



DISABILITY RIGHTS OREGON

February 28, 2013

Sen. Mark Hass, Chair
Senate Education and Workforce Development Committee

RE: SB 540

Senator Hass and Members of the Committee:

Disability Rights Oregon supports SB 540 and the creation of a Task Force on School Capital Improvement Planning.

We are particularly concerned about the challenges that school districts face in making their buildings accessible to all students including students with disabilities. An example of those challenges is demonstrated in the attached ADA assessment from Portland Public Schools.

Disability Rights Oregon also supports the establishment and maintenance of a public education facility information database as set forth in Section 4 of the printed bill.

While we would prefer that this section specifically mention ADA compliance as required information on the data base, we note that Section 4(2)(a)(G) requires information regarding "Other data needed to measure compliance with the state building code." Since ADA standards are included in the state building code, we believe that information regarding disability accessibility is encompassed in this subsection.

Thank you for this opportunity to submit written testimony.

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EXECUTIVE SUMMARY

October 2009

Statement of history and intent by Portland Public Schools

Following the enactment of the Americans with Disabilities Act of 1991, it was recognized that bringing all Portland Public School's facilities into compliance would require a major effort and financial investment. An ADA Transition Plan was developed which established the initial goals for eliminating architectural barriers. The Transition Plan was the basis of an agreement that was signed between PPS and the City of Portland in 1994. A \$196.7 million bond measure, of which \$9 million was allocated to building accessibility to begin implementing the goals of the Transition Plan, was passed by voters in 1995. PPS was able to install elevators at 15 schools and make various other accessibility improvements, but there are still numerous facilities that are not fully accessible. A significant deficiency is the fact that 32 multi-story schools – including 20 K-8 and middle schools – still lack elevators.

This assessment identifies current accessibility deficiencies and describes required upgrades and associated costs to reach full compliance.

ADA Changes from 1991 to 2008

The Americans with Disabilities Act of 1991 (1991 ADA) made it a requirement to provide access to public programs such as schools for people with disabilities. The 1991 ADA included a set of accessibility guidelines, defining when accessible features are required and specific dimensions for those features. These guidelines were incorporated into model building codes, and provisions were made for prioritizing and applying the requirements, or reasonable alternatives, in renovations of existing buildings. As those requirements were applied to buildings, questions arose about both the definition of disabilities requiring accommodation and the appropriateness of specific dimensions in some facilities. The US Access Board developed supplements and revisions to the ADA Accessibility Guidelines (ADAAG) in response. These included detectable warnings, building elements for children's use, play areas and recreation facilities. Those revisions were incorporated into ADA Amendments Act of 2008 (2008 ADA) by the Department of Justice. The ADA revisions are in the last stages of being enacted into law. When the 2008 ADA becomes law, Portland Public Schools will need to implement upgrades in response to the new requirements.

The following is a list of the 2008 ADA changes affecting schools. As with previous ADA law, dimensional requirements apply only if a feature is provided at a facility. For example, an elementary school with a play pit and structure may have to modify those items to be in compliance. However, a high school without a play structure would not need to provide one.

- Van Parking space size and number
- Wheelchair Only Parking (in Oregon)
- Parking curb cuts, detectable warnings, and striping
- Bus loading and shelters level, on accessible route, and wheelchair space waiting
- Adult reach ranges modified
- Children's reach ranges
- Toilet clearances and toe space at toilet stalls
- Knee space width at drinking fountains
- Sinks and (science) gas fixtures, countertop heights
- Signage height modified
- Audio/Visual Two-way communication at remote entries
- Assistive listening devices at spaces with audio amplification
- Wheelchair spaces and companion seating at auditorium and sports bleachers
- Seated clear line of sight requirement at auditorium and gym bleachers
- Kitchen counter work space height and width

- Bench with back support at locker rooms and sports fields
- Exercise Machines and Equipment with accessible route
- Play Areas Structure and Soft Accessible Route
- Mirror height modified
- Pool lift and stairs

The definition of a disability has also been modified in the 2008 ADA. Under the new provisions, a disability is determined without regard to mitigating circumstances (except for ordinary eyeglasses or contact lenses). This means that more individuals will likely be considered disabled than before, although the number of individuals needing accommodation in Portland Public Schools may not increase.

Special Education (SPED)

The requirement for public education to provide accommodation for students with learning as well as physical disabilities predates, and was also included in 1991 ADA to consolidate the accessibility laws. The 2008 ADA expands the definition of disability but otherwise does not define the physical accommodations required for special education facilities. Although the law requires accommodation, it is silent regarding the program structure and building requirements beyond those typically needed for physically impaired people. Portland Public Schools is at liberty to continue to provide dedicated special education facilities and special education classrooms and programs within the K-12 schools, and to change them as needed. When special education classrooms are moved into existing schools, the existing classroom features may not support SPED class programs. It would be constructive for PPS to establish interim standards for building features of special education classroom types to help identify existing classrooms with those features and identify features that need to be modified to accommodate a SPED class. Please see the special education section for preliminary classroom design features identified during this assessment.

PPS Accessibility Guidelines

The PPS Accessibility Guidelines provide general guidelines for the provision of accessible features. For example, the guidelines include an accessible drinking fountain on each accessible floor level. Ankrom Mosian Architects (AMAA) reviewed the existing PPS Accessibility Guidelines that have been applied to date, and the Appeals Summary with the City of Portland (see appendix), provided by PPS. The general language at the front of the updated PPS Accessibility Guidelines was also provided by PPS. The remainder of the guidelines was assembled to match the organization of the 2008 ADAAG categories. The content has been updated to include the 2008 ADAAG revised requirements with some allowances for the limitations of existing building construction already accepted by the City of Portland.

PPS Accessibility Standards

The PPS Accessibility Standards are a tool to describe the technical details of required accessible features. For example, the standards include the spout heights for accessible child and adult drinking fountains. AMAA reviewed the existing PPS Accessibility Standards that have been applied to date, and the Appeals Summary with the City of Portland (see appendix), provided by PPS. The existing PPS Accessibility Standards included children's accessible dimensions using an earlier draft version of material provided by the US Access Board and endorsed by the US Department of Justice (DOJ). The 2008 ADAAG includes a few differences from the draft version of the children's standards, but predominantly it just includes a change in format. The PPS Accessibility standards were assembled in the previous format showing a comparison between children's and adult dimensions. The standards were updated to include the revisions in the 2008 ADAAG in bold, as an aid in comparison. In some cases, the PPS preferred dimensions were within the 2008 ADAAG range rather than at the minimum or maximum, and the previous PPS preferred dimensions were maintained for adult and children whenever they were not in conflict with 2008 ADAAG technical requirements. Slight variations and tolerances at existing construction were included in the standards, consistent with the City of Portland's previous agreement in the appeals summary. Graphic diagrams of the technical dimensions were also assembled showing the PPS Adult and PPS Elementary standards. The

appeals summary with the City of Portland included a compromise between DOJ draft children's standards expressed by age range and the K-5 model classroom that spanned DOJ age ranges. Since the previous appeal (B-19) indicated agreement that it was appropriate to apply DOJ 9-12 age range standards to K-5 Elementary facilities where ages range from 5-11, it is also appears reasonable to apply the DOJ 9-12 age range now to the K-8 model classroom where ages range from 5-14.

Order of Magnitude Cost Estimate

The unit cost estimates in the spreadsheet include general construction overhead, and are intended to represent the value of a Construction Contract. The cost estimate includes a 20% design contingency intended to account for the average associated construction that may occur but is not listed with unit costs, and for the average efficiency of construction anticipated based on discussion with PPS. A markup for Owner's construction contingency has been added to the unit costs. The cost estimate information does not include a factor or adjustments for inflation. The cost information for each school is useful as an order of magnitude cost estimate, but this study is not a substitute for pricing actual construction documents for building remodel.

Transition Plan

The 1994 Transition Plan has been the method of equitable implementation for ongoing ADA upgrades by PPS to their facilities to serve both the immediate needs of students, and to provide the greatest level of accessibility to the greatest number of people using the schools, with the funds available. In addition, the plan is a substitute for a percentage of remodel construction cost approach to ADA upgrades that has been accepted by the City of Portland. The ADA assessments were completed with the goal of full program accessibility for each building, to provide access to all programs, activities and services. In most cases, that goal is physically possible if enough funds are available to implement the upgrades. In some cases, the existing building configuration or site limitations make the goal of full accessibility impractical where reasonable alternatives are available. In other cases, increasing accessibility further would entail demolition and replacement of core areas in buildings. Where full accessibility is impractical in particular building areas, it makes sense to relocate programs as necessary within the school to accommodate students, or provide reasonable alternate accommodation.

The Transition Plan should be updated to meet current accessibility goals. In addition to updating sections A introduction, B programs and activities, C methodology, E priorities and F schedule to include changes since 1994, AMAA recommends the following revisions.

- Revise Part D to include the 2009 ADA survey and estimated costs, describe the PPS goal of full program accessibility for each facility, and consider replacing of the ADA rank 1-4 system with a new ranking system that distributes the priority of accessibility upgrades among school levels and clusters, and also considers priority based on a variety of factors.
- Revise Part H to include portable assistive listening equipment preferred by PPS at each school.
- Review Part B component 5 and Part L to insure they match the intent for the current special education and transportation programs.

