

STATE COURT ADMINISTRATIVE OFFICE



AMERICANS WITH DISABILITIES ACT OF 1990
AND
ADA AMENDMENTS ACT OF 2008



Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008

What We Will Cover Today

- Overview of ADA and Amendments of 2008
- Qualified Individuals with Disabilities
- Programs, Services, and Activities
- Requests for Accommodation
- Overview of Accommodations
- Creating an Accessible Court

Americans with Disabilities Act of 1990

Congress passed the ADA in 1990 "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities."

2008 ADA Amendments Act

- Rejected the U.S. Supreme Court’s interpretations of the definitions of “disability” and related terms
- Congress explicitly directed that:
“The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act”

Who is Protected by 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.

How Does the ADA Affect Courts?

While the ADA has five separate titles, Title II is the section specifically applicable to “public entities” (state and local governments) and the programs, services, and activities they deliver.

The Cornerstone of Title II of the ADA

No qualified person with a disability may be excluded from participating in, or denied the benefits of, the programs, services, and activities provided by state and local governments because of a disability.

What Constitutes a ‘Qualified Person?’

- They meet the essential eligibility requirements of the program.
- What if the individual with a disability does not meet the essential eligibility requirements?

Determining Whether an Individual has a Disability

1. Does the individual have an impairment?
2. Does the impairment limit any major life activities?
3. Is the limitation on any major life activity substantial?

Title II Covers a Broad Range of Court Related Activities that are Programs, Services, and Activities

These Include:

- Participation in trials and hearings, both as a litigant and an observer
- Access to publications, libraries, Internet sites
- ADR Programs
- Training offered by the court
- Physical accessibility of courtrooms and court houses
- Juror selection process

All of These Activities are Governed by a Multiplicity of Rules, Policies, and Procedures. Under the ADA ...

Public entities must reasonably modify their rules, policies, and procedures to avoid discriminating against people with disabilities

Reasonable Modifications

What is a reasonable modification?

- Common sense approach
- Nothing in (the law) shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit which such individual chooses not to accept (28 C.F.R. § 35.130)
- “Make it work”

Example

- Requiring a driver’s license as proof of identity is a policy that would be discriminatory since there are individuals whose disability makes it impossible for them to obtain a driver’s license.
- In that case it would be a reasonable modification to accept another type of government-issued I.D. card as proof of identification.

Are There Times When a Modification to Rules, Policies and Procedures Would Not Be Required?

Yes, when providing the modification would fundamentally alter the nature of the program, service, or activity.

The Request for Accommodation

- Persons with disabilities may only need the court to make an accommodation that will enable them to participate fully in the program, service, or activity.
- Written (MC 70)
- Oral – in person or on the phone

Types of Accommodations

Removing Physical Barriers

People with disabilities cannot participate in court-sponsored programs, services, or activities if they cannot physically access the program or service.

Removing Communication Barriers

People with disabilities cannot participate in court-sponsored programs, services, or activities if, because of the disability, they cannot understand what is being communicated.

Providing Auxiliary Aids and Services

For Individuals Who are Deaf
or Hard of Hearing

- Qualified sign-language interpreters,
- Note takers
- Computer-aided transcription services,
- Written materials,
- Telephone headset amplifiers,
- Assistive listening systems,
- Telephones compatible with hearing aids
- Open and closed captioning
- Videotext displays
- TTYs (tele typewriter)

Providing Auxiliary Aids and Services

For Individuals Who are Blind
or have Low Vision

- Qualified readers
- Taped texts
- Braille materials
- Large print materials
- Materials in electronic format on compact discs or in emails
- Audio recordings.

Providing Auxiliary Aids and Services

For Individuals Who have
Speech Impairments

- TTYs,
- Computer stations,
- Speech synthesizers
- Communications boards

Service Animals

- 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.
- Miniature horses

The Cost of Doing Business

The expense of making a program, service, or activity accessible or providing a reasonable modification or auxiliary aid may not be charged to a person with a disability requesting the accommodation.

Services the Court Is Not Required to Provide

- Transportation to and from the courthouse
- Legal counsel or advice
- Personal devices such as wheelchairs
- Personal services such as medical or attendant care

Creating an Accessible Court

Your Court's Facility and Equipment

- Do an assessment of your court facility. The Self Evaluation checklist on the SCAO website can be used as a starting point.
- Assess the court's equipment needs to ensure effective communication for persons with hearing, speech, vision, or cognitive disabilities.

Your Court's Facility and Equipment

- Involve your funding unit in these assessments.
- Involve people with disabilities and disability-related organizations in proactively identifying potential and existing access barriers and equipment needs.

ADA Coordinator

- If a public entity has 50 or more employees, it is required to designate at least one responsible employee to coordinate ADA compliance
- In Michigan, every court must have an ADA Coordinator regardless of the number of employees.

Identify and Train an ADA Coordinator

- ADA Coordinator roles:
 - Serves as single point of contact
 - Disseminates information to public and within court
 - Promotes effective communication about accessibility and requests for accommodation
 - Support

Benefits of an ADA Coordinator,

- Public can easily identify contact person.
- Specific, knowledgeable, contact person who can efficiently provide consistent answers.
- Coordinators can be instrumental in ensuring that compliance plans move forward.

Establish Local Protocol

Local Protocol Enables the Court to:

- Utilize resource information for addressing common accommodation requests;
- Demonstrate to individuals with disabilities that their requests are being considered; and
- Methodically evaluate accommodation requests, without creating unnecessary administrative demands on busy court personnel that often result from unexpected requests.

Final Steps

- Educate all court personnel on the court's accessibility features and its accommodation protocol.
- Notify the public regarding the court's accommodation process.
- Implement a grievance procedure.

Conclusion

- Questions and Comments.

ADA References

American with Disabilities Act – Frequently Asked Questions

Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, including courts. The ADA applies to all state and local governments, their departments and agencies, and any other instrumentalities or special-purpose districts of state or local government.¹

1. What is a "disability" under the ADA?

A “disability” is a physical, mental, or communication condition that substantially limits one or more of the major life activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working. Some examples include mobility or other motor disabilities, vision disabilities, speech and hearing disabilities, environmental sensitivities, learning disabilities, and psychological disorders. The disability makes it hard for the person to do activities that most other people can do. It also may restrict the person’s way of doing things and/or where and for how long the person can do a certain activity or function. People who have a record of such disability or are regarded as having such disability also meet the definition of "disabled" for purposes of having a reasonable accommodation made.

2. Who is a "qualified" person with a disability?

A qualified person with a disability is one who meets the essential eligibility requirements for the program or service offered by the court with or without reasonable accommodation. For example, in order to be eligible for jury service the statute requires that persons be able to read, speak, and understand the English language. A deaf person reads, speaks, and understands the English language, so that person is qualified. However, an accommodation must be made in order for that person to fully participate in jury service. Because the attorney, who must use a wheelchair, is a qualified person with a disability, and is licensed to practice law in the state, the court must make a reasonable accommodation to assure that the courtroom is accessible for all facets of any proceeding in which the attorney must participate.

3. How does Title II affect participation in a court’s programs, activities, and services?

A court must eliminate any eligibility criteria for participation in programs, activities, and services that screen out or tend to screen out persons with disabilities, unless it can establish that the requirements are necessary for the provision of the service, program, or activity. The court may, however, adopt legitimate safety requirements necessary for safe operation if they are based on real risks, not on stereotypes or generalizations about individuals with disabilities. Finally, a court must reasonably modify its policies, practices, or procedures to avoid discrimination.

¹ <http://www.ada.gov/t2ht95.htm>

4. Are there any limitations on the program-accessibility requirement?

Yes. A public entity does not have to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity, or in undue financial and administrative burdens. This determination can only be made by the head of the public entity or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The determination that undue burdens would result must be based on all resources available for use in the program. If an action would result in such an alteration or such burdens, the public entity must take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

5. What are some examples of the types of modifications in policies and practices that would be reasonable in most cases?

Examples include rewriting policies that categorically exclude people with disabilities from serving on juries, such as people who are deaf or blind; permitting a witness or spectator with diabetes to consume a snack, such as candy, as needed to maintain blood sugar levels; permitting persons with celiac disease who require gluten free meals to bring them to court; or explaining the words on an instruction sheet to a citizen who is mentally challenged.

6. Who may request an accommodation?

Any qualified person with a disability who has business in a state court, including attorneys, litigants, defendants, probationers, witnesses, potential jurors, prospective employees, and public observers of court services and programs may request reasonable accommodation by contacting the local ADA Coordinator.

7. May spectators obtain reasonable accommodation in the courtroom?

Yes, the courts must provide auxiliary aids to courtroom spectators as needed to ensure their equal participation in and benefit from court programs and services. Access to these services must be provided unless the court can demonstrate that the accommodation would result in a fundamental alteration of the nature of a service, program, or activity, or cause an undue financial or administrative burden. For example, an untimely request for accommodation by a spectator need not be granted if it would require a continuation of the court proceedings that would cause the undue administrative burden of rescheduling the parties, attorneys, and witnesses.

8. How is a request for reasonable accommodation submitted?

Each court has an ADA Coordinator who is responsible for arranging reasonable accommodations for people with disabilities. You can access the list of court ADA Coordinators at:

<http://courts.michigan.gov/scao/services/access/ADA-Coordinators.pdf>

In addition, the ADA Online Request form is available at:

<http://courts.michigan.gov/scao/services/access/MC70.pdf>

The request should identify the particular court activity or service for which accommodation is sought; the date, time, and location where the accommodation is needed; a description of the disability; and the type of accommodation being requested. All requests for an accommodation will be held confidential.

9. When must the request for accommodation be made?

To avoid causing undue disruption of court proceedings or processes, requests for accommodation must be given with reasonable notice. If the request relates to a jury summons, the individual should contact the Jury Clerk for the court in question as soon in advance as possible. If the request concerns a particular court proceeding, the request should be made as soon in advance as practicable to allow time to consider the request and arrange for reasonable accommodation.

10. Is the court required to provide the requested accommodation?

The court, with assistance from the local ADA coordinator, decides what reasonable accommodation can be made. Primary consideration is given to the request of the individual with the disability; however, an alternative accommodation may be offered if equally effective. The court is not required to make modifications that would fundamentally alter the service or program or cause an undue administrative or financial burden.

11. Who pays for the auxiliary aids and services?

Auxiliary aids and services necessary for effective communication or to enable participation in services, other than devices of a personal nature, are to be provided at no cost to the person with the disability. The court is responsible for providing the accommodation and paying the incurred costs.

12. What kinds of accommodation are available?

The court must ensure that court programs are physically accessible to people with disabilities by removing architectural barriers. Examples of architectural accommodations to facilitate accessibility to people with disabilities are: providing wheelchair ramps (at proper pitch and in safe locations) and wheelchair accessible restrooms in compliance with ADA accessibility standards, as described in the response to FAQ 21; allowing sufficient time for people with disabilities to travel to and from a barrier free restroom; adjusting the height of public information counters; labeling facilities with Braille lettering; providing adequate lighting in the courtrooms for those with vision disabilities; providing adjustable microphones for witnesses; altering openings to the well so that wheelchairs can pass through; allowing jurors and prospective jurors to sit outside the jury box or allowing witnesses to sit outside the witness box, as applicable, if those are not accessible for a wheelchair or if steps are required for persons who cannot easily climb up or down them. For additional accommodations that may be provided to people with specific disabilities, see the answers to FAQs 14 through 18.

13. What does the requirement for effective communication mean in a court?

The court must ensure that its communications with people with disabilities are as effective as communications with others so that all can fully participate and enjoy the services and programs provided. The provision of auxiliary aids and services, at no charge, may be a reasonable accommodation to ensure effective communication for a person with a hearing, visual, or speech disability. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved and the individual's specific disability and preferred mode of communication. Every effort shall be made to meet the specific needs of the individual. The court is not responsible, however, for providing devices of a personal nature such as prescription eyeglasses, hearing aids, wheelchairs, and/or personal medical or attendant care.

14. What types of accommodations are available to assist people who are deaf or hard of hearing?

Depending on the needs of the individual and the nature of the impairment, an accommodation may involve:

- allowing the person to sit where he or she can hear better;
- allowing use of a telecommunication system to communicate;
- providing a qualified sign interpreter appointed by the court;
- or providing an assistive listening system or computer-aided transcription device.

Some deaf and hard of hearing people rely on written notes to communicate with hearing people. Although writing can supplement other modes of communication, using it exclusively is tedious, cumbersome, and time-consuming. Also, because literacy levels vary, it is not accurate to assume that written notes will be effective for all deaf or hard of hearing people.

A common misconception is that all deaf and hard of hearing people can read lips. However, very few people can read lips well enough to understand speech, even under optimum conditions.

Below are several effective ways to telecommunicate with deaf, hard of hearing, and speech impaired people:

A. Text Telephone (TTY)

This is a special type of telephone with a keyboard and a small screen where typed text appears. Every court should consider having a TTY to handle incoming calls and for the public to use - the equivalent of a public phone booth.

B. E-mail

Another text-based way to communicate is to use e-mail through a computer, a web-enabled pager system, or a personal digital assistant.

C. Telecommunications Relay Service (TRS)

Telecommunications Relay Service (TRS) is a telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls. TRS is available in all 50 states, the District of Columbia, Puerto Rico, and the U.S. territories for local and/or long distance calls. TRS providers – generally telephone companies – are compensated for the costs of providing TRS from either a state or a federal fund. There is no cost to the TRS user.

1. How Does TRS Work?

TRS uses operators, called communications assistants (CAs), to facilitate telephone calls between people with hearing and speech disabilities and other individuals. Either a person with a hearing or speech disability, or a person without such disability may initiate a TRS call. When a person with a hearing or speech disability initiates a TRS call, the person uses a TTY or other text input device to call the TRS relay center, and gives a CA the number of the party that he or she wants to call. The CA in turn places an outbound traditional voice call

to that person. The CA then serves as a link for the call, relaying the text of the calling party in voice to the called party, and converting to text what the called party voices back to the calling party.

2. **What Forms of TRS are Available?**

There are several forms of TRS, depending on the particular needs of the user and the equipment available.

- a. **Text-to-Voice TTY-based TRS** - With this type of “traditional” TRS, a person with a hearing or speech disability uses a special text telephone, called a TTY, to call the CA at the relay center. TTYs have a keyboard and allow people to type their telephone conversations. The text is read on a display screen and/or a paper printout. A TTY user calls a TRS relay center and types the number of the person he or she wishes to call. The CA at the relay center then makes a voice telephone call to the other party to the call, and relays the call back and forth between the parties by speaking what a text user types, and typing what a voice telephone user speaks.
- b. **Voice Carry Over** - Voice Carry Over (VCO) is a type of TRS that allows a person with a hearing disability, who wants to use his or her own voice, to speak directly to the called party and receive responses in text from the CA. No typing is required by the calling party. This service is particularly useful to senior citizens who have lost their hearing, but who can still speak.
- c. **Hearing Carry Over** - Hearing Carry Over (HCO) is a type of TRS that allows a person with a speech disability, who wants to use his/her own hearing, to listen to the called party and type his/her part of the conversation on a TTY. The CA reads the words to the called party, and the caller hears responses directly from the called party.
- d. **Speech-to-Speech (STS) Relay Service** - This form of TRS is used by a person with a speech disability. A CA, who is specially trained in understanding a variety of speech disorders, repeats what the caller says in a manner that makes the caller's words clear and understandable to the called party. No special telephone is needed. For more information regarding STS visit www.fcc.gov/cgb/consumerfacts/speechtospeech.html.
- e. **Shared Non-English Language Relay Services** - Due to the large number of Spanish speakers in the United States, the FCC requires interstate TRS providers to offer Spanish-to-Spanish traditional TRS. Although Spanish language relay is not required for intrastate (within a state) TRS, many states with large numbers of Spanish speakers offer this service on a voluntary basis. The FCC also allows TRS providers who voluntarily offer other shared non-English language interstate TRS, such as French-to-French, to be compensated from the federal TRS fund.
- f. **Captioned Telephone Service** - Captioned telephone service, like VCO, is used by persons with a hearing disability but some residual hearing. It uses a special telephone that has a text screen to display captions of what the other party to the conversation is saying. A captioned telephone allows the user, on one line, to speak to the called party and to simultaneously listen to the other party and read captions of what the other party is saying. There is a “two-line” version of captioned telephone service that offers additional features, such as call waiting, *69, call forwarding, and direct dialing for 911 emergency service. Unlike traditional TRS (where the CA types what the

called party says), the CA repeats or re-voices what the called party says. Speech recognition technology automatically transcribes the CA's voice into text, which is then transmitted directly to the user's captioned telephone text display.

- g. **Video Relay Service (VRS)** - This Internet-based form of TRS allows persons whose primary language is American Sign Language (ASL) to communicate with the CA in ASL using video conferencing equipment. The CA speaks what is signed to the called party, and signs the called party's response back to the caller. VRS is not required by the FCC, but is offered by several TRS providers. VRS allows conversations to flow in near real time and in a faster and more natural manner than text-based TRS. TRS providers that offer VRS must provide it 24 hours a day, 7 days a week, and must answer incoming calls within a specific period of time so that VRS users do not have to wait for a long time. For more information regarding VRS visit: www.fcc.gov/cgb/consumerfacts/videorelay.html.
- h. **Internet Protocol (IP) Relay Service** - IP Relay is a text-based form of TRS that uses the Internet, rather than traditional telephone lines, for the leg of the call between the person with a hearing or speech disability and the CA. Otherwise, the call is generally handled just like a TTY-based TRS call. The user may use a computer or other web-enabled device to communicate with the CA. IP Relay is not required by the FCC, but is offered by several TRS providers. For more information regarding IP Relay, visit www.fcc.gov/cgb/consumerfacts/iprelay.html.
- i. **IP Captioned Telephone Service** – IP captioned telephone service, one of the newest forms of TRS, combines elements of captioned telephone service and IP Relay. IP captioned telephone service can be provided in a variety of ways, but uses the Internet – rather than the telephone network – to provide the link and captions between the caller with a hearing disability and the CA. It allows the user to simultaneously listen to, and read the text of, what the other party in a telephone conversation is saying. IP captioned telephone service can be used with an existing voice telephone and a computer or other Web-enabled device without requiring any specialized equipment. For more information regarding IP captioned telephone service, visit www.fcc.gov/cgb/consumerfacts/ipcaptioned.html.

3. **711 Access to TRS**

Just as you can call 411 for information, you can dial 711 to connect to certain forms of TRS anywhere in the United States. Dialing 711 makes it easier for travelers to use TRS because they do not have to remember TRS numbers in every state. Because of technological limitations, however, 711 access is not available for the Internet-based forms of TRS (VRS and IP Relay).

For more information regarding 711, visit www.fcc.gov/cgb/consumerfacts/711.html

D. Sign Language and Interpreters

Many deaf and hard of hearing people use American Sign Language (ASL) rather than spoken English as their primary mode of communication. ASL is a natural language recognized globally and used by members of the deaf community here in

the United States. It is linguistically complete with unique rules for language structure and use that include phonology, morphology, syntax, semantics, and discourse.

Family members or amateurs who know some sign language should never interpret for a court-related process. They may lack the techniques and skills needed for effective interpretation, generally are not familiar with court terminology and protocols, and have difficulty being neutral in the process.

Not all deaf or hard of hearing people are proficient in American Sign Language. Occasionally, it will be necessary to use other means of ensuring communication. A person who is both deaf and blind may need an interpreter skilled in tactile communication. Some deaf and hard of hearing people do not use sign language but require an "oral" interpreter who silently mouths the speaker's words to them.

Complete information on sign language interpreters can be found at:
<http://www6.dleg.state.mi.us/interpreter/>

E. Assistive Listening Systems

Assistive Listening Systems transmit sound as directly as possible to a hearing aid. Such systems should not be confused with audio systems that are designed to make the sound louder. Rather than enhancing all the sounds in the room, an assistive listening device can bring specific sounds directly to the user's ears.

F. Real-Time Transcription

Real-time transcription works effectively for individuals who have strong reading skills and for those who do not know sign language. Because of the speed of the transcription, it will not work for slow readers.

15. What types of accommodations are available to assist people who are legally blind or visually disabled?

Depending on the needs of the individual and the nature of the disability, accommodation may involve: providing forms and instructions in Braille, large print, or on audio tape; providing assistance at the counter in filling out necessary paperwork; having written materials read out loud in the courtroom; allowing the person to sit closer than usual if they have limited vision; or providing additional lighting if the lighting is a problem.

People who are blind or visually disabled often can be assisted by increasing the size of an object, by changing viewing distance, by improving illumination, and by improving contrast. Changing size and distance go hand in hand. Size can be changed in several different ways: an object can be made larger (such as a big-button telephone), materials can be reproduced in a larger size (such as large print), a nearby object can be enlarged (using a magnifier), or a far-away object can be enlarged (using a telescope). Devices can be set into glass frames, some of which are bi-optic.

The most critical consideration for a low-vision individual is lighting. The midday offers the best light. Halogen bulbs and lamps that place direct light on a subject are highly recommended. When considering which bulbs to use, incandescent bulbs with a high

wattage are preferred over florescent. Florescent bulbs throw off a glaring blue light. If the person with a visual disability is referring to notes, additional light (such as a gooseneck lamp) may be necessary.

Contrast in written materials also can be important. The more words crowded onto a page and the more similar the ink and paper colors, the less one can discriminate. Using 14-point or larger black type on yellow paper will greatly increase the readability of materials.

16. What types of accommodations are available to assist people with mobility disabilities?

Depending on the needs of the individual and the nature of the disability, accommodation may include: having the clerk mail out forms to a person limited in his or her ability to visit the courthouse; or holding a proceeding in a more accessible location.

Depending on the nature of the disability and the preferences of the person with the disability, it may be a reasonable accommodation to allow the testimony of a witness to be videotaped, or the use of video conferencing technology in lieu of a personal appearance. These types of accommodations may be offered, but should not be forced on a person with a mobility disability. Often, the types of accommodations discussed in the response to FAQ 12 are preferable to the person with the disability and are perceived to be more respectful of that person's individual rights to appear and participate in court proceedings.

Many persons with limited mobility do not initially appear to have a disability, particularly if they do not use a cane or other assistive device. A disability may become apparent only when the person moves about the court facility with difficulty or when a crowd or rush of people affects the person's balance. Signs of a limitation of mobility include unsteadiness, walking slowly, aberrations in gait, holding back, or requiring unusual time to get around the court facility or to follow instructions related to movement. When these conditions are observed, it may be appropriate for court personnel to ask if any assistance is required and, when necessary, to alert the judge that the individual may need more time. Accommodations for such persons usually require no extra court personnel or other additional expense.

Loss of balance and falling are significant risks to persons of limited mobility in unfamiliar public places. What accommodations are reasonable and helpful to minimize these risks?

- Proactively anticipate and minimize these risks. Conspicuously mark changes in elevation and mark the top of steps or stairs. Don't overly polish floors, and use products that minimize slipperiness. Have consistent and adequate lighting.
- Have adequate seating for persons who have to wait.
- Offer adequate time for breaks when a person with limited mobility is in the courtroom so the person does not have to rush.
- Offer the person access to elevators, when available, and opportunities to sit and remain seated when others are expected to stand.

- Offer alternate restroom facilities if the public facilities are not close to the courtroom involved.
- Avoid risks for an individual who has difficulty climbing even a few steps or accessing positions in a jury box with different elevations by either offering a chair nearby or having a security person extend an arm to help steady the individual. This can be particularly problematic if a prospective juror of limited mobility is excused during voir dire and has to pass by other prospective jurors who are seated.
- Encourage court personnel to recognize and be responsive to mobility limitations, such as by avoiding unnecessary rushing, not walking closely behind a person who is moving slowly, and not passing the person from behind on the right side as opposed to the left side. These and other similar actions can be surprising and can affect a person's balance.
- Refrain from giving hands-on assistance without first asking (except when a person is in the process of falling), as an unexpected touching may affect the person's balance.
- Ask how best to help a person who has fallen; don't attempt to assist the person without consent. Falls are inherently unexpected. The person may need time to gather composure, assess whether there is an injury, or use individual means that work best for that person to get to a standing position. After the person is up, it is helpful to offer a chair and offer water.
- Don't move a person who has fallen and cannot move, does not want to move, or is unconscious. Call an emergency medical service or other trained personnel to minimize further injury. Block off the area until help arrives.

Re-evaluate handicap parking. All too frequently, handicap spaces are not the closest to the main building entrance. At least some spaces should be near the entrance. If a ramp starts at some distance from the entrance, some handicap spaces should be near the entrance and some near the bottom of the ramp.

17. What types of accommodations are available to assist people with cognitive or developmental disabilities?

Developmental disability is an umbrella term referring to disabilities present before an individual reaches 22 years of age. Examples of developmental disabilities are cerebral palsy, epilepsy, autism, hearing loss, Down syndrome, mental retardation, spinal injury, or brain injury. Cognitive disabilities refer to any disability affecting mental processes. Examples include mental retardation, attention deficit hyperactivity disorder (ADHD), dyslexia, Alzheimer's disease, aphasia, brain injury, language delay, and learning disabilities. Remember that many individuals with developmental and cognitive disabilities may not have limited intellectual functioning. Those that do may require accommodation.

Depending on the needs of the individual and the nature of the disability, accommodation may include: having the court and witnesses talk slowly or write things down; when

necessary, repeating information using different wording or a different communication approach, allowing time for information to be fully understood; presenting information in a clear, concise, concrete, and simple manner; when necessary, taking periodic breaks; presenting tasks in a step-by-step manner, letting the individual perform each step after explanation; scheduling court proceedings at a different time to meet the medical needs of the individual; providing a coach or support person at the proceeding; or allowing videotaped testimony or the use of video conferencing technology in lieu of a personal appearance.

18. What types of accommodations are available to assist people with psychiatric disabilities?

A person with a psychiatric disability is someone with a mental illness, which significantly interferes with that person's performance of major life activities, such as learning, thinking, communicating, and sleeping, among others. The most common forms of mental illnesses resulting in psychiatric disabilities are anxiety disorders, depressive disorders, and schizophrenia. Anxiety disorders are the most common group of mental illnesses and include panic disorder, phobias, obsessive-compulsive disorder, and post-traumatic stress disorder characterized by severe fear or anxiety associated with particular objects and situations. Depressive disorders include major depression, manic-depressive illness, and seasonal affective disorder characterized by disturbances or changes in moods. Schizophrenia is a highly complex illness characterized by thoughts that seem fragmented and difficulty processing information.

Depending on the needs of the individual and the nature of the disability, accommodation may include: scheduling court proceedings at certain times to coincide with medication requirements or effects; presenting information in a different manner to be better processed by the individual such as providing instructions in a written or recorded format; changing procedures as they relate to the interaction with witnesses and court staff in the courtroom; eliminating distractions; speaking slowly and distinctly; or allowing videotaped testimony or the use of video conferencing technology in lieu of a personal appearance.

19. What if the request for accommodation is denied?

Each court should have a local policy or local administrative order regarding the ADA and the grievance procedure adopted by the court.

20. What does the ADA require for accessibility to court facilities?

Courts must ensure that individuals with disabilities are not excluded from services, programs, and activities because existing buildings are inaccessible. Court programs, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as program accessibility, applies to court facilities that existed on January 26, 1992. Courts do not necessarily have to make each of their existing facilities accessible if the service, program, or activity can be made accessible in another manner. For example, if a court holds hearings on the second floor of a building without elevators, it can make the program accessible by holding the hearings in an accessible room on the first floor or in another facility. The specific judicial system will be viewed in its entirety when determining accessibility. Therefore, if the court system in a particular jurisdiction consists of numerous facilities, and a specific proceeding can be moved within reason from an inaccessible facility to an accessible facility, the specific judicial system would be in compliance with the program-accessibility requirements.

21. How can a court determine if a new building is accessible?

A court facility will be in compliance with the ADA for new construction and alterations if it follows either of two accessibility standards. It can choose either the Uniform Federal Accessibility Standards (UFAS) or the Americans with Disabilities Act Standards for Accessible Design (ADA Standards). If the court chooses the ADA Standards, it is not entitled to the elevator exemption (that permits certain private buildings under three stories or under 3,000 square feet per floor to be constructed without an elevator). The ADA Standards contain requirements necessary to make a building or other facility architecturally (physically) accessible to people with disabilities. The ADA Standards identify what features need to be accessible, set forth the number of those features that need to be made accessible, and then provide the specific measurements, dimensions, and other technical information needed to make the feature accessible.

22. What are the alteration requirements for historic court buildings?

Alteration of courthouses must comply with the specific provisions governing historic properties in ADA Standards or UFAS to the maximum extent feasible. Under those provisions, alterations should be done in full compliance with the alterations standards for other types of buildings. However, if following the usual standards would threaten or destroy the historic significance of a feature of the courthouse, alternative standards may be used. The decision to use alternative standards for that feature must be made in consultation with the appropriate historic advisory board designated in ADA Standards or UFAS, and interested persons, including those with disabilities, should be invited to participate in the decision-making process.

The alternative requirements for historic buildings or facilities provide for minimal levels of access. For example:

- An accessible route is only required from one site access point (such as the parking lot).
- A ramp may be steeper than is ordinarily permitted.
- The accessible entrance does not need to be the one used by the general public.
- Only one accessible toilet is required, and it may be unisex.
- Accessible routes are required on the level of the accessible entrance and on other levels where practicable.

23. What type of funding is available to help courts comply with the ADA?

The Department of Justice occasionally has funding available for ADA related projects and technical assistance. Their website address is: <http://www.justice.gov/10grants>

24. What options are available to a court if it determines that it cannot adequately provide the requested accommodation?

Courts should consider contacting local advocacy groups, libraries, or other entities that may have resources available at no or minimal cost.

25. What is an assistance animal?

Assistance animals help people with disabilities in their day-to-day activities. Some examples include: guiding a blind or visually disabled person; alerting people with hearing

impairments to sounds; pulling wheelchairs or carrying and picking up things for people with mobility disabilities; and assisting people with mobility disabilities with balance.

26. Are assistance animals allowed in the courts?

An assistance animal must be permitted to accompany the individual with a disability to all areas of the facility where customers are normally allowed to go.² An individual with an assistance dog may not be segregated from other members of the public.

The care and supervision of the assistance dog is the sole responsibility of the owner. The court is not required to provide care, food, or a special location for the animal.

What if an assistance dog barks or growls at other people, or otherwise acts out of control or disruptive of the courtroom proceedings? It first must be noted that assistance dogs have special training and often are bred, selected, and continued in their training programs for their ability to function in difficult circumstances. Usually, an assistance dog that acts inappropriately does so as a response to the possibly inappropriate actions of others in the immediate area. When an assistance dog is present, the owner should be consulted as to how to encourage others to act in an appropriate manner. This is usually best done by advising them to ignore the dog's presence, not to speak to the dog or touch it, to allow it to do its work in an unfettered way, and not to take any actions that could be perceived as presenting a danger to the owner. In the rare instance when disruptive behavior happens, an assistance dog may be excluded from the courthouse if there is reason to believe the animal's behavior poses a direct threat to the health or safety of others. A service animal that displays vicious behavior towards other customers may be excluded. In addition, a court is not required to accommodate an assistance animal if it would result in a fundamental alteration of the nature of the court's business. A dog that barks during a hearing may be excluded; however, before excluding an assistance dog, the owner and possibly experts familiar with the particular type of assistance dog and its training should be consulted to determine what other measures short of exclusion may be taken. The owner can most likely assist in identifying experts who may be affiliated with the dog's training program. In the event an assistance dog is excluded, the individual with the disability should be given the option of continuing his or her participation in the court services. Most important, there should be consultation with the owner and possibly with experts in how best to exclude the animal with minimal disruption to its current and future ability to be of service.

General ADA Compliance in Courts

27. What is a self-evaluation and what does it require courts to do?

A self-evaluation is a public entity's assessment of its current policies and practices. The ADA requires that courts perform a self-assessment of their programs, services, and facilities to determine whether the courts are in compliance with the act. The self-evaluation identifies and corrects those policies and practices that are inconsistent with Title II's requirements. If the self-assessment identifies areas in which the court is not in compliance with the ADA, the court must formulate a plan to address the problems. All public entities, including courts, should have completed a self-evaluation by January 26, 1993. Structural changes to achieve

² MCL 37.1302

program accessibility should have been completed by January 26, 1995. A court that has not completed its self-evaluation transition plan should take steps to do so.

28. Who has the responsibility for ADA compliance when courts are located in buildings that are owned or leased by another government agency?

The ADA places the legal obligation on each agency respectively. When agencies share the same building, they can work to ensure that facility modifications are made as needed to provide program accessibility. Each agency is responsible for ensuring effective communication and for providing auxiliary aids and services as needed. It is often possible to share resources or equipment, such as assistive listening systems or Braille printers.

Self-Evaluation Checklist

Instructions: Please check all statements to which you can answer “yes.”

Access Route, Parking, and Entrances

- 1. The access route to the entrance is free of barriers.
- 2. There is a ramp to ensure access for those using walkers, wheelchairs, crutches, etc.
- 3. The ground on the access route is even and the surface is not slippery.
- 4. There are handicapped parking spaces available.
- 5. These spaces are designated with signs.
- 6. These spaces are designated with pavement markings.
- 7. All inaccessible entrances have signs indicating the location of the nearest accessible entrance.
- 8. The only accessible entrance is a service entrance.

Doors and Elevators

- 9. The door is equipped with (check all that apply):
 - automatic opener
 - a bell
 - an intercom
 - lever handle
 - handle at low spot accessible to person using a wheelchair
 - doorknob at normal height
 - low threshold to allow wheelchair access
- 10. The door is wide enough to allow wheelchair access.
- 11. There is a working elevator.
- 12. There are ramps, lifts, or elevators to all public levels.
- 13. There are visible and audible door opening/closing indicators.
- 14. The elevator’s emergency intercom or phone is usable without voice communication.
- 15. The elevator’s emergency intercom/phone is identified by Braille and raised letters.

Restrooms, Fountains, Meeting Spaces

- 16. At least one restroom is fully accessible.
 - lever handles throughout
 - space to turn and maneuver wheelchair
 - lavatory height is accessible
 - toilet height is accessible
- 17. There is at least one drinking fountain that is wheelchair accessible.
- 18. There is at least one meeting room that is accessible for public functions.
- 19. Meeting space(s) has aisles wide enough to accommodate a wheelchair.

Communication Accommodation

- 20. There is an emergency warning system
- equipped with flashing lights
- equipped with audible signals
- 21. Maryland Relay is available.
- 22. Signs indicate that relay services are available.
- 23. Signs indicate website addresses to access materials and information.
- 24. Brochure racks are accessible to someone using a wheelchair.
- 25. Publications are available in other formats:
 - Large print
 - Braille
 - Audiotape
 - Captioned video
 - Dubbed/voiced-over video
 - Electronic media/web-based versions
 - Other _____

Chapter 2

ADA Coordinator, Notice & Grievance Procedure: Administrative Requirements Under Title II of the ADA

In this section, you will learn about the administrative requirements of Title II of the ADA, including the mandates to designate an ADA coordinator, give notice about the ADA's requirements, and establish a grievance procedure. Questions answered include:

- If the local government has fewer than 50 employees, do different requirements apply?
- What are the responsibilities of an ADA Coordinator?
- What are the benefits of having an ADA Coordinator?
- What are the requirements for providing notice of the ADA's provisions?
- How and where must you provide ADA notices?
- What is a grievance procedure?
- What must an ADA grievance procedure include?

A. Designating an ADA Coordinator

If a public entity has 50 or more employees, it is required to designate at least one responsible employee to coordinate ADA compliance.¹ A government entity may elect to have more than one *ADA Coordinator*. Although the law does not refer to this person as an "ADA Coordinator," this term is commonly used in state

¹Department of Justice Nondiscrimination on the Basis of State and Local Government Services Regulations, 28 C.F.R. pt. 35, § 35.107(a) (2005). See www.ada.gov/reg2.html for the complete text of the Department of Justice's Title II regulation.

and local governments across the country and will be used in this chapter.

The ADA Coordinator is responsible for coordinating the efforts of the government entity to comply with Title II and investigating any complaints that the entity has violated Title II. The name, office address, and telephone number of the ADA Coordinator must be provided to interested persons.

Benefits of an ADA Coordinator

There are many benefits to having a knowledgeable ADA coordinator, even for smaller public entities that are not required to have one.

For members of the public, having an ADA Coordinator makes it easy to identify someone to help them with questions and concerns about disability discrimination. For example, the ADA Coordinator is often the main contact when someone wishes to request an *auxiliary aid or service* for effective communication, such as a *sign language interpreter* or documents in *Braille*. A knowledgeable ADA Coordinator will be able to efficiently assist people with disabilities with their questions. She or he will also be responsible for investigating complaints.

**Common Question:
Which employees count?**

If a local government or other public entity has fewer than 50 employees, it is not required to appoint an ADA Coordinator or establish grievance procedures.

The number of employees is based on a government-wide total, including employees of each department, division, or other sub-unit. Both part-time and full-time employees count. Contractors are not counted as employees for determining the number of employees.

For example: Jones City has 30 full-time employees and 20 part-time employees. The employees include ten police department employees and eight fire department employees.

Jones City must have an ADA Coordinator and an ADA grievance procedure. The total number of employees is 50 because both full-time and part-time employees are counted. In addition, the police and fire departments are part of the city-wide employment pool, and the requirements for an ADA Coordinator and an ADA grievance procedure cover both of those departments.

Having an ADA Coordinator also benefits state and local government entities. It provides a specific contact person with knowledge and information about the

ADA so that questions by staff can be answered efficiently and consistently. In addition, she or he coordinates compliance measures and can be instrumental in ensuring that compliance plans move forward. With the help of this Tool Kit, ADA Coordinators can take the lead in auditing their state or local government's programs, policies, activities, services, and facilities for ADA compliance.

An Effective ADA Coordinator

The regulations require state and local governments with 50 or more employees to designate an employee responsible for coordinating compliance with ADA requirements. Here are some of the qualifications that help an ADA Coordinator to be effective:

- familiarity with the state or local government's structure, activities, and employees
- knowledge of the ADA and other laws addressing the rights of people with disabilities, such as Section 504 of the Rehabilitation Act, 29 U.S.C. § 794
- experience with people with a broad range of disabilities
- knowledge of various alternative formats and alternative technologies that enable people with disabilities to communicate, participate, and perform tasks
- ability to work cooperatively with the local government and people with disabilities
- familiarity with any local disability advocacy groups or other disability groups
- skills and training in negotiation and mediation
- organizational and analytical skills

B. Notice of the ADA's Provisions

The second administrative requirement is providing public notice about the ADA.² There are three main considerations for providing notice:

1. Who is the target audience for the ADA notice?
2. What information shall the notice include?
3. Where and how should the notice be provided?

Regardless of Size, the ADA Notice Requirement Applies

The ADA notice requirement applies to ALL state and local governments covered by title II, even localities with fewer than 50 employees.

1. Who is the target audience for the ADA notice?

The target audience for public notice includes applicants, beneficiaries, and other people interested in the state or local government's programs, activities, or services. **The audience is expansive, and includes everyone who interacts – or would potentially interact – with the state or local government.**

Examples of the Target Audience for the ADA Notice

- a recipient of social services, food stamps, or financial assistance provided by the state or local government
- an applicant for a public library card
- a public transit user
- a person who uses the county recreation center
- a grandmother attending her grandchild's high school graduation in a city park
- a member of a citizen's advisory committee
- a recipient of a grant from the state or local government
- a citizen who wants to participate in a town council meeting
- a person adopting a dog from the local public animal shelter

²28 C.F.R. § 35.106.

2. What information shall the notice include?

The notice is required to include relevant information regarding Title II of the ADA, and how it applies to the programs, services, and activities of the public entity.

The notice should not be overwhelming. **An effective notice states the basics of what the ADA requires of the state or local government without being too lengthy, legalistic, or complicated. It should include the name and contact information of the ADA Coordinator.**

This chapter contains a model “Notice Under the Americans with Disabilities Act” created by the Department of Justice. It is a one page document in a standard font, and includes brief statements about:

- employment,
- effective communication,
- making reasonable modifications to policies and programs,
- not placing surcharges on modifications or auxiliary aids and services, and
- filing complaints.

The model notice is included at the end of this chapter.

3. How and where should the notice be provided?

It is the obligation of the head of the public entity to determine the most effective way of providing notice to the public about their rights and the public entity’s responsibilities under the ADA.

Publishing and publicizing the ADA notice is not a one-time requirement. State and local governments should provide the information on an ongoing basis, whenever necessary. If you use the radio, newspaper, television, or mailings, re-publish and re-broadcast the notice periodically.

The information must be presented so that it is accessible to all. Therefore, it must be available in *alternative formats*.

Some Ways to Provide Notice to Interested Persons

- Include the notice **with job applications**
- Publish the notice periodically in **local newspapers**
- Broadcast the notice in public service announcements on **local radio and television stations**
- Publish the notice on the government entity's **website** (ensure that the website is accessible)
- Post the notice **at all facilities**
- Include the notice in **program handbooks**
- Include the notice in **activity schedules**
- Announce the notice at **meetings** of programs, services, and activities
- Publish the notice as a **legal notice** in local newspapers
- Post the notice in bus shelters or other **public transit stops**

Examples of Alternative Formats

- Audio tape or other recordings
- Radio announcements
- Large print notice
- Braille notice
- Use of a **qualified sign language interpreter** at meetings
- Open or closed-captioned public service announcements on television
- ASCII, HTML, or word processing format on a computer diskette or CD
- HTML format on an accessible website
- Advertisements in publications **with large print versions**

C. Establishing and Publishing Grievance Procedures

Local governments with 50 or more employees are required to adopt and publish procedures for resolving grievances arising under Title II of the ADA.³ Grievance procedures set out a system for resolving complaints of disability discrimination in a prompt and fair manner.

Neither Title II nor its implementing regulations describe what ADA grievance procedures must include. However, the Department of Justice has developed a model grievance procedure that is included at the end of this chapter.

The grievance procedure should include:

- a description of how and where a complaint under Title II may be filed with the government entity;
- if a written complaint is required, a statement notifying potential complainants that alternative means of filing will be available to people with disabilities who require such an alternative;
- a description of the time frames and processes to be followed by the complainant and the government entity;
- information on how to appeal an adverse decision; and
- a statement of how long complaint files will be retained.

Once a state or local government establishes a grievance procedure under the ADA, it should be distributed to all agency heads. Post copies in public spaces of public building and on the government's website. Update the procedure and the contact information as necessary.

In addition, the procedure must be available in alternative formats so that it is accessible to all people with disabilities.

³28 C.F.R. § 35.107(b).

**Common Question:
Complaint Filing**

If a person with a disability has a complaint about a public entity, is she or he required to file a complaint with the public entity before filing a complaint with the federal government?

No, the law does not require people who want to file an ADA complaint against a public entity with the federal government to file a complaint with the public entity first. However, it is often more efficient to resolve local problems at a local level.

D. Summing up: ADA Coordinator, Notice, and Grievance Procedures

If a state or local government has fewer than 50 employees, it is required to:

- adopt and distribute a public notice about the relevant provisions of the ADA to all people who may be interested in its programs, activities, and services.

If a state or local government has 50 employees or more, it is required to:

- adopt and distribute a public notice about the relevant provisions of the ADA to all persons who may be interested in its programs, activities, and services;
- designate at least one employee responsible for coordinating compliance with the ADA and investigating ADA complaints; and
- develop and publish grievance procedures to provide fair and prompt resolution of complaints under Title II of the ADA at the local level.

These administrative requirements help ensure that the needs of people with disabilities are addressed in the programs, activities, and services operated by a public entity. Having these requirements in place will not prevent all problems, but it will help you to address many questions and problems efficiently.



NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), **[name of public entity]** will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Employment: **[Name of public entity]** does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

Effective Communication: **[Name of public entity]** will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the **[name of public entity's]** programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: **[Name of public entity]** will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in **[name of public entity]** offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of **[name of public entity]**, should contact the office of **[name and contact information for ADA Coordinator]** as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require **[name of public entity]** to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of **[name of public entity]** is not accessible to persons with disabilities should be directed to **[name and contact information for ADA Coordinator]**.

[Name of public entity] will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

[Name of public entity]
Grievance Procedure Under
The Americans with Disabilities Act

This Grievance Procedure is established 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 the ***[name of public entity]***. The ***[e.g., State, City, County, Town]***’s Personnel Policy governs employment-related complaints of disability discrimination.

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.

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:

[Insert ADA Coordinator’s name]
ADA Coordinator [and other title if appropriate]
[Insert ADA Coordinator’s mailing address]

Within 15 calendar days after receipt of the complaint, ***[ADA Coordinator’s name]*** or ***[his/her]*** designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, ***[ADA Coordinator’s name]*** 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 ***[name of public entity]*** and offer options for substantive resolution of the complaint.

If the response by ***[name of 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 ***[City Manager/ County Commissioner, or other appropriate high-level official]*** or ***[his/her]*** designee.

Within 15 calendar days after receipt of the appeal, the ***[City Manager/ County Commissioner/ other appropriate high-level official]*** or ***[his/her]*** designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the ***[City Manager/ County Commissioner/ other appropriate high-level official]*** or ***[his/her]*** designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by ***[name of ADA coordinator]*** or ***[his/her]*** designee, appeals to the ***[City Manager/ County Commissioner/other appropriate high-level official]*** or ***[his/her]*** designee, and responses from these two offices will be retained by the ***[public entity]*** for at least three years.

Chapter 3

General Effective Communication Requirements Under Title II of the ADA

In this chapter, you will learn about the requirements of Title II of the ADA for effective communication. Questions answered include:

- What is effective communication?
- What are auxiliary aids and services?
- When is a state or local government required to provide auxiliary aids and services?
- Who chooses the auxiliary aid or service that will be provided?

A. Providing Equally Effective Communication

Under Title II of the ADA, all state and local governments are required to take steps to ensure that their communications with people with disabilities are as effective as communications with others.¹ This requirement is referred to as “effective communication”² and it is required except where a state or local government can show that providing effective communication would fundamentally alter the nature of the service or program in question or would result in an undue financial and administrative burden.

What does it mean for communication to be “effective”? Simply put, “effective communication” means that **whatever is written or spoken must be as clear and understandable to people with disabilities as it is for people who do**

¹ Department of Justice Nondiscrimination on the Basis of State and Local Government Services Regulations, 28 C.F.R. Part 35, § 35.160 (2005). The Department’s Title II regulation is available at www.ada.gov/reg2.html.

² See Department of Justice Americans with Disabilities Act Title II Technical Assistance Manual II-7.1000 (1993). The Technical Assistance Manual is available at www.ada.gov/taman2.html.

not have disabilities. This is important because some people have disabilities that affect how they communicate.

How is communication with individuals with disabilities different from communication with people without disabilities? For most individuals with disabilities, there is no difference. But people who have disabilities that affect hearing, seeing, speaking, reading, writing, or understanding may use different ways to communicate than people who do not.

The effective communication requirement applies to ALL members of the public with disabilities, including job applicants, program participants, and even people who simply contact state or local government agencies seeking information about programs, services, or activities.

1. Providing Equal Access With Auxiliary Aids and Services

There are many ways that you can provide equal access to communications for people with disabilities. These different ways are provided through “auxiliary aids and services.” **“Auxiliary aids and services” are devices or services that enable effective communication for people with disabilities.**³

Title II of the ADA requires government entities to make appropriate auxiliary aids and services available to ensure effective communication.⁴ You also must make information about the location of accessible services, activities, and facilities available in a format that is accessible to people who are deaf or hard of hearing and those who are blind or have low vision.⁵

Generally, the requirement to provide an auxiliary aid or service is triggered when a person with a disability requests it.

³ 28 C.F.R. §§ 35.104, 35.160.

⁴ 28 C.F.R. Part 35.160(b)(1).

⁵ 28 C.F.R. § 35.163 (a).

2. Different Types of Auxiliary Aids and Services

Here are some examples of different auxiliary aids and services that may be used to provide effective communication for people with disabilities. **But, remember, not all ways work for all people with disabilities or even for people with one type of disability. You must consult with the individual to determine what is effective for him or her.**

- qualified interpreters
- notetakers
- screen readers
- computer-aided real-time transcription (CART)
- written materials
- telephone handset amplifiers
- assistive listening systems
- hearing aid-compatible telephones
- computer terminals
- speech synthesizers
- communication boards
- text telephones (TTYs)
- open or closed captioning
- closed caption decoders
- video interpreting services
- videotext displays
- description of visually presented materials
- exchange of written notes
- TTY or video relay service
- email
- text messaging
- instant messaging
- qualified readers
- assistance filling out forms
- taped texts
- audio recordings
- Brailled materials
- large print materials
- materials in electronic format (compact disc with materials in plain text or word processor format)

B. Speaking, Listening, Reading, and Writing: When Auxiliary Aids and Services Must be Provided

Remember that communication may occur in different ways. Speaking, listening, reading, and writing are all common ways of communicating. When these communications involve a person with a disability, an auxiliary aid or service may be required for communication to be effective. The type of aid or service necessary depends on the length and complexity of the communication as well as the format.

1. Face-to-Face Communications

For brief or simple face-to-face exchanges, very basic aids are usually appropriate. For example, exchanging written notes may be effective when a deaf person asks for a copy of a form at the library.

For more complex or lengthy exchanges, more advanced aids and services are required. Consider how important the communication is, how many people are involved, the length of the communication anticipated, and the context.

Examples of instances where more advanced aids and services are necessary include meetings, hearings, interviews, medical appointments, training and counseling sessions, and court proceedings. In these types of situations where someone involved has a disability that affects communication, auxiliary aids and services such as qualified interpreters, computer-aided real-time transcription (CART), open and closed captioning, video relay, assistive listening devices, and computer terminals may be required. Written transcripts also may be appropriate in pre-scripted situations such as speeches.

Computer-Aided Real-Time Transcription (CART)

Many people who are deaf or hard of hearing are not trained in either sign language or lipreading. CART is a service in which an operator types what is said into a computer that displays the typed words on a screen.

2. Written Communications

Accessing written communications may be difficult for people who are blind or have low vision and individuals with other disabilities. Alternative formats such as Braille, large print text, emails or compact discs (CDs) with the information in accessible formats, or audio recordings are often effective ways of making information accessible to these individuals. In instances where information is provided in written form, ensure effective communication for people who cannot read the text. Consider the context, the importance of the information, and the length and complexity of the materials.

When you plan ahead to print and produce documents, it is easy to print or order some in alternative formats, such as large print, Braille, audio recordings, and documents stored electronically in accessible formats on CDs. Some examples of events when you are likely to produce documents in advance include training sessions, informational sessions, meetings, hearings, and press conferences. In

Don't forget . . .

Even tax bills and bills for water and other government services are subject to the requirement for effective communication. Whenever a state or local government provides information in written form, it must, when requested, make that information available to individuals who are blind or have low vision in a form that is usable by them.

many instances, you will receive a request for an alternative format from a person with a disability before the event.

If written information is involved and there is little time or need to have it produced in an alternative format, reading the information aloud may be effective. For example, if there are brief written instructions on how to get to an office in a public building,

it is often effective to read the directions aloud to the person. Alternatively, an agency employee may be able to accompany the person and provide assistance in locating the office.

3. Primary Consideration: Who Chooses the Auxiliary Aid or Service?

When an auxiliary aid or service is requested by someone with a disability, you must provide an opportunity for that person to request the auxiliary aids and services of their choice, and you must give primary consideration to the individual's choice.⁶ "Primary consideration" means that the public entity must honor the choice of the individual with a disability, with certain exceptions.⁷ The individual with a disability is in the best position to determine what type of aid or service will be effective.

The requirement for consultation and primary consideration of the individual's choice applies to aurally communicated information (*i.e.*, information intended to be heard) as well as information provided in visual formats.

⁶ 28 C.F.R. Part 35.160(b)(2).

⁷ See Title II Technical Assistance Manual II-7.1100.

The requesting person's choice does not have to be followed if:

- the public entity can demonstrate that another equally effective means of communication is available;
- use of the means chosen would result in a fundamental alteration in the service, program, or activity; or
- the means chosen would result in an undue financial and administrative burden.

Video Remote Interpreting (VRI) or Video Interpreting Services (VIS)

VRI or VIS are services where a sign language interpreter appears on a videophone over high-speed Internet lines. Under some circumstances, when used appropriately, video interpreting services can provide immediate, effective access to interpreting services seven days per week, twenty-four hours a day, in a variety of situations including emergencies and unplanned incidents.

On-site interpreter services may still be required in those situations where the use of video interpreting services is otherwise not feasible or does not result in effective communication. For example, using VRI / VIS may be appropriate when doing immediate intake at a hospital while awaiting the arrival of an in-person interpreter, but may not be appropriate in other circumstances, such as when the patient is injured enough to have limited mobility or needs to be moved from room to room.

VRI / VIS is different from Video Relay Services (VRS) which enables persons who use sign language to communicate with voice telephone users through a relay service using video equipment. VRS may only be used when consumers are connecting with one another through a telephone connection.

4. Providing Qualified Interpreters and Qualified Readers

When an interpreter is requested by a person who is deaf or hard of hearing, the interpreter provided must be qualified.

A “qualified interpreter” is someone who is able to sign to the individual who is deaf what is being spoken by the hearing person and who can voice to the hearing person what is being signed by the person who is deaf. Certification is not required if the individual has the necessary skills. To be qualified, an interpreter must be able to convey communications effectively, accurately, and impartially, and use any necessary specialized vocabulary.⁸

Similarly, those serving as readers for people who are blind or have low vision must also be “qualified.”⁹ For example, a qualified reader at an office where people apply for permits would need to be able to read information on the permit process accurately and in a manner that the person requiring assistance can understand. The qualified reader would also need to be capable of assisting the individual in completing forms by accurately reading instructions and recording information on each form, in accordance with each form’s instructions and the instructions provided by the individual who requires the assistance.

**Did You Know That
There are Different Types of Interpreters?**

Sign Language Interpreters

Sign language is used by many people who are deaf or hard of hearing. It is a visually interactive language that uses a combination of hand motions, body gestures, and facial expressions. There are several different types of sign language, including American Sign Language (ASL) and Signed English.

Oral Interpreters

Not all people who are deaf or hard of hearing are trained in sign language. Some are trained in speech reading (lip reading) and can understand spoken words more clearly with assistance from an oral interpreter. Oral interpreters are specially trained to articulate speech silently and clearly, sometimes rephrasing words or phrases to give higher visibility on the lips. Natural body language and gestures are also used.

Cued Speech Interpreters

A cued speech interpreter functions in the same manner as an oral interpreter except that he or she also uses a hand code, or cue, to represent each speech sound.

⁸ 28 C.F.R. § 35.104.

⁹ 28 C.F.R. § 35.104.

5. Television, Videos, Telephones, and Title II of the ADA

The effective communication requirement also covers public television programs, videos produced by a public entity, and telephone communications.¹⁰ These communications must be accessible to people with disabilities.

a. Public Television and Videos

If your local government produces public television programs or videos, they must be accessible. A common way of making them accessible to people who are unable to hear the audio portion of these productions is closed captioning. For persons who are blind or have low vision, detailed audio description may be added to describe important visual images.

b. Telephone Communications

Public entities that use telephones must provide equally effective communication to individuals with disabilities. There are two common ways that people who are deaf or hard of hearing and those with speech impairments use telecommunication. One way is through the use of teletypewriters (TTYs) or computer equipment with TTY capability to place telephone calls. A TTY is a device on which you can type and receive text messages. For a TTY to be used, both parties to the conversation must have a TTY or a computer with TTY capability. If TTYs are provided for employees who handle incoming calls, be sure that these employees are trained and receive periodic refreshers on how to communicate using this equipment.

A second way is by utilizing telephone relay services or video relay services. Telephone relay services involve a relay operator who uses both a standard telephone and a TTY to type the voice messages to the TTY user and read the TTY messages to the standard telephone user. Video relay services involve a relay operator who uses both a standard telephone and a computer video terminal to communicate voice messages in sign language to the computer video terminal user and to voice the sign language messages to the standard telephone user.

Public employees must be instructed to accept and handle relayed calls in the normal course of business. Untrained individuals frequently mistake relay calls for telemarketing or collect calls and refuse to accept them. They also may mistakenly assume that deaf people must come into a government office to handle a matter in person even though other people are allowed to handle the same matter over the telephone.

¹⁰ 28 C.F.R. §§ 35.104, 35.160, 35.161.

C. Planning Ahead to Provide Effective Communication

Even before someone requests an auxiliary aid or service from your public entity, plan ahead to accommodate the communication needs of persons with disabilities. Prepare for the time when someone will request a qualified interpreter, Braille documents, video relay, or another auxiliary aid or service.

- **Identify local resources for auxiliary aids and services.** Even if you do not think there is anyone with a disability in your community, you need to be prepared.
- **Find out how you can produce documents in Braille or acquire other aids or services.** Technology is changing, and much of the equipment needed to ensure effective communication is less expensive than it once was. Consider whether it makes sense to procure equipment or obtain services through vendors. If your needs will be best met by using vendors, identify vendors who can provide the aids or services and get information about how much advance notice the vendors will need to produce documents or provide services.
- **Contract with qualified interpreter services and other providers so that interpreters and other aids and services will be available on short notice.** This is especially critical for time-sensitive situations, such as when a qualified interpreter is necessary to communicate with someone who is arrested, injured, hospitalized, or involved in some other emergency.
- **Use the checklist included in this Chapter to assess your agency's ability to provide effective communication and to figure out the next steps for achieving ADA compliance.**
- **Train employees about effective communication and how to obtain and use auxiliary aids and services. All employees who interact with the public over the telephone or in person need to know their role in ensuring effective communication.**



Americans with Disabilities Act

ADA Update:

A Primer for State and Local Governments



Figure 703.7.2.2 International Symbol of TTY

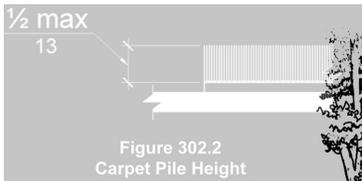
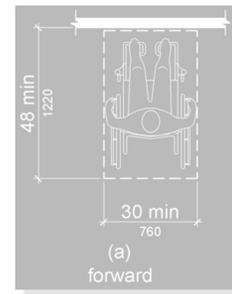


Figure 302.2 Carpet Pile Height

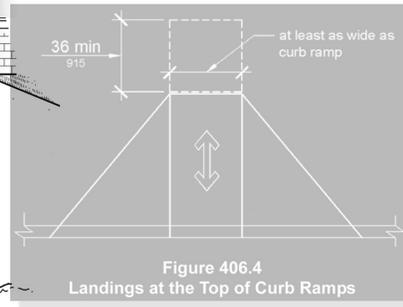
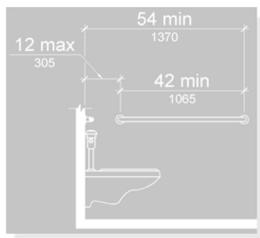


Figure 406.4 Landings at the Top of Curb Ramps

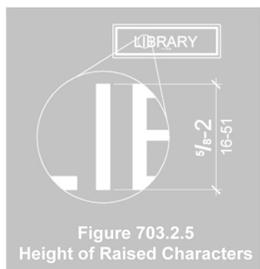


Figure 703.2.5 Height of Raised Characters

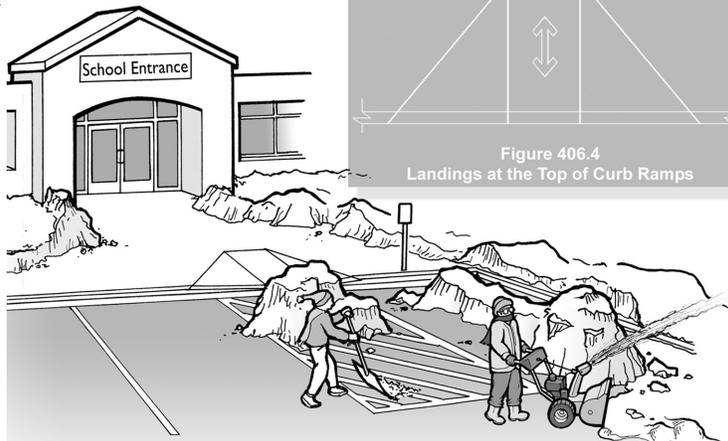


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Introduction

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), the 2010 Standards (www.ada.gov/2010ADASTandards_index.htm), and the Department's technical assistance publications (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

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.
- 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.

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.

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.

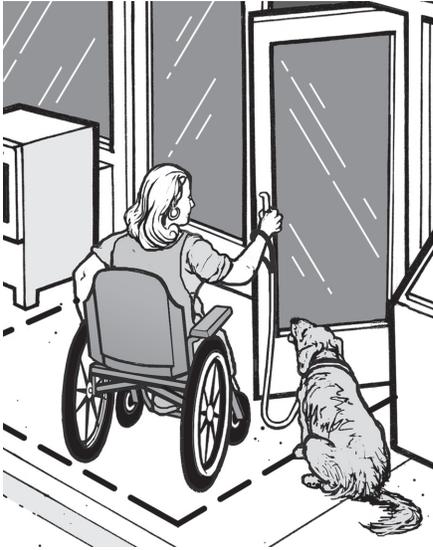
Only "reasonable" modifications are required. When only one staff person is on duty, it may or may not be possible to accommodate a person with a disability at that particular time. The staff person should assess whether he or she can provide the assistance that is needed without jeopardizing the safe 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.

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-



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.

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 or 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 or www.ada.gov/effective-comm.pdf.

MAKING THE BUILT ENVIRONMENT ACCESSIBLE

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 or 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.

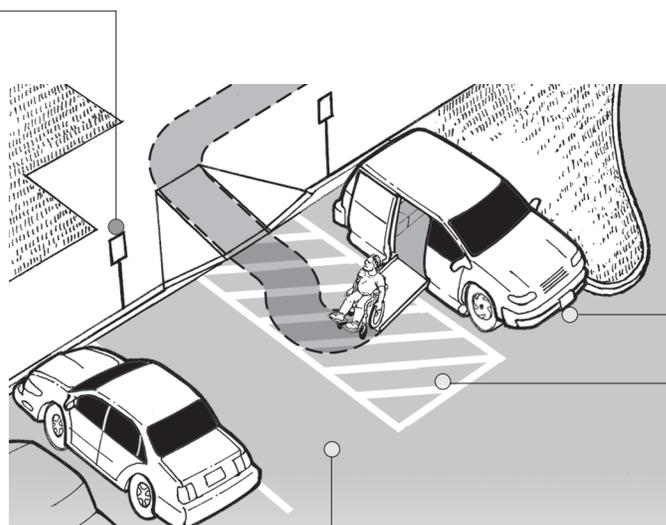
Total Number of Parking Spaces Provided in Parking Facility	Minimum Number of Required Accessible Parking Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total

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).



Space width for car: minimum eight feet

Space width for van: minimum 11 feet (although it may be minimum eight feet wide if the access aisle is minimum eight feet wide)

Access Aisle: Width: minimum five feet (if aisle serves car and van spaces)

Length: full length of vehicle parking space

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.

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

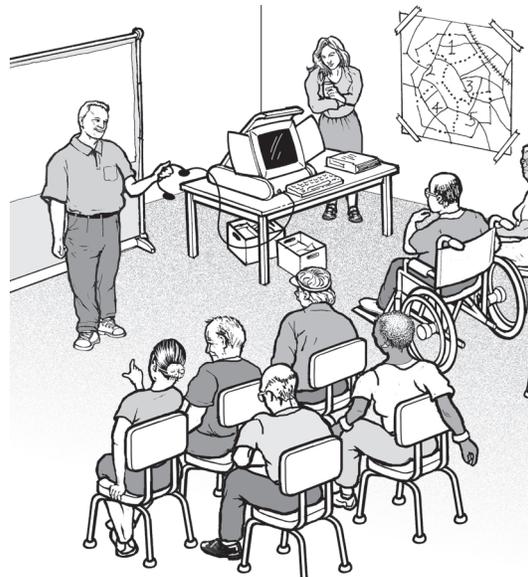
Public entities that have 50 or more employees are required to have a grievance procedure and to designate at least one responsible employee to coordinate ADA compliance. Although the law does not require the use of the term “ADA Coordinator,” it is commonly used by state and local governments across 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.

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

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

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

Access Board

For technical assistance on the ADA/ABA Guidelines:

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

www.access-board.gov

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

Duplication of this document is encouraged.

June 2015

(Name of Court)
Americans with Disabilities Act
Grievance Form

Please provide the following information:

1. Name: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Home Phone: _____ Cell Phone: _____
E-mail address: _____

2. Date the aggrieved action occurred or was observed: _____

3. Name and location of the court program or service involved that is the subject of the complaint.

Name of program or service: _____
Address: _____
City: _____ State _____ Zip code: _____

4. Name(s) of the Court employee with whom you made contact regarding the subject of this grievance:

5. Describe why you believe you are the victim of discrimination on the basis of disability in the delivery of (Name of court) programs and services:

Signature of Grievant

Date: _____

State Court Administrative Office

Model Local Administrative Order 35 – Requests for Accommodations by Persons with Disabilities.

[LOCAL COURT LETTERHEAD]

Administrative Order [year] - [number]

REQUESTS FOR ACCOMMODATIONS BY PERSONS WITH DISABILITIES

IT IS ORDERED:

This administrative order is issued in accordance with the Americans with Disabilities Act of 1990 (ADA) and the ADA Amendments Act of 2008. The purpose of this order is to assure that qualified individuals with disabilities have equal and full access to the judicial system. Nothing in this order shall be construed to impose limitations or to invalidate the remedies, rights, and procedures accorded to any qualified individuals with disabilities under state or federal law.

1. **Definitions**

The following definitions shall apply under this order:

- a. “An individual with a disability” means a person covered by the Americans with Disabilities Act of 1990 (42 USC 12101 *et seq.*) and the ADA Amendments Act of 2008, and includes individuals who have a physical or mental impairment that substantially limits one or more major life activity, has a record of such an impairment or are regarded as having such an impairment.
- b. “Qualified Individual with a Disability” means a person who meets the essential eligibility requirements for participation in any program, service, or proceeding in a court in Michigan. This not only includes persons involved in a case, such as lawyers, parties, witnesses, or jurors, but also includes spectators or anyone else who is eligible to participate in a program, service, or proceeding in a court in Michigan.
- c. “Accommodation(s)” may include, but are not limited to, making reasonable modifications in policies, practices, and procedures; furnishing at no charge to the qualified individuals with disabilities, auxiliary aids and services, which may include equipment, devices, materials in alternative formats, and qualified interpreters or readers; making each service, program, or activity, when viewed in its entirety, readily accessible to and usable by qualified individuals with disabilities requesting accommodations. In order to ensure that court services are accessible, access may be provided by various methods including alteration of existing facilities, acquisition, or construction of additional facilities,

relocation of a service or program to an accessible facility, or provision of services at alternate sites. This court will consider the preferences of the individual requesting the accommodation when responding to the request. This court will not place a surcharge on a particular individual or group of individuals to cover the cost of accommodation.

- d. “Confidentiality” applies to the identity of the applicant in all oral or written communications, including all files and documents submitted by an applicant as part of the application process.

2. **Application procedure**

The following procedure for requesting accommodations is established:

- a. Applications requesting accommodations pursuant to this policy may be presented in writing, on a form approved by the State Court Administrative Office and provided by the court, or orally as the court may allow. Applications should be made to the _____ [identify ADA Coordinator or court staff designated to coordinate requests for accommodations] at the [specify location of the office of the ADA Coordinator].
- b. All applications for accommodations shall include a description of the accommodation sought along with a statement of the functional impairment that necessitates the accommodation. The court, in its discretion, may require the applicant to provide additional information about the qualifying impairment.
- c. Applications should be made as far in advance of the requested accommodation implementation date as possible.
- d. Upon request, the court shall maintain the application form in a separate, confidential file so as not to reveal the applicant’s identity or other information contained in the application for accommodation.
- e. If the applicant is a party in a pending case, the communications with the court shall deal only with the accommodation(s) necessary to provide access and shall not deal in any manner with the subject matter or merits of the proceedings before the court.
- f. The _____ [name of court] shall grant an accommodation as follows:
 - i. In determining whether to grant an accommodation and what accommodation to grant, this court shall consider, but is not limited by, the applicable provisions of the Americans with Disabilities

Act of 1990, the ADA Amendments Act of 2008, Section 504 of the Rehabilitation Act of 1973, the state Deaf Persons Interpreters Act, 1982 PA 204, Persons with Disabilities Civil Rights Act, 220 PA 1976, and the Elliott-Larsen Civil Rights Act, 1976 PA 453.

- ii. The court shall inform the applicant in writing, or other accessible format the applicant needs, of the reasons and basis upon which a request for accommodation is either granted or denied.
- g. An application may be denied only if the court finds that:
 - i. The applicant has failed to satisfy the requirements of this order; or
 - ii. The requested accommodation(s) would result in a fundamental alteration in the nature of the program, service, or activity, or create an undue financial or administrative burden on the court.

3. **Review procedure**

- a. An applicant whose request for accommodation has been denied or granted may seek review of a determination made by nonjudicial court personnel within five days of the date of the notice of decision by submitting a request for review to the chief judge.

4. **Duration of accommodation**

- a. The accommodations by the court shall commence on the date indicated in the notice of accommodation and shall remain in effect for the period specified in the notice of accommodation. The court may grant accommodations for indefinite periods of time or for a particular matter or appearance.

Effective Date: _____

Date of Signature:

Chief Judge Signature:



Access to Courts

One Court of Justice
State Court Administrative Office
Judicial Information Systems
Trial Court Administration
Grant Opportunities
Fines, Fees, Costs, and Rates
Operations
Access to Courts
Americans With Disabilities Act
Language Access Resources
Business Courts
Performance Measures
Problem-Solving Courts
Records and Case-File Management
Risk Management
Trial Court Collections
Policies and Procedures
Chief Judge Resources
E-Filing Initiative
Employment Opportunities
MCAP

Print SHARE

Americans With Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) and the ADA Amendments Act of 2008 (ADAAA) identify the responsibilities of courts under Title II to provide access for citizens with disabilities to programs and services offered by public entities, including courts. Michigan courts have an obligation to take proactive steps to remove barriers to accessibility for people with disabilities. Nearly two million people in Michigan have some kind of disability.

With the passage of the Americans with Disabilities Act of 1990, the SCAO directed all trial courts to develop a local policy on ADA compliance and to identify the local ADA coordinator responsible for each court. The SCAO also created a work group, which developed materials that could aid judges, court administrators, clerks, and local ADA coordinators in developing local policies and procedures that are fully compliant with the Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008 as a supplement to what is already available on the Department of Justice website. These materials include a new section in the [Michigan Court Administration Reference Guide](#), a [Frequently Asked Questions](#) document, and a [model local administrative order and policy for accommodations](#).

ADA Compliance Performance Measure

Improving public access to Michigan courts is a key priority of the Michigan Supreme Court. This includes ensuring that persons with disabilities have equal and full access to our court system. To this end, the State Court Administrative Office has provided support to enhance compliance with the Americans with Disabilities Act (ADA), including model policies, forms to be used to request accommodations, compliance handbooks, FAQs, checklists, and many other resources.

Measuring and reporting on public access can help courts recognize successful efforts and also identify ways to improve service to all Michigan residents. That's why the Trial Court Performance Measures Committee (TCPMC) has endorsed ADA compliance as a new performance measure.

- [Memo to courts](#)
- [MSC Performance Measures page](#)

Making Accommodations for the Public

RESOURCES FOR PUBLIC USE

County ADA Coordinators

Contact your county ADA coordinator to request an auxiliary aid or service, or to help with questions and concerns about disability discrimination.

[Request for Accommodations \(MC 70\)](#). This form can be completed and printed from this site and mailed to the court administrator at the trial court where you are scheduled to appear.

STAFF CONTACT

Edward Zobeck
HR Director
ZobeckE@courts.mi.gov
517-373-7481

POLICY, STANDARDS, AND GUIDELINES

[Recommendations Regarding Americans with Disabilities Act SCAO ADM Memo 2010-07](#)

[ADA Standards for Accessible Design](#)

[Handbook for Michigan Courts on Accessibility and Accommodation for Individuals with Disabilities](#)

[Frequently Asked Questions](#)

MODEL LOCAL ADMINISTRATIVE ORDERS

[Requests for Accommodations by Persons with Disabilities Rich Text Format](#)

MODEL POLICY

[Requests for Accommodations by Persons with Disabilities Rich Text Format](#)

COURT EVALUATION TOOLS

[ADA Coordinator Designation Form](#)

are scheduled to appear.

LINKS OF INTEREST

[State Bar of Michigan
Equal Access Initiative](#)

Making Accommodations for the Public

The Michigan judiciary is committed to open access to judicial services. A person requiring special accommodations to appear in a Michigan court may notify the court in advance of his or her appearance so the court has the opportunity to make reasonable accommodations. See "Resources for Public Use" on the left side of this page. Requests for accommodations in the Michigan Court of Appeals should be directed to the Court's ADA Coordinator, Angela DiSessa. Requests for accommodations in the Michigan Supreme Court should be directed to the Clerk of the Supreme Court.

[Designation Form
Word Format](#)

[ADA Grievance
Procedure and Form](#)

[ADA Title II Self
Evaluation Checklist](#)

Recommended Local Administrative Order for Processing Requests for Accommodations

The Americans with Disabilities Act (ADA) defines disability as a mental or physical impairment that substantially limits one or more major life activities. ADA protection extends not only to individuals who currently have a disability, but also to those with a record of a mental or physical impairment that substantially limits one or more major life activities, or who are perceived or regarded as having a mental or physical impairment that substantially limits one or more major life activities.

Courts are encouraged to submit and adopt a local administrative order or a policy consistent with the model policy to assure that qualified individuals with disabilities have equal and full access to the judicial system. Nothing in this order shall be construed to impose limitations or to invalidate the remedies, rights, and procedures accorded to any qualified individuals with disabilities under state or federal law.

Additional Court Resources

- [Michigan Disability Resources](#)
- [Americans with Disabilities Website](#) (includes the ADA)
- [ADA Title II Tutorial](#) (state and local government)
- [Accessibility of State and Local Government Websites to People with Disabilities](#)
- [ADA Best Practices Tool Kit for State and Local Governments](#)
- [Americans with Disabilities Act Title II Primer](#)
- [Frequently Asked Questions About Service Animals and the ADA](#)

Resources for Deaf, Hard of Hearing, and Deaf-Blind Persons

For a list of sign language interpreters or accommodations available for the deaf, hard of hearing, and deaf-blind persons, visit the Michigan Department of Civil Rights [publication page](#) and click the link for the Commission on Disability Concerns/Division on Deaf and Hard of Hearing.

Annie Urasky, Director
Division on Deaf, Deaf, Blind, and Hard of Hearing
Capital Tower
110 W. Michigan Avenue, Suite 800
Lansing, MI 48933
Phone: 517-335-6004
Video Phone: 517-507-3797
FAX: 517-241-3963
E-mail: doddbhh@michigan.gov
Web: www.michigan.gov/doddbhh



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