

**The
ADA National Network
DISABILITY LAW
Handbook**



2013



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Handbook

Created by
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Southwest ADA Center
A program of ILRU

Acknowledgements

The **Southwest ADA Center** is a program of **ILRU** (Independent Living Research Utilization) at **TIRR Memorial Hermann** in Houston, Texas. It is funded by a grant (#H133A110027) from the Department of Education's **National Institute on Disability and Rehabilitation Research (NIDRR)**. NIDRR is not an enforcement agency.

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The Southwest ADA Center is part of a national network of ten regional ADA Centers that provide up-to-date information, referrals, resources, and training on the Americans with Disabilities Act (ADA). The centers serve a variety of audiences, including businesses, employers, government entities, and individuals with disabilities. You can reach your regional ADA Center via a national toll free hotline at 1-800-949-4232 (voice/TTY) or visit the ADA National Network website at www.adata.org.

The Southwest ADA Center would like to thank Nancy Horton, LaWanda Cook, Alan Goldstein, Sharan Brown, Irene Bowen, Marilyn Golden, Kathy Gipps, Sharon Brent, Lillian Sutton-Mbionwu, Betty Siegel, Peter Berg, Kleo King, Pam Williamson, and the ADA Knowledge Translation Center at the University of Washington for their assistance in producing this handbook.

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The information in this book is intended solely as informal guidance and is neither a determination of your legal rights or responsibilities under the Americans with Disabilities Act or other laws, nor binding on any agency with enforcement responsibility under the ADA and other disability-related laws.

This book is dedicated to

Wendy Wilkinson.

But for Wendy, this little book would not exist.

Foreword

Disability law is an area of law that overlaps with many other areas of law – including employment law, administrative law, elder law, consumer law, construction law, insurance law, school law, health law, social security law, and civil rights law. Individuals with disabilities are a protected class under civil rights laws, and it is the one protected class that anyone can join, usually involuntarily, at any point in their lives.

It is my hope that this book, which is a very broad brush look at disability law, will find its way into the hands of both individuals who have disabilities and entities that have obligations under various disability laws. This book is meant to provide basic information about disability rights, as well as resources for finding out more.

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This handbook is a broad overview of rights and obligations under federal disability laws. Individual state laws may impose more stringent obligations. This handbook is intended to inform rather than to advise, and the information provided is of a general nature. You should consult an attorney for advice about your particular situation.

The Americans with Disabilities Act: An Overview

When did the ADA become a law?

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990. Some parts of the ADA didn't go into effect until after that date to give entities time to comply with the law, but those compliance deadlines have passed.

What kind of law is the ADA?

The ADA is a comprehensive civil rights law. It prohibits discrimination on the basis of disability in employment, state and local government programs, public accommodations, commercial facilities, transportation, and telecommunications.

What is the definition of disability under the ADA?

It is important to remember that in the context of the ADA, "disability" is a legal term rather than a medical one. Because it has a legal definition, the ADA's definition of disability is different from how disability is defined under some other laws.

The ADA defines a person with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activity. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability. The ADA also makes it unlawful to discriminate against a person based on that person's association with a person with a disability.

What do you mean by "association with a person with a disability"?

For example, if I do not have a disability, but I work in an HIV clinic, it would not be legal for someone to discriminate against me based on the fact that I work with, or "associate" with, people who have HIV.

What are major life activities?

Major life activities are those functions that are important to most people's daily lives. Examples of major life activities are breathing, walking, talking, hearing, seeing, sleeping, caring for one's self, performing manual tasks, and working. Major life activities also include major bodily functions such as immune system functions, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

What does a "record of" a disability mean?

"Record of" means that the person has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities, even though the person does not currently have a disability.

Can you give me an example of someone who has a "record of" a disability without having a current disability?

Sure. A man, who is in line for a promotion, has a history of cancer treatment, although he is now free of cancer. He is not given the promotion because his bosses are worried that, if his cancer returns, he won't be able to do the job. He does not, at this point, meet the first part of the definition of disability because he does not have a physical or mental impairment that substantially limits one or more major life activities. However, based on his "record of" a disability, he is being discriminated against.

What does "regarded as" having a disability mean?

"Regarded as" means that the person either:

- Has an impairment that does not substantially limit a major life activity;
- Has an impairment that substantially limits a major life activity only as a result of the attitudes of others toward them; or
- Does not have any impairment, but is treated by an entity as having an impairment.

Can you give me an example of someone who is “regarded as” having a disability?

Yes. A woman applies for a job as a customer service representative at a department store. Her face is badly scarred from an automobile accident. The interviewer doesn’t want to give her the job, in spite of her skills and experience, because he thinks customers will be uncomfortable looking at her. She is not substantially limited in any major life activity, but the interviewer is “regarding her as” if she has a disability.

Are all people who have disabilities covered by the ADA?

I’ll give you the “lawyer answer” – it depends. All people who meet the ADA definition of disability are covered by the ADA in general, but they still may not have rights under particular sections of the ADA. For example, there is a section of the ADA that deals only with employment discrimination. If a person with a disability is not employed and is not seeking employment, then that person would not necessarily be covered by that part of the ADA, although the person would be covered by other parts of the ADA.

Are psychiatric disabilities covered, too?

Yes, the ADA definition of disability includes mental, as well as physical, impairments.

How many people in the United States have a disability?

According to the Survey of Income and Program Participation (SIPP) data, approximately 54 million Americans have a disability.

What kinds of things does the ADA cover?

The ADA is divided into five sections called “titles.” Each title covers a different area. Title I covers employment. Title II covers state and local government programs. Title III covers places of public accommodation. Title IV covers telecommunications. Title V has several miscellaneous provisions that cover things like retaliation and attorney fees.

I heard there is a new ADA. Is this book about the new ADA or the old ADA?

Actually, what you might have heard called the “new ADA” is really called The ADA Amendments Act – or the ADAAA. After the ADA was originally passed in 1990, cases started being filed and ending up in courts. Some were appealed all the way to the U.S. Supreme Court. Rulings by the Supreme Court, as well as lower courts, began to narrow the definition of disability. Whether a person had a disability in order to sue became the focus of most disputes under the ADA. Congress never intended for it to be that way. The focus of the ADA was supposed to be on access and accommodation, not on whether the person really had a disability. Congress had not foreseen the ways in which the courts would narrowly interpret, and ultimately change, the definition.

So the ADAAA was passed in 2008 and essentially overturned those Supreme Court cases that narrowed the definition of disability. Congress made clear that the definition must be “construed in favor of broad coverage of individuals” with disabilities. So rather than this being a “new ADA,” it really is just going back to the way Congress meant the ADA to be when it was first written and passed in 1990.

Where can I get more information about the ADA?

There is a Resource Section in the back of this book. You can always call your regional ADA Center at 800.949.4232 with questions or to request in-person training. You can also learn more about the ADA and your regional ADA Center by visiting the ADA National Network website, www.adata.org.

Employment and the ADA

As long as I meet the ADA definition of disability, am I covered by Title I?

Not necessarily. Because Title I is about employment, a person must meet the definition of disability and must also be qualified for the job. There are two components to being qualified. First, you need to have the skill, experience, education, and other job-related requirements for the position. For example, it's legal for an employer to require that a person applying for the job of a foreign language translator be able to translate a foreign language.

The other component of being qualified, in terms of employment, is that you must be able to perform the essential functions of the job, with or without reasonable accommodation. In other words, getting a reasonable accommodation could make you qualified for the job. For example, a person who is deaf may be qualified to perform the essential functions of a customer service representative once s/he receives the opportunity to use a video relay service and specialized computer software as a reasonable accommodation.

What are the "essential functions" of a job?

Essential functions are the basic job duties.

ADA Regulations say that the following things should be taken into consideration when determining whether a job function is essential:

- The employer's judgment about which functions are essential;
- Job descriptions that were written before a job was posted;
- The amount of time spent performing the function;
- The consequences of not requiring the person to perform the function;
- The terms of a collective bargaining agreement; and
- The work experience of others who have had, or currently hold, the same or similar positions.

Are all employers covered by Title I of the ADA?

No. Title I of the ADA only applies to private employers with 15 or more employees, all state and local governments, employment agencies, and labor unions. Some state and local laws apply to private employers with fewer than 15 employees. Check whether your state, county, or city has a human rights act or other law that prohibits discrimination against individuals with disabilities.

What kinds of employment practices are covered by Title I of the ADA?

All of them – applying for a job, hiring, firing, promotions, compensation, training, recruitment, advertising, layoffs, leave, employee benefits, company functions, and all other benefits, conditions and privileges of employment are covered.

When should I tell an employer that I have a disability?

It depends. Generally, disclosure is discouraged during the application process, unless you need an accommodation during that process. Once you are hired, you are not legally required to disclose a disability to your employer unless you request a reasonable accommodation. In light of the myths and stereotypes that still exist about people with disabilities, carefully consider the risks and benefits of disclosure before doing so.

Can an employer make me have a medical exam or ask questions about my disability?

The answer depends on where you are in the employment process.

If you are a job applicant, the potential employer may not ask you to take a medical exam or ask any disability-related questions. The employer may ask questions about your ability to perform specific job functions, including asking you to describe or demonstrate how you would perform those functions.

If you have gotten a conditional job offer, the employer may require you to take a medical exam or answer disability-related questions if the employer requires the same thing of all employees in the same job category. In fact, the employer can even condition an offer of employment on the results of

the medical exam, again, so long as the exam is required for everybody.

If you are a current employee, the employer may require you to undergo a medical exam only if it is job-related and consistent with business necessity. The employer may also ask questions about your ability to perform the functions of the job.

What is a reasonable accommodation?

A reasonable accommodation is any kind of modification or adjustment to a job or to the work environment that makes it possible for a qualified applicant or employee with a disability to either participate in the job application process, enjoy equal benefits and privileges of employment, or to perform essential job functions.

Can you give me some examples of reasonable and unreasonable accommodations?

Examples of reasonable accommodations include: making the workplace accessible to and usable by an employee with a disability, restructuring a job, modifying work schedules, providing qualified readers for individuals who are blind, providing sign language interpreters to people who are deaf, providing periods of leave for treatment, or modifying equipment.

Reassignment to a vacant position can also be a reasonable accommodation, although it is generally considered to be a last resort to be sought only if an employee cannot perform the essential job functions even with a reasonable accommodation.

It is not reasonable for an employer to lower quality or quantity standards as a reasonable accommodation, and employers are not required to provide personal use items needed outside the workplace, such as eyeglasses, wheelchairs, or hearing aids.

Is telecommuting a reasonable accommodation?

Telecommuting may be a reasonable accommodation depending on the kind of job you have and whether the essential functions of the job can be performed off-site. The Equal Employment Opportunity Commission (EEOC) lists the following factors to be considered when deciding whether telecommuting is a reasonable accommodation:

- Whether the employer can adequately supervise the employee;

-
- Whether certain equipment or tools that cannot be replicated at home are required;
 - Whether face-to-face interaction with other employees is needed;
 - Whether in-person interaction with outside colleagues, clients, or customers is necessary; and
 - Whether the job requires the employee to have immediate access to documents or other information located only in the workplace.

If an employer already allows telecommuting for employees, but requires employees to work for a specific number of months or years before becoming eligible for telecommuting, it might be a reasonable accommodation for the employer to waive its time requirement for employees with disabilities. Under these circumstances, the employer has likely already determined that employees are capable of performing their job duties while working from home. If, however, the nature of the job is such that physical presence at the workplace is necessary, then telecommuting might not be a reasonable accommodation.

Are there any limits on providing reasonable accommodations?

Keep in mind that the person requesting the accommodation must be otherwise qualified for the job and able to perform the essential functions of the job, with or without reasonable accommodation. Also, employers need to accommodate only individuals with known disabilities.

Employers are not required to provide accommodations if doing so would be an undue hardship on the operation of the business.

What is an “undue hardship”?

Undue hardship is an “action requiring significant difficulty or expense.” This is decided by looking at factors like the nature and cost of the accommodation compared to the size, the overall financial resources of the employer, and the structure of the business. If the employer is part of a larger entity, the overall resources of the larger organization are also considered. For these reasons, cost alone is rarely found to be an undue hardship, except possibly for very small employers. However, if an accommodation has a significantly negative effect on the employer’s business operation, that may be considered an undue hardship.

So if the employer can show my accommodation request is an undue hardship, am I out of luck?

Not necessarily. Even if a particular accommodation would be an undue hardship on the employer, the employer must consider other options to try to find an accommodation that would not pose an undue hardship. In the rare case that the cost of the accommodation poses an undue hardship, the employer should provide the cost up to the point that there is an undue hardship and then allow the employee the option of paying for the other portion of the cost. Likewise, if the employer gets money from an external source, like a state vocational rehabilitation agency, that would pay the entire cost of the accommodation, it cannot claim cost as an undue hardship.

As long as my office is accessible, do the other parts of the office, like the kitchen and break room, have to be accessible?

Yes. Employees with a disability should have access to areas where they work, as well as non-work areas, such as break rooms, lunch rooms, training rooms, kitchens, and restrooms, used by other employees, unless providing access would be an undue hardship. Even events like conferences and parties held out of the office should be accessible.

What if an employer refuses to hire me because the HR person thinks it wouldn't be safe to have me around?

The ADA lets employers establish standards for determining whether an employee poses a direct threat to the health or safety of that individual or others. Direct threat is defined as a “significant risk of substantial harm to the health and safety of the individual or others if, and only if, that risk cannot be eliminated or reduced by reasonable accommodation.”

Deciding that an employee is a direct threat must be based on an individual assessment of that particular employee and must be based on the best available medical or other objective evidence, as opposed to generalizations, ignorance, stereotypes, fears, or patronizing attitudes. For example, it would violate the ADA if an employee with bipolar disorder is fired after disclosing his disability because a supervisor believes people with bipolar are dangerous. This reaction is based on myths and stereotypes rather than the best available evidence.

When determining whether an employee presents a direct threat, the employer must determine whether any reasonable accommodations would eliminate or reduce the threat.

If I use illegal drugs or am an alcoholic, am I covered by the ADA?

The ADA treats individuals who use illegal drugs differently from individuals who misuse alcohol. People who are currently engaging in the use of illegal drugs are specifically excluded from the ADA definition of “qualified individual with a disability.” Therefore, employers may take action against the employee on the basis of drug use without violating the ADA. However, a person who used illegal drugs in the past but went through a rehabilitation program is considered to be a person with a disability and is protected from discrimination.

Alcoholism is treated differently under the ADA. A person who currently uses alcohol is not automatically denied protection. A person who has alcoholism may be considered to be a person with a disability depending on whether the person has an impairment that substantially limits a major life activity. If you have alcoholism and meet the ADA’s definition of disability, you may be entitled to a reasonable accommodation, such as leave for treatment or therapy. It is not a reasonable accommodation to allow an employee to consume alcohol, or be under the influence of alcohol, at work if this violates legitimate workplace rules. An employer may discipline or even fire you if your alcohol use affects your job performance or conduct. And of course, your employer may have a drug-free and alcohol-free workplace policy.

If I have a disability, can my employer evaluate my job performance using the same performance and conduct standards that they use for everybody else?

Generally, yes, as long as the same standards apply to everybody. An employer can evaluate performance standards, such as how well the employee performs both essential and marginal job functions and whether the employee is meeting basic job requirements like teamwork, customer service, work output, and product quality. Employers may also evaluate and enforce conduct standards like appearance standards, rules against destroying company property, rules about computer and equipment usage,

and attendance requirements.

Your employer may not, however, use standards that are not job-related if the standards have the effect of discriminating on the basis of disability.

Is an employer allowed to require the same quantitative and qualitative requirements for performance as it requires for employees without disabilities?

Yes. An employee with a disability should meet the same production standards as all other employees doing the same job. Employers do not have to lower production standards as a reasonable accommodation. However, a reasonable accommodation might be required to assist employees with disabilities in meeting the same production standards. For example, an employer may require a secretary who is blind to type 70 words per minute as long as the requirement is the same for all secretaries. While the employer has no obligation to lower this standard, it may be required to provide certain voice-activated software to enable the employee with a disability to meet this standard.

If an employee with a disability violates a workplace conduct standard, can the employee be disciplined?

Generally, yes, as long as the conduct standard is job-related and consistent with business necessity, and all other employees are held to the same standard. For example, if an employee who uses a wheelchair starts frequent arguments with his/her supervisor or co-workers, s/he may be disciplined because that conduct is not related to her disability. The ADA does not generally protect employees from the consequences of violating conduct standards, even when the violation is caused by the disability. However, employers may be required to provide reasonable accommodations to enable the employee to meet the conduct standards.

Is it all right for an employer to require an employee to get or change treatment for a disability to help or comply with a conduct standard?

No. Decisions about medications and medical treatment are generally personal medical decisions that take into account a number of factors

about which the employer may not be aware or have the expertise to consider. Even if employers just want to help the employee, they should discuss the unacceptable conduct rather than medical treatments or medications to treat a disability.

Does having a disability protect me from being fired or laid off?

No. Title I of the ADA protects employees from being discriminated against on the basis of disability. It is not a violation for an employer to fire, demote, not promote, reduce hours, or change any other condition of employment for some other reason that is not related to your disability. The same situation exists with layoffs or reductions-in-force. If your discharge is not based on your disability, your employer has not violated the ADA.

What should I do if my employer has discriminated against me because of my disability?

Complaints may be filed with either the EEOC or your state's designated human rights agency. Private lawsuits are also an option, but you cannot file a lawsuit until after the EEOC or your state's human rights agency has investigated your complaint and issued a notice that's referred to as a "Right To Sue Letter."

You can contact the EEOC at:

800.669.4000 (Voice)

800.669.6820 (TTY)

www.eeoc.gov

State and Local Governments and the ADA

What is the goal of this part of the ADA?

The goal of Title II of the ADA, which covers state and local governments, is really to make sure that people with disabilities have equal access to civic life. Individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services. It essentially covers everything that the state or local government does, including public housing, licensing, all levels of public education, transportation, parks and recreation, detention, emergency response, and police.

The City Hall in my town is a very old building and I've been told that, because it is a historical building, it doesn't have to comply with the ADA. Is that true?

There are two different concepts in this question. The first relates to access to an historic preservation program and the second is program access in the form of access to city services. Structural changes to facilities that are "historic," meaning they are listed in or eligible for listing in the National Register of Historic Places or designated as historic under state or local law, might threaten or destroy the historical significance of the property, so the ADA might not require those kinds of structural changes. If that's the case, though, the entity must consider alternatives to such structural changes. These might include providing the government service in another building, or using audiotape or video images to demonstrate the historical significance of the inaccessible portions of the property. If alterations are made to the property, though, then the changes must conform to the ADA Standards for Accessible Design, which has specific provisions on historic buildings, to the maximum extent feasible.

What about buildings that aren't really historical, but were built before the ADA went into effect? Does the local government have to make those buildings accessible?

Government entities have to make sure that people with disabilities are not

excluded from government services or activities just because the buildings are not accessible, even if they were built before the ADA. Government programs, when viewed in their entirety, have to be readily accessible to people with disabilities. This is called “program accessibility.” Governments don’t necessarily have to make these older facilities completely architecturally accessible, but they do have to make the programs accessible.

Most of the time when people talk about accessibility, they are talking about wheelchair access. I’m deaf and I need effective communication for accessibility. Does my local government have to provide effective communication for me if I am deaf?

Yes. The government must provide communication with individuals with disabilities that is as effective as communications with others, unless doing so would be an undue financial or administrative burden or would cause a fundamental alteration of the program. The government entity must provide auxiliary aids and services when they are necessary for effective communication. What “effective communication” means, though, may be different for different situations and individuals. For example, if a person is deaf and is going to a municipal courthouse to pay a parking ticket, because this would be just a routine transaction that would require little back-and-forth communication, it would probably not require the use of a sign language interpreter. Just writing and gestures could be effective communication under those circumstances for some people. But if the same person wanted to fight the ticket and appear in court to explain why s/he should not have to pay the ticket, there may be a need for a sign language interpreter to effectively communicate, if that is the person’s usual means of communication.

How could my need for a sign language interpreter cause a “fundamental alteration” of a government program?

It rarely would. But if, for example, a city operates a planetarium, and you request that the lights be left on so that you can see the sign language interpreter, that would require a fundamental alteration of the program since it’s essential that the planetarium is dark so that participants can see

the display of lights. Just because the planetarium doesn't have to leave all the lights on, though, doesn't mean that it doesn't have to try to provide effective communication. Maybe the sign language interpreter could be illuminated by a flash light in a small part of the space without fundamentally altering the program, or the planetarium could offer a transcript of what is being said.

Does the government have to provide extra services to a person with a disability? I have a disability and I cannot shovel the snow on my sidewalks or driveway. Does the city or state have to do that for me?

No, this service would not have to be provided. Unless the government entity clears everybody's sidewalks or driveways, they do not have to clear them for people with disabilities.

Does the state have to provide printed materials in large print if I have low vision?

Yes. Printed materials that it provides to other citizens must be made available in other formats so that people who are blind or have low vision can access them. These alternate formats might include large print, Braille, or materials in electronic format. Remember, though, that you may have to request the materials in the format that you need. Allow time for creating the material in the alternate format you need.

I went to a county-owned museum and the staff refused to allow me to take the tour because I'm blind. They have a separate tour once a week for people who are blind. I would probably like that, but I wanted to go on the tour right then with my friends. Is it legal for them to have a separate tour for people who are blind?

Yes, they can offer a separate tour for people who are blind. Sometimes museums do this so that they can allow visitors a chance to touch specific items that are not generally available for museum visitors to touch. However, the museum cannot deny you access to the general tour just because they have the special tour available. You can go on either tour, although the museum does not have to allow you to handle objects that the

general public is not allowed to handle on the general tour, even if it allows that on the special tour.

I wanted to join a city basketball league, but when I turned in my application, I had to use my asthma inhaler. The person in charge said that I would have to have a physical exam before participating in the league, even though that wasn't required of anyone else. Can the city require me to get a physical just because I have asthma?

No, the city cannot require a person with a disability to have a medical examination unless it requires that of all participants.

Because of my disability, I have a note taker for my classes at the county community college. Is it all right for the college to charge a surcharge to recover part of the cost of the note taker?

No, the entity is not allowed to place a surcharge on a person with a disability, even when there is a cost to the entity for providing the service.

Do state and local police have obligations under the ADA?

Yes. The ADA covers everything that officers, sheriff's deputies, and other law enforcement personnel do – receiving citizen complaints, interrogating witnesses, arresting, booking and holding suspects, operating emergency call centers, providing emergency medical services, and enforcing laws.

Do state and local governments have to provide help to people with disabilities during weather emergencies and evacuations?

Yes. Notification systems, as well as evacuation plans, must take into account how individuals with disabilities will be accommodated. Different kinds of disabilities require different strategies. A "one size fits all" plan for people with disabilities will always be inadequate. For example, a notification system that depends on warning sirens will be inadequate for an individual who is deaf. An evacuation plan that depends on people gathering at specific public locations will be inadequate if the location is not

wheelchair accessible. An emergency shelter that is completely accessible to wheelchairs will be inadequate if it refuses to allow service animals to accompany handlers with disabilities.

I'm still a little confused about the modifications that state and local governments might have to make. Can you give some examples of modifications they might have to make and ones they might not have to make?

Let's use driver's licenses as an example. Persons applying for a license to drive are usually required to demonstrate the ability of the person to drive safely, to do various maneuvers with the vehicle (such as parking, making turns, backing the car down a street), and to know the rules of traffic safety. If a person with a mobility impairment applies for a license, then it would be a reasonable modification to allow the person to demonstrate these things in his/her own modified vehicle, such as a vehicle that uses hand controls, rather than foot pedals. But the entity does not have to change its standards for getting a license to drive. If it requires certain visual acuity as an essential eligibility requirement to obtain a license, it does not have to modify that standard. It would also be a reasonable modification to allow a person who has severe dyslexia to take an oral exam, rather than a written one, as long as the questions are the same.

If no people who use wheelchairs live in a town, then is the town relieved of its obligation to make programs accessible?

No. The absence of individuals with disabilities living in an area cannot be used as the test of whether programs and activities must be accessible. As an example, a town's administrative offices are located on the second floor of a two-story building that has no elevator. The mayor says that there are no people in the small town who use wheelchairs so there is no need to make the services of the administrative offices accessible. People, however, who currently do not have a disability may become individuals with disabilities through accident or disease. Individuals with a disability may move into the town. So the apparent lack of people who use wheelchairs for mobility does not excuse the town from taking the necessary measures to make its programs, services, and activities accessible to individuals with disabilities.

Can back doors and freight elevators be used to satisfy the program accessibility requirement?

Yes, according to the U.S. Department of Justice, but only as a last resort and only if such an arrangement provides accessibility comparable to that provided to persons without disabilities, who generally use front doors and passenger elevators. For example, a back door is acceptable if it is kept unlocked during the same hours the front door remains unlocked; the passageway to and from the floor is accessible, well-lit, neat and clean; and the individual with a mobility impairment does not have to travel excessive distances or through nonpublic areas such as kitchens and storerooms to gain access. A freight elevator would be acceptable if it were upgraded so as to be usable by passengers generally and if the passageways leading to and from the elevator are well-lit, neat and clean, and excessive travel distances or travel through non-public areas are not required.

Are there any limitations on the program accessibility requirement?

Yes. A public entity does not have to take any action if it can show that it would cause a fundamental alteration in the nature of its program or activity or an undue financial and administrative burden. This determination can only be made by the head of the public entity, or someone s/he designates, and must be accompanied by a written statement of the reasons for reaching that conclusion. The determination that undue burdens would result must be based on all resources available for use in the program. If an action would result in such an alteration or such burdens, the public entity must take any other action that would not result in such an alteration or such burdens, but would still have to make sure that individuals with disabilities receive the benefits and services of the program or activity.

How is Title II of the ADA enforced?

Individuals may file private lawsuits or they may file complaints with the Department of Justice (DOJ). The DOJ may resolve the complaints through settlement agreements, mediation, or litigation.

Depending on the issue, you may file a complaint with a different federal agency listed below. The following agencies are designated for enforcement

of Title II for components of State and local governments that exercise responsibilities, regulate, or administer services, programs, or activities in the following functional areas:

- **Department of Agriculture:** Farming and the raising of livestock, including extension services.
- **Department of Education:** Education systems and institutions (other than health-related schools) and libraries.
- **Department of Health and Human Services:** Schools of medicine, dentistry, nursing, and other health-related schools; health care and social service providers and institutions, including grass-roots and community services organizations and programs; and preschool and daycare programs.
- **Department of Housing and Urban Development:** State and local public housing and housing assistance and referral.
- **Department of Interior:** Lands and natural resources, including parks and recreation, water and waste management, environmental protection, energy, historic and cultural preservation, and museums.
- **Department of Labor:** Labor and the work force.
- **Department of Transportation:** Transportation, including highways, public transportation, traffic management (non-law enforcement), automobile licensing and inspection, and driver licensing.



Public Accommodations and the ADA

What are “public accommodations” under the ADA?

Public accommodations are private businesses, both for-profit and not-for-profit. A place of public accommodation is a facility whose operations affect commerce and falls into at least one of these categories:

- Places of lodging (inns, hotels, or motels);
- Places that serve food or drink (restaurants and bars);
- Places of exhibition or entertainment (theaters, stadiums, arenas);
- Places of public gathering (auditoriums, convention centers);
- Sales or rental establishments (stores, shopping centers);
- Service establishments (banks, beauty shops, repair shops, funeral homes, gas stations, professional offices, pharmacies, hospitals);
- Public transportation terminals, depots or stations;
- Places of public display or collection (museums, libraries, galleries);
- Places of recreation (parks, zoos, amusement parks, gyms, pools);
- Places of education (nursery schools, elementary, secondary, undergraduate, or postgraduate schools, trade or technical schools);
- Social service center establishments (day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies); or
- Places of exercise or recreation (gyms, spas, golf courses).

What does Title III of the ADA require from these places of public accommodation?

Places of public accommodation may not discriminate against people with disabilities and may not deny full and equal enjoyment of the goods and services they offer.

What about churches, synagogues, mosques, and religious entities? Are they exempt?

Yes. There is a specific exemption for religious entities in the ADA. There are a lot of misunderstandings about this exemption. It covers all of the

programs and activities of a religious entity, even if they aren't religious programs or activities.

In some cases, a religious entity rents out space and, in that situation, the religious entity is a landlord and the business that rents space is the tenant. If the religious entity rents space to a business like a day care center or a private school, the religious entity is still exempt, but the tenant business is not, unless it is also a religious entity. So if the tenant business is not a religious entity, then the religious entity landlord is still exempt from Title III of the ADA, even if the tenant business is covered. So the obligations of a landlord for a place of public accommodation under Title III do not apply if the landlord is a religious entity.

If the religious entity donates space for the use of a community organization, such as a scout troop, civic club, or social group, then, in that circumstance, both the religious entity and the nonreligious entity are exempt from the requirements of Title III of the ADA. The nonreligious tenant is covered by Title III only if there is a lease that requires a payment of rent or some other consideration.

Is the exemption for religious entities the only exemption in Title III?

No, there is also an exemption for private clubs, but it works a little differently than it does for religious entities. The concept of an exemption for private clubs was first mentioned in the Civil Rights Act of 1964, which prohibits discrimination based on race, color, sex, and national origin by places of public accommodation.

When courts have interpreted the private club exemption, the issues considered include whether: members have a high degree of control over club operations; the selection of members is highly selective; there are substantial membership fees; the entity is operated on a nonprofit basis; and the club was not founded specifically to avoid being covered by federal civil rights laws.

Unlike religious entities, however, private clubs lose their exemption to the extent that they are made available for use by nonmembers as places of public accommodation.

For example, if a private country club that is considered a private club for ADA purposes decides to rent space to a retail business that is open to nonmembers, then the private club would still be exempt for all of its other operation, but it would have ADA Title III obligations for the retail business.

Do both buildings and parking lots have to be accessible to individuals with disabilities?

Yes. Parking lots are also covered by the ADA, with specific requirements for the number of spaces that must be accessible relative to the total number of spaces in the parking lot.

How many accessible spaces are required in parking lots?

Total number of parking spaces in lot or garage	Minimum number of accessible spaces required
1 – 25	1
26 – 50	2
51 – 75	3
76 – 100	4
101 – 150	5
151 – 200	6
201 – 300	7
301 – 400	8
401 – 500	9
501 – 1000	2% of total
1001 and over	20, plus 1 for each 100 or fraction thereof, over 1000

In addition to the chart above, the 2010 Accessibility Standards require that

at least one of every six accessible parking spaces be van-accessible. If a parking facility serves multiple buildings or accessible entrances, accessible parking spaces should be dispersed throughout the facility.

In general, what are the measurements for an accessible parking space or a van-accessible parking space?

Accessible parking spaces are least eight-feet wide. Van-accessible spaces are at least eleven-feet wide. Access aisles must be at least five-feet wide, and can be shared in between two parking spaces. The access aisles are important because they provide room for vehicle-mounted wheelchair lifts, as well as a place to unload and use mobility devices like wheelchairs and walkers. If the access aisle is at least eight-feet wide, then a van-accessible space may be eight-feet wide. The access aisles must be marked so that other vehicles won't mistake the access aisle for a parking space.

What kinds of signs are required for accessible spaces?

Signs have to have the International Symbol of Accessibility, which is a line drawing of a person in a wheelchair. If the space is van-accessible, the sign must include the phrase "van-accessible." The signs must be mounted so that the lower edge is at least five feet above the ground.

What are the ADA's standards for accessibility?

The ADA's regulations and the ADA Standards for Accessible Design, originally published in 1991, set the minimum standard for what makes a facility accessible. While the updated 2010 Standards retain many of the original provisions in the 1991 Standards, they do contain some significant differences. These standards are the key for determining if a business or facility is accessible under the ADA. However, they are used differently depending on whether a facility or business is altering an existing building, building a brand new facility, or removing architectural barriers that have existed for years.

How do businesses know which standard to follow and when to follow it?

If a facility was built or altered during the last 20 years in compliance with the 1991 Standards, or barriers were removed to specific elements in compliance with those Standards, then the facility is in compliance, even if the newer 2010 Standards have different requirements for them. This provision is applied on an element-by-element basis and is referred to as the "safe harbor." The following examples from the U.S. Department of Justice illustrate how the safe harbor applies:

The 2010 Standards lower the mounting height for light switches and thermostats that can be approached from the side from 54 inches to 48 inches. If light switches are already installed at 54 inches in compliance with the 1991 Standards, a facility is not required to lower them to 48 inches.

The 1991 Standards require one van-accessible space for every eight accessible spaces. The 2010 Standards require one van-accessible space for every six accessible spaces. If the facility has complied with the 1991 Standards, it is not required to add additional van-accessible spaces to meet the 2010 Standards.

The 2010 Standards contain new requirements for the input, numeric, and function keys (for example, "enter," "clear," and "correct") on automatic teller machine (ATM) keypads. If an existing ATM complies with the 1991 Standards, no further modifications are required to the keypad.

If a business chooses to alter elements that were in compliance with the 1991 Standards, the safe harbor no longer applies to those elements. For example, if a parking lot is restriped, this would be considered an alteration. Therefore, it would then have to meet the ratio of van-accessible spaces in the 2010 Standards. Similarly, if a fixed ATM is relocated, this would be considered an alteration, and it would now have to meet the keypad requirements in the 2010 Standards.

The revised ADA rules and the 2010 Standards contain new requirements for elements in existing facilities that were not addressed in the original 1991 Standards. These include recreation elements such as play areas, exercise machines, miniature golf facilities, and bowling alleys. Because these elements were not included in the 1991 Standards, they are not subject to the safe harbor. This means that, effective March 15, 2012, places

of public accommodation must remove architectural barriers to elements subject to the new requirements in the 2010 Standards when it is readily achievable to do so.

What exactly is considered to be an “alteration” under the ADA?

When any business makes an alteration to any facility, it has an obligation to make the alteration accessible to the maximum extent feasible.

Alteration is defined as remodeling, renovating, rehabilitating, reconstructing, changing or rearranging structural parts or elements, changing or rearranging plan configuration of walls and full-height partitions, or making other changes that affect, or could affect, the usability of the facility.

Examples from the U.S. Department of Justice include: restriping a parking lot, moving walls, moving a fixed ATM to another location, installing a new sales counter or display shelves, changing a doorway entrance, and replacing fixtures, flooring or carpeting. Normal maintenance, such as reroofing, painting, or wallpapering, is not considered to be an alteration.

The day care center near my home says that it is not equipped to handle children with disabilities. Can they just refuse to accept my child who has a disability?

Day care centers cannot legally refuse to accept children with disabilities because of their disabilities unless it can show that it would cause an undue burden, considering all the financial resources available to the day care center, including tax incentives, or would fundamentally alter the services offered by the day care center. That determination has to be made on a case-by-case basis. There cannot be a “no children with disabilities” policy.

If a business operates out of a space it leases, who is responsible for ADA compliance – the tenant or the landlord?

The ADA places the responsibility for compliance on both the landlord and the tenant. But the landlord and tenant might decide, through the terms of the lease, who will actually make the changes, remove the barriers, provide the aids and services, and pay for them. However, both the tenant and the landlord remain legally obligated.

Are small businesses held to the same accessibility standards as big businesses?

The ADA requires that all businesses remove architectural barriers in existing facilities when it is "readily achievable" to do so. Readily achievable means "easily accomplishable without much difficulty or expense." This requirement is based on the size and resources of a business. So, according to the U.S. Department of Justice, businesses with more resources are expected to do more than businesses with fewer resources.

Readily achievable barrier removal may include providing an accessible route from a parking lot to the business' entrance, installing an entrance ramp, widening a doorway, installing accessible door hardware, repositioning shelves, or moving tables, chairs, display racks, vending machines, or other furniture. When removing barriers, businesses are required to comply with the Standards to the extent possible. For example, where there is not enough space to install a ramp with a slope that complies with the Standards, a business may install a ramp with a slightly steeper slope. However, any deviation from the Standards must not pose a significant safety risk.

If a business can't afford to do everything at once in terms of barrier removal, how does it set priorities for doing so?

Understanding how customers move into and through a business will go a long way in identifying existing barriers and setting priorities for their removal. It's important to know whether people get to the business by foot, by car, or by public transportation, and whether the business provides parking. The ADA regulations recommend the following priorities for barrier removal:

- Providing access to the business from public sidewalks, parking areas, and public transportation;
- Providing access to the goods and services the business offers;
- Providing access to public restrooms; and
- Removing barriers to other amenities offered to the public, such as drinking fountains.

The requirements about access and barrier removal may include a wide variety of activities, such as rearranging furnishings, widening doors, constructing ramps, installing visible alarm devices, and providing signage with Braille and raised characters.

Businesses are encouraged to consult with people with disabilities in their communities to identify barriers and establish priorities for removing them. A thorough evaluation and barrier removal plan, developed in consultation with members of the disability community, can save time and resources.

In some instances, especially in older buildings, the removal of some architectural barriers may not be readily achievable. For example, a restaurant with several steps leading to its entrance may determine that it cannot afford to install a ramp or a lift. In this situation, the restaurant must provide its services in another way if that is readily achievable, such as providing takeout service. Businesses should train staff on these alternatives and publicize them so that customers with disabilities will know of their availability and how to access them.

What's the best way to make an entrance accessible?

It depends on the barriers that exist at the entrance. One small step at an entrance can make it impossible for individuals using wheelchairs, walkers, canes, or other mobility devices to go inside. Removing this barrier may be accomplished in a number of ways, such as installing a ramp or a lift or regrading the walkway to provide an accessible route. If the main entrance cannot be made accessible, an alternate accessible entrance can be used. If there is more than one entrance and only one is accessible, a sign should be posted at each inaccessible entrance directing individuals to the accessible entrance. This entrance must be open whenever other public entrances are open.

Do all restrooms have to be accessible?

If a business has a public restroom, at least one toilet room must be accessible and must have a sign that says it is an accessible toilet. There are very specific measurements and provision in the 2010 Standards regarding accessible restrooms.

What are some of the barriers that people with disabilities encounter in retail stores?

The obligation to remove barriers also applies to merchandise shelves, sales and service counters, and check-out aisles. Shelves and counters must be on an accessible route with enough space to allow customers using mobility devices to access merchandise. Shelves may be of any height since they are not subject to the ADA's reach range requirements. Where barriers prevent access to these areas, they must be removed if readily achievable. However, businesses are not required to take any steps that would result in a significant loss of selling space. At least one check-out aisle must be usable by people with mobility disabilities, though more are required in larger stores. When it is not readily achievable to make a sales or service counter accessible, businesses should provide a folding shelf or a nearby accessible counter. If these changes are not readily achievable, businesses may provide a clip board or lap board until more permanent changes can be made.

What are some of the barriers encountered by people with mobility disabilities in restaurants?

People with disabilities need to be able to get to tables, food service lines, and condiment and beverage bars in restaurants, bars, or other places where food or drinks are sold. There has to be an accessible route to all dining areas, including raised or sunken dining areas and outdoor dining areas, as well as to food service lines, service counters, and public restrooms. In a dining area, tables should be far enough apart so a person using a wheelchair can maneuver between the tables when patrons are sitting at them. Some accessible tables must be provided and must be dispersed throughout the dining area rather than clustered in a single location. If people with disabilities cannot access a raised, sunken, or outdoor dining area, then barriers must be removed if readily achievable. In restaurants or bars with only standing tables, some accessible dining tables must be provided.

Are automatic teller machines (ATMs) covered by Title III of the ADA?

Yes.

Do all ATMs have to be accessible?

At least one ATM per location must be accessible. If a bank offers ATMs both inside and outside the bank, each of those is considered to be a different location and must have at least one accessible ATM inside and outside.

If a drive-up ATM is a separate location, then it must be accessible and provide voice guidance and Braille instruction. Sometimes people question why drive-up ATMs have to be accessible to people who have visual impairments. A person with a visual impairment might ask a friend or family member, or even a taxi, to drive him to the bank. Just because a person is blind or has low vision should not mean that s/he should have to give out a PIN or trust that the sighted person is handling the transaction correctly.

The keypads on accessible ATMs may be different. The 2010 Standards require a left arrow symbol on the clear function key. The ATM's keypad has to be in a 12-key descending layout, which is how a computer number pad is designed. Function keys must be designed to contrast visually from their background surfaces.

Do the accessible ATMs have to offer all of the same options as the other ATMs?

Yes. All of the banking services that are available at other ATMs must also be available at accessible ATMs. And if non-banking services, such as the ability to purchase postage stamps or theater tickets, are available on the non-accessible ATMs, they must also be available at the accessible ATMs.

Do all parts of a walk-up ATM have to be accessible?

The input controls for accessible walk-up ATMs, including all buttons, touchscreens, receipt dispensers, card slots, cash slots, and deposit slots, must be between 15 and 48 inches from the ground to comply with the 2010 Standards.

Do ATMs have to have voice guidance?

Yes. Accessible ATMs must have voice guidance and must include Braille instructions that explain how to initiate the voice guidance features.

Are there any tax breaks to help businesses comply with Title III of the ADA?

Yes. To assist small businesses in complying with the ADA, the Internal Revenue Service (IRS) Code includes a Disabled Access Credit (Section 44) for businesses with 30 or fewer full-time employees or with total revenues of \$1 million or less in the previous tax year. Eligible expenses may include the cost of undertaking barrier removal to improve accessibility, providing sign-language interpreters, or making material available in accessible formats such as Braille, audiotape, or large print.

Section 190 of the IRS Code provides a tax deduction for businesses of all sizes for costs incurred in removing architectural barriers in existing facilities. The maximum deduction is \$15,000 per year.

How is Title III of the ADA enforced?

Individuals can bring private lawsuits against public accommodation to get court orders to stop discrimination. People can also file complaints with the Department of Justice (DOJ), which has the authority to file suit in cases of public importance or where there is a pattern or practice of discrimination. In these cases, the DOJ may seek monetary damages and civil penalties.



Communication and the ADA

Does the ADA require businesses to communicate differently with customers with disabilities?

Communicating effectively and successfully with customers is an important part of doing business. Sometimes businesses aren't sure how to communicate with customers who are blind or have low vision, those who are deaf or hard of hearing, or those who have speech disabilities. The ADA requires businesses to communicate effectively with customers with vision, hearing, and speech disabilities.

Because the nature and complexity of communication differs, depending on the type of business, the rules allow for flexibility. A person who is consulting with a lawyer, completing a loan application at a bank, or going to an emergency center, will need a different level of communication than if the person is picking up dry cleaning, purchasing a meal at a restaurant, or making a cash withdrawal at a bank.

The goal of the effective communication provisions of the ADA is to find practical solutions for communicating effectively that work in specific situations. For example, if a person who is deaf is looking for a particular item at a store, exchanging written notes with a clerk may be effective communication. So for many businesses, exchanging written notes might be all that's ever required for effective communication. But for a lot of businesses, it will depend on the kind of communication that's taking place. If a person who is deaf goes to a bank to deposit a check, the nature of the communication is different than when the same person is completing a mortgage application. If a person who is deaf is going to the doctor to get a flu shot, the complexity of the communication is different than when the same person is going to the doctor to discuss medical test results and treatment options.

Do the ADA rules about effective communication apply to state and local governments, too?

Yes. And the examples above are also applicable in terms of flexibility, depending on the importance and complexity of the communication. If a person who is deaf is going to City Hall to pay a water bill, effective communication may likely be attained with written notes. But if the same

person wants to speak at a town hall meeting about a proposal to raise water rates, the written notes would likely not be effective.

When does a business have to provide a sign language interpreter under the ADA?

Remember that the ADA requires that people with disabilities be provided with effective communication. So, if a person needs a sign language interpreter in order for communication to be effective, then that's when it must be provided. Effective communication would likely require a sign language or oral interpreter when, because of the nature, length, and complexity of the conversation, other means of communicating would not be effective. Providing an interpreter guarantees that both parties will understand what is being said. The revised regulations permit the use of new technologies, including video remote interpreting (VRI), a service that allows businesses that have video conference equipment to access an interpreter at another location, rather than having an interpreter be physically present.

Of course, if providing a sign language interpreter would be an undue financial or administrative burden, then it may be permissible for the entity to look at other ways of providing effective communication. The ADA does not guarantee a particular right to a sign language interpreter, but rather, to effective communication. Effective communication is not always achieved in the same way, even for the same person, as explained in the first question of this chapter.

What kinds of businesses have to provide me with a sign language interpreter if I need one for effective communication?

There may be many different situations in which a sign language interpreter would need to be provided by a place of public accommodation, but the most common situations are those in which the person who is deaf is meeting with a lawyer, a doctor, or another professional, such as a financial planner. Interactions with people in these professions usually require the person who is seeking information to get detailed, often technical, information that can affect legal rights, financial status, or health. So there may be greater emphasis on the provision of truly effective communication in these situations.

I had a meeting with my lawyer and I requested a sign language interpreter because I am deaf. Do I have to pay for the sign language interpreter?

No. In this case, the lawyer must pay for the sign language interpreter unless the lawyer can prove that it would be an undue burden in light of all of the resources available to the lawyer, including tax credits and tax deductions. “Undue burden” is a fairly tough standard, though, in that it isn’t enough for a business or any entity to simply say, “That costs more than I want to spend,” or “I don’t have that kind of money in the budget.” A court will look not only at the bottom line on an entity’s balance sheet, but also what kind of expenditures are there. In terms of providing a sign language interpreter, the lawyer cannot pass that cost to the individual client.

How are 911 calls made accessible to people with speech or hearing disabilities?

Such individuals must have direct access to 911 systems. Emergency centers have to be able to get calls from TDD/TTY and computer modem users without relying on third parties or state relay services. Operators must be trained to recognize, and quickly respond to, a TDD/TTY call.

Is there flexibility in providing effective communication to people who are blind or have low vision?

Yes. What is required for effective communication is always somewhat flexible by its very nature because of the different communication needs of people with disabilities in different situations that require effective communication. When ordering at a restaurant, for example, Braille menus are not required, as long as the restaurant provides menus on tape or digital formats, or a person who can read the menu to the customer. In a store, if a person cannot read a label, the clerk can read the label to the customer, rather than providing it in an alternate format. If a person who is blind is going to sign important estate documents at a lawyer’s office, or sales contracts at a real estate office, then it may be effective communication to email an electronic version of the documents so the person can use screen-reading technology to read the paperwork in advance.



Transportation and the ADA

Is public transportation covered by the ADA?

Yes. If it is offered by a state or local government, it is covered by Title II. If it is offered by a private company, it is covered by Title III. Publicly funded transportation includes, but is not limited to, bus and passenger train (rail) service. Rail service includes subways (rapid rail), light rail, commuter rail, and Amtrak. Privately funded transportation includes, but is not limited to, taxicabs, airport shuttles, intercity bus companies, such as Greyhound, and hotel-provided transportation. The ADA also covers how transportation service is operated. For example, bus stops must be announced.

Do all buses have to be accessible to people who use wheelchairs?

At this point, nearly all buses are required to be accessible. When the ADA was passed in 1990, it required any new bus that was leased or purchased to be accessible to people who use wheelchairs, but it did not require retrofitting of older buses. Since buses are generally replaced after 10 or 12 years, it would be very rare to have an inaccessible bus still in the fleet, since the ADA was passed over 22 years ago.

Must bus drivers allow people who are blind to ride the buses?

Bus drivers may not discriminate against people because of a disability. No transit provider may deny any person with a disability, on the basis of disability, the opportunity to use the transit provider's service.

Are taxicabs covered by the ADA even if they are driven by private independent contractors?

Yes. Taxicabs are still covered by the ADA even if the drivers are not technically employees of a cab company. However, taxicabs that are sedans are not required to be wheelchair accessible.

Are shuttle buses on college campuses covered by the ADA?

The ADA does not require a college campus to offer a shuttle bus system, but if it does, it must be accessible to people with disabilities.

What is ADA paratransit?

ADA paratransit is a transportation service that complements public transit bus and rail systems by providing origin-to-destination service for individuals with disabilities who cannot use the fixed route service.

Must all transit agencies offer ADA paratransit service?

Any public entity that offers bus and/or train service must also offer paratransit because there will always be some individuals with disabilities who are unable to navigate the bus and/or train systems on their own, due to their disabilities.

Is ADA paratransit free?

No. But ADA paratransit fares are limited to twice the fare that may be charged to a passenger paying full fare on a comparable trip on the bus or train system.

Is every person who has a disability eligible for ADA paratransit?

No. There are three categories of eligibility for ADA paratransit:

1. Individuals who cannot navigate the fixed route system, as a result of a physical or mental impairment, without the assistance of another individual (other than the operator of a wheelchair lift or other boarding device);
2. Individuals with disabilities who can use buses that have wheelchair lifts, but want to travel on a route that uses buses that are not accessible; and
3. Individuals with disabilities who have specific impairment-related conditions that prevent the person from traveling to a boarding location or from a disembarking location.

Does ADA paratransit cover the same areas as the bus

and train?

The transit agency must provide paratransit to and from places within corridors that are $\frac{3}{4}$ mile on each side of all the bus routes, making the corridor 1.5 miles wide. In the case of a train system, the transit agency must provide paratransit to and from places within circles with a diameter of 1.5 miles around each station.

During what days and hours must ADA paratransit be offered?

Paratransit must be available throughout the same hours and days as the transit agency's bus and/or train service.

How soon can an ADA paratransit rider obtain a ride?

A transit agency must provide a paratransit ride if it is requested at any time on the previous day (next day service).

Must passenger trains and train stations provide access for people with disabilities? Is level boarding required?

Yes, passenger train service must be accessible to people with disabilities and level boarding is required under certain conditions. Train stations must be accessible. Each passenger train must have at least one accessible car and new cars must be accessible. Most passenger trains must provide level-entry boarding at stations in which no track passing through the station and adjacent to platforms is shared with existing freight rail operations. If the track shared with existing freight rail operations precludes compliance, the railroads are able to choose an alternative way to make sure that passengers with disabilities can access each accessible train car that other passengers can board at the station by either providing car-borne lifts, station-based lifts, or mini-high platforms.



Service Animals and the ADA

Are all animals owned by people with disabilities classified as service animals?

No. The ADA has a specific definition for what a service animal is.

Under the ADA, a service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

What exactly is a service animal?

Under the ADA, a service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

So it has to be a dog?

Yes, with one exception. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of the ADA. But there is a possible exception for miniature horses. An entity shall provide access, or shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. But there are additional assessment factors for miniature horses. To determine whether to allow a miniature horse into a specific facility, the entity must consider: the type, size, and weight of the miniature horse and whether the facility can accommodate these features; whether the individual has sufficient control of the miniature horse; whether the miniature horse is housebroken; and whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

Back to the ADA definition of service animal, what does it mean by “does work or performs tasks”?

The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

My animal doesn't do those things, but it's a big dog and is a deterrent to criminal activity, which is important to my well-being. Does that count?

The crime deterrent effect of an animal's presence does not constitute work or tasks for purposes of the ADA definition of service animal.

My animal does not do those kinds of tasks, but it provides emotional support for me. I have a letter from my doctor saying that the animal provides comfort to me and should be with me at all times. Does that meet the definition?

No, the ADA regulations are very specific on that. The provision of emotional support, well-being, comfort, or companionship does not constitute work or tasks for the purposes of the definition.

So comfort animals, emotional support animals, or therapy animals are not service animals and are not covered by the ADA.

The definition mentions service dogs for psychiatric disabilities, though. Isn't a therapy animal the same thing?

No. There are psychiatric service dogs, but that's not the same as a comfort or therapy animal. Psychiatric service animals are trained to perform tasks

that assist individuals with disabilities to detect the onset of psychiatric episodes and ameliorate their effects. Tasks performed by psychiatric service dogs may include reminding the handler to take medicine, providing safety checks or room searches for persons with PTSD, interrupting self-mutilation, and removing disoriented individuals from dangerous situations. The difference between an emotional support animal and a psychiatric service animal is the work or tasks that the animal performs.

Where is a service animal allowed to go?

Generally, a service animal is allowed to go wherever the person with the disability can go, meaning that they can go wherever the public is allowed to go.

What about a restaurant? Is it hygienic to allow service animals to go where people eat?

A place of public accommodation must modify its policies to allow a service animal to accompany an individual with a disability, unless it would result in a fundamental alteration or would jeopardize the safe operation of the public accommodation. In a restaurant, a service animal must be allowed to accompany the person with a disability in all areas that are open to other patrons.

What about a hospital?

In a hospital, the same is true, except that there may be certain areas of the hospital where having a service animal could jeopardize safety, such as in the sterile environment of an operating room.

Are there circumstances under which a person might have to remove a service animal, even if it meets the definition of service animal?

Yes, but it's rare. It's all right to ask an individual with a disability to remove a service animal from the premises if either the animal is out of control and the individual does not take effective action to control it, or the animal is not housebroken.

What the regulations mean by the animal being "out of control" is that the animal must be under the individual's control. It must have a harness, leash, or other tether, unless the individual is unable to use one of those because

of the disability and, if that's the case, then the animal still has to be under some kind of control – like voice control or signals.

If an animal is properly excluded because the animal is out of control or is not housebroken, then the entity has to give the individual with a disability the opportunity to participate in the service, program, or activity, or enter the place of public accommodation, without having the service animal on the premises.

If a service animal is on the premises, who is responsible for its care and supervision?

That's an easy one. The person with the service animal is responsible for its care and supervision at all times. The entity is not responsible for the care or supervision of a service animal.

Is it all right for a business or other entity to require documentation that shows that the animal is a service animal?

Unless it is readily apparent that the animal is a service animal (and most of the time, it is apparent), then the entity may ask if the animal is required because of a disability. It is not, however, allowed to require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

If an entity requires a pet deposit, or charges extra for people who have pets, do those fees apply to service animals, too?

No. An entity cannot ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If an entity normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

Ticketing, Reservations, and the ADA

When tickets to an event, concert, theater or sports event are sold, is that covered by the ADA?

The 2010 regulations issued by the Department of Justice, which were effective as of March 15, 2011, make it clear that ticketing is a covered activity under the ADA. Prior to that, entities that sold tickets were covered by the ADA, but there were no specific regulations or guidelines related to ticketing. The regulations can be found at 28 C.F.R. §36.302(f) and 28 C.F.R. §35.138.

What does the ADA require in terms of ticketing?

An entity that sells tickets for a single event or a series of events has to modify its policies, practices, or procedures to make sure that individuals with disabilities have an equal opportunity to buy tickets for accessible seating:

- During the same hours;
- During the same stages of ticket sales, including, but not limited to, pre-sales, promotions, lotteries, waitlists, and general sales;
- Through the same methods of distribution;
- In the same types and numbers of ticketing sales outlets, including telephone service, in-person ticket sales at the facility, or third-party ticketing services, as other patrons; and
- Under the same terms and conditions as other tickets sold for the same event or series of events.

Exactly what does the term “accessible seating” mean?

“Accessible seating” is defined as wheelchair spaces and companion seats that comply with sections 221 and 802 of the 2010 Standards for Accessible Design (“2010 Standards”), along with any other seats required to be offered for sale to the individual with a disability, as outlined in the regulations.

What information must be available regarding accessible seating?

Individuals with disabilities, and those purchasing tickets for accessible seating for individuals with disabilities, must be informed of the locations of all unsold or otherwise available accessible seating for any ticketed event at the facility.

Features of available accessible seating must be identified and described in enough detail to reasonably permit a person with a disability to decide independently whether a given accessible seating location meets his or her accessibility needs.

Materials, such as seating maps, plans, brochures, pricing charts, and other information that identify accessible seating, must be provided to the same level of specificity as other seats, if such materials are provided to the general public.

Can the entity charge more for accessible seating?

No, entities cannot charge more for accessible seating, and they are not required to charge less, either. They must provide individuals with disabilities with the opportunity to purchase tickets at all price levels. To do that, they may price accessible seating tickets in proportion to the price of other tickets in the venue. They may not price tickets for accessible seating any higher than the price of other tickets in the same section for the same event, though. For example, if the venue has three different price zones, but all of the wheelchair accessible seats are physically located in the most expensive price zone, then the venue has to figure out what percentage of seats in the venue are priced in each of the zones and then price the accessible seats to that same percentage.

Who is eligible to purchase tickets for accessible seats?

Individuals with disabilities who use wheelchairs or other mobility devices may purchase tickets for accessible seats. Other individuals with disabilities are eligible to purchase tickets for accessible seats if they require the use of the features of accessible seating. A ticket purchaser may, for example, have a service animal that requires the additional space offered by accessible seating. Or a ticket purchaser may, for example, be unable to

navigate stairs, necessitating the need for accessible seating. Tickets for accessible seats may be sold to individuals who require accessible seating themselves or to someone purchasing on their behalf.

May someone purchasing accessible seating purchase non-accessible seating for family/friends?

For each accessible ticket purchased by or for an individual with a disability, an entity must allow the purchase of up to three other tickets for companion seats immediately adjacent to and in the same row as the wheelchair space, so long as there are three such seats available at the time of purchase. The additional seats may include wheelchair spaces.

If people are allowed to buy at least four tickets, and there are fewer than three such additional seat tickets available for purchase, a seller has to offer the next highest number of such seat tickets available for purchase and must make up the difference by offering tickets for sale for seats that are as close as possible to the accessible seats.

If ticket sales are limited to fewer than four seats per patron, then the obligation is to offer as many seats to buyers with disabilities, including the ticket for the wheelchair space, as would be offered to buyers without disabilities. If buyers are allowed to purchase more than four tickets, then buyers with disabilities must be allowed to purchase up to the same number of tickets, including the ticket for the wheelchair space.

If a group includes one or more people who need to use accessible seating because of a mobility disability, or because the disability requires the use of the accessible features that are provided in accessible seating, the group must be placed in a seating area with accessible seating so that, if possible, the group can sit together. If it is necessary to divide the group, it should be divided so that the people in the group who use wheelchairs are not isolated from the group.

When can accessible seating be released for sale to people who don't need accessible seating?

Tickets for accessible seating may be released for sale in certain limited circumstances. Unsold tickets for accessible seating may be released only under the following circumstances:

-
- When all non-accessible tickets (excluding luxury boxes, club boxes, or suites) in the venue have been sold out (the venue gets to define what “sold out” means);
 - When all non-accessible tickets in a designated seating area have been sold out and the tickets for accessible seating in that same area may be released in the same designated area; or
 - When all non-accessible tickets in a designated price category have been sold out and the tickets for accessible seating in that designated price category may be released within the same designated price category.

A facility is not required to release tickets for accessible seating to individuals without disabilities, but it may under the three conditions above.

When series-of-events tickets are sold out, and the entity sells the accessible seats to people without disabilities for a series of events, the entity must establish a process by which those seats are not automatically reassigned to those ticket holders for future seasons or years. Individuals with disabilities who need accessible seating, and who become newly eligible to purchase tickets when these series-of-events tickets are available for purchase, must be given the opportunity to do so.

When series-of-events tickets with an ownership right in accessible seating areas are forfeited or otherwise returned to an entity, there must be a process in place so that individuals with mobility disabilities, or individuals with disabilities that require accessible seating, have the chance to purchase such tickets in accessible seating areas.

What if I buy tickets for accessible seating and then want to transfer them to someone else?

Individuals with disabilities who hold tickets for accessible seating must be permitted to transfer tickets, meaning to give or sell, to third parties to the same extent as other individuals holding the same type of tickets, whether they are for a single event or a series of events.

Do these ticketing rules apply to the secondary ticket market, too?

People with disabilities may use tickets purchased on the secondary ticket market under the same terms and conditions as other individuals who

purchase tickets on the secondary ticket market for the same event or series.

If a person with a disability gets a ticket to an inaccessible seat through the secondary market, the individual must be allowed to exchange the ticket for one to an accessible seat in a comparable location, if such a seat is available at the time the ticket is presented to the venue.

Since most ticket sales are online or by phone, there could be people who claim they need accessible seating when they really don't. What can those sellers ask about disability?

Individuals with disabilities may not be required to provide proof of disability, such as a doctor's note. For the sale of single-event tickets, it is permissible to ask whether the person purchasing the tickets for accessible seating has either a mobility disability or a disability that requires the use of the features of the accessible seating, or is purchasing the tickets for a person who meets those criteria.

For series-of-events tickets, it is permissible to ask the person purchasing the tickets for accessible seating to attest in writing that the accessible seating is for a person who has a mobility disability or a disability that requires the use of the features of the accessible seating.

What about hotel reservations? Are those covered by the ADA?

Yes. Individuals with disabilities must be able to make reservations for accessible guest rooms at a place of lodging during the same hours and in the same manner as others. This is true whether the reservation is made by telephone, in-person, or online through a website.

How can I tell whether a certain room will meet my accessibility needs?

Places of lodging have to describe the accessible features of the facility and the guest rooms that are offered through the reservation system in enough detail that the person with a disability is able to assess whether it meets individual accessibility needs. Information, including photos or drawings, may be posted online or included in brochures. Staff members who provide

customer service must know about the accessibility features so that they can answer questions about the features and accessible routes to and through the facility. Staff must be able to answer questions about the guest rooms and bathrooms, the availability of accessibility equipment such as bath benches or visual alert devices, and the accessibility of common areas such as meeting rooms, restaurants, bars, pools, business centers, and fitness centers.

Can an accessible guest room be rented by a person who doesn't need the accessible features?

Yes, but accessible guest rooms must be held for use by individuals with disabilities until all other guest rooms of that type have been rented. When a reservation is made for an accessible guest room, the specific accessible guest room reserved has to be held for that customer and the room must be removed from the reservation system.

Do travel agents or online travel services have obligations regarding reservations?

Yes. Reservations made through travel agents or online travel services have to provide accessible rooms and must provide information about the accessible features of the facility and the rooms.

Rehabilitation Act

What is the Rehabilitation Act?

The Rehabilitation Act of 1973, often called the Rehab Act, prohibits discrimination on the basis of disability in programs conducted by federal agencies, in programs receiving federal financial assistance, in federal employment, and in employment practices of federal contractors.

What is Section 504 of the Rehab Act?

Section 504 states that “no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under” any program or activity that either gets federal financial help or is conducted by an administrative agency or the United States Postal Service. There is a right to reasonable modification under Section 504.

Who is covered by Section 504?

Individuals who meet the definition of disability are covered. The definition is the same as it is for the ADA.

Which places are covered by Section 504?

It applies to any entity that receives federal financial assistance. This includes a lot more places than you might think about when you first hear that. Of course, it covers nearly all government entities. It also covers nearly all colleges, universities, and trade schools. Many private schools and day care centers are also covered, as are most health care facilities.

My child is covered by Section 504 in her public school. The school says they will come up with a 504 Accommodation Plan. Can you tell me what that is?

Yes. A 504 Accommodation Plan outlines the student’s needs and what modifications and accommodations will be provided. The plan is written by a team of people who are knowledgeable about the student. It’s similar to the Individual Education Program (IEP) for special education students served under the Individuals with Disabilities Education Act (IDEA).

Who enforces Section 504?

Each federal agency has its own set of Section 504 regulations that apply to its own programs. Agencies that provide federal financial assistance also have Section 504 regulations covering entities that get federal aid. Those entities that get federal financial help must provide reasonable accommodation for employees with disabilities, program accessibility, effective communication with people who have hearing or vision disabilities, and accessible new construction and alterations. Each agency enforces its own regulations.

Section 504 can also be enforced by people with disabilities who have been discriminated against through private lawsuits. You don't have to file a complaint or get a "right to sue" letter before going to court.

Where can I get more information about how to file a Section 504 Complaint?

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Disability Rights Section – NYAV
Washington DC 20530
www.ada.gov
800.514.0301/V
800.514.0383/TTY

So that's Section 504. Are there other sections of the Rehab Act I should know about?

Yes – Sections 501, 503, and 508.

Section 501 requires affirmative action and nondiscrimination in employment by federal agencies. Federal employees with disabilities have the right to reasonable accommodations. To find out about filing a 501 Complaint, contact your agency's Equal Employment Opportunity office.

Section 503 requires affirmative action and prohibits employment discrimination by federal government contractors and subcontractors with contracts of more than \$10,000. It also provides for a right to reasonable accommodations. For more information about Section 503, you can visit the

Office of Federal Contract Compliance Programs website at www.dol.gov/ofccp or call 800.397.6251.

Section 508 has certain accessibility requirements for electronic and information technology used by the federal government. An accessible information technology system can be used in a variety of ways so that it doesn't rely on a single sense or ability of the user. Federal government websites must be accessible to users who are blind or have low vision, who are deaf or hard of hearing, and/or who might need accessibility-related software or peripheral devices to use accessible systems. Federal government websites must be accessible to people with different kinds of disabilities.

Where can I get more information on Section 508?

U.S. General Services Administration
Office of Government-wide Policy
IT Accessibility & Workforce Division
1800 F Street, NW
Room 1234, MC:MKC
Washington DC 20405-0001
www.gsa.gov/section508
202.501.4906 (voice/relay)

U.S. Architectural and Transportation Barriers Compliance Board
1331 F Street NW, Suite 1000
Washington DC 20004-1111
www.access-board.gov
800.872.2253/V
800.993 .2822/TTY



Individuals with Disabilities Education Act (IDEA)

What kind of law is the Individuals with Disabilities Education Act?

It is a law that requires public schools to provide all eligible children with disabilities a free appropriate public education in the least restrictive environment appropriate to the child's individual needs.

Does IDEA apply to both public schools and private schools?

No. IDEA applies only to public schools.

Does IDEA apply to public colleges?

No. IDEA applies only to public school systems that end at grade 12.

Are all students with disabilities eligible for special education and related services under IDEA?

No. IDEA has a list of eligibility categories. In addition to having a disability that fits into one of the categories, the child must, by reason of the disability, need special education and related services in order to receive a free appropriate public education (sometimes referred to as FAPE). The eligibility categories are: orthopedic impairment, other health impairment, auditory impairment, visual impairment, deaf-blindness, intellectual disability, emotional disturbance, learning disability, speech impairment, autism, multiple disabilities, and traumatic brain injury.

What do public schools have to provide to those students?

IDEA requires the school to develop an appropriate Individualized Education Program (IEP) for each eligible student. IDEA also sets out the procedures that must be followed as the IEP is developed. Some of these include that the IEP must be developed by a team of knowledgeable persons and the IEP must be reviewed at least annually.

Who decides what goes into the child's IEP?

The IEP team decides what goes into the IEP. At a minimum, the IEP team must have the following members: the student's parent(s); the adult student; a representative of the school district who is qualified to provide or supervise special education services, knows the general curriculum, and knows about the resources available in the district; at least one special education teacher or service provider; at least one general education teacher who is responsible for implementing the student's IEP; someone who can interpret evaluations as they apply to a student's instruction; and others who have knowledge or expertise about the student, including related services personnel, as appropriate.

What are related services?

Related services are services that students may need in order to benefit and receive a free appropriate public education from the educational program. Only students who are eligible for special education services under IDEA are eligible for these related services. Some of the more common related services are: special transportation, assistive technology, speech therapy, rehabilitation counseling, counseling, psychological services, occupational therapy, social work, and orientation and mobility training.

Can children with disabilities get educational services even before kindergarten?

Yes, if they are eligible for services under IDEA. From birth to age three, states have early intervention programs for children who have developmental delays. Services for eligible children who are three and older, but have not yet reached their 22nd birthday on September 1 of the current school year, are provided by local school districts.

If I think my child might need special education services, what should I do?

You should request that the school evaluate your child to see if s/he is eligible for special education services under IDEA. The school will ask you to sign a consent for testing. You have the right to know about the abilities, skills, and knowledge that the school will evaluate, as well as a description and explanation of the procedures, tests, records, and reports they will be using in the evaluation.

My child has a lot of behavior problems at school. How is discipline handled under IDEA?

If your child's behavior interferes with learning, or is disruptive to the classroom, the IEP must address the behavior. The IEP team is supposed to identify positive behavioral interventions and supports, recognize antecedents to inappropriate behavior, and develop other strategies to address the behavior. You might want to ask for a Functional Behavior Assessment (FBA), and this may assist the IEP team in designing a Behavior Intervention Plan (BIP).

What if my child already has an IEP, but I disagree with it?

It is important that both the parents and the school make a good faith effort to come to an agreement about the IEP, but sometimes, agreement is not possible. There are several options for parents in this situation. Parents may, of course, do nothing. In that case, the school will implement its plan, even over parental objections. Parents may choose to remove a child from public school in favor of private school or home school placement. Parents may request a mediation to try to resolve the areas of disagreement. Parents may speak with the State education agency about the possibility of filing a complaint. As a last resort, parents may file for a due process hearing. This is an administrative hearing presided over by an independent hearing officer.

Are there other laws that apply to students with disabilities in public schools?

Yes. Both Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act may apply to students with disabilities.



Housing

Do disability laws cover housing for people with disabilities?

Yes. There are four key federal disability rights laws that affect housing for people with disabilities. The first is the Architectural Barriers Act (ABA), which covers all buildings owned or leased by the federal government. Section 504 of the Rehabilitation Act (504) also covers housing if the housing was built with federal funds or receives federal financial assistance. The Americans with Disabilities Act (ADA) has provisions that apply to discrimination in housing. And the most comprehensive housing discrimination statute is the Fair Housing Act (FHA), as amended in 1988.

What does the ABA cover?

The Architectural Barriers Act was the very first federal law that required certain buildings to be accessible to people with disabilities. It was passed in 1968. The ABA covers all buildings that are constructed or leased by the federal government, as well as any buildings built with a loan or a grant from the federal government, if the legislation authoring the grant or loan specifies compliance with the ABA.

For compliance with the ABA, the General Services Administration, the U.S. Postal Service, and the Department of Defense have adopted the ABA Accessibility Standards (ABAAS). As of this writing, the Department of Housing and Urban Affairs still uses the Uniform Federal Accessibility Standards (UFAS) for compliance with the ABA.

I didn't know that 504 covered housing. What exactly does it cover?

Remember that 504 covers all entities that receive federal financial assistance. So 504 covers housing built with federal funds, as well as housing entities that get federal funds. Almost all public housing receives federal assistance. In addition, most post-secondary housing, like dorms or apartments run by an educational entity, is covered by 504 because most post-secondary institutions get federal financial assistance. UFAS is the accessibility standard for 504, although some federal agencies, such as the Department of Education, permit the use of the ADA Standards for Accessible Design for compliance with 504.

Where is housing covered in the ADA?

In two places:

Title II covers programs of state or local governments, which includes housing. Title II requires new construction and alterations to have no architectural barriers that restrict access or use. Each part of a facility built after January 26, 1992 must be designed and constructed to be accessible. Title II applies to individual housing units as well as offices, recreational areas, and other parts of a housing complex that might not be covered by the FHA. Facilities constructed between January 26, 1992 and March 15, 2012 should have been built in compliance with either the 1991 ADA Standards for Accessible Design or UFAS. Housing built on or after March 15, 2012 must be in compliance with the 2010 ADA Standards for Accessible Design.

Title III covers places of public accommodation associated with housing. Just like under Title II, new construction and alterations must have no architectural barriers. Most private housing itself is not covered by Title III, but rental offices, day care centers, & other places of public accommodation associated with housing are covered. Facilities built for first occupancy after January 26, 1993 and before March 15, 2012 should have been built in compliance with the 1991 ADA Standards for Accessible Design. Facilities built on or after March 15, 2012 must be in compliance with the 2010 ADA Standards for Accessible Design. Architectural and structural communication barriers in existing buildings must be removed if the removal is relatively easy to accomplish without much difficulty or expense.

Those are federal laws. Don't states and some cities have their own building codes?

Yes, they do. In fact, there are more than 40,000 state and local building code jurisdictions nationally. In addition, there are many state and local fair housing laws and those might have additional or different access requirements.

The Fair Housing Act isn't a disability law, is it?

No and yes. When the Fair Housing Act was first passed in 1968, it prohibited housing discrimination based on race, color, religion, and national origin. Sex discrimination in housing was added in 1974. Then, in

1988 the FHA was changed again to include familial status (meaning that housing discrimination based on whether there were children under the age of 18 in the family was unlawful) and disability.

Including disability caused a lot of changes to the law because, for the other kinds of discrimination addressed by the law, it was enough to not refuse to sell or rent to, or otherwise treat unfairly, people in those protected classes. With disability, though, design and construction requirements were also necessary so that people with disabilities could access housing.

So how does that work? Does the Fair Housing Act apply to all housing sales and rentals?

Yes, it is unlawful to discriminate in any aspect of selling or renting housing to an individual with a disability because of the disability. It is important to note that the Fair Housing Act requires landlords to make reasonable accommodations to their policies so that people with disabilities have equal housing opportunities and to permit people with disabilities to make reasonable modifications to their units or common areas.

What are some examples of reasonable accommodations to policies?

An apartment complex that does not allow pets would have to modify that policy to allow an individual with a disability who uses a service animal, or an emotional support animal, to have the animal. A housing project that does not allow reserved parking spaces would have to modify that policy so that a person who uses a wheelchair or who has very limited mobility could park in a spot close to the apartment unit.

I asked my landlord to put a ramp going to the door of my apartment, but he said he doesn't have to do that. Is he right?

The landlord is correct that he does not have to put that ramp in for you. However, he must allow you to put in the ramp for yourself. You will be responsible for the cost involved and you will need to restore the area to its previous condition when you move.

Then all housing has to be accessible?

Not all housing. The design and construction requirements are for

multifamily dwellings that were designed and constructed for first occupancy after March 13, 1991. A multifamily dwelling includes buildings with four or more units; this includes condominiums, apartment complexes, and other places where people sleep, even if they share kitchens and/or bathrooms.

Are all the units in those buildings covered?

All the units are covered if the building has four or more units and has an elevator. If there is no elevator, then all ground floor units are covered.

Do the design and construction requirements apply to college dorms?

Yes. In addition to the usual kinds of housing, the FHA applies to time-shares, transitional housing, homeless shelters, student housing, and assisted living facilities.

I tried to rent an apartment, but because I have a child with Down Syndrome, the apartment manager said I would have to pay double the usual deposit. Is that legal?

No. The FHA makes it unlawful to discriminate against a person who is associated with a person with a disability. The apartment manager cannot increase your deposit simply because your child has a disability.

When emergency warning systems are installed in the public areas of multifamily buildings, do the design and construction requirements of the Fair Housing Act require visual alarms on the interior of dwelling units?

No. However, alarms and other emergency warning systems that are installed in public and common use areas must be accessible. Alarms placed in these areas must have audible and visual features. The Fair Housing Act's design and construction requirements do not require installation of visual alarms on the interior of dwelling units; however, if there is a building alarm system provided in a public and common use area, then the system must have the capability of supporting an audible and visual alarm system in individual units. The Fair Housing Act's obligation on housing providers to make reasonable accommodations so people with disabilities may use and

enjoy the property may require a housing provider to make adjustments in emergency alarm systems, whether located in public and common use areas or in individual units, so that they are accessible to and usable by people with disabilities.

Are garbage dumpsters required to be accessible under the Fair Housing Act's design and construction requirements?

The garbage dumpster itself is not covered by the design and construction requirements. However, a sufficient number of garbage dumpsters must be located on an accessible route. If an enclosure is built around the dumpster, the opening must have a 32 inch clear width and an accessible route must be provided to the dumpster door. If parking is provided at the dumpster, accessible parking must also be provided.

Where can I get more information?

You can go to the Fair Housing Accessibility First website at www.fairhousingfirst.org or call 888.341.7781 (V/TTY).

If I have a complaint that falls under the Fair Housing Act, where do I send that?

Office of Compliance and Disability Rights Division
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451 7th Street SW, Room 5242
Washington DC 20410
www.hud.gov/offices/ftheo
800.669.9777 voice
800.927.9275 TTY



Social Security and Disability

What kinds of programs does Social Security have specifically for people with disabilities?

Of course, all of the programs of the Social Security Administration (SSA) are available to people who have disabilities and people who do not have disabilities. There are two main benefit programs for people with disabilities – Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI). There is also the Ticket to Work program that helps people who are getting SSI or SSDI to attempt to return to work with supports that protect benefits and gradually transition people to self-sufficiency.

What is SSI?

SSI stands for Supplemental Security Income. It's a federal income supplement program funded by general tax revenues – not Social Security taxes. It's designed to help people who are elderly, blind, or have a disability (as defined by SSA, but we will get to that later), and who also have very limited or no income or assets. It provides cash assistance to meet very basic needs for food, gas, water, electricity, and shelter. Even if you have never worked or paid Social Security taxes, you may be eligible for SSI. But remember that one of the requirements for SSI is that you have very limited or no income initially, and few financial assets or resources.

What is SSDI?

SSDI stands for Social Security Disability Insurance. It pays benefits to a person who has a disability (as defined by SSA, but again, we will get to that later), and sometimes even to family members of the person with a disability, if the person worked long enough and paid Social Security taxes.

How do I apply for SSI or SSDI?

You may apply by calling 800.772.1213 and they will make an appointment to take your application by phone or in person at a Social Security office. You can also just go to a Social Security office without an appointment, but you will probably have to wait a long time.

The easiest way is to do as much as possible of the application process online. For SSDI, you can complete both the application and the Adult

Disability and Work History Report online at www.socialsecurity.gov. For SSI, you can complete the online Adult Disability and Work History Report online, but then you will have to call 800.772.1213 in order to complete the application process.

Once you fill out the forms, be sure to keep a copy of any paperwork you send to SSA.

How long will it take for Social Security to make a decision about whether I'll get benefits?

Usually it takes about 3-5 months to get the initial decision.

Who makes the decision?

The Social Security Administration sends your application to a state agency that makes disability decisions. The state has medical and vocational experts who contact your healthcare providers to get information and records. The state agency might ask you to have a medical exam or tests. You do not have to pay for this. If the state does notify you that it is requesting that you be at a certain healthcare office or facility for an exam or test, be sure to keep that appointment. You also may contact this agency to make sure they do not need anything else. They are receiving the information from the medical sources that you provided and can add any additional information that you may have forgotten initially.

I heard that most people get turned down when they apply. Is that true?

Yes, that's true. Most people will be denied when they first apply. What's most important, though, is to read that denial letter because it will tell you about your right to appeal.

What do I do if I get turned down at first?

You appeal that decision. The letter you get will tell you how to do that. The next stage, when you appeal that initial denial, is called "reconsideration." You may be able to appeal for reconsideration online. Or you can complete paper forms and submit them. But either way, you must request reconsideration within 60 days. Even on reconsideration, though, most people are still denied benefits. Reconsideration generally takes another 3-5 months.

Is there another appeal if I get turned down on reconsideration?

Yes. You can appeal for a hearing by filing a Request for Hearing by an Administrative Law Judge and an Appeal Disability Report. Both can be submitted online or on paper. Again, this appeal must be filed within 60 days. This is the time when you may want to find an attorney or advocate to help you develop what will be submitted both prior to and during the hearing.

Will I have to wait another 3-5 months for the hearing with the judge?

Actually, you will probably have to wait a lot longer than that to get to the hearing. In some places, the wait for a hearing is longer than a year. It is impossible to say how long your wait will be, but your lawyer or advocate can probably give you an idea of the wait you can expect in your area.

What happens at the hearing?

That is a little difficult to answer because each hearing is a little different, but they do have some things in common. The people in the room will usually be the Administrative Law Judge (ALJ), the judge's clerk who will record (either digitally or on tape) the hearing, and you, along with your lawyer or advocate, if you have one. There might also be a doctor (not anyone who has ever treated you, but just someone who can read and interpret the medical records and give an opinion about your ability to perform work-related activities), a psychologist or psychiatrist (if you have claimed to have a mental disability), and/or a vocational expert who will give an opinion about whether there are jobs that you could do, even with the limitations you have. In the hearing, you will have a chance to explain to the judge why you believe that you should get benefits. You may want to have a vocational assessment to present as part of your evidence of your ability to work, rather than relying on the vocational assessment done by a vocational expert appointed by the agency

After the hearing, the judge will notify you in writing of the decision.

If I lose there, is that the end of the line for appeals?

No. You may appeal to the Appeals Council by filing a Request for Review of

Decision/Order of Administrative Law Judge. You cannot do this online at this time. It must be filed on paper. The form is available online or you can call 800.772.1213 and request that the form be mailed to you. Your request will go to the Office of Disability Adjudication and Review. Someone there will review your medical records and notify you in writing about the decision on your case. If you do not prevail in your appeal to the Appeals Council, you can file suit in federal court. You must have a lawyer if you file the appeal in federal court. The case will be filed on your behalf against the Social Security Administration. A federal district court judge will hear the case and notify you in writing of the decision in your case.

Should I get a lawyer to help me apply for SSI or SSDI?

You are not required to have a lawyer. However, it might be a good idea to have a lawyer help you, especially if you are going to have a hearing before a Social Security Administrative Law Judge. The reason it's helpful to have a lawyer with you at that point is that a lawyer will know what kind of evidence to gather, how to best present the evidence, what to ask the witnesses that the judge will ask to testify, whether to seek additional witnesses, how to prepare you for the questions you will face, and how to put on the best case possible. Also, a lawyer will help to ease some of the fear and nervousness that most people feel when they go into a courtroom setting.

What should I do if I can't afford a lawyer?

Social Security law sets out how lawyers get paid and no lawyer is allowed to charge you more than that. The way it works is that you do not have to pay the lawyer anything in advance for his/her fee. There might be a very small expense deposit to cover the costs of mailing and copies and those kinds of out-of-pocket expenses. But you do not pay the lawyer a fee for his/her time. The lawyer will be paid 25 percent of your past due benefits, or \$6000, whichever is less. And the lawyer is paid only if you get benefits. If you do not prevail in your case, then the lawyer does not get a fee and cannot ask you to pay a fee.

What is the Social Security definition of disability?

It's important to remember that the definition of disability is a legal

definition and not a medical definition. Therefore, there are almost as many definitions of disability as there are disability laws. Social Security pays only for total disability. No benefits are paid for partial disability or for short-term disability under SSI or SSDI.

Social Security law defines disability as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

Disability, under Social Security law, is based on your inability to work. You will meet the Social Security definition of disability if SSA finds that you cannot do the work you did before; you cannot adjust to other work because of your medical condition(s); and your disability has lasted or is expected to last for at least one year or result in death. This is a strict definition of disability.

What is a “medically determinable impairment”?

It is an impairment that can be shown by medically acceptable clinical and/or laboratory diagnostic techniques. The impairment must be established by medical evidence consisting of signs, symptoms, and lab findings – and not simply by a person listing the symptoms.

Lots of times, people will bring a letter from a doctor that says that they have a disability. Often it says the person has a “total and permanent disability.” They don’t understand why, if their doctor says it, that Social Security disagrees. This goes back to the definition of disability being legal rather than medical. Your doctor, probably, is not a lawyer. So SSA is not that interested in the legal opinion of your doctor. What SSA wants from your doctor is evidence in the form of clinical notes and diagnostic tests and lab findings. SSA wants to know what treatments have been tried and how they have, or have not, worked. SSA wants to know about side effects of treatments and medications. SSA wants to know how your condition affects your ability to function and do work-related activities.

I heard that Social Security has a list of disabilities. How can I find out if my condition is on that list?

Social Security does not have a list of disabilities. What it has is a Listing of

Impairments. The Listing of Impairments describes impairments that are considered severe enough to prevent a person from gainful work-related activities. But this isn't the kind of list where you can just look for your condition, find it, and know you'll get benefits. It goes into detail about the criteria under which each condition is considered. Just because your condition is in the Listing of Impairments does not mean you will automatically get benefits.

What kind of medical benefits do I get if I am on SSI or SSDI?

If you get SSDI, you can get Medicare coverage. Medicare helps pay hospital and doctor bills, as well as prescription medication, and it will go into effect after you have gotten benefits for at least 24 months, unless you have ALS or need long-term dialysis for chronic kidney disease or need a kidney transplant. Medicare pays roughly 80 percent of reasonable charges. If you want doctor bills and prescription medications covered, you may be required to pay a monthly premium.

If you get SSI, you will get Medicaid (the name varies in some states). Medicaid covers all of the approved charges of the patient. In some states, Medicaid coverage is automatic, and in some states, you will be required to apply separately for that coverage.

Can someone work and still get disability benefits from Social Security?

Social Security rules make it possible for people to test their ability to work without losing their benefits. These rules are called "work incentives." The rules are different for SSI and SSDI, but under both programs, the program may provide continued cash benefits, continued help with medical bills, help with work-related expenses, and vocational training. For more information about work incentives, ask any Social Security office for the publication called "The Red Book – A Guide to Work Incentives."

What is the Ticket To Work program?

Ticket to Work gives most people who are getting Social Security benefits (SSI and/or SSDI) more choices for getting employment services. SSA issues the "tickets" to eligible people who, in turn, may choose to assign those tickets to an Employment Network (EN) of their choice to get employment

services, vocational rehabilitation (VR) services, or other support services they need to achieve a work goal. The EN, if it accepts the ticket, will help the person find and maintain employment. You can get more specific information about the Ticket to Work by contacting the SSA at 800.772.1213 or visiting the website at www.socialsecurity.gov.



Air Travel

What disability law applies to air carriers?

The Air Carrier Access Act (ACAA).

Is this a new law?

Not really. It was passed by Congress in 1986. In 1990, the Department of Transportation published implementing regulations, which have been updated numerous times, with the most recent update, as of this writing, taking effect in 2009. All U.S. air carriers' operations and aircraft are covered by the regulations. All foreign air carriers' flights that begin or end at U.S. airports and the aircraft being used on these flights are covered by the regulations.

Does this law cover all kinds of disabilities or only mobility impairments?

It does cover all kinds of disabilities. The ACAA protects individuals who have a disability. Under the ACAA, an individual with a disability is a person who has a physical or mental impairment that, on a permanent or temporary basis, substantially limits one or more major life activity, has a record of such an impairment, or is regarded as having such an impairment. If you are familiar with the ADA, then you may notice that the ACAA definition of an individual with a disability is almost identical to the ADA definition. There is one important difference, though. The ACAA covers even temporary disabilities, such as broken legs.

So air carriers have to let people with disabilities on flights?

Yes. Airlines cannot refuse a passenger just because that passenger has a disability. Also, airlines cannot limit the number of people with disabilities on a particular flight. The only exceptions are if the individual with a disability would endanger the health or safety of other passengers, violate a Federal Aviation Administration (FAA) safety rule, or if the plane has fewer than 19 seats and there are no lifts or boarding chairs available that can adapt to the space limitations of such a small plane.

Can the air carrier ask me to prove I have a disability?

An air carrier must not require any kind of proof as a condition for the provision of transportation, except in some very limited circumstances. If a person is traveling in a stretcher or incubator, needs medical oxygen during a flight, or if there is reasonable doubt that the person can complete the flight safely without requiring extraordinary medical assistance during the flight, then the air carrier may require a written statement from a physician saying that the passenger is capable of completing the flight without requiring extraordinary assistance during the flight. It must be dated within ten days of the initial departing flight. The air carrier may also require such a written statement if the passenger has a communicable disease that could pose a direct threat to the health or safety to others on the flight. In that case, the physician's statement should say that the disease or infection would not, under present conditions in the patient's case, be communicable to other people during the normal course of a flight. It should also state what precautions should be taken to prevent transmission and it must be written within ten days of the flight for which it is presented.

Can I be required to give advance notice that I have a disability before I arrive for the flight?

A carrier must not require a passenger with a disability to give advance notice that s/he will be traveling on a flight. However, if the passenger with a disability will require certain specific services, then advance notice must be provided.

An air carrier may require that a passenger with a disability who requires carrier-supplied inflight medical oxygen give up to 72-hour advance notice on international flights and 48-hour advance notice on domestic flights, and check in one hour before the check-in time for the general public. And 48-hour advanced notice and check-in one hour before the check-in time for the general public is required for the on-board use of a ventilator, respirator, CPAP machine or portable oxygen container (POC).

An air carrier does not have to allow an incubator or a person who must travel on a stretcher on the plane, but if it chooses to do so, it can require 48-hour advance notice and check-in one hour before the check-in time for the general public. Also, an air carrier does not have to provide a hook-up for a respirator, ventilator, CPAP machine or POC to the aircraft electrical

power supply, but if it chooses to do so, it can require 48 hours' advance notice and check-in one hour before the check-in time for the general public.

Air carriers can also require 48-hour advance notice and check-in one hour before the check-in time for the general public in order to receive any of the following:

- Transportation for a power wheelchair on an aircraft with fewer than 60 seats;
- Provision of hazardous materials packaging for batteries or other assistive devices that are required to have such packaging;
- Accommodation for a group of ten or more individuals with a disability who make reservations and travel as a group;
- Provision of an on-board wheelchair on an aircraft with more than 60 seats that does not have an accessible lavatory;
- Transportation of an emotional support or psychiatric service animal in the cabin;
- Transportation of a service animal on a flight segment scheduled to take eight hours or more; and
- Accommodation of a passenger who has both severe vision and hearing impairments.

It is up to the air carrier to provide the service or accommodation if the advance notice is given, and to make sure that reservations and other administrative services ensure that, when the advance notice is given, the notice is communicated, clearly and on time, to the people who will be responsible for providing the service or accommodation.

Even if the passenger does not meet advance notice or check-in requirements, the air carrier must still provide the service or accommodation if it can do so by making reasonable efforts, without delaying the flight.

What does an airline not have to provide under the ACAA?

The airline is not required to actually provide the medical oxygen for use on the plane, the ability to carry an incubator, hook-up for a respirator to the plane's electrical system, or accommodations for a passenger who has to

travel on a stretcher. If the airline chooses to provide any of these services, it may charge a reasonable fee and require 48-hour advance notice and one-hour advance check-in.

Is it lawful for the air carrier to require a person with a disability to travel with a safety assistant? Who pays for a safety assistant?

Air carriers may not generally require that a passenger with a disability travel with another person as a condition of being able to have the air transportation. However, passengers who fall into certain categories may be required to travel with a safety assistant if the air carrier determines that it is essential for safety. The categories are:

- A passenger traveling in a stretcher or incubator;
- A passenger who, because of mental disabilities, is unable to comprehend or respond appropriately to safety instructions from carrier personnel;
- A passenger with a mobility impairment so severe that the person is unable to physically assist in his or her own evacuation of the aircraft; and
- A passenger who has both severe hearing and severe vision impairments, if the passenger cannot establish some means of communication with personnel that is adequate to communicate safety instructions and enable the passenger to assist in his or her own evacuation of the aircraft.

If the passenger with a disability believes that s/he can travel independently, but the air carrier disagrees, then the air carrier must not charge for the safety assistant's transportation. The air carrier is not required to find or provide the safety assistant. If the passenger voluntarily chooses to travel with a personal care attendant or safety assistant that the air carrier does not require, the air carrier may charge for the transportation of that person.

Concern that a passenger with a disability might need help with personal care, like using the lavatory or eating, is not the basis for requiring the person to travel with a safety assistant. Air carriers have to make sure that personnel are trained about this. The air carrier is allowed to tell passengers that air carrier personnel are not required to provide those kinds of

services.

Can an air carrier charge me extra for things they provide because of my disability?

It depends. Air carriers are not allowed to impose charges for providing facilities, equipment, or services that the ACAA requires the air carriers to provide to passengers with a disability. However, if a passenger must use more than one seat because of the passenger's size or condition (like the use of a stretcher), then the carrier may charge for the extra seat(s). This is not considered a special charge.

If the air carrier has a website for reservations and ticket purchase that is not accessible to people with certain disabilities, then it must allow people with disabilities to make reservations and purchase tickets in another way (such as by phone) without imposing additional charges. And if there is a price discount that is available only for online purchases, it must provide the same discount to people with disabilities who cannot access the inaccessible website.

Is it lawful for the air carrier to make people with disabilities stay in a holding area when other passengers aren't required to do that?

Air carriers must not impose restrictions on passengers with a disability that they do not impose on other passengers. This includes restricting passengers' movements within the terminal; requiring passengers to stay in a holding area to get transportation, services, or accommodations; requiring passengers to sit on blankets on the airplane; requiring passengers to wear badges or other special ID; or mandating separate treatment for passengers who have a disability.

The air carrier asked me to sign a waiver in case my wheelchair was damaged in the cargo hold? Is it all right for them to do that?

Air carriers must not require passengers with a disability to sign any kind of release or waiver of liability in order to get transportation services or accommodations. This includes waivers of liability for damage to, or loss of, wheelchairs or other assistive devices. An airline may make note of pre-existing damage to an assistive device to the same extent they do so with

respect to baggage.

What kind of information about accessibility does the air carrier have to provide to me?

Air carriers must provide the following kinds of information about the accessibility of the aircraft expected to make a particular flight:

- The specific locations of seats with movable armrests (by row and seat number);
- The specific location of seats that the air carrier does not make available to passengers with a disability (such as exit row seats);
- Any aircraft-related limitations on the ability to accommodate passengers with a disability, including limitations on the availability of level-entry boarding to the aircraft at any airport involved with the flight;
- Any limitations on the availability of storage facilities in the cabin or bay;
- Whether the aircraft has an accessible lavatory; and
- The kinds of service to passengers with disabilities that are, or are not, available on the flight.

Information and services must be available to people who use text telephone, whether through the carrier's TTY, voice relay, or other technology. Air carriers must provide access to TTY users during the same hours that telephone service is available to the general public. There can be no extra charges for TTY users. Carriers must list their TTY number any place they list their phone number. If the carrier does not have a TTY, then it must state how TTY users can reach reservation and ticketing services, such as through a voice relay service.

Who is responsible for the accessibility of the airport?

U.S. airports must be accessible to, and usable by, individuals with disabilities. Air carriers are responsible for accessibility for all airport facilities including transportation systems within terminals and between the terminal and other destinations that are owned, leased, or controlled by the air carrier. Airport facilities have the same accessibility standards as do places of public accommodation under Title III of the ADA, including the implementing regulations promulgated by the U.S. Department of Justice. If airport facilities are owned or operated by state or local governments, they

would be covered by Title II of the ADA.

For areas of terminals in foreign airports that serve flights that begin or end in the United States, access to people with disabilities must be provided. This can be achieved through any combination of facility accessibility, auxiliary aids, equipment, assistance of personnel, or other appropriate means consistent with safety and dignity.

Animal relief areas must be available for service animals that accompany passengers departing, connecting, or arriving at an airport.

Captioning must be enabled at all times on all televisions and other audiovisual displays that are capable of displaying captions and are located in any part of the terminal where passengers can go. New or replacement televisions or audiovisual displays must have high-contrast captioning capability.

Can people with disabilities skip the security screenings at airports?

All passengers, including passengers with disabilities, are subject to the Transportation Security Administration's (TSA) security screening in U.S. airports. Likewise, at foreign airports, passengers, including passengers with disabilities, are subject to the security screening measures required by law in the country where the airport is located.

If the air carrier imposes security measures that go beyond those mandated by TSA or a foreign security screening, then it must use the same criteria for passengers with disabilities as for other passengers. Passengers who use a mobility or other assistive device should not be subject to special screening unless the device activates a security system or security personnel make a judgment that the device might conceal a weapon or other prohibited item. Air carriers may not require searches of individuals with disabilities to a greater extent, or for different reasons, than for other passengers.

If a passenger with a disability requests a private screening, then it must be provided in time for the passenger to catch the plane. But if, with the use of technology, an appropriate screening of a passenger can be performed without necessitating a physical search of the person, then a private screening is not required.

TSA Cares is a phone helpline to assist travelers with disabilities and medical

conditions prior to their arrival at the airport. Travelers may call toll free 855.787.2227 with questions about screening procedures and what to expect at the security checkpoint. When people with disabilities call TSA Cares, a representative will provide information about security screening that is relevant to the passenger's specific disability or medical condition, or the passenger may be referred to disability experts at TSA. TSA recommends that passengers call 72 hours ahead of travel, when possible, so that TSA Cares has the opportunity to coordinate checkpoint support with a TSA Customer Service Manager at the airport when necessary.

What if the automated kiosk in the terminal is not accessible?

If a carrier has an automated kiosk in a terminal that is not readily usable by a passenger with a disability for things like ticketing and getting boarding passes, then the carrier has to provide equivalent service to the passenger with a disability. This can be achieved by carrier personnel assisting the passenger in using the kiosk or by allowing the passenger to come to the front of the line at the check-in counter.

Do all of the restrooms in an airplane have to be accessible?

No. In aircraft with more than one aisle, if restrooms are provided, at least one must be accessible. The accessible lavatory must allow a passenger with a disability to enter, maneuver to use all lavatory facilities, and leave, by using the aircraft's onboard wheelchair. It must offer the same kind of privacy that other passengers have. The lavatory shall have door locks, accessible call buttons, grab bars, faucets, and dispensers usable by passengers with a disability, including wheelchair users and persons with manual impairments.

An aircraft with only one aisle does not have to have an accessible lavatory.

Do air carriers have to keep a wheelchair onboard in case it's needed?

If an aircraft has more than 60 passenger seats and an accessible lavatory, it must be equipped with an on-board wheelchair. If a passenger requests an on-board wheelchair, then the carrier must provide it if the aircraft has more than 60 passenger seats, even if it does not have an accessible

lavatory. The basis of this request must be that the passenger can use an inaccessible lavatory, but cannot reach it from the seat without the use of an on-board wheelchair. Passengers can be required to give notice 48 hours in advance for this service.

I don't want my wheelchair to be transported in the cargo hold of the plane. Is the air carrier required to store it in the cabin?

It depends on the chair and on the number of wheelchair users on a plane. Air carriers must ensure that there is a priority space in the cabin that is large enough to stow at least one typical adult-sized folding, collapsible, or break-down manual passenger wheelchair. This applies to aircraft with 100 or more passenger seats. The space has to be somewhere besides the overhead compartments or under-seat spaces that passengers use for carry-on items.

What if I cannot transfer to an aisle seat with a fixed armrest?

For a passenger who uses an aisle chair to access the aircraft and who cannot readily transfer over a fixed aisle armrest, the carrier must provide a seat in a row with a movable aisle armrest. Personnel must be trained in the location and proper use of movable aisle armrests, including appropriate transfer techniques.

When does the air carrier have to provide an adjoining seat for the person who is assisting the passenger with a disability?

An adjoining seat must be provided for a person assisting a passenger with a disability in the following circumstances:

- When a passenger with a disability is traveling with a personal care attendant who will perform functions during the flight that airline personnel are not required to perform (like assistance with eating);
- When a passenger with a vision impairment is traveling with a reader/assistant who will perform functions for the person during the flight;
- When a passenger with a hearing impairment is traveling with an

interpreter who will be interpreting during the flight; or

- When the air carrier requires a passenger to travel with a safety assistant.

When does the air carrier have to provide a bulkhead seat for the passenger with a disability?

A passenger traveling with a service animal must be given either a bulkhead seat or a seat other than the bulkhead seat, whichever the passenger requests.

A passenger who has a fused or immobilized leg must be provided a bulkhead seat or other seat that gives more legroom on the side of an aisle that better accommodates the person's disability.

What if a passenger with a disability needs help moving around the terminal?

Air carriers are required to provide assistance when requested by a passenger with a disability to transport the passenger between gates to a connecting flight, as well as from the terminal entrance, or vehicle drop-off point, through the airport to the gate for a departing flight, and from the gate to the terminal exit or a vehicle pick-up point. This includes providing assistance in accessing key functional areas of the terminal, like ticket counters and baggage claim. It also includes a brief stop, at the passenger's request, at the entrance to a rest room on the route.

Carriers at U.S. airports must, if requested, in cooperation with the airport operator, escort a passenger with a service animal to an animal relief area at the airport.

What if a person needs help carrying luggage because of a disability?

When providing assistance to move through the terminal, carriers must assist passengers who are unable to carry luggage, with transporting both checked and carry-on luggage. The carrier may ask the passenger for credible verbal assurance that s/he cannot carry the luggage in question. If credible verbal assurance is not provided, the carrier may require documentation.

What kind of help does the air carrier have to provide in terms of getting on and getting off of the plane?

Carriers must offer pre-boarding to passengers with a disability who identify themselves at the gate as needing additional time or assistance to board, to stow accessibility equipment, or to be seated.

Air carriers must promptly provide assistance, when requested by a passenger with a disability, with enplaning (getting on the plane) or deplaning (getting off the plane). This includes the services of personnel, the use of ground wheelchairs, accessible motorized carts, boarding wheelchairs and/or on-board wheelchairs, ramps or mechanical lifts. Boarding and deplaning assistance must be provided through the use of lifts, ramps or other suitable device at any U.S. commercial service airport with 10,000 or more annual enplanements where boarding and deplaning by level-entry loading bridges or accessible passenger lounges is not available.

Carriers must not leave a passenger who has requested assistance unattended for more than 30 minutes by the personnel responsible for enplaning, deplaning, or connecting assistance in a ground wheelchair, boarding wheelchair or other device in which the passenger is not independently mobile.

What services does the air carrier have to provide to passengers with disabilities while they are on the airplane?

Air carrier personnel must provide the following assistance, when requested, for a person with a disability:

- Assistance in moving to and from seats, as part of enplaning and deplaning;
- Assistance in preparation for eating, such as opening packages and identifying food;
- Assistance with the use of the on-board wheelchair, when there is one on the plane, to enable the person to move to and from a lavatory;
- Assistance to a semi-ambulatory person in moving to and from the lavatory, not involving lifting or carrying the person;

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- Assistance in stowing and retrieving carry-on items, including mobility aids and other assistive devices stowed in the cabin;
 - Effective communication with passengers who have vision impairments and/or who are deaf or hard-of-hearing, so that these passengers have timely access to information the carrier provides to other passengers (information such as weather, on-board services, flight delays, and connecting gates).

Air carrier personnel are not required to provide extensive special assistance, including assistance in actual eating, assistance within the restroom; assistance at the passenger's seat with elimination functions; and provision of medical services.

Do people with disabilities and their safety assistants need special safety briefings from air carrier personnel?

Air carriers must conduct an individual safety briefing for each person, and that person's attendant, who may need the assistance of another person to move quickly to an exit in the event of an emergency. Air carriers may offer an individual briefing to any other passenger, but must not require an individual to have such a briefing, unless they meet the requirement of the previous sentence. Individual safety briefings should be done as inconspicuously and discreetly as possible. The air carrier cannot require a passenger with a disability to demonstrate that s/he has listened to, read, or understood the information presented.

What kinds of mobility aids are allowed in the airplane cabin?

Carriers must permit passengers with a disability to bring the following kinds of items into the aircraft cabin, as long as they can be stowed in designated priority storage areas, in overhead compartments, or under seats:

- Manual wheelchairs, including folding or collapsible wheelchairs;
- Other mobility aids such as canes, crutches, and walkers;
- Canes used by individuals with vision impairments;

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- Other assistive devices for stowage or use within the cabin, such as prescription medication and delivery devices like syringes or auto-injectors; vision enhancing devices; an FAA-approved portable oxygen concentrator (POC); and ventilators and respirators that use nonspillable batteries, as long as they comply with applicable safety, security, and hazardous materials rules.

Assistive devices do not count toward a limit on the number of carry-on items allowed.

Air carriers must ensure that a passenger with a disability who uses a wheelchair and requests preboarding can stow the wheelchair in the priority stowage area and have priority over other items brought onto the aircraft by other passengers or crew. If the passenger with a disability does not preboard, the passenger may still use the area to stow the wheelchair or other assistive device on a first-come, first-served basis along with all other passengers seeking to stow carry-on items.

If the wheelchair is too big for the space while fully assembled, but will fit if wheels or other parts can be removed without the use of tools, the carrier must remove the applicable components and stow the wheelchair in the designated space. The other parts must be stowed in the areas for stowage of carry-on luggage.

If wheelchairs or other aids or devices cannot be stowed in the cabin because an approved stowage area is not available in the cabin or the items cannot fit in the stowage areas, then these items are given priority for stowage in the baggage compartment. The carrier must provide for the checking and timely return of passengers' wheelchairs and other devices as close as possible to the door of the aircraft so that passengers may use their own equipment to the extent possible, unless the passenger requests the return of the items in the baggage claim area or it would be inconsistent with regulations governing transportation security or the transportation of hazardous materials.

Can the air carrier refuse to accept battery-powered wheelchairs as checked baggage?

Unless restricted by baggage compartment size or aircraft worthiness considerations, a carrier must accept a passenger's battery-powered wheelchair or other similar mobility device, including the battery, as

checked baggage. One-hour advance check-in may be required, but even if the passenger checks in after that time, the carrier must carry the device if it can do so by making a reasonable effort, without delaying the flight. The carrier cannot require that the battery be removed, as long as there is a manufacturer label that says it is non-spillable. Even if the battery is spillable, the battery need not be removed if it can be loaded, stored, and secured in an upright position. If not, then the carrier must remove and package the battery separately. A leaking or damaged battery should not be transported.

Can a passenger with a disability take portable respiratory assistive devices on the plane?

Carriers, except for on-demand air taxi operators, who conduct passenger services must allow, on all aircraft with a capacity of more than 19 seats, any passenger with a disability to use a ventilator, respirator, continuous positive airway pressure machine (CPAP), or an FAA-approved portable oxygen concentrator (POC), unless either the device does not meet FAA requirements for medical portable electronic devices and does not display a manufacturer's label that indicates the device meets those FAA requirements or the device cannot be stowed and used in the passenger cabin consistent with TSA, FAA, and PHMSA (Pipeline Hazardous Materials Safety Administration) regulations.

What if a person has a communicable disease?

Air carriers cannot discriminate against individuals who have communicable diseases unless carrier personnel determine that the individual poses a direct threat, relying on directives issued by public health authorities, such as the U.S. Centers for Disease Control, Public Health Service, comparable agencies in other countries, or the World Health Organization. This determination cannot be based on the fact that the person's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience crewmembers or other passengers.

In making this assessment, air carrier personnel must consider how significant the consequences of a communicable disease are and whether it can be readily transmitted by casual contact in an aircraft cabin. For example, the common cold is readily transmissible in an aircraft cabin environment but does not have severe health consequences. Someone

with a cold would not pose a direct threat. On the other hand, AIDS has very severe health consequences. However, it is not readily transmissible in an aircraft cabin. So someone would not pose a direct threat because he or she is HIV-positive or has AIDS.

SARS (severe acute respiratory syndrome), though, may be readily transmissible in an aircraft cabin and has severe health consequences. Someone with SARS probably poses a direct threat.

What are the rules about service animals and emotional support animals on an airplane?

The ACAA definition of service animals includes guide dogs, signal dogs, psychiatric service animals, and emotional support animals. Airlines are required to allow service animals traveling with persons with disabilities to sit with them in the cabin of the aircraft. Persons traveling with pets, as opposed to service animals or emotional support animals, do not have any rights under the ACAA. To determine whether a qualified individual with a disability is entitled to travel with a service animal, airline personnel may ask questions and request documentation in certain circumstances. The questions that may be asked, and the level of documentation that may be required, will vary depending on the individual's disability and the type of service animal. The reason for the variation in requirements is because: 1) many people with disabilities who travel do not have obvious disabilities and the need for a service animal is not apparent; and 2) even for some individuals with obvious disabilities, the reason they need the service animal may not be apparent.

If an individual has an obvious disability and: 1) the service animal is wearing a harness, tags, vests, or backpack; or 2) the person provides identification cards or other written documentation; or 3) the person provides credible verbal assurances that the animal is a service animal, then the airline should permit the animal to accompany the individual with a disability on the plane.

If airline personnel are not certain of the animal's status, even after being told that an animal is a service animal, additional questions may be asked, including: "What tasks or functions does your animal perform for you?," "What has the animal been trained to do for you?," and "Would you describe how the animal performs this task or function for you?"

For emotional support or psychiatric service animals, airlines may request very specific diagnostic documentation 48 hours in advance of a flight. The documentation must be: 1) current (not be more than one year old); 2) be on letterhead from a licensed mental health professional; 3) must state that the person has a mental or emotional disability recognized in the Diagnostic and Statistical Manual of Mental Disorders (DSM IV); and 4) state that the animal is needed as an accommodation for air travel or for activity at the individual's destination. The documentation should also state that the health professional is treating the individual and include the date and type of the mental health professional's license and the state or other jurisdiction in which it was issued. It does not need to state the individual's diagnosis.

Unusual animals such as miniature horses, pigs, and monkeys may be allowed to travel as service animals. To determine whether the animal will be allowed in the cabin, the airline may take into account the animal's size, weight, and whether the animal would pose a direct threat to the health or safety of others, or cause a significant disruption in cabin service. If the animal would pose or cause any of these things, the animal may have to travel in the cargo hold. In addition, if there are restrictions on any of these animals at the final destination point of travel, the animal may not be allowed to fly. Other unusual animals such as snakes, other reptiles, ferrets, rodents, and spiders will be denied boarding the plane at all, as they may pose other safety and public health concerns. Foreign carriers are required to transport only dogs as service animals.

Any service animal may be denied boarding privileges if the animal barks, growls, jumps on people or misbehaves in ways that indicate the animal has not been trained to behave properly in public settings, poses a direct threat to the health and safety of others, or poses a significant risk of disruption in airline service.

Service animals cannot be denied passage because other passengers are allergic to, annoyed by, or afraid of, animals. Airlines will make the accommodations needed to assure that other passengers are comfortable. If a passenger with a severe allergy that rises to the level of disability cannot travel in the same cabin as a service animal, a carrier may rebook one of the passengers on another flight. Passengers who indicate they have a severe allergy may be asked for medical documentation to substantiate the

severity of the allergy.

A person traveling with a service animal may ask to pre-board and request a bulkhead seat or another seat that better suits their needs. People with disabilities can sit in any seat with their service animal unless they block an aisle or an area designated for emergency evacuation. If they cannot be accommodated in a requested seat, then they must be given the opportunity to move to another seat within the same class of service.

Airlines are not required to make modifications that would constitute an undue burden or would fundamentally alter their programs. In order to accommodate a service animal, an airline does not have to ask another passenger to give up all or most of the space in front of their seats. Airline personnel may try to find someone willing to share their foot space. Airlines can voluntarily reseat a person traveling with a service animal to a business or first-class seat to accommodate a service animal, but are not required to do so. In-flight services and facilities do not have to be provided to service animals. Individuals traveling with the animals must provide for the animal's food, care, and supervision. However, in the terminal, airlines must provide animal relief areas and provide escort service to individuals traveling with service animals to these areas, upon request.

I know that I can file a complaint if the air carrier violates my rights under the ACAA, but that won't help if I am trying to go somewhere on a plane at that moment. Does the ACAA provide any help in that situation?

Yes. A Complaint Resolution Official (CRO) must be designated by any carrier providing scheduled service, as well as a carrier providing nonscheduled service using aircraft with 19 or more passenger seats. A CRO must be available at each airport the carrier serves at all times when the carrier operates at the airport. The CRO may be available in person or by telephone. If a telephone link to the CRO is used, then a TTY or similarly effective technology must be available for persons with hearing impairments. CRO services must be available in the language(s) in which the carrier makes services available to the general public.

Carriers must make passengers aware of the CRO's availability and contact information any time a person complains or raises a concern with carrier

personnel or contractors about discrimination, accommodations, or services for passengers with a disability, that is not immediately resolved by carrier personnel. This includes issues at the airport as well as when contacting reservation agents and accessing websites.

The CRO must be completely familiar with the requirements of the ACAA and its implementing regulations, as well as the carrier's procedures with respect to passengers with disabilities. The CRO should be the carrier's expert in compliance with the ACAA. The carrier must make sure that each CRO has the authority to resolve complaints on behalf of the carrier. The CRO must have the power to overrule the decision of other personnel, except that the CRO does not have to be given authority to countermand a decision of the pilot-in-command of an aircraft when the decision is based on safety considerations.

The U.S. Department of Transportation's (DOT) Aviation Consumer Protection Division also provides a toll free hotline for air travelers with disabilities. Airline passengers who experience disability-related air travel service problems may call the hotline at 800.778.4838 (voice) or 800.455.9880 (TTY) to obtain assistance.

The DOT hotline provides general information to consumers about the rights of air travelers with disabilities, responds to requests for printed consumer information, and assists air travelers with time-sensitive disability-related issues that need to be addressed right away. The hours for the hotline are 9:00 AM to 5:00 PM Eastern time, Monday through Friday, except federal holidays.

In assisting individuals with disabilities who may have air travel complaints that require immediate intervention, DOT employees are only responsible for facilitating compliance with DOT's rules and suggesting possible customer-service solutions to the airline involved. Since compliance with the ACAA and DOT's implementing regulations remains the obligation of the carrier, airline employees would continue to decide what action will be taken in any given situation.

What can the CRO do?

If the CRO gets a complaint before the action or inaction of the carrier personnel has resulted in a violation of the ACAA, then the CRO must take or direct whatever action is necessary to ensure compliance. If the alleged

violation has already happened, and the CRO agrees that it was a violation, then the CRO must provide a written statement setting forth a summary of the facts and what steps the carrier proposes to take in response. If the CRO decides that the carrier's action does not violate the ACAA, the CRO must then provide a written statement that has a summary of the facts and the reasons for the CRO's decision. The written statement from the CRO must tell the individual about the right to pursue Department of Transportation enforcement. The statement should ideally be given to the individual at the airport, but if that is not possible, then it must be forwarded within 30 calendar days of the complaint.

If I file a written complaint about the air carrier, what should be in it and when do they have to respond?

Carriers must respond to written complaints received by any means (letter, fax, email, electronic message) concerning matters covered by the ACAA and its implementing regulations, unless the written complaint is sent or transmitted more than 45 days after the alleged incident. Passengers must state, in the written complaint, whether the passenger contacted a CRO about the issue, and give the name of the CRO, the date of contact, and any written response from the CRO. Within 30 days, the carrier must provide a written response that specifically admits or denies that a violation occurred. The written response must set forth a summary of the facts and either the steps that will be taken in response or the reasons for the decision that no violation occurred. The response must also inform the person of the right to pursue Department of Transportation enforcement.

How do I file a complaint with the Department of Transportation (DOT)?

If an individual believes that an air carrier has violated any provision of the ACAA and its implementing regulations, the individual may either seek assistance or file an informal complaint with the DOT no later than 6 months after the date of the incident by either:

- Going to the U.S. Department of Transportation's Office of Aviation Enforcement and Proceedings - Aviation Consumer Protection Division at www.dot.gov/airconsumer/file-consumer-complaint and selecting "Disability and Discrimination Complaints," or

- Writing to:

Aviation Consumer Protection Division

Attn: C-75-D

U.S. Department of Transportation

1200 New Jersey Ave, SE

Washington, DC 20590

Civil Rights of Institutionalized Persons Act

What does this law do?

The Civil Rights of Institutionalized Persons Act (CRIPA) gives the Attorney General the power to investigate conditions of confinement of state and local government institutions such as prisons, jails, detention centers, juvenile correctional facilities, government-operated nursing homes, and institutions for individuals who have psychiatric or developmental disabilities. It allows the Attorney General to uncover and correct serious problems that put the health and safety of people in these institutions in danger.

So if I have a complaint about the way I was treated in a jail, can the Attorney General sue them for me?

No. The Attorney General does not have the power under CRIPA to investigate isolated incidents or to represent individual institutionalized persons, although there may be a private right of action under Title II of the ADA.

Alternatively, if you have an individual complaint pertaining to institutions covered under CRIPA, you may want to contact your state P&A (Protection and Advocacy) system. The P&A system and the Client Assistance Program (CAP) comprise the national network of congressionally mandated, legally based disability rights agencies. A P&A/CAP agency exists in every U.S. state and territory. There is also a Native American P&A in the Four Corners region of the Southwest.

To find your state's P&A or CAP, visit www.napas.org or contact:

National Disability Rights Network
900 Second Street, NE, suite 211
Washington DC 20002
202.408.9514 (Voice), 202.408.9521 (TTY)

P&A agencies have the authority to provide legal representation and other advocacy services, under all federal and state laws, to all people with disabilities. All P&As maintain a presence in facilities that care for people

with disabilities, where they monitor, investigate, and attempt to remedy adverse conditions.

But if it's widespread, then the Attorney General can sue?

Yes, on behalf of the government, but not on behalf of an individual. The Attorney General can sue in civil court if there is reasonable cause to believe that conditions are “egregious or flagrant,” that they are causing “grievous harm” to the residents or detainees, and that they are part of a “pattern or practice” of denying residents the full enjoyment of constitutional or federal rights.

Whom do I contact to bring something to the Attorney General's attention?

U.S. Department of Justice Civil Rights Division
950 Pennsylvania Avenue NW
Special Litigation Section – PHB
Washington DC 20530
www.usdoj.gov/crt/split
877.218.5228

Resources

ADA National Network www.adata.org	800.949.4232 V/TTY
ADA Information Line U.S. Department of Justice Civil Rights Division 950 Pennsylvania Avenue NW Disability Rights Section – NYAV Washington DC 20530 www.ada.gov	800.514.0301 V 800.514.0383 TTY
Abledata 8630 Fenton Street, Suite 930 Silver Spring MD 20910 www.abledata.com	800.227.0216 V 301.608.8912 TTY
Access Board United States Access Board 1331 F. Street NW, Suite 1000 Washington DC 20004-1111 www.access-board.gov	800.872.2253 V 800.993.2822 TTY
Alliance for Technology Access 1304 Southpoint Blvd., Suite 240 Petaluma CA 94954 www.ATAccess.org	707.778.3011 V 707.778.3015 TTY
American Association of People with Disabilities 1629 K Street NW, Suite 503 Washington DC 20006 www.aapd-dc.org	800.840.8844 V/TTY
Assistive Tech Center for Assistive Technology and Environmental Access Georgia Institute of Technology www.assistivetech.net	404.894.4960 V/TTY

<p>Center for Applied Special Technology (CAST) 40 Harvard Mills Square, Suite 3 Wakefield MA 01880-3233 www.cast.org</p>	781.245.2212
<p>Center for the Study and Advancement of Disability Policy 1875 Eye Street NW, 12th floor Washington DC 20006 www.disabilitypolicycenter.org</p>	202.466.6550
<p>Disability Access Symbols – Graphic Artists Guild 32 Broadway, Suite 1114 New York NY 10004 www.gag.org/resources/das.php</p>	212.791.3400
<p>Disability Info www.disabilityinfo.gov</p>	
<p>Disability Rights Education and Defense Fund (DREDF) 2212 Sixth Street Berkeley CA 94710 www.dredf.org</p>	510.644.2555 V/TTY
<p>Disability Statistics Cornell University School of Industrial and Labor Relations 201 Dolgen Hall Ithaca NY 14853-3901 www.disabilitystatistics.org</p>	607.255.7727 V 607.255.2891 TTY
<p>Equal Employment Opportunity Commission www.eeoc.gov</p>	800.669.4000 V 800.669.6820 TTY
<p>Fair Housing Accessibility First www.fairhousingfirst.org</p>	888.341.7781 V/TTY
<p>Federal Communication Commission Disability Rights Office 445 12th Street SW Washington DC 20554 www.fcc.gov/cgb/dro/</p>	888.225.5322 V 888.835.5322 TTY

<p>Federal Transit Administration Office of Civil Rights U.S. Department of Transportation 400 Seventh St. SW, Room 9102 Washington DC 20590 www.fta.dot.gov/ada</p>	<p>888.446.4511 V/Rel</p>
<p>Institute for Human Centered Design 180-200 Portland Street, Suite 1 Boston MA 02114 www.humancentereddesign.org</p>	<p>617.695.1225 V/TTY</p>
<p>Housing and Urban Development (HUD) 451 7th Street SW Washington DC 20410 www.hud.gov/offices/fheo/disabilities/index.cfm</p>	<p>202.708.1112 V 202.708.1455 TTY</p>
<p>Job Accommodation Network www.jan.wvu.edu</p>	<p>800.526.7234 V/TTY</p>
<p>National Center on Accessibility IU Research Park 501 North Morton Street, Suite 109 Bloomington IL 47404-3732 www.ncaonline.org</p>	<p>812.856.4422 V 812.856.4421 TTY</p>
<p>National Center on Workforce & Disability (NCWD) Institute for Community Inclusion UMass Boston 100 Morrissey Blvd Boston MA 02125 www.onestops.info</p>	
<p>National Center for Accessible Media Carl and Ruth Shapiro Family National Center for Accessible Media One Guest Street Boston MA 02135 ncam.wgbh.org</p>	<p>617.300.3400 V 617.400.2489 TTY</p>
<p>National Disability Rights Network 900 Second Street NE, Suite 211 Washington DC 20002 www.napas.org</p>	<p>202.408.9514 V 202.408/9521 TTY</p>

RESNA

Rehabilitation Engineering & Assistive Technology Society
of North America
1700 N. Moore St. Suite 1540
Arlington VA 22209-1903
www.resna.org

703.524.6686 V
703.524.6639 TTY

Section 508 Information

www.section508.gov

800.827.5722 V

Small Business Administration

409 Third Street SW
Washington DC 20416
www.sba.gov

704.344.6640 TTY

Social Security – Benefits for People with Disabilities

Social Security Administration
Office of Public Inquiries
Windsor Park Building
6401 Security Blvd.
Baltimore MD 21235

800.772.1213
800.325.0778

Technology Integration in Education

Linda J. Burkhart
6201 Candle Ct.
Eldersburg MD 21784
www.lburkhart.com

The ARC

1010 Wayne Avenue, Suite 650
Silver Spring MD 20910
www.thearc.org

800.433.5255

U.S. Department of Education- Office for Civil Rights

400 Maryland Ave SW
Washington DC 20202
www.ed.gov

800.872.5327 V
800.437.0833 TTY

U.S. Department of Transportation

1200 New Jersey Ave SE
Washington DC 20590
www.dot.gov

202.366.4000

Web Accessibility In Mind (WebAIM)

Center for Persons with Disabilities
6800 Old Main Hill
Utah State University
Logan UT
www.webaim.org

435.797.7024 V
435.797.1981 TTY

Workplace RERC

RERC on Workplace Accommodations
CATEA, Georgia Institute of Technology
490 Tenth St. NW
Atlanta GA 30318
www.workrerc.org

800.726.9119



Statute and Regulation Citations

Air Carrier Access Act of 1988

49 U.S.C. §41705

Implementing Regulation:

14 CFR Part 382

Americans with Disabilities Act of 1990

42 U.S.C. §§12101 *et seq.*

Implementing Regulations:

29 CFR parts 1630, 1602 (Title I, EEOC)

28 CFR Part 35 (Title II, DOJ)

49 CFR Parts 27, 37, 38 (Title II, III, DOT)

28 CFR Part 36 (Title III, DOJ)

47 CFR §§64.601 *et seq.* (Title IV, FCC)

Civil Rights of Institutionalized Persons Act

42 U.S.C. §§ 1997 *et seq.*

Fair Housing Amendments Act of 1988

42 U.S.C. §§3601 *et seq.*

Implementing Regulation:

24 CFR Parts 100 *et seq.*

Individuals with Disabilities Education Act

20 U.S.C. §§ 1400 *et seq.*

Implementing Regulation:

34 CFR Part 300

Section 501 of the Rehabilitation Act of 1973, as amended

9 U.S.C. §791

Implementing Regulation:

29 CFR § 1614.203

Section 503 of the Rehabilitation Act of 1973, as amended
29 U.S.C. §793

Implementing Regulation:
41 CFR Part 60-741

Section 504 of the Rehabilitation Act of 1973, as amended
29 U.S.C. §794

More than 20 Implementing Regulations for federally assisted programs, including:
34 CFR Part 104 (DOE)
45 CFR Part 84 (HHS)
28 CFR §§42.501 *et seq.*

More than 95 Implementing Regulations for federally conducted programs, including: 28 CFR Part 39 (DOJ)

Section 508 of the Rehabilitation Act of 1973, as amended
29 U.S.C. §794d