
CITY OF BALTIMORE

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March 13, 2026

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 25-0126 – Accessibility in City Programs, Services, and Activities

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 25-0126 for form and legal sufficiency. The bill implements Title II of the Americans with Disabilities Act of 1990 (“ADA”) and the federal regulations implementing it and establishes the mandate that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a City agency, or be subjected to discrimination by a City agency. 42 U.S.C. § 12312; 28 C.F.R. 35. The bill also defines certain terms and generally relates to the City of Baltimore’s provision of public services to qualified individuals with a disability. The bill would take effect 180 days after it is enacted.

Federal and State Disability Laws

Several existing federal and state laws provide protection for individuals with disabilities. The ADA prohibits discrimination on the basis of disability in employment (Title I), State and local government (Title II), and public accommodations (Title III). Title II of the ADA applies to the City of Baltimore because it prohibits public entities from discriminating against qualified individuals on the basis of disability. 42 U.S.C. § 12132. A public entity is any state or local government and its agencies. 42 U.S.C. § 12131(1).

Additionally, Maryland law prohibits discrimination against individuals with disabilities by state or local governments. Md. Code, State Gov’t, § 20-901. State law also requires that “if an employee requests a reasonable accommodation, the employer shall explore with the employee all possible means of providing the reasonable accommodation.” Md. Code, State Gov’t § 20-609 (d). Like federal law, a reasonable accommodation must not impose an undue hardship on the employer. Md. Code, State Gov’t § 20-609 (a)(2).

The City has the authority to legislate in this area, subject to federal and state law. City Charter, Art. II, §§ (11), (27), (47). The City is not preempted from enacting local laws that expand protection for individuals with disabilities by federal or state law. 42 U.S.C. § 12201(b); *see also*

Worton Creek Marina, LLC v. Claggett, 381 Md. 499, 513 (2004)(discussing preemption); *City of Baltimore v. Sitnick*, 254 Md. 303, 317 (1969) (“The fact that an ordinance enlarges upon the provisions of a statute by requiring more than the statute requires creates no conflict therewith, unless the statute limits the requirement for all cases to its own prescription.”). City Council Bill 25-0126 codifies many of the requirements of Title II of the ADA, proactively provides communication services at City Council meetings and hearings, and ensures public access to agency accessibility plans and ADA Coordinator contact information.

Required Amendments

Amendments are needed to citations, definitions, and the effective communication and digital accessibility provisions to align with ADA requirements for local governments under Title II. Amendments are also needed to avoid a problem with the Contracts Clause of the federal Constitution and to comply with the Charter’s requirements for hiring of employees and workplace conditions. The process for making complaints about discrimination and resolutions of them also need amending.

Definitions

There are two incorrect citations in Section 4-1 of City Council Bill 25-0126. In Section 4-1(F), strike “28 CFR 35.130” and replace it with “42 U.S.C. § 12102”. In § 4-1(G), strike “The ADA, 42 U.S.C. § 12101(b)” and replace it with “28 CFR 35.130”. Federal regulations for the Web Content Accessibility Guidelines are outlined in 28 CFR § 35.200(b). Section 4-1(N) should include “as incorporated by reference in 28 CFR 35.200” after “...usable by individuals with disabilities.”

Effective Communication

Federal law extends effective communication protections to individuals with disabilities as well as companions of individuals with disabilities. 28 CFR 35.160(a). The language in Section 4-5 (A) of City Council Bill 25-0126 should be amended to include “companions”, and the definition of companions should be included in the definition section of the bill. The federal regulations define “companions” as “a family member, friend, or associate of an individual seeking access to a service, program, or activity of a public entity, who, along with such individual, is an appropriate person with whom the public entity should communicate.” 28 CFR 35.160(a)(2).

Federal regulations require public entities to “furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity.” 28 CFR 35.160(b)(1). “The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place.” 28 CFR 35.160(b)(2). The language in City Council Bill 25-0126 explicitly names several methods for effective communication; however, to ensure compliance with the ADA, the language of Section

4-5(B) should be amended to reflect the City's obligation to provide auxiliary aids and services based on the needs of the individual.

Digital Accessibility Policy

City Council Bill 25-0126 takes effect 180 days after it is enacted. However, federal law requires the City of Baltimore to comply with federal regulations on website/mobile application accessibility by April 24, 2026. *See* 28 CFR § 35.200(b)(1). The Law Department recommends amending the effective date for City Council Bill 25-0126 to April 25, 2026, or earlier to meet the federal deadline for digital accessibility compliance. Alternatively, that section of the bill could have that enactment date and the rest of the bill could have a later enactment.

Hiring

The City Charter gives the City's Board of Estimates power to "adopt such rules and regulations as it may deem appropriate to insure, so far as practicable, like working conditions for the employees in the several municipal agencies" and to approve collective bargaining agreements with labor unions. City Charter, Art. VI, § 12. The Charter also provides that the City's Civil Service Commission promulgates rules for the Human Resources Department, which is tasked with promoting merit and fitness in City employment. City Charter, Art. VII, §§ 95, 96.

In addition, the City is unable to enact a law that would impact existing contracts, especially contracts to which it is a party. U.S. Constit., Art I, s 10, cl. 1; *Garris v. Hanover Insurance Company*, 630 F.2d 1001, 1004 (4th Cir. 1980) (stricter scrutiny applies when the government enacts a law that impacts contracts to which it is a party).

For these reasons, in Section 4-3 of the bill, after "practices" in line 14 on page 4, the following language should be inserted: "in accordance with any applicable rules promulgated by the Board of Estimates and the Civil Service Commission and without violating any law or terms of any contract to which the City is a party, including a collective bargaining agreement."

Section 4-6 of the bill should also be amended to prevent a contracts clause problem by inserting "provided however that this section is applicable prospectively and is not to impact any existing contract or agreement" after the word "party" in line 5 on page 6.

Grievance Procedure

City agencies are unable to make regulations that command performance from other agencies but rather can only create regulations that impact their own agency operations. City Charter, Art. VII, § 1(b). The grievance procedure needs to be detailed in this bill so that it mandates that any agency alleged to be involved in the discrimination that is the subject of the complaint respond to the complaint. In addition, the complaint would be against the Mayor and City Council as the legal entity, and not its component agencies. City Charter, Art. 1, § 1. Amendments that accomplish this would be: delete "against any agency" in line 13 on page 6 then in line 15 on the same page, delete "an" and substitute "the ADA Coordinator of any" and then in that same line before the semicolon insert "alleged to be involved in the discrimination" and then in line 16 on that same page delete

“investigation of” and substitute “the timely response to” and in that same line delete “an” and substitute “the” and then after “agency” in that same line insert “ADA Coordinator of any agency alleged to be involved in the discrimination” and then delete the semicolon in line 16 through line 20 on that page and substitute a period.

Conforming Changes

Section 4-5(c) should be amended to clarify that the open captions are required when the meeting is being broadcast. This can be accomplished by inserting “if the meeting is being broadcast, then” before the word “open” in line 21 on page 5.

Section 4-7 concerning service animals should be amended to make clear that the animals are permitted to accompany individuals with disabilities by adding “while accompanying the individual with a disability” after “allowed” in line 9 on page 6.

Subject to the required amendments, the Law Department approves the bill for form and legal sufficiency.

Sincerely,



Desiree Luckey
Assistant Solicitor

cc: Ebony Thompson, City Solicitor
Hilary Ruley, Chief Solicitor, General Counsel Division
Jeff Hochstetler, Chief Solicitor
Ashlea Brown, Chief Solicitor
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