Town of West Hartford







Part B – Evaluation of Nondiscriminatory Policies & Practices in Programs, Services & Activities

October 2026

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Introduction

In an effort to provide and maintain compliance with the American with Disabilities Act (ADA), the Town of West Hartford contracted with the Institute for Human Centered Design (IHCD) to undertake a comprehensive assessment of its policies, practices and procedures as well as its facilities to determine compliance with the requirements of the Americans with Disabilities Act (ADA). The review and recommendations provided in this assessment also go beyond strict compliance assessment to recommend enhancements to current conditions that would result in a more usable, inclusive and welcoming environment for members of the West Hartford community.

Information about corrective action will include recommendations based on Title II of the ADA for each aspect that requires action, as well as recommended "*best practices".*

The assessment included nondiscrimination in policies, practices and procedures for all of the Town's programs, services and activities including those related to effective communication and policies, practices and procedures relative to employment.

This report summarizes IHCD's findings of ADA Title II compliance. The information pertinent to this assessment was obtained by an online ADA questionnaire developed by the Institute for Human Centered Design (IHCD) and submitted by departments from the Town of West Hartford, and from the Town's website. IHCD received eleven (11) department questionnaire responses. IHCD also submitted a questionnaire to members of the Advisory Commission for Persons with Disabilities and received seven (7) responses. The Town also created an accessibility survey for members of the public, which received 133 responses.

This mix of sources constitutes the basis for this compliance assessment report. It is clear that the Town understands many of its obligations under Title II of the ADA, but additional steps are necessary to ensure that people with disabilities enjoy the same opportunities to participate in its programs, services and activities as West Hartford residents without disabilities.

Analysis

ADA Title II prohibits discrimination on the basis of disability. Specifically, Title II requires that:

> *No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity (28 CFR Part 35.100 (a)).*

This report is divided into sections where these requirements apply. Each section includes the applicable citation from Title II of the ADA; IHCD's summary of findings after reviewing answers from the ADA questionnaire and information from the website and other previously mentioned sources. It also includes IHCD's recommendations for the Town of West Hartford to implement.

1 – Designation of Responsible Employee

Title II of the ADA makes clear that a public entity that employs 50 or more persons must designate a responsible employee and adopt grievance processes.

> *A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph. (28 CFR Part 35.107 (a)).*

Title II provides little specific guidance for implementing this requirement but the primary role of the designated employee, also called the ADA Coordinator, is making sure that the Town is in compliance with the ADA.

Findings

The Town of West Hartford has met its obligation to designate a responsible employee by naming an ADA Coordinator. Eight (8) of the eleven (11) staff respondents were able to name the ADA Coordinator.

Recommendations

The Town should consider providing further clarification for its entire community, (including Town employees) regarding the ADA Coordinator. The Town should provide the name, phone number, email address and scope of responsibilities of the ADA Coordinator(s), Town Administrator or other controlling authorities, updating the ADA Notice and ADA Grievance Procedure as needed. The Town should include the ADA Coordinator's contact information on Town's main website, the Human Resources webpage, the West Hartford public school webpage, and in every Town building open to the public, in public meeting notices and on social media. Also, the Town should make sure the Advisory

Commission for Persons with Disabilities is aware who the appointed ADA Coordinator is.

Clarification regarding the ADA Coordinator will:

- Make it easier for the Town to be proactive in meeting the needs of members of the public with disabilities;
- Help the Town to develop and articulate a clear vision and mission with regard to members of the public with disabilities;
- Reduce confusion and improve the Town's day-to-day operations with respect to members of the public with disabilities;
- Permit employees to respond more quickly to needs as they arise because they have and can identify a primary contact for addressing their needs;
- Build in-house expertise and capacity;
- Prevent confusion and help ensure that candidates for employment, employees and the public have a clear understanding of their responsibilities and rights under the ADA.

2 – Grievance Procedures

Title II of the ADA requires a public entity to adopt an adequate grievance process.

> *A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part. (28 CFR Part 35.107 (b))*

Findings

The Town of West Hartford has a Grievance Procedure, which was shared with IHCD. There is also a link to a complaint form for members of the public and for employees.

Regarding staff respondents, four (4) respondents stated that their department did not have any formal or informal Grievance Procedures, one (1) respondent was not sure, and another respondent left the question blank. Remaining responses included, "I do not believe we have a procedure, but if we do receive an ADA grievance, we would communicate with the ADA coordinator and others as needed", "the department does not but the Town has a formal ADA grievance procedure", "we follow the Town procedure", "yes, residents can contact the ADA coordinator with issues and they will work with the Town department in charge on possible solutions or remedies to the situation",

and "flyers posted on how to file grievances."

The Town can adopt one Grievance Procedure for both employees and members of the public, or two separate policies. The Grievance Procedure is an invitation to have a conversation and opportunity to resolve complaints. With a good Grievance Procedure, a person feels heard.

Recommendations

The Town should take steps to clarify its Grievance Procedure for members of the public and for Town employees.

IHCD recommends the following:

- Publicize Grievance Procedures that cover both employees and members of the public, that includes the name and contact information of the ADA Coordinator, steps a person should follow, and an appeal process.
- Prominently post the Grievance Procedure and state the commitment to provide copies in accessible formats upon request on West Hartford's website homepage.
- Distribute the Grievance Procedure to all department heads, and post copies of it in noticeable locations in each of the Town's public buildings.
- Ensure Town employees and the public are aware of the Grievance Procedure and that Town employees can provide information to members of the public about the Grievance Procedure process when appropriate.
- Respond to grievances in a timely manner. Maintain confidential records for a reasonable length of time for all complaints submitted, including documentation of steps taken towards resolution.

3 – Notice

Title II of the ADA requires that public entities notify participants of its non-discrimination policies:

> *A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them, the Act and this part. (28 CFR Part 35.106)*

Findings

The Town provides a Notice of Nondiscrimination, which is available online.

From the responses submitted by staff, six (6) staff members stated that an ADA Notice was not provided, were unsure if one was provided, or left the question blank. The five (5) remaining respondents discussed places where they believed that an ADA Notice was provided.

Recommendations

The Town should take steps to clarify the posting requirements of the ADA Notice in compliance with the ADA Title II that states that public entities shall take steps to notify program/service participants, beneficiaries and employees of its obligations. By adopting a uniform policy, the Town has an opportunity to share the positive steps it is taking toward the inclusion of all citizens. For example, the Town informs the community about upcoming meetings and other happenings through the Town's website, meeting agendas, and social media. These communications are opportunities to include a short ADA Notice of Nondiscrimination.

IHCD recommends:

- Adopt a formal ADA Notice that includes the name and contact information of the ADA Coordinator and steps that a person should follow to request a reasonable modification or auxiliary aid.
- Consider adopting Town-wide a shortened ADA Notice for meetings, newsletters, social media, etc. similar to the following: "If you need accommodations to participate, please contact xxx at least 48 hours before the meeting/event, excluding Saturday, Sundays and legal holidays at 860-xxx-xxxx or xxxxxx@West HartfordCT.gov."
- Publish the ADA Notice in materials and communications distributed by the Town (e.g., reports, contracts, job applications, agendas, meeting notes, applications, social media and newsletters, etc.).
- Post copies in public locations in all municipal buildings open to the public.
- Distribute the ADA Notice to all department heads. Copies should also be provided in alternate formats to any person upon request.
- Post the ADA Notice on the Town's homepage, the school district webpage, etc.

4 – Reasonable Modification of Policies, Practices and Procedures

Title II of the ADA requires state and local governments to modify its policies when necessary to avoid discrimination:

> *A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.* (28 CFR Part 32.100 (b)(7))

Findings

The Town has taken some initial steps toward complying with the ADA and ensuring people with disabilities can participate in Town programs. However, a majority of departments have not developed written policies and/or procedures to ensure compliance with the ADA nor have most departments developed a department-specific reasonable modification process. Two (2) Staff respondents indicated that they follow Town policy. Four (4) staff members were aware of situations where their department was unable to provide an accommodation or modification that was requested by an individual with a disability. One (1) of them wrote, "Not firsthand knowledge but I believe there was an issue with a Town facility being used as a shelter that was not accessible." In the online survey sent out to members of the public, a few areas of concern that people brought up include: "Profoundly autistic individuals (both children and adults) lack access or accommodations for library and town programs, Town camps and programs often don't consider children with disabilities; no clear outreach or contact for parents to advocate for participation." Though there is no indication that the Town does not or typically has failed to provide reasonable modifications, a more publicized reasonable modification process will help ensure that people with disabilities can participate in all of West Hartford's program, services and activities.

Recommendations

The Town should develop written policies and procedures for providing reasonable modifications to ensure compliance with the ADA.

IHCD recommends:

- Ensure that Town employees can provide information to members of the public about the process of requesting reasonable modification of policies when appropriate.
- Include the ADA Coordinator's name, address, telephone number and email address on materials and publications that contain general information disseminated to staff and members of the public.

- Post the process for requesting reasonable modifications on the Town's website, school district webpage, etc.
- Develop written policies and procedures that address maintaining or providing an accessible route to and through temporary Town events. Examples include but are not limited to ensuring that an accessible route is provided around construction sites, to and throughout temporary Town events/festivals, to and through accessible voting venues, around outdoor dining, and after a snowstorm if the effects of the storm compromise accessible routes. It is also recommended that the Town develop and publicize a method to deal with objects such as cars and trash cans that can become fixtures on the sidewalks blocking the accessible route. This is a non-exhaustive list. Consider creating a reporting mechanism for citizens to report issues as they arise and a method for the Town to address the reported issues in a timely manner.
- Ensure staff is trained to provide assistance upon request. IHCD, through its New England ADA Center, can provide a training for the Town of West Hartford on the Town's ADA obligations, including the administrative requirements and providing reasonable modifications. This training would be appropriate for department heads and public-facing Town staff. It would build confidence about rights and responsibilities and build capacity within the Town to comply with this important element of the ADA.

5 – Eligibility Criteria

A Title II entity may not impose eligibility criteria that may prevent a person with a disability from participating in its programs, services or activities:

> *A public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity, unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered. (28 CFR Part 35.100 (8)).*

This requires that ADA Title II entities may not impose eligibility criteria that either screen out or tend to screen out persons with disabilities, unless it can show that such requirements are necessary for the provision of the service, program or activity.

Findings

Four (4) staff respondents mentioned that there are no eligibility criteria for their programs, did not answer the question, or were not sure. Staff who stated that there was eligibility criteria for their programs mentioned income guidelines and age restrictions. It should be noted that with most municipalities, oftentimes programs may have income restrictions, age restrictions or residency

requirements. These requirements might be necessary for the provision of the service, program or activity, and they appear to be permitted under the ADA.

6 – Employment and Reasonable Accommodation

Title II of the ADA prohibits discrimination on employment on the basis of disability:

> *No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any service, program, or activity conducted by a public entity. (28 CFR Part 35.140 (a)).*

Under the ADA, an employer has to provide reasonable accommodations to qualified individuals with disabilities who are employees or applicants for employment, unless to do so would cause undue hardship (significant difficulty or expense). A reasonable accommodation may include modifying work schedules, job restructuring, and making facilities used by employees readily accessible to employees with a disability.

Findings

The West Hartford Employee Development and Community Engagement webpage provides a nondiscrimination policy, a notice of nondiscrimination, and information on filing complaints. The Town's human resources webpage discusses reasonable accommodations. IHCD could not find reference on the human resources webpage of nondiscrimination in selection criteria and the administration of tests.

Eight (8) of the survey respondents indicated that their department has adopted a nondiscrimination policy. Two (2) respondents left this question blank, and one (1) respondent said that they do not have a nondiscrimination policy.

Eight (8) respondents indicated that reasonable accommodation policies are in place for qualified applicants or employees with disabilities, one (1) respondent indicated that they are not in place, and two (2) respondents left the question blank.

Regarding policies on nondiscrimination in selection criteria and the administration of tests, one (1) respondent stated that they did not have policies, seven (7) respondents noted that they do have polices, and three (3) respondents left the question blank.

Recommendations

- Clearly provide information on who to contact regarding reasonable accommodation requests for job applicants and municipal employees on the human resources webpage.
- Always include an "Equal Opportunity Employer Statement" on the human resources webpage, job applications and in the Employee Handbook.
- Review and update job descriptions with a focus on identifying essential and marginal tasks. For example, one of the more controversial job requirements is a driver's license, which is only sometimes essential. Often a person with a disability can do their job or to get to work on time without a driver's license. If this is the case, the driver's license requirement should be removed from the job description. The focus should be on whether the applicant can complete the task with or without reasonable accommodation.
- IHCD recommends that Town of West Hartford employees familiarize themselves with the excellent free national resource from the Job Accommodation Network (JAN) (https://askjan.org).

7 – Effective Communication through Auxiliary Aids and Services

Title II entities are required to provide appropriate auxiliary aids and services to ensure "effective communication" with people with disabilities. This obligation applies to all members of the public with disabilities including job applicants, program participants, and people who are seeking information about the Town's programs, services or activities. Specifically, Title II requires that:

> *A public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others. (28 CFR Part 35.100 (a)).*

Auxiliary aids and services are devices or services that enable effective communication for people who have vision, hearing, or speech disabilities (communication disabilities), use different ways to communicate. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved (e.g., a query at a service counter in the Town offices, a meeting, a job description).

The obligation to communicate effectively with people who have disabilities applies to the presentation and exchange of information in all forms including sound, print, graphics and voice.

Furthermore, this requirement may include but is not limited to providing sign language interpreters, telephone handset amplifiers, Telecommunication Devices for Deaf persons (TDD's), note takers,

written materials for persons who are deaf or hard of hearing, transcripts, braille, digital or audio information for persons who are blind or have difficulty seeing.

The decision about which auxiliary aid is appropriate should evolve from a consultation between the ADA Title II entity (Town of West Hartford) and individuals with disabilities wherever possible to ensure effective communication. In many cases, more than one type of auxiliary aid or service may make effective communication possible. While consultation is always strongly encouraged to achieve effective communication, the Town of West Hartford and all public entities are required to give primary consideration to the requests of individuals with disabilities. The effective communication obligation does not require the Town to take any action that would result in a fundamental alteration in the nature of its services, programs or activities, or that would impose an undue financial and administrative burden.

Findings

From department responses, the Town has taken steps to provide Effective Communication, but it seems that clarifying procedures for providing effective communication could be beneficial. Two (2) respondents stated that they were not sure if their department provided effective communication, two (2) respondents either left the question blank or said not applicable, and one (1) staff member said that their department had nothing in place at the time. One (1) other staff member mentioned “we strive to use ADA guidelines for flyers we create, but could use more training and templates. We know that many of our current materials and the website are deficient.”

A member of the Advisory Commission for Persons with Disabilities writes as a suggestion to the Town: “sharing information about how to interact with people with disabilities (just like any other person) to encourage community members to engage with people with disabilities.” Another member states: “I see the greatest limitation when it comes to providing accessibility for individuals with intellectual disabilities. Many times, we are addressing the physical limitations individuals may have (pathways, doorknobs, entryways etc.) but are disregarding the population of people that have the motor skills to get around, but not the intellectual capabilities. Implementing more assistive technologies (such as communication boards, apps that help with general tasks and simplified layouts).”

In the survey that the Town sent out to members of the public, issues related to Effective Communication included: “No captioning available for some videos and town programs (e.g., *The Great Gatsby* event)”, “library and reference desk staff not accommodating to people who are hard of hearing”, “Town website is confusing, hard to navigate, and poorly organized”, and “filing for building permits is overly complex and not user-friendly.” Regarding Town meetings, respondents from the public voiced the following concerns: “hard to hear audience questions; speakers don’t consistently

repeat them", "no accommodations for people who are hard of hearing", "speakers don't always use microphones or speak clearly; hard to hear unless in front", "Deaf community needs alternative ways to provide public comment or feedback", and "a blind attendee received no assistance upon arrival and was handed inaccessible print materials". Related to elections, one (1) respondent mentioned that:

"election staff would not read ballot information, limiting accessibility for some voters."

Recommendations

The Town should maintain and publicize clear processes for members of the public and employees to request auxiliary aids and services that may be necessary in order to provide Effective Communication.

IHCD recommends:

Distribute an Effective Communication notice to all department heads. Publish it in a local newspaper of general circulation serving the Town; in all materials regarding the Town's programs, services or activities; on the Town's website homepage; in meeting notices; and on social media. Copies should also be posted in prominent locations in the Town's public buildings.

- Staff should clearly understand the responsibility to provide auxiliary aids and services where necessary to afford qualified individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity. (28 CFR Part 35.153 (b)). Staff should also clearly understand the process for requesting auxiliary aids and services when needed.
- Staff need to understand the scheduling time necessary in requesting a sign language interpreter or a Computer-Assisted Real Time Interpreter (CART) through the Commission for the Deaf and Hard of Hearing or other provider.
- Members of the public also need to have a clear understanding of the process for requesting auxiliary aids and services and the time period in which a request should be made if it involves ASL interpreters, CART, or special equipment such as assistive listening devices that may need to be rented. This information should be included in the general information for the public as well as on the Town's website.
- Interpreters must be qualified. A "qualified" interpreter is someone who is able to interpret effectively, accurately, and impartially, both receptively (i.e., understanding what the person with the disability is saying) and expressively using any necessary specialized vocabulary (i.e., having the skill needed to convey information back to that person).
- In determining what type of auxiliary aid or service is necessary to comply with Title II of the ADA, the Town should give primary consideration to the expressed preference for a particular

auxiliary aid or service by deaf and hard of hearing individuals. Primary consideration means that the Town of West Hartford will inquire as to the choice of auxiliary aid or service of the person with a disability and will honor the expressed choice unless the Town can demonstrate that another equally effective means of communicating is available.

- Ideally, the Town should develop a system for training staff to meet these responsibilities including knowing the processes for securing braille, making large print, and creating other types of accessible formats, understanding how to request interpreters, and understanding the length of time needed prior to an event that may be required to accomplish these tasks. It is also important that staff know how to use and maintain assistive listening systems and other special devices to assist people with disabilities to enjoy effective communication.
- Adopt a policy to ensure that public meetings are held in meeting rooms that have the capacity for assistive listening devices. Often times, receivers are kept in one centralized location such as at the Town Hall or Library. The Town should ensure that they have the correct number of receivers for every room where audible communication is integral to the use of the space and audio amplification is provided, and that the equipment is maintained in operable working condition (charged or with fresh batteries and ready for use, for example).

IHCD, through its New England ADA Center, can provide an online training for the Town of West Hartford on effective communication that would be appropriate for department heads and public-facing Town staff in order to build confidence about rights and responsibilities and to build capacity within the Town to comply with this important element of the ADA. Please contact the New England ADA Center if you would like to learn more about the process of scheduling a training. (https://www.newenglandada.org/)

Sample of Effective Communication request:

"The Town of West Hartford is committed to the full participation of people with disabilities. Any person with a disability who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in the Town's programs, services, activities and committee meetings, should contact the office of the ADA Coordinator (Name, Address, Phone number and Email) as soon as possible but no later than 48 hours* before the scheduled event." (*If the Town needs 2 or 3 weeks or longer to ensure an interpreter, then it must be clearly stated).

- Ensure that information and resources at each department that interacts with the public are available in accessible formats. That could be done by having a large print sign at each department and on each department's portion of the website stating:

"Our materials are available, upon request, in accessible formats such as audio, large print or braille."

- Ensure that staff interacting with the public is fully trained on how to respond to TTY/video calls and relay calls for telephone communications with people who are deaf, have difficulty hearing or have speech disabilities. Even though there is a fundamentally changed pattern among people who are deaf or hard of hearing in relation to communication technology, TTY remains a compliance requirement. Because of the advances in communication technology, some people who are deaf and people with speech disabilities no longer have TTYs in their homes and rely instead on instant messaging, text messaging, email, or the video communication features of cell phones, tablets and computers.
- Ensure that the Town's website and other web-based services are accessible to people with disabilities. It is the Department of Justice position that when services are provided on a website, those services too must be made accessible (see www.ada.gov/mclennan_pca/mclennan_sa.html — Section K on Web Based Services and Programs).
- To address these Information and Communication Technology (ICT) issues, West Hartford should commit to fixes and maintenance of the website accessibility. All staff should undergo training on accessibility best practices for posting web content and creating accessible documents. All third-party software should be properly vetted for compliance with WCAG 2.1 AA and section 508 of the Rehabilitation Act.
- IHCD recommends providing web forms or accessible fillable PDFs for all the forms available on the Town's website.
- Include captioning for all the videos available on the Town's website and social media.
- Include alternative text descriptions for all photographs and images available on the Town's website and social media.
- Provide podcast transcripts upon requests.
- Additionally, under Title II of the ADA, emergency programs, services and activities must be accessible to people with disabilities. Ensure that the Town takes the necessary steps to effectively communicate with people with disabilities and make the emergency plan available on the Town's website and update the emergency procedure as often as is necessary.

Also, it is the Department of Justice position that police stations provide sign language interpreters in a timely manner when requested.

- Non-scheduled Interpreter Requests: A "non-scheduled interpreter request" means a request for an interpreter made by an inmate, visitor, companion, or other member of the public, who is deaf or hard of hearing with less than two (2) hours advanced notice. For non-scheduled interpreter requests, the interpreter shall be provided no more than two (2) hours from the time of the request for an interpreter if the service is provided through a contract interpreting service or a staff interpreter who is located off-site or 30 minutes from the request for an interpreter if the service is provided through a Video Remote Interpreting service.
- Scheduled Interpreter Requests: A "scheduled interpreter request" is a request for an interpreter made two (2) or more hours before the services of the interpreter are required. For scheduled interpreter requests, the police department will make a qualified interpreter available at the time of the scheduled appointment. If an interpreter fails to arrive for the scheduled appointment, upon notice that the interpreter failed to arrive, the police department will immediately use reasonable efforts to call an interpreter service for another qualified interpreter or provide a Video Remote Interpreting service.

Reference List

ADA Action Guide for State and Local Governments:

- www.adaactionguide.org

Department of Justice:

- Americans with Disabilities Act Title II Regulations: http://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm
- Making Community Emergency Preparedness and Response Programs Accessible to People with Disabilities —http://www.ada.gov/emergencyprepguide.htm

Federal Emergency Management Agency (FEMA):

- FEMA Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters — http://www.fema.gov/pdf/about/odic/fnss_guidance.pdf

Job Accommodation Network (JAN):

- http://www.askjan.org

New England ADA Center:

- https://www.newenglandada.org