**ADA 101: What Your Municipality Needs to Know about the Americans with Disabilities Act**

**11/08/23**

**Q&A Report**

**WELCOME:** Katie Buckley, Director, VLCT Federal Funding Assistance Program

**SESSION 1:** Emerson Wheeler, Health Equity and Community Engagement Coordinator for Disability Inclusion, Vermont Department of Health

**SESSION 2:** Stacy Hart, ADA Trainer, Information and Outreach Specialist, Institute for Human Centered Design

**Q1.** Are there funding sources available to make our Town Hall ADA complaint for people with hearing disabilities?

**A1.** It depends. The most common funding sources for implementing accessibility improvements are:

* [ACCD Community Development Block Grant](https://accd.vermont.gov/community-development/funding-incentives/vcdp)
* [USDA Rural Development Community Facilities Direct Loan and Grant Program](https://www.rd.usda.gov/programs-services/community-facilities/community-facilities-direct-loan-grant-program/vt)

If there are uses of the Town Hall beyond municipal business (e.g., food shelf, arts display or performance space, historical society display area), additional funding sources may be available.

*VLCT Addendum:* VLCT members and associate members can schedule a [Consult on Call](https://www.vlct.org/federal-funding-assistance/ffap-consults-call) to discuss their projects and receive a customized list of funding sources applicable to their accessibility project.

**Q2.** What are the best resources to make our website ADA accessible?

**A2.** In 2022, the US Department of Justice released [Guidance on Web Accessibility and the ADA](https://www.ada.gov/resources/web-guidance/) about how local governments can make websites accessible. It is important that municipal staff and contractors be trained in website accessibility. There are different levels for checking website accessibility. There are general checkers that you can run that highlight some issues. You also can use user experts or people with lived experiences who use assistive technology to navigate a website.

*VLCT Addendum:* VLCT’s [Improve Accessibility Toolkit](https://www.vlct.org/resource/improve-accessibility-toolkit) has a webpage of [technical resources](https://www.vlct.org/resource/improve-accessibility-technical-resources) that can help municipalities learn about website accessibility and how to achieve it.

**Q3.** Is there a deadline for a town with a website to make their website ADA compliant?

**A3.** Under the Americans with Disabilities Act, local governments have been required to give people with disabilities an equal opportunity to benefit from their programs, services, and activities for the past 33 years. As long as you can document that you have a plan and are working that plan to provide program access, you’re in a good space.

**Q4.** Do you have anyone with expertise who can evaluate our Town Hall and Town Office with an accessibility lens, especially our Town Office as a workplace?

**A4.** Through a grant it receives from the New England ADA Center, the [Vermont Center for Independent Living](https://vcil.org/) can assist on a limited basis. If it’s one building, VCIL likely has the capacity to assist. For a full assessment of the municipality (all programs, services, and activities), municipalities can hire consultants to complete the municipality’s self-evaluation.

*Addendum:*  Find VCIL’s services through its [Community Access Program](https://vcil.org/services/community-access-program/). VLCT’s [Improve Accessibility Toolkit](https://www.vlct.org/resource/improve-accessibility-toolkit) provides links to numerous [checklists and templates](https://www.vlct.org/resource/improve-accessibility-technical-resources#:~:text=Self%2DEvaluation%20Checklists%20and%20Templates) that municipalities can use to conduct a self-evaluation. It also has a webpage of [funding and assistance for planning](https://www.vlct.org/resource/improve-accessibility-funding-and-assistance-planning).

**Q5.** We have a 200-year-old church building being renovated, but we need to know what we need to do to allow mobility challenged people to enter. Who can we meet with to review our options?

**A5.** The Vermont Center for Independent Living (VCIL) may be able to assist through its [Community Access Program](https://vcil.org/services/community-access-program/). If the structure is registered as a historic building, consultation with the State Historic Preservation Office will be needed to review VCIL’s recommendations and to help sort out differences between providing accessibility and historic preservation.

**Q6.** Is there a place I can find more information about the law as it pertains to the ADA and websites? I don’t see “website” specifically listed in the ADA.

**A6.** Website accessibility is addressed in VLCT’s [Improve Accessibility Toolkit](https://www.vlct.org/resource/improve-accessibility-toolkit).

VCIL is not recommending specific business, but there is a Burlington based business that specializes in making websites accessible.

*VLCT Addendum:* If a local government provides programs, services, or activities via its website, website accessibility is part of the ADA’s [effective communication](https://www.ada.gov/resources/effective-communication/) requirements. The US Department of Justice has clarified that services provided through websites must meet the ADA. It published [Web Accessibility Guidance](https://www.justice.gov/opa/pr/justice-department-issues-web-accessibility-guidance-under-americans-disabilities-act) in 2022.

Additionally, a related law, the Rehabilitation Act, passes through certain requirements to entities that receive federal financial assistance. It requires electronic and information technology to be accessible to people with disabilities. If the municipality accepts federal funds (e.g., ARPA, transportation grants, etc.), the Rehabilitation Act applies, and the municipality’s website must be accessible.

**Q7.** How can you involve volunteers if you have multiple people updating a website in a small town? Is there a way to get everyone “on the same page”?

**A7.** At the very least, everyone should receive training. The [Institute for Human Centered Design](https://humancentereddesign.org/services/consulting#:~:text=support%20program%20access.-,Web/Digital%20Review,-Review%20of%20existing) performs reviews for website accessibility. This is a for-fee service. For municipal employees, ensure it is part of their job. Have a lunch meeting to teach each other about what each person has learned about accessibility in the past month.

Learning about accessibility is an ongoing process; you won’t learn it in one training. If you sign up for the [New England ADA Center](https://www.newenglandada.org/)’s newsletter, you’ll receive information about their trainings and trainings through other ADA Centers throughout the nation.

**SESSION 3:** Peter Johnke, Deputy Director, and Cara Sachs, ADA Advocate, Vermont Center for Independent Living

**Q8.** Are you able to share these slides with us?

**A8.** We will send participants an email when the slide decks are posted on our website. Participants can then download the presentations.

**Q9.** Are there standards for website accessibility?

**A9.** Yes. The US Department of Justice issued [Web Accessibility Guidance](https://www.justice.gov/opa/pr/justice-department-issues-web-accessibility-guidance-under-americans-disabilities-act) in March 2022.

*VLCT Addendum:*  According to ADA.gov, local governments currently have flexibility in how they comply with the ADA’s general requirements of nondiscrimination and effective communication. They must ensure that the programs, services, and activities they provide, including those provided online, are accessible to people with disabilities. Existing technical standards provide helpful guidance concerning how to ensure accessibility of website features. These include the [Web Content Accessibility Guidelines (WCAG)](https://www.w3.org/wai/standards-guidelines/wcag/) and the [Section 508 Standards](https://www.access-board.gov/ict/), which the federal government uses for its own websites.

**Q9.** Out town will be building a new gazebo. It will have 3-4 steps. Does it need to have a ramp?

**A9.** Yes, if it’s open to the public.

**Q10.** Are there any “grandfathering” rules that would apply for items already in existence that have no plans for remodeling? For example, a bathroom not current to existing ADA rules but compliant to prior year rules.

**A10.** The ADA does not have a provision to "grandfather" a facility. You’d want to put that on a transition plan.

**Q11.** We have an existing ramp from 1978 that does not comply with the required ratio. There is no space to change it on the property. Any suggestions?

**A11.** If there is no space and if the site is not grossly too steep, you can request a waiver through the [Vermont Access Board](http://firesafety.vermont.gov/buildingcode/ada/board). As part of the waiver process, the Access Board will identify with alternatives if there are any.

**Q12.** Newer requirements have made our bathroom not fully ADA compliant. Wheelchairs can still access it.

**A12.** The specific situation matters. Manual and power wheelchairs need different sized spaces. What about the space made it not comply with the newest requirements? A five-foot diameter circle is required between the sink, toilet, the door, and any obstruction so that a person in a wheelchair can turn around easily.

The ADA is a minimum standard. If you are doing renovations, it benefits you to make it as accessible as possible beyond the ADA so that your facility might meet future standards.

**Q13.** How can we promote our "Declaration of Inclusion"?

**A13.** Social media is great.Post it on your website, write a blog, post it on Facebook. Engaging people with disabilities isn’t a one-time thing. Inclusion is an ongoing process.

**Q14.** How does this all dovetail with local ordinances and regulations as they pertain to non-public buildings and individual residences? How do they acknowledge the ADA Standards?

**A14.** Private residences aren’t covered under the ADA. The Housing Act’s standards apply when housing providers have homes or apartments. Housing standards are similar to the ADA. Section 504 of the Rehabilitation Act (pass through requirements for recipients of federal funds) also may apply.

If a municipality has a building that is not open to the public, the building does not need to comply with the ADA. However, municipalities should be very careful with this because they would be assuming that they will never have anyone with a disability that will need to access the building. If someone applied for a job and was hired, and then the municipality found out that the person could not get into the building, the municipality would have to make the alterations very quickly as part of ADA Title I, which covers employment discrimination.

Not all requirements for buildings are written into local ordinances and regulations.

**Q15.** If someone with a disability applies for a job and isn’t hired, how do they know if they were discriminated against?

**A15.** They probably don’t unless they find out who got the job and know they were more qualified than that person. Then they can file a complaint. If the person is denied the job because of a disability, that’s discrimination. If the other person was hired because they are more qualified, that’s not discrimination.

Related to ADA Title I, Employment, job descriptions must identify the [essential functions](https://www.eeoc.gov/publications/ada-your-responsibilities-employer#:~:text=How%20Are%20Essential%20Functions%20Determined%3F) of the job. Essential functions are used to determine whether discrimination occurred. If there is a specific job task that a person is doing and it’s not an essential function of the job, then not hiring the person because they could not do the task would be discriminatory.

Only certain questions are allowed to be asked during the hiring process. Different questions can be asked at different stages of the hiring and employment process, such as pre-application, post-offer, pre-employment, and post-employment. Discrimination can occur if a person doesn’t apply for a job based on the stated job requirements. For instance, stating that a job requires you to lift 40 pounds when the essential duties don’t require lifting 40 pounds screens certain persons with disabilities from applying.

Other questions that were asked in the chat include:

**Q16.** Is there a place I can find more information about the law as it pertains to the ADA and our website? I don’t see “website” specifically listed in the ADA.

**A16.** If a local government provides programs, services, or activities via its website, website accessibility is part of the ADA’s [effective communication](https://www.ada.gov/resources/effective-communication/) requirements. Through disability rights cases, the US Department of Justice has clarified that services provided through websites must meet the ADA.

Additionally, a related law, the Rehabilitation Act, passes through certain requirements to entities that receive federal financial assistance and requires electronic and information technology to be accessible to people with disabilities. If the municipality accepts federal funds (ARPA, transportation grants, etc.), the Rehabilitation Act applies, and its website must be accessible.

**Q17.** What grants are available for starting on ADA access for our website?

**A17.** [Municipal Planning Grants](https://accd.vermont.gov/community-development/funding-incentives/municipal-planning-grant) through the Vermont Department of Housing and Community Development may support creating an accessible website. Updating portions of a municipal website also might be eligible if written into the scope of work for project specific grants.

**A18.** Has the US Department of Justice finalized its [Proposed Rule on Accessibility of Web Information and Services of State and Local Government Entities](https://www.ada.gov/resources/2023-07-20-web-nprm/)?

**A18.** No. The US Department of Justice has not finalized its Proposed Rule on Accessibility of Web Information and Services of State and Local Government Entities.

**Q19.** Where is VLCT’s toolbox?

**A19:** VLCT’s Improve Accessibility Toolkit can be found at <https://www.vlct.org/resource/improve-accessibility-toolkit>.

**Q20.** This is the first time I have been in a meeting where people identify their race. What is the rationale behind this?

**A20.** When there are people in a meeting who are blind or have low vision, it's helpful to start by giving a visual description of yourself. It's another way of providing equal access to information.

**PLEASE NOTE:**

* [ADA.gov](https://www.ada.gov/) has a wealth of information that can provide answers to common questions about the ADA’s requirements and accommodation.
* The US Department of Justice [ADA Information Line](https://www.ada.gov/infoline/) will answer questions about the requirements of the ADA, how the ADA applies to your situation, and how to file a complaint. It also will answer technical questions. Accessibility specialists are available to answer questions from individuals, businesses, and state/local governments. All calls are confidential.
* Presenters answered questions based on their knowledge of the Americans with Disabilities Act. No answers should be considered legal advice. For specific legal questions, a municipal attorney should be consulted.