



Montgomery County Joint Public Outreach Meeting

Commission on People with Disabilities and County-wide Recreation Advisory Board

June 12, 2013

Frequently Asked Questions (and Answers)

1. What is the Americans with Disabilities Act (ADA)?

The ADA is a civil rights law. It prohibits discrimination on the basis of disability by 89,004 state and local governments (including Montgomery County) and 7,000,000 businesses and non-profits. Other federal laws preceded the ADA and have helped set precedents for the ADA. The 1968 Architectural Barriers Act applies to federal sites and facilities. Section 504 of the 1973 Rehabilitation Act applies to states, local governments, businesses and nonprofits that receive federal funding. Many states, including Maryland, have state laws similar to the ADA.

Title II of the ADA applies to state and local government. Title II includes regulations that implement the non-discrimination requirements of the law. Additionally, title II requires Montgomery County to adhere to the 2010 ADA Standards for Accessible Design, which set minimum requirements for newly designed or altered government buildings and sites. The Title II regulations and the Standards must be used together in order to provide accessible programs and services.

2. Why all this now? The ADA has been effective since 1992.

In the early 90's the Standards for Accessible Design did not address recreation environments such as pools, fitness facilities, and recreation centers, aside from typical building elements such as parking and restrooms. And, the 1991 Standard did not address recreation sites in a park such as a tennis court, softball field, playground, or boating or fishing area, again aside from typical areas such as parking and portable toilets.

The US Access Board is the federal agency that develops such standards and it began to address recreation environments in 1993. The Access Board finished a great deal of its work in 2004, publishing the ADA/ABA Guidelines, ***which addressed recreation and park spaces noted above.*** After that, DOJ began a 6 year process of reviewing those Guidelines to determine if the Guidelines could be issued as a final and enforceable design standard.

While there were a few tweaks to this process, the issuance did happen. In July of 2010 DOJ announced the Standard had been adopted, and it was published September 14, 2010 in the Federal Register.

So...what's the big deal? The 2010 Standards for the first time ever include fitness, boating and fishing, playgrounds, sports fields and courts, shooting ranges, golf, miniature golf, and more. As of March 15, 2012, existing sites should be evaluated and a number of them changed to be accessible.

3. What is Project Civic Access (PCA)? Is there a PCA Settlement Agreement between the County and DOJ?

Project Civic Access is a proactive, ongoing Department of Justice (DOJ) initiative designed to ensure that the 89,004 units of state and local government comply with all aspects of the ADA. DOJ began a Project Civic Access review of Montgomery County in July, 2006. In the review, DOJ surveyed more than 110 buildings and park sites. DOJ also reviewed policies and procedures regarding communication to the public, including people with disabilities, website access, employment policies, emergency management plans, and employee training.

In August, 2011 Montgomery County government and the Maryland National Park and Planning Commission signed a six year settlement agreement with the Department of Justice. The Agreement is available at

http://www.ada.gov/montgomery_co_pca/montgomery_co_sa.htm. Both organizations are currently implementing the Settlement Agreement according to an agreed upon timeline. The work includes remediating ADA deficits in the buildings and parks surveyed by DOJ.

The Settlement Agreement also requires both entities to complete access audits of all remaining County government or Parks Department buildings, facilities, and parks, reviewing policies and procedures, and training staff.

The Settlement Agreement is a key part of plans, budgets, human resource allocation, and priorities for the next decade.

4. Did the Project Civic Access review occur due to a complaint?

No, these reviews are part of an on-going initiative. Both Montgomery County and the Parks Department have a long history of commitment to the goals of the ADA. In 1977, thirteen years before the ADA was passed, Montgomery County adopted an ordinance that added people with disabilities to the list of groups protected by the County's Human Rights laws.

Both entities completed a self-evaluation of their programs and facilities in the mid-1990s as required by the ADA, and developed and completed their transition plans. Both entities have been recognized with national awards for excellence in service to all, including people with disabilities.

5. What are the differences between the County Department of Recreation and the Maryland National Park and Planning Commission's Parks Department?

The Montgomery County Recreation and Montgomery National Capital Park and Planning Commission are distinct agencies and manage different aspects of recreation and leisure services, facilities, parks, and stewardship of natural and cultural resources.

6. Does every existing recreation facility or park have to be made accessible?

No. Congress recognized this in 1990, and the DOJ has held to this concept in its regulations.

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With 89,004 units of state and local government, an educated guess makes the number of existing facilities and sites totals in excess of 3,000,000. It is literally impossible today to make all of those sites accessible.

And...it isn't necessary. Title II isn't about getting a person with a disability into a room...it is about making the experience that occurs in that room accessible.

DOJ uses the concept of "program access" (see title II [35.150](#)) to determine which existing site is to be accessible. Each county, city, state, and special district though must identify its "programs".

A program is an opportunity made available by the county. Programs include, but are not limited to:

➤ playgrounds	➤ softball fields
➤ tennis courts	➤ basketball courts
➤ soccer fields	➤ trails
➤ boating areas	➤ fishing areas
➤ fitness facilities	➤ historic sites
➤ skate parks	➤ dog parks
➤ model airplane parks	➤ disc golf parks
➤ interpretive sites	➤ swimming facilities
➤ golf	➤ miniature golf
➤ cultural arts	➤ nature experiences
➤ ice rink	➤ name a favorite other asset!

The list of opportunities is infinite and is limited only by the creativity and resources of the community. Let's illustrate the application of the concept of program access with just two examples.

First, if a county has only one of a "program", a facility for this opportunity, how many of the one must be made accessible? One is the answer.

Second, if a county has 100 of a thing, let's say playgrounds, how many playgrounds must be made accessible? Clearly the answer is **not** just one, and just as clear, the answer is not all 100.

The **right answer** depends on how easy it is to retrofit a site, whether the accessible sites can be dispersed through the county, overall resources available, past performance, and other factors. Political considerations come into play as well.

Sound simple? It is not. For every unique environment, and for duplicated environments (playgrounds, softball fields, soccer fields, trails, etc.) a complex analysis of these and other factors must be completed.

7. Does every new recreation facility or park have to be designed and constructed to be accessible?

Yes! Any site designed or constructed March 15, 2012 or later must comply with the 2010 Standards for Accessible Design, and Maryland access requirements, whichever is more stringent.

Proactive counties address this issue in several ways. One is to require design professionals and contractors to stipulate that their design, and their construction product, meets or exceeds the 2010 Standards.

There are however some recreation and park assets that are not yet subject to a design standard. These include picnic areas, trails, trailheads, viewing areas, beaches, campsites, and constructed outdoor features such as fire rings or grills.

Another proactive method for access is to follow the developing outdoor recreation guidelines. For example, accessible picnic tables are readily available today...why wait? A smart practice is to, when buying or making picnic tables, make at least 20% of the new ones of an accessible design.

8. I heard the term “reasonable modification”, what does that mean? And *who* decides *what* is reasonable?

The statute, the title II regulation, and several court decisions have clarified the meaning of the term “reasonable modification”. Making reasonable modifications is required of the County and the Parks Department when doing so permits a person with a disability to use, or participate in, a program, facility, or site. No charge or fee can be assessed by the County or the Parks Department for the cost of the modification.

There are some limits on this concept; that is why it is referred to as reasonable modifications. The list of modifications evolves over time and today includes at least the acts below:

- Conducting an assessment to gather information with which a plan for modification in a County or Parks Department program can be made;
- Changing County or Parks Department rules or policies when doing so enables a person with a disability to participate in or use the opportunity;

- Providing additional staff support to enable a person with a disability to participate in a County or Parks Department program;
- Providing a sign language interpreter for a person who is deaf or hard of hearing, for participation in a County or Parks Department program;
- Providing County or Parks Department documents in Braille, in large font, in an audio version, or in some other format;
- When a program or activity is conducted at a site that is not accessible, relocating that program or activity to a site that is accessible;
- When a program or activity is conducted at a site that is not accessible, repeating the program or activity at a site that is accessible;
- Removing architectural barriers at a County or Parks Department site or facility;
- Removing communication barriers at a County or Parks Department site or facility;
- Making home visits when doing so enables participation in a County or Parks Department opportunity; and
- Acquiring or providing adaptive equipment to facilitate participation in a County or Parks Department program.

9. What is Montgomery County Government doing to address access at existing sites?

Montgomery County Government is vigorously addressing access at its existing sites and facilities. It has initiated work on many of the Settlement Agreement sites, both recreation facilities as well as other County buildings and facilities, and is conducting access audits of other sites that were not within the scope of the DOJ Settlement Agreement. All new projects are reviewed during the design and construction phases by outside accessibility experts. This includes the recently opened White Oak Recreation Center and the three community recreation centers currently in design or construction (Plumgar, Scotland and Good Hope) The County's Department of Recreation will provide sign language interpreters, mainstream companions and other auxiliary aids and services upon request in order to provide access for people with disabilities to its programs. Requests can be sent to rec.mainstream@montgomerycountymd.gov

The County is also reviewing policies on a range of issues, from how fields are allocated to user groups in the Community Use of Public Facilities (CUPF) process to where Other Power Driven Mobility Devices (OPDMDs) are allowed in County sites.

10. What are the Department of Parks and the Maryland-National Capital Park and Planning Commission doing to address access at existing sites?

The Department of Parks has taken many steps to improve access to Parks sites and opportunities. In 2012 and 2013 alone it:

- developed a signage template for Parks facilities;
- hired an ADA Coordinator;
- retained a contractor which conducted access audits of 137 sites;
- implemented corrective work at sites as required by the Settlement Agreement;
- conducted training on access and inclusion for every Parks Department employee;
- continued access audits at 140 other existing sites;
- retained a contractor to review existing policies and recommend revisions; and
- adopted a budget that includes significant expenditures for accessibility this year, and likely for the next decade.

11. How can I offer my thoughts to Parks and the County?

Feedback from those we serve is desired by both County Government and the Department of Parks. Such feedback is essential in the development of plans and priorities.

Please reach Nancy Greene with comments about County Government at adacompliance@montgomerycountymd.gov

or 240-777-6197 (voice) or 240-777-6196 (TTY).

Please reach Bob Green at the Department of Parks at adacompliance@montgomeryparks.org or 301-650-2885.