

# City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

## CHAPTER 1997-35

No. 349      **AN ORDINANCE**      APPROVING AND ADOPTING

THE AMERICANS WITH DISABILITIES ACT COMPLIANCE  
REPORT FOR THE CITY OF PROVIDENCE

*Approved* June 30, 1997

***Be it ordained by the City of Providence:***

WHEREAS, the Mayor's Advisory Commission for People with Disabilities (hereinafter referred to as "the Commission"), representing the City of Providence, has formulated and submitted to the City Council for its consideration, a plan entitled The Americans With Disabilities Act Compliance Report for the City of Providence, November, 1996, prepared in accordance with the mandates of the Americans With Disabilities Act enacted by Congress on July 26, 1996, 42 U.S.C. § 12101 et. seq., (hereinafter referred to as "the ADA"); and

WHEREAS, the ADA prohibits discrimination against physically, mentally, visually and hearing impaired individuals in the areas of employment services, transportation and telecommunications; and

WHEREAS, the Commission, established in 1985 as a formal link to City government in protecting the rights of individuals with disabilities, pursuant to Executive Order 1992-03 of January 21, 1992, was ordered to address the requirements of the ADA, review city policies and practices, and prepare a planning document which, when implemented, would bring the City of Providence into compliance with ADA mandates; and

WHEREAS, having fulfilled this assignment, the Commission in presenting this plan establishes detailed nondiscrimination policy for this City in all its functions and services thus underscoring this City's commitment to individuals with disabilities; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PROVIDENCE:

1. The Americans With Disabilities Act Compliance Report for the City of Providence is approved as the official plan of ADA compliance for the City of Providence.
2. In enacting this Ordinance, the City Council intends to comply with the provisions of the plan so that the requirement of this law shall be carried out by the City thereby protecting the interest of the people and the City of Providence, joining in a major effort by the federal government to incorporate prohibitions against discrimination for people with disabilities.
3. The Commission is fully authorized to supervise the implementation of this plan and all City departments, boards, commissions and agencies shall cooperate with the Commission .
4. The Americans With Disabilities Compliance Report for the City of Providence, containing a table of contents, 100 pages of text, chart and appendix, is approved, adopted and designated the official plan.

No.

CHAPTER  
 AN ORDINANCE

1996  
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IN CITY COUNCIL  
 DEC 19 1996  
 FIRST READING  
 REFERRED TO COMMITTEE ON  
 ORDINANCES

*Michael L. Clement* CLERK

THE COMMITTEE ON  
 ORDINANCES  
 Approves Passage of  
 The Within Ordinance

*Barbara A. Garcia*  
 5/29/97 CLERK

*Councilwoman Hillman (By Request)*

5. In order to implement and facilitate the policies of the compliance report, the City Council:
- a. Pledges its cooperation in helping to carry out this plan; and
  - b. Requests that all officials, departments, boards, commissions and agencies of the City of Providence having administrative responsibilities likewise cooperate by exercising their powers and functions in a manner consistent with this plan to ensure that the City of Providence, in its employment practices and in the provision of its services, complies with the mandates of the ADA.
6. This Ordinance shall take effect on its passage and shall be filed with the City Clerk who is authorized and directed to forward a certified copy of this ordinance to the Commission.

**IN CITY COUNCIL**  
JUN 5 1997  
**FIRST READING**  
**READ AND PASSED**  
*Michael R. Clement*  
CLERK

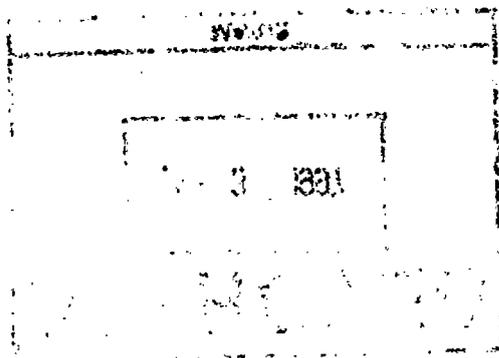
**IN CITY COUNCIL**  
JUN 19 1997  
FINAL READING  
READ AND PASSED  
*Rachelyn G. Fargnoli*  
PRESIDENT  
*Michael R. Clement*  
CLERK

**APPROVED**  
JUN 30 1997  
*Vincent DiLeoncio*  
MAYOR

**FILED**

DEC 10 11 30 AM '96

DEPT. OF SOLICITOR  
PROVIDENCE, R.I.



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CREC

**RECEIVED  
DEPT. OF SOLICITOR**

**PROVIDENCE, R.I.**

Linda DeCiccio  
Chair  
Christine Roundtree  
Vice-Chair



Vincent A. Cianci, Jr.  
Mayor

**MAYOR'S ADVISORY COMMISSION FOR PEOPLE WITH DISABILITIES**

*"Providence Cares"*

December 9, 1996

Mr. Michael Clement  
City Clerk  
City Hall  
Providence, RI

Dear Mr. Clement,

Attached are twenty-five (25) copies of The Americans With Disabilities Act Compliance Report for the City of Providence, November, 1996 and the accompanying Ordinance. This report shall be presented to the City Council at its next meeting on December 19, 1996 by Councilwoman Rita Williams.

If you have any questions please call me at 521-2909. If you have any extras, please give them to Gunter Vukic in the Mayor's Office. Thank you for your cooperation

Sincerely,

Handwritten signature of Linda DeCiccio in cursive script.  
Linda DeCiccio  
Chair

**THE AMERICANS WITH DISABILITIES ACT**

**COMPLIANCE REPORT**

**CITY OF PROVIDENCE**



**NOVEMBER, 1996**

**Prepared By:**

**MAYOR'S ADVISORY COMMISSION FOR PEOPLE  
WITH DISABILITIES**

**THE AMERICANS WITH DISABILITIES ACT**

**COMPLIANCE REPORT**

**CITY OF PROVIDENCE**



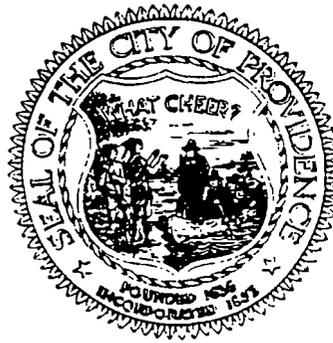
**NOVEMBER, 1996**

**Prepared By:**

**MAYOR'S ADVISORY COMMISSION FOR PEOPLE  
WITH DISABILITIES**

**VINCENT A. CIANCI, JR.**

**MAYOR**



**MAYOR'S ADVISORY COMMISSION**

**FOR**

**PEOPLE WITH DISABILITIES**

**Linda DeCiccio, Chairperson**

ADA Planning Coordinator

**Christine Roundtree, Vice Chairperson**

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Bernard Selby

Alan Sepe

Robert Urbani

Gunter Vukic

Rita Williams, Councilwoman

**Mayor's Advisory Commission for People with Disabilities**  
**151 Weybossett Street**  
**Providence, Rhode Island 02903**  
**Telephone: (401) 421-3708**  
**TDD: (401) 751-0203**

## **Dedication:**

The Mayor's Advisory Commission for People with Disabilities is dedicating this document to Robert Urbani and the late William Messori. Mr. Urbani, founder of this Commission and Chairman since its inception in 1985 through August, 1996 has been the heart and soul of the organization. It has been through his leadership, untiring efforts, and dedication that we have recognized the needs of and made a sincere effort to bring about real changes for people with disabilities in our City. Mr. Messori, former member of this Commission, was truly dedicated in paving the way for people with disabilities, helping them to achieve equality, particularly in employment opportunity. We are sincerely grateful for his guidance and the major role he played in raising the consciousness of Commission members and untold numbers of people throughout the community.

## **Acknowledgments:**

Sources of information used in developing this compliance report include: the regulations issued by the U.S. Equal Employment Opportunity Commission for Title I and the U.S. Department of Justice regulations for Title II, the Technical Assistance Manual published by the U.S. Department of Justice, the "Providence Cares Handbook for City Compliance with the ADA", the Muskie Institute Technical Assistance Center, the Disability Rights Education and Defense Fund (DREDF), "Explanation of the Contents of the ADA", "ADA Title II Action Guide", the National Institute on Disability and Rehabilitation Research and numerous resources from various advocacy groups throughout the State of Rhode Island.

The Commission extends its thanks to the many individuals from the numerous state and non profit organizations who provided invaluable assistance which led to the development of this document and especially to:

Ann Callahan, R.I. Department of Human Services  
Robert Cooper, R.I. Governor's Commission on the Handicapped  
Jennifer Eckel & Lee Baade, New England Region Technical Assistance Center  
James E. Healy, Sargent Rehabilitation Center  
Steven Hook, PARI Independent Living Center  
Paula Oliviera, Tech Access Center  
Beth I. Perry, R.I. Department of State Library Services  
Patricia Ryherd, R.I. Services for the Blind and Visually Impaired  
John White, Association for Retarded Citizens-Blackstone Valley Chapter

Special thanks are extended to Thomas E. Deller, AICP, Deputy Director, Department of Planning and Development for his expert guidance throughout the planning process and to Clinton Goins, DPD engineer, for endless hours of computer instruction enabling the printing of this document.

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## I. INTRODUCTION

*"The ADA will insure that people with disabilities are given basic guarantees for which they have worked so long and so hard. Independence, freedom of choice, control of their own lives, the opportunity to blend fully and equally into the rich mosaic of the American Mainstream."*

President George Bush

On July 26, 1990, President George Bush, with a stroke of his pen, signed the Americans with Disabilities Act (ADA), providing a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities. That simple act marked the dawn of a new era for Americans with disabilities and the culmination of many years of arduous work. Its passage brought a ray of hope that would finally bring about changes for those upon whom this law shall have the greatest impact, the estimated 43 million Americans with mental and physical disabilities.

Commonly referred to as the ADA, this law is not only opening doors to opportunity, it is intending to remove the attitudinal barriers that people with disabilities face in our society. Not only a comprehensive, far reaching civil rights law, the ADA is also an employment law, allowing people with disabilities to compete fairly for jobs and promotions and to join the American work force.

Prior to 1990, only federally-owned and federally-funded properties were required by federal law to be physically and programmatically accessible to America's disabled population. In 1990, with the passage of the ADA, this mandate was expanded to include nearly all businesses and programs that serve the public, regardless of ownership or funding.

The process to bring the City into compliance with the ADA was initiated by Mayor Vincent A. Cianci, Jr. in May of 1991, with a letter to the Mayor's Advisory Commission for People with Disabilities (the Commission) charging its members to "review the impact of the ADA on the City of Providence, ...advise on an appropriate mechanism (survey) to evaluate city policy and practices and ...prepare a document that ensures Providence serves as a model for the progressive implementation of this law". The Commission viewed this assignment as one of the most fundamental tenets in its mission to protect the well being of people with disabilities.

Thus, the Commission worked relentlessly to comply with the Mayor's request. Those efforts produced a document entitled "Providence Cares: Handbook for City Compliance with the

Americans with Disabilities Act", published in December, 1991 which provided a framework for corrective action, setting guidelines for a planned implementation process to bring the City of Providence into ADA compliance and thus providing valuable assistance to its citizens.

As part of the planning process for the Providence Cares Handbook, a preliminary survey was prepared to help gauge the present compliance and level of awareness of the ADA in City government. Subsequently, the survey was sent to all department heads with a summary of the ADA. Responses were received by all city departments and agencies. Refer to Appendix A: Preliminary Survey Results.

Evidence of the Commission's efforts to implement the recommendations in the handbook successfully and comply with the mandates of the ADA appears in the contents of this compliance report which reflects the following issues addressed by the Commission:

*Self Evaluation, an in depth analysis of all programs and services, policies and practices in place within all City Departments, Boards, Commissions, and Agencies;*

*Adjustments in policies, procedures and in the provision of services deemed necessary as a result of the Self Evaluation;*

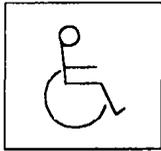
*Policy for development of a Transition Plan providing accessibility to and within City facilities and provision of curb cuts on City sidewalks, where necessary, detailing a timetable for cost-effective, corrective action;*

*Amendment of existing grievance procedures in place to reflect the ADA; and*

*Adoption of an ADA Awareness Campaign to enlighten City employees and citizens throughout the City.*

Compliance with the ADA is of highest priority to this administration and to the Commission. Nearly one in five Providence residents has a disability. Members of the Commission are dedicated to the well being of these disabled citizens and to establishing City policy that will bring our brothers and sisters with disabilities into the mainstream.

To underscore this City's commitment to nondiscrimination, this document has been approved by City Council thereby assuring through Ordinance that the ADA becomes a significant part of this City's management and operations. We must guarantee that our public services and programs are accessible and available to all people equally, and that employment opportunities are made available to the entire population. We must guarantee our citizens with disabilities protection against discrimination.



## II. OVERVIEW

### What is the ADA?

Section 504 of the Rehabilitation Act, passed in 1973, required all federally-owned and all federally-funded state and local services to be programmatically accessible to America's disabled population. In 1990, with the passage of the ADA, this mandate was expanded to include nearly all businesses and programs that serve the public, regardless of ownership or funding. Court decisions regarding Section 504 have provided precedent for the implementation of the ADA.

### What does the ADA do?

It extends a broad array of civil rights protection to persons with disabilities, both physical and mental, in Employment (Title I), State and Local Government Services (Title II), Public Accommodations (Title III), Telecommunications (Title IV), and Miscellaneous Provisions, (Title V).

### What issues must the City address to achieve compliance?

Title II of the ADA presents compliance requirements for all state and local governments. The requirements contained therein include mandates for compliance with Title I as well. The law does not invalidate any state or local law that provides equal or greater protection for the rights of an individual with a disability.

**Title I: Employment**

This section, included in Title II, prohibits discrimination against job applicants and employees with disabilities.

**Title II: Other Programs and Activities**

This part involves programs and activities that involve contact with the general public, including telephone contact, walk ins, interviews and public use of facilities.

Activities and programs directly administered by the City for beneficiaries and participants such as: elections, local courts, meetings, public safety activities, licensure and registration activities, public programming and administration of social services programs.

**Title III: Public Accommodations**

When government and private entities act jointly, the government entity must ensure that government requirements are met. Special attention must be given to contracts to ensure that contractors are in compliance. Private entities must ensure that Title III requirements for their organizations or establishments are met.

**When do ADA regulations take effect?**

Employment Rules:\*

Employers with 25 or more employees.....July 26, 1992  
Employers with 15 to 24 employees.....July 26, 1994  
Employers with fewer than 15 employees.....Law does not apply

Public Services:

All public buildings and facilities programs  
and services must be accessible.....January 26, 1992

Structural changes:

to existing building or facilities must  
be completed as soon as possible but  
no later than.....January 26, 1995

New Buildings:

All businesses, professional firms and private entities that own, lease or operate places  
of public accommodation must meet federal accessibility guidelines for any facility  
designed for first occupancy on or after.....January 26, 1993

Any facility constructed by or on behalf, or for the use of a public entity (state or  
local government) shall be readily accessible by.....January 26, 1992

Self-Evaluation of public entities.....January 26, 1993

Transition Plan for public entities.....July 26, 1992

Grievance Procedure for:

Employment complaints.....July 26, 1992  
Government services complaints.....January 26, 1992

*\* These effective dates refer to ADA regulations. It is important to note that the RI Handicapped Discrimination Law of 1983, amended in 1988, requires all businesses to adopt a nondiscrimination policy that includes individuals with disabilities.*



### **III. DISABILITY AND RELATED TERMS DEFINED**

In its definition of disability, as is the case with much of the ADA, the wording is patterned after Section 504 of the Rehabilitation Act of 1973. Rather than the Section 504 term "Handicap", the ADA uses the term "Disability". Note that the ADA definition of disability is not the same as definitions that govern other federal laws such as Social Security, veterans' programs or workers compensation. A person may be considered disabled under the ADA and not so under veteran's programs or vice versa.

The Act not only covers Americans with disabilities, but all individuals with disabilities who reside in this country regardless of their ethnic or national origin and regardless of their citizenship status. The ADA thus serves to underscore that people with disabilities are a full part of the tradition and heritage of this country.

**AN INDIVIDUAL WITH A DISABILITY is a person:**

**who has a physical or mental impairment including:**

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, respiratory, speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic, lymphatic, skin, and endocrine;
2. Any mental or physiological disorder such as mental retardation, organic brain dysfunction, emotional or mental illness, and specific learning disabilities; and,
3. Any noncontagious diseases such as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, alcoholism or drug addiction and contagious diseases such as HIV virus, AIDS, or tuberculosis.
4. Homosexuality or Bisexuality are not included.

**that substantially limits one or more major life activities including functions such as:**

caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working.

**or who has a record of such an impairment which means**

having a history of or having been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

having a record of disability for some purpose, such as being a disabled veteran, does not guarantee that the individual will satisfy the definition of disability under activity; for example, an activity that the average person in the general population can perform with little or no difficulty, or

**or who is regarded as having an impairment**

which means having a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation or because of attitudes of others, such as a burn victim with facial scars; or having none of the impairments defined above but is treated as having such an impairment.

**Related terms and how they apply to the contents of this document are offered as follows:**

**ACCESSIBLE** means that the provided means for persons with disabilities to participate and/or receive benefits and privileges of programs, activities or services are equal to those enjoyed by participants without disabilities.

**AUXILIARY AIDS AND SERVICES** means services and devices that promote effective communication and include:

1. Qualified interpreters, notetakers, transcription services, assistive listening devices, telephones compatible with hearing aids, closed captioned decoders, open and closed caption, TDDs, video text displays, or other effective methods to make aurally delivered materials accessible to individuals with hearing impairments;
2. Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;
3. Modification or acquisition of equipment or devices; and,
4. Other similar actions or devices.

**CITY** refers to the City of Providence.

**COMMISSION** refers to the Mayor's Advisory Commission for People With Disabilities established by Executive Order in 1985.

In accordance with its bylaws, this Commission consists of twenty-one persons. At least eleven are persons with a disability and/ or a parent or guardian of a person with a disability. The remaining ten are a cross-section of governmental and community agencies, including a member

of the Providence City Council and representatives of the Mayor's Office and appropriate City Departments. Presently, the City is represented additionally by the Directors of Personnel, Public Property, and Public Works; the Commissioner of Public Safety; the Director of Providence Human Relations Commission; the EEO Officer of the Providence School Department; and Building Inspector Supervisor.

**DIRECT THREAT** is significant risk of substantial harm to the health and safety of the individual or to others that cannot be eliminated or reduced by reasonable accommodation.

**DISCRIMINATION** is the denial of services or benefits because an individual, in this case, has a disability. This includes, among other things, limiting, segregating or classifying a program participant in a way that adversely affects the opportunities or status of the individual because of the individual's disability.

**ESSENTIAL FUNCTIONS**, a phrase used in the area of employment, are the fundamental job duties of the employment position. A job function may be considered essential in the following instances:

1. the position exists to perform that function and therefore is fundamental in the ongoing operation of the organization;
2. there are a limited number of employees among whom the performance of that function can be distributed; or
3. the function is highly specialized and requires very distinctive skills.

Evidence of essential function may be the job description, amount of time spent on the function, employer's judgment. The term does not include marginal functions of the job.

**FACILITY** means all or any portion of buildings or structures, equipment, roads, walks, parking lots, restrooms, elevators, emergency alarms (flashing or audible), meeting rooms, water fountains, or other property owned, operated or leased.

**HISTORIC PRESERVATION PROGRAM** is an activity/presentation conducted by a public entity that has preservation of historic properties as its primary purpose.

**HISTORIC PROPERTY** is a structure listed on or eligible for listing in the National Register of Historic Places or property designated as historic under state or local law.

**ILLEGAL USE OF DRUGS** includes use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substance Act. The ADA does not protect an individual who is using drugs illegally. It does, however, protect an individual who:

1. has completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated;
2. uses a drug taken under supervision by a licensed health care professional or other provisions of Federal law;

3. is participating in a supervised rehabilitation program and is no longer engaging in such use; and
4. is erroneously regarded as engaging in such use, but is not.

Alcoholics are individuals with disabilities, subject to the protections of the ADA.

**NONSTRUCTURAL MEASURES** are the types of reasonable accommodations that enable a qualified individual with a disability full participation in a program, service or activity when viewed in its entirety. These include:

1. relocating the activity to accessible space;
2. being able to relocate the activity to accessible space ;
3. revising the structure or format of the activity so the space is not needed;
4. modifying or redesigning the equipment;
5. making home visits or other alternative delivery of services; and,
6. otherwise achieving program accessibility.

**PHRC** refers to the Providence Human Relations Commission. This Commission is located at the offices of PHRC.

**PUBLIC ACCOMMODATION** is property owned, leased or operated by a private entity such as a hotel, theater, bank, retail establishment, or similar facility open to the public, etc. However, the City's Anti-Discrimination Ordinance in Section 16-54 defines public accommodation as private entities providing public services or functions and also includes "...licensing and regulating bodies, all public policies, programs and activities" which refers to governmental agencies. Thus, when reference is made to public accommodation in the City's Anti-Discrimination Policy, the term includes "public entity".

**PUBLIC ENTITY** is any state or local government and any associated agency, department, special purpose district, or other instrumentality or the National Railroad Passenger Corporation and any commuter authority.

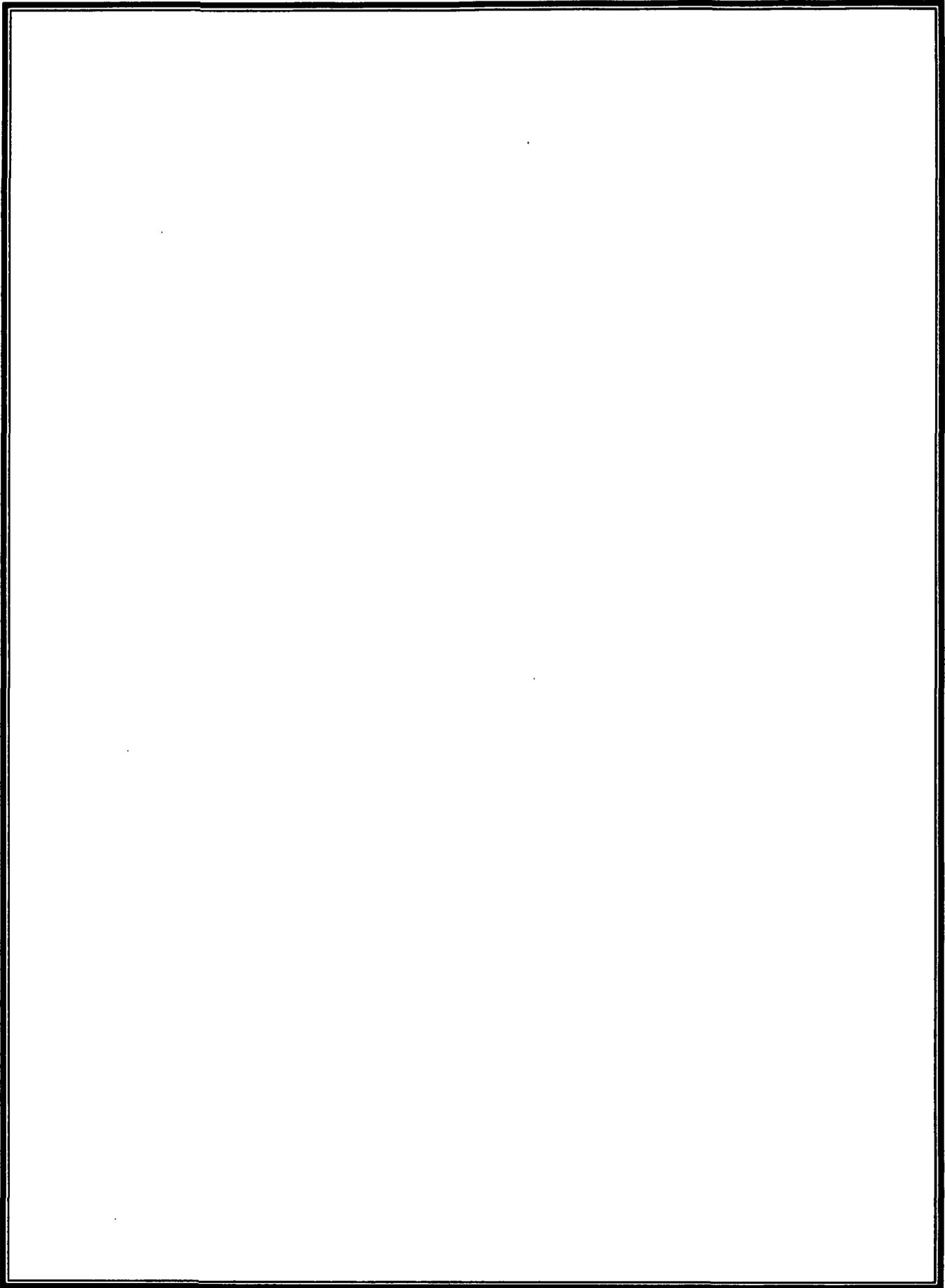
**QUALIFIED INDIVIDUAL WITH A DISABILITY** is a person who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication or transportation barriers, or the provisions of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity. In terms of employment, a qualified individual with a disability is one who satisfies the requisite skill, experience, education and other job-related requirements of employment and, with or without a reasonable accommodation, can perform the essential functions of the job. Determining whether a person is qualified is based upon the individual's current qualifications and not on speculation that the employee may become unable to work in the future or may cause increased insurance premiums or worker's compensation costs.

**REASONABLE ACCOMMODATION**, as applied to employment issues, refers to a modification or adjustment:

1. to a job application process that enables a qualified applicant with a disability to be considered for the position;
2. to the work environment or to the manner or circumstances under which the position is held or that enable a qualified individual with a disability to perform the essential functions of the job; or
3. that enables a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

**SUBSTANTIALLY LIMITS**, with respect to the major life activity of working, means that the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person with comparable skills, training and ability is significantly restricted.

**UNDUE HARDSHIP** refers to a significant administrative difficulty or financial expense that a covered entity may experience in making reasonable accommodation. Undue hardship may be used as a defense in defending a decision not to provide reasonable accommodation.





#### **IV. THREE-PHASE PROCESS TO COMPLIANCE**

ADA Compliance is a complex process that affects the City at many levels. It demands commitment, careful planning, and training, and requires the participation of key staff members working together.

The approach used in planning for compliance organizes the process into three main phases. The flowchart on the next page illustrates the components of the three-phase process. As is evident in the chart, the three phases are not distinct, but rather, overlap, especially in Phases II and III. For example, in the course of the self evaluation in Phase II, any discriminatory policies, practices, and procedures identified that could be modified were modified, those remaining shall be modified in Phase III. Similarly, the ADA Awareness Campaign, an important link in bringing the message of the ADA to Providence citizens and employees, initiated in Phase II, shall be fully implemented in Phase III. Briefly, the three-phase approach includes:

##### **Phase I: Planning for Compliance**

The Mayor having been aware that a commitment from government leaders is an essential element to in achieving compliance, issued an Executive Order to underscore his commitment. Please refer to Appendix B. Commitment ensures that cooperation with the planning team can be expected at all levels of government and that the recommendations of the compliance report are instituted.

The Commission in determining the process, decided that compliance would best be carried out through an ADA Planning Coordinator, appointed from its membership. The ADA Planning Coordinator was charged with developing the process to compliance, managing, coordinating, training and guiding the compliance team to the fulfilling the required tasks and developing the compliance report.

##### **Phase II: Conducting the Self Evaluation**

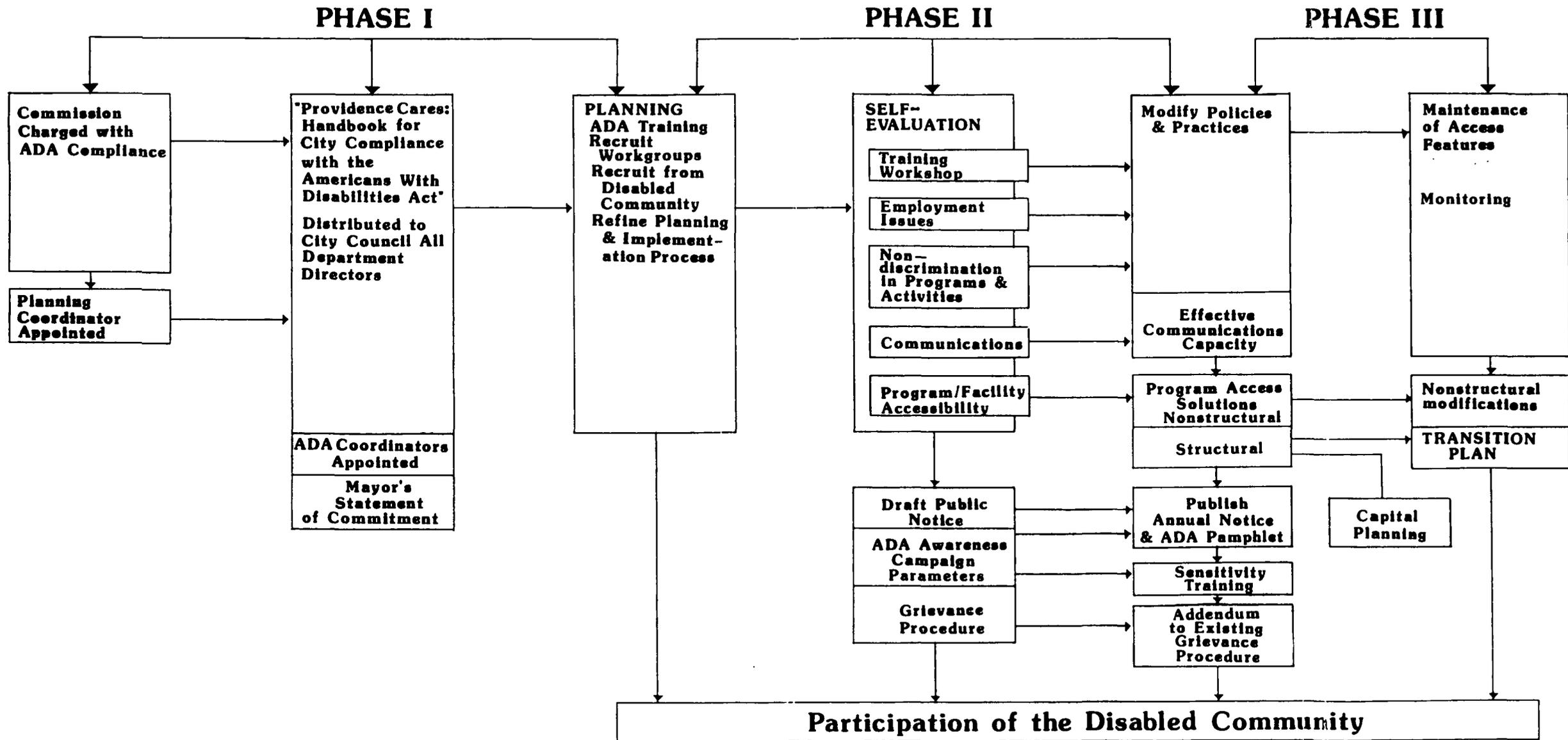
Once the team had been selected and oriented, the self evaluation began. This is a comprehensive review of policies and practices of all programming and activities. Any policy found to be discriminatory which required a simple change in process was amended, others would be amended in Phase III.

### **Phase III: Implementing Modifications**

Upon approval of this report, the ADA Coordinator, begins implementation of the modifications recommended.

Please note that in presenting this document, all parts of the ADA are included. The numbering system used here reflects sections of the Federal Register for Title II: Nondiscrimination on the Basis of Disability in State and Local Government Services, though not necessarily in the same order as in that legal source.

# THREE PHASE PROCESS TO ADA COMPLIANCE





## **V. NOTICE AND EVALUATION REQUIREMENTS - TITLE II**

State and local governments must ensure that people with disabilities are made aware of their rights and must follow evaluation and planning procedures to ensure those rights will be protected.

### **A. NOTICE - 28 CFR 35.106**

#### **The Law**

Public entities must give people with disabilities notice of their rights and in doing so must meet the requirement to provide communications access to persons with hearing and vision impairments. Methods might include handbooks, manuals, pamphlets distributed to the public, posters in public places, radio and television broadcasts.

#### **Finding/Compliance Procedure**

1. The City's EEO Officer, in conjunction with the EEO Officer of the Providence School Department, places an annual nondiscrimination announcement in the Providence Journal and other daily or weekly newspapers with appropriate references to federal laws. Foreign language translations of the announcement appear in appropriate newspapers. A copy of that announcement is posted at all City Departments.
2. This City's "Providence Cares" handbook recommended an ADA Awareness Campaign as the most "logical vehicle for the City to assist individuals with disabilities in understanding their rights and knowing how to seek assistance. The campaign can also serve to apprise city employees of the ADA and city policy regarding its implementation to ensure that all individuals with disabilities, physical or mental, receive equal treatment from City government". (See Chapter IX for further information regarding the ADA Awareness Campaign.)
3. Any brochure published by a city entity regarding programs or services shall include in its context a nondiscrimination clause.

## **B. RETENTION OF FILES - 28 CFR 35.105**

### **The Law**

Public entities must maintain a file for three years of:

1. A listing of persons consulted;
2. Description of policies and practices examined;
3. Description of modifications made.

### **Compliance Procedure**

Relevant files including minutes of Commission and workgroup meetings, correspondence, and materials related to the above, shall be stored and available for review at the Commission office for at least three years after the Self Evaluation and Transition Plan are approved by Ordinance of City Council.

## **C. SELF-EVALUATION - 28 CFR 35.105**

### **The Law**

Public entities are required to complete a self evaluation by January 26, 1993. A self-evaluation is a public entity's assessment of its current services, policies and practices to determine what changes are necessary to ensure equal access to all. The assessment should identify the extent to which any of these do not meet the requirements of Title II and Title I and proceed to identify modifications of current services, policies, and practices as required. A Self-evaluation should determine if:

1. Physical barriers exist to the access of programs and services.
2. Policies and practices screen out, exclude or limit participation of individuals with disabilities in programs, activities and services and identify policy modifications to be implemented. Justifications for limiting practices that will not be modified must be offered.
3. Policies ensure effective communications to beneficiaries and participants, including communications in advertising, provision of programs, telephone access, etc.
4. Qualified interpreters and readers are available or alternative communication measures are being used .
5. Policies need to be established for those instances in which fundamental alteration in the nature of a program, activity or service deemed necessary can be made without undue financial or administrative burden.
6. Equal access to public meetings exists.
7. Employment practices are not discriminatory.

8. Building alteration and new construction ensure access.
9. Employees are familiar with policies and practices for full participation of individuals with disabilities.
10. Policies exist to ensure that procurement contractors do not discriminate on the basis of disability.
11. Policies exist to ensure that former drug users are not discriminated against.

#### Compliance Procedure

An ADA Planning Coordinator had been appointed from among Commission members at the onset of this project in July, 1991. Under her direction, the Providence Cares Handbook was developed and published by January, 1992. Guided by the findings of the Handbook, it was then the responsibility of the planning coordinator to ensure that an effective process was established to bring the City into compliance, to carry out the Self Evaluation, and to supervise the preparation of the Compliance Report.

Because the self evaluation process would involve the collection of information relative to policies, programs, services, and activities of all Providence entities including Departments, Agencies, Boards and Commissions and because the evaluation of that information, in some instances, would require people with special skills, the evaluation was conducted using a team approach. Members of the Commission served as the Compliance Team.

The Commission required each city department director to designate a staff member to serve as a liaison to work with the Compliance Team in the evaluation process. Liaisons collected information regarding policies and programs offered by their respective departments and were directly involved in the self evaluation. Future plans to inform city employees of the City's obligations under the ADA shall involve these designated liaisons who shall also serve as contact persons for the Compliance Team and for the public within their respective departments.

An ADA training session was conducted by the ADA Planning Coordinator to inform team members and attending liaisons of the requirements of the ADA. At the session, Service and Program Evaluation forms, were distributed. Refer to Appendix C. Attendees were guided through the forms and enlightened as to the types of information to look for in their interviews with department representatives and/or in completing forms for their own programs. Team members were advised that, in appropriate cases, programming staff must become involved directly in the evaluation process because of the hands-on experience they have in providing programs.

A number of people either with disabilities or associated with disability advocacy groups were consulted from the onset of this project to assist the Commission in fulfilling its

responsibility. A listing of the seventeen advocacy groups contacted appears in Appendix D.

The Compliance team was subdivided into workgroups for development of effective program, policy, and procedure adjustments. Workgroups were formed for the following areas: Employment Issues and Grievance Procedures, Telecommunications Issues, Recreation Activities, General Services, Architectural Access, and Parkland Access. Some department directors and staff members were invited to join the appropriate workgroups for their expertise and skills.

Discriminatory policies and practices revealed through the evaluation process were addressed immediately. Any changes in policy and practices deemed necessary for compliance appear in this document in appropriate sections.

In August, 1992 the self evaluation interviews were initiated. By January, 1993, the self evaluation of programs, services and policies of City Departments, Agencies, Boards and Commissions for the City of Providence was completed. This process, however, did not include the Providence Housing Authority, Job Training Partnership, and the School Department because the evaluation of their specialized programs were beyond the scope of capabilities of the Commission. The Providence Housing Authority and the Job Training Partnership have completed their Self Evaluations which are available under separate cover. The School Department is presently involved in their self evaluation process.

#### **D. TRANSITION PLAN - 28 CFR 35.150 (c-d)**

##### **The Law**

In the event that structural changes to facilities are necessary to achieve program accessibility, a Transition Plan detailing how and when these changes will be made must be prepared. Providence must prepare a transition plan that schedules completion by January 26, 1995 or as expeditiously as possible.

If a Transition Plan is required it must be developed by July 26, 1992 ( six months after the effective date of Title II). A Transition Plan must contain:

1. Identification of physical obstacles that limit accessibility,
2. Methods to be used to make facilities accessible,
3. A construction schedule, and
4. Designation of the official responsible for its implementation.

In addition to evaluating accessibility to facilities, a public entity which has responsibility for roads and sidewalks, must prepare a Transition Plan which shall include a schedule for providing curb ramps or sloped areas where pedestrian walks cross curbs. Priority must be given to those curbs which lead to government offices and facilities.

Although the Transition Plan would appear to flow logically from the self-evaluation, the Transition Plan is due six months earlier than the self evaluation. The Department of Justice views the Transition Plan as a first-step, priority-setting device.

#### Compliance Procedure

For the City, any modifications in policies and procedures deemed necessary through the self evaluation were addressed immediately. When barriers to programs were identified, nonstructural changes to ensure access were made as expeditiously as possible.

The Transition Plan shall be presented under separate cover in three sections including: Access to City Buildings; Access to Pedestrian Walkways; and Access to Parklands.

The Workgroup for Architectural Access shall prepare Access to City Buildings and Pedestrian Walkways. That group is addressing building alterations deemed necessary through the Self Evaluation and provision of Curb Ramps throughout the City. Members of the workgroup include: Director of Public Works, Traffic Engineer, Director of Public Property, Department of Planning and Development staff (also representing the Providence Redevelopment Agency), and members of the Commission.

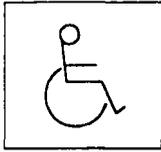
The Parklands Access Workgroup, comprised of Parks Department staff and members of the Commission, are developing a Transition Plan for access at parklands as part of the planning process used in developing an updated Park and Recreation Plan.

In the process to develop a Transition Plan, the City must ensure that all required modifications are made in a timely manner. To accomplish this, the City's capital planning and budgeting process must go hand in hand with the Transition Plan. The Workgroups must review long-range capital plans so that barrier removal projects are being planned to coincide with other scheduled capital improvements. Facilities management staff shall take an active role in the completion of the Transition Plan for cost-effective implementation and on-going capital planning. With structural modifications for access having been incorporated into planned rehabilitation, these projects may be no more expensive than the original alteration plans that did not address accessibility.

On November 5, 1996, Providence voters approved a bond authorization for a five year neighborhood infrastructure capital improvements project to include streets, sidewalks and parks. This is obviously a substantial boost for the goals set forth in this plan. Adherence to the planning process stated above can bring about cost-effective implementation in achieving our goals and those of the ADA.

Still, the City must continue to research additional sources of funding at the state and federal levels. All funding sources shall be investigated, including:

- ◆ Community Development Block Grant Funds (CDBG)
- ◆ U.S. National Park Service
- ◆ RI Department of Transportation
- ◆ U.S. Department of Transportation



## **VI. STATE and LOCAL GOVERNMENT SERVICES - TITLE II**

Many state and local government programs and services prohibited discrimination against persons with disabilities before passage of the ADA because they were covered by Section 504 of the Rehabilitation Act of 1973, which prohibited discrimination of people with handicaps in any program or activities that receive federal funds.

Title II of the ADA prohibits discrimination against persons with disabilities in all services, programs and activities provided or otherwise made available by state and local government entities. Clearly, it is required that all programs services be accessible to people with disabilities in a manner equal to others. To welcome those with disabilities into the mainstream of American life, we must put aside any of those old prejudices some of us may still have. We must be made aware of the need to treat people with disabilities with respect and dignity.

### **A. ADA: GENERAL NONDISCRIMINATION PROVISIONS**

The required self evaluation of every governmental agency must include a thorough review of both the formal written policies and the actual operating practices of each program, service and activity in the general prohibitions against discrimination contained in Title II. When discriminatory policies and practices are identified, they must be changed without delay. General prohibitions cover the wide range of issues including those that follow.

#### **1. GENERAL REQUIREMENTS - 28 CFR 35.130(a)**

##### **The Law**

No qualified individual with a disability shall, on the basis of disability, be discriminated against, be excluded from participation in, or be denied the benefits of the services, programs or activities of a state or local government.

##### **Finding**

The City of Providence affirms its commitment to the prohibition of discrimination against individuals with disabilities in its Anti-Discrimination Ordinance of 1979 in Sections 16-51 et. seq. of Article II Entitled "Discrimination", as amended (August, 1995).

Public Policy is as follows:

*"It is hereby declared to be the public policy of the City of Providence to foster the equal opportunities of all individual in the city in accordance with their fullest capacities and abilities, regardless of their race, color, sex, sexual orientation, religion, marital status, disability, age or country of ancestral origin and to safeguard their right to be free from such discrimination in housing, education, employment, credit and public accommodation."*

Further, the R.I. Constitution, Article I, Section II affirms that the right to life, liberty or property without due process and that "...no otherwise qualified person shall, solely by reason of race, gender, or handicap be subject to discrimination by the state, its agents or any person or entity doing business with the state...".

And, the R.I. Discrimination Against Handicapped Act (RIGL Title 42, Chapter 87) requires all state and local government services to be accessible ensuring equal protection against discrimination to those with mental or physical disabilities.

Thus, state and local government were required to establish policy regarding individuals with disabilities before the ADA was signed into law.

The Commission reviews accessibility issues related to city programs and services and investigates complaints relative to accessibility in city services on an ongoing basis. The Commission meets on the third Monday of each month except in July and August.

## **2. GENERAL PROHIBITIONS - 28 CFR 35.130(b-g)**

A public entity, in providing any aid, benefit or service, may not discriminate on the basis of disability in the following instances:

### **a. Nondiscrimination Through Contract - 28 CFR 35.130(b)(1)(v); (35.130(b)(3); 35.130(b)(5)**

#### **The Law**

A public entity that enters into a contract with a private entity must ensure that the activity operated under contract is in compliance with the ADA.

A public entity is not allowed to aid in discrimination by providing significant assistance or aid to an agency, organization or person that discriminates.

A public entity when selecting a procurement contractor may not use criteria that subject people with disabilities to discrimination.

## Finding

Various departments include various nondiscrimination provisions in contracts. Solicitation of bids is mainly through newspaper advertisements, a form not accessible to individuals with reading or vision impairments.

There is no mechanism on a citywide basis to investigate contractors for violations of civil rights laws.

Some Departments have informal arrangements with non profit organizations for which there are no written agreements.

## Compliance Procedure

The following policies and procedures shall be adhered to by every City Department, Agency, Board or Commission:

### Funding Policy:

No City Department, Commission, Board or Agency shall fund programs that are not accessible to people with disabilities. To be eligible for city funding, a contractor requesting funds for programs must show evidence that the program does not screen out Funding qualified individuals with disabilities from participation in or receiving benefits of the program. Any published materials regarding the program must include a nondiscrimination clause:

*"This program is made possible through funding from the City of Providence. (Contractor's name) does not discriminate on the basis of disability in the participation in or provision of this program."*

### Policy for Requests for Proposals (RFPs)

It shall be the policy of the City of Providence to include in all RFP and advertising for such the following statement:

*"The City of Providence does not discriminate on the basis of disability in the admission to its programs or activities or in its treatment of applicants or employees. All contractors doing business with the City of Providence must be in compliance with the mandates of the Americans With Disabilities Act of 1990."*

The Law Department shall obtain from the R.I. Equal Opportunity Office a copy of its annual listing of all Rhode Island businesses/organizations that have violated either Title V of the Rehabilitation Act of 1973 or the ADA. That listing shall be forwarded to all

departments. No City entity shall do business with any contractor or fund any program in violation of these laws.

Policy for City Procurement Contracts

Every city department must adhere to the policies developed for contracts or grants and ensure that these documents include a nondiscrimination clause.

It shall be the policy of the City of Providence to include the following in all contracts for services, supplies or equipment:

*"The (name of contractor) agrees to comply with the requirements of the Americans With Disabilities Act, 1990 which prohibits discrimination on the basis of disability in the provision of benefits. No person with disabilities shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in its programs and activities or in employment practices. Failure to comply with this part may be the basis for cancellation of this Contract."*

Additional stipulations in contracts involving new construction or alteration of buildings and improvements to streets and sidewalks shall require inspection of the completed project by the appropriate authority. The following statement shall be included in those contracts:

*"Upon completion of this project, the Contractor shall contact the City's Building Inspector (and/or Director of Public Works) for inspection of the construction project for compliance with the mandates of the Americans With Disabilities Act of 1990. There shall be no final payment until the inspection has been completed and an approval has been issued by the appropriate authority (Building Inspector and/or Director of Public Works) to the Contractor and to (name of the City entity funding the project)."*

Some departments use the same contract/agreement for a number of projects. In these cases, any contract containing a non discrimination clause must add "disability" where appropriate. If the word "handicap" is used, it must be changed to "disability" in all instances. Reference must be made to the need for compliance with the Americans with Disabilities Act of 1990. Some city contracts such as those prepared for Community Development Block Grants (CDBG) require compliance with a number of federal laws which are listed in each contract. The above-mentioned statements may be adapted to include other specific legislation that prohibits discrimination on the basis of age, gender, race, color, religion, marital status, and national origin.

Policy for Contract of City Programs or Services

Contracting out the performance of public programs or services does not diminish the City's responsibility to ensure ADA compliance in that program or service. The City shall, when monitoring contract performance, check ADA compliance.

Any informal arrangement made between the City and a second party will be made formal through written contract to include an ADA nondiscrimination clause.

**b. Nondiscrimination in Membership to Boards or Agencies - 28 CFR 35.130 (b)(1)(vi)**

**The Law**

A public entity may not deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards.

**Finding**

There is no existing practice in the city that screens out people with disabilities from serving on a board or commission. City policy by virtue of the Providence Anti-Discrimination Ordinance Section 16-59 (a)(4) prohibits discrimination in membership to boards or agencies:

*"It shall be unlawful... to establish, announce, or follow a pattern, practice or policy of denying, excluding or limiting services or membership to any group because of race, color, sex, sexual orientation, religion, marital status, disability, age, or country of ancestral origin of such group."*

**c. Site Location - 28 CFR 35.130(b)(4)**

**The Law**

A public entity may not, in choosing a site or location of a facility, choose any that have an effect of excluding people with disabilities from benefits or otherwise subjecting people with disabilities to discrimination or that have the effect of impairing the objectives of the program or service to be offered at that site.

**Finding**

All state and local government entities are required by the RI Open Meetings Law to conduct all meetings, workshops, seminars, conferences, pre bid conferences, etc., in "a location which conforms with the Open Meetings accessibility standard". The law includes a description of the procedure for requesting an interpreter for hearing impaired and further requires provision of the minutes on audio tape, upon request by an individual with a vision or reading impairment.

Not all city entities were aware of the RI Open Meetings Law requiring that public meetings be held in accessible facilities.

All polling places are either accessible or made accessible in compliance with polling place standards. These standards comply with ADA regulations.

#### Compliance Procedure

All Department Directors have been sent a directive regarding accessibility of public meetings, workshops, pre-bid conferences, etc. Refer to Appendix E.

#### **d. Licensing - 28 CFR 35.130(b)(6)**

#### The Law

A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination. Nor may the public entity establish requirements for the license or certification that cause discrimination.

Programs or activities of entities licensed or certified by a public entity are not covered, themselves, by this part.

#### Finding

Section 16-59(a)(3) of the City's Anti-Discrimination Ordinance complies with this part in stating the following:

*"It shall be unlawful ... to discriminate or to directly or indirectly elicit or attempt to elicit any information regarding an individual's race or color, sex, sexual orientation, religion, marital status, disability... or, to use any form or application which contains questions or entries directly or indirectly pertaining to such information."*

The Board of Licenses issues permits/licenses relative to approximately 50 types of establishments and activities, including, but not limited to: retailer, druggist, private detective, peddler, hackney carriage (cab driver) and liquor. Every license application was reviewed. There were none that included language relative to disability. However, the application for hackney carriage license does screen out some people with disabilities, by necessity, requiring proof of driver's license.

Information regarding licensing is conveyed primarily by referrals and through newspaper advertisements. The advertisements are not accessible to individuals with reading or visual impairments. A focus group comprised mainly of individuals with visual impairments is being assembled to address needs with respect to accessibility of information.

**e. Modifications in Policies and Procedures - 28 CFR 35.130(b)(7)**

**The Law**

A public entity must make reasonable modifications in policy or procedures when the modifications are necessary to avoid discrimination unless modifications fundamentally alter the nature of the activities, programs and services offered. For example, modifications might include simplifying procedures for people with mental disabilities and assisting them in following those procedures.

**Finding/Compliance Procedure**

Everyday practices in carrying out the functions of each department were reviewed as part of the Self Evaluation process. Where appropriate the review included input from program staff. Any small changes in policy or practices deemed necessary to comply with the ADA were made. For example, any department now holding public meetings in inaccessible facilities, must now relocate those meetings to an accessible site. Making modifications in a program can include presenting a video of an inaccessible historic building as is presently in process by the City's Archivist, for the tour of City Hall. Those changes that require more extensive consideration shall be made once the appropriate recourse is determined.

Also, through the Self Evaluation process, it was discovered that there is no established procedure for evacuation of people with disabilities that might impede their ability to evacuate in times of emergency. However, the Personnel Director, in consultation with, at least, the Chief of the Fire Department shall develop a citywide policy to evacuate people with disabilities in times of an emergency. Alternatives to consider include: designating a place of safe refuge in each building housing a city department or request volunteers to assist in the evacuation of persons with disabilities in times of emergency.

All regulatory boards and commissions shall be notified of the special concerns needed in allowing variances particularly in cases where variances can be considered a reasonable accommodation. The Zoning Board of Review, through Executive Order No. 1995-05 establishing policy for expediting assistance to Providence residents with disabilities, has been required to conform to the following:

1. That individuals who file an application with the Zoning Board of Review for handicap ramp shall be heard immediately at the next scheduled meeting of the Board; and
2. That these applicants shall be placed at the beginning of the docket so as to be heard in an expedited fashion.

The ADA Awareness Campaign began with the distribution of the ADA Pamphlet (Appendix L) to city employees to inform them of the regulations mandated by the ADA including instances in which the need for modification of an established practice becomes necessary and a reasonable accommodation should be provided. As city employees

become better informed, their awareness of what procedures need to be changed will become more evident.

**f. Eligibility Criteria - 28 CFR 35.130(b)(8)**

**The Law**

It is discriminatory to apply eligibility criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, unless such criteria can be shown to be "necessary" for the provision of goods or services. The public entity, however, may impose legitimate safety requirements, even if those requirements screen out people with disabilities, but, those requirements must be based upon actual risks and not on speculation or stereotypes. Refer to the definition of "qualified individual with a disability" in Chapter III.

**Finding/Compliance Procedure**

Section 16-59(a)(3) of the City's Anti-Discrimination Ordinance forbids the use of any form or application which contains questions or entries directly or indirectly pertaining to "disability". Refer to Page 32: d. Licensing; §35.130(b)(6).

During the self evaluation process application forms were reviewed; any that contained questions or criteria that appeared to screen out people with disabilities unnecessarily were amended to comply.

One program application for example, requested information regarding a disability that would prevent the applicant from participation in that program. The wording of that application was changed; instead, the applicant is now asked if he/she can participate in the program as described.

At the workshop for evaluation training, attendees were advised to inform those whom they interviewed in the evaluations that if a person with a disability would like to participate in a program, no questions can be asked relating directly to the disability. If a disability is apparent, staff may ask how the individual can participate. Further, they were advised that unless making an accommodation changes the nature of the program, persons with disabilities cannot be screened out.

**g. Integrated Settings - 28 CFR 35.130(d)**

**The Law**

A public entity must provide services and programs in the most integrated setting appropriate, a setting that allows people with disabilities to interact with able-bodied people to the fullest extent. Integration is fundamental to the ADA because segregation relegates people to second class status.

## Finding

The self evaluation revealed that there are no programs specifically developed for people with disabilities. There is no department that will not allow a person with a disability to participate in a service or program. The concept of reasonable accommodation is practiced on a case by case basis to the fullest extent possible.

## Compliance Procedure

Regulations of this part shall be incorporated into the ADA Awareness Workshop for city employees. In meeting the goal of accessibility, emphasis will be placed on ensuring that disabled persons will be afforded experiences and opportunities with others, to the greatest extent possible in integrated settings.

Information had been submitted to the Commission that, at one time, after school recreation programs provided by the Recreation Department included children with disabilities. Unfortunately, fiscal constraints caused elimination of this once successful program. A Workgroup for Recreation Activities has been formed through the Commission to address provision of activities for people with disabilities both integrated and separate. Programs being considered include wheelchair basketball leagues, little league baseball, bowling leagues, and day trips. Now that the Recreation Department has been authorized to purchase a handicapped equipped van, opportunity shall be expanded in the very near future.

Presently, the Recreation Department offers after school recreation programs at City Recreation Centers. Integration of children with disabilities would require special funding, supervisors trained in assisting children with disabilities and, certainly, expertise in program planning. With this in mind, the Workgroup contacted the Special Education Division of the Providence School Department for assistance. The workgroup learned that the School Department has embarked on a new program called "New Initiatives" which provides funding for programs for special education children. As a result of subsequent discussions a proposal is being drafted in which the School and Recreation Departments would sponsor this as a pilot program for children ages seven through twelve. At this time, budgeting constraints have postponed the initiation of this program. However, the School and Recreation Departments shall continue to seek funding.

- h. Separate programs - 28 CFR 35.130(b)(2)& 35.130(e)**
- Right to Refuse Accommodation - 28 CFR 35.130(b)(e)**
- Accommodations in Regular Programs - 28 CFR 35.130 (b)(2)**

## The Law

Separate programs may be provided but may not be required. A public entity may provide separate programs but cannot deny the individual the opportunity to participate in programs that are not separate or different.

If a public entity offers a special program for people with disabilities but the individual chooses to participate in the regular program, the entity has an obligation to provide a

reasonable accommodation which does not cause undue hardship and does not change the nature of the program. The individual has the right to refuse that accommodation, aid, service, opportunity, or benefit. However, if a person with a disability is not qualified without the accommodation, the person cannot claim discrimination under the ADA.

#### Finding

There is no policy or practice in city government that conflicts with this mandate.

The self evaluation revealed that there are no programs specifically developed for people with disabilities. Although, the Recreation Department does offer programs for the elderly in which seniors are offered assistance in participating programs, when necessary.

#### Compliance Procedure

Providing separate facilities for individuals with physical or mental disabilities is not a substitute for full accessibility but may be allowed where the need for specialized services are clearly demonstrated.

Any department director who determines that offering a separate program or facility is necessary to accommodate people with disabilities shall contact the ADA Coordinator for consultation. If, jointly, they determine that a separate program is needed, the director shall document the reasons for the decision, clearly demonstrating the need for separate services. If, for example, a program in the Planetarium is offered and an individual with a hearing impairment needs an interpreter, the City need not provide this accommodation since having an interpreter there would change the nature of the program. The individual with the hearing impairment may be allowed to attend, unable to hear the lecture.

#### **i. Prohibition Against Surcharge - 28 CFR 35.130(f)**

#### The Law

A public entity may not place a surcharge on an individual with a disability or any group of individuals with disabilities to cover the costs of auxiliary aides or services required to provide accessibility. A fully refundable security deposit is allowed. If a charge is needed to pay for equipment, it must be required of all participants.

#### Finding / Compliance Procedure

It shall be City policy that no surcharge shall be placed on an individual or group of individuals with disabilities to cover the cost of auxiliary aids or services. If a charge is required for participation in any program, that charge shall be required of all program participants. The ADA Awareness Workshops shall inform participating city employees that a surcharge for services and programs for people with individuals is prohibited. See Chapter IX for information regarding the workshops.

#### **j. Association - 28 CFR 35.130(g)**

#### The Law

It is discriminatory to exclude or deny equal services to an individual because of a known disability or because a person with whom the individual has a relationship or association.

**Finding**

The City's Anti-Discrimination Ordinance in Section 16-54 (e) prohibits discrimination on the basis of association or relationship with an individual with a disability as follows:

*"Discrimination includes any policy or practice which by design or effect, segregates, separates, or has disproportionate impact according to race, color sex, sexual orientation, religion, marital status, disability, age or country of ancestral origin or because of ... disability... or any person with whom they are or may wish to be associated, and which is not required by business necessity."*

**k. Illegal Use of Drugs - 28 CFR 35.131(a-c)**

**The Law**

The ADA excludes people who currently use illegal drugs from its protection, but does prohibit discrimination against recovering alcoholics and drug addicts. To encourage people to end drug dependence, the ADA provides civil rights protection for individuals who have successfully completed rehabilitation.

1. An individual who is currently using illegal drugs is not considered a person with a disability under the ADA. Drug use, however, is not considered illegal if the drug is taken under the supervision of a licensed health care professional, or if the individual either is participating in a supervised rehabilitation program or has successfully completed a rehabilitation program.
2. 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. A treatment program may deny services to one who is using illegal drugs while in the program.
3. A public entity may adopt or administer reasonable policies or procedures including drug testing, to ensure that an individual who once engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

### Finding/Compliance Procedure

The Mayor's Council on Drug and Alcohol Abuse offers substance abuse awareness programs through rehabilitation referral service to anyone in need of treatment or counseling. The Mayor's Council on Drug and Alcohol Abuse shall develop a means to make city employees aware of the Council and its functions so that in the event that any city employee becomes aware of a beneficiary with a substance abuse problem, he/she will refer that individual to the Mayor's Substance Abuse Council.

City agencies providing health services or services provided in connection with drug rehabilitation shall not deny services on the basis of current illegal use of drugs.

### **I. Maintenance of Accessible Features - 28 CFR 35. 133**

#### The Law

A public entity shall maintain in operable working condition those features or facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. This section does not prohibit temporary interruptions in service or access due to maintenance or repairs. Allowing out of service equipment to persist beyond a reasonable time would be discrimination.

This requirement applies to features or equipment that provide architectural access such as elevators, lifts, ramps, and accessible routes as well as communications features such as TDDs and auditory or visual emergency signals. If accessible doors are locked or routes are blocked they are deemed to be inoperable.

#### Finding

Except for parklands, there is no inspection and maintenance program for accessible features. Repairs are made when complaints are submitted.

When a TDD at the Police or Fire Departments becomes inoperable, calls to that number are switched to 911 while repairs are being made.

#### Compliance Procedure

The Departments of Public Properties, Public Works, Communications and Fire shall develop a maintenance manual for accessible features at city facilities. Camp Cronin shall be included. Facilities to be covered shall include but are not limited to:

Telecommunications Devices for the Deaf, wheelchair lifts, elevators, curb cuts and signs.

The Parks Department shall review its maintenance procedures to ensure that accessible features are included and shall adapt that procedure to include new equipment and facilities when park sites are made accessible.

The City shall require lessors of space to city agencies to include language in its leases to have a maintenance agreement for elevators and wheelchair lifts and to provide alternate meeting space for use by those city agencies during periodic maintenance or repair.

**m. Protection Against Retaliation - 28 CFR 35.134**

**The Law**

No individual or organization may discriminate against another individual who has opposed any action or practice made unlawful by the ADA or because said other individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under the ADA. Moreover, it is unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted or protected by the ADA.

**Finding**

Protection against retaliation is guaranteed under the City's Anti-Discrimination Ordinance Section 16-59(b). as follows:

*"It shall be unlawful... for any person to discriminate in any manner against any individual, or deny that individual because he or she has opposed any practice forbidden by this article or because he or she has made a charge, testified, or assisted in any manner in any investigation, proceeding , or hearing under this article."*

**3. OTHER LIMITATIONS**

Some entries in the ADA Guidelines do not require evaluation or compliance procedure but merely offer general statements regarding specific issues. These entries include the following:

**a. Provision of Services Beyond the ADA - 28 CFR 35.130(c)**

**The Law**

Nothing 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.

**b. Smoking - 28 CFR 35.132**

**The Law**

A "No Smoking" policy is permissible under the ADA.

**c. Personal Devices and Services - 28 CFR 35.135**

**The Law**

A public entity is not required to provide individuals with disabilities personal devices such as wheelchairs, individually prescribed devices such as eyeglasses or hearing aids, readers for personal use or study, or services of a personal nature such as assistance in eating, toileting or dressing.

#### **d. Relationship to Other Laws**

##### **The Law**

The ADA does not reduce the scope of coverage of Title V of the Rehabilitation Act of 1973, including Section 504, nor does it invalidate or limit any other federal law or law of any state or local government that provides greater or equal protection than is afforded by the ADA. In some instances, the ADA explicitly provides a different standard from specified federal laws.

#### **4. PROGRAM ACCESS IN EXISTING FACILITIES - 28 CFR 35.149-150**

The ADA requires that a public entity operate each program so that when viewed in its entirety the program is readily accessible to and usable by people with disabilities. This is known as the program accessibility standard and it is one of the most important concepts in ADA compliance planning. Emphasis is placed on program accessibility, not building accessibility.

##### **a. Discrimination Prohibited - 28 CFR 35.149**

##### **The Law**

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 subject to discrimination by any public entity.

##### **Finding**

The City's commitment to nondiscrimination is evident in the Anti-Discrimination Ordinance as quoted on Page 28 in §28 CFR 35.130(a).

##### **b. Existing Facilities: General: - 28 CFR 35.150 (a)**

##### **The Law**

A public entity does not have to provide program access where the government can show that to do so would result in a fundamental alteration of the program or an undue financial or administrative burden or take action that would threaten or destroy historic property. Public entities are required to provide program access up to fundamental alteration. The head of a public entity or his or her designee shall make the decision regarding alteration or burden.

A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this part. In developing methods of access, creativity is encouraged. Carrying an individual with a disability is not an acceptable accommodation. The following means are offered:

1. redesign of equipment
2. reassignment to accessible buildings
3. use of aides
4. home visits
5. delivery of services at alternate accessible sites
6. use of accessible vehicles
7. alteration of existing facilities, and
8. construction of new facilities.

#### Finding/Compliance Procedure

City employees shall be apprised of the acceptable methods of achieving program access when a facility is inaccessible. The ADA awareness workshops, explained in Chapter IX, shall be the vehicle through which this information shall be relayed.

#### **c. Existing Facilities: Historic Preservation Programs - 28 CFR 35.150(b)**

#### The Law

An Historic Preservation Program is one that offers information about historic properties as its primary purpose. In cases where a physical alteration is not required in order to protect the historic quality of an historic building or structure, alternative means of achieving program accessibility include using audio visual materials to reflect inaccessible portions of an historic property and assignment of guides to assist individuals with disabilities.

#### Finding / Compliance Procedure

It shall be the policy of the City that any historic preservation program offered in an inaccessible historic building that cannot be altered must offer alternative methods of providing access, such as using audiovisual, open-captioned format to depict those portions of an historic property that cannot otherwise be made accessible. The City's Archivist is planning such a presentation for the Archives of City Hall, a National Register property.

## 5. ARCHITECTURAL ACCESS REQUIREMENTS

- a. **New Construction - 28 CFR 35.151 (a)**  
**Facility Alterations - 28 CFR 35.151 (b)**
- b. **Accessibility Standards - 28 CFR 35.151 (c)**

### The Law

Any facility newly constructed by the City must be designed and constructed so as to be readily accessible and usable by people with disabilities and thus must comply with federal accessibility standards. This requirement applies to any construction begun after January 26, 1992. Facilities under design on January 26, 1992 were included if the date that bids were invited for construction was after January 26, 1992.

When alterations affect the usability of a facility, the altered portion must be made accessible and usable to people with disabilities and must comply with the accessibility standards.

State and local governments may comply with either of the two acceptable standards: Uniform Federal Accessibility Standards (UFAS) or the Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG). All construction or alteration in the same building must follow one or the other. Government entities are allowed a choice because of the Section 504 of the Rehabilitation Act of 1973 which required UFAS. If ADAAG guidelines are used, the elevator exemption which applies to private entities complying with Title III does not apply to government agencies under Title II.

### Finding

There is no written policy to assure that all new construction or alterations of City buildings are in conformance with the ADA. The R.I. State Building Code: Accessibility for Individuals with Disabilities in State and Local Government Facilities, Regulation SBC-15, 1993, was reviewed by the RI Building Code Commission and published with no revisions in September, 1996. The Building Inspector informs permit applicants to use that code based upon the Uniform Accessibility Standards (UFAS).

### Compliance Procedure

The following procedures shall be followed by all City Departments, where applicable:

In 1993, this Commission prepared a Building Accessibility Evaluation Survey using the UFAS and the RI Open Meetings Law. Refer to Appendix F. The Building Accessibility Evaluation Survey shall be used as the official standard for all building and facility inspections in the evaluation of accessibility at city buildings and facilities prior to the planning of alterations.

All plans for new construction or alteration of any City facility or building must be submitted to the Building Inspector for review and approval prior to the issuance of building permit and construction.

Any plans for street and sidewalk improvements shall be submitted to the Director of Public Works for review and written approval.

Upon completion of the construction, the Contractor shall notify the Director of the Department of Public Works and/or the City's Building Inspector to conduct an inspection of the facilities and issue a certification of completion verifying the project's compliance with the ADA. In turn, both departments shall report in writing to the Commission. The Department of Public Works shall maintain updated map(s) of curb cut improvements.

This process shall affect the following city entities, among others: the Public Building Authority, the Providence Redevelopment Agency, the Department of Planning and Development, the Providence Economic Development Corporation, the Department of Public Works, the Parks Department and the Department of Public Property.

**c. Alterations: Historic Properties 28 CFR 35-151 (d)**

**The Law**

Accessibility shall be provided to the maximum extent possible. If alterations to provide physical access to an historic property threaten to destroy the historic significance of the building or facility, "alternative methods of access shall be provided pursuant to the requirements of 35.150" (Historic Preservation Programs).

**Finding**

Any plans to alter the exterior of any structure or site located in an Historic District in Providence must be reviewed by the Providence Historic District Commission. If that structure to be altered is also on the National Register of Historic Places, alterations must be reviewed by the State Building Commissioner and the Historical Preservation Commission to ensure compliance with the RI State Building Code.

In its most recent alteration project at the RWP Museum, a National Register property, the Parks Department added a preliminary approval process. In that process, a team was assembled including representatives from the RI Historic Preservation Commission, the Governor's Commission on the Handicapped, the Parks Department and the Providence Building Inspector. The RFP for architectural services required that the designated architect work with this team in the conceptual phase of the project to ensure that any

alterations or additions to the facility being renovated were consistent with the architectural design and the historic quality of the facility. The necessary approval process followed as above.

#### Compliance Procedure

The initial process developed by the Parks Department in the above Findings shall be adopted for alterations at historic buildings. The Providence Historic District Commission and this Commission shall also be represented on the review team.

#### **d. Curb Ramps - 28 CFR 35-151 (e)**

#### The Law

"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". Refer to page 24 for the requirements of §28 CFR 35. 150 (c-d): Transition Plan.

#### Finding

It has been the policy of the Department of Public Works to install curb ramps (cuts) at all intersections on newly constructed or altered streets and roads and at street level pedestrian walkways that intersect streets and roads. That policy has also been carried out by the Providence Redevelopment Agency (PRA) in its capital improvements projects and the Rhode Island Department of Transportation.

Commission members with disabilities have suggested that a policy be developed to install curb ramps at the same location along every sidewalk whenever possible. This makes it easier for all those with disabilities but particularly those who are blind. They do understand, however, that this may not be possible depending upon the substructure.

#### Compliance Procedure

The Department of Public Works and the PRA shall continue to implement the process in place for current projects for the installation of curb cuts at intersections.

Any city agency or department involved in renovation or new construction must consider access to the facility from the street and sidewalk. Curb cuts and street level access shall be included in all plans for building alteration as mentioned in the Compliance Procedure for § 28 CFR 35.151(a)(b), pages 42-43.

The Architectural Access Workgroup shall prepare a Transition Plan for curb cuts to include a schedule of improvements and a maintenance plan. Consideration shall be given to location as requested in the Finding above. First preference shall be given to the access of City government buildings.

**e. Leased Buildings - 28 CFR 35.150 & 151**

**The Law**

Rented or leased buildings are not required to be physically accessible. However, programs offered at these leased sites must be accessible when viewed in their entirety.

Public entities may not select a site that has an effect of excluding people with disabilities from benefits or that have the effect of impairing the accomplishment of the objectives of the service or program.

**Finding**

It is the policy of the Department of Public Property to inspect buildings to be occupied by any city department or agency prior to the signing of the lease. All written leases include the following clause requiring conformance with the ADA:

*"Lessor shall ensure that all space is in strict compliance with all appropriate local, state, and federal law, regulations or codes, including, but not limited to the RI Fire Code, the Architectural Barrier Act of 1968, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the RI State Building Code, Zoning Ordinances, and the RI General Laws, Section 37-8-15, amended and reenacted ("Access for the Physically Handicapped") and those laws, regulations and codes pertaining to hazardous substances, hazardous wastes and asbestos abatement".*

**f. Information and Signs - 28 CFR 35.163**

**The Law**

State and local government entities must provide signage at all inaccessible entrances at each of its facilities which directs users to an accessible entrance or to a location at which people with disabilities can obtain information about accessible facilities. The international symbol for accessibility shall be used at all accessible entrances.

**Finding/ Compliance Procedure**

The Department of Public Properties is inspecting entrances at all city buildings. A schedule for compliance shall be developed, if needed.

**6. COMMUNICATIONS ACCESS REQUIREMENTS**

**a. Provision of Auxiliary Aids and Services - 28 CFR 35.160**

**The Law**

It is the obligation of public entities to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. In providing these services, public entities are required to

provide auxiliary aides and services. In determining what type of auxiliary aid or service is appropriate, first consideration should be given to the requests of those with disabilities. These Auxiliary Aids and Services might include:

for the visually impaired: qualified readers, taped texts, audio recordings, brailled materials or large print materials.

for the hearing impaired: qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices/systems, telephones compatible with hearing aids, closed telecommunications devices for deaf persons (TDD), or videotext displays. In some instances, as when the exchange of information is brief, writing notes will suffice.

for manually impaired: reading devices, page turners modification of equipment or devices; other similar services and actions.

### Finding

Although most department personnel were unaware of the types and variety of auxiliary aids and services listed in the ADA, employees, when dealing with the public and in providing services to the public, do make an effort to accommodate those with disabilities as best they can. Self evaluation results have revealed that, upon request, the City has provided readers, text on audio cassette or documents in large print. The City can also provide computer disks for those documents on computer. We have learned through our Commission members that many people with disabilities have computers adapted to their needs; thus, computer disks can be of great service to them.

Departments, Agencies, Boards and Commissions that hold public meetings provide interpreter services, upon request, through the City Clerk's Office. The public is informed of this service through newspaper advertisements and posted notices in City Hall and/or at the location of the meeting.

City Council Chambers is accessible and is equipped with an assistive listening system. A TDD is located at City Hall in the Mayor's Citizens' Assistance.

### Compliance Procedure

#### 1. Open Meetings Policy

In conformance with the ADA and the RI Open Meetings Law, all Directors have been instructed to ensure that all public meetings are accessible, that interpreter services for the hearing impaired are offered and that regularly scheduled meetings are posted. They were further instructed to include the following statement in newspaper announcements and posted service notices:

*"Facilities are accessible to people with disabilities. If you are in need of interpreters, contact the Mayor's Citizens Assistance Office at 751-0203 (TDD) within 72 hours of the meeting."*

The Mayor's Citizens Assistance Office shall contact the city entity sponsoring the public meeting and that entity shall be responsible for obtaining interpreter services and payment of the fee.

The Fire, Police, and Communications Departments, the Emergency Management Agency, and the Public Safety Commission, each has a TDD. Their respective TDD numbers shall be offered in any of their advertisements; each of these departments shall be responsible for the hiring of interpreters.

## 2. Stationery, etc.

Department heads have been instructed to have the appropriate TDD number printed on all stationery, calling cards and any publication explaining programs, policies or services for their departments or any Commission, Board or Agency they serve.

## 3. Policy for the Provision of Accessible Formats

The Commission is assembling a group of individuals with visual impairments with assistance from Tech Access Center of Rhode Island and RI Department of State Library Services to help establish the level of need for accessible formats and the type of city documentation to which people with visual disabilities are interested in having access. The City, through this group, is studying the feasibility of having a clearinghouse at one location where all important city documents can be made available. Further, it shall address the need for conversion of documents.

At a future date, the City may need to purchase a voice synthesizer, document converter, and/or braille printers, etc. However, at this point an arrangement with Tech Access Center for use of their services and equipment is the best alternative. Once their services are made available to beneficiaries with visual impairments, the level of need for these types of equipment can be established and the Commission shall then reassess the need to purchase equipment at a later date. At this time the extent to which conversion of documents will be in demand is unknown.

Types of conversion are:

### Qualified Sign Language interpreter- three levels

#### Certified Interpreter

is one who has passed a stringent series of tests and is approved by the National Registry for Interpreters; this level is required for court sessions.

#### State Certified Interpreter

is one who has passed certification in one or more states; standards are not as stringent but are good.

#### Provisional Interpreter

has no documentation but some level of competency.

### Large-print documents:

Large print documents can be done in house, in each department or at the City printer. Enlarging type the size of as seen in this document by 129% will yield what is considered large print, i.e., type size 1/4 in. high.

Audio-taped documents:

Audio taped documents can be provided in house at a departmental level. Persons with visual impairments may not need text from the entire document; discussion can focus on information needed.

Videotaped documents:

Videotaped documents are required, for example, if a tour of an historic property includes a room that is inaccessible and a person with a disability is unable to participate. Providing this alternate form shall be the responsibility of each department. Open captioning is required; arrangements can be made through the Governor's Commission on the Handicapped.

4. Interpreters at Mayor's press conferences: to be arranged by Mayor's Press Secretary

**b. Telecommunications Devices for the Deaf - 28 CFR 35.161**

**The Law**

When local government communicates with the public by telephone, the ADA requires that Telecommunications Devices for the Deaf (TDDs) or an equally-effective tele-communications system be used to communicate with people who have hearing or speech impairments.

**Finding/Compliance Procedure**

1. A TDD is located in the Mayor's Citizens Assistance Office in City Hall to serve the hearing and speech-impaired in answering questions, relating general information, and responding to complaints. Staff shall coordinate communications with various departments and agencies. A training workshop has been conducted in the operation of the TDD for staff at that office.
2. The City has established a TDD Policy a copy of which was sent to all Department Directors. Refer to Appendix G
3. The Parks Department offers a recorded message on its telephone line after hours, on weekends and holidays. The recorded message informs callers of the programs being offered at the time of the call and for the upcoming weekend or holiday. Although RI Relay can service those using TDDs, Parks should investigate the feasibility of installing a TDD with the capacity to offer the same prerecorded information to people with hearing impairments.

**c. Telephone Emergency Services - 28 CFR 35.162**

**The Law**

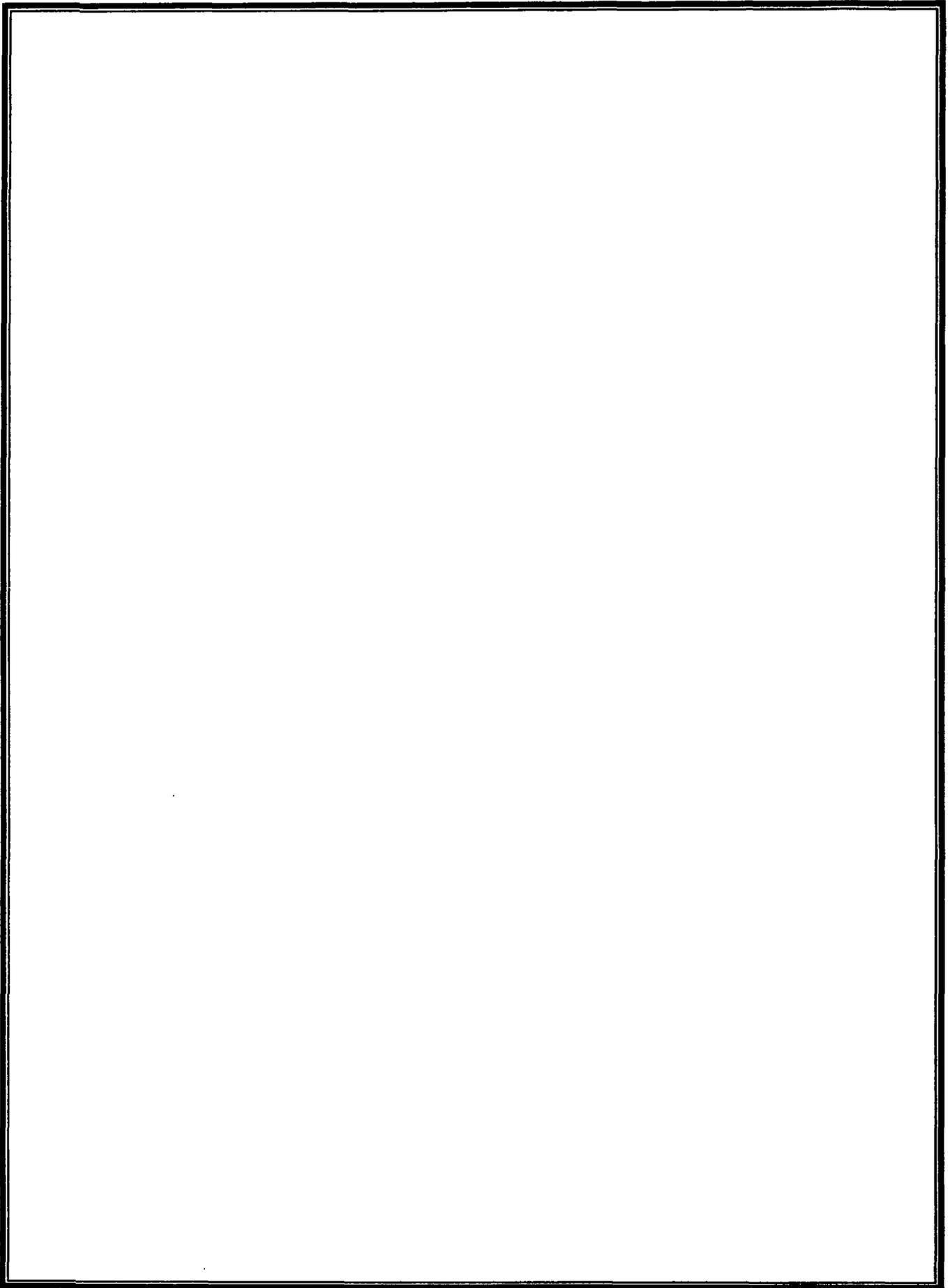
Telephone emergency services including 911 services, shall provide direct access to individuals who use TDDs and computer modems.

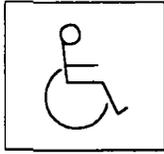
**Finding**

The City is in compliance with this part.

There is a 911 line in effect to Fire and Police as well as two additional TDDs: one at the Communications Building at One Communications Place (831-3456 TDD) and another located at the Fire Department headquarters at LaSalle Square (831-4327 TDD).

Since the Water Supply Board, Public Works and Highway Departments publish emergency voice numbers in the telephone book, a TDD emergency number is now available to TDD users for these departments as well. The Fire Department has agreed to accept emergency calls for these departments on their TDD line. The Providence Emergency Management Agency offers the TDD number of the Police Department for emergency calls from individuals with speech and hearing impairments.





## VII. EQUAL EMPLOYMENT OPPORTUNITY - TITLE I

Title I regulations were developed and published by the Equal Employment Opportunity Commission (EEOC) and requires that individuals with disabilities be given the same consideration for employment as are given able-bodied individuals. Title I includes considerable additional information on the definition of disability which affects how disability is defined for purposes of employment under the ADA.

Title I prohibits employers of more than 25 workers either in the private or public sector from discriminating against any job applicant with a disability provided the applicant is qualified to perform the "essential functions" of the job.\* It also requires employers to make "reasonable accommodations" for disabled job applicants or employees, provided such moves do not lead to "undue hardship" on the employers. See Chapter III for definitions.

This law does not require an employer to use affirmative action. Rather, the law requires employers to use nondiscriminatory criteria in recruitment, hiring promotion and discharge. Where a disabled applicant cannot satisfy the minimum qualifications legitimately related to the essential job functions, the employer can refuse to hire the applicant. It is of utmost importance that job descriptions be well-written; descriptions can become relevant evidence to what the job's essential functions are and what is important in accomplishing the purpose of the job.

Determination of whether an individual with a disability is qualified must be based upon the individual's current qualifications and abilities at the time of the employment decision and may not be based upon speculation that the employee may become unable to in the future or may cause increased health insurance premiums or workers' compensation costs. The following factors should be considered in determining disability:

- \* the nature and severity of the impairment;
- \* the duration or expected duration of the impairment; and
- \* the permanent or long-term impact, or the expected permanent or long-term impact of, or resulting from, the impairment.

In cases where an applicant or employee submits a grievance against an employer, the burden of proof that compliance would go beyond reasonable accommodation and result in undue financial or administrative burden rests with the business owner or public entity, not the applicant or employee with a disability.

\* *Exception: The U.S., a corporation wholly owned by the US Government, an Indian Tribe, a private membership club(non-labor) that is tax exempt under Section 501(c) under the Internal Revenue Code of 1986.*

## **A. EXCEPTIONS TO THE DEFINITION OF DISABILITY - 29 CFR 1630.3**

### **The Law**

The terms "disability" and "qualified individual with a disability" do not include individuals currently engaging in the illegal use of drugs when the covered entity acts upon the basis of such use. However, this does not include anyone who has successfully be rehabilitated and is no longer engaged in the illegal use of drugs. Further, it shall not be a violation of this part for a covered entity to adopt or administer reasonable policies or procedures, such as drug testing, designed to ensure that a person who once engaged in the illegal use of drugs is no longer doing so.

Disability does not include:

1. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity, disorders not resulting from physical impairments or other sexual disorders.
2. Compulsive gambling, kleptomania, pyromania or psychoactive substance use disorders resulting from current illegal use of drugs.
3. Homosexuality and bisexuality

## **B. DISCRIMINATION PROHIBITED - 29 CFR 1630.4(a-i)**

### **The Law**

This provision prohibits the discrimination by any covered entity against any qualified individual with a disability in all aspects of the employment relationship.

### **Finding**

The City's Anti-Discrimination Ordinance Sec. 16-57 prohibits discrimination in areas of employment as follows:

*"It shall be unlawful employment practice for any employer to fail or refuse to hire any applicant for employment or other-wise discriminate because of race, color, sex, religion, marital status, sexual orientation, disability, age or country of ancestral origin; or because of such reasons to discharge an employee or discriminate against him or her with regard to hire, temure, compensation, terms, conditions, or privileges of employment or any other matter directly or indirectly related to employment."*

There are nine (9) subdivisions of 29 CFR 16.30. They are as follows:

**1. RECRUITMENT, ADVERTISING, JOB APPLICATION PROCEDURES  
- 29 CFR 1630.4(a)**

**Finding/ Compliance**

City policy is consistent with the purpose of the ADA in that it has expanded its outreach to qualified candidates with disabilities. The recruitment process includes the notification of agencies and advocacy groups in the community which serve people with disabilities. Copies of job openings are sent to those agencies and groups listed in Attachment H.

The advertising process is geared to all qualified members of the community. The City of Providence provides the opportunity to apply through advertisements in minority publications as well as the Providence Journal. Vacancy announcements all contain the following statement: *"This position will be filled without regard to religion, color, race, national origin, sex, age, sexual orientation or disability"*

The job application process involves the completion of a City of Providence application. The application had been reviewed for ADA compliance and was amended to include the following question:

*"Are you able to perform the essential functions of the job for which  
you are applying with or without reasonable accommodations?  
Yes \_\_\_\_\_ No \_\_\_\_\_"*

Questions concerning previous Workers' Compensation injuries are not asked until an applicant has been hired.

**2. HIRING, UPGRADING, PROMOTION, ETC. - 29 CFR 1630.4(b)**

**ALSO INCLUDES: DEMOTION, TRANSFER, LAYOFF, TERMINATION,  
RIGHT OF RETURN FROM LAYOFF, AND REHIRING**

**Finding**

The City Anti-Discrimination Ordinance in Section 16-57 forbids discrimination dictated in this part. All hiring is done based upon an applicant's ability to perform the essential functions of the job, as noted in all job vacancy announcements. Once an individual has been hired, all subsequent employment actions are based on the terms of the Collective Bargaining Agreement between the City of Providence and the individual bargaining units.

### **3. RATES OF PAY OR COMPENSATION - 29 CFR 1630.4(c)**

#### **Finding**

Rates of pay are established by City Ordinance. There are established pay grades or flat rates of pay. Where there are pay grades, employees progress through the pay range receiving an annual increase. When there is a pay increase given across the board, all employees receive it based upon the terms of the Collective Bargaining Agreement.

### **4. JOB ASSIGNMENT OR CLASSIFICATION, ETC. - 29 CFR 1630.4(d) ALSO INCLUDES: ORGANIZATIONAL STRUCTURE, POSITION DESCRIPTIONS, LINES OF PROGRESSION, AND SENIORITY LISTS**

#### **Finding**

Job assignments or classifications are directly related to the job description.

Organizational structure is governed by such documents as the City of Providence Home Rule Charter. Individual departments may develop their own internal structural organization based on the staffing and needs of the department as well as the demands that are imposed on the department and the financial resources that are available. Organizational structure or restructure could change the essential functions of an employee's job.

If an inability to perform the essential functions of the job is identified, consideration is given to the implementation of a reasonable accommodation. The definition of essential functions for a particular job are agreed to by the respective Director and the Director of Personnel. Essential functions are reviewed prior to the advertisement of the job opening.

In 1994, the City authorized a compensation study for municipal jobs exclusive of Police and fire uniformed personnel. This study was conducted by Watson-Wyatt Worldwide. The scope of the study included the responsibilities and qualifications for each position with consideration of all legal requirements. The job position descriptions will be graded with appropriate compensation awarded to each. Employees, management personnel and union representatives have been contributors to this process.

Lines of progression are based on job requirements, the terms of the Collective Bargaining Agreement and, where appropriate, seniority.

Seniority lists are based upon date of hire, length of service within a department or length of time in City service as a permanent employee.

**5. LEAVES OF ABSENCE, SICK OR OTHER LEAVE - 29 CFR 1630.4(e)**

**Finding**

All leaves, medical or otherwise, are monitored to ensure compliance with Federal and State statutes as well as collective bargaining agreements. The submission of information to document the reason for the requested leave is the same within each category of leave request.

**6. FRINGE BENEFITS - 29 CFR 1630.4(f)**

**Finding**

Benefit coverages are identical for all members of a particular bargaining unit. Coverage under each benefit are the same for all employees. Companies that offer various insurance options to City employees, i.e., Life, Disability and so forth are governed by appropriate regulations ensuring compliance with the ADA and have provided the City with statements to that effect.

**7. SOCIAL AND RECREATION PROGRAMS - 29 CFR 1630.4(h)**  
(Activities sponsored by a covered entity.)

**Finding**

Programs sponsored by the City are accessible to all employees with reasonable accommodation made, where necessary or requested.

**8. ANY OTHER TERM, CONDITION, OR PRIVILEGE OF EMPLOYMENT - 29 CFR 1630.4(i)**

**Finding**

In all terms, conditions or privileges of employment, the City monitors its policies and procedures.

**9. SELECTION/ FINANCIAL SUPPORT FOR TRAINING - 29 CFR 1630.4(g)**

including apprenticeships, professional meetings, conferences, selections for leaves of absence to pursue training

**The Law**

It is unlawful for a covered entity to participate in a contractual or other arrangement that has the affect of subjecting the covered entity's own qualified applicant or employee with a disability to the discrimination prohibited; this includes an organization providing training and apprenticeship programs.

**Finding**

The selection and appropriation of funds in any of these instances is based upon the requirements of the position.

## **C. REASONABLE ACCOMMODATION AND UNDUE HARDSHIP**

### **1. Reasonable Accommodation 29 CFR 1630.9**

#### **The Law**

It is unlawful for a public entity not to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability, unless it can be demonstrated that the accommodation would impose an undue hardship on the operation of the business.

People with disabilities must be qualified to do the job in order to be protected by the law. An employer must make reasonable accommodation for any qualified individual with a disability. Failure to make a necessary reasonable accommodation constitutes discrimination as does denial of an employment opportunity because of the need for reasonable accommodation.

The obligation for making reasonable accommodation applies only to modifications or adjustments that reduce barriers to employment related to a person's disability. The City is not obligated to make adjustments that an individual may request for other reasons. Further, the obligation to accommodate applies only to a "known" limitation of an applicant or employee. Thus, it is the responsibility of the applicant to inform the employer that an adjustment or change is needed to do a job because of the limitations caused by the disability.

Both the City and the collective bargaining units are obligated under the ADA.

#### **Finding**

The RI Discrimination Against Handicapped Law (RIGL 42-87) requires provision of reasonable accommodation by any person or entity receiving financial assistance from the state or doing business with the state. However, there is no mention of a process to be followed.

The City's Affirmative Action Plan does not address reasonable accommodation.

The City of Providence has no specified process for determining reasonable accommodation or determining undue hardship. These issues are handled on a case by case basis. There is no process in place for the notification to employees and job applicants of the City's commitment to provide reasonable accommodations.

#### **Compliance Procedure**

In order to meet the "reasonable accommodation" requirements, the following steps will be taken:

1. The City shall develop a reasonable accommodation provision in its next issuance of the Affirmative Action Plan and shall include that provision with job application forms and in job vacancy notices.

2. Since both the collective bargaining units and the City are obligated to comply with ADA requirements, the City shall negotiate provision to be contained in the collective bargaining agreement permitting the City to take actions necessary to comply with the ADA.

3. As with all issues regarding qualified individual with a disability and potential employment, the range of field for the purposes of this plan involves: any city employee with a disability, any city employee who develops a disability, or any job applicant seeking employment by the City.

Once the essential functions of the job have been reviewed and it is determined that the individual is qualified, the City shall follow the following guidelines if a reasonable accommodation has been requested:

1. Identify potential accommodations and effectiveness in allowing the individual to perform the job functions. Consult with the individual so that the principle of reasonable accommodation is applied creatively to be appropriate to the needs of the particular individual being accommodated.

2. Consider the following alternatives: making a building readily accessible, job restructuring, modifying work schedule, reassignment to an equivalent vacant position (for city employee who becomes disabled and to a vacant position where no bumping is caused), acquisition or modification of equipment, policy adjustment, adjusting examinations (test must measure job ability only), provision of qualified readers or interpreters. As noted above, discussion of alternatives with the job applicant or employee shall be considered. (Note: many of these alternatives can only be developed if provided for in that contract with collective bargaining units.)

3. Select and implement the accommodation that is most appropriate and cost effective. If two accommodations are viewed to be effective, the City may choose the least expensive or more easily implemented one as long as it provides meaningful equal employment opportunity.

4. The City must develop a policy to address arbitration process in the event that there is difficulty determining accommodation.

5. Where the need for an accommodation is not obvious, the City may require the individual with a disability to provide documentation of the need.

6. When collective bargaining agreement controls the terms and conditions of employment, provisions shall be negotiated to include a meeting between management and the union representative to explore and agree on appropriate accommodations while maintaining the right of management to act without a work stoppage if no agreement can be reached.

7. If a qualified individual with a disability, applies for a job, is in need of a reasonable accommodation to perform the essential functions of the job and refuses that accommodation, the City may determine that the individual is not qualified.

## **2. Undue Hardship 29 CFR 1630.2**

### **The Law**

The responsibility of an employer to provide a reasonable accommodation is limited to those situations in which it would not be an undue hardship.

### **Finding**

The City addresses determination of undue burden on a case by case basis.

### **Compliance Procedure**

The City shall consider the following in determining undue hardship:

1. The cost of the provision in relation to the City's personnel budget or any financial resources available. A claim of undue hardship can only be accepted if the accommodation requires "significant difficulty or expense". Factors to consider in determining undue hardship include:
  - a. the nature and cost of the accommodation,\*
  - b. overall financial resources and the effect on expenses, and
  - c. impact of the accommodation on business operations
2. The nature of the accommodation and its impact on the operation of the department. This includes impact on the ability of other employees to perform their duties and the impact on the ability of the department to conduct business.
3. Whether restructuring a job to accommodate an individual with a disability creates a heavier workload for other employees, creating undue hardship.

In certain cases, staff members may not understand this concept and how it may affect the workplace, particularly if provision of reasonable accommodation causes a heavier workload for others. It is recommended that workshops for employees at all levels by individuals trained in sensitivity be provided to help City employees overcome misconceptions and understand the City's obligations relative to the ADA.

*\*Note: The cost of the accommodation in relation to an employee's salary cannot be considered a factor in claiming undue hardship.*

## **D. STANDARDS, CRITERIA, TESTS**

### **1. Standards, Criteria, or Methods of Administration - 29 CFR 1630.7**

#### **The Law**

It is a violation of the ADA to limit, segregate or classify any job applicant or employee in a way that adversely affects employment opportunities on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative control.

#### **Finding**

Standards and criteria for performance are established through the job description. Job descriptions exclusive of uniformed Police Officers and Firefighters have been rewritten in order to ensure that the requirements are job-related.

### **2. Qualifications, Tests and other Selection Criteria Administration of Tests - 29 CFR 1630.10-1630.11**

#### **The Law**

The intent of this provision is that individuals with disabilities not be excluded from jobs they can actually perform merely because a job requirement screens them out. Employers may not use job requirements (qualifications, selection criteria, tests) that screen out an individual with a disability or a class of individuals with disabilities on the basis of disability, unless the requirements can be shown to be job-related and consistent with business necessity.

Tests must be administered in a manner and at a location accessible to people with disabilities. The employer must consider whether a reasonable accommodation would permit the needed skill or ability to be measured by other means. This includes all kinds of tests including job demonstration.

#### **Finding**

City policy complies with this part. Any selection criteria used by the city is job-related and consistent with business necessity. If a test is required for a particular job, it is administered to all applicants using the same criteria. All candidates for the Police and Fire Academies, for example, are given the same tests including written, physical and so forth. Tests are administered in a manner and at a location accessible to people with disabilities.

## **E. MEDICAL EXAMINATIONS and INQUIRIES**

**Prohibited - 29 CFR 1630.13**

**Permitted - 29 CFR 1630.14**

### **The Law**

Employers may not inquire about disabilities before making a job offer, although they may ask whether the applicant can perform job-related functions. Post offer medical examinations are permitted and job offers may be conditioned on the results of such exams provided that all applicants in the same job category are subjected to such examinations and confidentiality is met. If an employee is excluded on the basis of a medical exam, the employer must show that there is no reasonable accommodation that would enable the individual to perform the essential functions of the job.

Information obtained regarding medical condition or history shall be collected and maintained on separate forms, in separate files and be treated as confidential medical records.

The employer may, however, ask the applicant to demonstrate or describe how, with or without reasonable accommodation the applicant will perform job related functions.

In those instance where examinations are a part of the hiring process, they must be preceded by an offer of employment conditioned on successful results from the examination. Contents of the medical examinations should be reviewed to assure that they relate to specific essential functions of the job.

### **Finding**

The City of Providence does not make inquiries about disabilities in the preemployment process although the application form does ask whether or not the applicant is able to perform the essential functions of the job with or without reasonable accommodation.

Inquiries about previous Workers' Compensation injuries are asked only after an applicant has been hired.

Confidential medical files have been established and contain medical information. They are separate from other personnel files and are accessible to the Director of Personnel and the Confidential Secretary to the Director. Information is provided to the employee's manager only on a need to know basis and only in conjunction with work-related situations.

## **F. OTHER EMPLOYMENT-RELATED ISSUES**

### **1. Limiting, Segregating, Classifying - 29 CFR 1630.5**

#### **The Law**

It is discrimination to segregate, limit or classify an employee in a way that adversely affects employment opportunities or status because of disability. Employment decisions are to be based on facts and not on presumptions as to what a class of individuals with particular disabilities can or cannot do.

#### **Finding**

Employment decisions are based upon requirements and an individual's ability to perform the duties of the job with or without reasonable accommodation.

### **2. Contractual or Other Arrangements - 29 CFR 1630.6(a)(b)(c)**

#### **The Law**

This part prohibits participation of an employer in a contractual or other arrangement that has the effect of discrimination of a qualified applicant or employee. This includes but is not limited to a relationship with an employment agency, a labor union, an agency providing fringe benefits to employees, or an organization providing training programs.

Benefit plans that are uniformly applied do not violate this requirement because they do not address the special needs of people with disabilities.

The employer is liable only for the actions of the other party which affect the employer's own applicants or employees.

#### **Finding**

Refer to §28 CFR 35.130(b), Nondiscrimination through Contract, page 30.

#### **Compliance Procedure**

To ensure compliance, the City's EEO Officer shall monitor contracts and grants relative to those types of agreements mentioned in the first paragraph of this part (§1630.6) to ensure compliance with the ADA.

### **3. Relationship With an Individual With a Disability 29 CFR 1630.8**

#### **Finding**

The City's Anti-Discrimination Ordinance prohibits discrimination on the basis of association as quoted on page 37 in §28 CFR 35.130(g). Additionally, benefits are not reduced for employees who have covered dependents with a disability.

#### **4. Retaliation or Coercion - 29 CFR 1630.12**

##### **Finding**

The City's Anti-Discrimination Ordinance, Section 16-59(b), quoted on page 39 of this document, prohibits discrimination of this part.

#### **5. Defenses - 29 CFR 1630.15**

##### **The Law**

An employer may require that an individual not pose a direct threat to the health and safety of himself or herself or to other persons in the workplace. However, the employer must meet stringent requirements to establish that a direct threat exists. A job requirement that a person not pose a direct threat must apply to all applicants or employees.

Evaluation of an individual must be based upon his/her present ability to safely perform the essential functions of the job and must be based on facts.

##### **Finding**

The determination that an individual with a disability poses a safety risk is made on a case by case basis.

##### **Compliance Procedure**

Any determination of risk shall be based upon a reasonable medical judgment that relies on the most current medical knowledge.

#### **G. SPECIFIC ACTIVITIES PERMITTED**

- 1. Regulation of Alcohol and Drugs - 20 CFR 1630.16 (a)**
- 2. Drug Testing - 20 CFR 1630.16(c)**

##### **Finding**

With regard to the treatment of substance abuse conditions, there are a variety of EAP or Membership Assistance Programs available to employees. These programs are the result of the collective bargaining process between the City and Bargaining Units.

The City provides a copy of the Drug Free Workplace Act of 1988 to each new employee. Each employee is required to sign and acknowledge receipt of the document and agreement to the terms and conditions of the Act. Refer to Appendix I.

Drug and Alcohol tests are administered to conform with the requirements under the Omnibus Transportation Act governing employees who have earned a Commercial Driver's License.

### 3. Infectious and Communicable Diseases - 20 CFR 1630.16(e)

#### The Law

Under Title I of the ADA, the Secretary of Health and Human Services is to prepare a list, to be updated annually, of infectious and communicable diseases which are transmitted through the handling of food. If an individual with a disability is disabled by one of these diseases included on this list, and if the risk of transmitting the disease associated with the handling of food cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling. However, if the individual with a disability is a current employee, the employer must consider whether he/she can be accommodated by reassignment to a vacant position not involving food handling.

#### Finding

The City's Recreation Department is governed by the RI Food Code in the handling of all food operations. There is a person in charge during all hours of operation who has studied and can demonstrate knowledge of the RI Food Code. This person ensures that employees are performing their duties in compliance with the Code.

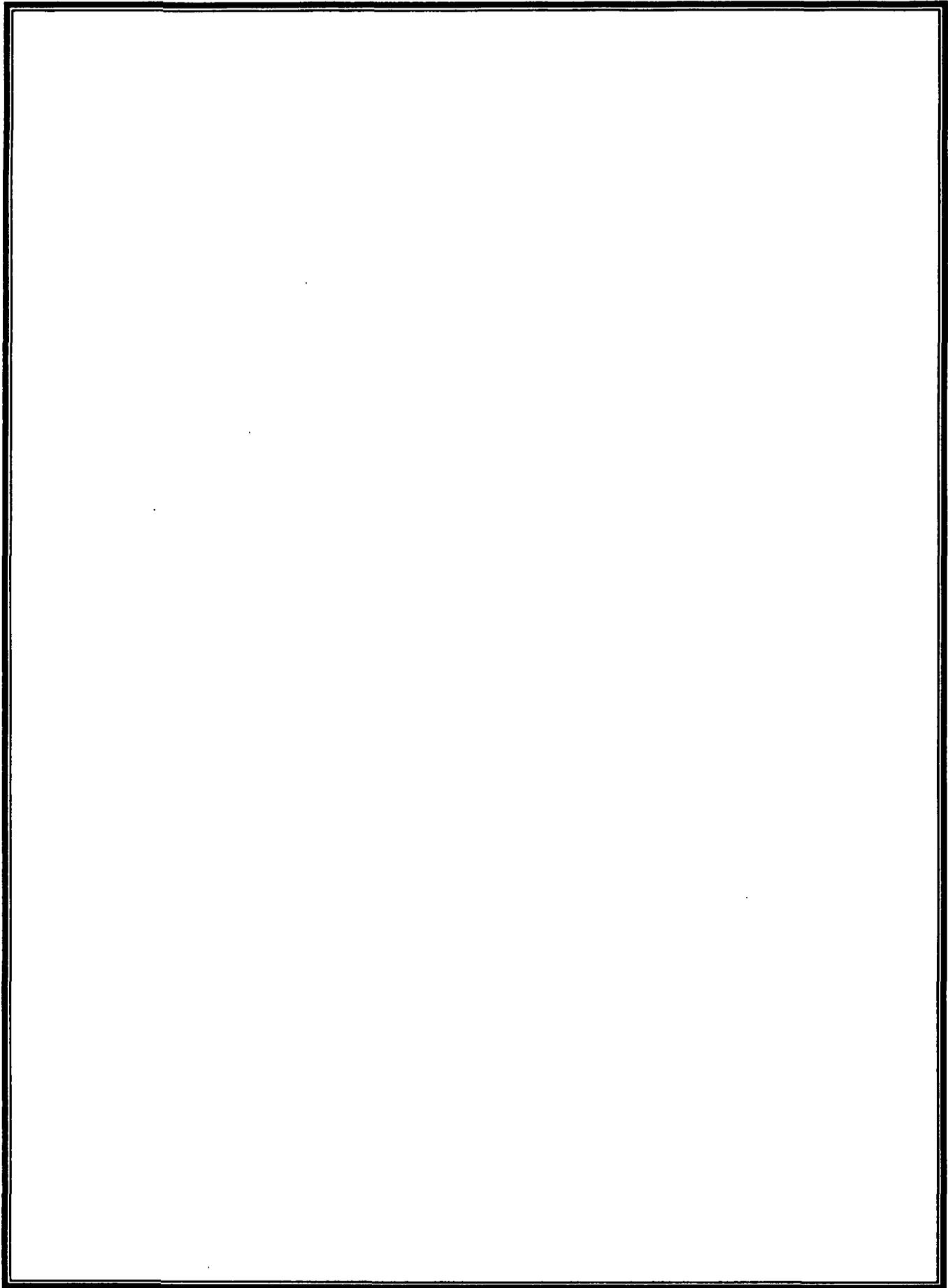
All food employees and job applicants must provide information about their health as related to certain diseases including:

Active cases of tuberculosis and measles;

Diagnosis with illness due to Salmonella typhi, shigella spp., Escherichia coli 0157:H7, or Hepatitis A virus infection or symptoms such as abdominal cramps or discomfort, diarrhea, fever, loss of appetite for three or more consecutive days, vomiting, jaundice, or open or draining wound on the hands.

The person in charge must exclude an employee from working or restrict an employee's job assignments to avoid contact with food and food contact surfaces depending upon the nature of their illness/symptoms.

Each employee must complete and sign a Food Employee Reporting Agreement in conjunction with guidelines from the RI Department of Health.





## VIII. ENFORCEMENT

### A. Designation of ADA Coordinator -28 CFR35.107(a)

#### The Law

All state and local governments with 50 or more employees must designate at least one employee to coordinate the government's efforts to comply with the ADA and must disseminate information about how to locate that employee. The designated employee(s) must investigate any complaint alleging that the city has failed to meet the requirements of the ADA. The public entity must make the name, address, and business telephone number of the ADA Coordinator available to interested persons.

#### Compliance Procedure

On January 21, 1992, Mayor Cianci held a press conference announcing the publication of "Providence Cares: Handbook for City Compliance with the ADA", prepared by the Commission. At that time the Mayor issued Executive Order 1992-03 in which the Chair and Vice-Chair of the Commission were designated ADA Coordinators for the City of Providence. Prior to this, at the initiation of the planning process, the Commission designated an ADA Planning Coordinator from among its membership to develop the Providence Cares Handbook and coordinate the development of this compliance document.

It shall be the responsibility of the ADA Coordinators to implement this plan and carry out the continuing enforcement duties as required by law.

### B. Internal Grievance Procedure - 28 CFR 35.107(b)

#### The Law

Public entities must publish a grievance procedure providing for timely and equitable resolution of complaints alleging failure to comply with the ADA. Filing grievances with local entities is optional. A complainant may proceed directly to filing with a federal agency or filing a law suit. Public entities or private companies that fail to comply with the ADA will face civil penalties of up to \$50,000 for the first offense and \$100,000 for subsequent offenses. The city is not obligated to resolve complaints of discrimination filed against private enterprises.

### Finding/Compliance Procedure

Two City Departments handle complaints of discrimination. Complaints from city employees are handled by the EEO Officer in accordance with federal complaint procedure. And, the Providence Human Relations Commission, by virtue of the Anti-Discrimination Ordinance of 1979, as amended, is charged with the resolution of all other discrimination complaints.

The appropriate addendum shall be incorporated into each of the two complaint procedures to reflect the mandates of the ADA. See Appendix J.

### **C. Enforcement by Federal Agencies / Filing of Lawsuit - 28 CFR 35.170-175; 35.190**

#### The Law

Individuals may file administrative complaints with a designated federal agency or with the U.S. Department of Justice. Administrative complaints must be filed within 180 days of the date the alleged discrimination occurred. Once the complaint is filed, the reviewing agency will investigate the charge, and if it finds a violation, will seek to obtain a voluntary compliance agreement with the entity. If voluntary compliance is not achieved, the charge will be referred to the Department of Justice.

Individuals have the right to file a lawsuit for injunctive relief and damages. The prevailing party in an administrative or court action may recover reasonable attorney fees and related costs. It is not necessary to exhaust internal or administrative remedies before filing court action.



## **IX. ADA AWARENESS CAMPAIGN**

Bringing the ADA to City residents and employees is one of the primary goals of the Mayor's Advisory Commission for People With Disabilities. As part of the initial research conducted for the Providence Cares Handbook, the Commission prepared a preliminary survey to help gauge this City's level of ADA compliance. Since more than half of the respondents had not been aware of the law, the Commission became concerned that the message of the ADA had not reached many of our City employees and perhaps many of our citizens. Consequently, the Commission recommended the initiation of an ADA Awareness Campaign to help ensure that the law is thoroughly integrated into the operations of city government.

Further, the Commission shall continue to search for new ways to bring the message of the ADA to as many people as possible.

### **A. ADA Awareness Workshops for City Employees**

The Personnel Department in a joint venture with the Providence Human Relations Commission is preparing a comprehensive program for nondiscrimination awareness for all city employees. A component of that program shall address the ADA and sensitivity to people with disabilities. Workshops shall be presented as follows:

#### **1. Tilting at Windmills**

The Commission is determined help all City employees realize just how important it is to view all people as individuals and to consider them as people first, their disabilities secondly. In fulfilling the promise of the law, the Commission feels it is essential that City employees are made aware of the hurt that can result from lack of sensitivity on the part of able bodied individuals. Participation in "Tilting at Windmills", a sensitivity training program, shall be required of certain supervisory staff. Participants will make the principles part of their day to day experience and convey these principles to those whom they supervise.

"Tilting at Windmills" is a multifaceted program designed for sensitizing people to the consequences discrimination can bring. Each module is best presented to 25-35 persons. The program includes play acting using able-bodied people with guidance from a director specifically trained in this presentation. The numerous modules of this program are outlined in Appendix K.

## **2. Seminars on Employment Issues**

The Personnel Director has presented a seminar for all department directors relating the requirements of Title I. The seminar shall be presented periodically for any new directors and others that need a refresher session.

## **3. On-Going Employee Awareness Policy**

ADA compliance is not a one time proposition. Making compliance part of everyday operations of city government means that new staff members will need to be trained, that on going performance be evaluated, and that problems be corrected as soon as they arise. The Personnel Department and the Providence Human Relations Commission shall hold training sessions annually.

## **4. ADA and City Services**

The Self-Evaluation of all City programs, services and policies shed light on the policies and procedures in city government that may screen out or ignore the needs of individuals with disabilities and has helped us realize the importance of creativity in providing programs and services to the public. The Commission attempted to make changes necessary through policy development recommended in earlier sections of this compliance report.

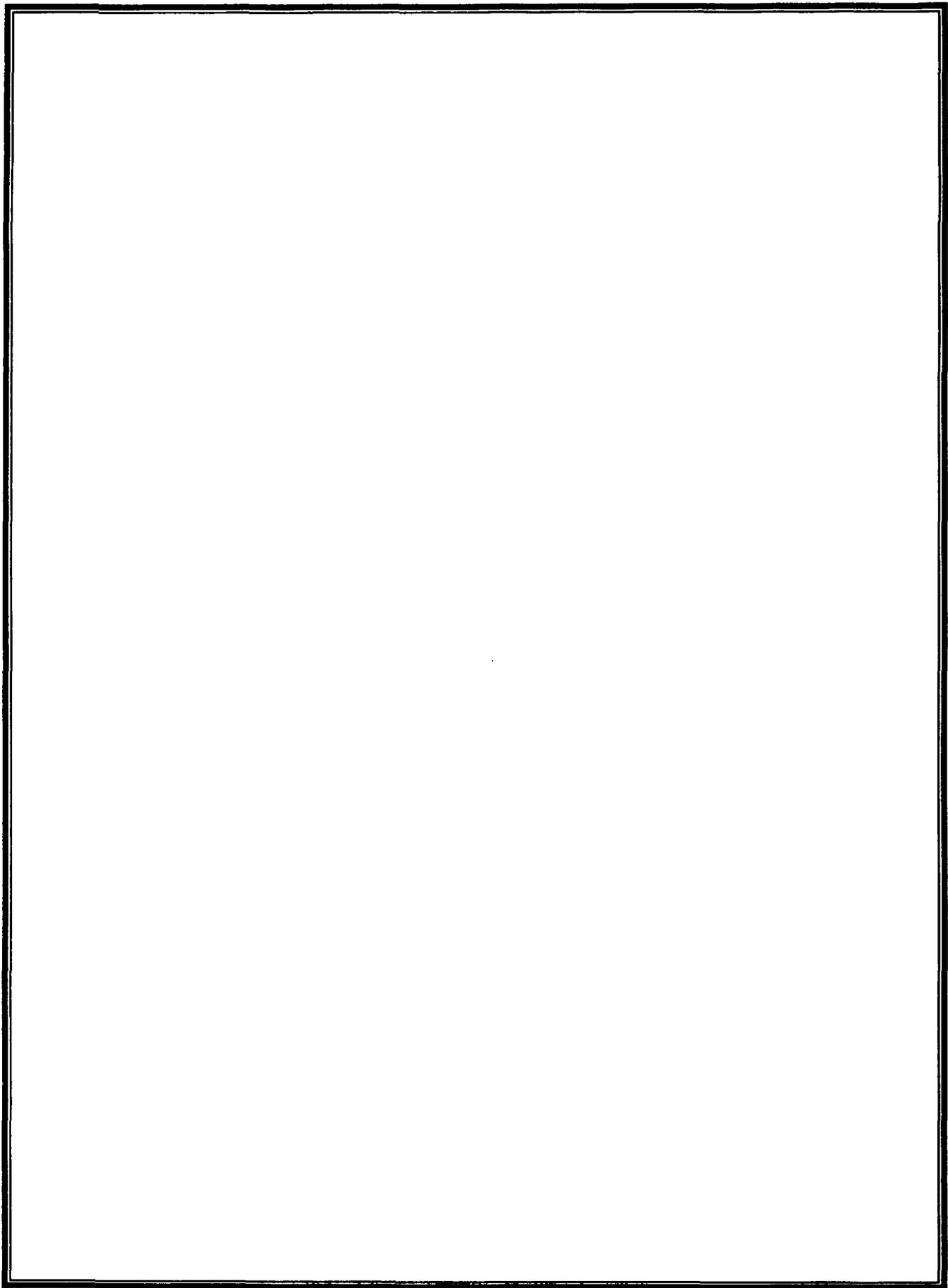
Explanation of ADA regulations and City policy developed in light of this new law shall be presented to all City employees so that each department can adequately respond to the needs of people with disabilities seeking employment, services, or participation in City programming. The ADA Coordinator, members of the Commission, and the departmental liaisons shall set the tone for compliance efforts and shall be available to City employees to clarify any questionable policy matters.

## **B. ADA Awareness Pamphlet**

As part of the Awareness Campaign, the Commission, with assistance from three of our high school students with disabilities, published an ADA Awareness Pamphlet entitled "The New Law for Americans with Disabilities" which briefly explains the law in lay terms and directs the reader to proper agencies or individuals for additional information or assistance. Copies were distributed to all city employees. Additional pamphlets shall be printed for distribution at sites throughout the City including: local pharmacies, public libraries, and City Hall. A copy of that pamphlet appears in Appendix L.

## **APPENDIX**

- A. Preliminary Survey Results
- B. Letter of Commitment
- C. Self-Evaluation Forms
- D. List of Advocacy Groups Consulted
- E. Accessibility at Open Meetings Directive
- F. Access Evaluation Survey
- G. TDD Policy
- H. Job Recruitment Listing
- I. Drug Free Workplace Policy
- J. Grievance Procedure Addendum
- K. Tilting at Windmills Sensitivity Training Modules
- L. ADA Awareness Pamphlet



## **APPENDIX A: PRELIMINARY SURVEY RESULTS**

Question # 1: Prior to this survey, were you familiar with the content of the ADA?

Nearly half the respondents were unfamiliar with the content of the ADA.

Questions #2 and #3: concerning building accessibility:

City Hall, which houses 17 of the 34 City Departments surveyed, does have an accessible entrance on Union Street. Yet, although all respondents housed in City Hall were aware of this, only 4 of 17 directors were aware that there is no signage at every entrance to direct a person with disabilities to the proper entrance. It was noted, however, by several respondents that circulation within the building is hampered because some of the thresholds may present a problem to a person in a wheel chair or a person with visual impairment. (The law states that any threshold higher than 1/4" must be beveled if services are to be provided)

Of the remaining 16 departments notified, eleven were in facilities that are accessible and only the School, Fire and Police Departments have proper signage. However with further research, it was discovered that the neighborhood branches of the fire department are not accessible to those with disabilities.

Question #4: Can a person with a disability receive the same service?

Most respondents were unsure, unaware of what comprises the same services and what are the requirements of the law. Consequently, almost three quarters of the respondents were unsure and/or did not answer this question. The few that can provide same service provide that service at a different location.

Question #5: Do you have the ability to make written material accessible to the blind, if requested?

Twenty seven of the respondents are unable to provide this service. However, Personnel is in the process of learning what services are available to accommodate this requirement. The School Department, Recreation, Police and Job Training do provide this service given ample time to respond.

Question #6: Are you aware of the Telecommunications Device for the Deaf (TDD) at the communications Building?  
Have you had the opportunity to use it?

Seventy percent of the respondents were unaware. And, review of survey results revealed that Recreation is the only department that has actually used it.  
The Communications building has two TDDS: one for Fire and the other for 91 1.

Question #8: Do you have a written policy to ensure that all your public meetings and events are accessible to the handicapped, including interpreter services for the hearing impaired, if requested?

## **APPENDIX B: LETTER OF COMMITMENT**

Vincent A. Cianci, Jr.  
Mayor of Providence

EXECUTIVE ORDER NO. 1992-03  
January 21, 1992

### **PROVIDENCE CARES: A HANDBOOK FOR CITY COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT**

WHEREAS the Americans with Disabilities Act ("ADA"), enacted by Congress on July 26, 1990, prohibits discrimination against physically, mentally, visually, and hearing-impaired individuals in the areas of employment, public services, transportation and telecommunications; and

WHEREAS, nearly one in five Providence residents is affected by a disability in some manner; and

WHEREAS, the City of Providence should serve as a model of American cities in demonstrating its compliance with the ADA and in establishing a nondiscrimination policy for individuals with disabilities; and

WHEREAS, at my direction, the Mayor's Advisory Commission on the Disabled ("the Commission") has authored a handbook entitled "Providence Cares: Handbook for City Compliance with the Americans With Disabilities Act" ("ADA Handbook"), which shall provide a blueprint for compliance with the mandates of the ADA.

NOW, THEREFORE, do I, Vincent A. Cianci, Jr., Mayor of the City of Providence, hereby order that the Commission oversee, on behalf of the City, implementation of the Action Plan specified in the ADA Handbook. It is further ordered as follows:

1. THAT the co-chairpersons of the Commission shall serve as ADA coordinators on behalf of the City.
2. THAT the Commission shall conduct a Self Evaluation of all City policies, programs and services and proceed to make necessary changes to ensure that all city policies guarantee equal opportunity in employment, programs and services, and report their findings by January 26, 1993.

3. THAT the Commission shall develop a Transition Plan to achieve accessibility at City facilities and define, in a clear and achievable manner, an appropriate process that leads to conformance, and that said Plan be completed by July 26, 1992.
4. THAT the Commission shall develop a Grievance Procedure for discrimination complaints to ensure that all individuals with disabilities have legal recourse if they have been discriminated against by any City department, agency, board or commission.
5. THAT the Commission shall initiate an ADA Awareness Campaign to inform individuals with disabilities of their rights under the ADA, enlighten city employees of the content of the ADA so that they may provide proper referral services and, apprise local business persons of options available to achieve accessibility that do not incur excessive costs.
6. THAT the Commission shall develop a plan for conformance that is fiscally responsible.

FURTHER, it is hereby ordered that all officers and employees of the City of Providence shall extend their fullest cooperation to the Mayor's Advisory Commission in carrying out its charge under this order.

This Executive Order shall take effect immediately.

**In witness, whereof, I have hereunto set my hand and seal this 21 st day of January, 1992.**

VINCENT A. CIANCI, JR.  
Mayor of Providence

## **APPENDIX C: EVALUATION FORMS**

### **PROGRAM ACCESSIBILITY EVALUATION** **AMERICANS WITH DISABILITIES ACT (ADA)**

The Americans with Disabilities Act signed in to law July 26, 1990 provides a national mandate for the alienation of discrimination against individuals with disabilities. This legislation requires that all City services, activities and programs be accessible to individuals with disabilities. If programs are group oriented, people with disabilities must be accommodated in an integrated setting with program participants.

The task of evaluating all City programs, activities and services has been charged to the Mayors Advisory Commission on the Disabled. The Commission has prepared this form with assistance from representatives of local advocacy groups for individuals with disabilities. Volunteers from both groups shall assist in the completion of the evaluation.

Please be advised that all renovation work in any city owned or leased building or facility commenced after January, 1992 must comply with the ADA Accessibility Guidelines.

#### **SELF EVALUATION CHECKLIST**

Person Completing this Form:

Department/Board/Commission:

Program or Activity being evaluated or Being Evaluated:

Location of Program :

Was this program included in a self-evaluation conducted under Section 504 of the Rehabilitation Act of 1973, as amended?

If yes, the program need not be included in this ADA Self-Evaluation. Please attach Section 504 review. If you or anyone in your department is unaware of a 504 review, please complete this form.

**A. NATURE OF THE PROGRAM**

1. Describe in general, the nature of the program or activity being evaluated here including its purpose, scope, general activities and participants.
2. Are there any persons and/or agencies outside your department/organization involved in the provision of this service?

If yes, please explain.

3. Are any of the following benefits provided:

Transportation  
Health Services  
Housing  
Financial Aid  
Counseling Services  
Employment Services  
Food Services  
Social, Recreation, Athletic

4. Is anyone on your staff trained in nondiscrimination sensitivity?

Yes                      No

5. Is this City program or activity administered by an outside person or organization, e.g. , a program funded by the City and carried out by another agency?

Yes                      No

If yes, please explain.

If yes, does your contract with that outside organization contain a nondiscrimination statement?

Yes                      No

## **B. RECRUITMENT and ADVERTISING**

All city departments/organizations informing the public about their services, activities and programs must make equal opportunities available for persons with disabilities. In this section you will describe how your organization informs people of the program's existence and/or recruits participants.

1. How is information regarding the program or activity communicated to the citizenry, e.g. newspaper advertising; posters; city hall directory or posting; community centers, schools, etc.?
  
2. Do you recruit participants?  
Yes                      No  
If yes, what means do you use?
  
3. Do you conduct "Public meetings" or "Oral presentations" for this program?  
  
Yes                      No  
If yes, where are they held?
  
4. Is the building from which you recruit advertise, or hold public meetings accessible to persons with mobility impairments?  
  
Yes                      No  
  
If no, can you provide the information in another building which is accessible? where?
  
5. In recruitment advertising or informing the public, do you provide auxiliary aids or services for persons with vision or hearing impairments, e.g. , written materials in alternate forms (braille, large print, audio tapes, readers) or signers for the deaf  
  
Yes                      No

6. Do you include a notice of the City's Compliance with the ADA in all your materials and advertising?

Yes      No

### C. PROGRAM ELIGIBILITY REQUIREMENTS AND ADMISSIONS

1. Are there any limitations on the number of qualified persons with disabilities who may participate in or be admitted to the program?

Yes              No

If yes, state reason for the limitations.

2. Do you have an application form or test for admission into the program?

Yes              No

If Yes, please attach.

Is this form or test available in alternate forms (taped, braille, large print) or do you have a reader available?

Yes              No

3. List steps to provide auxiliary aids or services.

4. Are there any questions on the application form that inquire as to the nature and extent of a disability?

Yes              No

5. If there is a test, what does the test measure (e.g., skills, level of achievement or other factors)?

Would this screen out people with disabilities, learning disabilities included?

Yes              No

Is the test written or oral?

Whether written or oral, how does the test relate to the program?

7. What alternative criteria or tests will you or outside persons associated with your program use to ensure nondiscrimination? In some instances, this could mean not using criteria or tests.
8. List ways to make potential program participants including those with hearing or vision impairments or developmental disabilities aware of alternative testing and criteria.
9. Are the facilities used for testing, pick up or submission of admission forms accessible by wheelchair or for individuals with mobility impairments?

Yes                      No

State location:

10. If no, do you have an alternative location for wheelchair accessibility? Where?

11. Is an interview required before the applicant enters the program?

Yes                      No

If yes, discuss the interview process and list steps to be taken including provision of auxiliary aids to ensure nondiscrimination in interviewing.

12. If an individual with a disability is accepted into the program, is that individual offered accommodations?

Yes                      No

13. If yes, is the information gathered voluntarily kept confidential?

Yes            No

#### **D. PARTICIPATION IN THE PROGRAM**

1. Is there an orientation for the program?

Yes            No

2. Can you effectively communicate with persons with hearing or visual impairments?

Yes            No

If no, how will you do so in the future? (e.g. employ the use of auxiliary aids)

3. Are there any tools, written materials, equipment used for the program?

Yes            No

If yes, please list.

4. For each item mentioned above list how you will ensure materials and equipment are accessible. Consider visual, hearing, mobility, learning disabilities. (e.g. auxiliary aids or equipment modification)

Would adapting equipment pose undue financial burden or diminish significantly the program's intent or purpose

Yes            No

If yes, how can you provide accessibility without these effects?

6. List steps to ensure that information concerning program schedules and activities are effectively communicated to all participants including those with impaired hearing or vision.

### **E. FACILITIES USED**

The definition of "facility" under the ADA includes all or any portion of buildings, structures, equipment, roads, walks, parking lots, restrooms, elevators, emergency alarms (flashing and audible), meeting rooms, water fountains, or other property, owned, operated or leased. Consider all parts of the facility used for the activities covered in this program.

1. Is the facility owned by the City or leased?
- 2.. Is the facility accessible? If no, please explain.

If it is not accessible, list nonstructural measures that will be taken to provide accessibility.

3. If this program or activity is not accessible, list nonstructural measures to ensure accessibility when the program is viewed in its entirety, including:
  - a. relocating the activity to accessible space
  - b. being able to relocate the activity to accessible space, upon notice of the needs of a person with a disability
  - c. revising the structure or format of the activity so the space is not needed;
  - d. modifying or redesigning the equipment.
  - e. making home visits or other alternative delivery services; or
  - f. otherwise achieving program accessibility

4. If non structural change cannot achieve accessibility, describe the portion of the facility that needs alteration.

Is the facility in question considered "Historic", i.e., is in on the National Register of Historic Places or an a state or local list of historic places?

Yes

No

NOTE: Please have the Director or chairperson of your organization review and sign this completed survey.

Thank you for your cooperation.

Signature,, Director/Chairperson

## PROGRAM ACCESSIBILITY EVALUATION GLOSSARY

**Individual With A Disability:** means a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment. Covered disabilities include the obvious disabilities such as visual or hearing impairments or loss of limbs; many types of medical conditions, e.g.: cancer, heart disease, epilepsy; learning and various disabilities psychiatric conditions; an individual who has recovered from a prior disability, such as a recovered cancer patient; an individual who is physically able but is regarded as having a disability, such as a bum victim with a cosmetic disfigurement; an individual who tests positive for AIDS or the HIV virus; a rehabilitated drug abuser or an alcohol abuser.

**Discrimination** means denial of services or benefits because an individual has a disability. This includes, among other things, limiting, segregating or classifying a program participant in a way that adversely affects the opportunities or status of the individual because of the individual's disability.

**Accessible:** means the provided means for persons with disabilities to participate and/or receive benefits and privileges of programs, activities, or services equal to those enjoyed by participants without disabilities.

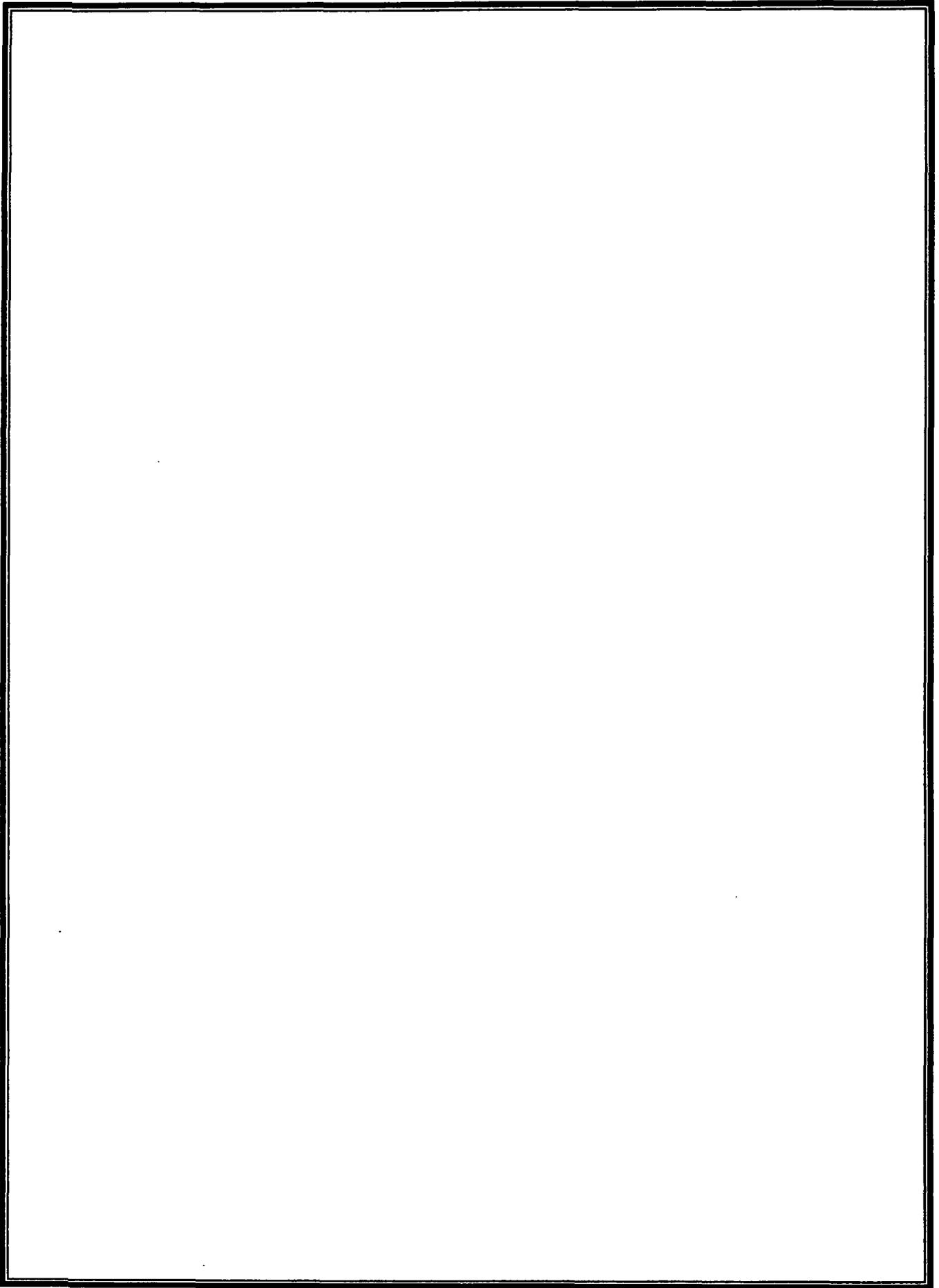
**Facility:** means all or any portion of buildings or structures, equipment, roads, walks, parking lots, restrooms, elevators, emergency alarms (flashing and audible), meeting rooms, water fountains, or other property owned, operated or leased.

**Reasonable Accommodation:** means any modification or adjustment that enables a qualified individual with a disability full participation in any program, service, or activity that will not impose an undue hardship on the public entity offering any of these.

**Auxiliary Aids and services:** means services and devices that promote effective communication, e.g. qualified interpreters, Telecommunications Device for the Deaf (TDD), brailled and large print materials, and speech synthesizers just to name a few of the available technology we have today.

**Non-structural Measures:** means ways to ensure a program service or activity is accessible when viewed in its entirety, which includes:

- a. relocating the activity to accessible space;
- b. being able to relocate the activity to accessible space, upon notice of the needs of a person with a disability-.,
- c. revising the structure or format of the activity so the space is not needed;
- d. modifying or redesigning the equipment;
- e. home visits or other alternative delivery services; or,
- f. otherwise achieving program accessibility.



## **SERVICE ACCESSIBILITY EVALUATION AMERICANS WITH DISABILITIES ACT (ADA)**

The Americans with Disabilities Act signed in to law July 26, 1990 provides a national mandate for the elimination of discrimination against individuals with disabilities. This legislation requires that all City services, activities and programs be accessible to individuals with disabilities. If programs are group oriented, people with disabilities must be accommodated in an integrated setting with program participants.

The task of evaluating all City programs, activities and services has been charged to the Mayors Advisory Commission on the Disabled. The Commission has prepared this form with assistance from representatives of local advocacy groups for individuals with disabilities. Volunteers from both groups shall assist in the completion of the evaluation.

Please be advised that all renovation work in any city owned or leased building or facility commenced after January, 1992 must comply with the ADA Accessibility Guidelines.

### **SELF EVALUATION CHECKLIST**

Person completing this form:

Department/Board/Commission:

Service being evaluated:

Location of Service provided:

1. Was this service included in a self-evaluation conducted under Section 504 of the Rehabilitation Act of 1973, as amended?

Yes            No

If yes, please attach. If you do not know, please complete this form.

2. Describe the nature of the service including its purpose, general activities and participants.

3. Is there a form to be completed in the provision of this service?

Yes            No

Is there any written material distributed to the public regarding this service?

Yes            No

If yes, are these forms and/or written materials available in alternate formats: audio cassette, large type, braille, or is there a reader available to assist visually impaired?

4. Do the written materials state notice of compliance with the ADA?

Yes    No

5. Are public hearings or public meetings relative to this service sponsored by your department?

Yes    No

6. How is information regarding the service communicated to the citizenry, i.e., advertising in newspaper; public service announcements; City Hall, school building or community center postings; flyers posted elsewhere; mail?

Do all materials and advertisements state compliance?

Yes    No

7. Do you reach those with impaired vision or hearing in your advertising?

Yes    No

If yes, how? If no, how will you adapt to do so?

8. Is the service, itself, accessible to individuals with disabilities? Consider individuals in wheelchairs, those with hearing or visual impairments.

Yes    No

If public hearings/meetings are held, are they accessible?

Yes    No

If no, can you make accommodations to make the service and public meetings accessible in ways other than structural alterations? Consider accommodations

such as moving the program to an accessible building, providing readers, providing sign language interpreters, using a listening system, lowering counters, etc. List accommodations to be made.

9. Does an outside person or organization provide this service with your assistance?

Yes No

If yes, are they aware of and do they publish non discriminatory policy?

Yes No

If no, what steps will you take to ensure that they become aware of and publish nondiscriminatory policy?

Please attach the nondiscriminatory phrase contained in the contract with that organization.

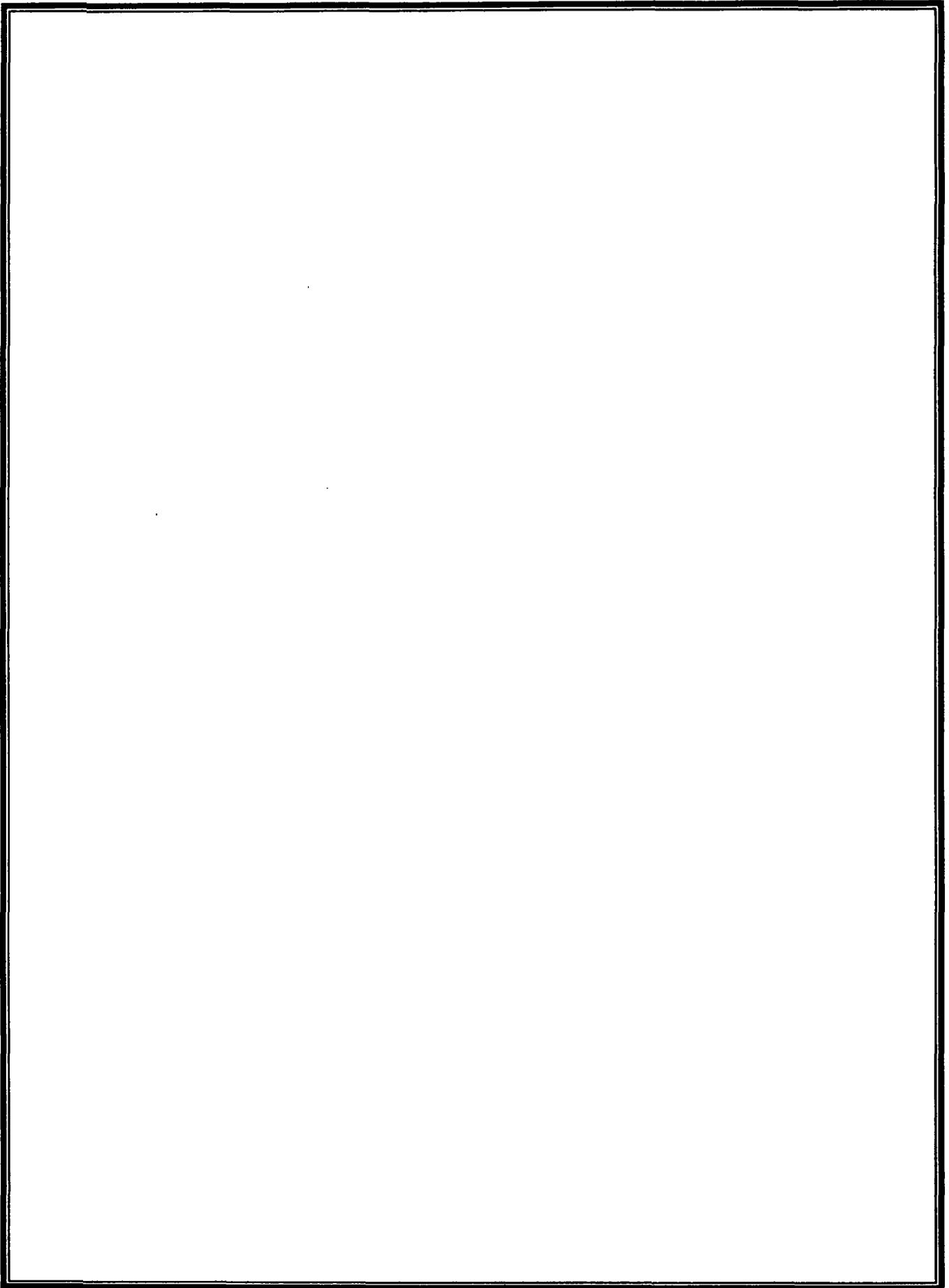
10. Is the facility in which this service is provided owned by the city or leased?

11. If the building is historic, can the structure be made accessible without altering its historic quality?

12. What structural changes are needed to make the structure accessible? Accessible facilities include parking lots, ramps, walkways, entrances, restrooms, elevators, telephones, water fountains, emergency alarms (audible and visual), meeting rooms.

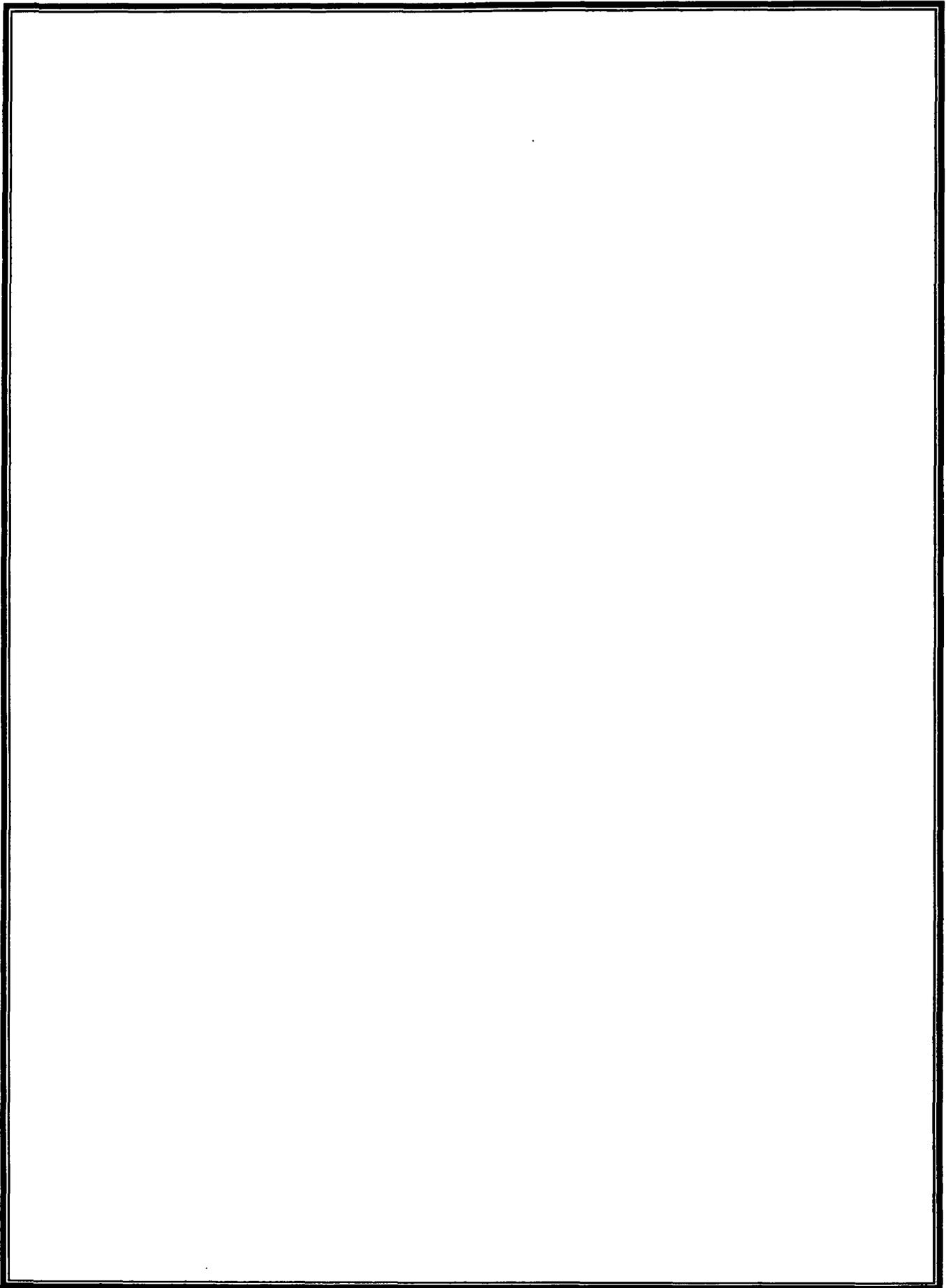
Please have the Director or Chairperson of your organization review and sign this completed survey. Thank you for your cooperation.

Signature:  
Director/Chairperson



## **APPENDIX D: LISTING OF ADVOCACY GROUPS CONSULTED**

ARC Dimensions 500 Prospect Street Pawtucket, RI  
The Fogarty Center 220 Woonasquatucket Avenue North Providence, RI  
Grodin Center 86 Hope Street Providence, RI  
In-Sight Enterprises 57 Porter Street Providence, RI  
Meeting Street School 667 Waterman Avenue East Providence, RI  
Ocean State Center for Independent Living 59 West Shore Road Warwick, RI  
PARI Independent Living Center 500 Prospect Street Pawtucket, RI  
The Providence Center 520 Hope Street Providence, RI  
Rhode Island Association for Retarded Citizens 220 Woonasquatucket Avenue Providence, RI  
Rhode Island Developmental Disabilities Council 600 New London Avenue Cranston, RI  
Rhode Island Protection and Advocacy System 151 Broadway Providence, RI  
RI School for the Deaf Corliss Park Providence, RI  
Sargent Rehabilitation Center 229 Waterman Street Providence, RI  
Services for the Blind and Visually Impaired 275 Westminster Street Providence, RI  
United Cerebral Palsy 500 Prospect Street Pawtucket, RI  
Vocational Resources 100 Houghton Street Providence, RI  
Summit Medical Center 1085 North Main Street Providence, RI



## APPENDIX E: ACCESSIBILITY AT OPEN MEETINGS DIRECTIVE

Robert Urbani, Chair  
Christine Roundtree,  
Vice chair

Vincent A. Cianci, Jr.  
Mayor

### MAYOR'S ADVISORY COMMISSION ON THE DISABLED *"Providence Cares"*

#### \*\*\*MEMORANDUM\*\*\*

TO: ALL DEPARTMENT DIRECTORS

FROM: LINDA DECICCIO

RE: ADA/RI OPEN MEETINGS LAW  
ACCESSIBILITY FOR HEARING IMPAIRED

DATE: DECEMBER 29, 1992

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Please be reminded that the TDD has been installed in the Mayor's Citizens' Assistance Office and is in operation. The number is: **751-0203**.

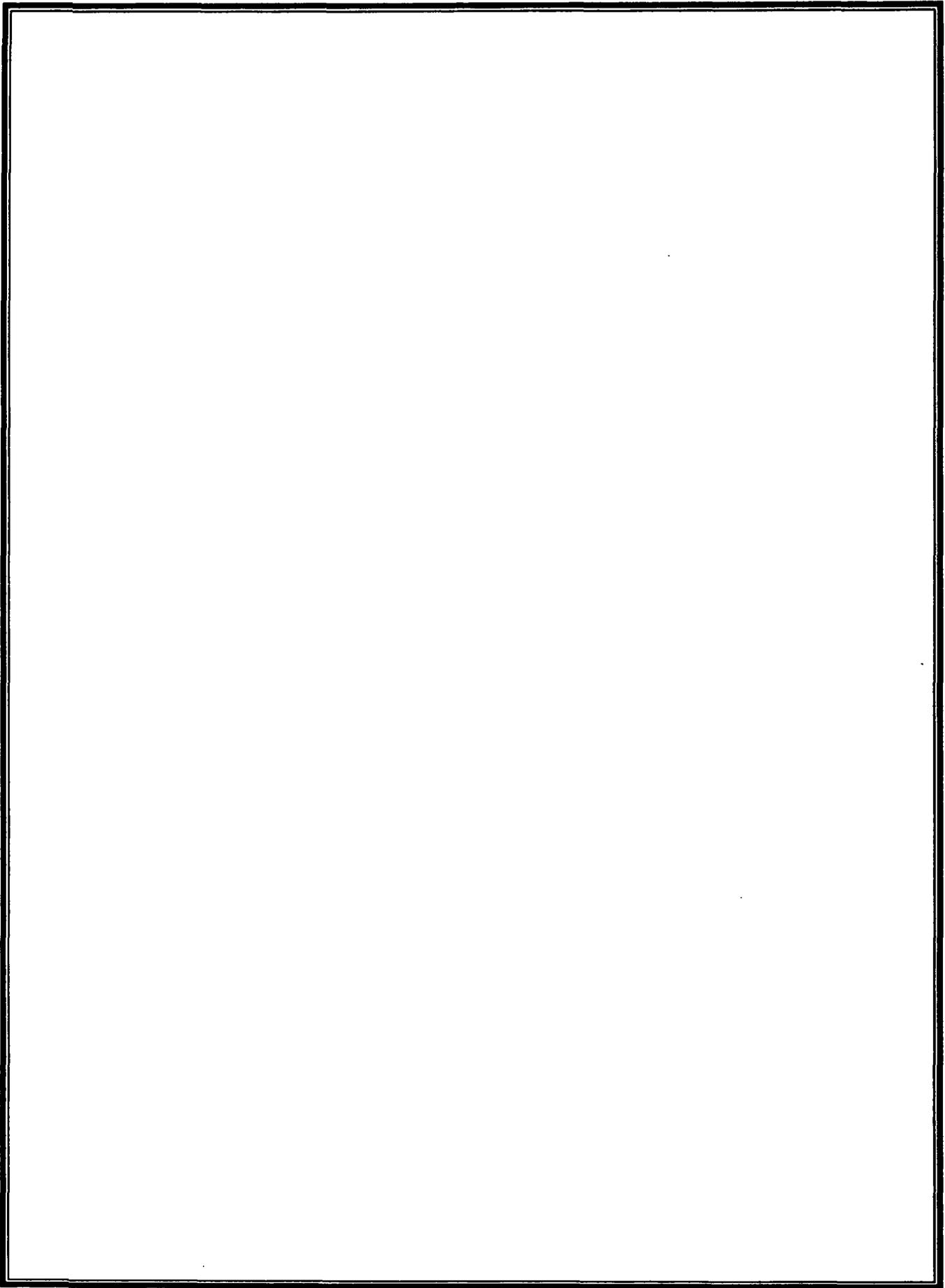
In order to adequately provide this service to those with hearing and speech impairments, all publications noting the telephone number and originating from your Department or any of the Boards, Agencies or Commissions served by your Department must include this TDD number. This includes stationery, calling cards, notices, or any publications offering information regarding services or programs. Be sure to request that this number be included when ordering.

Also, in conformance with the ADA and the RI Open Meetings Law please be sure that all public meetings are accessible and that you include the following statement in your newspaper advertisements and posted notices:

**"Facilities are accessible to people with disabilities. If you are in need of interpreter services for the hearing impaired. Please contact the Mayor's Citizens Assistance Office at 751-0203 (TDD) within 48 hours of the meeting."**

The Open Meetings Law also requires that if your Department, Board or Commission holds regularly-scheduled open meetings, notice of these must be posted and must contain the above-mentioned caption.

Thank you for your continued cooperation.



**APPENDIX F:**

**BUILDING ACCESSIBILITY EVALUATION SHEETS**

U.S. Uniform Accessibility Standards (UFAS)

(Where RI Law is more strict than UFAS, the former is required and used here)

NAME OF SITE: \_\_\_\_\_

LOCATION: \_\_\_\_\_

**Parking Facilities (UFAS 4.61):**

If parking spaces are provided for employees or visitors then accessible spaces must comply with the following:

**a. Number/Location**

1. Do the number of accessible spaces conform to the following table?

Total spaces	Required accessible
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of total
1001 or more	20 +1 for each 100 over 1000

**PLUS ONE ACCESSIBLE SPACE FOR EACH DISABLED WORKER**

2. Is there one van accessible space for 1 in every 8 accessible Spaces: Space (96"W) + access aisle (60"W) total 192" wide?

3. Are the parking spaces for disabled persons located closest to the nearest accessible entrance of the site they serve? Spaces may be provided in different location if accessibility is equivalent.

YES	NO	COMMENTS (N/A) DIMENSIONS / PROBLEMS





**Curb Ramps/Cuts (continued)**

5. Is there a flush smooth transition where curb cut meets street?

6. Is the width of the ramp at least 36" wide exclusive of flared sides?

7. Is the maximum slope of the ramp 1:12 as required by RI Law (UFAS: 1:20 or less)?

8. If at a pedestrian walkway, are flared sides max. 1:10?

9. Is ramp firm, stable, slip-resistant?

**Ramps (UFAS 4.8):**

Ramp is any part of an accessible route with a slope greater than 1:20 and must conform to the following:

1. Is the maximum slope of the ramp no greater than 1:12?

2. Is the max. rise of each rim 30"?

3. Is the min. clear width of ramp 36"?

4. Is cross slope of ramp 1:50?

5. Is ramp landing at top and bottom at least as wide as the ramp run leading to it?

6. Is landing length min. of 60" clear?

7. If ramps change directions at landing is landing at least 60"x60" for turning?

8. Do ramps with vertical drop off have rail, wall or protective curbing at least 2" high?

YES	NO	COMMENTS (N/A) DIMENSIONS / PROBLEMS

**Ramps (continued)**

9. Are handrails on both sides of all ramps which have a vertical rise greater than 6" or horizontal projection greater than 72"?

10. Is gripping surface of all handrails 1¼" to 1½" in diameter?

11. Do handrails mounted to walls have 1½" space from wall?

12. Do non-continuous handrails extent 12" beyond the ramp segment?

13. Are tops of the handrails mounted between 30 - 34" above ground surface?

14. Are ends rounded smoothly?

\*15. Are handrails attached so that they do not rotate within their fittings?

16. Can anchoring components of handrails support at least 250 lb. at any point along the rail?

17. Are all handrails parallel with the slope of the ground surface?

18. Are all wall surfaces smooth and free from protrusions?

19. RI Law: Is there a toe guard rail or curb & intermediate rail if ramp exceeds 30" high?

YES	NO	COMMENTS (N/A) DIMENSIONS / PROBLEMS

\* For renovations of existing buildings:  
 1:10 - 1:12 for max. rise of 6";  
 1:8 - 1:10 for max. rise of 3";  
 slope steeper than 1:8 is not allowed.



**Stairs (continued)**

16. Can anchoring components of handrails support at least 250 lb. at any point along the rail?

17. Are all handrails parallel with the slope of the ground surface?

18. Are all wall surfaces smooth and free from protrusions?

**Entrances and Doorways (UFAS 4.13-4.14)**

At least one principal entrance at each grand level to a building or facility shall comply with:

**a. Location**

1. Is at least one of the primary entrances of the site accessible?

2. Is it connected by an accessible route to accessible parking?

3. Are all primary accessible entrances connected to all accessible elements/spaces outside the site?

4. Are they connected to all accessible elements within the same building or site?

**b. Design**

1. Do doorways have a min. clear width of 32"?

2. Do doors open 90° (between face of door and stop)?

3. For double leaf doors, are there two independently operated door leaves with at least one meeting the above measurement?

4. Is ground area level & clear?

YES	NO	COMMENTS (N/A) DIMENSIONS / PROBLEMS

**Entrances/Doorways (continued)**

5. If revolving doors or turnstiles are available, are accessible doors located next to them?

6. Is min. space between doors in a series 48" plus width of any door swinging into the space?

7. Are thresholds 1" high or less?

8. Are thresholds or floor level changes beveled with a slope no greater than 1:27?

9. For exterior sliding door thresholds or bottom tacks, is height 3/4" or lower?

10. For sliders, is hardware exposed & usable on both sides?

11. Do handles, latches, locks and other operating devices on doors operate without need for tight grasping, or twisting of wrist?

12. Is door handle no higher than 48" high?

13. If door has a closer, is sweep period time at least 3 seconds?

14. Is max. force for pushing or pulling open a door less than 5 lb.?

YES	NO	COMMENTS (N/A) DIMENSIONS / PROBLEMS

**Elevators (UFAS 4.10): Elevator exemption is not allowed for public entities.** If an elevator is provided it must comply as follows:

**a. General**

1. Is elevator on an accessible route?
2. Are visual signals available for the deaf?
3. Are audible signals available for the blind?
4. Are raised numbers and letters on entrances and central panels?
5. Is there an audible (Bells) emergency warning system?
6. Are visual flashing alarms provided?

**b. Dimensions**

1. Are entrance call buttons centered at 42" above floor; low enough to be reached from a wheelchair?
2. Are call buttons at least 3/4" in size?
3. Is doorway at least 36"?
4. Are car dimensions at least 51"x 68" (with turning area for wheelchairs)?
5. Do elevator doors remain open fully at least 3 seconds?
6. Is floor surface firm, stable?

YES	NO	COMMENTS (N/A) DIMENSIONS / PROBLEMS







## **APPENDIX G: TDD POLICY**

### **TDD POLICY - CITY OF PROVIDENCE TELECOMMUNICATIONS DEVICE FOR THE DEAF**

The Americans With Disabilities Act (ADA), signed into law July 26, 1990, mandates, in part, that every state and local agency provide a Telecommunications Device for the Deaf (TDD) or equally-effective telecommunications system that allows communications over the telephone with speech and hearing-impaired individuals.

The TDD is a typewriter-like device which provides a link between hearing and speech-impaired individuals and their calling community. This device has a cradle for a telephone and a display panel that shows typed messages. It allows two people to communicate by typing messages to one another and subsequently receiving these messages on their respective printed screens. Some of these devices also have a printer connection to allow the user to make a paper record.

#### **Where is the City's TDD for general information located?**

The City's TDD is located in the Mayor's Citizens Assistance Office on the 2nd floor of City Hall, 25 Dorrance Street, Downtown Providence, RI.

**The TDD Number is: 751-0203.**

\*\*\*

#### **Who will operate this device?**

All staff in the Mayor's Citizens Assistance Office will be trained in the operation of this device. All city employees shall be made aware of the service by their respective department directors.

\*\*\*

#### **How will inquiries/calls be handled?**

Each of the TDD operators will have a listing of all departments, their programs and telephone numbers. When a call is received the TDD operator shall complete an inquiry/request form noting all pertinent information as is standard procedure in the Mayor's Citizens Assistance Office. Further, if the TDD operator does not have a response to the inquiry, he/she has two alternatives:

1. immediately call the party (department) to whom the inquiry is being addressed, obtain the requested information and relay it to the caller, or;
2. research the inquiry and call with a response within two working days. If the matter cannot be resolved within that time frame, the caller shall be notified of the time frame needed. The City is required to respond within a reasonable period of time.

**How does one request an interpreter for a public meeting?**

Individuals with hearing impairments must contact the Mayor's Citizens Assistance (MCA) Office within 48 hours before the public meeting to make that request. The city entity sponsoring the public meeting shall be notified by the MCA Office and the sponsoring department subsequently shall arrange for interpreter services.

\*\*\*

**How is the public informed of this service?**

The City is launching an ADA Awareness Campaign which will enlighten individuals with disabilities of the services available to them. A component of this campaign shall provide a pamphlet with pertinent information including the TDD service and number. Also, all City departmental stationery will note the TDD number along with each department's telephone number.

\*\*\*

**Does the City have a TDD-911 number for emergencies?**

Yes, the caller enters "911" onto the keyboard and the call will be received by the state emergency line and the message relayed to Providence Fire or Police. If for some reason the caller is unable to type in a message, the system can trace the call and the Police and Fire Departments will respond immediately to the address from which the call is being sent.

\*\*\*

**The Police and Fire Departments have TDDs for emergencies in addition to 911.**

**TDD Emergency Calls can be made to :**

<b>Water Supply Board:</b>	<b>831-4327</b>
<b>Public Works:</b>	<b>831-4327</b>
<b>Highway Dept.:</b>	<b>831-4327</b>
<b>Fire Department:</b>	<b>831-4327</b>
<b>Police Department:</b>	<b>831-3456</b>
<b>Emergency Management Agency:</b>	<b>831-3456</b>

## APPENDIX H: JOB RECRUITMENT LISTINGS

Donalda Marcello  
Pathways to Independence  
275 Westminster Street  
Providence, RI 02903

Eugene Booth  
Director  
Rhode Island Commission for Human Rights  
10 Abbott Park Place  
Providence, RI 02903

Cedric Huntley  
Community Outreach Liaison  
Department of Employment and Training  
101 Friendship Street  
Providence, RI 02903

Bob Cooper  
Executive Director  
Governor's Commission on the Handicapped  
555 Valley Street  
Building 51  
Providence, RI 02908

Commission of the Deaf and Hearing Impaired  
One Capitol Hill  
2nd Floor  
Providence, RI 02908

Administrator  
Department of Vocational Rehabilitation  
40 Fountain Street  
Providence, RI 02903

Marie V. Citrone  
Executive Director -  
RI Developmental Disabilities Council  
Aime J. Forand Building  
600 New London Avenue  
Cranston, RI 02920

Jack Thompson  
Acting Administrator  
State Services for the Blind and Visually Impaired  
275 Westminster Street  
Providence, RI 02903

John Wodatch or Stewart Oneglia  
Chief Coordinators and Review Section  
Office of the American's with Disabilities Act  
Civil Rights Division  
U.S. Department of Justice  
P O. Box 66118  
Washington, DC 20035

Dennis Langley  
Urban League  
246 Prairie Avenue  
Providence, RI 02907

Joyce O'Connor  
Providence School Department  
797 Westminster Street  
Providence, RI 02907

B. Jae Clanton  
Urban League  
246 Prairie Avenue  
Providence, RI 02907

Vincent Brown  
Mt. Hope  
Neighborhood Assoc.  
.199 Camp Street  
Providence, RI 02906

Balbina Young  
John Hope Shelter  
7 Burgess Street  
Providence, RI 02903

Dr. Robert Carter  
Urban League  
246 Prairie Avenue  
Providence, RI 02907

Lawrence Turner  
US Dept of Justice  
Community Relations  
99 Summer Street  
Boston , MA 02110

Director, Equity 2000  
Providence School Dept.  
797 Westminster Street  
Providence, RI 02903

Bienvenido Garcia  
Case Manager  
246 Prairie Ave.  
Providence, RI 02905

John Chea  
Socio Economic  
Development Center  
620 Potters Ave.  
Providence, RI 02907

NAACP - Providence Branch  
101 Friendship Street  
Providence, RI 02903

Christine Roundtree  
Executive Director  
Providence Human Relations Commission  
151 Weybossett Street  
Providence, RI 02903

**APPENDIX I: DRUG FREE WORKPLACE POLICY/ EMPLOYEE AGREEMENT**

Kathleen Moretti  
Director of Personnel

Vincent A. Cianci, Jr.  
Mayor

**Department of Personnel**  
*"Building Pride In Providence"*

**DRUG FREE WORKPLACE POLICY ACKNOWLEDGMENT NEW HIRES**

I, \_\_\_\_\_, an employee with the City of Providence hereby acknowledge that I have received a copy of the City's Policy regarding the maintenance of a drug free workplace. I have been informed that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance (to include but not limited to such drugs as marijuana, heroin, cocaine, PCP, and crack, and may also include legal drugs which may be prescribed by a licensed physician if they are abused), is prohibited on the City's premises or while conducting City business. I also understand that convictions involving illicit drug behavior while off duty may result in disciplinary action. I acknowledge that I must report for work in fit condition to perform my duties. Violation of this policy make me subject to discipline up to and including termination. As a condition of City employment, I must abide by the terms of this policy and I will report to the employer any criminal drug conviction no later than five (5) days after such conviction. I realize that federal law mandates the employer to communicate this conviction to the appropriate federal agency under certain circumstances.

In accordance with the Drug Free Workplace Policy I certify that as a condition of my employment, I do not currently use illegal drugs.

\_\_\_\_\_  
Employee

\_\_\_\_\_  
Date

Comments if any:

\_\_\_\_\_  
Department/Agency Signature

\_\_\_\_\_  
Date policy reviewed with  
employee

5/94

AN EQUAL OPPORTUNITY EMPLOYER

CITY OF PROVIDENCE

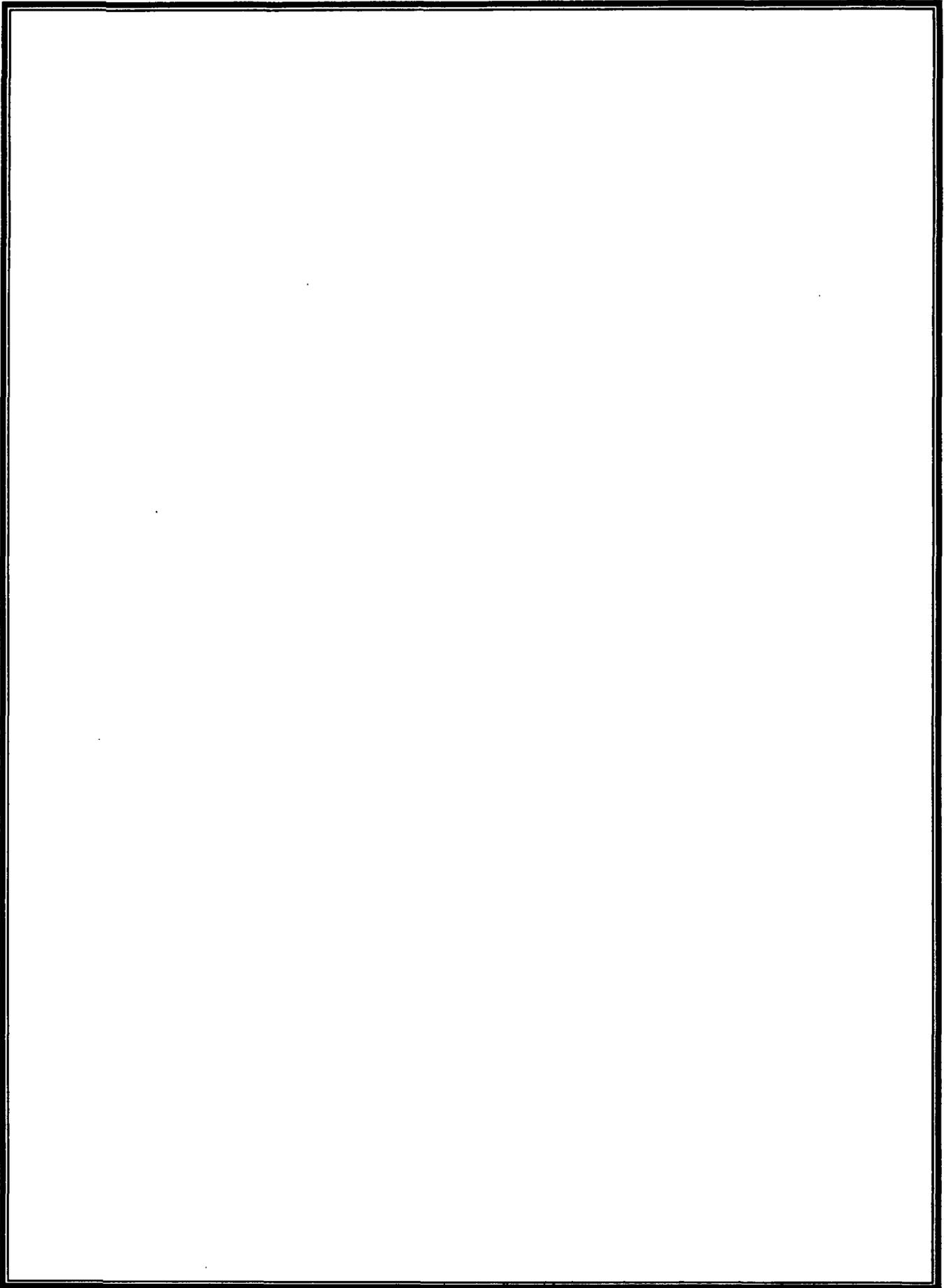
DRUG FREE WORKPLACE POLICY

**Drug use and abuse** at the workplace or while on duty are subjects of immediate concern in our society. These problems are extremely complex and ones for which there are no easy solutions. From a safety prospective, the users of drugs may impair the well-being of all employees, the public at large, and result in damage to property. Therefore, it is the policy of the City of Providence that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace. Any employee(s) violating this policy will be subject to discipline up to and including termination. An employee may also be discharged or otherwise disciplined for a conviction involving illicit drug behavior, regardless of whether the employee's conduct was detected within employment hour" or whether his/her actions were connected in any way with his or her employment. The specifics of this policy are as follows:

1. Any employee who gives or in any way transfers a controlled substance to another person or sells or manufactures a controlled substance while on duty, regardless of whether the employee is on or off the premises of the employer will be subject to discipline up to and including termination.
2. The term "controlled substance" means any drugs listed in 21 U.S.C. 812 and other federal regulations. Generally, all illegal drugs and substances are included such as marijuana, heroin, morphine, codeine, or opium additives, LSD, DMT, STP, amphetamines, methamphetamines and barbiturates.
3. Each employee is required by law to inform the City of Providence Personnel or Department Director within five (5) days after he/she is convicted for violation of any federal or state criminal drug statute. A conviction means finding of guilt (including a plea of nolo contendere) or the imposition of sentence by a judge or jury in any federal or state court.
4. The employer (the hiring authority) will be responsible for reporting conviction(s) to the appropriate federal granting source, within ten (10) days after receiving notice from the employee or otherwise receives actual notice of such a conviction(s). All convictions(s) must be reported in writing to the Office of Personnel within the same time frame.

5. If an employee is convicted of violating any criminal drug statute while on duty, he/she will be subject to discipline up to and including termination. Conviction(s) while off duty may result in discipline or discharge.
6. The City of Providence encourages any employee with drug abuse problem to seek assistance. Should you need more information about the assistance that is available, contact the Personnel Office.
7. The Law requires all employees to abide by this policy.

11/93  
DD



## **APPENDIX J: GRIEVANCE PROCEDURE ADDENDUM**

### **INTERNAL GRIEVANCE PROCEDURE ADDENDUM FOR COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990**

#### **A. ADA Designated Staff Coordinator**

The City has designated two individuals for the investigation and resolution of discrimination complaints.

FOR EMPLOYMENT-RELATED COMPLAINTS, the EEO Officer shall be designated to investigate any internal complaint in city employment practices and policies related to compliance with the Americans With Disabilities Act of 1990.

The EEO Officer's name, business address, and business telephone number shall be posted on all employee bulletin boards and/or conspicuous locations.

FOR NONEMPLOYMENT RELATED COMPLAINTS, the ADA Coordinator, shall investigate any complaint in the City's provision of programs, services and benefits related to the requirements of the Americans With Disabilities Act of 1990. The ADA Coordinator's name, business address, and business telephone number shall be posted on all employee bulletin boards and/or conspicuous locations.

#### **B. City Policy Related to the ADA**

The City of Providence reaffirms its commitment to prohibit discrimination against any "qualified individual with a disability" in accordance with Title I of the Americans With Disabilities Act of 1990.

#### **C. ADA - General Definition of Disability**

The legal definitions cover those disabilities that place substantial limitations on an individual's major life activities and protects three categories of individuals with disabilities:

1. An individual who has a physical or mental impairment that substantially limits one or more major life activities;
2. An individual who has a record of a physical or mental impairment that substantial "major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing learning, and working".  
Protection is extended to a person who tests positive for AIDS or the HIV virus as well as rehabilitated drug or alcohol abusers.

The Act not only covers Americans with disabilities, but all individuals with disabilities who reside in this country regardless of their ethnic background or national origin and regardless of their citizenship status.

**D. Grievance Procedure**

Refer to relevant section for the appropriate procedure.

**E. Right to File**

The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the complainant's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

## **APPENDIX K: TILTING AT WINDMILLS SENSITIVITY TRAINING**

Tilting at Windmills is a multifaceted program designed for sensitizing people to the consequences discrimination can bring. Each module is best presented to 25-30 persons and includes play acting using able-bodied people with guidance from a director specifically trained in this presentation.

### **THE TRAINING MODULES ARE SUMMARIZED AS FOLLOWS: .**

**MODULE 1: EMPATHY** - This module provides personalized introductions of the training group and allows each participant to explore disability as an individual with a disability and as someone encountering a disability.

**MODULE 2: CALENDAR GAME** - This exercise shows the intensity of competition among people and manifests the dynamics of group interaction. It illustrates how a disabled employees can be excluded from contributing to the company.

**MODULE 3: RUMOR EXCHANGE** - Rumors in the workplace are common practice. this exercise shows how and why rumors quickly become distorted as they spread and can negatively affect the job environment for a new disabled employee.

**MODULE 4: PROFILE EXERCISE** - This module points out how people have a tendency to predetermine where the disabled individual can work. this is due to an individual's' lack of experience or exposure to a wide range of disabilities. It shows accommodation possibilities.

**MODULE 5: PICK A DISABILITY** - This module allows individual fears and stereotypes about disabilities to surface. Such attitudes are based on experience or lack of experience in this disability and may affect a person's willingness to hire a disabled worker. It brings to the surface fears that trainees have about disabilities and demonstrates how easily our emotional reactions to disabilities can be transferred.

**MODULE 6: ROLE PLAY** - This module allows the participant to explore the thinking of supervision and management on the issue of hiring disabled workers. They develop effective ways to promote hiring and develop strategies to combat opposition to hiring disabled workers

**MODULE 7: ASK-IT-BASKET** - This exercise provides a safe environment for participants to ask about disabilities by giving them the opportunity to question anonymously. The exercise is done in such a manner that embarrassment is avoided and the answers come from the group.

**MODULE 8: WHOSE FAULT EXERCISE** - This exercise demonstrates how our own prejudices cause us to personally limit the employment of people with disabilities because of our limited exposure to the various disabilities.

**MODULE 9: DEVELOPING M.O.s** - Here the trainee learns how to ensure that job specifications are realistic and that non-disabled people often build in meaningless and restrictive requirements. Also, the trainee learns about accommodation and how to overcome artificial barriers.

**MODULE 10: JOB NOTIFICATION** - This experience shows that often little or no modification is needed to employ a disabled worker.

**MODULE 11: ENCOUNTERS** - In this module the participants are able to talk to a panel of individuals with disabilities in a non-competitive, relaxed, information-sharing atmosphere.

**MODULE 12: FILMS** - This module contains a list of recommended films to be used by the trainers. Each film has a list of questions to stimulate discussions.

If you would like more information about the Americans with Disabilities Act of 1990, please call or write to:

Mayor's Advisory Commission for Persons with Disabilities

Robert A. Urbani, Chair  
c/o City Hall

Providence, Rhode Island 02903  
Voice: 421-7740 TDD: 751-0203

Christine Roundtree, Vice Chair  
Voice: 421-3708 TDD: 751-0203

Governor's Commission on the Handicapped  
555 Valley Street Bldg. #51  
Providence, Rhode Island  
Voice: 277-3731 TDD: 277-3701

Office on the Americans With Disabilities Act  
Civil Rights Division  
U.S. Department of Justice  
P.O. Box 66118  
Washington, DC 20035-6118  
Voice: (202) 514-0301 TDD: (202) 514-0381

The City of Providence does not discriminate on the basis of physical or mental disability in its programs or activities or in its treatment of job applicants or employees.

### Mayor's Advisory Commission for Persons with Disabilities

Robert A. Urbani, Chairperson  
Christine Roundtree, Vice Chairperson  
Esther Connelly, Secretary  
Linda DeCiccio, ADA Planning Coordinator

Henry Constance	Alan Sepe
Lionel F. Delaney	B. James Suzman
William A. Messoro	Gary St. Peter
Kathleen A. Moretti	Shirley Webb
Paul Pickens	Rita Williams,
Bernard Selby	Councilwoman



Mayor Vincent A. Cianci, Jr.

This document is available, upon request, in large print, braille and on audio tape.

This document is designed to provide only a brief overview of the provisions of the ADA. It does not constitute legal service. The reader is advised to contact those agencies mentioned earlier in this pamphlet for detail.

# THE NEW LAW FOR AMERICANS WITH DISABILITIES



PROVIDENCE  
CARES

Mayor's Advisory Commission for Persons  
with Disabilities  
City of Providence

Dear Friends,

A new age has dawned for Americans with disabilities. For those individuals with physical or mental disabilities, the Americans With Disabilities Act (ADA) of 1990 is the most comprehensive civil rights law in decades and establishes a new tradition of empowerment for individuals with disabilities.

The Mayor's Advisory Commission for Persons with Disabilities, in its mission to protect the rights of each and every citizen, shall uphold the letter of this new law and the spirit of promise that it brings.

This pamphlet, which I am pleased to say, has been prepared by the Commission and students in our school system who have disabilities, is testimony to their determination and the commitment of the City of Providence to make all individuals with disabilities aware of their rights under this new law.

Say good-bye to thoughtlessness and ignorance, to indifference and prejudice and welcome dignity and respect and the opportunity to be judged on the basis of abilities rather than disabilities.

In Providence, it is estimated that there are 34,000 citizens with disabilities. Let us open the doors of opportunity to them and recognize this splendid resource of human potential.

Sincerely,

*Vincent A. Cianci, Jr.*  
VINCENT A. CIANCI, JR.  
Mayor of Providence

## The ADA's Definition of "Individual with a Disability"

Dis•a•bil•i•ty /dis'a-bil' i-tē, n.

ADA's definition encompasses a wide range of physical and mental conditions that substantially limit one or more major life activities. Covered disabilities include:

1. The obvious disabilities such as visual or hearing impairments or loss of limbs;
2. many types of medical conditions, e.g. cancer, heart disease, epilepsy;
3. learning disabilities and various psychiatric conditions;
4. an individual who has a record of a disability or has recovered from a prior disability, such as a recovered cancer patient;
5. an individual who is physically able but is regarded as having a disability, such as a burn victim with a cosmetic disfigurement;
6. an individual who tests positive for AIDS or the HIV virus;
7. a rehabilitated drug or alcohol abuser.

## \* Your Rights \*

### ACCESSIBILITY

- All state and local government agencies must make all services, activities and programs accessible to all people equally and make reasonable accommodations where necessary.
- Private entities that own or operate public accommodations, such as theaters, banks, hotels, retail establishments or restaurants, must make their services available to people with disabilities in an integrated setting provided undue burden is not placed on the private owner.

### EMPLOYMENT

- If an individual with a disability qualifies for a job, can perform its essential functions with or without reasonable accommodations, and is best qualified for the position, that applicant cannot be denied the job because of the disability.

### COMMUNICATIONS

- For individuals who are hearing or speech impaired, government agencies must provide a means for that individual to communicate with them with a telephone-like device such as a Telecommunication Device for the Deaf (TDD); common carriers must make Telephone Relay Services available.

### RECOURSE

- If an individual with a disability has experienced discrimination, this individual is assured that the complaint will be heard and resolved.



APPENDIX L