



RHODE ISLAND AND PROVIDENCE PLANTATIONS
Executive Department
**GOVERNOR’S COMMISSION ON
DISABILITIES**

John O. Pastore Center, 41 Cherry Dale Court
Cranston, RI 02920-3049

[voice] (401) 462-0102 [tty] via RI Relay 711 [fax] 462-0106
[e-mail] bcooper@gcd.ri.gov [website] www.disabilities.ri.gov

RULES AND REGULATIONS PERTAINING TO

**Chapter B Request for a Waiver of the Accessibility Standard
for State Leased Facilities**

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Compilers Notes:

Red or Blue text indicates a link to an endnote or web link, move **⌨** to colored text and click to open.
All forms references are available on line at www.disabilities.ri.gov

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I. STATUTORY AUTHORITY

RI GL 37-8-15 & 37-8-15.1 Public Buildings – Access for people with Disabilities and Accessibility of leased or rented facilities for people with disabilities¹ and RIGL 42-51-6.1 Governor’s Commission on Disabilities - Hearing Boards²

II. DEFINITIONS

A. The terms “Governmental entity”, “Public agency”, and “State” are defined in RI General Law 37-2-7³.

B. “Accessibility for People with Disabilities Standard” means: the provisions of the RI State Building Code⁴ and the applicable federal accessibility code(s)⁵

C. “The Commission” shall mean the [Governor’s Commission on Disabilities](#).

D. “Commissioner” shall mean a member of the Governor’s Commission on Disabilities appointed by the Governor, pursuant to RIGL 42-51-2.

E. “Hearing Board” shall mean the board of five (5) commissioners appointed by the Commission Chairperson, pursuant to RIGL 42-51-6.1, as the hearing board for the purpose of conducting hearings and rendering decisions on matters relating to the provisions of chapter 87 of title 42 and sections 37-8-15.1 and 42-46-13 within the jurisdiction of the commission.

III. REQUESTING WAIVER

A governmental entity or public agency requesting a waiver to the Accessibility for People with Disabilities Standards for facilities leased by the State of Rhode Island must submit a Waiver of Accessibility of Leased or Rented Facilities for People with Disabilities, RIGCD Form B to the Hearing Board⁶. The State Property Management Office will notify the department of the time, date, and location of the public hearing on their request.

IV. REQUEST FORM

The request for the waiver must include:

A. A detailed description of all programs, activities, and services provided and employment accessibility at the site;

B. A description of each accessibility barrier a waiver is requested for and the reason for the request;

1. A list of alternative sites for these programs and the reason each was rejected; and

2. A detailed plan for providing complete access to all programs, activities, and services and employment opportunities, if the waiver is granted. This plan should include:

a. Procedures for informing the public, employees, clients and beneficiaries with disabilities how they will be serviced;

b. The location of any relocated services or duplicate services and their distance from the facility the waiver has been requested for; and

c. A description of any relocated service, responds to the following questions:

i. Will it only service individuals with disabilities?

ii. Will it provide the identical range of services as the original site?

iii. Will it provide services during the same hours?

C. No waiver will be granted unless the request form is completed. The initial facilities review completed by the State Building Commissioner's Office⁷ must be attached to the request.

D. The request shall be sent to the Governor's Commission on Disabilities.

V. PUBLIC HEARING

The Hearing Board shall conduct a public hearing. A representative of the governmental entity or public agency requesting the waiver and all governmental bodies or public agencies occupying space within the area covered by the request must attend the public hearing, and be prepared to respond to questions from the committee members.

VI. APPROVAL CRITERIA

The Hearing Board may only grant a waiver when:

A. It would not operationally serve to deny any individual with a disability access to a service or program operated by the governmental entity or public agency;

B. It would not operationally serve to deny an employee with a disability or job applicant with a disability employment or advancement in that governmental entity or public agency; and

C. Total compliance with the disability accessibility provisions of the state building code was structurally infeasible.

VII. FORMS

The Commission's staff shall prepare and revise the forms referenced above, as necessary.

VIII. ENDNOTES

These endnotes are the text of several general laws and are provided for clarification and are not part of the regulation. They are subject to revision, as amended by the General Assembly.

¹ RIGL 37-8-15. Access for people with disabilities.

The design of all public buildings to be constructed, leased, or rented by the state or any municipality of the state must be in compliance with all the standards promulgated by the Rhode Island State Building Code, chapter 27.3 of title 23, which make buildings and facilities accessible to and usable by people with disabilities.

RIGL 37-8-15.1. Accessibility of leased or rented facilities for people with disabilities.

(a) No governmental body or public agency, as defined in § 37-2-7, acting as lessee, shall lease or rent facilities that are not accessible to and usable by individuals with disabilities. The lessee governmental body or public agency shall provide the state building commissioner with a list of prospective facilities to be leased and shall ensure that accessibility certifications in subdivision (a)(1), (a)(2), or (a)(3) and (a)(4) of this section are completed prior to submission of the lease or renewal of the lease for final approval by the state properties commission or other authorized body. Prior to a governmental body or public agency leasing or renting any facility, or renewing a lease:

(1) The state building commissioner shall certify that the new facility to be leased or rented conforms to the accessibility for people with disabilities provisions of the state building code; or that the existing facility to be leased or rented meets the accessibility requirements of the state building code in effect at the time of first occupancy after January 1, 1978; or if constructed prior to January 1, 1978, meets the requirements of the current state building code; or

(2) The state building commissioner shall certify that construction documents for the proposed facility to be leased or rented conform to the accessibility requirements of the state building code, and the accessibility renovations shall be completed within six (6) months of the signing of the lease; or

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- (3) The state building code board of appeals grants a waiver from some provisions of the state building code's accessibility requirements for people with disabilities provisions with respect to state agency leasing the facility; and
- (4) The governor's commission on disabilities shall certify that the lessee agency's program accessibility plan ensures access to, and use of the facility to be leased or rented for people with disabilities.
- (b) The governor's commission on disabilities shall only certify an accessibility plan that:
- (1) Would not operationally serve to deny any individual with a disability access to a service or program operated by the governmental body or public agency;
- (2) Would not operationally serve to deny an employee with a disability or job applicant with a disability employment or advancement in that governmental body or public agency;
- (c) The state building code board of appeals shall only grant waivers when total compliance with the disability accessibility provisions of the state building code was structurally infeasible.
- (d) The state building commissioner shall reinspect all facilities leased or rented under subdivision (a)(2) or (a)(3) prior to the date(s) established in the certification or waiver for completion of any renovations required. If the state building commissioner is unable to issue a certification of compliance with the accessibility for people with disabilities provisions of the building code or the variance, then the commissioner shall inform the director of the department of administration that the facility is in noncompliance. The governor's commission on disabilities shall have the right to periodically review the implementation of the accessibility plan, and inform the director of the department of administration of any noncompliance. Upon submission of said notification of noncompliance, the director of the department of administration shall take steps to ensure compliance or forward a report to the attorney general for legal action to terminate the lease.

² **RIGL 42-51-6.1. Governor's Commission on Disabilities – Hearing boards.**

- (a) The commission's chairperson shall appoint five (5) commissioners as the hearing board for the purpose of conducting hearings and rendering decisions on matters relating to the provisions of chapter 87 of this title and [37-8-15.1](#) and [42-46-13](#) within the jurisdiction of the commission.
- (b) Three (3) commissioners shall constitute a quorum of a hearing board.
- (c) The hearing board is empowered to:
- (1) Receive, investigate, and act upon charges of unlawful practices within its jurisdiction; and
- (2) In connection with any investigation or hearing held on any matter within its jurisdiction to hold hearings, administer oaths, take the testimony of any person under oath, and to require the production for examination of any books and papers relating to any matter under investigation or in question before the hearing board.

³ **RIGL 37-2-7 State Purchases - Definitions.**

- (11) "State governmental entity" means any entity created as a legislative body or a public or state agency by the general assembly or constitution of this state, except for municipal, regional, or county governmental entities.
- (16) "Public agency" shall mean the Rhode Island industrial recreational building authority, the Rhode Island economic development corporation, the Rhode Island industrial facilities corporation, the Rhode Island refunding bond authority, the Rhode Island housing and mortgage finance corporation, the Rhode Island resource recovery corporation, the Rhode Island public transit authority, the Rhode Island student loan authority, the Howard development corporation, the water resources board corporate, the Rhode Island health and education building corporation, the Rhode Island higher education assistance authority, the Rhode Island turnpike and bridge authority, the Blackstone Valley district commission, the Narragansett Bay water quality management district commission, Rhode Island telecommunications authority, the convention center authority, Channel 36 foundation, the Rhode Island lottery commission, their successors and assigns, and any other body corporate and politic which has been or will be created or established within this state excepting cities and towns and the board of governors for higher education for all purchases which are funded by restricted, sponsored or auxiliary monies .
- (22) "State" shall mean the state of Rhode Island and any of its departments or agencies and public agencies.
- (28) "State agency" means any department, commission, council, board, bureau, committee, institution, or other governmental entity of the executive or judicial branch of this state not otherwise established as a body corporate and politic, and includes, without limitation, the board of governors for higher education except for purchases which are funded by restricted, sponsored, or auxiliary moneys and the board of regents for elementary and secondary education.
- (29) "Governmental entity" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, or government corporation of the executive, legislative, or judicial branches of state, federal, and/or local governments.

⁴ **RIGL 23-27.3 State Building Code SBC 17 and/or ICC/ANSI A117.1-2003**

⁵ Uniform Federal Accessibility Standard, Americans with Disabilities Act Accessibility Guideline, or the Fair Housing Accessibility Standard.

⁶ Governor's Commission on Disabilities
John O. Pastore Center - 41 Cherry Dale Court
Cranston, RI 02920-3049

401-462-0100 (voice); (tty via 711) and 462-0106 (fax)
disabilities@gcd.ri.gov (e-mail) and
<http://www.disabilities.ri.gov> (website)

⁷ State Building Commission
One Capitol Hill
Providence, RI 02908
222-3032 (v/tty)