



Americans with Disabilities Act

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MEMORANDUM

To: [Name]

Date: [Date]

Re: Training Course - "**Americans with Disabilities Act**"

Video Transcript:

Thank you for taking the time to participate in this very important training course. This course is a critical part of our ethics and compliance program, as well as our commitment to good corporate citizenship.

In today's fast-paced, global marketplace, our long-term success is based on our integrity. Our customers and business partners count on us to adhere to the highest standards of business ethics and compliance. Whatever your role, your conduct and judgment reflect on our reputation and are critical to our success.

We've developed this training course to help you understand and comply with all applicable laws and policies. Please give this course your undivided attention and discuss any questions or concerns about this material with your supervisor.

Thank you.

Thank you for participating in our **Americans with Disabilities Act** training course. This 75-minute course is part of our commitment to making public services, programs and activities accessible to all citizens, as required by federal law.

If you are unable to complete the course in one sitting, you may stop in the middle and return to it at a later time. You will be able to re-join the course from your previous "bookmark."

At the end of the material, you'll take a quiz that presents hypothetical scenarios for you to analyze. As you answer the multiple-choice questions correctly, you'll move through the quiz and earn a Certificate of Completion.

Keep in mind that this material is provided for informational purposes only and is not intended as legal advice. If you have questions about how any of this material applies to your job responsibilities, please direct them to your supervisor or the legal department.

Overview



The Americans with Disabilities Act (ADA) is a federal statute that President George H.W. Bush signed into law in 1990. The fundamental purpose of the ADA is to ensure civil rights for people with disabilities. The ADA is built on the principles of equal opportunity, full participation, independent living and economic self-sufficiency for the disabled.

One of the ADA's most important requirements is that state and local governments provide access to public programs, activities and services in ways that do not discriminate against people with disabilities. This means that government workers need to understand how to serve people with disabilities by identifying and removing barriers to participation, making reasonable modifications to government policies and procedures, and using effective communication aids.

Pop Quiz!

Video Transcript:

Please watch the following vignette carefully. After you view it, you will be asked to answer some questions about what the ADA requires in the situation presented. Please click "Continue" to view the video.

How do government entities resolve accessibility issues under the ADA?

- 1. Wait for counters to become lower by magic.
- 2. Build stairs that transform into ramps.
- 3. Provide equal program access.

1. We disagree.

While it would be nice for issues to magically resolve themselves, this is not the correct answer.

2. We disagree.

While it would be nice for issues to magically resolve themselves, this is not the correct answer.

3. We agree.

Programs must provide equal access to all people with disabilities by eliminating physical barriers and unnecessary eligibility standards, and ensuring effective communication.

The ADA and Public Entities



The ADA requires that all services, programs and activities provided by public entities — which include state and local governments and their departments, agencies, districts and instrumentalities — be provided to people with disabilities without discrimination and in as full and equal a manner as possible. The law focuses on ensuring —

- Equal program access;
- Integrated settings;
- Effective communication; and
- Physically accessible routes and buildings.

Why This Matters



According to the U.S. Census Bureau, 54 million people — almost one-fifth of the U.S. population — have a "disability," as that term is defined by the ADA.

People with disabilities are our friends, relatives, neighbors and colleagues. You yourself may now or in the future have a disability. In fact, national statistics indicate that someone entering the workforce today has a *30 % likelihood of becoming disabled before retirement.*

America has made progress in improving the lives of people with a disability since the passage of the ADA. However, large gaps still separate people with disabilities from the opportunities and achievements of mainstream life. Compared to people without disabilities, disabled Americans have —

- Lower rates of high-school graduation, voting and home ownership; and
- Higher rates of poverty and unemployment.

Accordingly, state and local governments must continue to improve the ways that they deliver their services, programs and activities so that they are equally accessible to all residents and visitors.

ADA History



The passage of the ADA in 1990 represented a policy statement by Congress that unfair treatment of people with disabilities would no longer be tolerated in America. In the years following, however, the U.S. Supreme Court and other federal courts interpreted "disability" narrowly, thus limiting the ADA's reach and effectiveness.

Congress responded in 2008 by passing the ADA Amendments Act (ADAAA), which made important changes to how the definition of "disability" should be applied – and overturned several Supreme Court rulings in the process.

The ADAAA makes clear that "disability" should be interpreted broadly in all situations where the ADA could apply. This means that instead of focusing on whether individuals are "disabled," we should focus on making improvements, accommodations and modifications that allow all people to access civic life without limits or discrimination due to their disabilities.

In light of the ADAAA's broader approach, state and local governments must review their existing programs, activities and services to ensure that they avoid discrimination and offer reasonable accommodations for people with disabilities.

Pop Quiz!



A citizen called his local city clerk's office and asked if his service dog could accompany him to a city council meeting. The clerk should —

- 1. Ask why he has a service dog to determine whether his request should be granted.
- 2. Grant the request.
- 3. Deny the request.

1. *We disagree.*

The best response is to focus on removing barriers to participation by people with disabilities, so the city should allow the person to bring his service animal to the meeting.

2. *We agree.*

The best response is to focus on removing barriers to participation by people with disabilities, so the city should allow the person to bring his service animal to the meeting.

3. *We disagree.*

The best response is to focus on removing barriers to participation by people with disabilities, so the city should allow the person to bring his service animal to the meeting.

Legal Basics



While you do not need to be a legal expert on the ADA to help us carry out our obligations, you should understand a few basic principles:

What is a "disability"?

The ADA's protections extend only to people with a "disability" as defined in the ADA. The term **disability** includes —

- A physical or mental [impairment](#) that substantially limits one or more of a person's [major life activities](#);
- A [record of](#) an impairment, such as someone who has a documented drug addiction but is not now using illegal drugs; or
- Being **regarded as** having an impairment, such as someone who is bald and is thought to have cancer.

Impairments

Physical impairments include physiological disorders or conditions, cosmetic disfigurement and anatomical loss.

Mental impairments include mental or psychological disorders, such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.

Impairments do **not** include —

- Normal physical characteristics (such as hair and eye color);
- Conditions that are not the result of a disorder (such as a normal pregnancy);
- Personality traits (such as poor judgment);
- Homosexuality/bisexuality; or
- Socio-economic disadvantages (such as a poor education).

Major Life Activity

Major life activities include —

- Activities that an average person can perform with little or no difficulty, such as walking, seeing, speaking, hearing, breathing, standing or sitting, lifting and sleeping;
- Neurological/brain activities, such as thinking, learning, concentrating and communicating; and
- Major bodily functions, such as normal cell growth, immune-system defense, bowel/bladder movements, digestion, reproduction, blood circulation and endocrine regulation (which is affected by diabetes and obesity, among other things).

The determination must be made without considering whether the person has aids to lessen the impairment's effects, such as medication, equipment, etc. Impairments that are episodic or in remission may be considered if they would substantially limit a major life activity when active.

"Record of" a Disability

A person who has been misdiagnosed or improperly classified would also be protected. For example, if an otherwise qualified job applicant was misdiagnosed as having a severe psychological disorder in childhood, and that misdiagnosis was never removed from her record, it would be a violation of the ADA not to hire her because of this record.

Legal Basics



Applicability to State and Local Governments

The ADA is divided into five subsections, called "titles":

- **Title I** prohibits employment discrimination based on disability and requires employers to make reasonable accommodation for persons with disabilities.
- **Title II** requires that state and local governments make their programs, activities and services accessible to persons with disabilities.
- **Title III** requires that private organizations make their [public accommodations and services](#) accessible to people with disabilities.
- **Title IV** (which addresses telephone and television access for people with hearing and speech disabilities) is no longer part of the ADA.
- **Title V** addresses how the federal government should implement and enforce the ADA, among other things.

Our focus in this course is on Title II.

Public Accommodations

Public accommodations of private entities are those that private businesses or nonprofit organizations own, operate, lease or lease space to. This includes places of lodging, recreation, transportation, education and dining, along with retail stores and services such as medical or child care.

Who Is Protected?



When we work to improve access for all citizens to our services and activities, we **usually** do not need to assess whether a specific individual actually has a "disability" — that is, an impairment that substantially limits a major life activity. As noted earlier, the ADA also protects people who have a record of a disability or are regarded as having one.

In addition, when we design and build physically accessible routes and locations or create communications that all residents and visitors will be able to understand, we strive to improve access for **all** citizens, regardless of individual limitations. Although individualized assessments may be necessary when finding the right modification or aid for a specific person, our practices and procedures should generally encourage full participation by all, rather than focusing on specific individuals.

Is It Really a Disability?

In situations where employees ask for an accommodation, it is important to assess whether they have an actual disability. Employers are only required to provide reasonable accommodations for disabilities a person has, not one they are on record or perceived as having.

Consider the example of an employee who claims he has allergies and asks that perfume or cologne use by other employees be prohibited as an accommodation of his allergies. In this situation, first determine the specific impairment — what he is allergic to and what happens when he is exposed — and then assess whether this problem substantially limits any of his major life activities.

Remember to contact Human Resources to assist you in making this evaluation.

Pop Quiz!



A caller asked if real-time transcription would be available for the City Council meeting next week. Which answer should the clerk give?

- 1. No, it won't be available. A person who can hear well enough to use the telephone doesn't need this service.
- 2. It is available if requested 48 hours in advance.
- 3. It is available only if requested by someone who has a substantially limiting hearing impairment.

1. *We disagree.*

It is important to make public meetings accessible to people with disabilities by honoring reasonable requests from the public for effective communication, without focusing on a restrictive interpretation of disability.

2. *We agree.*

It is important to make public meetings accessible to people with disabilities by honoring reasonable requests from the public for effective communication, without focusing on a restrictive interpretation of disability.

3. *We disagree.*

It is important to make public meetings accessible to people with disabilities by honoring reasonable requests from the public for effective communication, without focusing on a restrictive interpretation of disability.

Providing Non-Discriminatory Services



Our goal is to provide non-discriminatory services to all residents and visitors with disabilities. This means that we will avoid segregating, isolating or denying opportunities to individuals based on their disabilities. Therefore, we may **not** —

- Refuse to allow a person with a disability to participate in a service, program or activity simply because the person has a disability;
- Require a person with a disability to participate in a program or service specifically designed for individuals with disabilities; or
- Provide programs and services to persons with disabilities in a separate or different setting unless necessary to provide equality of opportunity.

We provide non-discriminatory services when we give people with disabilities (1) equal program access; (2) integrated settings; and (3) no surcharges. Let's take a closer look at each of these components.

Equal Program Access



People with disabilities want to use our programs, services and activities just as much as others do. Relying on assumptions about the interests and abilities of people with disabilities leads to discrimination in the form of reduced opportunities.

It is important that we operate our programs so that, when viewed in their entirety, they are readily accessible to and usable by all people with disabilities.

This is called "equal program access."

An initial hurdle to providing equal program access is ensuring that people with disabilities can enter a public building. We must make the main entrance [accessible](#) if it is possible to do so. If it is not, we must use signs to indicate the location of an accessible entrance. In some situations, we may need to provide services and information in another location or another manner to be accessible to people with disabilities.

Meeting the goal of equal program access requires us to think about providing not only physical access, but access to participation and communications, as well.

Building Access

Carrying an individual is not generally an acceptable form of providing access to a building. It is permitted only in exceptional cases, such as during construction of an accessible entry. Carriers must be instructed on the safest and least humiliating means of carrying and provide the service in a reliable manner.

Pop Quiz!



A city is recruiting volunteers to assist low-income residents with their taxes. The city plans to offer the assistance in two locations. One of the locations, where volunteer training will be held, is not wheelchair-accessible, although the other location is. Does this program provide equal access?

- 1. Yes.
- 2. No.

1. *We disagree.*

Volunteering to provide services is as important a part of civic life as is receiving services. While the program provides equal access to recipients who have the option of an accessible location, the location of the training unnecessarily excludes volunteers.

2. *We agree.*

Volunteering to provide services is as important a part of civic life as is receiving services. While the program provides equal access to recipients who have the option of an accessible location, the location of the training unnecessarily excludes volunteers.

Integrated Settings



How and *where* we conduct programs, services and activities matters because integrating individuals with disabilities into the mainstream of society is fundamental to the purpose of the ADA. Giving a person with a disability special services or privileges may seem helpful, but in practice it often contributes to the person's isolation from other people and enjoyment of everyday life.

Our goal is to provide access and appropriate assistance so a disabled person can experience the services, programs and activities of civic life in a way that is closest to the common experience. We do this by striving to provide services in an integrated setting, rather than isolating the person with a disability. We should not create separate or different programs unless it is the only feasible way to provide equally *effective* programs.

No Surcharges



There are extra costs associated with providing the physical access and communication aids and services needed to ensure equal opportunities for disabled individuals. These costs must be borne equally by all residents of the state or locality providing the aid or service. We may not impose the costs solely on people with disabilities. For example:

- A public library may increase general library overdue fines imposed on everyone to defray the expense of ordering large print copies of popular books, but it may not single out the borrowers of the large-print materials for a surcharge; and
- A city may not require a hearing-impaired person to pay for a sign-language interpreter to attend a city council meeting.

Pop Quiz!

Video Transcript:

Please watch the following vignette carefully. After you view it, you will be asked to answer some questions about what the ADA requires in the situation presented. Please click "Continue" to view the video.

Did the accommodations for the CPR class violate Title II of the ADA?

- 1. Yes, because there was a separate charge for sign-language interpreters at one class location.
- 2. No, because sign-language interpreters were available at both class locations.
- 3. No, because sign-language interpreters were available for free at one class location.

1. *We agree.*

A state or locality may not place the cost of providing a sign-language interpreter solely on the individuals requiring the service. Extra costs associated with providing physical access and communication aids and services for disabled individuals must be borne equally by all residents of the state or locality providing the aid or service.

2. *We disagree.*

There is more to consider.

3. *We disagree.*

There is more to consider.

If the entity decided to provide a sign-language interpreter only at the downtown location, what would be a valid reason for doing so?

- 1. It's cheaper to provide an interpreter at just one location.
- 2. The other location cannot effectively support an interpreter.
- 3. The downtown location will allow the instructor to provide special treatment.

1. *We disagree.*

Cost is generally not a valid reason for separating disabled individuals from other program users unless the cost amounts to an undue burden. The expense of providing a second interpreter would likely not be significant enough to constitute an undue burden.

2. We agree.

An entity may provide programs and services to persons with disabilities in a separate or different setting — but only if doing so is necessary to provide equality of opportunity.

3. We disagree.

The goal of the ADA is to help disabled individuals integrate into mainstream society. Special treatment is discouraged because it contributes to the isolation of the disabled individuals.

Real-World Issues



Certain programs, services and activities offered by public entities pose special issues under the ADA:

- Construction and alteration of public buildings and [facilities](#);
- Public meetings;
- Police, fire and emergency services;
- Web services; and
- [Employment](#).

We'll discuss each of these in the sections that follow.

Facilities

Facilities may include —

- City and town halls;
- Police and fire stations and sheriff departments;
- Courthouses;
- Centers for healthcare delivery;
- Centers for childcare, teen and senior activities, conventions and recreation;
- Animal shelters;
- Libraries; and
- Baseball stadiums, parks, pools, skating rinks, etc.

Employment

As noted earlier, Title I of the ADA protects qualified individuals with disabilities from discrimination when finding and keeping a job. Title I requirements specifically apply to private or public employers who have 15 or more employees, but Title II extends these protections to all public employers.

Construction and Alteration



Title II of the ADA requires that buildings or facilities that are *constructed* or *altered* after January 26, 1992 be designed so that they are free of architectural or communication barriers that restrict access by people with disabilities.

Paving, repaving or resurfacing a highway, street, road or walkway is considered an alteration, but filling a pothole is not.

The federal government publishes guidelines for ensuring that new construction and alterations to existing buildings comply with accessible-design standards. State and local governments can choose between two technical standards:

- The Uniform Federal Accessibility Standard (UFAS); or
- The Americans with Disabilities Act Accessibility Guidelines ([ADAAG](#)).

Accessibility Guidelines

The Department of Justice adopted the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for places of accommodation and commercial facilities covered by Title III of the ADA. The Guidelines may also be utilized for construction or alterations under Title II, but the ADAAG exception to the elevator requirement for small buildings does not apply to public entities subject to Title II.

Public Meetings



The right to attend and participate in public meetings is a cornerstone of the democratic process. When public boards and commissions meet to set priorities, formulate policies and make decisions about topics ranging from historic preservation to human rights, they draw upon the expertise and experience of the citizens in attendance.

Ensuring meaningful participation in public meetings for people with disabilities involves —

- Providing physical access to buildings and meeting rooms, via ramps and elevators; and
- Providing effective modes of communication, such as a sign-language interpreter.

It can be hard to predict when a person with a disability will choose to participate in a public meeting. All notices or schedules of public meetings should note that anyone who requires an auxiliary aid or service for effective communication should contact the ADA Coordinator in advance.

Police and Fire Departments



In an emergency, time is of the essence. Thus, police and fire departments must prepare in advance to interact quickly and efficiently with disabled individuals. Police, fire and emergency personnel need to be trained to communicate effectively with all people and to recognize and provide for those with special needs.

Various types of aids are available to help us communicate with people who are deaf or hard of hearing. These include gestures or visual aids, the exchange of written notes, use of a computer or assistive-listening device, and use of [qualified oral or sign-language interpreters](#).

Which aid is best will depend on the circumstances. Sometimes gestures or written communication will be sufficient, but in other situations an officer must use a qualified oral or sign-language interpreter to ensure that information is obtained and provided to a person correctly, such as when interviewing a witness or questioning a suspect in a crime.

[Text telephones \(TTY\)](#) are used by people who have hearing or speech impairments. In situations where a non-disabled person would have access to a telephone, a police officer must provide a hearing-impaired person the opportunity to place calls with a TTY. Emergency operators and police officers must be trained to recognize and respond to calls from TTYS and [relay services](#).

Text Telephones

Text Telephone (TTY, also known as a telecommunications device for deaf people, or TDD) is a general term for devices that provide real-time telephone communications. They are similar to computers with modems, and provide keyboards for typing conversations and visual displays for callers and receiving parties who are connected over standard telephone lines. Calls from a TTY can only go directly to another TTY, so emergency services are equipped with text telephones to receive calls for service.

Relay Services

Relay services are third-party services that allow a person with a TTY to place a call to a non-hearing-impaired person on a regular telephone. The service has a TTY and reads the incoming text from the hearing-impaired person's TTY to the person on a standard telephone connection. The service then transcribes the hearing person's verbal responses into the TTY so they can be transmitted and understood by the hearing-impaired person.

Sign-language and Oral Interpreting Services

Sign-language and oral interpreting services must be available, at least on an on-call basis, 24 hours per day.

Web Services



Websites and other online tools are great for conveying information and accomplishing tasks such as accepting payments for parking tickets or renewing library books. But poorly designed websites can create unnecessary barriers for people with disabilities:

- Websites that rely heavily on graphics to convey information or for navigation cannot be used by people with visual impairments who use ["talking" screen-reader](#) technology.
- Information provided in Portable Document Format (PDF) is not always accessible and should also be provided in a text-based format.

Websites must include a telephone number or e-mail address for online visitors to request accessible information or services. This information must be on the home page in case a user is unable to navigate further.

Government and private organizations have worked to establish flexible [guidelines](#) for making web pages as accessible as possible. Gathering information from users with disabilities about what website content works well for them and what does not enables everyone to help us improve the accessibility of our website.

Screen-reader Technology

Screen-reader technology converts text into audio to enable a blind person to listen to written information.

Web Content Accessibility Guidelines

The Web Accessibility Initiative, a subgroup of the World Wide Web Consortium, developed and updates the Web Content Accessibility Guidelines. The current version can be found at www.w3c.org/WAI/Resources.

Employment



As an employer, we are subject to the ADA's protections against discriminating against people with disabilities in the employment process. Specifically, the ADA prohibits discriminating against people with disabilities in —

- Job-application procedures;
- Hiring and firing;
- Advancement, compensation and job training; and
- Other terms, conditions and privileges of employment.

We must make [reasonable accommodations](#) for disabilities, which can include —

- Making existing facilities used by employees readily accessible to people with disabilities;
- Restructuring jobs or modifying work schedules; and
- Modifying equipment or devices, adjusting examinations, training materials or policies, and providing qualified readers or interpreters.

Reasonable Accommodations

Reasonable accommodations are adjustments or modifications provided by an employer to enable people with disabilities to enjoy equal employment opportunities. Accommodations vary depending upon the needs of the individual applicant or employee. Not all people with disabilities (or even all people with the same disability) will require the same accommodation. For example:

- A deaf applicant may need a sign-language interpreter during the job interview.
- An employee with diabetes may need regularly scheduled breaks during the workday to eat properly and monitor blood-sugar and insulin levels.
- An employee with cancer may need leave to have radiation or chemotherapy treatments.

Pop Quiz!



Which of the following would be a reasonable accommodation for a veteran whose arms have been amputated?

- 1. Have her complete the job application on a computer instead of by hand.
- 2. Restructure the job to eliminate lifting and carrying tasks.
- 3. Purchase a hands-free telephone headset.
- 4. All of the above.

1. *We disagree.*

It's true that this is an accommodation that permits the individual to participate equally in the hiring process without causing an undue hardship to the employer, but restructuring the job and purchasing a headset are also reasonable accommodations.

2. *We disagree.*

It's true that this is an accommodation that permits the individual to perform the essential functions of the job without causing an undue hardship to the employer, but having the application on a computer and purchasing a headset are also reasonable accommodations.

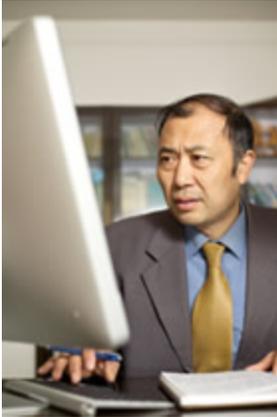
3. We disagree.

It's true that this is an accommodation that permits the individual to perform a function of the job, and to multitask without excessive expense, but having the application on a computer and restructuring the job are also reasonable accommodations.

4. We agree.

All are examples of accommodations that permit the individual to participate equally in the hiring process and perform the essential functions of the job without causing an undue hardship to the employer.

Removing Barriers to Accessibility



As noted earlier, the goals of the ADA include integrating people with disabilities into mainstream civic life, and preventing or eliminating discrimination. By aligning our programs, activities and services with these goals, we can increase the diversity of our paid and volunteer workforce, as well as increase participation in our programs and activities.

To do so, however, we must identify and overcome a number of barriers to participation and inclusion, including —

- Non-essential and discriminatory requirements;
- Unnecessary eligibility standards;
- Physical barriers; and
- Policies and procedures that have a discriminatory effect.

Let's look at each of these in the sections that follow.

Essential Requirements



The ADA requires that we make our programs, activities and services available and accessible to all **qualified individuals** with disabilities. Individuals with disabilities are "qualified" if they meet the essential requirements of a given program, activity or service. Whether a requirement is essential depends on the activity in question.

For example, if a test is required for a license or certification, we must administer the test with appropriate audio or visual aids and in a location accessible by people with disabilities. By doing so, we ensure that the test measures the skills needed to obtain the license, rather than the skills needed just to arrive at the test location and take the test.

Likewise, we may impose legitimate [safety-related requirements](#) that are necessary for the safe operation of a particular program, activity or service. However, the requirements must be based on real risks to the participants — not on speculation, stereotypes or generalizations about individuals with disabilities.

Safety-related Requirements

For example, a state may impose appropriate restrictions on the issuance of driver's licenses, such as a restriction that a driver who is physically disabled may only operate vehicles equipped with hand controls.

Bulletin!

Dream Delayed but Not Denied

Leg Amputee Competes in the Olympic Games

Natalie Du Toit, a South African swimmer, dreamed of competing in the Olympics since she was six years old. She was injured in an accident in 2001 while riding her scooter from school to swim training. Although her left leg had to be amputated, Natalie remained determined to achieve her goal. She won five Paralympic swimming medals in 2004, but it was qualifying as an able-bodied swimmer for the 2008 Olympic Games in Beijing that made her dream come true. She competed in the most arduous swimming event, the 10k open-water race, with impressive physical strength and endurance. Her website reminds everyone to "Be everything you want to be."

Unnecessary Eligibility Standards



We must carefully consider any eligibility standards that we impose on participation in our programs, activities and services to ensure that they don't screen out people with disabilities. For example, eligibility standards may include a minimum-age requirement, such as being at least 13 years old to play in the Pickle Ball Tournament. This standard does not unfairly impact people with disabilities since everyone ages at the same rate.

Eligibility standards that refer to physical size, ability, cognitive skills or accomplishments deserve special attention. Requiring a high-school diploma or GED for volunteering at the zoo, for example, may unnecessarily screen out individuals with cognitive or learning disabilities.

Even if we set eligibility standards thoughtfully, we must take care not to apply them too rigidly. If an individual protected by the ADA wishes to participate in an activity but cannot quite meet an eligibility standard, we should consider whether modifying the standard is feasible under the circumstances.

Physical Barriers



There are many physical barriers to equal access, particularly in existing or [historic buildings](#).

- Steps, narrow aisles and doorways, high counters and raised thresholds restrict access for people with mobility impairments.
- Water fountains or counters that protrude into walkways and are not discoverable with a cane, as well as elevators that don't provide audible signals, pose dangers to those with vision impairments.
- Emergency notification systems and elevator controls that are voice-based create obstacles for hearing-impaired people.

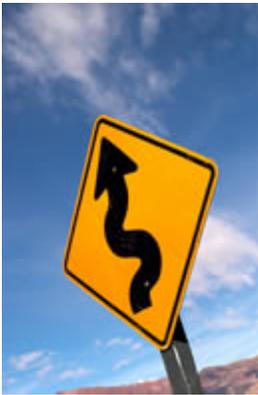
The ADA requires us to provide access to our programs but does not require us to modify all of our buildings. Making structural changes is sometimes the most efficient way to provide access to our programs, but we can use other methods including —

- Putting up signs to direct people to accessible entrances, routes and restrooms; and
- Relocating programs to accessible areas of a building or to a different facility.

Historic Buildings

Historic buildings are those that are (a) listed or eligible for listing in the National Register of Historic Places or (b) designated as historic under state or local law. They are not exempt from ADA coverage. While we need not make structural changes that would threaten or destroy the historical significance of the property, we must consider alternatives—such as using audio-visual materials to depict the inaccessible portions of the facility.

Modifying Programs, Policies and Procedures



The ADA requires us to make reasonable changes to our policies, practices and procedures as needed to remove barriers to participation by people with disabilities. We may make these changes generally or in individual situations. We are not required to make modifications that would fundamentally alter the nature of a program, activity or service.

For example, if it were our practice to accept payments by check only with a driver's license for identification, this would unnecessarily discriminate against people whose disabilities prevent them from driving. We could easily modify the practice without altering the nature of the activity in any way.

Discriminatory policies and practices include those that clearly exclude people with disabilities, as well as those that appear neutral but have a discriminatory effect. For example, a policy prohibiting animals in public buildings would appear neutral but would have the effect of discriminating against people with disabilities who are assisted by service animals. That policy should be modified to include an exception for service animals.

Communication



Part of providing equal access is ensuring effective communication with individuals with disabilities. Communication includes —

- Signs and signals;
- Verbal instructions, conversations and speeches; and
- Written instructions, forms, laws and policies.

We must provide appropriate auxiliary aids where necessary to ensure that communications with individuals who have hearing, vision or speech impairments are as effective as communications with others. The effectiveness of an auxiliary aid depends on the needs of the individual.

We must be prepared to fulfill requests for sign-language and oral interpreters, real-time transcription services and documents in alternate formats, such as Braille, large print, recorded audio and accessible electronic formats. We should also know how to use available devices and services.

Pop Quiz!



Does having a staff member who knows American Sign Language ensure effective communication with hearing-impaired citizens and visitors?

- 1. Yes.
- 2. No.
- 3. It depends on the individual.

1. We disagree.

Effectiveness depends on the individual. A hearing-impaired person may not know sign language at all if he lost his hearing later in life, or he may only understand signed English, which is a different type of sign language. Written communication may be the most effective form of communication for some hearing impaired people.

2. We disagree.

Effectiveness depends on the individual. A hearing-impaired person may not know sign language at all if he lost his hearing later in life, or he may only understand signed English, which is a different type of sign language. Written communication may be the most effective form of communication for some hearing-impaired people.

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Effectiveness depends on the individual. A hearing-impaired person may not know sign language at all if he lost his hearing later in life, or he may only understand signed English, which is a different type of sign language. Written communication may be the most effective form of communication for some hearing-impaired people.

Appropriate Signage



Signs and signals can provide effective communication and contribute to the accessibility of our buildings and facilities. The format, content and location of signs make a difference in whether they provide a true service to people with disabilities.

- **Format**— Some signs, such as permanent room signs, are required to have Braille, high contrast and raised lettering. Providing multiple formats, including flashing and audible signals for emergency alerts, increases the effectiveness of the communication.
- **Content**— Signs should use simple, clear language and universally recognized characters to indicate accessibility at entrances, exits and restrooms. Signals such as exit signs, directional arrows and crosswalk indicators should use characters and colors to communicate clearly.
- **Location**— Signs should be positioned so that they are clearly visible and reachable from a seated position. Signs for doors that open outward should be on the wall on the latch side of the door. (If a sign were *on* the door, a person in a wheelchair might well have to be in the path of the door to read the sign and could easily be hit by the door.)

Auxiliary Aids



There are many different types of [auxiliary aids](#) that we can provide to people with disabilities. When deciding which type of aid to provide, we should first consider the aid or service preferred by those in need. People with disabilities are in the best position to assess the communication barriers they face and the likely effectiveness of the aids we could provide.

It is also important when selecting an auxiliary aid to consider the context, such as the length of time it will be needed, the number of people who will need it, and the importance of the communication.

If someone has his or her own auxiliary aid, we must accommodate its use if it will enable more effective communication, such as providing a power source or Internet connection.

Auxiliary Aids

Auxiliary aids include such services or devices as —

- Qualified sign-language and oral interpreters;
- Assistive-listening headsets;
- Television captioning and decoders;
- Text telephones;
- Relay services;
- Videotext displays;
- Readers and recorded texts;
- Brailled materials; and
- Large-print materials.

Limitations on Duty To Accommodate



We provide a range of valuable public services. Our employees not only provide required services but also create and implement other programs to improve the lives of our citizens — all within the limitations of tight budgets.

While we would like to be able to provide full access and integration to all citizens and visitors, the ADA recognizes that this is not always possible. It provides limits on our duty to provide access to people with disabilities in situations where doing so would result in —

- A **direct threat** to the health or safety of others;
- **Fundamental alterations** to the nature of a program, activity or service; or
- **Undue financial or administrative burdens.**

We'll discuss each of these in the sections that follow.

Direct Threats



A **direct threat** is a significant risk to the health or safety of others that cannot be eliminated or reduced to an acceptable level by modifying our policies, practices or procedures or by providing auxiliary aids or services. We must examine each case individually, using the best objective evidence that is available.

For example, we cannot simply exclude people with contagious diseases from our services, activities and programs. We must look at whether including a person with a specific disease poses a direct threat by —

- Determining the nature of the disease, including how it is transmitted;
- Considering available options to reduce or eliminate the risk, such as providing a face mask or gloves;
- Assessing the severity of the risk; and
- Evaluating how likely it is that an injury will actually occur, given the circumstances involved.

Fundamental Alterations



A **fundamental alteration** is a change to such a degree that the original program, activity or service is no longer the same. We are not required to make changes or provide specific aids for people with disabilities if doing so would fundamentally alter the nature of our programs, activities or services.

You may recall the case of professional golfer Casey Martin, whose disability (a withered leg) made it extremely painful for him to walk. Because PGA Tour rules prohibited the use of golf carts in tournaments, Martin sued (under Title III of the ADA) for the right to use a cart. The U.S. Supreme Court ruled in his favor, holding that allowing use of a cart was a reasonable modification because it did not change the "fundamental nature" of the competition.

When we are determining how to provide non-discriminatory services and equal employment opportunities to people with disabilities, we should consider the basic elements of the program, activity or service to which we are trying to provide access. We should focus on the essential requirements for obtaining a license, the essential functions of a job or the essential nature of a program as the first step in deciding if we can increase accessibility without altering these essential elements.

Undue Burdens



We are not required to make modifications or provide specific aids for people with disabilities if doing so would result in an **undue financial or administrative burden**. An undue burden is a significant difficulty or expense.

Before we can conclude that an accommodation would result in an undue burden, we must consider all resources available for use in the program, activity or service in question. The ability to maximize scarce resources is one that many employees already employ in their work. Creative problem-solving can often lead to [innovative solutions](#).

Even if we conclude that a requested accommodation would, in fact, result in an undue burden, our task is not complete. We must still consider whether there are any other actions we could take that would not be as burdensome and would provide those with disabilities some of the benefits of the program, activity or service.

Innovative Solutions

For example, adding a ramp to the main entrance of a public building might require complete demolition of the existing entrance and be financially burdensome. But adding a ramp and designating as "public" a side entrance from a parking lot presently used only by employees might be achievable at a cost that would not result in an undue burden.

Pop Quiz!

Video Transcript:

Please watch the following vignette carefully. After you view it, you will be asked to answer some questions about what the ADA requires in the situation presented. Please click "Continue" to view the video.

How might the library improve access for the visually impaired?

- 1. By placing special-format books on the first floor.
- 2. By using Braille and raised letters to indicate elevator floor numbers.
- 3. By installing an elevator with audible floor indicators.
- 4. All of the above.

1. *We disagree.*

There is a better answer.

2. *We disagree.*

There is a better answer.

3. *We disagree.*

There is a better answer.

4. *We agree.*

All of these measures would improve library access for visually impaired individuals. The ADA requires government entities to provide disabled individuals with equal access to programs and buildings by eliminating physical barriers, providing appropriate signs and ensuring effective communication.

Several library patrons requested that the library take certain measures to accommodate their visual impairments. Which of the following measures would the library most likely *not* be required to implement?

- 1. Construct a new Braille and audio book wing on the first floor.
- 2. Place library signs in more convenient locations.
- 3. Provide Braille handouts at library seminars.

1. We agree.

Construction of a new wing for Braille and audio books would likely place an undue financial burden on the library. The ADA limits a government entity's duty to take measures to provide access to people with disabilities when those measures would result in an undue financial or administrative burden.

2. We disagree.

The library would have to position the signs in locations convenient to visually impaired patrons. The ADA requires appropriate positioning and location of signs to ensure effective communication with impaired individuals.

3. We disagree.

The library would likely have to provide the Braille handouts. The ADA requires government entities to provide equal program access, including the provision of program materials in alternate formats where necessary to accommodate impaired individuals.

Follow-up Activities



A plan for making a program or building accessible can be perfect on paper, but impractical or ineffective in reality. We should involve people with disabilities in the planning process to learn what obstacles pose the greatest barriers to participation, as well as which modifications would provide the most useful and integrated experience.

Even the most practical and effective accessibility measures can become outdated or forgotten. It is important to —

- Train new employees to be responsive to people with disabilities;
- Consider access and communication for people with disabilities for each new program, activity and service we put in place;
- Regularly test auxiliary aid equipment to make sure it is in good working order;
- Check that signs are in place and routes are free of obstacles; and
- Stay aware of advances in communication technologies.

Technical Assistance



Many fact sheets, pamphlets and guides about the scope and requirements of the ADA are available from the Department of Justice (www.ada.gov).

The ADA Title II Technical Assistance Manual includes a comprehensive overview of the law, as well as 65 illustrations of practical applications. More examples and helpful compliance checklists are in the ADA Best Practices Toolkit for State and Local Governments.

The ADA Information Line offers information and technical assistance:

- 800-514-0301 (voice)
- 800-514-0383 (TTY)

In Conclusion...



By offering this training, investing in improvement projects and embracing new assistive technologies, we can ensure that we continue to offer high-quality programs and services for people of all ages with and without disabilities.

As we continue improving accessibility, we —

- Celebrate the diversity of those who use our programs, services and facilities; and
- Strengthen our economy and local businesses by attracting new employers.

Your efforts and contributions help improve accessibility for all citizens and visitors. Thank you for your service.

The ADA and Public Entities

3.1 A city park is offering a bird-watching hike. Portions of the route are on unpaved trails. How can the city provide access to this activity to people with disabilities?

- 1. Hold a separate program with similar content in a park building.
- 2. Designate a rest area on the route for people with mobility impairments to wait at during the unpaved portions.
- 3. Redesign the hike to take place only on paved routes.

1. *We disagree.*

While an additional indoor program could be offered, such a program would not provide access to the experience of a bird-watching hike, nor is it an integrated setting.

2. *We agree.*

This option provides the most equal program access in the most integrated setting.

3. *We disagree.*

While it would improve accessibility, this would change the fundamental nature of the activity and limit the bird-watching options.

3.2 When Melvin started using a wheelchair, his supervisor told him that he could skip any training sessions or social functions in areas that were not wheelchair-accessible. Was this okay?

- 1. No.
- 2. No as to training but yes as to social functions.
- 3. No as to social functions but yes as to training.

1. *We agree.*

Under the ADA, an employer must provide equal access to work areas, break rooms, training, social functions and other non-work facilities.

2. *We disagree.*

There is a better answer.

3. *We disagree.*

There is a better answer.

Legal Basics

6.1 Yasu recently interviewed Seth for a job. Seth claimed to have mild cerebral palsy. His speech was somewhat slurred, though Yasu was able to understand him. Assuming that this was Seth's only symptom, would he be considered "disabled" under the ADA?

- 1. Yes, because cerebral palsy is a listed disability.
- 2. Possibly, depending on the circumstances.
- 3. No, because Yasu has no problem understanding him.

1. *We disagree.*

The ADA does not contain a comprehensive list of every impairment considered a disability. Instead, the ADA looks at the effect of the impairment upon a person's life.

2. *We agree.*

To qualify for protection under the ADA, a physical or mental impairment must substantially limit a major life activity. Major life activities include factors such as speaking, walking, seeing, hearing, breathing, learning and taking care of oneself. The ADAAA, passed in 2008, instructed the courts to construe "substantially limit" broadly, so it is possible that even where the impairment is mild, it could still be defined as a disability.

3. *We disagree.*

This is one factor, but not the decisive one.

6.2 Jose, a supervisor in a city department, caught one of his employees, Jeannette, using an illegal drug. Would her drug use be protected under the ADA?

- 1. Yes.
- 2. Possibly, depending on the circumstances.
- 3. No.

1. *We disagree.*

There is a better answer.

2. *We disagree.*

There is a better answer.

3. *We agree.*

The ADA does not cover persons who are currently using illegal drugs.

6.3 Paul requested that his XYZ Inc. workspace be modified to accommodate his left-handedness, which he claimed would allow him to work more efficiently. Would the ADA require XYZ to make this modification?

- 1. Yes, if it would make Paul more efficient.
- 2. No, because left-handedness is not a disorder under the ADA.
- 3. Maybe, if the cost to XYZ was minimal.

1. *We disagree.*

The ADA does not require accommodation in the interest of greater efficiency.

2. *We agree.*

Physical characteristics such as left-handedness that are not the result of an impairment do not fall within the ADA definition of a substantially limiting impairment.

3. *We disagree.*

The cost of the accommodation is not the critical issue here.

Who Is Protected?

8.1 Erin learned that Don, a forklift operator, was taking medication for high blood pressure. Although the medication was working, Erin feared that the work was so stressful that Don would have a heart attack on the job. What should Erin do?

- 1. Transfer him to a desk job.
- 2. Terminate him.
- 3. Nothing.

1. *We disagree.*

This could be problematic, since Don may be covered by the ADA.

2. *We disagree.*

This could be problematic, since Don may be covered by the ADA.

3. *We agree.*

Although Don's condition was controlled by medication, he was perceived by Erin as having a substantially limiting impairment. The ADA protects people who are perceived to have such a disability from adverse employment decisions based upon that perception.

8.2 Andre, XYZ Inc.'s cafeteria manager, refused to hire Megan because she had facial scars, and Andre was afraid that employees would not want to look at her as she served food. Does this raise ADA concerns?

- 1. Yes.
- 2. Maybe, if the scarring limited other major life activities.
- 3. No, because Megan was not an employee.

1. *We agree.*

The ADA protects individuals with an impairment that is substantially limiting because of the attitudes of others toward the condition.

2. *We disagree.*

The impact of Megan's scarring on other major life activities is not the critical issue here.

3. *We disagree.*

The ADA protects both applicants and employees.

8.3 Carrie overheard a conversation that led her to believe that Juan, one of her employees, had just tested positive for HIV. As it turns out, Juan had been tested but the results were negative. Is Juan protected under the ADA?

- 1. No, because HIV is a threat to safety.
- 2. Yes.
- 3. No, because Juan does not actually have HIV.

1. *We disagree.*

That is not the critical issue here.

2. *We agree.*

The ADA protects employees who are *perceived* to have a disability in addition to those who actually have one.

3. *We disagree.*

The ADA's protections extend beyond conditions that actually limit a major life activity.

Providing Non-Discriminatory Services

9.1 Which of the following is **not** a component of providing non-discriminatory services?

- 1. Imposing a surcharge for people with disabilities to defray the cost of accommodations.
- 2. Providing equal program access to people with disabilities.
- 3. Providing integrated settings for people with disabilities.

1. *We agree.*

Imposing surcharges for accommodating people with disabilities would be the type of discrimination that Title II of the ADA prohibits.

2. *We disagree.*

Equal program access is an important aspect of providing non-discriminatory services.

3. *We disagree.*

Integrated settings are an important aspect of providing non-discriminatory services.

9.2 The town golf course put blue flags on carts that it rented to people with disabilities, who were allowed to drive in the fairways; those without blue flags had to keep their carts in the rough. Pete, who is disabled, wanted to rent a regular cart. May he?

- 1. Yes.
- 2. Maybe, if the course has already rented out all the carts with flags.
- 3. No.

1. *We agree.*

The golf course may not refuse to allow Pete to rent a normal cart simply because he has a disability. If Pete doesn't want to take advantage of the special rules that apply to carts with blue flags, that is his choice.

2. *We disagree.*

Whether the course has already rented out all the carts with blue flags is not the critical issue.

3. *We disagree.*

The golf course may not require Pete to participate in the blue-flag program because it was specifically designed for individuals with disabilities.

Equal Program Access

10.1 The community theater wanted to buy headsets so that hearing-impaired theater-goers would be able to hear the performances better. Which of these would be the best way for the group to pay for the headsets?

- 1. Charging hearing-impaired theater-goers a fee to rent a headset.
- 2. Raising ticket prices slightly for all theater-goers.
- 3. Requiring all theater-goers to rent headsets.

1. *We disagree.*

This would be a surcharge imposed solely on people with disabilities, which is prohibited by Title II of the ADA.

2. *We agree.*

Extra costs associated with providing communication aids needed to ensure equal opportunities for individuals with disabilities should be borne equally by all residents of the locality providing the aid.

3. *We disagree.*

This would not be the best approach.

10.2 Which of the following public meetings do people with disabilities have a right to attend and participate in?

- 1. All meetings.
- 2. Meetings scheduled with at least one week's notice.
- 3. Meetings where at least one person with a disability requested access in advance.

1. *We agree.*

The right to attend and participate in public meetings is a cornerstone of the democratic process. Whenever public boards and commissions meet publicly, people with disabilities must be provided meaningful participation — that is, physical access and effective modes of communication.

2. *We disagree.*

This is not a requirement under Title II of the ADA.

3. *We disagree.*

While advance notice from a person with a disability is helpful, it is not a requirement under Title II of the ADA.

Integrated Settings

11.1 Which of the following tools is the most important for a city's webmaster to use to test the city's website for ADA compliance?

- 1. A TTY phone.

- 2. A talking screen-reader.
- 3. An iPad.

1. *We disagree.*

The police and fire departments should have this equipment in order to take calls from hearing-impaired city residents and visitors. It will not help the city's webmaster with the website.

2. *We agree.*

People with visual impairments often use this tool to read web pages to them. The webmaster should test the city's site with a screen-reader to ensure that they do not create unnecessary barriers for visually impaired visitors.

3. *We disagree.*

While it would be useful for the webmaster to test the city's website on an iPad, it is not the most important tool the webmaster should have.

11.2 City workers were planning new a gate for the public swimming pool. For the same cost they could build one wide gate for all visitors or separate gates for those in wheelchairs and those on foot. Which ADA principle should they apply?

- 1. No surcharges.
- 2. Equal access.
- 3. Integrated settings.

1. *We disagree.*

This principle is not relevant under these facts.

2. *We disagree.*

This principle is not the most relevant under these facts.

3. *We agree.*

The city's goal should be to provide access and appropriate assistance so those with disabilities can experience the services, programs and activities of civic life in a way that is closest to the common experience. It should not create a separate gate for those with disabilities unless it is the only feasible way to provide equally effective access.

Real-World Issues

13.1 Which of the following is **not** a recognized limit on our duty to provide access to people with disabilities?

- 1. A direct threat to the health or safety of others.

- 2. A fundamental alteration to the nature of a program or activity.
- 3. A financial or administrative burden.

1. *We disagree.*

This is a recognized limit on our duty to provide access to people with disabilities.

2. *We disagree.*

This is a recognized limit on our duty to provide access to people with disabilities.

3. *We agree.*

To excuse our duty to provide access to people with disabilities, the proposed accommodation must result in an **undue** financial or administrative burden.

13.2 Which of the following should cities and localities do to prevent accessibility measures from becoming outdated or forgotten?

- 1. Train new employees to be responsive to people with disabilities.
- 2. Test auxiliary aid equipment regularly.
- 3. Check that signs are in place and routes are free of obstacles.
- 4. All of the above.

1. *We disagree.*

There's a better answer.

2. *We disagree.*

There's a better answer.

3. *We disagree.*

There's a better answer.

4. *We agree.*

Even the most practical and effective accessibility measures can become outdated or forgotten without taking these measures.

Employment

18.1 Naoki, a city employee, had a hard time hearing on his work phone due to an impairment. He requested that the city buy him an amplifier, but the kind that he needed was very expensive. Does the law require the city to pay for the amplifier?

- 1. Yes, if Naoki revealed the impairment when he was hired.

- 2. Maybe, unless it would be an undue hardship on the city.
- 3. No, if the accommodation costs more than Naoki's monthly salary.

1. *We disagree.*

An employee may request a reasonable accommodation at any time that it's necessary.

2. *We agree.*

The city must at least consider the amplifier as a possible accommodation.

3. *We disagree.*

The cost of the accommodation compared to the employee's salary is not the critical issue.

18.2 The city's police department planned to assign a co-worker to read for a visually impaired employee of the department on a full-time basis. Does the ADA require this type of accommodation?

- 1. Yes, the department must provide the best possible accommodation.
- 2. Maybe, if it is not an undue hardship.
- 3. No, as long as the accommodation chosen is effective.

1. *We disagree.*

Employers need not always provide the best accommodation available.

2. *We disagree.*

The department need not provide the best accommodation possible, even if doing so would not be an undue hardship.

3. *We agree.*

A reasonable accommodation need not be the best accommodation available, as long as it is effective.

Which of the following scenarios represent real-world consequences of ADA violations?

- 1. A grocery store was ordered to pay punitive damages to a cashier who couldn't use the store's restroom because it was down a flight of stairs.
- 2. A store was ordered to pay damages to an employee with lupus because it refused to let her to sit for 5 minutes an hour when she became tired.

3. A security firm was ordered to pay punitive damages for firing its executive director because he had terminal brain cancer.

4. All of the above.

1. *We disagree.*

2. *We disagree.*

3. *We disagree.*

4. *We agree.*

ADA violations can be very costly, which is why we should be familiar with the ADA and attentive to the needs of employees with disabilities.