

## ADMINISTRATIVE RECORD – LED LIGHTS

By Soft Lights Foundation

### Introduction

Any agency that is considering a project involving a Light Emitting Diode (“LED”) must recognize that the use of LED products can create discriminatory barriers which interfere with path-of-travel for certain individuals. Therefore, an agency which is considering a project involving LEDs is required to perform an analysis to establish an Administrative Record that the agency has dutifully considered the impacts of LED lights on the civil rights of all individuals, including those with disabilities.

### 14th Amendment Equal Protection Clause

The 14th Amendment Equal Protection Clause of the US Constitution requires state and local governments to ensure that all individuals are provided equal protection. The introduction of LED lights has created two classes of individuals: those who can neurologically tolerate LED light, and those who cannot neurologically tolerate LED light. Both classes must be treated equally. Therefore, if an agency wishes to use LED lighting in a public space, the agency must publish a policy that explains how the class of individuals who cannot tolerate LED light will be afforded equal protection.

### Individuals with Disabilities

The use of LED lights discriminates against certain individuals with disabilities such as individuals with epilepsy, autism, migraines, PTSD, photophobia, and other neurological conditions because the LED light triggers non-epileptic and epileptic seizures, migraines, nausea, vomiting, anxiety, panic, and thoughts of suicide. The use of LED lights may subject these individuals to discrimination and will violate their civil rights, and thus an agency considering the use of LED lights must publish an analysis of the impacts of the LED lights on individuals with disabilities.

### Rehabilitation Act Section 504

Section 504 of the Rehabilitation Act prohibits discrimination against individuals with disabilities for projects that receive federal funding. An agency that is considering using LED lights for a project that receives federal funding must publish an analysis showing that the LED lights will not create an unlawful discriminatory barrier.

## Americans with Disabilities Act

The Americans with Disabilities Act (“ADA”) prohibits discrimination and protects the right to path-of-travel without discriminatory barriers. For architectural changes such as the alteration of installing LED lights, 28 C.F.R. 35.151(b)(1) states:

Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.

28 C.F.R. 35.151(b)(1) thus requires that the alteration of installing or operating LED lights must ensure that the altered area be readily accessible and usable by individuals with disabilities. Since LED lights interfere with path-of-travel for certain individuals with disabilities, an agency that is considering installing or operating LED lights must publish an analysis of the path-of-travel impacts of LED lights on individuals with disabilities.

## US Food and Drug Administration

21 U.S.C. 360ii(a) states, “The Secretary shall establish and carry out an electronic product radiation control program designed to protect the public health and safety from electronic product radiation.” Thus, The US Food and Drug Administration (“FDA”) is required under 21 U.S.C. 360ii to establish a Radiation Control Program for LED products to minimize exposure to, and emissions of, LED Visible Light electromagnetic radiation from electronic products. However, the FDA has failed to comply with this statute, and the FDA has not published any performance standards for LED products to ensure the health, safety, and civil rights of the public.

Thousands of reports of harm from exposure to LED products have been submitted to the FDA, but the FDA has not acted on these reports.

## Summary

Any agency that is considering the installation or operation of LED lights must follow administrative law and establish an Administrative Record of analysis showing that the proposed LED project will not violate the 14th Amendment Equal Protection Clause, Rehabilitation Act Section 504, or Americans with Disabilities Act.

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