

## **1.1 INTRODUCTION AND OVERVIEW**

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, and access to public accommodations, transportation, and telecommunications. The ADA is companion civil rights legislation with the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. This legislation mandates that qualified disabled individuals shall not be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity. The Act also provides disabled employees with certain protections and requires employers to make reasonable accommodation for disabled applicants and employees. The Act was most recently amended on January 1, 2009 by the ADA Amendments Act. This broadened the definition of disability to make it consistent with Massachusetts Disability Law.

This ADA Transition Plan should be viewed in the broader context of the Human Rights Statement adopted by the Board of Selectmen in September 2009, which reads as follows.

“Winchester is a community that is grounded in respect for every individual, and therefore protects all residents, employees, business owners, students and visitors in the enjoyment and exercise of and human and civil rights. It is town policy to ensure equal treatment and opportunity to all individuals regardless of race, gender, ethnicity, religion, ideology, socio-economic status, health, sexual orientation, age, military status, or disability.”

The ADA Transition Plan is a reaffirmation that both the Plan and the Human Rights Statement reflect a consistent policy driving specific actions. The ADA is divided into five parts covering the following areas:

### **Title I: EMPLOYMENT**

Under this title, employers, including governmental agencies, must ensure that their practices do not discriminate against persons with disabilities in the application, hiring, advancement, training, compensation, or discharge of an employee, or in other terms, conditions, and rights of employment.

### **Title II: PUBLIC SERVICES**

This title prohibits state and local governments from discriminating against persons with disabilities or from excluding participation in or denying benefits of programs, services, or activities to persons with disabilities. It is under this title that this self-evaluation is prepared. This self-evaluation is intended to outline programs and services of the Town of Winchester, MA and to evaluate what policies and procedures must be changed or implemented to effect the non-discrimination policies described in Title II. Further, program accessibility must be provided to all persons with disabilities.

### **Title III: PUBLIC ACCOMMODATIONS**

Title III requires places of public accommodation to be accessible to and usable by persons with disabilities. The term “public accommodation” as used in the definition is often misinterpreted as

applying to public agencies, but the intent of the term is to refer to any privately funded and operated facility serving the public.

#### **Title IV: TELECOMMUNICATIONS**

This title covers regulations regarding private telephone companies and requires common carriers offering telephone services to the public to increase the availability of interstate and intrastate telecommunications relay services to individuals with hearing and speech impairments.

#### **Title V: MISCELLANEOUS PROVISIONS**

This title contains several miscellaneous regulations, including construction standards and practices, provisions for attorney's fees, and technical assistance provisions. Title II dictates that a public entity must evaluate its services, programs, policies, and practices to determine whether they are in compliance with the nondiscrimination regulations of the ADA. The regulations detailing compliance requirements were issued in July 1991. These regulations mandate that each public entity is required to examine activities and services, identify problems or physical barriers that may limit accessibility by the disabled, and describe potential compliance solutions. The entity must then proceed to make the necessary changes resulting from the self-evaluation. The ADA further requires that a transition plan be prepared to describe any structural or physical changes required to make programs accessible. The Town of Winchester, MA ADA Transition Plan is a companion to the documents that comprise the self-evaluation portion of the report and can be reviewed in the report appendixes.

#### **DEFINITION OF DISABILITY**

In the ADA, the term “disability” means, with respect to an individual:

- 1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- 2) a record of such an impairment; or
- 3) being regarded as having such an impairment.

If an individual meets any one of these three tests, he or she is considered to be an individual with a disability for purposes of coverage under the Americans with Disabilities Act. The Final Rules of the ADA describe in greater detail the conditions included and excluded as disabilities under the ADA, and these rules should be referred to if more detailed descriptions of covered disabilities is desired.

The following impairments among others will “virtually always” result in a finding of disability under ADA Regulations:

- Deafness
- Blindness
- Intellectual Disability(Formerly known as Mental Retardation)
- Partially or completely missing limbs
- Mobility impairments requiring use of a wheelchair
- Autism
- Cancer
- Cerebral Palsy

- Diabetes
- Epilepsy
- HIV infection
- Multiple Sclerosis
- Muscular dystrophy
- Major Depressive disorder
- Bipolar Disorder
- Post-Traumatic stress disorder
- Obsessive-Compulsive disorder
- Schizophrenia

## **1.2 PUBLIC PROCESS AND INPUT**

This Transition Plan will be formally adopted by the Town of Winchester, MA Board of Selectmen. The Town held a public hearing to gather input on the initial transition plan, and made the document available to the public to allow submission of written comments. Meaningful comments were received from a variety of stakeholders including individuals and interested community groups as well as Town Boards and its elected and appointed officials. Adoption of the plan commits the Town to the barrier removal described in the transition plan and a proposed schedule for funding. Any future changes to the plan should be adopted with the same standard of public input.

### **1.3 RELATIONSHIP OF SELF-EVALUATION & TRANSITION PLAN**

The self-evaluation describes all of the programs and services of the Town including the Winchester School System and how they will be made accessible. Programs can be made accessible in three ways:

- 1) Minor programmatic changes, such as providing test material in alternate formats,
- 2) Moving the program to an accessible site or facility, or
- 3) Making facility upgrades, “structural modifications”, to the program site.

It is rare that an entity’s facilities are completely accessible, or that they have enough accessible facilities to locate all programs at accessible locations without making some modifications when viewing their programs in their entirety. The transition plan documents facility accessibility and provides a plan for making necessary changes.

### **1.4 TRANSITION PLAN REQUIREMENTS**

The major purpose of a Transition Plan, as it relates to buildings and facilities owned and operated by a public entity, is to document the barriers to persons with disabilities that are present in the facilities, and to propose the structural and non-structural steps that will be undertaken to provide program accessibility. Many components contributed to the development of this Transition Plan including: comprehensive surveys and evaluation of the architectural barriers present at Town owned, operated, or utilized facilities. The term “facilities” is intended to include buildings, structures, or any part of real property that involves a specific use by persons.

One of the most interesting challenges in the preparation of the Transition Plan is the harmonizing of Town and School legal responsibilities over various aspects of the plan. Under Massachusetts Law the School Committee is legally responsible for the Town's school buildings; however, under the Town Charter the Winchester Town Manager has day to day responsibility for the Town's municipal buildings.

Upon receipt of the initial draft ADA Transition Plan, the school committee established a subcommittee which classified the findings of the initial consultant C<sup>3</sup> into the following five categories to help this School Committee and capital planning committee in their review process and prioritization of needs:

- a.) Life Safety Issues
- b.) Access/Egress issues
- c.) Convenience issues
- d.) WPS Policy issues
- e.) Waivers

For clarification, this codification differs from the approach noted by the Selectmen in their initial Draft report, in which areas concern were divided into five types of categories:

- a.) Path of Travel
- b.) Accessible Toilets
- c.) Elevators

- d.) Ramps and
- e.) “Other”

It is important to note that for the purposes of this Transition Plan, the date of each accessibility survey serves as the “datum” point, indicative of the state of the facility as included in the accessibility reports. Since the Town has been making ongoing improvements and removing barriers on a continual basis, some physical improvements listed in the detailed surveys may have been begun, partially completed, or fully completed prior to the adoption of this Transition Plan.

The Draft Transition Plan that was prepared in May 2010 has been revised and the buildings/sites have been assembled into several different building/site types. They have been assembled in the following manner: town buildings, parks and playgrounds, and sidewalks/curb cuts. The Draft Transition Plan stems from the access audit prepared by C3 for all the buildings and sites in town. Since that time the school department has reviewed and edited the school building audits and has created their own plan. The Town Manager’s office has had the town building audits reviewed and edited and the DPW and Recreation Department has reviewed the parks and playgrounds. The curb cut audits were prepared by the town and have not been edited. The town buildings, parks and playgrounds and curb cuts are included in this Transition Plan. In preparing the ten year fiscal plan the Town Manager’s Office through the efforts of the ADA Coordinator will obtain input from the School Committee and DAC and will lay out the priorities for funding. It is expected that the ten year plan will change as priorities are brought to the forefront. So while the Transition Plan that follows contains the Town owned properties the 10-year implementation plan will include both town and school owned properties.

KMA and HMFH reviewed the C3 report, and identified which of C3’s recommendations for barrier removal might be required to comply with the ADA’s barrier removal requirements:

1. New Construction
2. Alterations
3. Program Access

KMA has classified each item with the following symbol.



This icon typically means that the barrier should be removed because:

1. It was part of new construction
2. It was part of an alteration
3. It is required in an existing facility to provide ADA 'program access.'



This icon typically means that the barrier does not need to be changed because:

1. The condition is compliant.
2. The condition is allowed under the 'equivalent facilitation' standards of both the ADA Standards and 521 CMR. Equivalent facilitation means that the condition provides 'equal or greater access,' even though it does not comply with the letter of the ADA/521 CMR requirement.
3. The condition is within generally accepted construction tolerances.
4. A variance would likely be granted to allow this existing condition to remain.



This icon indicates that a definitive decision cannot be offered at this time for any of the following reasons:

1. KMA does not know the date of construction or alterations of the facility. If the facility was constructed or altered after 1992, then the item should be corrected. If it was constructed or altered before 1992, then the condition must be corrected *only if necessary to provide program access*.
2. KMA has insufficient information re: the programs or services offered at the facility. If the program is offered only in this location, then the program should be relocated to an accessible location or barriers removed so that the program, when viewed in its entirety, is accessible.
3. Additional study may be required to determine the feasibility and/or cost of barrier removal. In some cases (such as the Carriage House) there may be alternative methods for providing access to the program. If the program is a gallery use on the upper level, then a narrated video of the show, available online, or on the first floor, might be equivalent access without providing an elevator. (When the Carriage House is renovated, however, it will probably require an elevator if public programs continue on the upper level.)

The barriers outlined in the Transition Plan have been broken down into a 10-year plan for funding purposes. The plan was developed using the following guidelines for prioritization:

- Highest priority – Remove those barriers that make getting into a building difficult or impossible.
- Second Priority – Remove barriers that make utilizing restrooms difficult or impossible.
- Third Priority – Remove barriers that make navigating the interior of building difficult or impossible.

The following buildings have been included in the town building portion of the Transition Plan:

- Borggaard Beach & Bath House
- Carriage House
- Cemetery Building
- DPW Building
- Down Town Train Station
- Jenks Center
- Library
- Mystic School
- Public Safety Building
- Town Hall
- Water Treatment Plant
- Wedgemere Train Station

The following facilities have been included in the town's parks and playgrounds portion of the Transition Plan:

- Ginn Field
- Leonard Field
- Lynch Filed
- McDonald Field
- Mullen Filed
- West Side Field (Nutile Field)

## **1.5 DESCRIPTION OF FACILITY ACCESSIBILITY**

Determination that a facility, or portion thereof, is accessible is based on the standards of the Americans with Disabilities Act Accessibility Guidelines (ADAAG), and the criteria established by this document. It is not required that all facilities, or facility areas, be accessible to meet the program compliance requirement of the ADA. The ADAAG sets standards for accessibility of

specific elements, and establishes “scoping” requirements for new construction and remodeling. “Scoping” determines which elements need to be accessible for a given type of work.

Where the Town undertakes new construction or modernization of facilities not restricted to accessibility work, modifications to upgrade accessibility features may be required that are not proposed in this transition plan. Such work may also be triggered by the applicable state MAAB guidelines or local building codes and this future work is separate from the program access requirement addressed by the self-evaluation and transition plan.

## **1.6 TRANSITION PLAN PRIORITIES**

- A. An important aspect of preparing a transition plan is assigning priorities to structural modifications necessary to achieve program access. Obviously, the highest priority items should be undertaken first, and the schedule for completion is dependent on these determinations.
- B. Another important aspect is to ensure that programs services and activities are more readily available for hearing and vision impaired persons including non-structural changes recommended to make the Town’s programs available to a disabled population.
- C. The ADA Coordinator

The comments that were received on the initial draft plan were universal in recommending that the Town create a permanent position of ADA Coordinator and staff it with a paid, professionally trained individual to direct the implementation process including both Town and School adaptations.

In response the Selectmen authorized the creation of an immediate part time position reporting directly to the Town Manager. Acting Town Manager Mary Ellen Lannon has hired Anne Graglia-Kostos as the Town's first ADA Coordinator. One of her first tasks is to work with both School and Town elected and appointed officials and their respective professional staff to field complaints, oversee implementation of priorities and be the facilitator in making the Town and School programs and facilities fully accessible.

### **1.7 MAINTENANCE OF ACCESSIBLE FEATURES**

Under ADA Title II 28 CFR § 35.133(a), the Town, including its public school systems, must maintain in working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. Inoperable elevators or wheelchair lifts, locked accessible doors, or accessible routes that are obstructed by furniture, filing cabinets, or potted plants are neither "accessible to" nor "usable by" individuals with disabilities under 28 CFR. § 35.133 (Preamble). Section 504 regulations do not contain a comparable provision concerning the maintenance of accessible features. It should be noted that ADA requirements regarding the maintenance of accessible features do not prohibit temporary obstructions or isolated instances of mechanical failure under 28 CFR. § 35.133(b) (Preamble). Isolated or temporary interruptions in service or access due to maintenance or repairs are also not prohibited under 28 CFR. § 35.133(b). However, allowing obstructions or "out of service" equipment to persist beyond a reasonable period of time would violate this requirement, as would repeated mechanical failures due to improper or inadequate maintenance under 28 C.F.R. § 35.133

(Preamble). The Town of Winchester should maintain a system of monitoring accessibility improvements at all town and school facilities to assure ongoing compliance with the ADA and ADA Accessibility Guidelines and to take all reasonable steps to provide both programmatic and physical access for persons with disabilities.

Programmatic requirements, such as the provision of TTY's, sign language interpreters, and alternative written formats, should be monitored by the ADA Coordinator.

While physical access items should be reviewed and monitored at a general level by the ADA Coordinator, The Town Manager and Superintendent of Schools, detailed monitoring of such items should be delegated to the Building Department and Buildings Facility Manager and The Public Works Director. Working with the ADA coordinator, the Director of Building Facilities and the Public Works Director should designate a supervisor to oversee accessibility related improvements at the various school and town sites, train personnel on how to keep systems in working order, and resolve details of potential or reported problems. Maintenance of accessible features and specific conditions that should be maintained to provide physical accessibility include, but are not necessarily limited to, the following items:

- 1) Maintain exterior pathways and repair any surface irregularities that may become greater than 1/2" due to wear or cracking, and make other repairs to keep pathways from causing hazardous conditions.
- 2) Maintain accessible parking spaces to have all appropriate signage and to keep access aisles to the spaces and to the main entrances they serve clear and usable.

- 3) Maintain and replace as required all building signage that would direct persons with disabilities to the accessible paths of travel and accessible entrances.
- 4) Maintain all doors providing primary accessibility to be fully operable and unlocked during normal hours of operation of the facility and ensure that battery operated automatic door push controls are changed and tested on a regular basis.
- 5) Maintain all door pressures required to open doors to be as low as possible, but in no case more than 15 pounds for exterior doors and 5 pounds for interior doors.
- 6) Maintain all elevators in proper working condition. Set up and monitor yearly maintenance inspections by contracted elevator maintenance companies and State Elevator Safety Unit for all elevators.
- 7) Maintain all wheelchair lifts in proper working condition, with keys prominently displayed at facility main offices. Set up and monitor yearly maintenance inspections by contracted lift maintenance companies and State Elevator Safety Unit for all lifts.
- 8) Maintain and monitor objects mounted on walls to protrude no more than 4” into paths of travel.
- 9) Maintain audible and visual fire alarms and pull stations to be fully operational.
- 10) Maintain all accessible plumbing fixtures, including toilets, urinals, lavatories, sinks, faucets, showers, and drinking fountains, to be fully operational and in compliance with accessibility codes.
- 11) Maintain all toilet accessories to be fully operational and mounted no more than 48” above the floor at all accessible restrooms.

## **2.0 TOWN RESPONSIBILITIES UNDER THE ADA**

### ***Section Summary***

*Title II of the ADA mandates that programs, services, and activities provided by government agencies be offered equally to people with disabilities. Each government agency must demonstrate that its programs and activities, when viewed in their entirety, are provided equally and without discrimination.*

The Town has a variety of obligations under Title II of the ADA. Title II of the ADA is similar to Section 504 of the Rehabilitation Act of 1973, but differs in that Section 504 applies only to government agencies that receive federal financial assistance. The purpose of Section 504 is to ensure that no otherwise qualified individual with disabilities shall, solely by reason of his or her disability, be discriminated against under any program or activity receiving federal financial assistance. The School Department has been subject to and operated under the requirements of Section 504 since 1977.

The ADA specifically states an intent not to apply lesser standards than are required under other federal, state, or local laws; therefore, the law which is the most stringent has precedence. This intent has particular application with respect to the School Department's obligations under Section 504, which in some cases, exceed ADA requirements with respect to structural and physical changes. Title II mandates that public entities, including public school districts, may not require eligibility criteria for participation in programs and activities that would screen persons with disabilities, unless it can be proven that such requirements are necessary for the mandatory

provision of the service or program. A public entity must reasonably modify its policies and procedures to avoid discrimination toward individuals with disabilities. However, if the public entity can demonstrate that a modification would fundamentally alter the nature of its service, it would not be required to make that modification. Title II also discusses the use of auxiliary aids necessary to enable persons who have visual, hearing, mobility, or similar impairments to gain access to programs and activities provided by making an appropriate reasonable accommodation.

The lone exception to these requirements would be because of undue hardship. “Undue hardship” is defined in the ADA as an “action requiring significant difficulty or expense” when considering the nature and cost of the accommodation in relation to the size, resources, and structure of the specific operation. Undue hardship is determined on a case-by-case basis. The Town is required to prepare a self-evaluation, as described in a separate document, to assess its programs and services to assure that discriminatory practices are identified and removed. Where it is necessary to remove architectural barriers to program accessibility, the Town must also prepare a transition plan. “Architectural barriers” are elements of the facility structure, i.e. permanent elements of the building that make the facility or portions inaccessible. The transition plan outlines the structural modifications it will implement to make its programs and services accessible to people with disabilities.

### **PROGRAM ACCESSIBILITY, Section 504 and ADA Title II**

The Town may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible. The Town’s services, programs, or activities, when viewed in their entirety, must be readily accessible to and usable by individuals with

disabilities. This standard, known as "program accessibility," applies to all existing facilities of the Town. The Town is not, however, required to make each of their existing facilities accessible.

*ILLUSTRATION 1: When a Town body holds a public meeting in an existing building, it must provide ready access to, and use of, the meeting facilities to individuals with disabilities. The Town is not required to make all areas in the building accessible, as long as the meeting room is accessible. Accessible telephones and bathrooms should also be provided where these services are available for use of meeting attendees.*

The absence of individuals with disabilities living in an area cannot be used as the test of whether programs and activities must be accessible.

*Can back doors and freight elevators be used to satisfy the program accessibility requirement?*

Yes, but only as a last resort and only if such an arrangement provides accessibility comparable to that provided to persons without disabilities, who generally use front doors and passenger elevators. For example, a back door is acceptable if it is kept unlocked during the same hours the front door remains unlocked; the passageway to and from the floor is accessible, well-lit, and neat and clean; and the individual with a mobility impairment does not have to travel excessive distances or through nonpublic areas such as kitchens and storerooms to gain access. A freight elevator would be acceptable if it were upgraded so as to be usable by passengers generally and if the passageways leading to and from the elevator are well-lit and neat and clean.

*Are there any limitations on the program accessibility requirement?* Yes. The Town does not have to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. This determination can only be made by the Town Manager or Superintendent of Schools (head of the public entity or his or her designee) and must be accompanied by a written statement of the reasons for reaching that conclusion. The determination that undue burdens would result must be based on all resources available for use in the program. If an action would result in such an alteration or such burdens, the Town must take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

### **Methods for providing program accessibility**

The Town may achieve program accessibility in a number of ways. In many situations, providing access to facilities through structural methods, such as alteration of existing facilities and acquisition or construction of additional facilities, may be the most efficient method of providing program accessibility. The Town may, however, pursue alternatives to structural changes in order to achieve program accessibility. Nonstructural methods include acquisition or redesign of equipment, and relocation of programs and services to alternate facilities and accessible sites.

*ILLUSTRATION 1: A public library's open stacks are located on upper floors having no elevator. As an alternative to installing a lift or elevator, library staff may retrieve books for*

*patrons who use wheelchairs. The aides must be available during the operating hours of the library.*

When choosing a method of providing program access, a public entity must give priority to the one that results in the most integrated setting appropriate to encourage interaction among all users, including individuals with disabilities.

### **Curb Cut Survey and Recommendations**

*Curb Cut Survey and Recommendations, prepared by the Department of Public Works is included as a separate appendix to this Transition Plan.*

Public entities that have responsibility or authority over streets, roads, or walkways must prepare a schedule for providing curb ramps where pedestrian walkways cross curbs. Public entities must give priority to walkways serving State and local government offices and facilities, transportation, places of public accommodation, and employees, followed by walkways serving other areas.

To promote both efficiency and accessibility, public entities may choose to construct curb ramps at every point where a pedestrian walkway intersects a curb. However, public entities are not necessarily required to construct a curb ramp at every such intersection.

Alternative routes to buildings that make use of existing curb cuts may be acceptable under the concept of program accessibility in the limited circumstances where individuals with disabilities

need only travel a marginally longer route. In addition, the fundamental alteration and undue burdens limitations may limit the number of curb ramps required. To achieve or maintain program accessibility, it may be appropriate to establish an ongoing procedure for installing curb ramps upon request in areas frequented by individuals with disabilities as residents, employees, or visitors.

### **Existing parking lots or garages**

A public entity must provide an adequate number of accessible parking spaces in existing parking lots or garages over which it has jurisdiction.

### **Historic preservation programs**

The Town of Winchester has a number of historically significant properties. Special program accessibility requirements and limitations apply to historic preservation programs. Historic preservation programs are programs conducted by the Town that have preservation of historic properties as a primary purpose. An historic property is a property that is listed or eligible for listing in the National Register of Historic Places or a property designated as historic under State or local law. In the Town of Winchester, the Town Hall, the Sanborn House and the Wright/ Locke Farm properties are so designated.

In achieving program accessibility in historic preservation programs, the Town entity must give priority to methods that provide physical access to individuals with disabilities. Physical access is particularly important in an historic preservation program, because a primary benefit of the program is uniquely the experience of the historic property itself.

The Town is not required to take any action that would threaten or destroy the historic significance of a Town owned historic property. In cases where physical access cannot be provided because of either this special limitation, or because an undue financial burden or fundamental alteration would result, alternative measures to achieve program accessibility must be undertaken.

As noted by the Winchester Historical Commission in its comments to the initial draft plan, the goals of supporting accessibility and protecting the integrity of the Town's historic buildings are not mutually exclusive.

One recent example of the above approach is the Sanborn House Special Permit Application that provided accessible parking, physical access and accessible restroom facilities, while at the same time avoiding fundamental alterations to the historic character of the Sanborn House and providing accessibility to Town sponsored programs by moving them to the first floor.

The Board of Selectmen, The School Committee, The Planning Board, The DAC, The Winchester Historic Society, and the Winchester Historic Commission have all committed to work with the ADA coordinator to develop policies to protect our historic buildings and programs and ensure accessibility.

*ILLUSTRATION: Installing an elevator in an historic house museum to provide access to the second floor bedrooms would destroy architectural features of historic significance on the first floor. Providing an audio-visual display of the contents of the upstairs rooms in an accessible location on the first floor would be an alternative way of achieving program accessibility. Does the special limitation apply to programs that are not historic preservation programs, but just happen to be located in historic properties?*

No. In these cases, nonstructural methods of providing program accessibility, such as relocating all or part of a program or making home visits, are available to ensure accessibility, and no special limitation protecting the historic structure is provided.

### **Affordable Housing Opportunities**

The disabled population includes people with cognitive and/or physical impairments. While the need for a group home in Winchester for individuals having a cognitive disability has long been recognized, several past efforts for different reasons have not proven to be successful. Recently, the Winchester Housing Authority has been working in cooperation with the Board of Selectmen, the Housing Partnership Board, State Senator Patricia Jehlen, State Representative Jason Lewis, and the Massachusetts Department of Developmental Services to build a group home on town owned land.

The Town has implemented a First Time Home Buyer program that serves households having a moderate income. To date, though, this First Time Home Buyer Program has not given attention to meeting the housing needs of individuals with disabilities, nor has it been explicitly marketed to this population. With the concurrence of the Board of Selectmen, the Housing Partnership Board will immediately identify ways in which the needs of individuals with disabilities can be incorporated into the town's First Time Home Buyer Program, including use of the ADA's "reasonable modification" provisions.

For new housing developments, this also can include specifying that a portion of both the market-rate and affordable units be designed so as to be accessible. This is especially important for housing located within the Town Center since a person with a disability may not be able to drive, relying instead on the ability to walk to employment, shopping, and other destinations.

The Selectmen and the Winchester Planning Board are currently reviewing affordable housing opportunities in the Town center as part of a long term plan for downtown revitalization. This review will include ways in which the needs of individuals with disabilities can be integrated into the overall plan.

### **Leased buildings**

The Town is encouraged, but not required, to lease accessible space. The availability of accessible private commercial space will steadily increase over time as the title III requirements for new construction and alterations take effect. Although the Town is not required to lease accessible space, once it occupies a facility, it must provide access to all of the programs conducted in that space. The more accessible the existing space is at the start, the easier and less costly it will be later to make programs available to individuals with disabilities and to provide reasonable accommodations for employees under ADA Title I –Employment.

### **Equally effective communication**

The Town must ensure that its communications with individuals with disabilities are as effective as communications with others. This obligation, however, does not require the Town to take any action that it can demonstrate would result in a fundamental alteration in the nature of its services, programs, or activities, or in undue financial and administrative burdens. In order to provide equal access, the Town is required to make available appropriate auxiliary aids and services where necessary to ensure effective communication.

*What are auxiliary aids and services?*

Auxiliary aids and services include a wide range of services and devices that promote effective communication.

Examples of auxiliary aids and services for individuals who have vision and hearing impairments include, but are not limited to: qualified interpreters, note takers, CART Reporting, written materials in alternate formats, Braille documents, audio recordings, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's / TTY's), videotext displays, and exchange of written notes.

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.

*ILLUSTRATION 1: Some individuals who have difficulty communicating because of a speech impairment can be understood if individuals engaging them merely listen carefully and take the extra time that is necessary.*

*ILLUSTRATION 2: For individuals with vision impairments, Town employees can provide oral directions or read written instructions. In many simple transactions, such as paying bills or filing applications, communications provided through such simple methods will be as effective as the communications provided to other individuals in similar transactions. Many transactions with public entities, however, involve more complex or extensive communications than can be provided through such simple methods. Sign language or oral interpreters, for example, may be*

*required when the information being communicated in a transaction with a deaf individual is complex, or is exchanged for a lengthy period of time. Factors to be considered in determining whether an interpreter is required include the context in which the communication is taking place, the number of people involved, and the importance of the communication.*

*Must public service announcements or other television programming produced by public entities be captioned?*

Audio portions of television and videotape programming produced by public entities are subject to the requirement to provide equally effective communication for individuals with hearing impairments. Closed captioning of such programs is sufficient to meet this requirement.

*Must tax bills from public entities be available in Braille and/or large print? What about other documents?*

Tax bills and other written communications provided by the Town are subject to the requirement for effective communication. Thus, where the Town provides information in written form, it must, when requested, make that information available to individuals with vision impairments in a form that is usable by them.

### **Primary consideration**

When an auxiliary aid or service is required, the Town must provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice and must give primary consideration to the choice expressed by the individual. "Primary consideration" means that the Town must honor the choice, unless it can demonstrate that another equally effective means of communication is available, or that use of the means chosen would result in a

fundamental alteration in the service, program, or activity or in undue financial and administrative burdens.

It is important to consult with the individual to determine the most appropriate auxiliary aid or service, because the individual with a disability is most familiar with his or her disability and is in the best position to determine what type of aid or service will be effective. Some individuals who were deaf at birth or who lost their hearing before acquiring language, for example, use sign language as their primary form of communication and may be uncomfortable or not proficient with written English, making use of a notepad an ineffective means of communication.

### **Qualified interpreter**

There are a number of sign language systems in use by individuals who use sign language. (The most common systems of sign language are American Sign Language and signed English.) Individuals who use a particular system may not communicate effectively through an interpreter who uses a different system. When an interpreter is required, therefore, the Town should provide a qualified interpreter, that is, an interpreter who is able to sign to the individual who is deaf what is being said by the hearing person and who can voice to the hearing person what is being signed by the individual who is deaf. This communication must be conveyed effectively, accurately, and impartially, through the use of any necessary specialized vocabulary.

### **Telephone communications**

Public entities that communicate by telephone must provide equally effective communication to individuals with disabilities, including hearing and speech impairments. If telephone relay

services, such as those required by title IV of the ADA, are available, these services generally may be used to meet this requirement. Relay services involve a relay operator who uses both a standard telephone and a TDD to type the voice messages to the TDD user and read the TDD messages to the standard telephone user.

### **Emergency telephone service**

The Town provides telephone emergency services by which individuals can seek immediate assistance from police, fire, ambulance, and other emergency services. These telephone emergency services--including E"911" services—are clearly an important public service whose reliability can be a matter of life or death. The Town must ensure that these services, including 911 services, are accessible to persons with impaired hearing or speech. State and local agencies that provide emergency telephone services must provide "direct access" to individuals who rely on a TDD or computer modem for telephone communication. Telephone access through a third party or through a relay service does not satisfy the requirement for direct access. (However, if an individual places a call to the emergency service through a relay service, the emergency service should accept the call rather than require the caller to hang up and call the emergency service directly without using the relay.) The Town may, however, operate its own relay service within its emergency system, provided that the services for non-voice calls are as effective as those provided for voice calls.

### **911 lines.**

Where a 911 telephone line is available, a separate seven-digit telephone line must not be substituted as the sole means for non-voice users to access 911 services.

**Voice amplification**

The Town is encouraged, but not required, to provide voice amplification for the operator's voice. In an emergency, a person who has a hearing loss may be using a telephone that does not have an amplification device. Installation of speech amplification devices on the handsets of operators would be one way to respond to this situation.

### **3.0 POLICIES AND PROCEDURES**

The Town of Winchester, MA, and individual departmental policies and procedures were reviewed for compliance with Section 504 and ADA Title II. The following recommendations are for revisions and/or additions to existing policies, and additions of new policies to assist the Town.

- a) Sexual Harassment Policy
- b) ADA / 504 Policy
- c) ADA / 504 Grievance Procedures
- d) Reasonable Modification Policy
- e) Eligibility and Safety Requirements Assurance
- f) Surcharges Prohibition Policy
- g) Integrated Services Policy
- h) Significant Assistance Policy
- i) Accessible Transportation Policy
- j) Contracted Service Provider Policy
- k) Town of Winchester, MA
  - a. New Policy: Elevator / Chair Lift Policy
- l) Town of Winchester, MA
  - a. Multiple Hazard Mitigation Plan
  - b. Emergency Evacuation Plan

**REPLACEMENT POLICY  
SEXUAL HARASSMENT AND UNLAWFUL DISCRIMINATION**

### **Policy and Procedure for the Elimination of Sexual Harassment and Discrimination**

It is the policy of the Town of Winchester (the "Town") to maintain a work environment in the Town that is free of sexual harassment and of discrimination based on race, color, age, gender, sexual orientation, religion, ethnic or national origin, ancestry, disability, veteran's status, or any other status protected by law (a "Protected Class"). Unlawful discrimination and harassment by employees will not be tolerated. All employees are encouraged to report incidences of discrimination or harassment to the Town. Retaliation against an employee who complains of, reports or participates in any investigation into discrimination or harassment is illegal and will not be tolerated by the Town or School Department.

The following provides in-depth information regarding harassment and discrimination, including where to report an act or acts of harassment or discrimination.

### **Sexual Harassment**

Sexual harassment is a form of gender discrimination that is illegal under both federal and Massachusetts state law, including Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment of 1972, Massachusetts General Laws Chapter 151B, § 4 and Massachusetts General Laws Chapter 214, § 1C. Under these laws, unwelcome sexual advances, requests for sexual favors and other physical or verbal conduct of a sexual nature constitute sexual harassment when:

- submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of an individual's employment or education, or a basis for employment or educational decisions affecting the individual; or
- such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work or academic performance, or participation in work or school activities and events, by creating an intimidating, hostile, humiliating or sexually offensive environment.

Under these definitions, direct or implied requests by a supervisor to a subordinate, or a staff member to a student, in exchange for actual or promised employment or educational benefit, such as favorable reviews, grades or recommendations, salary increases, promotions, increased benefits or continued employment, constitute sexual harassment.

The relationship between staff members and students is inherently unequal. Sexual relations between staff members and students are prohibited under any circumstances.

The legal definition of sexual harassment is broad, and in addition to the above situations, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a workplace or educational environment that is hostile, offensive, intimidating or humiliating to male or female employees or students may also constitute sexual harassment.

While it is not possible to list all of those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which may constitute sexual harassment, depending on the totality of the circumstances:

- unwanted, prolonged and apparent staring or leering at a person;

- unwanted whistling or brushing against the body;
- obscene gestures or suggestive or insulting sounds made toward people;
- displaying sexually suggestive objects, pictures, cartoons;
- inquiries into one's sexual experiences or discussion of one's sexual activities;
- indecent exposure; or
- romantic involvement between supervisors and subordinates which is known to others in the workplace and which impacts the workplace in areas such as assignments, advancements or benefits.

### **Discrimination**

Depending upon the circumstances, examples of discrimination could include the above-referenced examples concerning sexual harassment, as well as the following types of conduct:

- comments or innuendo, which are continued or repeated, concerning a person's race, age, gender, religion, national origin, ancestry, disability, sexual orientation, veteran's status, or other legally-protected status;
- an open display of objects or pictures that are offensive to persons of a particular religion, race, national origin, or other legally-protected status;
- jokes, comments, use of derogatory words or innuendo regarding an individual's race, age, gender, national origin, ancestry, religion, disability, sexual orientation, or other legally-protected status;
- making decisions about an employee's employment based upon his or her religion, race, national origin, ancestry, age, disability, gender, sexual orientation, veteran's or other legally-protected status;
- treating an employee or student differently in terms of conditions of his or her employment or education based upon the employee's or student's race, color, age, gender, sexual orientation, religion, ethnic or national origin, ancestry, disability, veteran's status or any other legally protected status.

### **EMPLOYEE RESPONSIBILITIES**

Each employee of the Town and the Winchester School System is personally responsible for ensuring that his or her conduct does not sexually harass or unlawfully discriminate against anyone in the work place environment. Each employee is responsible for cooperating in any investigation of alleged discrimination or sexual harassment if asked to do so by the person conducting the investigation.

### **NO RETALIATION FOR FILING A COMPLAINT OF SEXUAL HARASSMENT OR DISCRIMINATION**

Retaliation against any individual for making a complaint of sexual harassment or discrimination or for participating in or assisting in the investigation of such a complaint is illegal and will not be tolerated. Any acts of retaliation will be subject to appropriate disciplinary action, such as (but not limited to) reprimand, change in work assignment, suspension or immediate termination.

### **PROCEDURES FOR ADDRESSING COMPLAINTS OF SEXUAL HARASSMENT AND UNLAWFUL DISCRIMINATION IN EMPLOYMENT**

Individuals who believe that they have been sexually harassed, or that they have been a victim of discrimination on the basis of their race, color, age, gender, sexual orientation, religion, ethnic or national origin, ancestry, disability, veteran's status, or other legally protected status should follow the complaint procedures described below:

If an individual believes that he or she has been sexually harassed or subjected to discrimination based on his or her membership in a Protected Class, and the individual feels comfortable and safe doing so, the individual can confront the harassing person, tell the person what is offensive and request that the person stop. If for any reason such an approach is not practical, acceptable or comfortable, or if the offender is the employee's supervisor, or if this process does not work, then the individual should contact his or her supervisor, or one of the investigators identified below. Supervisors are instructed to bring the matter to the attention of one of the investigators.

A complaint may be made orally or in writing to the Town Manager or Superintendent of Schools. After a complaint has been made, the Town will investigate the complaint in a fair and expeditious manner. The investigation will include a private interview with the person filing the complaint. One or more of the investigators will meet with the person who has been accused of improper conduct. The investigators may also meet with witnesses or others who may assist in the factual investigation.

The Town of Winchester shall administer this policy and accompanying procedures in the following manner.

- A. The Town or School shall identify at least two investigators. At all times there will be a female and male investigator.
- B. All such investigators shall be trained in sexual harassment investigatory techniques. Such training shall include interviewing techniques and conflict resolution.

After the investigation is completed, the investigator(s) will inform the person making the complaint and the person accused regarding the outcome of the investigation and whether the matter has been closed. In the event that the investigator finds a violation of this policy has occurred, further action will be taken, including but not limited to disciplinary action, such as but not limited to reprimand, change in work assignment, suspension or termination in accordance with all relevant laws.

If the complainant is dissatisfied with the determination made by the investigators, the complainant may submit an appeal to the Town Manager or Superintendent of Schools. These individuals are the final level of appeal within the Town. The written determination by the Town Manager or Superintendent of Schools will constitute final resolution of any appeal.

### **CONFIDENTIALITY**

All actions taken to investigate and resolve complaints through this process shall be conducted with as much privacy and discretion as possible without compromising the thoroughness and

fairness of the investigation. To conduct a thorough investigation, investigators may need to discuss the complaint with witnesses and those persons involved in or affected by the complaint, as well as with those persons who are assisting with the investigation or implementing disciplinary actions.

#### **STATE AND FEDERAL AGENCIES**

If you believe you have been subjected to sexual harassment or discrimination, you may file a formal complaint with either or both of the government agencies listed below. Using the complaint procedure described in this policy does not prohibit you from filing a complaint with one or both of these agencies. Each of these agencies has a short period for filing a claim – 300 days.

1. Equal Employment Opportunity Commission (“EEOC”)  
One Congress Street  
Boston, MA 02114  
(617) 565-3200
  
2. Massachusetts Commission Against Discrimination (“MCAD”)  

Boston Office One Ashburton Place Boston, MA 02108 (617) 727-3990	Springfield Office: 424 Dwight Street Springfield, MA 01103 (413) 739-2145
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Town of Winchester, MA  
ADA Transition Plan  
March 2010

Town of Winchester Personnel Policy #1  
Policy on Americans with Disabilities Act

## **AMERICANS WITH DISABILITIES ACT**

In providing its' services, programs and activities, the Town of Winchester, MA (the "Town" ) will not:

1. Deny a qualified individual with a disability the opportunity to participate in, or benefit from, a benefit, service, or activity.
2. Deny a qualified individual with a disability the opportunity to participate in, or benefit from, any aid, benefit, or service that is not equal to that afforded to others.
3. Otherwise limit a qualified individual with a disability the enjoyment of any right, privilege, advantage, or opportunity enjoyed by other qualified individuals receiving the aid, benefit, or service.

### **Reasonable Modification and Integrated Services Policy**

All programs, services and activities will be provided in the most integrated setting appropriate to the needs of participants with disabilities.

The Town will make reasonable modifications to programs, services and activities necessary to accommodate the needs of a person with a disability whenever an otherwise qualified person with a disability requests such modification, unless it can be demonstrated that the requested modification would impose an undue burden or fundamental alteration to the program.

Prohibitions or limitations to the eligibility of qualified individuals with disabilities to receive services or participate in programs or activities are not permitted unless such prohibitions or limitations are essential to the operation or purpose of the program or service. Eligibility requirements have been reviewed by the ADA Coordinator and program managers and updated to comply with the requirements of the Americans with Disabilities Act. Whenever programs formulate new eligibility policies or new programs are developed, policies will be reviewed by the ADA Coordinator to ensure compliance.

Safety requirements have also been reviewed to ensure that they are necessary to the safe operation of programs or activities, and that any decision to limit the participation of a person with a disability related to safety concerns will be reviewed on a case by case basis to ensure that the decision is based on facts, not myths or stereotype, and that all appropriate mitigating measures are taken to provide for maximum participation. Staff will be informed of, and trained in any changes in eligibility and /or safety requirements that may arise.

### **Request for Reasonable Modifications**

Requests for reasonable modifications should be made to the Department Head for ADA Title I requests or to the ADA Coordinator for ADA Title II requests, and can be presented verbally or in writing. The ADA Coordinator will respond to requests in a timely fashion— generally not more than two working days. Final decisions regarding requests for reasonable modifications, that in the opinion the ADA Coordinator represents an undue burden or fundamental alteration,

will be made by the Town Manager within ten working days. Individuals seeking to contest a denial of a request for reasonable modification will be given a copy of the grievance procedure in the format appropriate to their needs.

### **Surcharges**

Surcharges will not be charged to persons with disabilities, their family members, or organizations representing them for the provision of reasonable accommodations, reasonable modifications to policies and procedures, auxiliary aids and services, or any other costs related to the participation of persons with disabilities.

### **Significant Assistance Policy**

Programs that receive significant assistance, either financial or in-kind from the Town, may not discriminate against persons with disabilities. The ADA Coordinator is to inform organizations receiving assistance of their obligations under the ADA. The ADA Coordinator will investigate any situation in which discrimination toward persons with disabilities may have occurred, and take appropriate action either to correct the discriminatory situation or to recommend to the Town Manager termination of assistance.

### **Transportation Services**

It is the policy of the Town that transportation services are accessible to and usable by participants in our programs regardless of disability. Individuals requiring accessible transportation should make their requests in writing or verbally to the ADA Coordinator. Requests should be made at least three business days in advance. Effort will be made to respond to requests made on shorter notice. When a request cannot be met, notice will be given as soon as possible and at least one day before the date of the requested trip. The following local transportation providers equipped with accessible vehicles will be contacted when needed: North Suburban Transportation (781-933-8474) or Crystal Transportation (617-787-1544).

### **Contracted Service Provider Policy**

If services are provide under contracts, the Town will set forth in the terms of the contract the obligations of the provider agency or agencies to operate in a manner consistent with the requirements of Title II of the ADA, and, furthermore, that the Town will monitor the performance of the contractor in fulfilling this contractual obligation.

Town of Winchester, MA  
ADA Transition Plan  
March 2010

**REPLACEMENT POLICY  
AMERICANS WITH DISABILITIES ACT  
GRIEVANCE PROCEDURES**

New Policy replaces:  
Town of Winchester Policy  
Town of Winchester Americans with Disabilities  
Act (ADA) Grievance Procedures

## **SECTION 504 / ADA TITLE II GRIEVANCE PROCEDURE**

The Town of Winchester, MA (the “Town”) has an internal grievance procedure providing for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (Section 504) or Title II of the Americans with Disabilities Act of 1990 (ADA). Both Section 504 and Title II prohibit discrimination on the basis of disability.

**Purpose:** The Town of Winchester is committed to ensuring that individuals with disabilities have equal access to the programs, services, and activities offered by the Town. The Town continues to modify its facilities, programs, policies and practices as needed to ensure that such access is provided. The following Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (ADA). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs or benefits by the Town of Winchester, MA.

### **Scope:**

This is the internal procedure for dealing with complaints rapidly, discreetly and directly, if possible.

### **How to File a Complaint:**

Complaints should be addressed to the ADA Coordinator, Town of Winchester, 71 Mount Vernon Street, Winchester, MA 01890.. If assistance is needed to file or pursue the complaint, such request should be made to the ADA Coordinator.

1. A complaint must be filed in writing or in an accessible format, contain the name and address of the person filing it, describe the alleged discriminatory action and identify the date the action occurred and the name(s) of the person(s) believed to be responsible, as well as recommendations for resolution of the complaint.
2. A complaint must be filed within a reasonable time period, but no later than sixty (60) calendar days, after the complainant becomes aware of the alleged discrimination. The complainant shall informally discuss the complaint, in person, with the ADA Coordinator within fifteen (15) business days of filing the complaint.
3. Unless the matter can be promptly resolved informally, an investigation will be conducted with respect to all timely filed complaints which raise issues under Section 504/Title II. The investigation shall be conducted by the ADA Coordinator or his/her designee. These rules contemplate informal but thorough and impartial investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
4. A determination as to the conclusion of the investigation and a description of the resolution, if any, shall be issued by the ADA Coordinator. The determination shall be made in writing, or if requested, in an alternate format preferred by the complainant, and forwarded to the complainant no later than thirty (30) business days after the ADA Coordinator receives the written complaint (unless complainant provides written permission for extension of time for said investigation).
5. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made in writing or some other accessible format to the ADA Coordinator within twenty business days of

- receipt of the resolution.. The ADA Coordinator shall immediately forward the request for reconsideration to the appropriate party.
6. Within fifteen (15) calendar days of receiving a request for reconsideration involving the provision of services, activities, programs or benefits by the Town, the Town Manager (or his/her designee) shall meet with the complainant to discuss possible resolutions. A final decision regarding the matter shall be provided to the complainant in writing or in a format accessible to the complainant within fifteen (15) business days of the meeting.
  7. Upon receiving a request for reconsideration of any decision involving identification, evaluation or placement of a student who is believed to need Section 504 accommodations, special education or related services, the School Department will schedule an impartial hearing. The School Department will select an impartial hearing officer, and the complainant shall have an opportunity to review all relevant records, to participate in the hearing and to be represented by counsel.
  8. Any party may appeal the final decision of the impartial hearing officer to a court of competent jurisdiction.
  9. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 or Title II complaint with the U.S. Department of Education's Office for Civil Rights or the Massachusetts Department of Education. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.
  10. These rules shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards, and to ensure that Winchester School Department complies with Section 504, Title II, and their implementing regulations.
  11. The ADA Coordinator shall maintain all complaints, requests for reconsideration and responses for a minimum of three years.

Complaints related to Town employment practices and policies, excluding the School Department practices and policies, should be submitted to:

Town Manager  
71 Mt. Vernon Street  
Winchester, MA 01890  
781-721-7133 voice  
781-756-0505 fax

**NEW POLICIES  
AMERICANS WITH DISABILITIES ACT**

New Policies: **Reasonable Modification Policy**  
**Effective Communications Policy**  
**Eligibility and safety Requirements Assurance**  
**Surcharges Prohibition Policy**  
**Integrated Services Policy**  
**Significant Assistance Policy**  
**Accessible Transportation Policy**  
**Contracted Service Provider Policy**

### **Reasonable Modification Policy**

*The Town will make reasonable modifications to policies and procedures necessary to accommodate the needs of a person with a disability whenever an otherwise qualified person with a disability requests such modification, unless it can be demonstrated that the requested modification would impose an undue burden or fundamental alteration to the program.*

*Requests for reasonable modifications should be made to program staff or the ADA Coordinator and can be presented verbally or in writing. It is the responsibility of the ADA Coordinator to ensure that requests are responded to appropriately and in a timely fashion—generally not more than two business days.*

*Final decisions regarding requests for reasonable modifications, that in the opinion the ADA Coordinator may represent an undue burden or fundamental alteration, will be made by the Town Manager or Board of Selectmen in a timely fashion and no longer than ten business days. Individuals seeking to contest a denial of a request for reasonable modification will be given the grievance procedure in the format appropriate to their needs.*

### **Effective Communications Policy**

*The Town will make available, upon request, appropriate aids and services in order to provide effective communication with individuals with disabilities so that they may participate equally in the programs, services and activities offered by the Town. These aids and services may include, but are not limited to large print documents, documents in Braille, and qualified sign language interpreters.*

### **Eligibility and safety Requirements Assurance**

*It is the policy of the Town that prohibitions or limitations to the eligibility of qualified individuals with disabilities to receive services or participate in programs are not permitted unless they are essential to the operation of the program or service. Eligibility requirements have been reviewed by the ADA Coordinator and program managers and updated to comply with the requirements of the Americans with Disabilities Act. Whenever programs formulate new eligibility policies or new programs are developed, policies will be reviewed by the ADA Coordinator to ensure compliance.*

*Safety requirements have also been reviewed to ensure that they are necessary to the safe operation of programs, and that any decision to limit the participation of a person with a disability related to safety concerns will be reviewed on a case by case basis to ensure that the decision is based on facts, not myths or stereotype, and that all appropriate mitigating measures are taken to provide for maximum participation. Staff will be informed of, and trained in any changes in eligibility and /or safety requirements that may arise.*

### **Surcharges Prohibition Policy**

Surcharges imposed on people with disabilities for the provision of program modifications, access improvements, or communications aids, are not permissible. A *Surcharges Prohibition*

*Policy* should state that surcharges will not be imposed on people with disabilities under any circumstances.

***It is the policy of the Town that surcharges will not be charged to persons with disabilities, their family members, or organizations representing them for the provision of reasonable accommodations, reasonable modifications to policies and procedures, auxiliary aids and services, or any other costs related to the participation of persons with disabilities.***

### **Significant Assistance Policy**

Programs that the Town provides with significant assistance through public funds, the use of public facilities, or in-kind contributions may not discriminate against persons with disabilities.

***It is the policy of the Town that programs that receive significant assistance, either financial or in-kind from the Town, may not discriminate against persons with disabilities. It is the responsibility of the ADA Coordinator to inform organizations receiving assistance of this policy and to respond to any questions regarding its meaning and application. It is also the ADA Coordinator's responsibility to investigate any situation in which discrimination toward persons with disabilities may have occurred, and to take appropriate action either to correct the discriminatory situation or to recommend to the Town Manager or Board of Selectmen termination of assistance to the program.***

### **Accessible Transportation Policy**

If transportation is provided to participants in any Town programs, it must also be provided to people with disabilities.

An *Accessible Transportation Policy* should contain names and phone numbers for providers of accessible transportation including companies with lift equipped vans, independent living centers, or other organizations that may offer accessible transportation services. If the Town utilizes full size buses, it should include names and phone numbers of bus companies that have lift equipped vehicles. The policy should designate a staff member or members responsible for coordinating the provision of accessible transportation.

***It is the policy of the Town that transportation services are accessible to and usable by participants in our programs regardless of disability. Individuals requiring accessible transportation should make their requests in writing or verbally to the ADA Coordinator. Requests should be made at least three business days in advance. Effort will be made to respond to requests made on shorter notice. When a request cannot be met, notice will be given as soon as possible and at least one calendar day before the date of the requested trip. The following local transportation providers equipped with accessible vehicles will be contacted when needed:***

**North Suburban Transportation (781) 933-8474**  
**Crystal Transportation (617) 787-1544**

**Contracted Service Provider Policy**

If the Town provides any services under contracts, it is required to ensure that the services are provided in compliance with the requirements of Title II of the ADA just as if the Town were providing the services directly.

*It is the policy of the Town/Department that if services are provided under contracts, the Town/Department will set forth in the terms of the contract the obligations of the provider agency or agencies to operate in a manner consistent with the requirements of Title II of the ADA, and, furthermore, that the Town/Department will monitor the performance of the contractor in fulfilling this contractual obligation.*

**Integrated Services Policy**

Services must be provided in the most integrated setting appropriate. It is permissible to provide separate programs, but to do so does not relieve the Town of the obligation to provide opportunities for persons with disabilities to participate in regular, integrated programs.

The *Integrated Services Policy* should state that services to people with disabilities are provided in the most integrated setting appropriate and that people with disabilities are not required to participate in separate programs.

*It is the policy of the Town that all services, programs, and activities are provided in the most integrated setting appropriate to the needs of participants with disabilities. Persons with disabilities are not required to participate in separate programs even if separate programs specifically designed to meet their needs are offered.*

Town of Winchester, MA  
ADA Transition Plan  
March 2010

**NEW FORM  
AMERICANS WITH DISABILITIES ACT  
REQUEST FOR MODIFICATION OF PROGRAM**

New Form:  
Town of Winchester, MA  
Request for Modification of Program Form



REQUEST FOR MODIFICATION OF PROGRAM FORM

Please fax request form to 781-756-0505 (incomplete forms cannot be processed)

Date: \_\_\_\_\_

Requester's Name: \_\_\_\_\_

Requester's Address: \_\_\_\_\_

Requester's Phone: \_\_\_\_\_

Date requiring  
Modification of Program \_\_\_\_\_

Program Start Time: \_\_\_\_\_

Program End Time: \_\_\_\_\_

Program Location/  
Address of Event,  
Program or Service

Type of Request: \_\_\_\_\_

- Request to relocate Town program or activity from inaccessible location, for example, building, room, athletic field, stadium, et al, to accessible location.
  
- Requested accessible location for program (please list name and address)
  
- Modification of Program (please explain)
  
- Other (please explain)