

## Demand Our Access Episode Two

### About Me

- I was born blind.
- I am a member of the American Council of the Blind.
- I live in Portland, Oregon.
- I am an animal lover, sports fan, avid reader, and writer.

### Qualifications

- I have a law license from Massachusetts.
- I have been certified as an ADA coordinator.
- I was certified a professional in accessibility.

### Professional Background

- I am the disability analyst in Portland Parks.
- Previously, I worked as the ADA title II policy analyst for the City of Portland.
- I was a contract attorney for Disability Rights Advocates.
- I worked as a staff attorney for the American Bar Association.

### Presentation Roadmap

- Code of Federal Regulations
  - Defining a Public Entity
  - Project Civic Access
- ADA coordinator
- Notice of rights
- Grievance procedure
- Self-evaluation
- Transition plan

### Code of Federal Regulations

- Laws don't often contain all their legal requirements.
- Congress regularly directs federal agencies to develop (promulgate) what the law will require.
- Under the ADA, several federal agencies have developed what it means to comply with the law.
- When a federal agency establishes what constitutes compliance, those requirements are published in the Code of Federal regulations.
- When I cite to a section of law (either during the episodes or on the website) I will almost always be citing to the Code of Federal Regulations.
- Often, the Code of Federal Regulations is referred to as C.F.R.
- When I refer to a section of C.F.R, I'm referring to a section in the Code of Federal Regulations.

### Defining a Public Entity

- A public entity is defined in [28 C.F.R. § 34.104](#).
- Section 35.104 is the list of definitions under the ADA.
- The definition of public entity has three parts:
  - any state or local government

- any department, special purpose district, or instrumentality of state, states, or local government
- the National Railroad Passenger Corporation and other commuter authorities
- All public entities with at least 50 employees should appoint their own ADA coordinator and have their own grievance procedure.
- Most local governments, if they have an ADA coordinator at all, do not have one in every agency or department.

### Project Civic Access

- [Project Civic Access](#) is the primary way the Department of Justice (DOJ) enforces Title II.
- It has conducted audits of communities in all 50 states, Washington, DC, and Puerto Rico.
- It has done more than 200 audits in total.
- The agreements are posted online to help communities come into compliance with the ADA.
- The [settlement between DOJ and the City and County of Denver, Colorado](#) is representative of what is typically covered.
- The settlement includes:
  - Notice
  - Grievance procedure
  - ADA coordinator
  - Physical accessibility of facilities
  - Accessible web content
  - Emergency preparedness

### ADA Coordinator

Information about the requirements for an ADA coordinator, to provide public notice of rights, and grievance procedures can be found in [Chapter Two of DOJ's Title II Tool Kit](#).

- The requirement for an ADA coordinator is established in [28 C.F.R. § 35.107\(a\)](#).
- Public entities with at least 50 employees must designate a “responsible employee”.
- Most people refer to the responsible employee as an ADA coordinator.
- The ADA coordinator is supposed to investigate and resolve complaints filed under Title II and ensure compliance.
- The law does not specifically list any qualifications an ADA coordinator must have.
- Every public entity is required to notify the public of their ADA coordinator and provide that person’s contact information.

### Notice of Rights

- Notice of rights is established in [28 C.F.R. § 35.106](#).
- The notice requirement applies to all public entities regardless of number of employees
- The notice should include the following:
  - employment
  - effective communication
  - reasonable modifications
  - no surcharges
  - filing complaints

- The notice Should be published in all facilities, on the website, and included in event notices.
- The notice must be available in alternative formats

### Grievance Procedure

- The grievance procedure requirement is established in [28 C.F.R. § 35.107\(b\)](#).
- Every public entity with at least 50 employees is required to adopt and publish a grievance procedure.
- The grievance procedure is to allow for the “prompt and equitable” resolution of complaints filed under Title II.
- The DOJ sample grievance procedure calls for the following:
  - the complaint filed preferably in writing
  - date of and description of the problem
  - should be submitted by the grievant or their designee within 60 days of the discrimination
  - Meeting within 15 days of complaint being received
  - Offer appeal process
  - Correspondence are to be accessible (alternative formats)

### Self-evaluation

The self-evaluation is an examination of a public entity’s activities, programs, and services for accessibility to people with disabilities.

- The self-evaluation requirement is established in [28 C.F.R. § 35.105](#).
- The Deadline for completion was January 26, 1993.
- It is required of all Public entities regardless of number of employees.
- People with disabilities must be given a chance to comment.
- If there are more than 50 employees, it must be available for public inspection for three years.
- Documentation to include
  - list of people consulted
  - facilities inspected
  - description of made modifications
- If a Self-evaluation was completed under Section 504 it is sufficient.
- There is no requirement for updating the self-evaluation.

### Transition Plan

The transition plan is a public entities schedule to remove physical barriers that must be removed to achieve programmatic access. .

- The transition plan is established in [28 C.F.R. § 35.150\(d\)](#).
- Public entities with 50 or more employees must complete a transition plan.
- Transition plans were to be completed by July 26, 1992.
- All barriers were to be removed by July 26, 1995.
- A transition plan should include the following:
  - identify physical barriers
  - Describe how barriers will be removed

- Set forth a schedule
- A transition plan should name the person in charge of compliance.