



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
MARGARET M. O'NEILL BUILDING
410 FEDERAL STREET, SUITE 1
DOVER, DE 19901

VOICE: (302) 739-3620
TTY/TDD: (302) 739-3699
FAX: (302) 739-6704

MEMORANDUM

DATE: September 3, 2013

TO: Mr. John McNeal, ADA/Title II Coordinator
Delaware Department of Transportation

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: DeIDOT Proposed ADA Self-Assessment and Transition Plan

The State Council for Persons with Disabilities (SCPD) has reviewed the Delaware Department of Transportation's (DeIDOTs) proposed ADA Self-Assessment and Transition Plan. SCPD certainly appreciates the opportunity to review the Plan and the Department's collaboration with Council regarding this important issue. Council has the following observations on the proposed Plan.

First, SCPD provided comments on a previous draft in September 2011 (attached). The comments on that draft plan regarding the generic nature of the plan, the reliance on old data or lack of relevant data, and the lack of specificity and timelines regarding how DeIDOT is going to reevaluate existing conditions and meet or maintain ADA compliance standards and program accessibility remain apt. The Plan would benefit greatly from such information. In addition, other previous SCPD observations and recommendations on certain sections, which would appear to benefit DeIDOT and its Plan, were not included in the latest version (e.g. Driver & Vehicle Licensing; Public Workshops; Correspondence).

Second, SCPD appreciates that DeIDOT revised the "Relationship to Other State of Delaware ADA Activities" section consistent with previous Council recommendations.

Third, while Transition Plan Management (page 8) first references that the plan will be reviewed "periodically", it does appear to later clarify that this will occur "annually". The more specific timeline, i.e. "annually", is preferred. In addition, SCPD appreciates that any alteration to the intent of the Plan will be open for public review and comment, and that there is a link for continual public review through DeIDOTs website.

Fourth, the proposed Grievance Procedure (page 12) is not necessarily the same one “used by the rest of the State of Delaware”. It appears the DelDOT proposed Grievance Procedure is based on the Grievance Procedure used by the Office of Disability Affairs. There are other procedures used in the State Merit System and/or by individual State agencies. In addition, the proposed Grievance Procedure should not be used just for “reasonable accommodation”. It should be applied to any program provided by or maintained by DelDOT which is simply out of compliance with ADA standards (e.g. rest areas, pedestrian facilities). DelDOT should revisit this section and make the necessary revisions.

Sixth, SCPD appreciates the proactive inclusion of the section regarding Communications (page 12) and other accessibility provisions to enhance public involvement.

Seventh, under Funding (page 23), DelDOT reports that, due to an agreement with the U.S. Department of Justice, it would spend \$150,000/year to fund curb ramp installations. However, there is no evidence that funding has actually been spent. Indeed, DelDOT is transparent in its admission that: “(d)ue to changes in personnel we do not currently have comprehensive documentation regarding the remediation status of each location and must review project files to determine whether all identified locations have been addressed. This is unacceptable given that the USDOJ Settlement Agreement was signed in 2004. Parenthetically, the agreement requires that DelDOT issue a report annually to SCPD (and others) regarding curb retrofitting and public comments received. To date, SCPD has never received such a report.

Eighth, under Buildings (page 27), how can DelDOT conclude that no remediation work for local offices, including maintenance yards, is required if ADA compliance inspections are somewhat outdated (please see reference to 2001 at page 16)?

Ninth, SCPD appreciates that it is referenced in the Plan as a resource for technical assistance and collaboration with DelDOT (e.g. Public Information and Involvement at page 28).

Tenth, under Funding (page 29), DelDOT should be specific regarding the funding needed to rectify the deficiencies identified through the Self-Evaluation.

Eleventh, the language from the Delaware Code regarding SCPD in Appendix A is outdated. Attached please find an updated version.

In summary, SCPD appreciates the efforts by DelDOT to finally develop a more comprehensive ADA Self-Assessment and Transition Plan and the transparency in disclosing deficiencies in ADA program accessibility. However, the Plan still lacks specific action steps, timelines and dedicated funding which are fundamentally required if DelDOT is truly going to strive to achieve ADA compliance and program accessibility. SCPD welcomes the opportunity for continued collaboration and will certainly provide any technical assistance needed regarding this initiative.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the Plan.

cc: Disabilities Law Program
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

ADA Transition Plan – SCPD comments 8-30-13

Hodges Kyle (DSHS)

From: Hodges Kyle (DSHS)
Sent: Wednesday, September 28, 2011 2:50 PM
To: Reeb Ralph (DeIDOT)
Cc: 'Laura J. Waterland'

Attachments: grevproc.00.doc; ADA Transition Plan - my comments track.doc

Hi Ralph - thanks for sharing the draft DeIDOT ADA Transition Plan and sorry for the delay in getting back to you. I believe the draft is a good starting point, but have the following general comments:

- The plan is fairly "generic" at this point. It would benefit from more specifics, including timelines for completion of initiatives.
- At times it relies on old data (e.g. 2001 data for maintenance yards, 1990's and 2001 for toll facilities and bldgs.) Timelines to reevaluate should be included.
- The plan speaks to current accessibility (and very general future evaluations) of DeIDOTs programs, buildings and services, but would benefit from information (greater specificity and timelines) on how the Dept. is going to maintain program accessibility.
- In meeting with you in the past, you noted that DeIDOT is currently surveying roads, intersections, etc. for accessibility compliance. Is this what is being referred to in the section regarding Pedestrian Facilities? Or, is this part of the Complete Streets Policy? In any event, greater detail on the current surveying should be included.....in other words, give yourself some credit.
- Appendices and links were not provided, but that may have been intentional at this point.
- The link for the 2010 ADA Standards which is referenced in my attached recommendations/comments is: <http://www.access-board.gov/ada/index.htm>
- Regarding the Grievance Procedure, the State's procedure appears to be more of one directed at employee issues. See: <http://www.delawarepersonnel.com/search/mrules.asp?page=Sections&ID=18.0>. You may want to reference the State ADA Grievance Procedure which is attached. I am certainly open to revising this if needed.

I have attached the plan with some recommendations and further comments in the track changes format. Hope it makes sense and please contact me with any comments questions. I have also copied Laura Waterland. I provided Laura with a copy of the plan, and her and I discussed some of the recommendations.

Thanks for your efforts on this.

Kyle Hodges
State Council for Persons with Disabilities
410 Federal Street - Suite 1
Dover, DE 19901
(302) 739-3620
Kyle.Hodges@state.de.us
www.scpd.delaware.gov

ADA Transition Plan
DRAFT 3
2011

DelDOT

1. INTRODUCTION

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, is a federal civil rights law prohibiting discrimination against individuals on the basis of disability. The ADA consists of five titles providing protections in the following areas:

Formatted: Justified

- Title I - Employment
- Title II - State and local government services
- Title III - Public accommodations
- Title IV - Telecommunications
- Title V - Miscellaneous Provisions

Title II of ADA pertains to the programs, activities and services public entities, such as State departments of transportation, provide. As a provider of public transportation services and programs, Delaware Department of Transportation (DelDOT) must comply with this section of the Act as it specifically applies to state public service agencies and state transportation agencies. Title II of ADA provides that, "...no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." (42 USC. Sec. 12132; 28 CFR. Sec. 35.130) A public entity may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible. In other words, a public entity'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 a public entity. Facilities include not only DelDOT buildings but also facilities used to conduct public workshops, as well as buses, bus stops, sidewalks, etc.

DelDOT's goal is to provide accessible state-owned transportation programs and systems including all facilities located in the state owned right-of-way for all persons living in, working in, or traveling in Delaware.

Relationship to Other State of Delaware ADA Activities

~~The State of Delaware has several standing committees that serve as a voice for members of Delaware's disability community. These committees are composed of citizens with disabilities and their advocates, several councils and boards which address the needs of individuals with disabilities across the lifespan. Membership includes persons with disabilities, family members, advocacy organizations, service providers and state agencies and they propose and promote legislation, regulations and policies to improve the lives of persons with disabilities. These committees-councils provide important feedback and invaluable real-life experience regarding how persons with disabilities use State facilities, programs and services, including DelDOT's, and provide~~

guidance regarding improvements that are needed. ~~The work of these Committees is coordinated under the State Council for Persons with Disabilities. The State of Delaware code describing this committee is included in Appendix zzzz. Such councils include the State Council for Persons with Disabilities, Developmental Disabilities Council and Governor's Advisory Council for Exceptional Citizens. In addition, the Elderly and Transit Advisory Committee advises the transportation, programs and services provided under the Delaware Transit Corporation. Finally, the Architectural Accessibility Board reviews the standards for the design and construction of all state-owned facilities, and facilities constructed or altered with state funds, to ensure that the built environment regarding these facilities is safely accessible to, and usable by, persons with disabilities.~~

Comment [K1]: Flagged per Ralph

Appendix zzzz provides further information on these groups.

Transition Plan Need and Purpose

The Transition Plan, as required by CFR 35.150 (d) must include at a minimum, the following:

- Identification of the physical barriers that limit accessibility to the public entity's programs, services, or activities for people with disabilities,
- Description of the methods to be used to make the facilities accessible,
- A schedule for making the necessary modifications, including a yearly schedule and,
- The name and contact information for the public official responsible for implementation of the Transition Plan.

As required by Title II of ADA, 28 CFR. Part 35 Sec. 35.105 and Sec. 35.150, DelDOT has conducted a self-evaluation of its policies, services, and facilities and developed this Transition Plan identifying the actions the Department will take to render all of its facilities, services, programs, and activities accessible to all individuals.

Formatted: Justified

The purpose of this Transition Plan document is to present the Department's Self Evaluation and identify the actions the ~~Delaware Department of Transportation~~ (DelDOT) will take in order to transition the transportation system in the State of Delaware to be accessible in compliance with the requirements of the Americans with Disabilities Act.

Transition Plan Management

This Transition Plan is intended to be a "living" document that will be reviewed periodically but not less frequently than the schedule for the review of the State Transportation Plan. This plan will be updated as appropriate in order to keep pace with changes in standards and system conditions. The expectation is that the reviews will

Comment [K2]: Flagged per Ralph

Comment [kh3]: This would benefit from better specificity (e.g. timelines for review)

occur on a four year cycle. The Transition Plan will continue for a number of years until all pedestrian facilities are compliant. The program is expected to continue after that for future plans and construction projects, maintenance, etc. To streamline plan updates and keep the document current and relevant, appendices will be updated annually if new information is available and does not alter the intent of the transition plan. When an appendix update is found to alter the intent of this Transition Plan the appendix and affected section(s) will be opened for public review and comment. This anticipated review schedule may be altered as needed in response to changes in guidance from the United States Access Board, Federal policy, and DelDOT policy. DelDOT's Transition Plan is available for continual public inspection through DelDOT's website ([insert hyperlink](#)).

The ADA and its Relationship to Other Laws

Title II of ADA is companion legislation to two previous federal statutes and regulations: the Architectural Barriers Acts of 1968 and Section 504 of the Rehabilitation Act of 1973.

The Architectural Barriers Act of 1968 is a Federal law that requires facilities designed, built, altered or leased with Federal funds to be accessible. The Architectural Barriers Act marks one of the first efforts to ensure access to the built environment.

Section 504 of the Rehabilitation Act of 1973 is a Federal law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency. Title II of ADA extended this coverage to all state and local government entities, regardless of whether they receive federal funding or not.

When addressing accessibility needs and requirements, it is important to note that ADA and Title II do not supersede or preempt state or local laws that may offer equivalent or greater protections.

Under Title II, State Departments of Transportation including DelDOT must:

- Operate their programs so that, when viewed in their entirety, the programs are accessible to and useable by individuals with disabilities (28 C.F.R. Sec. 35.150).
- Not refuse to allow a person with a disability to participate in a service, program or activity simply because the person has a disability (28 C.F.R. Sec. 35.130 (a)).
- Make reasonable modifications to policies, practices, and procedures that deny equal access to individuals with disabilities unless a fundamental alteration in the program would result (28 C.F.R. Sec. 35.130(b) (7)).
- Not provide services or benefits to individuals with disabilities through programs that are separate or different unless the separate or different measures are

necessary to ensure that benefits and services are equally effective (28 C.F.R. Sec. 35.130(b)(iv) & (d)).

- Take appropriate steps to ensure that communications with applicants, participants and members of the public with disabilities are as effective as communications with others (29 C.F.R. Sec. 35.160(a)).
- Designate at least one responsible employee to coordinate ADA compliance [28 CFR § 35.107(a)]. This person is often referred to as the "ADA Coordinator." The public entity must provide the ADA coordinator's name, office address, and telephone number to all interested individuals [28 CFR § 35.107(a)].
- Provide notice of ADA requirements. All public entities, regardless of size, must provide information about the rights and protections of Title II to applicants, participants, beneficiaries, employees, and other interested persons [28 CFR § 35.106]. The notice must include the identification of the employee serving as the ADA coordinator and must provide this information on an ongoing basis [28 CFR § 104.8(a)].
- Establish a grievance procedure. Public entities must adopt and publish grievance procedures providing for prompt and equitable resolution of complaints [28 CFR § 35.107(b)]. This requirement provides for a timely resolution of all problems or conflicts related to ADA compliance before they escalate to litigation and/or the federal complaint process.

DeIDOT's Compliance History

Following the passage of ADA on July 6, 1990, DeIDOT took initial steps to identify and address Title II requirements. In December of 1991, DeIDOT received direction from the local Federal Highway Administration (FHWA) division to complete a curb ramp assessment and transition plan to comply with the new law.

During the same timeframe, the Delaware Department of Administration Administrative Services conducted an assessment of all state owned and leased properties to identify barriers to be corrected by the individual agencies. According to available records, all employee occupied buildings were retrofitted to meet the ADA requirements outlined in 1990 and all subsequent new construction has followed Delaware Building Codes which meet or exceed ADA requirements.

Comment [K4]: Flagged per Ralph

From 1992 to 1999, DeIDOT's ADA efforts were largely decentralized, focusing primarily on reasonable accommodation for employees and transit, with compliance and oversight being the responsibility of individual offices and programs. In 1999 DeIDOT's efforts to implement the ADA requirements, with regard to the removal of pedestrian barriers, were reviewed by the US Department of Justice. Subsequently DeIDOT entered into an agreement with the US Department of Justice to budget \$150,000 dollars per year for retrofits until the transition to a fully accessible system was completed. A copy of the agreement is included in **Appendix ZZ**. The intention was that while the retrofit requirements identified in the ADA were being applied to the existing system, DeIDOT would be meeting compliance with all new construction and

reconstruction projects. During this time, DeIDOT did not maintain a centralized transition plan.

DeIDOT's subsidiary, DART First State, began conducting ADA Title II training in 19xx. The training provides an introduction to ADA Title II requirements and is offered to local partners and DeIDOT engineers/employees in maintenance, design, construction and planning. *Is this accurate – DART's training is offered to DeIDOT engineers/employees?*

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Font color: Red

In 2001, the buildings and related structures that are under the jurisdiction of DeIDOT were surveyed, and those elements representing architectural barriers to persons with disabilities were identified and documented in written reports. Similar work was done with regard to the Transit System. The reports from these efforts are available online and the links to the reports are provided in **Appendix (?)**. The work of conducting a similar analysis of the roadway and related components, including curb ramps, has been accomplished sporadically over time and is still in the process of completion.

Comment [kh5]: Insert timeline for completion.

In 2001, ADA became a point of focus with the Access Board's issuance of the draft rules for public rights of way and the expiration of the moratorium on detectable warning surfaces. DeIDOT provided comment to the draft rules in October of 2001, but only became aware of the detectable warning requirement in July of 2002 through an FHWA memo. A revised standard plan with truncated domes was issued in 2003 and has been required in new construction, reconstruction and alterations since 2003. In 2005, the Access Board issued a revision of the draft rules, titled Public Rights of Way Accessibility Guidance (PROWAG), to be utilized as best practices. The lifting of the detectable warning surfaces moratorium and the publication of PROWAG was the first new guidance affecting public rights of way since the initial passage of ADA in 1990.

Comment [K6]: Explanation of detectable warning surfaces? Flagged per Ralph

In 2006, an internal DeIDOT ADA working committee was formed. The workgroup included representation from the FHWA and key areas of DeIDOT: Planning, Operations and Maintenance, Traffic, Office of Information Technology, Transportation Solutions, DART, and Legal. The primary task of this group was to systematically evaluate the Department's progress with regard to complying with the requirements of the ADA and provide guidance to DeIDOT management regarding accessibility program needs. The product of this group was a briefing paper completed in 2007. The recommendations incorporated into that briefing paper were never formally adopted.

Comment [kh7]: Is there be anything useful in this paper that could be used for this plan? May I get a copy?

Starting in 2008, DeIDOT developed guidelines for use in designing and constructing facilities such as pedestrian curb ramps for use by persons with disabilities. These ADA Guidelines are in draft form but have not been issued yet by the Department. The expectation is that this draft guidance will be replaced by the Public Rights-of-Way Accessibility Guidelines (PROWAG) at some point in the future when the PROWAG becomes the adopted national standard. At that time DeIDOT will integrate the PROWAG into the Road Design Manual and other technical guidance.

Comment [kh8]: Not clear why DeIDOT is waiting. It may be better to reference the 2010 ADA Standards for Accessible Design which includes things such as pedestrian curb ramps

In yyyy, DeIDOT updated its policy and procedures to more effectively respond to requests for Accessible Pedestrian Signals (APS). The policy and procedures require

the installation of APS at every signalized intersection and at every pedestrian crossing in new and reconstruction projects. In addition DeIDOT responds to individual requests for APS installations.

In November 2010, the FHWA conducted a Civil Rights Assessment to assess agency Title II compliance and determine needs in this area as part of a larger assessment of the Department's Civil Rights responsibilities. One of the conclusions of the assessment was that DeIDOT had not completed the Self Evaluation and had not completed the Transition Plan required by federal law. As a result of the assessment, DeIDOT took the following actions:

- Designated an Interim ADA Title II Coordinator.
- Appointed a Work Group tasked with completing the Transition Plan including the Self Evaluation.
- Drafted a Notice of Non-Discrimination to provide information about the rights and protections of ADA to employees and applicants, as well as participants and users of DeIDOT services, programs and activities.
- Identified the State grievance/complaint process as the process DeIDOT will follow to address or correct user concerns related to inaccessible transportation programs, services, or facilities that are under DeIDOT's jurisdiction.

Program Location and Staffing

Managing and implementing the DeIDOT ADA Transition Plan requires a multidisciplinary approach encompassing policy development, public involvement and outreach, technical support for project development, maintenance expertise, operations expertise, and progress monitoring and reporting. These responsibilities, required by 28 CFR 35.107, are not currently the sole effort of any one individual on a ~~day-to-day~~daily basis but are addressed on an as-needed or ad hoc basis.

The ADA Title II Coordinator is intended to be located in the Civil Rights group under the direction of the Technology and Support Services Division and reports to the Civil Rights Administrator. The ADA Title II Coordinator is to be responsible for developing policies and procedures to integrate Title II requirements into DeIDOT practices to ensure that the obligations of the ADA and the Transition Plan are met. Additionally, the ADA Coordinator is responsible for tracking the overall progress of the implementation of the Transition Plan. The responsibilities of the ADA Title II Coordinator are described more fully below.

Grievance Procedure

The Americans with Disabilities Act affords users of public facilities and services the right to file a grievance if they believe they have not been provided reasonable accommodation. The ADA requires (28 CFR 35.107) that DeIDOT adopt a Grievance Procedure. DeIDOT follows the same Grievance procedure as the rest of the State of

Delaware, which can be found in Appendix A of this report or on the State of Delaware's accessible website insert hyperlink here. The website provides details on how to file a complaint. Under the Grievance Procedure, a formal complaint must be filed within 180 calendar days of the alleged occurrence. DeIDOT will act or respond to complaints made through the grievance process.

Comment [kh9]: See comments on email and make necessary changes. Where did the 180 days come from?

Communications

According to Section 35.160(a) of the ADA, "...A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others." This means that DeIDOT is required to provide equally effective communication to individuals with disabilities. Equally effective communication can be provided by offering alternative formats, auxiliary aid(s) and/or services upon request. For example, interpreters are hired as requested for the hearing impaired individuals with hearing loss, and text materials that are accessible by screen readers are made available to users.

Comment [kh10]: How is this accomplished. For example, what is the process for DeIDOT to get the interpreter? Do they contract with an agency or individual? Do they maintain a list of qualified interpreters?

Website Communications

DeIDOT will fully comply with or exceed the standards set by the Office of Information Technology (OIT) regarding compliance with this law. DeIDOT is participating in a committee to set the state standard, and will participate in future committees advising on needs for training and oversight. We anticipate that ~~OET~~-OIT will set the standard at WCAG 2.0, compliance level AA. What do WCAG and level AA mean?

Comment [kh11]: Is the standard developed? If so, it should be referenced. If not, a timeline for completion should be included

Formatted: Font: Italic

Public Involvement

DeIDOT believes that broad public participation is essential to the development of Delaware's transportation system. As required by the ADA and DeIDOT's public participation policy, any public meeting, hearing, or comment period held by DeIDOT is accessible. DeIDOT provides qualified interpreters upon request and will provide documents in an accessible electronic format or other alternative formats, such as large print or Braille. All public notices are required to contain contact information for accommodation requests, and the means by which special accommodations can be requested are indicated on the meeting notice. Public meetings, training opportunities, programs, and other events are required to be in an accessible location. One of the recommendations from the CR Assessment was that we need a department-wide official policy that describes the process to notify the public and other interested parties that auxiliary aids are available upon request. In our response, we committed to including this policy within the Transition Plan.

Formatted: Font: Italic

Comment [kh12]: You may want to include EDTAC as a group which provides input to DTC/DART.

Formatted: Font: Italic

Notice of Non-Discrimination

In accordance with the requirements of Title II of the ADA I recall that Carolann issued a message regarding non-discrimination – I'll look for more info on this.

Formatted: Font: Italic

Designation of an ADA Coordinator

The Section 504 regulation at 49 CFR § 27.13 and the Title II regulation at 28 CFR § 35.107 provide that the recipients with 15 or more employees, and at any public entity with fifty (50) or more employees must designate at least one employee to coordinate compliance with the respective regulations. The public entity shall make available to all interested individuals the name, office address and telephone number of the ADA Coordinator, while a Section 504 recipient, at a minimum, must inform the public of the identity of its Coordinator.

The State of Delaware has an ADA Coordinator. The employees of the Department of Transportation are employees of the State of Delaware, and as such DelDOT does not need ~~is not required to have its own~~ ADA Coordinator in order to comply with the requirements of the law. However, the FHWA has recommended that DelDOT also designate an ADA Coordinator in recognition of the specialized knowledge required to address some of the issues that are likely to arise related to the transportation system in Delaware. Therefore, DelDOT has agreed to designate a person to serve in this capacity, but this will require hiring a new person. The hiring process is expected to take several months, so DelDOT has named an Interim ADA Coordinator.

Comment [K13]: Flagged per Ralph

Comment [kh14]: If possible, include a projected date

Statement of Responsibility of ADA/504 Coordinator

The ADA/504 Coordinator is charged with the responsibility for coordinating, monitoring and ensuring the agency's compliance with Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, the ADA Amendments Act of 2008 and the 2010 ADA Standards for Accessible Design. ADA/504 Coordinator responsibilities include:

- Monitoring DelDOT's current policies and practices for implementing ADA/504.
- Identifying shortcomings in compliance and developing remedies.
- Evaluating remedial steps taken to eliminate the effects of discrimination.
- Monitoring complaint procedures that incorporate appropriate due process standards and providing for prompt and equitable resolutions of complaints filed under ADA/504.
- Ensuring DelDOT compliance with ADA/504.
- Collaborating and coordinating with the heads of major divisions and departments to enable ADA/504 compliance efforts.
- Establishing and maintaining collaborative relationships with critical external stakeholders, such as disability advocacy groups and organizations.
- Monitoring DelDOT's ADA/504 Transition Plan to ensure that all DelDOT facilities remain in compliance with applicable accessibility standards.
- Monitoring established procedures to ensure that requested auxiliary aids are provided for persons.
- Conducting annual reviews of ADA/504 program areas.

- Conducting ADA/504 training programs for DeIDOT managers and employees.
- Preparing a report of ADA/504 accomplishments and problem areas for the Federal Highway Administration Annual Assurance Report.
- Monitoring the preparation of ADA/504 information for dissemination to the general public, including the "Notice to the Public" offer to provide reasonable accommodation, upon request.
- Identifying, investigating, and eliminating ADA/504 discrimination when found to exist.

2. Self Evaluation of Current Conditions

The Department provides a variety of programs and services to the public through nine Divisions. While one major focus of attention in terms of compliance with the ADA standards and the removal of barriers has been and is expected to continue to be in the area of pedestrian facilities, the Department has taken a comprehensive approach to the creation of its Transition Plan beginning with the Self Evaluation Phase by identifying each of the programs or services it offers and then analyzing each to discover the extent to which each program and service is accessible.

Comment [kh15]: This entire section or remainder of the plan would benefit from DeIDOT's plan (in each area) on how it will maintain program accessibility (e.g. by providing surveys, self-evaluations with a predetermined and specified timeline).

DeIDOT's goal is to provide accessible state-owned transportation programs and systems including all facilities located in the state owned right-of-way for all persons living in, working in, or traveling in Delaware. This self-evaluation of DeIDOT transportation facilities, programs, services, and activities has identified where accessibility problems exist. This information will then be utilized to identify and prioritize actions needed to bring buildings, roadways, and pedestrian facilities into ADA compliance. DeIDOT will plan and act to ensure that our facilities, programs, services and activities are fully accessible.

Formatted: Justified

The Department's facilities, services, programs, and activities are organized in this Transition Plan under the following headings:

- Buildings;
- Design standards;
- Pedestrian facilities;
- Transit system;
- Rest areas;
- Driver and motor vehicle licensing;
- Toll facilities;
- Public information and involvement;
- Project development and construction;
- Maintenance;
- Policies.

Buildings

The buildings and office space occupied by DeIDOT are owned by the State of Delaware and managed by three different State agencies depending on the building or office space in question. Those agencies are the Office of Management and Budget, the Delaware Transit Corporation, and DeIDOT. The Americans with Disabilities Act Accessibility Guidelines (ADAAG), when adopted by the United States Architectural and Transportation Barriers Compliance Board, also known as the "Access Board", became the Standards to which DeIDOT's office space and buildings must conform. These standards have been

in place since 1990. The ADAAG Checklist for Buildings and Facilities was used as a tool during the DeIDOT Facilities ADA Site Inspections to assist in providing accessibility. When did the site inspections occur?

Comment [kh16]: Are all buildings owned by the state or are some leased? I would also include the 2010 ADA Standards for Accessible Design which can be used now instead of the old ADAAG and must be used by April 2012.

Public entities may achieve program accessibility by a number of methods. 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 public entity may, however, pursue alternatives to structural changes in order to achieve program accessibility. Nonstructural methods include acquisition or redesign of equipment, assignment of aides to beneficiaries, and provision of services at alternate accessible sites.

Office Buildings

The Headquarters Office building in Dover is managed by OMB as is the office space occupied by DeIDOT in the Carvel Office Building in Wilmington. OMB reviewed these buildings for conformity to the ADA Standards and made some modifications in the 90's and again in the 2003-2004 time periods.

The offices located in Bear, New Castle County / Chapman Road, Dover/Central District, and Georgetown are managed by DeIDOT. Each has a maintenance yard and/or shop associated with it and the entire set including all of the maintenance yards are managed within DeIDOT. Shouldn't we mention the four DMV locations, Smyrna Rest Area, I-95 Welcome Center, Toll facilities?

Comment [kh17]: When were buildings evaluated? Alterations and new constructions should be reviewed by AAB

Formatted: Font: Italic

Maintenance Yards

In 2001, DeIDOT, with the assistance of an Consulting Firm (Tetra Tech Inc.), conducted ADA compliance inspections of all of the Department's existing facilities including the Department's Headquarters, District offices, Maintenance Yards, and the Smyrna Rest Area to identify accessibility deficiencies and to offer appropriate solutions in order to meet the State's obligations under the ADA. DeIDOT has been implementing the recommendations of this assessment. **Appendix ZZ** contains a summary of the review.

Comment [K18]: Flagged per Ralph

Comment [kh19]: Old data.

Design Standards and Practices

All projects done by or for DeIDOT are governed by several adopted design standards that have been reviewed for compliance with ADA standards. These standards include:

Comment [kh20]: What design standards?

- DeIDOT Road Design Manual
- DeIDOT Standard Construction Details

- DeIDOT Standards and Regulations for Sub-division Streets and State Highway Access
- Manual on Uniform Traffic Control Devices (DE)

These standards are reviewed as national standards change and modified as needed to ensure that the standards by which projects are designed will help to ensure that any improvements made to the transportation system are fully accessible.

Pedestrian Facilities

Title II of the ADA specifically requires the provision of curb ramps or other sloped areas for all newly constructed or altered streets, roads and highways at any intersection having curbs or those barriers to entry from a street level pedestrian walkway. Public entities must also install curb ramps within existing sidewalks that are not otherwise being altered.

Until now DeIDOT has not conducted an inventory of the entire system of pedestrian facilities choosing instead to address accessibility deficiencies as part of projects intended to address known safety problems or demonstrated capacity problems. The transportation system in Delaware includes **28,000** intersections **800** of which are signalized. DeIDOT is currently in the process of completing an evaluation of the pedestrian elements of the transportation system to determine where barriers exist. This evaluation is being conducted using a prioritized approach beginning with that portion of the road system that is within Levels 1 and 2 of Delaware's **State Strategy for Policy and Spending** and along which transit service is also provided.

Comment [kh21]: DeIDOT may want to include short summary on the methodology of the evaluation. Timeline for completion should be included.

Transit System

The transit system in Delaware is operated by the Delaware Transit Corporation (DTC), a corporation created under the auspices of the Delaware Transportation Authority. They currently operate **49** fixed routes covering **yyy** miles including **3800** stops and **ww** hubs or transfer centers. The DTC has implemented its Transition Plan and has continuously assessed and modified its facilities since the early 1990s in order to maintain compliance with ADA standards. DTC operates a complimentary para-transit system that provides State-wide door-to-door service to accommodate those individuals who cannot use the fixed route system. The several ADA related analyses, reports, and plans can be found at (**website**). The DTC is currently evaluating all of its existing stops to determine whether they meet current ADA standards. In addition, they are evaluating the pedestrian access routes to those stops to determine whether there are modifications that should be made that would enable customers that currently

require the use of para-transit to enjoy the additional schedule flexibility afforded them by be able to use the fixed-route system.

Comment [kh22]: You may want to note that all fixed route buses are accessible. Timeline for completion of bus stops and pedestrian access routes should be included.

Rest Areas

DeIDOT currently has two Rest Areas. One is located on the east side of US13 just north of the City of Smyrna. The other is located in the median of I-95 north of the I-95 toll plaza.

In 2001, as part of a larger evaluation effort mentioned previously, DeIDOT, with the assistance of a consulting firm conducted an ADA compliance inspection of the Smyrna Rest Area to identify accessibility deficiencies and to offer appropriate solutions in order to meet the State's obligations under the ADA. ~~This~~ Smyrna Rest Area was reconstructed in the late 1990s and was built to be fully accessible.

Comment [kh23]: Old data. Have these been reevaluated? May need timeline for doing so.

The I-95 Rest Area was reconstructed in 2009 and reopened for use in 2010. It was designed and built to be fully accessible but there are some additional deficiencies that were identified on final inspection that will need to be remediated.

Driver and Motor Vehicle Licensing

The Division of Motor Vehicles provides driver licensing, motor vehicle registration and motor vehicle inspection services through four facilities located on the south side of Wilmington, in the Churchman's Crossing area of New Castle County, in Dover, and in Georgetown. At these locations the Division of Motor Vehicles provides services as follows:

Comment [kh24]: When were these facilities evaluated?

Driver Services:

- Licensing
- Legal ID
- Driver Improvement classes
- Handicapped licenses/ hang tags Placards

Vehicle Services:

- Safety Inspection
- Emissions inspection
- Registration
- Renewals
- Titles
- Uninsured motorist administration

All these Services require visits to our Lane Locations which are fully accessible. Do we need to mention the additional services provided in Dover – related to

motor fuel tax collection? Not sure if the public need to come to the office for these purposes.

Dover provides in office service for both IRP/IFTA for truck drivers. Also, Motor carrier has customers for both taxi and limo services.

Formatted: Font: Italic

Comment [kh25]: You may want to include a statement about program/service accessibility since DMV is so involved with the public. For example, I believe they have an interpreter policy for written drivers tests. Also, they must evaluate people's ability to safely drive which involves disability issues

Toll Facilities

DelDOT owns and operates three toll plazas. One is on I-95 at the western end of the state, near the border with Maryland. The other two are on SR1 just south of the C&D Canal and in Dover. The office building component at this location (was ??) assessed in 2001 along with the rest of DelDOT's buildings. The two Toll Plazas on SR1 were constructed during the late 1990s and were designed and built to existing ADA standards.

Comment [kh26]: Old data. When will they be revaluated?

Public Information and Involvement

DelDOT recognizes that the public for whom we work are also our customers. As such a major component of our work involves providing information to and receiving information from our customers. We provide and receive information through the following means:

- Public information – traffic conditions, Department programs, etc.
- Public workshops – projects, capital funding proposals, etc.
- Public Notices and Press releases
- Public events – ground breakings, ribbon cuttings, etc.
- Correspondence
- Website

Public Information

DelDOT offers a wide variety of information to the public through publications, our website, and other social media. The Department provides reasonable accommodations requests from members of the public with special needs. No provisions are routinely made to provide this information in a form useful to individuals with visual impairments. *Should this be one of our identified areas for improvement?*

Comment [kh27]: Yes

Formatted: Font: Italic

Public Workshops

Our current efforts to share information relating to projects include placing advertisements in newspapers, posting the notice on our website, and workshops to provide project explanations and garner information from the public regarding their ideas and preferences. DelDOT tries to ensure that the venues for public workshops are fully accessible. No special provisions are routinely made for

Comment [kh28]: This statement is a little weak. Public workshops should always be held in accessible locations

participants that are visually or hearing impaired. However, as stated in the public workshop advertisements, individuals with disabilities can make requests for such provisions reasonable accommodations which will be accommodated.

Comment [kh29]: Not sure you even need to include this sentence.

Public Notices and Press Releases

Under current practice, public notices and press releases are sent to media outlets and posted on the DelDOT website. A statement is included in all public notices informing those requiring special services (such as the ~~hearing impaired~~ individuals with hear loss) of the availability of the same ~~provision of~~ reasonable accommodations with advance notice, and DelDOT will provide public notices and press releases in a manner that the visually impaired are more easily able to read upon request.

Public Events

Events such as groundbreakings, ribbon-cuttings, or announcing modifications or additions to services involve media notices, invitations to guests, and accommodations for weather conditions. DelDOT tries to locate these public events in areas that can accommodate individuals with mobility challenges and the needs of individuals with hearing or visual impairments are accommodated upon request. Typically we do not have any standards-based provisions for handicapped accessibility, unless it is an indoor event at a facility with such provisions.

Comment [kh30]: Could this be included as an area for improvement as noted in another section.

Correspondence

DelDOT receives correspondence in the form of telephone calls, emails, and letters. The topics of these correspondence range from requests to compliments for good work by DelDOT staff. If a ~~hearing-impaired person with a hearing loss~~ should need to call us, they have the services of Delaware Relay in order to reach us. If we receive a letter determined to be from a visually-impaired person with a visual impairment, there is a protocol in responding by completing the letter in a larger font size. Recently an online form has been posted to the website as part of revised procedures for responding to Freedom of Information Act (FOIA) inquiries. *What is the significance of the online form?* Provisions for providing information to or gathering information from individuals with disabilities are made on an as-requested basis.

Comment [kh31]: Any idea on how many such calls you receive?

Comment [kh32]: How is this determined?

Website

DelDOT strives to adhere to best practices and website accessibility guidelines including:

- State of Delaware Government Information Center “Web Presentation Guidelines” at <http://dti.delaware.gov/pdfs/pp/clf/WebPresentationGuidelines.pdf>
- Federal Accessibility Act of 1998 Section 508 Guidelines at <http://www.section508.gov>
- Worldwide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG1 A) at <http://w3c.org>

Comment [kh33]: Bobby and WAVE accessibility tool may be others to include

The DelDOT web team reviewed the Department’s websites individually page by page just a few years ago *can we specify the exact year?* to discover and address accessibility issues.

Comment [kh34]: I recommend yes

Project Development and Construction

DelDOT’s current Project Development Process is accomplished through three major Phases. These phases are (1) developing alternative solutions to a given transportation problem or set of problems, (2) completing the engineering design and creating construction documents for the preferred alternative, and (3) constructing the project. This process is aided by the design standards noted previously which have been reviewed, and modified as needed, to comply with ADA standards.. The public, including persons with disabilities, are involved in this process as noted previously. During the construction phase accommodations are made to retain safe passage for pedestrians. Construction projects are inspected to ensure that the project is built according to the approved design and construction documents including ADA compliance.

Comment [kh35]: How are people with disabilities included?

Maintenance

DelDOT is responsible for the seasonal and structural maintenance of approximately ninety percent (90%) of the roadways and sidewalks in Delaware in addition to all of the transit system. DelDOT is examining its policies and procedures for maintenance of pedestrian facilities. DelDOT’s Division of Maintenance and Operations will be leading the policy development effort in partnership with a team representing DelDOT Planning, DTC, and the Deputy Attorney General assigned to the Department. The current goal is to have a policy developed and available for public review by fall of 2013.

The policy will identify operational guidance for maintaining sidewalks. Guiding the discussion is Federal Code 23 U.S.C. § 116, which obligates a State DOT to maintain projects constructed with Federal-aid funding or enter into a maintenance agreement with the appropriate local official where such projects

are located. The discussion will also address snow removal and ice treatment on sidewalks in accordance with 28 CFR § 35.133, which requires public agencies to maintain walkways in an accessible condition for all pedestrians, including persons with disabilities, with only isolated or temporary interruptions in accessibility. Part of this maintenance obligation includes reasonable snow removal efforts. Part of the challenge in establishing an effective snow management policy with complimentary operating standards and agreements will be to create and effective enforcement mechanism.

Policies

The Department has 52 published internal policies. Of these, seven (7) are related to DeIDOT's efforts to become and remain accessible. In particular, the Complete Streets policy specifically identifies travelers with mobility challenges as one of the reasons for the adoption of the policy and requires that all projects address the needs of these individuals by reason of the definition of Complete Streets as contained in the Policy and reproduced here as follows:

Comment [kh36]: Which ones?

The term "Complete Street" means a roadway that accommodates all travelers, particularly public transit users, bicyclists, pedestrians (including individuals of all ages and individuals with mobility, sensory, neurological, or hidden disabilities), and motorists, to enable all travelers to use the roadway safely and efficiently.

The Complete Streets Policy requires that DeIDOT produce an Implementation Plan that is intended to guide the Department's efforts to implement the policy. DeIDOT is currently in the process of writing this Implementation Plan.

Comment [kh37]: Include timeline for completion

Staffing

DeIDOT staff use ADA compliant standards to design and review plans. Currently staff is assembled on an ad-hoc basis in response to ADA issues as they arise. There is currently no staff whose sole full time function is to review and address ADA related issues as they arise. Further, there is currently no staff dedicated solely to reporting on progress toward attaining full accessibility. The Federal Government has provided some guidance regarding their view of the appropriate staffing for addressing ADA compliance in the document titled 2009 ADA Transition Plans: A Guide to Best Management Practices, NCHRP Project Number 20-7 (232). This document states that:

"Many of the staff members in these positions (of ADA Coordinator) have backgrounds that do not match the technical requirements that are needed to successfully complete the activities required to comply with ADA. This presents a roadblock for the agencies at the outset of the process and can lead to delays in compliance"

“Providing dedicated, trained staff within the Department for ADA compliance has a high correlation with successful drafting and implementation of Transition Plans, Self-evaluations, and Transition Plan updates

DeIDOT has identified a vacant position that it intends to use to hire a full time ADA Coordinator who will report to the Office of Civil Rights. This position needs to be reclassified in order for the position description to match the duties of the job. DeIDOT has made application to the Office of Management and Budget for this reclassification and is awaiting a response.

Comment [kh38]: Include timeline for completion.

Funding

Since 1999 all new projects are funded completely in accordance with our Road Design Standards and, since 2010, our Complete Streets Policy. Beginning in 1999, as the result of an agreement with the courts, DeIDOT budgeted one hundred fifty thousand dollars (\$150,000) per year to fund the installation of curb ramps at intersections around the state. The intention was for this money to continue to be allocated until the entire system is accessible. At this time, there is no tracking mechanism by which we are able to determine whether all of the projects constructed between 1992 and 1997 that did not have curb ramps have subsequently been repaired. There is currently no money specifically programmed to be used to install or repair sidewalks that are missing or out of compliance with ADA standards. The Department is developing a Complete Streets Implementation Plan to provide additional direction and details to assist in the project development and design process, but in general, the result of the Complete Streets Policy is that improvements for pedestrians are included in DeIDOT's projects.

Evaluation

DeIDOT is aware of the requirements of the Americans with Disabilities Act and alert to and sympathetic with the needs of the persons for whom this law provides careful consideration. Having reviewed the current conditions of the facilities, services, programs, and activities for which DeIDOT is responsible, we find that in general these services, programs, and activities are accessible with some exceptions. What follows below is our more specific assessment or evaluation of where we comply with ADA standards and where we need further work in order to comply. This more evaluation is presented under the same categories as the section above.

Buildings

Numerous building improvements have been made over the past ten years. However, we have not reported systematically on our progress or accomplishments. While we have removed all known barriers and will respond swiftly to any new ones that are identified, we need to conduct a systematic assessment of the degree to which identified barriers and deficiencies have been addressed and remediated and create a mechanism for tracking our progress toward full accessibility.

Comment [kh39]: As noted before, the remainder of this plan regarding future evaluations should include more specifics on how it is to be accomplished and timelines for reevaluations, surveys, etc. The AAB should be included as the entity to review DeIDOT plans on any new construction or alterations.

Design standards

DeIDOT's design standards are in compliance with current regulation and guidance. As standards change we will reassess and modify our standards from time-to-time as appropriate. No further work is needed at this time.

Comment [kh40]: Vague

Pedestrian facilities

The current effort to complete the evaluation of the sidewalk system and related traffic signal components needs to be finished over the next year so that a comprehensive project cost estimate can be completed and the money budgeted to complete the work.

Transit system

The transit system by reason of its State-wide para-transit program helps DeIDOT provide full access. However, the cost is very large and, where fixed route service is available, para-transit riders do not have the full schedule flexibility that fixed route riders do. Careful attention needs to be paid to the

Comment [kh41]: This sentence may need rewording.

access study that is currently under way in order to maximize the extent to which persons with disabilities can use the fixed route system. The system improvements identified through this study should be included in the work associated with modifying the current system of sidewalks, roads, and signals to meet ADA requirements.

Rest areas

The rest areas are fully accessible. No further work is needed at this time.

Driver and motor vehicle licensing

The buildings and structures that house the driver and motor vehicle licensing operations are currently in compliance with ADA standards. No further work needs to be done at this time. The web – based applications through which these services are provided need to be reassessed as part of the public information improvement effort to ensure that the web applications are fully accessible.

Toll facilities

While there is no current evidence to suggest that barriers exist, the current buildings and structures that house the toll collection operations should be reevaluated to ensure that they meet current ADA standards.

Public information and involvement

The Public Involvement Policy needs to be examined in concert with individuals with disabilities and/or those persons that represent such individuals to ensure a better understanding of how best to provide information to, and receive information from, persons with disabilities.

Website

The Department's web-site, including the ADA website, meets current ADA standards. No further work is needed at this time.

Project development and construction

The current approach to project development will only need to be modified to the extent that changes are made in the Public Involvement Process that relate to this portion of DeIDOT's responsibilities.

Maintenance

The current approach to maintenance particularly with regard to snow removal needs to be modified so that it complies with federal code and regulation. In addition DeIDOT will need to estimate the annual cost associated with the modified maintenance program, and funds will need to be allocated accordingly.

Policies

DeIDOT's policies support and help provide for full accessibility with the exception of the Public Involvement Policy. The Public Involvement Policy needs to be examined as noted above. In addition, the Complete Streets Implementation Plan needs to be completed and adopted in recognition of the fact that Complete Streets remove barriers and incomplete streets reduce the quality of life for those that live along and travel those incomplete streets.

Staffing

In addition to the ADA Coordinator that DeIDOT is working diligently to hire, the Department needs to determine how it will staff the effort to manage the implementation of the Transition Plan. In other States this has been the work of a specific individual or small group.

Funding

Special attention needs to be brought to bear on estimating the annual program amount that should be budgeted to bring the system into compliance as quickly as possible. In particular very high priority should be given to those improvements needed in the transit served areas of the State in an effort to facilitate the transition of eligible Para-transit riders onto the fixed-route services resulting in improved mobility for the riders and possibly some reduction in the cost of operating the Para-transit system.

§ 8210. State Council for Persons with Disabilities.

(a) There is hereby established a State Council for Persons with Disabilities.

(b) This Council shall have the following duties and responsibilities:

(1) Promote coordination among all state programs, services and plans established for or related to persons with disabilities.

(2) Review, on a continuing basis, all state policies, plans, programs and activities concerning persons with disabilities which are conducted or assisted, in whole or part, by state departments, agencies or funds in order to determine whether such policies, programs, plans and activities effectively meet the needs of persons with disabilities.

(3) Make recommendations to the Governor, the General Assembly and all state departments and agencies respecting ways to improve the administration of services for persons with disabilities and for facilitating the implementation of new or expanded programs.

(4) Provide the Governor, the General Assembly, all interested agencies and the general public with review and comment on all state legislative proposals affecting people with disabilities.

(5) Provide policymakers and the general public with analyses and recommendations on federal and local governmental legislation, regulations and policies affecting state programs and persons with disabilities.

(6) Propose and promote legislation, regulations and policies to improve the well-being of persons with disabilities.

(7) Serve as a central state clearinghouse for information and data regarding:

a. The current numbers of persons with disabilities and their needs;

b. The location, provision and availability of services and programs for persons with disabilities;

c. Any other relevant information and data about persons with disabilities which the council deems appropriate.

(8) Prepare and submit to the Governor and the General Assembly an annual report of the activities of the Council and the status of services and programs for persons with disabilities.

(9) Serve as advisory council for the Community-Based Attendant Services program established by Chapter 94 of Title 16.

(10) Serve as the primary brain injury council for the State. In furtherance of this role, the Council shall:

a. Fulfill the duties and responsibilities set forth in paragraphs (b)(1) through (8) of this section with respect to persons with brain injuries;

b. Maintain a standing brain injury committee to facilitate prevention and centralized interdisciplinary planning, assessment and an improved service delivery system for individuals with brain injury comprised of the following members, or designees of such members:

1. Director of the Division of Public Health;
2. Director of the Division of Developmental Disabilities Services;
3. Director of the Division of Substance Abuse and Mental Health;
4. Director of the Division of Aging and Adults with Physical Disabilities;
5. Director of the Division of Prevention and Behavioral Health Services;
6. Director of Division of Vocational Rehabilitation;
7. Exceptional Children Director of Department of Education;
8. Chair of Governor's Advisory Council for Exceptional Citizens;
9. Chair of Developmental Disabilities Council;
10. Minimum of 3 survivors of brain injury or family members of such

individuals; and

11. Representatives of prevention, planning, veterans and service delivery organizations appointed by the Council, including a representative of the state chapter of the Brain Injury Association of America and a representative of the "protection and advocacy agency" defined in § 1102 of Title 16.

(11) Serve as administrative agency for the Employment First Oversight Commission as established in § 745 of Title 19.

(c) For administrative purposes, this Council is placed within the Department of Safety and Homeland Security.

(d) This Council shall consist of the following members:

- (1) The Secretary of Health and Social Services, or a designee of the Secretary;

(2) The Secretary of Labor, or a designee of the Secretary;

(3) The Secretary of Education, or a designee of the Secretary;

(4) The Secretary of Services to Children, Youth and Their Families, or a designee of the Secretary;

(5) The following councils, committees, agencies and organizations shall elect 1 of their members to serve as a member of the Council:

a. The Governor's Advisory Council for Exceptional Citizens;

b. Developmental Disabilities Council;

c. Governor's Committee on Employment of Persons with Disabilities;

d. Advisory Council to the Division of Developmental Disabilities Services;

e. Advisory Council to the Division of Substance Abuse and Mental Health;

f. Architectural Accessibility Board;

g. Delaware Transit Corporation;

h. Council on Services for Aging and Adults with Physical Disabilities;

i. Advisory Council on Public Health [repealed];

j. Council on Deaf and Hard of Hearing Equality;

k. Criminal Justice Council;

l. State Rehabilitation Advisory Council; and

m. Other councils, committees, agencies and organizations as approved by both the State Council for Persons with Disabilities and the affected council, committee, agency or organization;

(6) Individuals appointed by Council to ensure that at least 50% of the total membership are individuals with disabilities or family members with disabilities. At least 33% of the total membership shall be composed of individuals with disabilities.

(e) Any vacancy of a representative position under paragraphs (d)(1)-(5) of this section shall be filled by the respective council, committee, agency or organization within 1 month.

(f) Any member who misses either 3 consecutive meetings or 4 out of any 12 consecutive meetings shall be presumed to have resigned from the Council.

(g) Members of the Council shall serve without compensation, except that they may be reimbursed by the Department of Safety and Homeland Security for reasonable and necessary expenses incident to their duties as members of the Council to the extent funds are available therefore and in accordance with state law.

(h) The Council shall elect its own Chairperson.

(i) The Council shall determine its meeting schedule, but there shall not be less than 4 meetings each calendar year, open to the public, held in an accessible place and with reasonable accommodations as requested.

(j) A simple majority of the total membership shall constitute a quorum which shall be necessary to vote on any issue.

(k) As used in this section, "persons with disabilities" means any person who has a physical or mental impairment which substantially limits 1 or more major life activities, has a record of such impairment.

(l) For purposes of this section, the operations and activities of the Division for the Visually Impaired and the Governor's Advisory Council on the Blind shall be exempt from the purview of the State Council for Persons with Disabilities.