



# Lake County Facilities Transition Plan Summary Documents

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## Lake County Accessibility Survey Executive Summary

Lake County comes under Title II of the Americans with Disabilities Act (ADA) for State and Local Governments. The County has the responsibility to provide equal and integrated access to its services, facilities, programs and activities for its residents and visitors with disabilities. To provide access the County must make reasonable modifications to policies and procedures as well as physical changes to the built environment. An assessment of 20 priority park physical public areas used or operated by the County was completed in July of 2016 and a Transition Plan developed.

In addition to the physical assessment, the development of policies and procedures for Service Animals, Other Power Driven Mobility Devices (OPDMD), Effective and Communication recommendations and example have also been provided. Additional details and information on the County's obligation under Title II can be found in the Appendices in the back of this report. For the other policies and procedures noted see additional information on Service Animals, OPDMD, and Effective Communication in the Appendices as well.

The following comments are a summary of Lake County's accessibility evaluation and Transition Plan development of public facilities. Each public facility used for services and programs was reviewed for their compliance with the new Americans with Disabilities Act Accessibility Guidelines (ADAAG) and the proposed Public Rights of Way. In addition, all elements were evaluated using Equivalent Facilitation standards (ADAAG 103) and Dimensional Tolerances (ADAAG 104.1.1).

In addition, a review of the County's policy and procedures was conducted. A formal policy and procedure manual has not been developed at this time. Comments for this review related to issues noted by the Americans with Disabilities Act (ADA), findings from the Department of Justice and personal observations from previous accessibility reviews. The Transition Plan and policy and procedure review are working documents that should be continually reviewed, updated as changes are made.

Under Title II of the ADA, the regulations prohibit public entities such as a County from discriminating against or excluding a person from programs, services or activities on the basis of disability. Lake County is responsible to meet the obligations of Title II of the ADA and assign a person as the ADA Coordinator. This ADA Coordinator is responsible to receive, review, and respond to questions and concerns expressed by a person with a disability related to access of the facilities and programs. In addition, this person would be responsible to implement removal of access barriers recognized in the Transition Plan.

It should be noted that in existing facilities you are permitted to reassign a program from an inaccessible location to an accessible location (28 C.F.R. §35.150(a)(1);(b)(1)). Any facility built during the time the ADA was enforced is obligated to follow new construction standards and should be accessible. Also, the ADA requires that at a minimum one

accessible route be provided (ADAAG 206.2). However, facility has been reviewed for their accessibility including multiple entrances, features, elements, facilities etc. This is so that as the various areas are updated and changes are made, the access issues that exist can be corrected at that time.

## **Planning Categories for Accessibility Barrier Removal**

The following three categories are intended as a helpful tool for the removal of accessibility barriers. The categories include ongoing maintenance, Transition Plan implementation and capital projects. The issues and elements noted under each category are not intended as a definitive list but are a means to assist in the planning for and removal of accessibility barriers in a cohesive and cost effective manner. All items and elements are subject to a shorter replacement schedule if a request or complaint is made by a person with a disability to increase access to programs, services and activities that are offered.

### **Annual Maintenance or Review of Accessibility Issues**

The following list is intended as items that are accessibility issues that are likely to occur each year. These accessibility issues could be removed and adjusted only once a year. In some cases consideration should be made to provide adjustments or removal more than once a year.

- Accessible route - removing debris or elements that have been placed in the accessible route and checking general surface conditions for replacement or re-coating including walkways, parking lots, curb ramps, gutters, etc.
- Branches protruding into walkways and sidewalks
- Clear floor space and accessible routes – Makes sure loose furniture or other loose items (trash cans, ash cans, etc.) do not interfere accessible routes and clear floor spaces at sinks, toilets, door maneuvering spaces, bench and bleacher clear floor space,
- Door opening force or timing for closing (both exterior and interior doors)
- Exercise equipment clear floor space
- Parking spaces paint especially the access aisles.
- Reach range of elements that may have been moved or remounted (brochure racks, soap dispensers, paper towel dispensers, comment boxes, dog disposal bags, etc.)
- Operable parts and replacements if broken (i.e. door and faucet hardware, switches, push buttons, door bells, play equipment handles, etc.)

### **Removal of Accessibility Barriers or Required Upgrades**

The following list of elements could be items that are accessibility barriers noted in the Transition Plan. These are items that do not typically fall into annual maintenance or are a costly item that requires extensive planning or financial support to make the changes.

- Accessible routes that require modifications or replacement such as broken or uneven surfaces, filling gaps, grinding down abrupt transition, modifying slopes, etc.
- Assistive listening devices at assembly or meeting areas/rooms.
- Benches – In locker-rooms, dressing rooms, outdoor benches, etc.
- Clear floor space at benches, bleachers, drinking fountains, sinks, telephones, etc.
- Clear swing hinges for widening door clear opening
- Counter heights
- Curb ramps and gutters
- Detectable warnings
- Door hardware replacement – lever hardware, loop hardware, etc.
- Door and shower thresholds
- Drinking fountain adjustment or replacement.
- Edge protection at ramps

- Grab bars – height adjustment, locations, replace with proper sized grab bars, etc.
- Handrails – instillation, extensions, replacement, gripping surface, spacing, etc.
- Lockers – lower or raise shelf, lower or raise coat hooks, accessible door hardware, etc.
- Parking spaces – sign locations and heights, parking slopes, proper size of spaces, built-up curb ramps in access aisles, etc.
- Protruding objects or elements
- Reach range adjustments for various elements.
- Shower – seat, grab bars instillation
- Signage – instillation or remounting
- Sink – accessible design/faucets, mounting heights, protective pipe wrap or cover, mounting locations,
- Stairs – tread nosing adjustments, closing open risers, stair surface, etc.
- Toilet – heights, locations, lever location, etc.
- Toilet paper – heights and locations
- Toilet stall door – locations, hardware, self-closing, etc.
- Trail – slopes, surfacing, conditions, signage, etc. (Considered best practices at this point).
- Urinal – heights, clear floor space, flush control reach ranges, etc.

#### **Capital Planning or Renovation Projects**

In some cases projects may require extensive planning or significant capital to remove the accessibility issues. Some parts of elements or accessibility barriers in these areas maybe removed or adjusted to increase access until the time of the major renovation. Other issue may require moving of walls, plumbing, openings, etc. to provide the access.

- Door automatic openers
- Door clear maneuvering or clear openings
- Elevator
- Ramp upgrades/replacement/installation
- Shower – upgrades or redesign.
- Stair upgrades/replacement
- Toilet rooms/stalls reconfiguration for spacing

## **Policies and Procedures Review for Lake County**

The review of policy and procedures is being conducted in accordance with the Americans with Disabilities Act (ADA). The ADA requires all public entities to review their policies and procedures to determine if any discriminate against a person with a disability participating in their programming. Integration and inclusion of people with disabilities within a program is a fundamental principle of the ADA (28 C.F.R. §35.130(a)).

A public entity programs, services and activities cannot be offered if it is not equal to or not as effective as what is provided to others. In addition, no eligibility criteria for participation in a program can not be used to screen out people with disabilities either directly or indirectly unless the criteria is necessary for the program's activity. The intent is to provide equal access to all programs offered by the Lake County (28 C.F.R. §35.130(b)(1)(i)-(iv),(vii)).

Lake County's programs, services and activities can make reasonable modifications to policies and procedures to avoid discrimination to a person with a disability. A modification is not required if it would fundamentally change the nature of the program or activity. In addition, it would not be required to be changed if it would cause a direct threat to that person or other participants. (28 C.F.R. §35.104, 28 C.F.R. §35.130(b)(7), 28 C.F.R. §35.150(a)(3)) and 28 C.F.R. §36.208).

No surcharges can be charged by the public entity to cover the cost of effective communication, program modifications or access features and they may not impose any additional requirements or burdens on people with disabilities that they do not require of all participants in the program (28 C.F.R. §35.130(f)).

All programs must be offered in as integrated setting as possible. Separate programs and activities are permitted only when this design ensures equal opportunity for a person with a disability. When a separate program is offered, qualified individuals with a disability cannot be excluded from participating in regular programs if they choose to do so (28 C.F.R. §35.130(b)(2);(d)).

When the public entity contracts with another organization to provide programs and services to the entity's constituents, the public entity must ensure that, the contractor provides services and activities in a nondiscriminatory manner that are consistent with the requirements of Title II of the ADA (28 C.F.R. §35.151(Preamble)).

In relationship to contractors, the public entity cannot discriminate against a company that employs a person with a disability. The acceptance or non-acceptance of a company must be determined by their qualifications only (28 C.F.R. §35.130(b)(5)).

The Lake County must designate a person as the ADA Coordinator. This person is responsible to continue the barrier removal process by determining an approximate date for removal and recording when changes have been made. In addition, they are available to answer questions or concerns by the public related to accessibility issues.

Their contact information should be provided on the website and printed materials such as your brochure.

#### Website Accessibility

Although the actual recommended guidelines for website accessibility are not yet law, the Department of Justice Project Civic Access is citing web accessibility in its settlement agreements. Using these agreements as a guide we would recommend the following for web accessibility.

1. Designate an employee as the web accessibility coordinator who will be responsible for coordinating website compliance. The web accessibility coordinator should have experience with the requirements of Title II of the ADA, the Web Content Accessibility Guidelines (WCAG) version 2.0, and website accessibility generally. The unique environment of the world wide web mandates specific skill, language and protocols, so it is recommended to have a trained ADA Coordinator for this purpose.
2. Adopt, implement, and post online a policy that its web pages will comply with WCAG 2.0 AA, published by the World Wide Web Consortium (W3C), Web Accessibility Initiative (WAI), available at [www.w3.org/TR/WCAG](http://www.w3.org/TR/WCAG). An example of several webpages with accessibility information from Champaign County, Illinois can be found at <http://www1.co.champaign.il.us/ada/Home.php>
3. Distribute the policy to all employees and contractors who design, develop, maintain, or otherwise have responsibility for its websites, or provide website content, technical support, or customer service;
4. Provide training to website content personnel on how to conform all web content and services with, at minimum, WCAG 2.0 AA.
5. Assess all existing web content and online services for conformance with, at minimum, WCAG 2.0 AA, by:
  - a. performing automated accessibility tests of its website and all online services, using an automated tool approved by the United States, to identify any accessibility barriers.
  - b. enlisting individuals with different disabilities, including at a minimum individuals who are blind, deaf, and have physical disabilities (such as those limiting the ability to use a mouse), to test its pages for ease of use and accessibility barriers;
6. Provide a notice, prominently and directly linked from the homepage, instructing visitors to its websites on how to request accessible information. The link should provide several methods to request accessible information, including an accessible form to submit feedback, an email address, and a phone number (with TTY) to contact personnel knowledgeable about the accessibility of the website.
7. Provide a notice, prominently and directly linked from the homepage, soliciting feedback from visitors to its websites on how to improve website accessibility. The link should provide several methods to provide feedback, including an accessible form to submit feedback, an email address, and a phone number (with TTY) to contact personnel knowledgeable about the accessibility of the website.
8. Your entity may rely on third parties for some of their website infrastructure such as scheduling. You must ensure that your websites and all online services,

including those websites or online services provided by third parties upon which members of the public participate in or benefit from services, programs, or activities, comply with, at minimum, WCAG 2.0 AA.

#### Communication

- Provide materials in alternate formats. If the materials such as a registration form is not provided on the website, provide large print versions for a person with limited sight to fill out.
- Provide qualified sign language interpreters at all public meetings. Gather a list of sign language interpreters for programs as needed.
- Assistive listening devices should be available for any public meetings or programs. A portable unit would be usable in various locations and situations.
- Provide Braille versions of information.
  - Horizons for the Blind, (815) 444-8800, provides services to convert written materials into large print, Braille, and audible formats.
  - Lighthouse for the Blind, (312) 666-1331, provides services to convert written materials into large print, Braille, and audible formats.
- Provide general information of programs on a disk for a person to access at home.
- Purchase a TTY system at your main phone. Include the TTY number in all your publications.
- Provide pad of paper at all public locations if communication by writing is the only means at the moment.

#### Brochure and Registration

- Provide in all brochures you efforts to comply with the Americans with Disabilities Act (ADA). Include information to encourage their comments and suggestions.
- Provide contact information for the person responsible as the ADA Coordinator for Lake County
- For the dog policy, see separate information on service animals.

#### Parks and Facilities

- Locate all loose items away from all clear floor spaces. Provide trashcans, picnic tables, benches, etc. along accessible routes. Some items may also need additional access features such as a concrete pad underneath them or to a side.
- Train janitorial staff to place all loose items in restrooms such as garbage cans away from the clear floor space requirements of sinks, hand dryers, paper towel dispensers, soap dispensers, etc.
- Provide a regular schedule to trim all trees and bushes from protruding into an accessible route.
- Provide a service dog policy to allow qualified dogs to attend programs with their owners. See separate information on service animals. Evaluate all locations and programs to determine if a service animal may not be appropriate.
- Have all construction contracts noted to meet all code requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and the Illinois Accessibility Code (IAC).



- Note in all construction documents that the cross slope not exceed 2%.
- When ordering portable accessible toilets, make sure the supplier has accessible toilets that meet all the new ADA Accessibility Guideline (ADAAG) requirements.
- Make sure the portable toilet supplier delivers them to an accessible site including surface and accessible route.

#### Staff Training and Development

- Provide in all staff manuals information on appropriate and inappropriate language to use for a person with a disability.
- Discontinue in all manuals, handouts and website the use of the word "handicapped". Use person first language, i.e. a person with a physical disability, Jill with a hearing impairment, etc.
- Provide disability awareness trainings for staff.

#### Transportation

- If the public entity, such as a park and recreation department, provides transportation, then an accessible vehicle must be available as a request is made.
- If renting transportation, determine that the company has available accessible vehicles if necessary when requested by a participant.
- Option: Providing a policy to rent only accessible vehicle ensures that accessibility is provided.

## Priorities Explanation

The following is an overview of the elements that may need to be modified for accessibility and the recommended order noted in the preamble of the Americans with Disabilities Act.

**Priority 1** (Highest Priority) From parking up to and through a door of a building or up to specific area (Such as a picnic shelter, playground, building entrance, etc.)

- Removal of barriers to elements such as or related to a parking, sidewalks, drop-off areas, accessible routes, curb ramps, surfaces, ramps, stairs, protruding objects, doors, entrances, etc.

**Priority 2** (From entrance of a building to different elements within the structure or within a specific area (such as a building rooms, playground, garden, golf course, etc.)

- Removal of barriers to elements such as or related to an accessible routes, protruding objects, ground and floor surfaces, ramps, stairs, lifts, elevators, signage, doors and entrances.

**Priority 3** (Within a restroom and shower area)

- Removal of barriers such as or related to an accessible routes, water closet, toilet stalls, urinals, lavatories, shower stalls, toilet rooms, handrails, sinks and signage.

**Priority 4** (Lowest Priority) (Elements not critical to participating in a program but noted in the Americans with Disabilities Act Accessibility Guidelines (ADAAG))

- Removal of barriers to elements such as or related to a mirrors, drinking fountains, telephones, etc.

## **Accommodations Language for Registration Forms, Brochures, Website**

### **ADA Statement Lake County**

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), the Lake County will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs or activities. If you feel that you or someone you know has been discriminated against or you have a recommendation on increasing accessibility of the County services, programs and activities please contact the ADA Coordinator at (888) 838-1183 to discuss this items further.

### **Reasonable Accommodation Statement**

Lake County is committed to accessibility to all individuals with disabilities and strives to comply with the 1990 Americans with Disabilities Act (ADA) through equal and integrated participation. Please advise the Lake County or any special assistance, accommodations, auxiliary aids or services we can provide for you to participate in our programs, activities, services, meeting, etc. Please indicate your reasonable accommodation needs in the space provided below or contact the ADA Coordinator, at (888) 838-1183 to discuss your accessibility needs. We ask your request be provided a minimum of 72 hours before the scheduled event or meeting. If a request is made less than 72 hours before the event the Lake County will make a good faith effort to accommodate your request.

## Lake County Grievance Procedure Example

### Grievance Procedure under The Americans with Disabilities Act (ADA)

This Grievance Procedure is established by the Lake County to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by Lake County. Lake County's Personnel Policy governs employment-related complaints of disability discrimination.

1. The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.
2. The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:
3. Within 15 calendar days after receipt of the complaint, the ADA Coordinator or his/her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or his/her designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the Lake County and offer options for substantive resolution of the complaint.
4. If the response by the ADA Coordinator or his/her designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the County's Executive's office or his/her designee.
5. Within 15 calendar days after receipt of the appeal, the County Manager's office or his/her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the County's Executive's office or his designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.
6. All written complaints received by the ADA Coordinator or his/her designee, appeals to the County's Executive's office or his/her designee and responses from these two offices will be retained by the Lake County for at least three years.
7. The right of a person to prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not prerequisite to the pursuit of other remedies.

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County Official

## Other Power Driven Mobility Device Policy

### USE OF OTHER POWER DRIVEN MOBILITY DEVICES (OPDMD) ON LAKE COUNTY PROPERTY

The Lake County is dedicated to providing all of its guests with equal access to its features and amenities. The Lake County has taken into consideration the use of other power-driven mobility devices in accordance with 28 Code of Federal Regulations section 35.104 and factors such as impacts on other users, the safety of other users, impacts on property and infrastructure, and the noise level of such devices. The County has determined that it will permit the use of other power driven mobility devices ("OPDMDs"), as defined below, on hard surface trails, sidewalks and Lake County facilities, and has developed this policy described below.

#### Definition:

An other power driven mobility device (OPDMD) is a device used by a person with a mobility disability. This definition does **not** include gasoline powered devices or vehicles, golf cars, or riding lawn mowers. This definition is restricted to a device with the following specifications:

- a) Must not exceed more than one-half the width of any trail, path or sidewalk on which a device is being used; and
- b) For indoor use, must not exceed 36"; and
- c) Must not weigh more than 250 pounds; and
- d) Must be designed to travel on two or more low-pressure tires; and
- e) Must operate by electric powered engine with a maximum decibel level of 55 or less.

#### Permission:

In order to maintain a safe pedestrian environment and the desired pace and flow of visitor traffic, the County authorizes persons with mobility impairments to use OPDMDs on hard surface and at Lake County facilities, subject to the following restrictions:

1. The operator of the OPDMD must be a person with a mobility or physical impairment, and proof of such impairment may be requested by Park District personnel in accordance with ADA regulation;
2. The OPDMD is allowed only in areas of the County, on hard surface and at Lake County facilities in which the general public is allowed;
3. The OPDMD operator must not use or operate such a device at a park, at Lake County facilities if use of the device causes damage to the trail/path/sidewalk, the park grounds or infrastructure, or facilities;
4. The OPDMD must be operated at a speed that is relative to surrounding foot traffic;
5. The OPDMD:
  - a. Must not be operated in a dangerous or reckless manner or at speeds that jeopardize the safety of the operator, or other persons.
  - b. Must not be driven into wet or ecologically sensitive or hazardous areas.
  - c. Must not be operated when the County facilities are not in operation.
6. The County does recognize the use of Segways® as an appropriate device for use inside County facilities unless for the following reasons:
  - a. The congestion of foot traffic within the facility may create a hazardous environment
  - b. The manufacturer's recommendation for helmet and protective equipment for riders, much like bicycles, skateboards and rollerblades
7. The County does not accept responsibility for storage of the OPDMD
8. The County does not accept responsibility liability for damage to the OPDMD, or injury to the operator, whether caused by the operator, another visitor to a facility or site, or any other circumstance.
9. The County reserves the right to suspend the use of facilities or sites by the OPDMD operator if doing so is in the best interests of The County and its participants.
10. The County reserves the right to change, modify, or amend this policy at any time, as it deems appropriate.

## **Service Animal Policy**

### **USE OF SERVICE ANIMALS ON LAKE COUNTY FACILITIES PROPERTY**

In accordance with the Americans with Disabilities Act (ADA) as of March 15, 2010, the Lake County allows service animals to access most public areas within its property. For additional information on service animals go the Department of Justice website [www.ada.gov](http://www.ada.gov) for a fact sheet on service animals.

#### **Definition:**

**Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities.** Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

**Please Note:** Miniature horse, with a general range in height of 24" to 34" and a weight between 70 lbs. and 100 lbs. are an alternate service animal to dogs. The horses are permitted if 1) the horse is house broken, 2) the horse is under control of the owner, 3) the facility can accommodate the horse's type, size and weight, 4) and their presence does not compromise legitimate safety requirements for safe operations of the facility.

#### **Staff Members Can Ask Two Questions to Determine if a Dog or Horse is a Service Animal**

- 1) Is the dog a service animal required because of a disability?
- 2) If yes, then what is the work or task the dog has been trained to perform?

#### **Permission:**

A service animal is permitted in most public areas on Lake County facilities property UNLESS one of two exceptions is met: (1) The animal is out of control and the animal's handler does not take effective action to control it; or (2) The animal is not house-broken.

A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash or other tether, or the use of a harness, leash or tether would interfere with the service animal's safe, effective performance of work tasks, in which case the service animal must be otherwise under the handler's control (e.g. voice controls, signals or other effective means).

Service animals are permitted in locker rooms, but not indoor shower facilities. (For assistance in shower facilities, please alert Lake County staff.)

If at any time, the sight, sound or scent of a service animal upsets nature area animals, causing them to become dangerous to themselves or others, Lake County staff reserves the right to remove the service animal from the area.

Service animals must be in their official roles and under control at all times.

Lake County reserves the right to change, modify or amend this policy at any time as it deems appropriate.

# **Appendices**

## **Overview of Title II**

### **I. Who is Covered by Title II of the ADA**

The Title II regulation covers "public entities."

"Public entities" include any State or local government and any of its departments, agencies, or other instrumentalities.

All activities, services, and programs of public entities are covered, including activities of State legislatures and courts, town meetings, police and fire departments, motor vehicle licensing, and employment. Unlike section 504 of the Rehabilitation Act of 1973, which only covers programs receiving Federal financial assistance, Title II extends to all the activities of State and local governments whether or not they receive Federal funds. Private entities that operate public accommodations, such as hotels, restaurants, theaters, retail stores, dry cleaners, doctors' offices, amusement parks, and bowling alleys, are not covered by Title II but are covered by Title III of the ADA and the Department's regulation implementing Title III.

Public transportation services operated by State and local governments are covered by regulations of the Department of Transportation.

DOT's regulations establish specific requirements for transportation vehicles and facilities, including a requirement that all new busses must be equipped to provide services to people who use wheelchairs.

### **II. Overview of Requirements**

State and local governments --

May not refuse to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability.

For example, a Park District may not refuse to allow a person with epilepsy to use parks and recreational facilities.

Must provide programs and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.

Must eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy their services, programs or activities unless "necessary" for the provisions of the service, program or activity.

Requirements that tend to screen out individuals with disabilities, such as requiring a driver's license as the only acceptable means of identification, are also prohibited.

Safety requirements that are necessary for the safe operation of the program in question, such as requirements for eligibility for drivers' licenses, may be imposed if they are based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.



Are required to make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result.

For example, a Park District office building would be required to make an exception to a rule prohibiting animals in public areas in order to admit guide dogs and other service animals assisting individuals with disabilities.

Must furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.

May provide special benefits, beyond those required by the regulation, to individuals with disabilities.

May not place special charges on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as making modifications required to provide program accessibility or providing qualified interpreters.

Shall operate their programs so that, when viewed in their entirety, they are readily accessible to and usable by individuals with disabilities.

### **III. "Qualified Individuals with Disabilities"**

Title II of the Americans with Disabilities Act provides comprehensive civil rights protections for "qualified individuals with disabilities."

An "individual with a disability" is a person who --

Has a physical or mental impairment that substantially limits a "major life activity",  
or, Has a record of such an impairment,  
or, Is regarded as having such an impairment.

Examples of physical or mental impairments include, but are not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. Homosexuality and bisexuality are not physical or mental impairments under the ADA.

"Major life activities" include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Individuals who currently engage in the illegal use of drugs are not protected by the ADA when an action is taken on the basis of their current illegal use of drugs.

"Qualified" Individual.

A "qualified" individual with a disability is one who meets the essential eligibility requirements for the program or activity offered by a public entity.

The "essential eligibility requirements" will depend on the type of service or activity involved.

For some activities, such as State licensing programs, the ability to meet specific skill and performance requirements may be "essential."

For other activities, such as where the public entity provides information to anyone who requests it, the "essential eligibility requirements" would be minimal.

#### **IV. Program Access**

State and local governments--

Must ensure that individuals with disabilities are not excluded from services, programs, and activities because buildings are inaccessible.

Need not remove physical barriers, such as stairs, in all existing buildings, as long as they make their programs accessible to individuals who are unable to use an inaccessible existing facility.

Can provide the services, programs, and activities offered in the facility to individuals with disabilities through alternative methods, if physical barriers are not removed, such as --

Relocating a service to an accessible facility, e.g., moving a public information office from the third floor to the first floor of a building.

Providing an aide or personal assistant to enable an individual with a disability to obtain the service.

Providing benefits or services at an individual's home, or at an alternative accessible site.

May not carry an individual with a disability as a method of providing program access, except in exceptional circumstances.

Are not required to take any action that would result in a fundamental alteration in the nature of the service, program, or activity or in undue financial and administrative burdens. However, public entities must take any other action, if available, that would not result in a fundamental alteration or undue burdens but would ensure that individuals with disabilities receive the benefits or services.

## **V. Integrated Programs**

Integration of individuals with disabilities into the mainstream of society is fundamental to the purposes of the Americans with Disabilities Act.

Public entities may not provide services or benefits to individuals with disabilities through programs that are separate or different, unless the separate programs are necessary to ensure that the benefits and services are equally effective.

Even when separate programs are permitted, an individual with a disability still has the right to choose to participate in the regular program.

For example, it would not be a violation for a Park District to offer recreational programs specially designed for children with mobility impairments, but it would be a violation if The County refused to allow children with disabilities to participate in its other recreational programs.

State and local governments may not require an individual with a disability to accept a special accommodation or benefit if the individual chooses not to accept it.

## **VI. Communications**

State and local governments must ensure effective communication with individuals with disabilities.

Where necessary to ensure that communications with individuals with hearing, vision, or speech impairments are as effective as communications with others, the public entity must provide appropriate auxiliary aids.

"Auxiliary aids" include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDD's), videotext displays, readers, taped texts, Brailled materials, and large print materials.

A public entity may not charge an individual with a disability for the use of an auxiliary aid.

Telephone emergency services, including 911 services, must provide direct access to individuals with speech or hearing impairments.

Public entities are not required to provide auxiliary aids that would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. However, public entities must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or undue burdens.

## **VII. New Construction and Alterations**

Public entities must ensure that newly constructed buildings and facilities are free of architectural and communication barriers that restrict access or use by individuals with disabilities.

When a public entity undertakes alterations to an existing building, it must also ensure that the altered portions are accessible.

The ADA does not require retrofitting of existing buildings to eliminate barriers, but does establish a high standard of accessibility for new buildings.

Public entities may choose between two technical standards for accessible design: The Uniform Federal Accessibility Standard (UFAS), established under the Architectural Barriers Act, or the Americans with Disability Act Accessibility Guidelines, adopted by the Department of Justice for places of public accommodation and commercial facilities covered by Title III of the ADA.

The elevator exemption for small buildings under ADA Accessibility Guidelines would not apply to public entities covered by Title II.

## **VIII. Enforcement**

Private parties may bring lawsuits to enforce their rights under Title II of the ADA. The remedies available are the same as those provided under section 504 of the Rehabilitation Act of 1973. A reasonable attorney's fee may be awarded to the prevailing party.

Individuals may also file complaints with appropriate administrative agencies.

The regulation designates eight Federal agencies to handle complaints filed under Title II.

Complaints may also be filed with any Federal agency that provides financial assistance to the program in question, or with the Department of Justice, which will refer the complaint to the appropriate agency.

## **IX. Complaints**

Any individual who believes that he or she is a victim of discrimination prohibited by the regulation may file a complaint. Complaints on behalf of classes of individuals are also permitted.

Complaints should be in writing, signed by the complainant or an authorized representative, and should contain the complainant's name and address and describe the public entity's alleged discriminatory action.

Complaints may be sent to --

Disability Rights Section  
Civil Rights Division  
U.S. Department of Justice  
P.O. Box 66738  
Washington, D.C. 20035-6738

Complaints may also be sent to agencies designated to process complaints under the regulation, or to agencies that provide Federal financial assistance to the program in question.

#### **X. Designated Agencies**

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 Justice:** Public safety, law enforcement, and the administration of justice, including courts and correctional institutions; commerce and industry, including banking and finance, consumer protection, and insurance; planning, development, and regulation (unless otherwise assigned); State and local government support services; and all other government functions not assigned to other designated agencies.

**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.

#### **XI. Technical Assistance**

The ADA requires that the Federal agencies responsible for issuing ADA regulations provide "technical assistance."

Technical assistance is the dissemination of information (either directly by the Department or through grants and contracts) to assist the public, including individuals

protected by the ADA and entities covered by the ADA, in understanding the new law.

Methods of providing information include, for example, audio-visual materials, pamphlets, manuals, electronic bulletin boards, checklists, and training.

The Department issued for public comment on December 5, 1990, a government-wide plan for the provision of technical assistance.

The Department's efforts focus on raising public awareness of the ADA by providing--  
Factsheets and pamphlets in accessible formats,

Speakers for workshops, seminars, classes, and conferences,

An ADA telephone information line, and

Access to ADA documents through an electronic bulletin board for users of personal computers.

The Department has established a comprehensive program of technical assistance relating to public accommodations and State and local governments.

Grants will be awarded for projects to inform individuals with disabilities and covered entities about their rights and responsibilities under the ADA and to facilitate voluntary compliance.

The Department will issue a technical assistance manual by January 26, 1992, for individuals or entities with rights or duties under the ADA.

For additional information, contact:

U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Civil Rights Division  
Disability Rights Section, NYAV  
Washington, D.C 20035-6738

(800) 514-0301 (Voice)

(800) 514-0383 (TDD)

[www.ada.gov](http://www.ada.gov)



Americans with Disabilities Act

# ADA Update: A Primer for State and Local Governments



Figure 703.7.2.2  
International Symbol of TTY

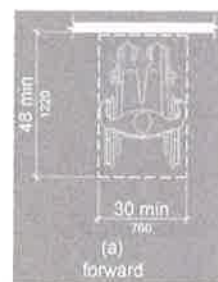


Figure 302.2  
Carpet Pile Height

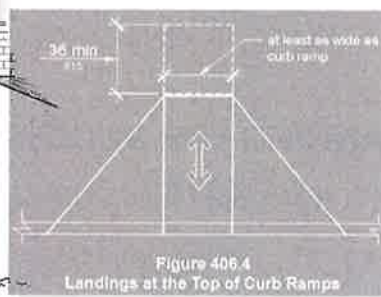
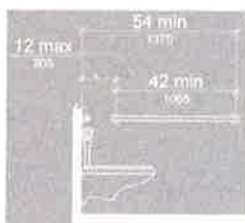


Figure 406.4  
Landings at the Top of Curb Ramps

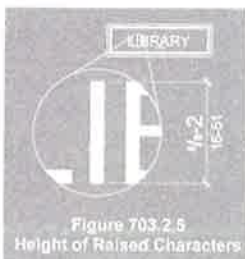
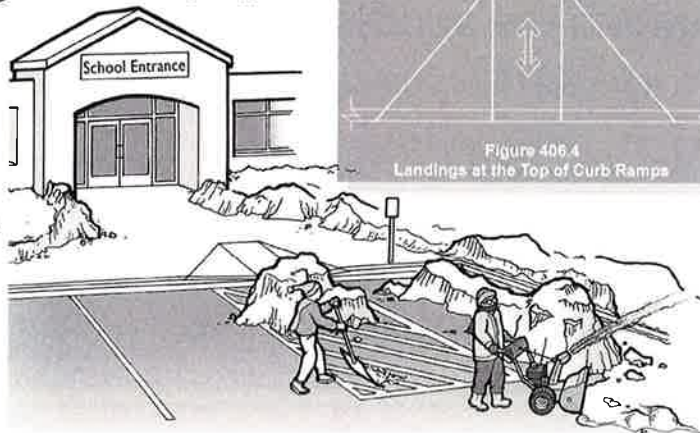


Figure 703.2.5  
Height of Raised Characters



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## Introduction

More than 55 million Americans—18% of our population—have disabilities, and they, like all Americans, participate in a variety of programs, services, and activities provided by their State and local governments. This includes many people who became disabled while serving in the military. And, by the year 2030, approximately 71.5 million baby boomers will be over age 65 and will need services and surroundings that meet their age-related physical needs.

People with disabilities have too often been excluded from participating in basic civic activities like using the public transportation system, serving on a jury, voting, seeking refuge at an emergency shelter, or simply attending a high school sports event with family and friends. The Americans with Disabilities Act (ADA) is a Federal civil rights law that prohibits discrimination against people with disabilities. Under this law, people with disabilities are entitled to all of the rights, privileges, advantages, and opportunities that others have when participating in civic activities.

The Department of Justice revised its regulations implementing the ADA in September 2010. The new rules clarify issues that arose over the previous 20 years and contain new requirements, including the 2010 ADA Standards for Accessible Design (2010 Standards). This document provides general guidance to assist State and local governments in understanding and complying with the ADA's requirements. For more comprehensive information about specific requirements, government officials can consult the regulation ([www.ada.gov/regs2010/ADAREgs2010.htm](http://www.ada.gov/regs2010/ADAREgs2010.htm)), the 2010 Standards ([www.ada.gov/2010ADASTandards\\_index.htm](http://www.ada.gov/2010ADASTandards_index.htm)), and the Department's technical assistance publications ([www.ada.gov/ta-pubs-pg2.htm](http://www.ada.gov/ta-pubs-pg2.htm)).

## Who Is Protected under the ADA?

The ADA protects the rights of people who have a physical or mental impairment that substantially limits their ability to perform one or more major life activities, such as breathing, walking, reading, thinking, seeing, hearing, or working. It does not apply to people whose impairment is unsubstantial, such as someone who is slightly nearsighted or someone who is mildly allergic to pollen. However, it does apply to people whose disability is substantial but can be moderated or mitigated, such as someone with diabetes that can normally be controlled with medication or someone who uses leg braces to walk, as well as to people who are temporarily substantially limited in their ability to perform a major life activity. The ADA also applies to people who have a record of having a substantial impairment (e.g., a person with cancer that is in remission) or are regarded as having such an impairment (e.g., a person who has scars from a severe burn).

## Who Has Responsibilities under the ADA?

Title II of the ADA applies to all State and local governments and all departments, agencies, special purpose districts, and other instrumentalities of State or local government ("public entities"). It applies to all programs, services, or activities of public entities, from adoption services to zoning regulation. Title II entities that contract with other entities to provide public services (such as non-profit organizations that operate drug treatment programs or convenience stores that sell state lottery tickets) also have an obligation to ensure that their contractors do not discriminate against people with disabilities.

## GENERAL NONDISCRIMINATION REQUIREMENTS

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### Basic Principles

Equal treatment is a fundamental purpose of the ADA. People with disabilities must not be treated in a different or inferior manner. For example:

- A city museum with an oriental carpet at the front entrance cannot make people who use wheelchairs use the back door out of concern for wear and tear on the carpet, if others are allowed to use the front entrance.
- A public health clinic cannot require an individual with a mental illness to come for check-ups after all other patients have been seen, based on an assumption that this patient's behavior will be disturbing to other patients.
- A county parks and recreation department cannot require people who are blind or have vision loss to be accompanied by a companion when hiking on a public trail.

The integration of people with disabilities into the mainstream of American life is a fundamental purpose of the ADA. Historically, public entities provided separate programs for people with disabilities and denied them the right to participate in the programs provided to everyone else. The ADA prohibits public entities from isolating, separating, or denying people with disabilities the opportunity to participate in the programs that are offered to others. Programs, activities, and services must be provided to people with disabilities in integrated settings. The ADA neither requires nor prohibits programs specifically for people with disabilities. But, when a public entity offers a special program as an alternative, individuals with disabilities have the right to choose whether to participate in the special program or in the regular program. For example:

- A county parks and recreation department may choose to provide a special swim program for people with arthritis. But it may not deny a person with arthritis the right to swim during pool hours for the general public.
- A state may be violating the ADA's integration mandate if it relies on segregated sheltered workshops to provide employment services for people with intellectual or developmental disabilities who could participate in integrated alternatives, like integrated supported employment with reasonable modifications; or if it relies on segregated adult care homes for residential services for people with mental illness who could live in integrated settings like scattered-site, permanent supportive housing.
- A city government may offer a program that allows people with disabilities to park for free at accessible metered parking spaces, but the ADA does not require cities to provide such programs.

People with disabilities have to meet the essential eligibility requirements, such as age, income, or educational background, needed to participate in a public program, service, or activity, just like everyone else. The ADA does not entitle them to waivers, exceptions, or preferential treatment. However, a public entity may not impose eligibility criteria that screen out or tend to screen out individuals with disabilities unless the criteria are necessary for the provision of the service, program, or activity being offered. For example:

- A citizen with a disability who is eighteen years of age or older, resides in the jurisdiction, and has registered to vote is "qualified" to vote in general elections.
- A school child with a disability whose family income is above the level allowed for an income-based free lunch program is "not qualified" for the program.

- If an educational background in architecture is a prerequisite to serve on a city board that reviews and approves building plans, a person with a disability who advocates for accessibility but lacks this background does not meet the qualifications to serve on this board.
- Requiring people to show a driver's license as proof of identity in order to enter a secured government building would unfairly screen out people whose disability prevents them from getting a driver's license. Staff must accept a state-issued non-driver ID as an alternative.

Rules that are necessary for safe operation of a program, service, or activity are allowed, but they must be based on a current, objective assessment of the actual risk, not on assumptions, stereotypes, or generalizations about people who have disabilities. For example:

- A parks and recreation department may require all participants to pass a swim test in order to participate in an agency-sponsored white-water rafting expedition. This policy is legitimate because of the actual risk of harm to people who would not be able to swim to safety if the raft capsized.
- A rescue squad cannot refuse to transport a person based on the fact that he or she has HIV. This is not legitimate, because transporting a person with HIV does not pose a risk to first responders who use universal precautions.
- A Department of Motor Vehicles may require that all drivers over age 75 pass a road test to renew their driver's license. It is not acceptable to apply this rule only to drivers with disabilities.

There are two exceptions to these general principles.

- The ADA allows (and may require – see below) different treatment of a person with a disability in situations where such treatment is necessary in order for a person with a disability to participate in a civic activity. For example, if an elected city council member has a disability that prevents her from attending council meetings in person, delivering papers to her home and allowing her to participate by telephone or videoconferencing would enable her to carry out her duties.
- There are some situations where it simply is not possible to integrate people with disabilities without fundamentally altering the nature of a program, service, or activity. For example, moving a beach volleyball program into a gymnasium, so a player who uses a wheelchair can participate on a flat surface without sand, would “fundamentally alter” the nature of the game. The ADA does not require changes of this nature.

In some cases, “equal” (identical) treatment is not enough. As explained in the next sections, the ADA also requires public entities to make certain accommodations in order for people with disabilities to have a fair and equal opportunity to participate in civic programs and activities.

## **Reasonable Modification of Policies and Procedures**

Many routine policies, practices, and procedures are adopted by public entities without thinking about how they might affect people with disabilities. Sometimes a practice that seems neutral makes it difficult or impossible for a person with a disability to participate. In these cases, the ADA requires public entities to make “reasonable modifications” in their usual ways of doing things when necessary to accommodate people who have disabilities. For example:

- A person who uses crutches may have difficulty waiting in a long line to vote or register for college classes. The ADA does not require that the person be moved to the front of the line (although this would be permissible), but staff must provide a chair for him and note where he is in line, so he doesn't lose his place.
- A person who has an intellectual or cognitive disability may need assistance in completing an application for public benefits.
- A public agency that does not allow people to bring food into its facility may need to make an exception for a person who has diabetes and needs to eat frequently to control his glucose level.
- A city or county ordinance that prohibits animals in public places must be modified to allow people with disabilities who use service animals to access public places. (This topic is discussed more fully later.)
- A city or county ordinance that prohibits motorized devices on public sidewalks must be modified for people with disabilities who use motorized mobility devices that can be used safely on sidewalks. (This topic is discussed more fully later.)
- At a hot lunch program for elderly town residents, staff are not obliged to feed a woman with a disability who needs assistance in eating, if it does not provide this service for others. However, the woman should be allowed to bring an attendant to assist her. If she can feed herself but cannot cut large pieces of food into bite-sized pieces, it is reasonable to ask staff to cut up the food.
- If a city requires a 12-foot set-back from the curb in the central business district, it may be reasonable to grant a 3-foot variance for a store wishing to install a ramp at its entrance to meet its ADA obligations. If the set-back is smaller and the ramp would obstruct pedestrian traffic, granting the variance may "fundamentally alter" the purpose of the public sidewalk.

## Service Animals

Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability. For example, many people who are blind or have low vision use dogs to guide and assist them with orientation. Many individuals who are deaf use dogs to alert them to sounds. People with mobility disabilities often use dogs to pull their wheelchairs or retrieve items. People with epilepsy may use a dog to warn them of an imminent seizure, and individuals with psychiatric disabilities may use a dog to remind them to take medication. Dogs can also be trained to detect the onset of a seizure or panic attack and to help the person avoid the attack or be safe during the attack. Under the ADA, "comfort," "therapy," or "emotional support" animals do not meet the definition of a service animal because they have not been trained to do work or perform a specific task related to a person's disability.

Allowing service animals into a "no pet" facility is a common type of reasonable modification neces-

Only "reasonable" modifications are required. When only one staff person is on duty, it may or may not be possible to accommodate a person with a disability at that particular time. The staff person should assess whether he or she can provide the assistance that is needed without jeopardizing the safe operation of the public program or service. Any modification that would result in a "fundamental alteration" -- a change in the essential nature of the entity's programs or services -- is not required. For example:

- At a museum's gift shop, accompanying and assisting a customer who uses a wheelchair may not be reasonable when there is only one person on duty.





Woman using a wheelchair and her service animal enter a town building

sary to accommodate people who have disabilities. Service animals must be allowed in all areas of a facility where the public is allowed except where the dog's presence would create a legitimate safety risk (e.g., compromise a sterile environment such as a burn treatment unit) or would fundamentally alter the nature of a public entity's services (e.g., allowing a service animal into areas of a zoo where animals that are natural predators or prey of dogs are displayed and the dog's presence would be disruptive). The ADA does not override public health rules that prohibit dogs in swimming pools, but they must be permitted everywhere else.

The ADA requires that service animals be under the control of the handler at all times and be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents him from using these devices. Individuals who cannot use such devices must maintain control of the animal through voice, signal, or other effective controls.

Public entities may exclude service animals only if 1) the dog is out of control and the handler cannot or does not regain control; or 2) the dog is not housebroken. If a service animal is excluded, the individual must be allowed to enter the facility without the service animal.

Public entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry. In situations where it is not apparent that the dog is a service animal, a public entity may ask only two questions: 1) is the animal required because of a disability? and 2) what work or task has the dog been trained to perform? Public entities may not ask about the nature or extent of an individual's disability.

The ADA does not restrict the breeds of dogs that may be used as service animals. Therefore, a town ordinance that prohibits certain breeds must be modified to allow a person with a disability to use a service animal of a prohibited breed, unless the dog's presence poses a direct threat to the health or safety of others. Public entities have the right to determine, on a case-by-case basis, whether use of a particular service animal poses a direct threat, based on that animal's actual behavior or history; they may not, however, exclude a service animal based solely on fears or generalizations about how an animal or particular breed might behave.

The ADA does not require service animals to be certified, licensed, or registered as a service animal. Nor are they required to wear service animal vests or patches, or to use a specific type of harness. There are individuals and organizations that sell service animal certification or registration documents to the public. The Department of Justice does not recognize these as proof that the dog is a service animal under the ADA.

For additional information, see [ADA 2010 Revised Requirements: Service Animals](http://www.ada.gov/service_animals_2010.htm) at [www.ada.gov/service\\_animals\\_2010.pdf](http://www.ada.gov/service_animals_2010.pdf).

## Wheelchairs and Other Power-Driven Mobility Devices

Allowing mobility devices into a facility is another type of “reasonable modification” necessary to accommodate people who have disabilities.

People with mobility, circulatory, or respiratory disabilities use a variety of devices for mobility. Some use walkers, canes, crutches, or braces while others use manual or power wheelchairs or electric scooters, all of which are primarily designed for use by people with disabilities. Public entities must allow people with disabilities who use these devices into all areas where the public is allowed to go.

Advances in technology have given rise to new power-driven devices that are not necessarily designed specifically for people with disabilities, but are being used by some people with disabilities for mobility. The term “other power-driven mobility devices” is used in the ADA regulations to refer



Man with prosthetic legs using a Segway®

to any mobility device powered by batteries, fuel, or other engines, whether or not they are designed primarily for use by individuals with mobility disabilities for the purpose of locomotion. Such devices include Segways®, golf cars, and other devices designed to operate in non-pedestrian areas. Public entities must allow individuals with disabilities who use these devices into all areas where the public is allowed to go, unless the entity can demonstrate that the particular type of device cannot be accommodated because of legitimate safety requirements. Such safety requirements must be based on actual risks, not on speculation or stereotypes about a particular class of devices or how individuals will operate them.

Public entities must consider these factors in determining whether to permit other power-driven mobility devices on their premises:

- the type, size, weight, dimensions, and speed of the device;
- the volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
- the facility's design and operational characteristics, such as its square footage, whether it is indoors or outdoors, the placement of stationary equipment, devices, or furniture, and whether it has storage space for the device if requested by the individual;
- whether legitimate safety standards can be established to permit the safe operation of the device; and
- whether the use of the device creates a substantial risk of serious harm to the environment or natural or cultural resources or poses a conflict with Federal land management laws and regulations.

Using these assessment factors, a public entity may decide, for example, that it can allow devices like Segways® in a facility, but cannot allow the

use of golf cars, because the facility's corridors or aisles are not wide enough to accommodate these vehicles. It is likely that many entities will allow the use of Segways® generally, although some may determine that it is necessary to restrict their use during certain hours or particular days when pedestrian traffic is particularly dense. It is also likely that public entities will prohibit the use of combustion-powered devices from all indoor facilities and perhaps some outdoor facilities. Entities are encouraged to develop written policies specifying which power-driven mobility devices will be permitted and where and when they can be used. These policies should be communicated clearly to the public.

Public entities may not ask individuals using such devices about their disability but may ask for a credible assurance that the device is required because of a disability. If the person presents a valid, State-issued disability parking placard or card or a State-issued proof of disability, that must be accepted as credible assurance on its face. If the person does not have this documentation, but states verbally that the device is being used because of a mobility disability, that also must be accepted as credible assurance, unless the person is observed doing something that contradicts the assurance. For example, if a person is observed running and jumping, that may be evidence that contradicts the person's assertion of a mobility disability. However, the fact that a person with a disability is able to walk for some distance does not necessarily contradict a verbal assurance -- many people with mobility disabilities can walk, but need their mobility device for longer distances or uneven terrain. This is particularly true for people who lack stamina, have poor balance, or use mobility devices because of respiratory, cardiac, or neurological disabilities.

For additional information, see [ADA 2010 Revised Requirements: Wheelchairs, Mobility Aids, and Other Power-Driven Mobility Devices](http://www.ada.gov/opdmd.htm) at [www.ada.gov/opdmd.htm](http://www.ada.gov/opdmd.htm) or [www.ada.gov/opdmd.pdf](http://www.ada.gov/opdmd.pdf).

## Communicating with People Who Have Disabilities

Communicating successfully is an essential part of providing service to the public. The ADA requires public entities to take the steps necessary to communicate effectively with people who have disabilities, and uses the term "auxiliary aids and services" to refer to readers, notetakers, sign language interpreters, assistive listening systems and devices, open and closed captioning, text telephones (TTYs), videophones, information provided in large print, Braille, audible, or electronic formats, and other tools for people who have communication disabilities. In addition, the regulations permit the use of newer technologies including real-time captioning (also known as computer-assisted real-time transcription, or CART) in which a transcriber types what is being said at a meeting or event into a computer that projects the words onto a screen; remote CART (which requires an audible feed and a data feed to an off-site transcriber); and video remote interpreting (VRI), a fee-based service that allows public entities that have video conferencing equipment to access a sign language interpreter off-site. Entities that choose to use VRI must comply with specific performance standards set out in the regulations.

Because the nature of communications differs from program to program, the rules allow for flexibility in determining effective communication solutions. The goal is to find a practical solution that fits the circumstances, taking into consideration the nature, length, and complexity of the communication as well as the person's normal method(s) of communication. What is required to communicate effectively when a person is registering for classes at a public university is very different from what is required to communicate effectively in a court proceeding.

Some simple solutions work in relatively simple and straightforward situations. For example:

- If a person who is deaf is paying a parking ticket at the town clerk's office and has a question, exchanging written notes may be effective.
- If a person who is blind needs a document that is short and straightforward, reading it to him may be effective.

Other solutions may be needed where the information being communicated is more extensive or complex. For example:

- If a person who is deaf is attending a town council meeting, effective communication would likely require a sign language interpreter or real time captioning, depending upon whether the person's primary language is sign language or English.
- If a person who is blind needs a longer document, such as a comprehensive emergency preparedness guide, it may have to be provided in an alternate format such as Braille or electronic disk. People who do not read Braille or have access to a computer may need an audiotaped version of the document.

Public entities are required to give primary consideration to the type of auxiliary aid or service requested by the person with the disability. They must honor that choice, unless they can demonstrate that another equally effective means of communication is available or that the aid or service requested would fundamentally alter the nature of the program, service, or activity or would result in undue financial and administrative burdens. If the choice expressed by the person with a disability would result in an undue burden or a fundamental alteration, the public entity still has an obligation to provide another aid or service that provides effective communication, if possible.

The decision that a particular aid or service would result in an undue burden or fundamental alteration must be made by a high level official, no lower than a Department head, and must be accompanied by a written statement of the reasons for reaching that conclusion.

The telecommunications relay service (TRS), reached by calling 7-1-1, is a free nationwide network that uses communications assistants (also called CAs or relay operators) to serve as intermediaries between people who have hearing or speech disabilities who use a text telephone (TTY) or text messaging and people who use standard voice telephones. The communications assistant tells the voice telephone user what the TTY-user is typing and types to the TTY-user what the telephone user is saying. When a person who speaks with difficulty is using a voice telephone, the communications assistant listens and then verbalizes that person's words to the other party. This is called speech-to-speech transliteration.

Video relay service (VRS) is a free, subscriber-based service for people who use sign language and have videophones, smart phones, or computers with video communication capabilities. For outgoing calls, the subscriber contacts the VRS interpreter, who places the call and serves as an intermediary between the subscriber and a person who uses a voice telephone. For incoming calls, the call is automatically routed to the subscriber through the VRS interpreter.

Staff who answer the telephone must accept and treat relay calls just like other calls. The communications assistant or interpreter will explain how the system works.

For additional information, including the performance standards for VRI, see [ADA 2010 Revised Requirements: Effective Communication](http://www.ada.gov/effective-comm.htm) at [www.ada.gov/effective-comm.htm](http://www.ada.gov/effective-comm.htm) or [www.ada.gov/effective-comm.pdf](http://www.ada.gov/effective-comm.pdf).



## **MAKING THE BUILT ENVIRONMENT ACCESSIBLE**

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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. Only elements that are built-in (fixed in place) are addressed in the Standards. While the updated 2010 Standards, which became effective on March 15, 2012, retain many of the original provisions in the 1991 Standards, there are some significant differences. The Standards are used when determining if a public entity's programs or services are accessible under the ADA. However, they apply differently depending on whether the entity is providing access to programs or services in existing facilities or is altering an existing facility or building a new facility.

### **Access to Programs and Services in Existing Facilities**

Public entities have an ongoing obligation to ensure that individuals with disabilities are not excluded from programs and services because facilities are unusable or inaccessible to them. There is no "grandfather clause" in the ADA that exempts older facilities. However, the law strikes a careful balance between increasing access for people with disabilities and recognizing the constraints many public entities face. It allows entities confronted with limited financial resources to improve accessibility without excessive expense.

In the years since the ADA took effect, public facilities have become increasingly accessible. In the event that changes still need to be made, there is flexibility in deciding how to meet this obligation -- structural changes can be made to provide access, the program or service can be relocated to an accessible facility, or the program or service can be provided in an alternate manner. For example:

- In an elementary school without an elevator, a teacher can be assigned to a first floor classroom if the class includes a student with a mobility disability.
- A social service agency located in an inaccessible facility can make arrangements to meet with an applicant or client with a mobility disability at an alternate location that is accessible.
- If an application for a particular city program must be made in person at an inaccessible office, the city could allow a person with a mobility disability to complete and submit the application by mail or email.
- If a public library is inaccessible, staff can provide curbside service for a patron with a mobility disability to check out and return books.

Structural changes are not required where other solutions are feasible. However, where other solutions are not feasible, structural changes are required. When structural change is the method chosen to make a program or service accessible, the changes must meet the requirements of the 2010 ADA Standards, unless it is technically infeasible to do so. When full compliance is not technically feasible, the changes must follow the Standards to the maximum extent feasible. For example, if there is not enough space to install a ramp with a slope that complies with the Standards, a public entity may install a ramp with a slightly steeper slope. However, deviations from the Standards must not pose a significant safety risk. In addition, public entities are not required to take any action that would threaten or destroy the historic significance of an historic property.

Whatever method is chosen, the public entity must ensure that people with disabilities have access to programs and services under the same terms and conditions as other people. For example:

- If a social service agency meets with clients in a private office on the second floor of a building without an elevator, a public area on the first floor is not an acceptable alternate location to meet with a client who has a mobility disability. The alternate location must provide the same degree of privacy as the regular location.
- If a court has ordered a person with a mobility disability to participate in a group anger-management program, and the program is located in an inaccessible facility, it is not acceptable to offer the program to him individually in an accessible location, because the group interaction is a critical component of the program.

There are limits to a public entity's program access obligations. Entities are not required to take any action that would result in undue financial and administrative burdens. The decision that an action would result in an undue burden must be made by a high level official, no lower than a Department head, having budgetary authority and responsibility for making spending decisions, after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in an undue burden, a public entity must take any other action that would not result in an undue burden but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity.

A key concept is that public programs and services, when viewed in their entirety, must be accessible to people with disabilities, but not all facilities must necessarily be made accessible. For example, if a city has multiple public swimming pools and limited resources, it can decide which pools to make accessible based on factors such as the geographic distribution of the sites, the availability of public transportation, the hours of operation, and

the particular programs offered at each site so that the swimming program as a whole is accessible to and usable by people with disabilities.

Another key concept is that public entities have an ongoing obligation to make programs and services accessible to people with disabilities. This means that if many access improvements are needed, and there are insufficient resources to accomplish them in a single year, they can be spread out over time. It also means that rising or falling revenues can affect whether or not an access improvement can be completed in a given year. What might have been seen as an undue burden during an economic downturn could become possible when the economy improves and revenues increase. Thus, public entities should periodically reassess what steps they can take to make their programs and services accessible. Public entities should also consult with people with disabilities in setting priorities for achieving program access. (See **Planning for Success** on page 14.)

Temporary access interruptions for maintenance, repair, or operational activities are permitted, but must be remedied as soon as possible and may not extend beyond a reasonable period of time. Staff must be prepared to assist individuals with disabilities during these interruptions. For example, if the accessible route to a biology lab is temporarily blocked by chairs from a classroom that is being cleaned, staff must be available to move the chairs so a student who uses a wheelchair can get to the lab. In addition, if an accessible feature such as an elevator breaks down, public entities must ensure that repairs are made promptly and that improper or inadequate maintenance does not cause repeated failures. Entities must also ensure that no new barriers are created that impede access by people with disabilities. For example, routinely storing a garbage bin or piling snow in accessible parking spaces makes them unusable and inaccessible to people with mobility disabilities.

For activities that take place infrequently, such as voting, temporary measures can be used to achieve access for individuals who have mobility disabilities. For more information, see [Solutions for Five Common ADA Access Problems at Polling Places](http://www.ada.gov/ada_voting/voting_solutions_ta/polling_place_solutions.htm) at [www.ada.gov/ada\\_voting/voting\\_solutions\\_ta/polling\\_place\\_solutions.htm](http://www.ada.gov/ada_voting/voting_solutions_ta/polling_place_solutions.htm) or [www.ada.gov/ada\\_voting/voting\\_solutions\\_ta/polling\\_place\\_solutions.pdf](http://www.ada.gov/ada_voting/voting_solutions_ta/polling_place_solutions.pdf).

## Element-by-Element Safe Harbor for Existing Facilities

The requirements in the 2010 ADA Standards are, for many building elements, identical to the 1991 Standards and the earlier Uniform Federal Accessibility Standards (UFAS). For some elements, however, the requirements in the 2010 Standards have changed. For example:

- The 1991 Standards allowed light switches, thermostats, and other controls to be installed at a maximum height of 54 inches. Under the 2010 Standards, the maximum height is 48 inches.
- The 1991 Standards required one van-accessible space for every eight accessible spaces. The 2010 Standards require one van-accessible space for every six accessible spaces.
- The 2010 Standards for assembly areas contain revised requirements for dispersion of accessible seating, sightlines over standing spectators, and companion seating.

If a facility was in compliance with the 1991 Standards or UFAS as of March 15, 2012, a public entity is not required to make changes to meet the 2010 Standards. This provision is referred to as the “safe harbor.” It applies on an element-by-element basis and remains in effect until a public entity decides to alter a facility for reasons other than the ADA. For example, if a public entity decides to restripe its parking lot (which is considered an alteration), it must then meet the ratio of van acces-

sible spaces in the 2010 Standards. The ADA’s definition of the term “alteration” is discussed below.

The 2010 Standards also contain requirements for recreational facilities that were not addressed in the 1991 Standards or UFAS. These include swimming pools, play areas, exercise machines, court sport facilities, and boating and fishing piers. Because there were no previous accessibility standards for these types of facilities, the safe harbor does not apply. The program access rules apply, and the 2010 Standards must be followed when structural change is needed to achieve program access.

### New Requirements in the 2010 Standards Not Subject to the Safe Harbor

- Amusement rides
- Recreational boating facilities
- Exercise machines and equipment
- Fishing piers and platforms
- Golf facilities
- Miniature golf facilities
- Play areas
- Saunas and steam rooms
- Swimming pools, wading pools, and spas
- Shooting facilities with firing positions
- Residential facilities and dwelling units
- Miscellaneous
  - Team or player seating
  - Accessible route to bowling lanes
  - Accessible route in court sports

## Alterations

When a public entity chooses to alter any of its facilities, the elements and spaces being altered must comply with the 2010 Standards. An 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 or other fixed partitions, or making other changes that affect (or could affect) the usability of the facility. Examples include restriping a parking lot, moving walls, moving a fixed ATM to another location, installing a new service counter or display shelves, changing a doorway entrance, or replacing fixtures, flooring or carpeting. Normal maintenance, reroofing, painting, wallpapering, or other changes that do not affect the usability of a facility are not considered alterations. The 2010 Standards set minimum accessibility requirements for alterations. In situations where strict compliance with the Standards is technically infeasible, the entity must comply to the maximum extent feasible. "Technically infeasible" is defined as something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modifications or additions that comply fully with the Standards. The 2010 Standards also contain an exemption for certain alterations that would threaten or destroy the historic significance of an historic property.

## New Construction

The ADA requires that all new facilities built by public entities must be accessible to and usable by people with disabilities. The 2010 Standards set out the minimum accessibility requirements for newly constructed facilities.

## 2010 ADA Standards Basics

**Chapter 1: Application and Administration.** This chapter contains important introductory and interpretive information, including definitions for key terms used in the 2010 Standards.

**Chapter 2: Scoping.** This chapter sets forth which elements, and how many of them, must be accessible.

**Chapters 3 – 10: Design and Technical Requirements.** These chapters provide design and technical specifications for elements, spaces, buildings, and facilities.

### Common Provisions

**Accessible Routes --** Section 206 and Chapter 4.

**Parking Spaces --** Sections 208 and 502. The provisions regarding accessible routes (section 206), signs (section 216), and, where applicable, valet parking (section 209) also apply.

**Passenger Loading Zones --** Sections 209 and 503.

**Assembly Areas --** Sections 221 and 802.

**Sales and Service --** Sections 227 and 904.

**Dining and Work Surfaces --** Sections 226 and 902. The provisions regarding accessible routes in section 206.2.5 (Restaurants and Cafeterias) also apply to dining surfaces.

**Dressing, Fitting, and Locker Rooms --** Sections 222 and 803.



## Highlights of the 2010 Standards

### Parking

The chart below indicates the number of accessible spaces required by the 2010 Standards. One out of every six accessible spaces must be van-accessible.

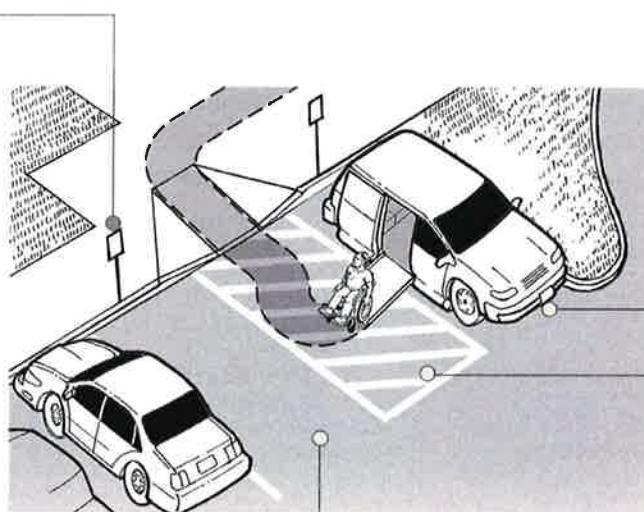
Total Number of Parking Spaces Provided in Parking Facility	Minimum Number of Required Accessible Parking Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total

Public entities with very limited parking (four or fewer spaces) must have one van-accessible parking space. However, no signage is required.

An accessible parking space must have an access aisle, which allows a person using a wheelchair or other mobility device to get in and out of the car or van. Accessible parking spaces (including access aisles) must be level (maximum slope 1:48 in all directions) and each access aisle must adjoin an accessible route.

Signage: international symbol of accessibility placed in front of the parking space mounted at least five feet above the ground, measured to the bottom of the sign. Van accessible spaces include the designation "van accessible".

Van Accessible Spaces: 2010 Standards—one for every six accessible spaces (1991 Standards required one for every eight).



### An overview of accessible parking requirements

### **Accessible Entrances**

One small step at an entrance can make it impossible for individuals using wheelchairs, walkers, canes, or other mobility devices to enter a public facility. 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 are several entrances and only one is accessible, a sign should be posted at the inaccessible entrances directing individuals to the accessible entrance. This entrance must be open whenever other public entrances are open.



Sign at an inaccessible entrance identifies the location of the nearest accessible entrance

### **Accessible Routes to Programs and Services**

The path a person with a disability takes to enter and move through a facility is called an “accessible route.” This route, which must be at least three feet wide, must remain accessible and not be blocked by items such as vending or ice machines, newspaper dispensers, furniture, filing cabinets, display racks, or potted plants. Similarly, accessible toilet stalls and accessible service counters must not be cluttered with materials or supplies. The accessible route should be the same, or be located in the same area as, the general route used by people without mobility disabilities.

### **Shelves, Sales and Service Counters, and Check-Out Aisles**

The obligation to provide program access also applies to merchandise shelves, sales and service counters, and check-out aisles. Shelves used by the public must be on an accessible route with enough space to allow individuals using mobility devices to access merchandise or materials. However, shelves may be of any height since they are not subject to the ADA’s reach range requirements. A portion of sales and service counters must be accessible to people who use mobility devices. If a facility has check-out aisles, at least one must be usable by people with mobility disabilities, though more are required in larger venues.

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## **PLANNING FOR SUCCESS**

Being proactive is the best way to ensure ADA compliance. Many public entities have adopted a general ADA nondiscrimination policy, a specific policy on service animals, a specific policy on effective communication, or specific policies on other ADA topics. Staff also need instructions about how to access the auxiliary aids and services needed to communicate with people who have vision, hearing, or speech disabilities. Public entities should also make staff aware of the free information resources for answers to ADA questions. And officials should be familiar with the 2010 Standards before undertaking any alterations or new construction projects. Training staff on the ADA, conducting periodic self-evaluations of the accessibility of the public entity’s policies, programs and facilities, and developing a transition plan to remove barriers are other proactive steps to ensure ADA compliance.

## ADA Coordinator, Grievance Procedure, Self-Evaluations, and Transition Plans

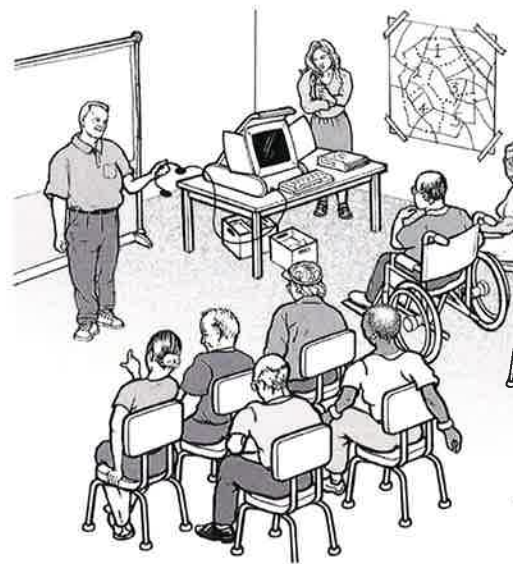
Public entities that have 50 or more employees are required to have a grievance procedure and to designate at least one responsible employee to coordinate ADA compliance. Although the law does not require the use of the term “ADA Coordinator,” it is commonly used by state and local governments across the country. The ADA Coordinator’s role is to coordinate the government entity’s efforts to comply with the ADA and investigate any complaints that the entity has violated the ADA. The Coordinator serves as the point of contact for individuals with disabilities to request auxiliary aids and services, policy modifications, and other accommodations or to file a complaint with the entity; for the general public to address ADA concerns; and often for other departments and employees of the public entity. The name, office address, and telephone number of the ADA Coordinator must be provided to all interested persons.

The 1991 ADA regulation required all public entities, regardless of size, to evaluate all of their services, policies, and practices and to modify any that did not meet ADA requirements. In addition, public entities with 50 or more employees were required to develop a transition plan detailing any structural changes that would be undertaken to achieve program access and specifying a time frame for their completion. Public entities were also required to provide an opportunity for interested individuals to participate in the self-evaluation and transition planning processes by submitting comments. While the 2010 regulation does not specifically require public entities to conduct a new self-evaluation or develop a new transition plan, they are encouraged to do so.

For more information, see [ADA Best Practices Tool Kit for State and Local Governments](http://www.ada.gov/pcatoolkit/chap2toolkit.htm) at [www.ada.gov/pcatoolkit/chap2toolkit.htm](http://www.ada.gov/pcatoolkit/chap2toolkit.htm).

## Staff Training

A critical, but often overlooked, component of ensuring success is comprehensive and ongoing staff training. Public entities may have good policies, but if front line staff or volunteers are not aware of them or do not know how to implement them, problems can arise. It is important that staff -- especially front line staff who routinely interact with the public -- understand the requirements on modifying policies and practices, communicating with and assisting customers, accepting calls placed through the relay system, and identifying alternate ways to provide access to programs and services when necessary to accommodate individuals with a mobility disability. Many local disability organizations, including Centers for Independent Living, conduct ADA trainings in their communities. The Department of Justice or the National Network of ADA Centers can provide local contact information for these organizations.



Staff training session for front line staff and volunteers

## ADA INFORMATION RESOURCES

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### **U.S. Department of Justice**

For more information about the revised ADA regulations and the 2010 Standards, please visit the Department of Justice's website or call our toll-free number.

**ADA Website**  
[www.ADA.gov](http://www.ADA.gov)

**ADA Information Line**  
800-514-0301 (Voice)  
800-514-0383 (TTY)

24 hours a day to order publications by mail.  
M-W, F 9:30 a.m. – 5:30 p.m., Th 12:30 p.m.  
– 5:30 p.m. (Eastern Time) to speak to an ADA  
Specialist. Calls are confidential.

### **National Network of ADA Centers**

Ten regional centers are funded by the U.S. Department of Education to provide ADA technical assistance to businesses, States and localities, and people with disabilities. One toll-free number connects you to the center in your region:

800-949-4232 (Voice and TTY)

[www.adata.org](http://www.adata.org)

### **Access Board**

For technical assistance on the ADA/ABA Guidelines:

800-872-2253 (Voice)  
800-993-2822 (TTY)

[www.access-board.gov](http://www.access-board.gov)

This publication is available in alternate formats for people with disabilities.

Duplication of this document is encouraged.

June 2015





## ADA Requirements

# Wheelchairs, Mobility Aids, and Other Power-Driven Mobility Devices

## Overview

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

**People with mobility, circulatory, respiratory, or neurological disabilities use many kinds of devices for mobility. Some use walkers, canes, crutches, or braces. Some use manual or power wheelchairs or electric scooters. In addition, advances in technology have given rise to new devices, such as Segways®, that some people with disabilities use as mobility devices, including many veterans injured while serving in the military. And more advanced devices will inevitably be invented, providing more mobility options for people with disabilities.**

This publication is designed to help title II entities (State and local governments) and title III entities (businesses and non-profit organizations that serve the public) (together, “covered entities”) understand how the new rules for mobility devices apply to them. These rules went into effect on March 15, 2011.

- Covered entities must allow people with disabilities who use manual or power wheelchairs or scooters, and manually-powered mobility aids such as walkers, crutches, and canes, into all areas where members of the public are allowed to go.
- Covered entities must also allow people with disabilities who use other types of power-driven mobility devices into their facilities, unless a particular type of device cannot be accommodated because of legitimate safety requirements. Where legitimate safety requirements bar accommodation for a particular type of device, the covered entity must provide the service it offers in alternate ways if possible.

## Other Power Driven Mobility Devices

- The rules set out five specific factors to consider in deciding whether or not a particular type of device can be accommodated.

ity, different rules apply under the ADA than when it is being used by a person without a disability.

### Wheelchairs

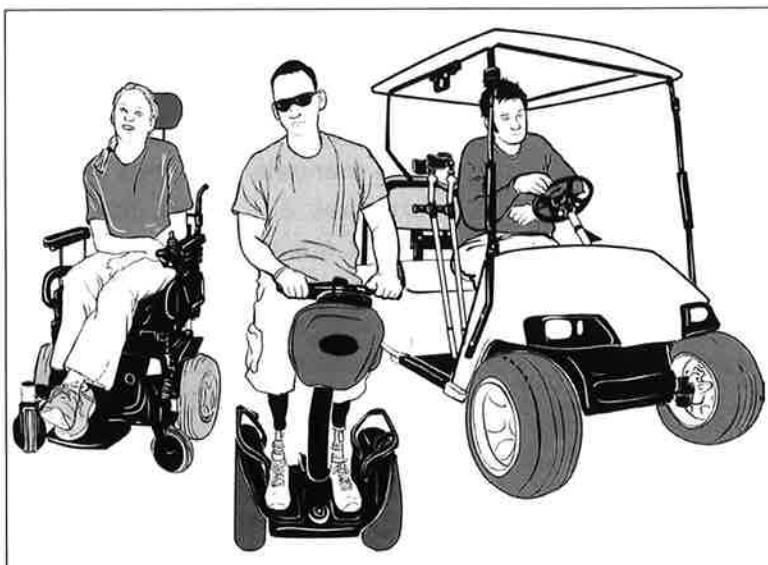
Most people are familiar with the manual and power wheelchairs and electric scooters used by people with mobility disabilities. The term “wheelchair” is defined in the new rules as “a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion.”

### Other Power-Driven Mobility Devices

In recent years, some people with mobility disabilities have begun using less traditional mobility devices such as golf cars or Segways®. These devices are called “other power-driven mobility device” (OPDMD) in the rule. OPDMD is defined in the new rules as “any mobility device powered by batteries, fuel, or other engines . . . that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices . . . such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair.” When an OPDMD is being used by a person with a mobility disability,

### Choice of Device

People with disabilities have the right to choose whatever mobility device best suits their needs. For example, someone may choose to use a manual wheelchair rather than a power wheelchair because it enables her to maintain her upper body strength. Similarly, someone who is able to stand may choose to use a Segway® rather than a manual wheelchair because of the health benefits gained by standing. A facility may be required to allow a type of device that is generally prohibited when being used by someone without a disability when it is being used by a person who needs it because of a mobility disability. For example, if golf cars are generally prohibited in a park, the park may be required to allow a golf car when it is being used because of a person’s mobility disability, unless there is a legitimate safety reason that it cannot be accommodated.



## Requirements Regarding Mobility Devices and Aids

Under the new rules, covered entities must allow people with disabilities who use wheelchairs (including manual wheelchairs, power wheelchairs, and electric scooters) and manually-powered mobility aids such as walkers, crutches, canes, braces, and other similar devices into all areas of a facility where members of the public are allowed to go.

In addition, covered entities must allow people with disabilities who use any OPDMD to enter the premises unless a particular type of device cannot be accommodated because of legitimate safety requirements. Such safety requirements must be based on actual risks, not on speculation or stereotypes about a particular type of device or how it might be operated by people with disabilities using them.

- For some facilities -- such as a hospital, a shopping mall, a large home improvement store with wide aisles, a public park, or an outdoor amusement park -- covered entities will likely determine that certain classes of OPDMDs being used by people with disabilities can be accommodated. These entities must allow people with disabilities using these types of OPDMDs into all areas where members of the public are allowed to go.
- In some cases, even in facilities such as those described above, an OPDMD can be

accommodated in some areas of a facility, but not in others because of legitimate safety concerns. For example, a cruise ship may decide that people with disabilities using Segways® can generally be accommodated, except in constricted areas, such as passageways to cabins that are very narrow and have low ceilings.

- For other facilities -- such as a small convenience store, or a small town manager's office -- covered entities may determine that certain classes of OPDMDs cannot be accommodated. In that case, they are still required to serve a person with a disability using one of these devices in an alternate manner if possible, such as providing curbside service or meeting the person at an alternate location.

Covered entities are encouraged to develop written policies specifying which kinds of OPDMDs will be permitted and where and when they will be permitted, based on the following assessment factors.



## Assessment Factors

In deciding whether a particular type of OPDMD can be accommodated in a particular facility, the following factors must be considered:

- the type, size, weight, dimensions, and speed of the device;
- the facility's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
- the facility's design and operational characteristics (e.g., whether its business is conducted indoors or outdoors, its square footage, the density and placement of furniture and other stationary devices, and the availability of storage for the OPDMD if needed and requested by the user);

- whether legitimate safety requirements (such as limiting speed to the pace of pedestrian traffic or prohibiting use on escalators) can be established to permit the safe operation of the OPDMD in the specific facility; and
- whether the use of the OPDMD creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with Federal land management laws and regulations.

It is important to understand that these assessment factors relate to an entire class of device type, **not** to how a person with a disability might operate the device. (See next topic for operational issues.) All types of devices powered by fuel or combustion engines, for example, may be excluded from indoor settings for health or environmental reasons, but may be deemed acceptable in some outdoor settings. Also, for safety reasons, larger electric devices such as golf cars may be excluded from narrow or crowded settings where there is no valid reason to exclude smaller electric devices like Segways®.

Based on these assessment factors, the Department of Justice expects that devices such as Segways® can be accommodated in most circumstances. The Department also expects that, in most circumstances, people with disabilities using ATVs and other combustion engine-driven devices may be prohibited indoors and in outdoor areas with heavy pedestrian traffic.



## Policies on the Use of OPDMDs

In deciding whether a type of OPDMD can be accommodated, covered entities must consider all assessment factors and, where appropriate, should develop and publicize rules for people with disabilities using these devices.

Such rules may include –

- requiring the user to operate the device at the speed of pedestrian traffic;
- identifying specific locations, terms, or circumstances (if any) where the devices cannot be accommodated;
- setting out instructions for going through security screening machines if the device contains technology that could be harmed by the machine; and
- specifying whether or not storage is available for the device when it is not being used.

## Credible Assurance

An entity that determines it can accommodate one or more types of OPDMDs in its facility is allowed to ask the person using the device to provide credible assurance that the device is used because of a disability. If the person presents a valid, State-issued disability parking placard or card or a State-issued proof of disability, that must be accepted as credible assurance on its face. If the person does not have this documentation, but states

verbally that the OPDMD is being used because of a mobility disability, that also must be accepted as credible assurance, unless the person is observed doing something that contradicts the assurance. For example, if a person is observed running and jumping, that may be evidence that contradicts the person's assertion of a mobility disability. However, it is very important for covered entities and their staff to understand that the fact that a person with a disability is able to walk for a short distance does not necessarily contradict a verbal assurance -- many people with mobility disabilities can walk, but need their mobility device for longer distances or uneven terrain. This is particularly true for people who lack stamina, have poor balance, or use mobility devices because of respiratory, cardiac, or neurological disabilities. A covered entity cannot ask people about their disabilities.



## Staff Training

Ongoing staff training is essential to ensure that people with disabilities who use OPDMDs for mobility are not turned away or treated inappropriately. Training should include instruction on the types of OPDMDs that can be accommodated, the rules for obtaining credible assurance that the device is being used because of a disability, and the rules for operation of the devices within the facility.

**For more information about the ADA,  
please visit our website  
or call our toll-free number.**

**ADA Website:** [www.ADA.gov](http://www.ADA.gov)

To receive e-mail notifications when new ADA information is available, visit the ADA Website and click on the link near the bottom of the right-hand column.

### **ADA Information Line**

800-514-0301 (Voice) and  
800-514-0383 (TTY)

Call M-W, F 9:30 a.m. – 5:30 p.m., Th  
12:30 p.m. – 5:30 p.m. (Eastern Time) to  
speak with an ADA Specialist (calls are  
confidential) or call 24 hours a day to  
order publications by mail.

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is encouraged.

January 2014

U.S. Department of Justice  
Civil Rights Division  
Disability Rights Section



## Service Animals

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

### Overview

This publication provides guidance on the term "service animal" and the service animal provisions in the Department's new regulations.

- Beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA.
- A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability.
- Generally, title II and title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.

### How "Service Animal" Is Defined

**Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities.** Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

This definition does not affect or limit the broader definition of "assistance animal" under the Fair Housing Act or the broader definition of "service animal" under the Air Carrier Access Act.

Some State and local laws also define service animal more broadly than the ADA does. Information about such laws can be obtained from the State attorney general's office.

### Where Service Animals Are Allowed

**Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go.** For example, in a hospital it would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias, or examination rooms. However, it may be appropriate to exclude a service animal from

operating rooms or burn units where the animal's presence may compromise a sterile environment.

### **Service Animals Must Be Under Control**

**Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices.** In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

### **Inquiries, Exclusions, Charges, and Other Specific Rules Related to Service Animals**

- When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (1) is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform. Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.
- Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.
- A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.
- Establishments that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.
- People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.
- If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by himself or his service animal.
- Staff are not required to provide care or food for a service animal.

### **Miniature Horses**

**In addition to the provisions about service dogs, the Department's revised ADA regulations have a new, separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities.** (Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.) Entities covered by the ADA must modify their policies to permit miniature horses where reasonable. The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility. The assessment factors are (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner's control; (3) whether the facility can accommodate the miniature horse's type, size, and weight; and (4) whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

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**PDF Version of this Document**

July 12, 2011



## Frequently Asked Questions about Service Animals and the ADA

Many people with disabilities use a service animal in order to fully participate in everyday life. Dogs can be trained to perform many important tasks to assist people with disabilities, such as providing stability for a person who has difficulty walking, picking up items for a person who uses a wheelchair, preventing a child with autism from wandering away, or alerting a person who has hearing loss when someone is approaching from behind.

The Department of Justice continues to receive many questions about how the Americans with Disabilities Act (ADA) applies to service animals. The ADA requires State and local government agencies, businesses, and non-profit organizations (covered entities) that provide goods or services to the public to make "reasonable modifications" in their policies, practices, or procedures when necessary to accommodate people with disabilities. The service animal rules fall under this general principle. Accordingly, entities that have a "no pets" policy generally must modify the policy to allow service animals into their facilities. This publication provides guidance on the ADA's service animal provisions and should be read in conjunction with the publication [ADA Revised Requirements: Service Animals](#).

### DEFINITION OF SERVICE ANIMAL

#### **Q1: What is a service animal?**

A: Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

#### **Q2: What does "do work or perform tasks" mean?**

A: The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

**Q3: Are emotional support, therapy, comfort, or companion animals considered service animals under the ADA?**

A: No. These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some State or local governments have laws that allow people to take emotional support animals into public places. You may check with your State and local government agencies to find out about these laws.

**Q4: If someone's dog calms them when having an anxiety attack, does this qualify it as a service animal?**

A: It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA.

**Q5: Does the ADA require service animals to be professionally trained?**

A: No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

**Q6: Are service-animals-in-training considered service animals under the ADA?**

A: No. Under the ADA, the dog must already be trained before it can be taken into public places. However, some State or local laws cover animals that are still in training.

## **GENERAL RULES**

**Q7: What questions can a covered entity's employees ask to determine if a dog is a service animal?**

A: In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform? Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

**Q8: Do service animals have to wear a vest or patch or special harness identifying them as service animals?**

A: No. The ADA does not require service animals to wear a vest, ID tag, or specific harness.

**Q9: Who is responsible for the care and supervision of a service animal?**

A: The handler is responsible for caring for and supervising the service animal, which includes toileting, feeding, and grooming and veterinary care. Covered entities are not obligated to supervise or otherwise care for a service animal.

**Q10: Can a person bring a service animal with them as they go through a salad bar or other self-service food lines?**

A: Yes. Service animals must be allowed to accompany their handlers to and through self-service food lines. Similarly, service animals may not be prohibited from communal food preparation areas, such as are commonly found in shelters or dormitories.

**Q11: Can hotels assign designated rooms for guests with service animals, out of consideration for other guests?**

A: No. A guest with a disability who uses a service animal must be provided the same opportunity to reserve any available room at the hotel as other guests without disabilities. They may not be restricted to "pet-friendly" rooms.

**Q12: Can hotels charge a cleaning fee for guests who have service animals?**

A: No. Hotels are not permitted to charge guests for cleaning the hair or dander shed by a service animal. However, if a guest's service animal causes damages to a guest room, a hotel is permitted to charge the same fee for damages as charged to other guests.

**Q13: Can people bring more than one service animal into a public place?**

A: Generally, yes. Some people with disabilities may use more than one service animal to perform different tasks. For example, a person who has a visual disability and a seizure disorder may use one service animal to assist with way-finding and another that is trained as a seizure alert dog. Other people may need two service animals for the same task, such as a person who needs two dogs to assist him or her with stability when walking. Staff may ask the two permissible questions (See Question 7) about each of the dogs. If both dogs can be accommodated, both should be allowed in. In some circumstances, however, it may not be possible to accommodate more than one service animal. For example, in a crowded small restaurant, only one dog may be able to fit under the table. The only other place for the second dog would be in the aisle, which would block the space between tables. In this case, staff may request that one of the dogs be left outside.

**Q14: Does a hospital have to allow an in-patient with a disability to keep a service animal in his or her room?**

A: Generally, yes. Service animals must be allowed in patient rooms and anywhere else in the hospital the public and patients are allowed to go. They cannot be excluded on the grounds that staff can provide the same services.

**Q15: What happens if a patient who uses a service animal is admitted to the hospital and is unable to care for or supervise their animal?**

A: If the patient is not able to care for the service animal, the patient can make arrangements for a family member or friend to come to the hospital to provide these services, as it is always preferable that the service animal and its handler not to be separated, or to keep the dog during the hospitalization. If the patient is unable to care for the dog and is unable to arrange for someone else to care for the dog, the hospital may place the dog in a boarding facility until the patient is released, or make other appropriate arrangements. However, the hospital must give the patient opportunity to make arrangements for the dog's care before taking such steps.

**Q16: Must a service animal be allowed to ride in an ambulance with its handler?**

A: Generally, yes. However, if the space in the ambulance is crowded and the dog's presence would interfere with the emergency medical staff's ability to treat the patient, staff should make other arrangements to have the dog transported to the hospital.

## **CERTIFICATION AND REGISTRATION**

**Q17: Does the ADA require that service animals be certified as service animals?**

A: No. Covered entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

There are individuals and organizations that sell service animal certification or registration documents online. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a service animal.

**Q18: My city requires all dogs to be vaccinated. Does this apply to my service animal?**

A: Yes. Individuals who have service animals are not exempt from local animal control or public health requirements.

**Q19: My city requires all dogs to be registered and licensed. Does this apply to my service animal?**

A: Yes. Service animals are subject to local dog licensing and registration requirements.

**Q20: My city requires me to register my dog as a service animal. Is this legal under the ADA?**

A: No. Mandatory registration of service animals is not permissible under the ADA. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

**Q21: My city / college offers a voluntary registry program for people with disabilities who use service animals and provides a special tag identifying the dogs as service animals. Is this legal under the ADA?**

A: Yes. Colleges and other entities, such as local governments, may offer voluntary registries. Many communities maintain a voluntary registry that serves a public purpose, for example, to ensure that emergency staff know to look for service animals during an emergency evacuation process. Some offer a benefit, such as a reduced dog license fee, for individuals who register their service animals. Registries for purposes like this are permitted under the ADA. An entity may not, however, require that a dog be registered as a service animal as a condition of being permitted in public places. This would be a violation of the ADA.

## BREEDS

### **Q22: Can service animals be any breed of dog?**

A: Yes. The ADA does not restrict the type of dog breeds that can be service animals.

### **Q23: Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?**

A: No. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave. However, if a particular service animal behaves in a way that poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

### **Q24: If a municipality has an ordinance that bans certain dog breeds, does the ban apply to service animals?**

A: No. Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others. Under the "direct threat" provisions of the ADA, local jurisdictions need to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal's actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave. It is important to note that breed restrictions differ significantly from jurisdiction to jurisdiction. In fact, some jurisdictions have no breed restrictions.

## EXCLUSION OF SERVICE ANIMALS

### **Q25: When can service animals be excluded?**

A: The ADA does not require covered entities to modify policies, practices, or procedures if it would "fundamentally alter" the nature of the goods, services, programs, or activities provided to the public. Nor does it overrule legitimate safety requirements. If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

### **Q26: When might a service dog's presence fundamentally alter the nature of a service or program provided to the public?**

A: In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are some exceptions. For example, at a boarding school, service animals could be restricted from a specific area of a dormitory reserved specifically for students with allergies to dog dander. At a zoo, service animals can be restricted from areas where the animals on display are the natural prey or natural predators of dogs, where the presence of a dog would be disruptive, causing the displayed animals to behave aggressively or become agitated. They cannot be restricted from other areas of the zoo.



**Q27: What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?**

A: The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. In the school (K-12) context and in similar settings, the school or similar entity may need to provide some assistance to enable a particular student to handle his or her service animal. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. For example, a person who uses a wheelchair may use a long, retractable leash to allow her service animal to pick up or retrieve items. She may not allow the dog to wander away from her and must maintain control of the dog, even if it is retrieving an item at a distance from her. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

**Q28: What can my staff do when a service animal is being disruptive?**

A: If a service animal is out of control and the handler does not take effective action to control it, staff may request that the animal be removed from the premises.

**Q29: Are hotel guests allowed to leave their service animals in their hotel room when they leave the hotel?**

A: No, the dog must be under the handler's control at all times.

**Q30: What happens if a person thinks a covered entity's staff has discriminated against him or her?**

A: Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

## **MISCELLANEOUS**

**Q31: Are stores required to allow service animals to be placed in a shopping cart?**

A: Generally, the dog must stay on the floor, or the person must carry the dog. For example, if a person with diabetes has a glucose alert dog, he may carry the dog in a chest pack so it can be close to his face to allow the dog to smell his breath to alert him of a change in glucose levels.

**Q32: Are restaurants, bars, and other places that serve food or drink required to allow service animals to be seated on chairs or allow the animal to be fed at the table?**

A: No. Seating, food, and drink are provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an animal to sit or be fed at the table.

**Q33: Are gyms, fitness centers, hotels, or municipalities that have swimming pools required to allow a service animal in the pool with its handler?**

A: No. The ADA does not override public health rules that prohibit dogs in swimming pools. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

**Q34: Are churches, temples, synagogues, mosques, and other places of worship required to allow individuals to bring their service animals into the facility?**

A: No. Religious institutions and organizations are specifically exempt from the ADA. However, there may be State laws that apply to religious organizations.

**Q35: Do apartments, mobile home parks, and other residential properties have to comply with the ADA?**

A: The ADA applies to housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities. In addition, the Fair Housing Act applies to virtually all types of housing, both public and privately-owned, including housing covered by the ADA. Under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with a disabilities, or provide emotional support to alleviate a symptom or effect of a disability. For information about these Fair Housing Act requirements see HUD's Notice on Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-funded Programs.

**Q36: Do Federal agencies, such as the U. S. Department of Veterans Affairs, have to comply with the ADA?**

A: No. Section 504 of the Rehabilitation Act of 1973 is the Federal law that protects the rights of people with disabilities to participate in Federal programs and services. For information or to file a complaint, contact the agency's equal opportunity office.

**Q37: Do commercial airlines have to comply with the ADA?**

A: No. The Air Carrier Access Act is the Federal law that protects the rights of people with disabilities in air travel. For information or to file a complaint, contact the U.S. Department of Transportation, Aviation Consumer Protection Division, at 202-366-2220.



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July 20, 2015

U.S. Department of Justice  
Civil Rights Division  
Disability Rights Section



## Effective Communication

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

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### Overview

**People who have vision, hearing, or speech disabilities ("communication disabilities") use different ways to communicate. For example, people who are blind may give and receive information audibly rather than in writing and people who are deaf may give and receive information through writing or sign language rather than through speech.**

The ADA requires that title II entities (State and local governments) and title III entities (businesses and nonprofit organizations that serve the public) communicate effectively with people who have communication disabilities. The goal is to ensure that communication with people with these disabilities is equally effective as communication with people without disabilities.

This publication is designed to help title II and title III entities ("covered entities") understand how the rules for effective communication, including rules that went into effect on March 15, 2011, apply to them.

- The purpose of the effective communication rules is to ensure that the person with a vision, hearing, or speech disability can communicate with, receive information from, and convey information to, the covered entity.
- Covered entities must provide auxiliary aids and services when needed to communicate effectively with people who have communication disabilities.
- The key to communicating effectively is to consider the nature, length, complexity, and context of the communication and the person's normal method(s) of communication.
- The rules apply to communicating with the person who is receiving the covered entity's goods or services as well as with that person's parent, spouse, or companion in appropriate circumstances.

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### Auxiliary Aids and Services

The ADA uses the term "auxiliary aids and services" ("aids and services") to refer to the ways to communicate with people who have communication disabilities.

- For people who are blind, have vision loss, or are deaf-blind, this includes providing a qualified reader; information in large print, Braille, or electronically for use with a computer screen-reading program; or an audio recording of printed information. A "qualified" reader means someone who is able to read effectively, accurately, and impartially, using any necessary specialized vocabulary.
- For people who are deaf, have hearing loss, or are deaf-blind, this includes providing a qualified notetaker; a qualified sign language interpreter, oral interpreter, cued-speech interpreter, or tactile interpreter; real-time captioning; written

materials; or a printed script of a stock speech (such as given on a museum or historic house tour). A "qualified" interpreter means someone who is able to interpret effectively, accurately, and impartially, both receptively (i.e., understanding what the person with the disability is saying) and expressively (i.e., having the skill needed to convey information back to that person) using any necessary specialized vocabulary.

- For people who have speech disabilities, this may include providing a qualified speech-to-speech transliterator (a person trained to recognize unclear speech and repeat it clearly), especially if the person will be speaking at length, such as giving testimony in court, or just taking more time to communicate with someone who uses a communication board. In some situations, keeping paper and pencil on hand so the person can write out words that staff cannot understand or simply allowing more time to communicate with someone who uses a communication board or device may provide effective communication. Staff should always listen attentively and not be afraid or embarrassed to ask the person to repeat a word or phrase they do not understand.

In addition, aids and services include a wide variety of technologies including 1) assistive listening systems and devices; 2) open captioning, closed captioning, real-time captioning, and closed caption decoders and devices; 3) telephone handset amplifiers, hearing-aid compatible telephones, text telephones (TTYs), videophones, captioned telephones, and other voice, text, and video-based telecommunications products; 4) videotext displays; 5) screen reader software, magnification software, and optical readers; 6) video description and secondary auditory programming (SAP) devices that pick up video-described audio feeds for television programs; 7) accessibility features in electronic documents and other electronic and information technology that is accessible (either independently or through assistive technology such as screen readers).

**Real-time captioning** (also known as computer-assisted real-time transcription, or CART) is a service similar to court reporting in which a transcriber types what is being said at a meeting or event into a computer that projects the words onto a screen. This service, which can be provided on-site or remotely, is particularly useful for people who are deaf or have hearing loss but do not use sign language.

The free nationwide **telecommunications relay service** (TRS), reached by calling 7-1-1, uses communications assistants (also called CAs or relay operators) who serve as intermediaries between people who have hearing or speech disabilities who use a text telephone (TTY) or text messaging and people who use standard voice telephones. The communications assistant tells the telephone user what the other party is typing and types to tell the other party what the telephone user is saying. TRS also provides speech-to-speech transliteration for callers who have speech disabilities.

**Video relay service** (VRS) is a free, subscriber-based service for people who use sign language and have videophones, smart phones, or computers with video communication capabilities. For outgoing calls, the subscriber contacts the VRS interpreter, who places the call and serves as an intermediary between the subscriber and a person who uses a standard voice telephone. The interpreter tells the telephone user what the subscriber is signing and signs to the subscriber what the telephone user is saying.

**Video remote interpreting** (VRI) is a fee-based service that uses video conferencing technology to access an off-site interpreter to provide real-time sign language or oral interpreting services for conversations between hearing people and people who are deaf or have hearing loss. The new regulations give covered entities the choice of using VRI or on-site interpreters in situations where either would be effective. VRI can be especially useful in rural areas where on-site interpreters may be difficult to obtain. Additionally, there may be some cost advantages in using VRI in certain circumstances. However, VRI will not be effective in all circumstances. For example, it will not be effective if the person who needs the interpreter has difficulty seeing the screen (either because of vision loss or because he or she cannot be properly positioned to see the screen, because of an injury or other condition). In these circumstances, an on-site interpreter may be required.

If VRI is chosen, **all** of the following specific performance standards must be met:

- real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;
- a sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the face, arms, hands, and fingers of the person using sign language, regardless of his or her body position;

- a clear, audible transmission of voices; and
- adequate staff training to ensure quick set-up and proper operation.

**Many deaf-blind individuals use support service providers (SSPs) to assist them in accessing the world around them. SSPs are not “aids and services” under the ADA. However, they provide mobility, orientation, and informal communication services for deaf-blind individuals and are a critically important link enabling them to independently access the community at large.**

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## Effective Communication Provisions

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Covered entities must provide aids and services when needed to communicate effectively with people who have communication disabilities.

The key to deciding what aid or service is needed to communicate **effectively** is to consider the nature, length, complexity, and context of the communication as well as the person's normal method(s) of communication.

Some easy solutions work in relatively simple and straightforward situations. For example:

- In a lunchroom or restaurant, reading the menu to a person who is blind allows that person to decide what dish to order.
- In a retail setting, pointing to product information or writing notes back and forth to answer simple questions about a product may allow a person who is deaf to decide whether to purchase the product.

Other solutions may be needed where the information being communicated is more extensive or complex. For example:

- In a law firm, providing an accessible electronic copy of a legal document that is being drafted for a client who is blind allows the client to read the draft at home using a computer screen-reading program.
- In a doctor's office, an interpreter generally will be needed for taking the medical history of a patient who uses sign language or for discussing a serious diagnosis and its treatment options.

A person's method(s) of communication are also key. For example, sign language interpreters are effective only for people who use sign language. Other methods of communication, such as those described above, are needed for people who may have lost their hearing later in life and do not use sign language. Similarly, Braille is effective only for people who read Braille. Other methods are needed for people with vision disabilities who do not read Braille, such as providing accessible electronic text documents, forms, etc., that can be accessed by the person's screen reader program.

Covered entities are also required to accept telephone calls placed through TRS and VRS, and staff who answer the telephone must treat relay calls just like other calls. The communications assistant will explain how the system works if necessary.

Remember, the purpose of the effective communication rules is to ensure that the person with a communication disability can receive information from, and convey information to, the covered entity.

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## Companions

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In many situations, covered entities communicate with someone other than the person who is receiving their goods or services. For example, school staff usually talk to a parent about a child's progress; hospital staff often talk to a patient's spouse, other relative, or friend about the patient's condition or prognosis. The rules refer to such people as “companions” and require covered entities to provide effective communication for companions who have communication disabilities.

The term “companion” includes any family member, friend, or associate of a person seeking or receiving an entity's goods or services who is an appropriate person with whom the entity should communicate.

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## Use of Accompanying Adults or Children as Interpreters

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Historically, many covered entities have expected a person who uses sign language to bring a family member or friend to interpret for him or her. These people often lacked the impartiality and specialized vocabulary needed to interpret effectively and accurately. It was particularly problematic to use people's children as interpreters.

The ADA places responsibility for providing effective communication, including the use of interpreters, directly on covered entities. They cannot require a person to bring someone to interpret for him or her. A covered entity can rely on a companion to interpret in only two situations.

(1) In an emergency involving an imminent threat to the safety or welfare of an individual or the public, an adult or minor child accompanying a person who uses sign language may be relied upon to interpret or facilitate communication only when a qualified interpreter is not available.

(2) In situations **not** involving an imminent threat, an adult accompanying someone who uses sign language may be relied upon to interpret or facilitate communication when a) the individual requests this, b) the accompanying adult agrees, and c) reliance on the accompanying adult is appropriate under the circumstances. This exception does **not** apply to minor children.

Even under exception (2), covered entities may **not** rely on an accompanying adult to interpret when there is reason to doubt the person's impartiality or effectiveness. For example:

- It would be inappropriate to rely on a companion to interpret who feels conflicted about communicating bad news to the person or has a personal stake in the outcome of a situation.
- When responding to a call alleging spousal abuse, police should never rely on one spouse to interpret for the other spouse.

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### Who Decides Which Aid or Service Is Needed?

When choosing an aid or service, title II entities are **required** to give primary consideration to the choice of aid or service requested by the person who has a communication disability. The state or local government must honor the person's choice, unless it can demonstrate that another equally effective means of communication is available, or that the use of the means chosen would result in a fundamental alteration or in an undue burden (see limitations below). If the choice expressed by the person with a disability would result in an undue burden or a fundamental alteration, the public entity still has an obligation to provide an alternative aid or service that provides effective communication if one is available.

Title III entities are **encouraged** to consult with the person with a disability to discuss what aid or service is appropriate. The goal is to provide an aid or service that will be effective, given the nature of what is being communicated and the person's method of communicating.

**Covered entities may require reasonable advance notice from people requesting aids or services, based on the length of time needed to acquire the aid or service, but may not impose excessive advance notice requirements. "Walk-in" requests for aids and services must also be honored to the extent possible.**

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### Limitations

Covered entities are required to provide aids and services unless doing so would result in an "undue burden," which is defined as significant difficulty or expense. If a particular aid or service would result in an undue burden, the entity must provide another effective aid or service, if possible, that would not result in an undue burden. Determining what constitutes an undue burden will vary from entity to entity and sometimes from one year to the next. The impact of changing economic conditions on the resources available to an entity may also be taken into consideration in making this determination.

**State and local governments:** in determining whether a particular aid or service would result in undue financial and administrative burdens, a title II entity should take into consideration the cost of the particular aid or service in light of all

resources available to fund the program, service, or activity and the effect on other expenses or operations. The decision that a particular aid or service would result in an undue burden must be made by a high level official, no lower than a Department head, and must include a written statement of the reasons for reaching that conclusion.

**Businesses and nonprofits:** in determining whether a particular aid or service would result in an undue burden, a title III entity should take into consideration the nature and cost of the aid or service relative to their size, overall financial resources, and overall expenses. In general, a business or nonprofit with greater resources is expected to do more to ensure effective communication than one with fewer resources. If the entity has a parent company, the administrative and financial relationship, as well as the size, resources, and expenses of the parent company, would also be considered.

In addition, covered entities are not required to provide any particular aid or service in those rare circumstances where it would fundamentally alter the nature of the goods or services they provide to the public. In the performing arts, for example, slowing down the action on stage in order to describe the action for patrons who are blind or have vision loss may fundamentally alter the nature of a play or dance performance.

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### **Staff Training**

A critical and often overlooked component of ensuring success is comprehensive and ongoing staff training. Covered entities may have established good policies, but if front line staff are not aware of them or do not know how to implement them, problems can arise. Covered entities should teach staff about the ADA's requirements for communicating effectively with people who have communication disabilities. Many local disability organizations, including Centers for Independent Living, conduct ADA trainings in their communities. The Department's ADA Information Line can provide local contact information for these organizations.

**For more information about the ADA, please visit our website or call our toll-free number.**

#### **ADA Website**

**[www.ADA.gov](http://www.ADA.gov)**

To receive e-mail notifications when new ADA information is available,  
visit the ADA Website's home page and click the **link** near the top of the middle column.

#### **ADA Information Line**

800-514-0301 (Voice) and 800-514-0383 (TTY)

24 hours a day to order publications by mail.

M-W, F 9:30 a.m. – 5:30 p.m., Th 12:30 p.m. – 5:30 p.m. (Eastern Time) to speak with an ADA Specialist.

All calls are confidential.

For persons with disabilities, this publication is available in alternate formats.

Duplication of this document is encouraged. January 2014

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### **PDF Version of this Document**

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