

**ACCESSIBILITY CODE WORKGROUP  
REPORT TO THE FLORIDA BUILDING COMMISSION**



**DECEMBER 6, 2010—MEETING X**

**MELBOURNE BEACH, FLORIDA**

**FACILITATION, MEETING AND PROCESS DESIGN BY**



**CONSENSUS CENTER**

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# FLORIDA BUILDING COMMISSION

## FLORIDA ACCESSIBILITY CODE WORKGROUP REPORT

### OVERVIEW

#### Overview of DOJ Rulemaking Initiative

Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). In the time since the regulations became effective, the Department of Justice and the Access Board have each gathered a great deal of information regarding the implementation of the Standards. The Access Board began the process of revising ADAAG a number of years ago. It published new ADAAG in final form on July 23, 2004, after having published guidelines in proposed form in November 1999 and in draft final form in April 2002. In order to maintain consistency between ADAAG and the ADA Standards, the Department is reviewing its title III regulations and expects to propose, in one or more stages, to adopt revised ADA Standards consistent with the final revised ADAAG and to make related revisions to the Department's title III regulations. In addition to maintaining consistency between ADAAG and the Standards, the purpose of this review and these revisions is to more closely coordinate with voluntary standards; to clarify areas which, through inquiries and comments to the Department's technical assistance phone lines, have been shown to cause confusion; to reflect evolving technologies in areas affected by the Standards; and to comply with section 610 of the Regulatory Flexibility Act, which requires agencies once every 10 years to review rules that have a significant economic impact upon a substantial number of small entities. The first step in adopting revised Standards was an advance notice of proposed rulemaking that was published in the Federal Register on September 30, 2004, at 69 FR 58768, issued under both title II and title III. The Department believes that the advance notice simplified and clarified the preparation of the proposed rule. In addition to giving notice that the proposed rule will adopt revised ADA accessibility standards, the advance notice raised questions for public comment and proposed a framework for the regulatory analysis that accompanied the proposed rule. The adoption of revised ADAAG will also serve to address changes to the ADA Standards previously proposed in RIN 1190-AA26, RIN 1190-AA38, RIN 1190-AA47, and RIN 1190-AA50, all of which have now been withdrawn from the Unified Agenda. These changes include technical specifications for facilities designed for use by children, accessibility standards for State and local government facilities, play areas, and recreation facilities, all of which had previously been published by the Access Board. The timetable set forth below refers to the notice of proposed rulemaking that the Department issued as the second step of the above described title III rulemaking. This notice proposed to adopt revised ADA Standards for Accessible Design consistent with the minimum guidelines of the revised ADAAG, and initiated the review of the regulation in accordance with the requirements of section 610 of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<b>DOJ Rulemaking Timetable</b>		
<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
ANPRM	09/30/2004	<a href="#">69 FR 58768</a>
ANPRM Comment Period End	01/28/2005	
ANPRM Comment	01/19/2005	<a href="#">70 FR 2992</a>

Period Extended		
ANPRM Comment Period End	05/31/2005	
NPRM	06/17/2008	<a href="#">73 FR 34508</a>
NPRM Comment Period End	08/18/2008	
NPRM Correction	06/30/2008	<a href="#">73 FR 37009</a>
Final Action – Publish in Federal Register	09/15/2010	<a href="http://www.ada.gov/regs2010/ADAregs2010.htm">http://www.ada.gov/regs2010/ADAregs2010.htm</a>
Effective Dates for 2010 Standards Begin Voluntary Use Begin Mandatory Use	03/15/2011 03/15/2012	Note: 1994 Standards can be used during voluntary use period for 2010 Standards.

### Overview of Florida Accessibility Code Workgroup Initiative

The scope of the Workgroup is to develop recommendations for updating the Florida Accessibility Code for Building Construction once the US Department of Justice completes its adoption of the next generation of the ADA Standards for Accessibility Design (ADA Standards). The task is to integrate the relevant Florida standards in ss. 553.501-553.513, F.S., into the 2004 ADAAG as adopted by 28 CFR 36 (prospective). Although DOJ's process was not complete, the Workgroup began with the 2004 ADAAG and DOJ's additions currently adopted in 28 CFR 36 and further additions proposed in its June 8, 2008 Notice of Proposed Rule (NPRN).

The process for developing the new Florida Accessibility Code for Building Construction is comprised of three phases.

**Phase I** of the project focused on the integration of Florida Specific Requirements into the Proposed DOJ ADA Standards, June 2008, and was divided into major tasks as follows:

*Task 1:*

Integration of Florida standards established in s.553.501-s.553.513, F.S. into sections of the 2004 ADAAG that have a one for one parallel section in the 1994 ADA Standards.

*Task 2:*

Deciding what to do with Florida standards that are in sections/subsections of the Florida Accessibility Code for Building Construction (1994 ADA Standards with Florida amendments) that do not have a one for one parallel section in the 2004 ADAAG.

*Task 3:*

Integration of Florida standards into new sections in the 2004 ADAAG that have no parallel in the current Florida Accessibility Code (e.g., recreational facilities).

*Task 4:*

Revising the draft Florida Accessibility Code developed from completion of Tasks 1 – 3 (above) for changes made by DOJ in its final rule.

**Phase II** of the project focused on identifying changes to Florida law necessary to update references to section numbers in the 2010 ADA Standards and to adopt and clarify Florida requirements to maintain current policies and prepare for code certification by DOJ.

**Phase III A** of the project focused on indentifying changes to Florida law necessary to conform the FACBC with the DOJ Rules 28 CFR 35 and 28 CFR 36 as Revised September 15, 2010.

**Phase III B** of the project will focus on reviewing all of the current Florida Specific Requirements and recommending whether there should be any revisions or clarifications.

## **SCHEDULE**

**Phase I** initiated with the February 2009 meeting and concluded with the April 2010 meeting.

**Phase II** of the project commenced at the June 7, 2010 meeting (Meeting VIII) and focuses on identification of the 2010 ADA Standards section numbers for updating references in s.553.501-553.513, Florida Statutes, currently based on the 1991 Standards for Accessible Design and identification of other changes/clarifications necessary to maintain current policy but match the law to the 2010 ADA Standards to prepare for code certification by DOJ. The target date for Phase II is to develop recommendations for the 2011 Legislature.

**Phase III** commenced October 11, 2010 with a public workshop. In Phase III the Workgroup will review all of the current Florida Specific Requirements and recommend whether there should be any revisions or clarifications. The target date for Phase III will be to develop recommendations for the 2012 Legislature.

At Meeting I the Workgroup was asked as a threshold question whether to proceed with consideration regarding integrating the Florida Specific requirements into the DOJ SAD, June 2008 or delay pending completion of rulemaking. Following are the actions taken by the Workgroup:

### ***Workgroup Action:***

**Motion**—The Workgroup voted\* unanimously, 18 - 0 in favor, to move forward with developing the new Florida Accessibility Code without delay. \* *At the February 2, 2009 meeting.*

**Motion**—The Workgroup voted unanimously, 18 - 0 in favor, to integrate all current Florida Specific requirements into the Proposed DOJ SAD (Standards for Accessible Design), June 2008, and concurrently identify issues that should be discussed for possible recommendations regarding Florida Specific requirements and ancillary topics, to be forwarded to the Legislature.

### **Project Documents**

DOJ Proposed ADA Standards for Accessible Design, June 2008. (2004 ADAAG and definitions and scoping criteria adopted directly in 1991, revised 1994 28 CFR 36 and proposed amendments to 28 CFR 36 June 8, 2008.)

FACBC 2009, “Florida Accessibility Code for Building Construction”.

Sections 553.501-553.513, Florida Statutes.

DOJ Final ADA Standards for Accessible Design, September 15, 2010.

DOJ Final Published Rules 28 CFR 35 and 28 CFR 36, September 15, 2010.

## **WORKGROUP MEMBERS AND REPRESENTATION**

Raul L. Rodriguez, AIA, Chair of the Florida Building Commission, made the following appointments, some of which were added and others replaced over the course of the project, to the Florida Accessibility Code Workgroup. Members are charged with representing their stakeholder group's interests, and working with other interest groups to develop consensus package(s) of recommendations for submittal to the Commission.

Scott Cannard, Bemie Eustace, Kiko Franco, Jeff Gross, Jon Hamrick, Jack Humburg, Diana Ibarra, Julia Kates, J.W. Longman, Chris Masal, Sharon Mignardi, Ronald Muschong, John O'Connor, Barbara Page, Catherine Powell, Ben Ritter, Larry Schneider, Jim Schock, Shelly Siegal, Julie Shaw, Randy Vann, and Phillip Wisely.

### **Workgroup Meeting Schedule for 2009, 2010 and 2011:**

**2009:** February 2, April 6, August 10, October 12, and December 7.

**2010:** February 1, April 6, June 7, October 11, and December 6.

### **Summary of Workgroup Meetings**

**Meeting I:** During Meeting I (February 2, 2009), The Workgroup voted unanimously to integrate all current Florida Specific requirements into the Proposed DOJ ADA Standards for Accessible Design, June 2008, "Proposed ADA Standards".

**Meeting II:** During Meeting II (April 6, 2009) Members were requested to identify, discuss and evaluate a range of options regarding the integration of Florida Specific Requirements into the ADA Standards. For each of the Florida Specific Requirements, member's were asked to identify a range of potential options for the Workgroup to consider. A preliminary list of options were proposed by members as a pre-meeting assignment, and the Workgroup was requested to discuss and add any additional relevant options they deemed appropriate.

**Meeting III:** During Meeting III (August 10, 2009) members continued the process of reviewing options for the integration of Florida Specific Requirements into the Proposed ADA Standards, June 2008. Members reviewed all of the remaining Florida Specific requirements except portions of the parking requirements and the vertical accessibility requirements. Staff will propose a draft integrating these provisions for member evaluation (remaining parking and vertical accessibility requirements).

**Meeting IV:** During Meeting IV (October 12, 2009) members continued the process of reviewing options for the integration of Florida Specific Requirements into the Proposed ADA Standards, June 2008. Members reviewed staff proposal for integration of Florida vertical accessibility requirements.

**Meeting IV:** During Meeting V (December 7, 2009) members focused on the review of options for the integration of Florida Specific Requirements into the Proposed ADA Standards, June 2008 for parking requirements and some "other" requirements. In addition, the Workgroup reviewed the integration of vertical accessibility requirements and some parking and "other" requirements to ensure the integration accurately reflected the Workgroup's intent.

**Meeting VI:** During Meeting VI (February 1, 2010) members reviewed the "Draft Final Draft" to ensure the

Florida Specific requirements were integrated into the Proposed ADA Standards, June 2008 as agreed by the Workgroup.

**Meeting VII:** During Meeting VII (April 6, 2010) members reviewed the “Draft Final Draft” to ensure the Florida Specific requirements were integrated into the Proposed ADA Standards, June 2008 as agreed by the Workgroup, and approved final recommendations for the Draft pending DOJ’s completion of rulemaking and review of the final version of the Standards for Accessible Design. Meeting VII completed Phase I of the Accessibility Code Review project.

**Meeting VIII:** During Meeting VIII (June 7, 2010) members initiated Phase II of the project and reviewed updated Florida statutory references to ensure the Florida Building Code, Accessibility Volume is correlated with requirements of the new ADA Standards, and proposed statutory changes required to ensure conformance. The target date for Phase II is to develop recommendations for the 2011 Legislature.

**Meeting IX:** Meeting IX initiated Phase III of the project. During Meeting IX (October 11, 2010) members reviewed the final draft integration document and voted unanimously to approve the “Final Draft Based on V.11” of the integration document, and to authorize staff to implement the proposed “corrections document” and the 28 CFR 36 Revised 9/15/10 document into a “Final Draft V.12” for public comment and Workgroup review.

Workgroup is reviewing all of the current Florida Specific Requirements and recommending whether there should be any revisions or additions. The target date for Phase III will be to develop recommendations for the 2012 Legislature, with critical legislative issue such as integrating 28 CFR 35 into current Florida law for the 2011 Legislature.

**Meeting X:** During Meeting X (December 6, 2010), the Workgroup focused on discussion of the FACBC implementation date, deciding to retain integrated advisory notes in the code, publishing the Code as a separate document, incorporating staff’s recommended revisions/additions to the integration of Florida Specific Requirements (statutory requirements) into the “Final Draft 2010 FACBC with the ADA Standards for Accessible Design” (Draft 2010 FACBC), and integration of DOJ Rules 28 CFR 35 and 28 CFR 26 into the Draft 2010 FACBC.

**Workshops:** The January 2011 workshops will focus on reviewing staff’s recommendations for changes to Florida Law necessary to conform/certify the Draft 2010 FACBC with the ADA Standards for Accessible Design, and then beginning the process of reviewing Florida statutory requirements to determine whether there is consensus for proposing any eliminations, revisions, and/or additions to existing Florida specific requirements to the 2011 Florida Legislature.

During the process of evaluating options, all options and recommendations voted in favor of with a 75% or greater level of support are considered consensus recommendations. Members of the public were also invited to provide feedback and options for evaluation. Between meetings Workgroup members are requested to send their proposed options to Jeff Blair for compilation in the "Florida Specific Requirement Integration Draft".

The Draft Integration Document and other relevant project documents may be viewed or downloaded at the project webpage as follows: <http://consensus.fsu.edu/FBC/accessibility-code.html>

## REPORT OF THE DECEMBER 6, 2010 WORKGROUP MEETING

### Opening and Meeting Attendance

The meeting started at 1:30 PM, and the following Workgroup members were present: Scott Cannard, Bemmie Eustace, Kiko Franco, Jeff Gross, Jon Hamrick, Jack Humburg, Sharon Mignardi, John O'Connor, Barbara Page, Larry Schneider, Jim Schock, and Randy Vann.

#### *Members Absent:*

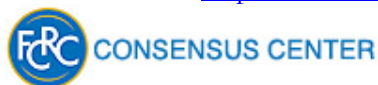
Diana Ibarra, Julia Kates, J.W. Longman, Chris Masal, Ronald Muschong, Catherine Powell, Ben Ritter, Julie Shaw, Shelly Siegal, and Phillip Wisely.

### DCA Staff Present

Rick Dixon, Ila Jones, Bruce Ketcham, Marlita Peters, Leslie Anderson Smith, and Mary Kathryn Smith.

### Meeting Facilitation

The meeting was facilitated by Jeff Blair from the FCRC Consensus Center at Florida State University. Information at: <http://consensus.fsu.edu/>



### Project Webpage

Information on the project, including agenda packets, meeting reports, and related documents may be found in downloadable formats at the project webpage below:

<http://consensus.fsu.edu/FBC/accessibility-code.html>

### Agenda Review and Approval

The Workgroup voted unanimously, 12 - 0 in favor, to approve the agenda as presented including the following objectives:

- ✓ To Approve Regular Procedural Topics (Agenda and Summary Report)
- ✓ To Review and Discuss Revised Draft Code Integrating DOJ Revised Rules (9/15/10)
- ✓ To Consider Statutory Amendments Required to Conform FACBC Code with Revised SAD
- ✓ To Consider Public Comments Regarding Changes to Florida Law
- ✓ To Consider Public Comment
- ✓ To Identify Needed Next Steps, Assignments and Agenda Items for Next Meeting

### October 11, 2010 Facilitator's Summary Report Approval

Jeff Blair, Commission Facilitator, asked if any members had corrections or additions to the October 11, 2010 Report, and none were offered. The Workgroup voted unanimously, 12 - 0 in favor, to approve the October 11, 2010 Facilitator's Summary Report as presented/posted.

### **Review and Discuss Further Modifications of Draft Code for Florida Requirements**

The Workgroup reviewed, discussed and voted to approve the “Final Draft 2010 FACBC with the ADA Standards for Accessible Design” based on staff’s recommendations. Following questions/answers and discussion the Workgroup took the following action:

**Motion**—The Workgroup voted unanimously, 12 - 0 in favor, to approve staff’s recommendations for corrections and additions regarding integration of Florida Requirements into the Final Draft 2010 FACBC with the ADA Standards for Accessible Design (Staff Corrections to Final Draft Based on v11 v11/18/10).

### **Review and Discuss Revised Draft Code Integrating DOJ Rules 28 CFR 35 and 28 CFR 36**

The Workgroup reviewed, discussed and voted to approve the integration of DOJ Rules 28 CFR 35 and 28 CFR 26 into the “Final Draft 2010 FACBC with the ADA Standards for Accessible Design” based on staff’s recommendations. Following questions/answers and discussion the Workgroup took the following action:

**Motion**—The Workgroup voted unanimously, 12 - 0 in favor, to approve staff’s recommendations for integration of 28 CFR 35 and 28 CFR 36 into the “Final Draft 2010 FACBC with the ADA Standards for Accessible Design” (“Further Draft Changes from **28 CFR Part 35-2010 v.dojfinal v.1**” and “Further Draft Changes from **28 CFR Part 36-2010 v.dojfinal v.2**”).

### **WORKGROUP ACTIONS AT DECEMBER 6, 2010 MEETING**

#### *Workgroup Actions:*

**Motion**—The Workgroup voted unanimously, 12 - 0 in favor, to include advisory notes in the FACBC integrated throughout the code.

**Motion**—The Workgroup voted unanimously, 12 - 0 in favor, to include the following appendices in the 2010 FACBC:

Fair Housing criteria from current code, Laws of Florida Part II, IBC reference documents, 28 CFR 35 and 28 CFR 36, DOJ’s “Guidance on the 2010 ADA Standards for Accessible Design”, and to include the Florida DOT parking sign design as part of the Code.

**Motion**—The Workgroup voted unanimously, 12 - 0 in favor, to approve staff’s recommendations for corrections and additions regarding integration of Florida Requirements into the “Final Draft 2010 FACBC with the ADA Standards for Accessible “ (Staff Corrections to Final Draft Based on v11 v11/18/10).

**Motion**—The Workgroup voted unanimously, 12 - 0 in favor, to use the 2004 ADAAG definition for “facility” in the 2010 FACBC.

**Motion**—The Workgroup voted unanimously, 12 - 0 in favor, to approve staff’s recommendations for integration of 28 CFR 35 and 28 CFR 36 into the “Final Draft 2010 FACBC with the ADA Standards for Accessible Design” (“Further Draft Changes from 28 CFR Part 35-2010 v.dojfinal v.1” and “Further Draft Changes from 28 CFR Part 36-2010 v.dojfinal v.2”), including creation of advisory notes and appendices as recommended by staff.

The Workgroup agreed staff should notify Workgroup members of the Sunshine Law’s applicability whether they attend meetings or not. The requirements apply to communications between Workgroup members as long as the project is in effect, and whether they attend meetings or not. Staff will determine whether members wish to continue to participate on the Workgroup and adjust membership accordingly.



### **Discussion of Project Tasks and Identification of Assignments**

Members were asked to review key project tasks and to identify any needed documents/information. In addition, members of the public were invited to provide comments on same.

### **General Public Comment**

Members of the public were invited to provide the Workgroup with comments.

There were no general public comments provided. Members of the public were provided opportunities to speak on each of the substantive discussion issues before the Workgroup.

### **Review of Workgroup Delivery and Meeting Schedule**

The Workgroup's meeting schedule for 2009 and 2010 is as follows:

*2009:* February 2, April 6, August 10, October 12, and December 7.

*2010:* February 1, April 6, June 7, October 11, and December 6.

### **Next Steps**

At the January 20, 2011 workshop participants will review final revisions to the "Final Draft 2010 FACBC with the ADA Standards for Accessible Design" document, review and concur with staff recommendations for changes to Florida Law necessary to conform/certify the Draft 2010 FACBC with the ADA Standards for Accessible Design, and begin the process of reviewing Florida statutory requirements to determine whether there is consensus for proposing any eliminations, revisions, and/or additions to existing Florida specific requirements to the 2011 Florida Legislature. The current project phase (Phase III) focuses on an effort to include expanded representation to ensure affected stakeholders are involved in the process. Participants should review all relevant project documents for any additional proposed revisions.

The Florida Building Commission approved a statutory recommendation to integrate 28 CFR 35 to the 2011 Legislature to ensure the 2010 FACBC can be certified by the Department of Justice.

### **Assignments**

Staff to provide members with relevant documents for the review of Florida Specific Requirements and the Final Integration Draft 2 V.2 in advance of the January meeting.

Workgroup members should submit any comments and recommendations to Jeff Blair and DCA staff.

### **Adjournment**

The Workgroup voted unanimously, 12 – 0 in favor, to adjourn at 5:00 PM.

**ATTACHMENT 1**  
**PUBLIC ATTENDANCE**

<b>PUBLIC MEETING ATTENDANCE</b>	
<b>NAME</b>	<b>REPRESENTATION</b>
Doug Harvey	BOAF
Arlene Stewart	AZS Consulting
Bob Boyer	FBC

## ATTACHMENT 2

### MEETING EVALUATION RESULTS

**December 7, 2010—Melbourne Beach, Florida**

*Average rank using a 0 to 10 scale, where 0 means totally disagree and 10 means totally agree.*

**1. Please assess the overall meeting.**

- 9.11 The background information was very useful.
- 9.11 The agenda packet was very useful.
- 9.63 The objectives for the meeting were stated at the outset.
- 9.63 Overall, the objectives of the meeting were fully achieved.

**2. Do you agree that each of the following meeting objectives was achieved?**

- 9.44 Revised Draft Code Integrating DOJ Revised Rules (9/15/10).
- 9.44 Statutory Amendments Required to Conform FACBC Code with Revised SAD.
- 9.38 Consideration of Public Comments Regarding Changes to Florida Law.
- 9.44 Identification of Needed Next Steps: Information, Assignments and Agenda Items.

**3. Please tell us how well the Facilitator helped the participants engage in the meeting.**

- 9.56 The members followed the direction of the Facilitator.
- 9.56 The Facilitator made sure the concerns of all members were heard.
- 9.56 The Facilitator helped us arrange our time well.
- 9.56 Participant input was documented accurately.

**4. Please tell us your level of satisfaction with the meeting?**

- 9.56 Overall, I am very satisfied with the meeting.
- 9.44 I was very satisfied with the services provided by the Facilitator.
- 9.44 I am satisfied with the outcome of the meeting.

**5. Please tell us how well the next steps were communicated?**

- 9.44 I know what the next steps following this meeting will be.
- 9.33 I know who is responsible for the next steps.

**6. What did you like best about the meeting?**

- Stayed on track.
- Order kept.
- Break.

**7. How could the meeting have been improved?**

- Cold room.
- More participation by advocates.
- Too many different versions of documents are distributed before the meeting.

**8. Do you have any other comments?**

*None were offered.*