#) delegated rulemaking authority to the Office of Equity and Human Rights to administer its programs.

**October 2, 2019**

[Resolution 37450](#) recommitted the City achieving Americans with Disabilities Act Title II compliance and directed the Office of Equity and Human Rights to evaluate Title II compliance by City bureaus.

**July 29, 2020**

Mayor Ted Wheeler's [30th Anniversary of the Americans with Disabilities Act proclamation](#) stated that the City works to empower disability communities, is committed to being a Model Employer for disability communities and recognizes that continued action is needed to achieve disability equity and justice.

**November 18, 2020**

[Resolution 37517](#) adopted Citywide disability equity goals for ADA compliance and directed the Office of Equity and Human Rights to work with bureaus to implement policies promoting the disability equity goals.