

New Member Orientation  
to Massachusetts  
Commissions on  
Disability

# History of Disability Rights Legislation

In the 1960's, disability activists **identified barriers in physical, social and attitudinal environments as major causes of disability.**

- The Civil Rights Act of 1964 led to activism concerning the rights of people with disabilities and the emergence of the Independent Living Movement.

Massachusetts was a leader in passing disability rights legislation.

- **The Massachusetts Architectural Access Board was created in 1967.**

# History of Disability Rights Legislation

**Numerous disability rights laws were passed in the 1970's and 80's at both the Massachusetts state and federal levels.**

- **Section 504 of the 1973 Rehabilitation Act**

protects against discrimination based on disability in the federal government and any institution that receives federal funds.

- **Equal education:**

- Massachusetts Public Education Law –Chapter 766 -1972

- Education for All Handicapped Children Act (EHA) -1975

- Massachusetts Public Accommodations Law- 1979

# History of Disability Rights Legislation

In the 1980's, disability rights laws passed in Massachusetts addressed employment discrimination (1983) and housing access (1989).

Federal laws addressed air carrier access( 1986) and fair housing (1988).

- The Individuals with Disabilities Education Act (IDEA), passed by Congress in 1989, gives children with disabilities the same opportunity for education as those without disabilities.
  - IDEA signed into law by President George HW Bush, 1990.

# History of Disability Rights Legislation

## Americans with Disabilities Act (ADA), 1990

- Purpose: To provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities
- The ADA is a unique civil rights law in that it requires reasonable accommodation be provided to level the playing field.
- Coverage
  - Title I – Employment
  - Title II – State and Local Government
  - Title III – Private Entities
  - Title IV – Telecommunications
  - Title V – Miscellaneous

# Massachusetts State and Local Community Government Disability Organizations

# Massachusetts Office on Disability (MOD)

[mass.gov/orgs/Massachusetts-office-on-disability](http://mass.gov/orgs/Massachusetts-office-on-disability)

- Established **1981** M.G.L. Chapter 6 Section 185
- Mission
  - State advocacy agency for people with disabilities of all ages
  - Ensure full and equal participation
  - Advance
    - legal rights,
    - maximum opportunities
    - supportive services
    - accommodations and accessibility
  - Provides guidance to Commissions on Disability (CODs)

# Examples of MOD Community Services

- Annual Disability Summits
  - 2019 summit on employment
    - On Fri Sep 16 at Convention Center
- Regional COD meeting
- Community Access Monitor trainings
  - **Community Access Monitors:** Individuals who have been trained in state and federal disability rights laws in how to survey buildings for accessibility, and how to advocate for compliance
  - 3 times/year in various communities



# Opportunity for Local Communities to Establish a Commission on Disability

- M.G.L. Chapter 40 Section 8J, **1983**
- Mission
  1. **Research local issues** that impact people with disabilities
  2. **Advise and assist community officials in ensuring compliance** with state and federal laws and regulations that affect people with disabilities

# COD Mission M.G.L. 40 § Section 8J

- Cont'd

3. **Coordinate or carry out programs** designed to meet the needs of people with disabilities in coordination with

- Community officials and local organizations, and
- Massachusetts Office on Disability (MOD)

4. **Review and make recommendations about policies, procedures, services, activities and facilities** of departments, boards and agencies of the community as they affect people with disabilities

# COD Mission M.G.L. 40 § Section 8J

- Cont'd

**5. Provide information, referrals, guidance and technical assistance** to individuals, public agencies, businesses and organizations in all matters pertaining to disability

**6. Assist state and local officials** to ensure all projects, activities and services consider and include the needs of people with disabilities

**7. Coordinate activities of other local groups** for similar purposes

# COD Powers, Duties, Members and Terms (M.G.L. 40 § Section 8J)

- At least 10 meetings annually
- 5-9 members appointed by Selectmen with staggered 3 year terms
  - Majority to be people with a disability
    - One a family member
    - One an elected or appointed town official
- Officers selected by commission members
- Keep records of meetings
- File annual report for inclusion in community's annual report

# COD Powers, Duties, Members and Terms (M.G.L. 40 § Section 22G)

- Permits fines collected for violation of handicap parking (HP) to be allocated to CODs
- Funds used solely for the benefit of persons with disabilities

# CODs, cont.

- CODs obligated to follow Mass. Open Meeting Law
  - Change 2015; Section Chapter 30A § 20 d.
    - Authorizes remote participation by COD members
      - All attending members must be audible
      - A quorum must be present
      - Chair must be present in person
    - Remote participants may vote and are not deemed absent

Name of commission:

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- Year established: \_\_\_\_\_
- Is Commission in your community's bylaws?

Primary Legislation  
Pertaining to Disability Access in  
Communities



# ADA Title II

- Requires that state and local governments do not discriminate against people with disabilities in their programs, services and activities
- 5 required action steps:
  1. Designate responsible employee to coordinate ADA activities
  2. Provide notice to public of ADA requirements
  3. Establish grievance procedure
  4. Conduct self-evaluation
  5. Develop transitional plan where structural changes are needed for program accessibility

# ADA Title II Compliance

## **ADA Coordinator**

- Coordinate efforts toward ADA compliance
- Investigates Title II complaints

## **ADA Grievance Plan**

- Adopt and publish Title II grievance procedures

Coordinator's name and contact information:

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# ADA Building/Facility Compliance

- US Access Board
  - Leadership in accessible design
  - Develop accessibility guidelines and standards
    - Built environment
    - Transportation
    - Communication
    - Medical diagnostic equipment
    - Information technology
- ADA Accessibility Guidelines (ADAAG)
  - Scoping and technical requirements
  - Design, construction and alteration of Title II and III buildings and facilities

# Massachusetts Architectural Access Board (AAB or MAAB)

- Develops/enforces regulations to ensure buildings are designed and constructed to be accessible, functional and safe for people with disabilities
- Provides trainings for building department staff
- **[www.mass.gov/aab](http://www.mass.gov/aab)**

# AAB Compliance

- Construction, reconstruction, remodeling, alteration or change in use of building or facility may trigger authority of AAB
- What AAB does
  - Decides on requests for variances from AAB regulations
    - Request made by submitting an application
  - Issues advisory opinions
  - Decides on complaints

# Authority of AAB

- CMR = Code of Massachusetts Regulations
- 521 CMR = regulation chapter, number and heading for AAB regulations
- Community building inspectors responsible for enforcing 521 CMR regulations, but not ADA provisions

# Authority of AAB

- Buildings/facilities used by the public, such as
  - multiple dwellings, playgrounds, parking lots, sidewalks, places of worship
- New construction must be fully accessible
- Renovation
  - Work is more than 30% of full cash value of building
    - Entire building must comply with 521 CMR
  - If less than 30%
    - Work is \$100,000 or more, work being done must comply plus have accessible entrance and bathroom
    - Less than \$100,000, only work being done must comply

# Requests for AAB Variances

- Architect, engineer or building owner files application for variance/s based on technological infeasibility or excessive cost without substantial benefit
- Submits to
  - AAB
  - Local building inspector
  - Local COD
  - Local independent living center (BCIL)



# Differences between ADA and AAB

ADA	ADAAG/2010 Standards	AAB
Civil Rights Legislation	Federal regulations for built environment	State Building Code
Covers all aspects of people's lives and may require renovations in a building though no work is planned	Covers all areas of buildings including employee areas	Covers areas open to the public
	No variances	Allows for variances if: 1. Technically infeasible 2. Excessive cost without substantial benefit to people with disabilities

**Stricter regulations must be followed**

# Applicable Law/Regulations

Type of Building			Regulations that may apply		
	ADA Title II	ADA Title III	AAB 1968	AAB 1975 or Later	ADAAG 2010 Standards
Private business		Yes		Yes	Yes
Religious building				Yes	
State building	Yes		Yes	Yes	Yes
Municipal building	Yes		Yes	Yes	Yes
Private club				?	
Federal building					Yes

# Parking

- Parking lots covered under AAB and ADA
- On-street parking not covered by AAB or 1991/2010 ADA standards
  - But covered by overarching obligations of Title II
    - Since on-street parking is a public service, accessible parking must be provided
    - 5% of on-street parking

# Important Local Resources

Local center for independent living:

Name \_\_\_\_\_

- Provides five “core services”:
  1. Peer mentoring
  2. Skills training, e.g. self advocacy
  3. Information and referral
  4. Advocacy
  5. Transition
  
- Contact information

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# Important Local Resources

## New England ADA Center

- Provides information, guidance and training on **Americans with Disabilities Act** to individuals, businesses, and government at local, state and regional level
- ADA update course
- [www.newenglandada.org](http://www.newenglandada.org)

# Institute on Human Centered Design (IHCD)

- Mission: advance role of universal design in expanding opportunity and enhancing experience for people of all ages, abilities and cultures
  - Design includes;
    - urban design,
    - landscape architecture
    - Architecture
    - interior design,
    - industrial design a
    - information design.
    - Design is problem-solving and extended to policy making
  - Home of New England ADA Center

# Important Local Resources

Massachusetts Rehabilitation Commission  
(Mass Rehab or MRC)

[mass.gov/massachusetts-rehabilitation-commission](https://mass.gov/massachusetts-rehabilitation-commission)

- Vocational Rehabilitation Services
- Community Living Services
- Eligibility determination for the Social Security Disability Insurance (SSDI) and the Supplemental Security Income (SSI) federal benefits program

# Important Local Resources

Disability Policy Consortium (DPC)

[dpcma.org](http://dpcma.org)

- Advocacy organization for all persons with disabilities in Massachusetts
- Advocacy efforts tend to focus on state government agency services and funding
- Organizes and leads Commissions on Disability Association (CODA)
  - Monthly conference call for leaders and members of local community disability commissions and ADA Coordinators



# Important Local Resources

## Disability Law Center of Massachusetts

- Provides legal advocacy on disability issues that promote the fundamental rights of all people with disabilities to participate fully and equally in the social and economic life of Massachusetts
- [www.dlc-ma.org](http://www.dlc-ma.org)

Derived from presentation created in July, 2016 by Saralynn Allaire,<sup>1</sup> Myra Berloff,<sup>1</sup> and Jeff Dougan<sup>2</sup>

<sup>1</sup> Brookline Commission on Disability

<sup>2</sup> Massachusetts Office on Disability