



State of California  
Office of the Attorney General

**ROB BONTA**  
ATTORNEY GENERAL

June 14, 2022

To: All City and County Building Officials in California

RE: Accessible Design Standards for People with Disabilities

Dear Local Building Official:

California has long been a pioneer in requiring that both publicly and privately owned facilities be accessible to persons with disabilities.<sup>1</sup> However, architectural access to public and private facilities remains a challenge for Californians with disabilities. For example, in 2020, the California Commission on Disability Access received 9,532 complaints alleging construction-related physical access violations, including inaccessible parking and paths of travel.<sup>2</sup> The Office of the Attorney General is committed to ensuring that accessible design standards are complied with and enforced. I urge you to join us in our commitment to architectural accessibility by reviewing and updating your policies and protocols for compliance with accessible design standards for people with disabilities.

Local building departments are the front-line agencies for ensuring compliance with California's accessible design standards. (Gov. Code, § 4453, subd. (b); Health and Saf. Code, § 19958; Cal. Code Regs., tit. 24, part 2.) This compliance has two components: Local building departments must ensure that their own government's new construction and rehabilitation projects are accessible to people with disabilities, while also working directly with private developers to ensure accessibility in new construction and rehabilitation projects, and review accessibility complaints from the public.

Multiple state laws set minimum requirements for developers to design and construct facilities that are accessible to, and usable by, people with disabilities. The California Building

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<sup>1</sup> Our state laws predate the federal Americans with Disabilities Act (ADA) by over 20 years. For example, both Government Code section 4450 and the California Disabled Persons Act were passed in 1968.

<sup>2</sup> Cal. Com. on Disability Access, *2020 Annual Report to the Legislature* (2020) at pp. 19-31 <<https://www.dgs.ca.gov/-/media/Divisions/CCDA/2020-Annual-Report-to-the-Legislature.pdf?la=en&hash=AFC03EB43CF91FFAD0D20011F993DC20ECA2C518>> (as of May 20, 2022).

Standards Code (the Code) sets scoping and technical requirements for all new construction and rehabilitation projects in the State, with a particular focus on accessibility for people with disabilities in Chapters 11A and 11B.<sup>3</sup> In addition to the state standards, the Code requires facilities to conform to at least the same level of accessibility as the federal Americans with Disabilities Act (ADA, 42 U.S.C. § 12101 et seq.). (Gov. Code, § 4459.) Government Code section 11135 also incorporates the ADA for programs or activities that are conducted, operated, or administered by the State; are funded directly by the State; or receive any state financial assistance. In the housing context, the California Fair Employment and Housing Act (FEHA) also requires developers to design and construct covered housing projects with certain accessible features. (Gov. Code, § 12955.1.)

Local jurisdictions and developers must also be aware of other accessible design standards in federal laws and their implementing regulations. Both public and private entities are subject to the ADA.<sup>4</sup> (42 U.S. Code § 12131 et seq. and 42 U.S. Code § 12181 et seq.) Entities subject to the ADA must also comply with the 2010 ADA Standards for Accessible Design.<sup>5</sup> Section 504 of the Rehabilitation Act of 1973 requires accessibility and prohibits discrimination against people with disabilities under any program or activity receiving federal financial assistance. (Section 504, 29 U.S.C. § 794.) Recipients of federal financial assistance subject to Section 504 must also ensure that their projects comply with related regulations.<sup>6</sup> Both public and private multifamily housing developments must comply with the accessibility requirements of the Fair Housing Amendments Act of 1988 (FHAA, 42 U.S.C. § 3601 et seq.) and its implementing regulations and related guidance.<sup>7</sup> If such developments receive federal financial

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<sup>3</sup> Further information on the California Building Standards Code's accessible design requirements, including the *State of California Access Compliance Advisory Manual*, is available at the Department of General Services, Division of the State Architect's website (see <<https://www.dgs.ca.gov>> and <<https://www.dgs.ca.gov/DSA/Resources/Page-Content/Resources-List-Folder/Access-Compliance-Reference-Materials>> [as of May 20, 2022]).

<sup>4</sup> Title II of the ADA applies to state and local public entities. Title III of the ADA applies to places of public accommodation owned, leased or operated by a private entity. This includes businesses that are generally open to the public such as restaurants, movie theaters and day care facilities, as well as commercial facilities such as factories, warehouses, or office buildings. Further information about both Title II and Title III of the ADA is available at the U.S. Department of Justice (U.S. DOJ) ADA website (see <[https://www.ada.gov/ada\\_title\\_II.htm](https://www.ada.gov/ada_title_II.htm)> and <[https://www.ada.gov/ada\\_title\\_III.htm](https://www.ada.gov/ada_title_III.htm)> [as of May 27, 2022]).

<sup>5</sup> U.S. DOJ, *ADA Standards for Accessible Design* (2010) <[https://www.ada.gov/2010ADASTandards\\_index.htm](https://www.ada.gov/2010ADASTandards_index.htm)> (as of May 20, 2022); U.S. DOJ has published a guidance document on the 2010 ADA Standards for Accessible Design (U.S. DOJ, *Guidance on the 2010 ADA Standards for Accessible Design* (Sept. 15, 2010) <<https://www.ada.gov/regs2010/2010ADASTandards/Guidance2010ADASTandards.htm>> [as of May 20, 2022]). Local building departments can find further ADA compliance information for both local governments and businesses at the same website (U.S. DOJ, *ADA Technical Assistance* <<https://www.ada.gov/ta-pubs-pg2.htm>> [as of May 20, 2022]).

<sup>6</sup> 24 C.F.R. Part 8 and U.S. Access Board, *Uniform Federal Accessibility Standards (UFAS)* (1984) <<https://www.access-board.gov/aba/ufas.html>> (as of May 20, 2022).

<sup>7</sup> U.S. Dept. of Housing and Urban Development (HUD), *Fair Housing Accessibility Guidelines*, 58 Fed. Reg. 9472 (Mar. 6, 1991); HUD, *Fair Housing Act Design Manual* (Apr. 1998)

assistance from the U.S. Department of Housing and Urban Development (HUD), they should also look to HUD's 2014 Alternative Accessibility Standard or "Deeming Notice" for information regarding compliance with the ADA and Section 504.<sup>8</sup>

Multiple state and federal accessible design standards may apply to a single development. The state of California offers several resources to facilitate compliance with state and federal accessible design standards. For example, a state-certified expert known as a Certified Access Specialist (CASp)<sup>9</sup> can advise developers and conduct inspections with regard to accessible design. Additionally, the California Capital Access Program's ADA (CalCAP/ADA) Financing Program assists small businesses with financing the costs to alter or retrofit existing small business facilities to comply with ADA requirements.<sup>10</sup>

The obligation to make facilities accessible to people with disabilities does not end when the building is completed. Following construction of a development, owners and operators of facilities must comply with state and federal obligations to provide program access and make reasonable accommodations and reasonable modifications where necessary to provide an individual with a disability equal opportunity to use and enjoy the premises. (Gov. Code, §§ 12955, subd. (a), 12927, subd. (c)(1) (FEHA); Civ. Code, § 51, subd. (b) (Unruh Act); Civ. Code, § 54.1, subds. (a)(1), (b)(3)(B) (Disabled Persons Act); 28 C.F.R. §§ 35.130 and 36.201-36.202 (ADA); 29 U.S.C. § 794 and 24 C.F.R §§ 8.20, 8.24, 8.33 (Section 504); 42 U.S.C. §§ 3604(f)(2)(A), 3604(f)(3)(B) (FHAA).) Local jurisdictions must also ensure their land use and zoning codes provide for reasonable accommodations.<sup>11</sup>

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<<https://www.huduser.gov/portal/publications/destech/fairhousing.html>> (as of May 20, 2022); and HUD and U.S. DOJ, *Joint Statement of HUD and the DOJ Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings under the Fair Housing Act* (Apr. 30, 2013) <<https://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.pdf>> (as of May 20, 2022).

<sup>8</sup> HUD, *Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities*, 79 Fed. Reg. 29671 (May 23, 2014) <<https://www.regulations.gov/document/HUD-2014-0042-0001>> (as of May 20, 2022).

<sup>9</sup> For more information regarding CASp property inspection, see the Division of the State Architect website at <<https://www.dgs.ca.gov/casp>> (as of May 20, 2022). A CASp inspection may also provide small businesses some protections against technical accessibility violations. The Division of the State Architect outlines these protections in the "Business Owners Frequently Asked Questions" section of its website at <<https://www.dgs.ca.gov/DSA/Resources/Page-Content/Resources-List-Folder/Certified-Access-Specialist-Property-Inspection>> (as of May 20, 2022).

<sup>10</sup> Cal. St. Treasurer, *Americans with Disabilities Act Financing Program* <<https://www.treasurer.ca.gov/cpcf/calcap/ada/summary.asp>> (as of May 20, 2022).

<sup>11</sup> For further guidance, see the Cal. Dept. of Housing and Community Development (HCD)'s website. (HCD, *Building Blocks* <<https://www.hcd.ca.gov/community-development/building-blocks/constraints/constraints-for-people-with-disabilities.shtml>> [as of May 20, 2022].) See also "Addressing Land Use and Zoning Barriers to Fair Housing for People with Disabilities," Attorney General Rob Bonta, letter to all cities and counties in California, June 14, 2022.

Further, state law requires every local building department to have disability-access complaint and inspection procedures. (Gov. Code, § 4453, subd. (b); Health and Saf. Code, §§ 17951, 19958; Cal. Code Regs., tit. 24, part 2, §§ 1.8.3, 1.8.5, 1.9.1.4.3.)

The Office of the Attorney General has a role in ensuring compliance with these requirements. To ensure uniform and adequate enforcement of California accessible design laws and regulations, the Attorney General has been vested with the authority to investigate complaints and bring legal actions to remedy violations. (Cal. Const., art. V, § 13; Gov. Code, § 4458; Health and Saf. Code, § 19958.5.) This may include investigating allegations that a local building department is not adequately enforcing accessible design laws and regulations, and filing civil actions to remedy such problems when they are identified. Government Code section 4452 also requires correction of deviations from accessible development regulations within 90 days of discovery of the existence of such deviations.

Local building officials have a critical role in ensuring that developers understand and follow accessible design standards for public and private facilities from the outset of construction or rehabilitation and throughout their operation as public accommodations. Thank you for your time in reviewing this letter, and your anticipated effort to ensure enforcement and awareness of state and federal accessible design standards so that Californians with disabilities may have equal access to public and private facilities throughout the state. If you have any questions or comments, please feel free to contact Michael L. Newman, the Senior Assistant Attorney General for the Civil Rights Enforcement Section, which includes the Department of Justice's Disability Rights Bureau. Mr. Newman may be reached at [Michael.Newman@doj.ca.gov](mailto:Michael.Newman@doj.ca.gov).

Sincerely,



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Attorney General