



King County

Metropolitan King County Council Committee of the Whole

STAFF REPORT

Agenda Item:	8	Name:	Sherrie Hsu
Proposed No.:	2021-0282	Date:	October 6, 2021

SUBJECT

Proposed Motion 2021-0282 would acknowledge receipt of a disability equity action plan required by the 2021-2022 Biennial Budget.

SUMMARY

In 2020, the King County Council included a proviso in the 2021-2022 Biennial Budget ordinance, with an associated expenditure restriction, requiring that the Executive provide a disability equity action plan. The proviso required that the plan include an assessment of county staffing needs for Americans with Disabilities Act (ADA) coordination, a plan to coordinate ADA and disability equity functions with efforts to establish a King County Human and Civil Rights commission, a proposal for ongoing engagement with the disability community, a prioritized list of recommendations for action with cost and timeline for each, and any legislation necessary to implement the recommendations in the action plan.

This proposed motion includes that plan as an attachment. The plan indicates that it was developed by the Office of Equity and Social Justice (OESJ) in partnership with disability community advocates. The plan provides background information on past and ongoing activities related to this plan, as well as information in response to each requirement of the proviso. It appears that the plan meets the requirements of the proviso.

BACKGROUND

Department Overview. The Office of Equity and Social Justice (OESJ) was established in 2015 as part of the Office of the Executive. OESJ works across county departments, agencies, and other branches of King County Government to further the goals of the King County Equity and Social Justice Strategic Plan.

The Civil Rights Program, which resides in the OESJ, is the administrative body tasked with advancing and enforcing civil rights in unincorporated King County. It is also charged with investigating and enforcing anti-discrimination laws within King County government as an employer.

Legal Context. The federal Americans with Disabilities Act (ADA) of 1990, amended by the ADA Amendments Act of 2008, prohibits discrimination based on disability in several areas.¹ The ADA includes five titles; the plan calls out the following as pertinent:

Title I, covering employers with 15 or more employees, prohibits employers from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.²

Title II, covering state and local government, prohibits public entities from discriminating against or excluding qualified individuals with disabilities from participation in its services, programs, or activities.³

- *ADA Coordinator.* Under Title II, as a public entity with 50 or more employees, King County must designate at least one employee to coordinate ADA compliance. The coordinator is also responsible for investigating complaints of Title II violations. As of 2017, these duties are assigned to the Civil Rights Program within OESJ.

Additionally, Section 504 of the 1973 Rehabilitation Act prohibits discrimination against qualified individuals with disabilities regarding their participation in any program or activity receiving federal financial assistance.⁴

Advisory Committee. King County Code (K.C.C.) 2.55.010 established the King County Section 504/ADA Advisory Committee, which is intended to serve as the advisory body to the Executive in developing strategies, systems, and guidelines to implement the 504/ADA workplan and monitoring affirmative action progress made in the employment of persons with disabilities in the County's workforce.⁵

According to the plan, the Advisory Committee has been inactive for approximately 10 years. Executive staff indicate that the Advisory Committee was last active in 2006; did not meet in 2007, 2008, or 2009 due to lack of members; and ultimately went on inactive status.

Korematsu Report and Ordinance 19047. In early 2019, the Council commissioned the Seattle University School of Law Korematsu Center for Law and Equity to draft a report with recommendations to advance civil rights in King County, including approaches to restructure the current Civil Rights Commission.⁶

In December 2019, Council adopted Ordinance 19047,⁷ which would have created a new Human and Civil Rights Commission, decommissioned the existing King County Civil Rights Commission, and transferred the responsibilities and activities of the Civil

¹ 42 USC §12101, *et seq.*

² 42 USC §12111 - 12117

³ 42 USC §12131 - 12165

⁴ 29 USC §701, *et seq.*

⁵ K.C.C. 2.55.010

⁶ [King County - File #: PO 2019-0477](#)

⁷ [King County - File #: PO 2019-0477](#)

Rights Program and the ADA Coordinator to the new commission. Under Ordinance 19047, the ordinance would have taken effect April 1, 2021 only if by that date:

- The Executive transmitted a status report on the status of the feasibility study by August 14, 2020;
- The Executive transmitted a feasibility study and recommendations establishing the human and civil rights commission, and motion approving the feasibility study by February 1, 2021; and
- A motion approving the feasibility study is passed by Council.

In March 2021, Proposed Motion 2021-0089 was introduced in Council and referred to the Law and Justice Committee to approve a feasibility study and recommendations regarding the human and civil rights commission. Proposed Motion 2021-0089 has not been adopted by the Council, and the time frame for Ordinance 19047 to take effect expired on April 1, 2021.

Executive Disability Access Policy. The Executive is using a liaison model with executive branch departments as outlined in the King County Disability Access Policy.⁸ Under this model, each executive department identifies at least one ADA liaison to work with OESJ to ensure uniformity and compliance with ADA requirements. According to the plan, this policy expired in early 2021 but remains the structure for the executive branch ADA work. Work is underway to update the policy; specific changes would be determined based on input from the internal liaison network.

According to Executive staff, “While specific changes are still being identified and assessed, one major change we are considering relates to the timelines outlined in the PER [King County Disability Access Policy]. The PER states that the ADA coordinator is to update and evaluate the County’s self-evaluation every five years and review corrective action plans and transition plans for all departments every year. Based on our experiences and what we know of best practices in government-wide ADA compliance, such a timeline for an entity as large and complex as King County, is unrealistic. The County will need to undergo self-assessment and develop and implement transition/improvement plans that utilize a staggered approach.”

Executive staff anticipate having a draft of this update by the end of Q1 in 2022.

ADA Coordination. OESJ conducted the first round of ADA liaison training for several County departments in April 2021.

In addition to the ADA liaison model, OESJ identified three areas for further analysis to ensure ADA compliance:

- County websites are designed and tested for accessibility to online information;
- Physical structures and buildings with public access are ADA compliant with physical barriers removed; and

⁸ King County Disability Access Policy: Access to Programs, Services, Activities and Physical Facilities by Qualified Individuals with Disabilities; document code PER 22-2-2

- Standard County contract language is reviewed and revised as necessary to ensure alignment with federal anti-discrimination law and the ADA.

Current Outreach. In July 2020, OESJ met with leaders from the disability community to discuss ADA compliance and disability equity at King County.

On October 1, 2020, Executive Directors of the Alliance of People with disAbilities and The Arc of King County submitted a letter to King County leaders and report titled, “Still Left Out After 30 Years of the ADA: King County is Failing the Disability Community,” signed by 38 organizations and over a hundred community members and leaders in the disability community. This report included concerns and recommendations from the disability community.

According to the plan, OESJ staff continue to meet with leaders on a bi-weekly basis and attend bi-weekly community gatherings of the King County Disability Consortium.

2021-2022 Budget Proviso. As part of the 2021-2022 biennial budget, the Council included a proviso, with an associated expenditure restriction, requiring the Executive to provide a disability equity action plan.

Proviso P1 in Section 19 of Ordinance 19210 provides that:

Of this appropriation, \$125,000 shall not be expended or encumbered until the executive transmits a disability equity action plan and a motion that should acknowledge receipt of the action plan and a motion acknowledging receipt of the action plan is passed by the council. The motion should reference the subject matter, the proviso's ordinance number, ordinance section and proviso number in both the title and body of the motion.

The action plan shall be developed through an engagement and co-creation process with the disability community, and shall include, but not be limited to, the following:

- A. An assessment of county staffing needs for Americans with Disabilities Act ("ADA") coordination and disability equity functions and a recommendation for how those staffing needs will be met, either through the redeployment of existing FTE positions or through a proposal to add new FTE positions;*
- B. A plan to coordinate ADA and disability equity functions with the efforts to establish a King County human and civil rights commission, based on the recommendations developed for the feasibility study required by Ordinance 19047;*
- C. A proposal for ongoing engagement with the disability community in carrying out ADA coordination and disability equity functions;*
- D. A prioritized list of recommendations for action, with a proposed cost and timeline for each, including, but not limited to, the following:*
 - 1. Coordination and enhancement of ADA functions, compliance and reporting in King County agencies;*

2. *A strategy to address disability equity in King County plans and policy documents, including a plan to examine the linkages of disability to the determinants of equity and to incorporate disability equity into the equity and social justice strategic plan;*
 3. *A summary of King County training programs that address disability equity and a strategy to provide additional opportunities for King County employees to receive disability equity training; and*
 4. *A review of disability equity practices within individual King County agencies based on the role of each agency; and*
- E. *Any legislation necessary to implement the recommendations in the action plan.*

The executive should electronically file the action plan and motion required by this proviso no later than May 27, 2021, with the clerk of the council, who shall retain an electronic copy and provide an electronic copy to all councilmembers, the council chief of staff and the lead staff for the committee of the whole, or its successor.

Expenditure Restrictions. An expenditure restriction was included in the 2021-2022 biennial budget restricting \$125,000 of OESJ's appropriation for the action plan described in Proviso P1 of this section for King County's work related to ADA coordination and disability equity.⁹

Additionally, the Council included an expenditure restriction giving authority to 1.0 FTE, without funding, for the action plan related to Proviso 1 of Section 19 for ADA coordination and disability equity.

On June 30, 2021 the Executive transmitted the motion in response to the above proviso. The disability equity action plan is attached to the motion and is analyzed below.

ANALYSIS

The proviso asked that the disability equity action plan respond to the following requirements. The plan provides data for executive branch departments and offices only. According to Executive staff, data from the Sheriff's Office was not included in this plan.

A. An assessment of county staffing needs for Americans with Disabilities Act ("ADA") coordination and disability equity functions and a recommendation for how those staffing needs will be met, either through the redeployment of existing FTE positions or through a proposal to add new FTE positions.

The plan outlines ADA-associated staffing across the executive branch, including position, department, and functions. There are currently eight existing ADA full time equivalent (FTE) and two term limited temporary (TLT) positions located across

⁹ Ordinance 19210

executive branch departments and offices, not including departmental staff detailed to supporting ADA work as part of existing bodies of work:

- Equity and Civil Rights Manager (1.0 FTE)
- Civil Rights Program Manager (1.0 FTE)
- Disability and Leaves Services (5.0 FTE)
- ADA Services Administrator (1.0 FTE)
- National Association of County and City Health Officials (NACCHO) Disability Specialist (1.0 TLT)¹⁰
- Disability Action Plan Position (1.0 TLT)

The plan recommends adding two additional FTE ADA coordinators and converting one grant funded TLT disability specialist to a county-funded FTE.

B. A plan to coordinate ADA and disability equity functions with the efforts to establish a King County human and civil rights commission, based on the recommendations developed for the feasibility study required by Ordinance 19047.

Ordinance 19047, adopted by Council on December 11, 2019, would have created a new Human and Civil Rights Commission that would have assumed the current ADA-related responsibilities of OESJ's Civil Rights Program. The time frame for this ordinance to take effect expired in April 2021.

Therefore, the plan indicates that coordination with the proposed Commission is not applicable and is not addressed in the plan.

C. A proposal for ongoing engagement with the disability community in carrying out ADA coordination and disability equity functions.

D. A prioritized list of recommendations for action, with a proposed cost and timeline for each, including, but not limited to, the following:

- 1. Coordination and enhancement of ADA functions, compliance and reporting in King County agencies;**
- 2. A strategy to address disability equity in King County plans and policy documents, including a plan to examine the linkages of disability to the determinants of equity and to incorporate disability equity into the equity and social justice strategic plan;**
- 3. A summary of King County training programs that address disability equity and a strategy to provide additional opportunities for King County employees to receive disability equity training; and**

¹⁰ Public Health – Seattle & King County received a grant award of \$83,000 from the National Association of County and City Health Officials (NACCHO) for funding to support a disability specialist through June 2022. This position focuses on assisting people with disabilities with emergent planning, mitigation, and recovery efforts related the COVID-19 crisis. OESJ is funding this position through the end of 2022, using \$25,000 in funds from the OESJ expenditure restriction.

4. A review of disability equity practices within individual King County agencies based on the role of each agency.

Responses to proviso requirements C and D were jointly addressed in a shared section in the disability equity action plan. The plan notes that this is because the proposal for ongoing community engagement is also a recommendation.

Community outreach. Outreach to disability community advocates resulted in their recommendation that the County reactivate its Section 504/ADA Advisory Committee with an updated scope. Currently, the County does not have an active body or commission specifically designed for and focusing on people with disabilities.

According to the plan:

- Community members and disability advocates recommended that K.C.C. 2.55.010 be amended to formalize the purpose of the Committee to advance disability justice and equity, and not just address legal compliance matters.
- Community advocates noted the need for data informed policies to improve social and health outcomes for people with disabilities, but that data on this community is lacking. Community partners suggested utilizing funds allocated to this work by the expenditure restriction to support research and consulting to connect the needs of the disability community to the social determinants of health.
- Developing potential code amendments would require further community engagement that could not be undertaken in the given timeframe to complete this proviso response due to COVID-19 challenges.
- OESJ would continue to meet regularly and partner with advocates and community leaders to co-create approaches that address these needs.

Prioritized list of recommendations. This plan's seven recommendations are summarized below, along with estimated timeframes and cost projections. The plan indicates that timeframes and cost projections are based on staffing capacity, existing bodies of work and deliverables, COVID-19 impacts and recovery, and community participation; and estimates are subject to change. ¹¹

¹¹ The plan notes that the Office of Performance, Strategy, and Budget has reviewed the financial information provided.

Table 1: Executive Recommendations

Plan Recommendation	Cost Estimate	Timeline Estimate
1.) Continue development, utilization, and support of internal liaison network	Currently supported by existing funds and FTE; requires additional FTE and funding	Underway; all County agencies, departments, branches complete self-assessments and implement improvement and transition plans within five years
2.) Continue to utilize disability equity consultant for review of internal county policies and practices	\$65,000 in existing funds from OESJ restricted expenditure amount	Underway; consultant selected; work expected to complete by Q4 2021
3.) Fund two FTE ADA Coordinator positions	\$121,500 annually per person	Request to be included in 2021 mid-biennium budget update
4.) Establish interbranch workgroup in collaboration with legislative and judicial branches	Existing funds and FTE; requires additional FTE and funding	Q1 2022 launch group
5.) Reactivate Section 504/ADA Advisory Committee	\$30,000 in existing funds from OESJ restricted expenditure amount	Q4 2021 begin work to develop potential amendments; Q1-2 2022 develop potential appointee candidate list; Q3 2022 transmit proposed legislation to Council; Q4 2022 complete appointment process and convene first meeting (pending Council action on proposed legislation)
6.) Create and fund disability specialist FTE when funding for NACCHO grant ends	\$121,500 annually to fund FTE; \$25,000 in existing funds from OESJ restricted expenditure	Q4 2022; may be proposed as funded FTE in 2023-2024 proposed budget
7.) Establish affinity group for county employees with disabilities	\$5,000 in existing funds from OESJ restricted expenditure	Q4 2021

E. Any legislation necessary to implement the recommendations in the action plan.

The plan indicates that appropriation legislation is needed for recommendations three and six:

- Recommendation three calls for funding 2.0 FTE positions, each at \$121,500 annually. One of these positions (1.0 FTE) was established but not funded in the 2021-2022 budget. According to Executive staff, a request to fund 2.0 FTE is expected be included in the 2021 (2nd Omnibus) mid-biennial budget

supplemental. The Executive plans to transmit the 2nd Omnibus to Council on September 30, 2020. The Budget and Fiscal Management Committee Chair intends to take action on the 2nd Omnibus by end of November.

- Recommendation six calls for creating and funding 1.0 disability specialist FTE when funding for NACCHO grant ends. According to Executive staff, this request would be considered during the 2023-2024 budget development process and may be included in the 2023-2024 proposed biennial budget.

The plan indicates that recommendation five requires consultation with the disability community to develop potential amendments to K.C.C. 2.55.010:

- Recommendation five calls for reactivation of the Section 504/ADA Advisory Committee. According to the plan, disability community members and advocates expressed a need for potential amendments to K.C.C. 2.55.010 to formalize the purpose of the Committee to advance disability justice and equity; and developing potential amendments would require further community engagement.

Proposed Motion 2021-0282, as transmitted, appears to meet the requirements of the proviso.

INVITED

- Chris Bhang, Civil Rights Program Manager, Office of Equity and Social Justice
- Taryn Farley, Disability Specialist, Office of Equity and Social Justice
- Anita Whitfield, Chief Equity and Inclusion Manager, Office of Equity and Social Justice

ATTACHMENTS

1. Proposed Motion 2021-0282 with attachment
2. Transmittal Letter