

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To establish an ADA Compliance Program and to establish the Office of Disability Rights.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Disability Rights Protection Act of 2006".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "ADA" means the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 327; 42 U.S.C. § 12101 *et seq.*).

(2) "ADA Compliance Program" means the program established by section 3.

(3) "Agency" means all agencies and instrumentalities of the District government.

(4) "Disability" means, with respect to an individual:

(A) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) A record of such an impairment; or

(C) Being regarded as having such an impairment.

(5) "Human Rights Act" means the Human Rights Act of 1977, effective December 12, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*).

(6) "Mayor's Committee on Persons with Disabilities" means the Mayor's Committee on Persons with Disabilities, established by Mayor's Order 88-245 (November 16, 1998), and amended by Mayor's Order 2002-79 (April 15, 2002).

(7) "Office" means the Office of Disability Rights established by section 4.

(8) "Office of Human Rights" means the Office of Human Rights established by section 202 of the Office of Human Rights Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; D.C. Official Code § 2-1411.01).

(9) "Olmstead Compliance Plan" means a comprehensive working plan, developed in collaboration with individuals with disabilities and with District agencies serving individuals with disabilities, which shall include annual legislative, regulatory, and budgetary recommendations for the District to serve qualified individuals with disabilities in accordance with *Olmstead v. L.C.*, 527 U.S. 581, and in the most integrated setting as provided in 28 C.F.R. Part 35, App. A.

(10) "Rehabilitation Act" means the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 355; 29 U.S.C. § 701 *et seq.*).

Sec. 3. District of Columbia ADA Compliance Program.

(a) All agencies shall:

- (1) Appoint an agency ADA Coordinator in accordance with 28 C.F.R. Part 35;
- (2) Complete an annual ADA self-evaluation to determine the status of ADA

compliance;

(3) Prepare an annual ADA implementation plan stating action to be taken to provide qualified persons with disabilities in the District with full and complete access to services, activities, and facilities;

(4) Establish and publish uniform grievance procedures in accordance with 28 C.F.R. § 35.107 for prompt and equitable resolution of complaints alleging any action that would be prohibited under the ADA; and

(5) Submit the annual ADA self-evaluation and annual ADA implementation plan for approval to the Office of Disability Rights on an annual schedule established by the Office of Disability Rights.

(b) The Mayor shall:

(1) Establish an ADA Compliance Program that shall include compliance and monitoring procedures for the implementation of the ADA at all agencies; and

(2) Establish and implement an annual *Olmstead* Compliance Plan, as developed under section 5(8).

Sec. 4. Establishment of the Office of Disability Rights.

(a) There is established an Office of Disability Rights.

(b) The purpose of the Office is to advance the civil rights of people with disabilities by coordinating the District's ADA Compliance Program and by ensuring and overseeing District-wide compliance with the ADA and related disability-rights laws.

(c)(1) The Office shall be headed by a Director who shall be appointed by the Mayor with the advice and consent of the Council in accordance with section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).

(2) The Director shall serve as the Chief Administrative Officer, and may organize personnel, re-delegate authority, develop programs, and take any other action consistent with appropriations and other applicable law. Annual compensation for the Director shall be fixed in accordance with Title X-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective June 10, 1998 (D.C. Law 12-124; D.C. Official Code § 1-610.51 *et seq.*).

(3) If the position of Director is vacant or about to be vacant, the Mayor may receive input on the selection of the Director from the Mayor's Committee on Persons with Disabilities and shall endeavor to hire a qualified individual with a disability.

(d) In addition to a Director, the Office shall at a minimum have the following full-time staff:

(1) In fiscal year 2007, 3 full-time staff to include a Deputy Director, a communications specialist, and an administrative assistant;

(2) In fiscal year 2008 and thereafter, the Director may, pursuant to subsection (c) of this section and subject to appropriations, increase the number of staff members and organize the Office as the Director may determine is necessary and appropriate to carry out the Office's mission.

(e) The Director shall endeavor to hire qualified individuals with disabilities.

Sec. 5. Powers and duties of the Office.

The Office shall:

- (1) Coordinate and oversee the District's ADA Compliance Program;
- (2) Provide ongoing training and technical assistance to agency ADA coordinators;
- (3) Provide ongoing training, technical assistance and community resource referrals to agencies to ensure that agency employment practices, services and supports, facilities, telecommunications, and general policies and practices are fully accessible to people with disabilities and meet the requirements of the ADA, section 504 of the Rehabilitation Act, and the disability rights provisions of the Human Rights Act;
- (4) Evaluate the District's compliance with the ADA, section 504 of the Rehabilitation Act, and the disability rights provisions of the Human Rights Act; report any deficiencies to the Office of Human Rights; and make recommendations for addressing deficiencies to the Mayor;
- (5) Investigate actions or inactions of agencies in alleged violation of the ADA, section 504 of the Rehabilitation Act, and make referrals to the Office of Human Rights, as appropriate, of any actions or inactions that may violate the Human Rights Act;
- (6) Provide information and referral, legal information, and assistance with filing complaints with the Office of Human Rights to individuals who have questions about disability rights or are experiencing obstacles to receiving services;
- (7) Provide a full-time Executive Director and other full staff support to the Mayor's Committee on Persons with Disabilities;
- (8)(A) No later than one year after the establishment of the Office, and by January 1 of each year thereafter, submit to the Mayor and Council an Olmstead Compliance Plan.
 - (B) In developing the Olmstead Compliance Plan, the Office shall work actively with the Mayor's Committee on Persons with Disabilities and shall endeavor to ensure that all work groups related to the development of the Olmstead Compliance Plan are at a minimum comprised 25% by individuals with disabilities and 25 % by advocates or family members;
- (9)(A) No later than one year after the establishment of the Office, submit to the Mayor and Council an assessment of the existing resources, including staffing, available to each agency ADA Coordinator.
 - (B) The assessment shall include recommendations for the percentage of time that the ADA Coordinator at each agency should devote to duties under this act, and recommendations for any specific agencies which should designate a full-time ADA Coordinator. The Office shall base its recommendations on the following criteria:
 - (i) The frequency with which the agency works with members of the public who are individuals with disabilities or District employees who are individuals with disabilities;
 - (ii) The frequency with which the agency interacts with the general public;
 - (iii) The volume of reasonable accommodation requests processed by the agency;
 - (iv) The volume of discrimination complaints processed by the agency; and

(v) Any other criteria that the Office believes are relevant and establishes prior to its assessment of agencies, in consultation with the Mayor's Committee on Persons with Disabilities; and

(10) By January 1 of each year, submit to the Mayor and Council an annual status report on all activities required under this section.

Sec. 6. Plans and reports to be made available to the public.

(a) Agencies shall make all ADA plans and reports required under this act available on their websites and shall provide copies to the public upon request.

(b) The Office shall make all plans and reports required under this act available on its website and shall provide copies to the public upon request.

Sec. 7. Transfer of functions from the Mayor's Committee on Persons with Disabilities.

(a) As of October 1, 2008, the Mayor shall transfer to the Office all functions and records of the Mayor's Committee on Persons with Disabilities.

(b) The Mayor's Committee on Persons with Disabilities shall serve in an advisory capacity to the Office and shall be actively involved in the development of the ADA Compliance Program and the Olmstead Compliance Program.

Sec. 8. Transfer of functions from Office of Risk Management.

All functions, personnel, records, and property assigned to the Office of Risk Management under section IV(B)(1) of Mayor's Order 2006-58, issued May 23, 2006 (53 DCR 5314), shall be transferred to the Office of Disability Rights. This section shall apply 30 days after the date of the appointment of the Director of the Office.

Sec. 9. Rulemaking and interagency agreements.

(a) The Mayor shall promulgate rules as necessary to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, and days of Council recess. If the Council does not approve or disapprove the proposed rules by resolution within this 30-day period, the proposed rules shall be deemed approved.

(b) No later than 3 months after the effective date of this act, the Mayor shall issue rules which shall assign specified functions to agencies under Title I, II, III, and IV of the ADA and shall establish a process for regular interagency meetings of the agencies with assigned specified functions. The rules shall, at a minimum, address the functions specified in section IV-B of Mayor's Order 2006-58, issued on May 23, 2006.

(c) All agencies assigned specific functions under the rules described in subsection (b) of this section shall enter into a Memorandum of Agreement ("MOA") or a Memorandum of Understanding ("MOU") with the Office of Disability Rights. Each MOA or MOU shall describe operational and communication procedures for interaction with the Office.

Sec. 10. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 11. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 12. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia