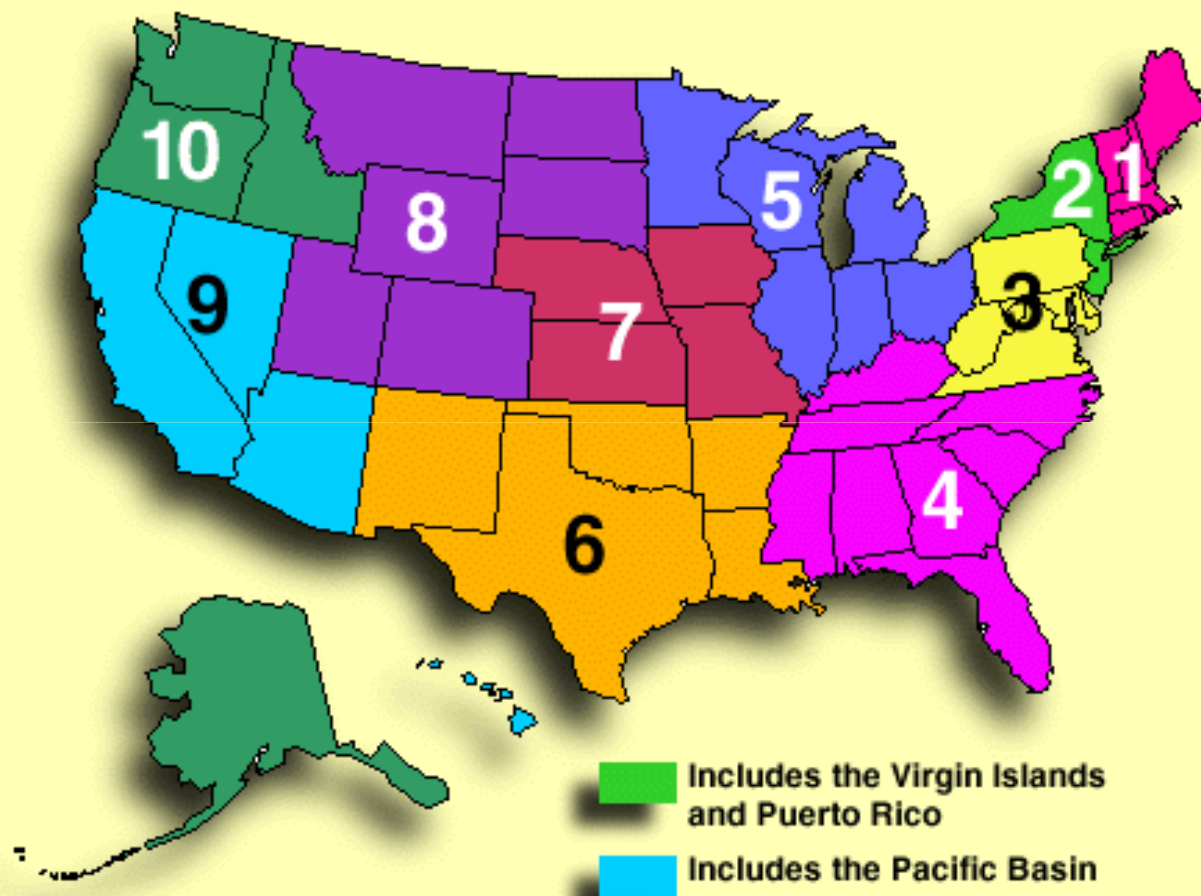


**The Americans with Disabilities Act
and
Section 504 of the Rehabilitation Act
What's New?**

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Ten ADA Centers

Funded by the National Institute on Disability and Rehabilitation Research



1-800-949-4232 voice/tty
www.adata.org

Agenda

- **ADA & Laws Overview**
- **Definition of Disability – Who's in, Who's out**
- **General non-discrimination requirements**
- **Ensuring effective communication**
- **Facility accessibility**
- **Employment**
- **Administrative requirements**

Section 504 of the Rehabilitation Act of 1973 as amended

...No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.

Structure of the ADA

Title I: Employment

Title II: State and Local Governments

**Title III: Private Entities Operating Public
Accommodations or Commercial
Facilities**

**Title IV: Telecommunications Relay
Service (TRS)**

Title V: Miscellaneous

ADA and Section 504 Definition of Disability

An individual who

- has**
- has a record or history of**
or
- is regarded as having**
a physical or mental impairment that
substantially limits a major life activity

ADA Amendments Act

Examples of major life activities

- caring for oneself
- performing manual tasks
- seeing
- hearing
- eating
- sleeping
- walking
- standing
- lifting
- bending
- speaking
- breathing
- learning
- reading
- concentrating
- thinking
- communicating
- working

ADA Amendments Act More Major Life Activities

Major bodily functions

- Functions of the immune system
- Normal cell growth
- Digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions

Scenario

Ms. B has been discussing with a counselor leaving her husband and moving to a shelter with her three children. One of her children has Down Syndrome and one has autism. The counselor contacts a shelter and is informed that “We don’t take children with special needs.” Does the ADA protect Ms. B in this situation?

Association with Disability

The ADA protects someone from discriminated based on relationship or association with a person with a disability

ADA & Section 504

General nondiscrimination

Effective communication

Facility access

Employment

General Nondiscrimination Requirements

- Ensure an equal opportunity to participate and benefit
- Prohibit exclusion, segregation, and unequal treatment
- Prohibit eligibility criteria that screen out person with disability unless criteria are necessary

Scenario

XYZ program does not allow women to use alcohol or to be under the influence of alcohol when in the shelter.

Ms T informs you on her third day that she has alcoholism, is therefore protected by the ADA and will sometimes be inebriated while in the shelter. What is your response?

General Nondiscrimination Requirements

When necessary to ensure equal opportunity “reasonable modifications” must be made to policies, practices, procedures

Scenario

Ms. V has been sexually assaulted. She has cerebral palsy and she uses a dog for stability and to pick up items. The police weren't sure what to do with the dog but they brought Ms. V (and her dog) to the clinic for a sexual assault exam. The clinic refuses to allow the dog in because of concerns about cleanliness and others' allergies. What is the clinic's obligation?

ADA Service Animals



ADA Service Animals

Usually dogs, but not always



ADA Service Animals

Usually dogs, but not always



ADA Service Animals

Usually dogs, but not always

- **Any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability**
- **May ask if it is a service animal required because of a disability**
- **Care/supervision is owner's responsibility**
- **May exclude if animal's behavior poses a direct threat to health or safety**

Note to Shelters and other Residential Settings

- **Have obligations under the Fair Housing Amendments Act**
- **FHAA does not limit to “service animals”**

Scenario

Ms. P is coming to your agency for counseling services. She says she has multiple chemical sensitivity and that she needs to meet in a room where no chemicals have been used for three days prior to her visit. She would like to participate in some of the groups and wants you to assure her that no staff or attendees will be wearing perfume or using fragrances.

What is your organization's obligation?

Make reasonable modifications of policies, practices and procedures

- Be flexible
- Don't say no automatically
- Know whom to discuss the request with
- Consider whether the request would be a fundamental alteration

Emergency Preparedness Planning

- May you ask participants if they have a disability and will need assistance in an emergency?
- How to best prepare?

Personal Devices and Services

Not required to provide:

Personal devices - wheelchairs, eyeglasses, hearing aids

Services of a personal nature - assistance eating, toileting, or dressing

(Unless these are provided to people without disabilities)

Scenario

Ms. T has multiple sclerosis and needs assistance getting on and off the toilet, bathing and getting dressed. For many years her husband has been her primary caregiver. Over the last five years the relationship has gotten abusive. In order for her to leave her husband and be in the shelter she will need to have someone come in to provide personal care service two or three times a day. The shelter has a “no visitors” policy. Does the shelter need to modify this policy for Ms. T?

ADA & Section 504

- ✓ **General nondiscrimination**
 - Effective communication**
 - Facility access**
 - Employment**

The police are told that a woman who is deaf witnessed an act of domestic violence and want to interview the woman.

The woman's daughter hears and is fluent in sign language.

ADA regulations suggest a family member is the most appropriate person to provide sign language interpretation in this situation.

True or False?

Effective Communication

Ensure that communication with people with disabilities is as effective as communication with others

Effective Communication

People who

- **are blind or visually impaired**
- **are deaf or hard of hearing**
or
- **have a speech disability**

Auxiliary Aids and Services

Provide “auxiliary aids and services”

**If necessary to ensure effective
communication**

You get a call at 2 am from a man saying his cousin needs to come to the shelter as soon as possible. The man tells you that his cousin is deaf and requests that either a staff person who uses ASL or a sign language interpreter be present.

You

- 1. Give the information to your supervisor**
- 2. Give the information to the ADA Coordinator**
- 3. Tell them your organization doesn't provide sign language interpreters**
- 4. Other _____**

For People Who are Deaf or Hard of Hearing

- **Qualified Interpreters**
- **Written Notes**
- **Computer-aided Real-time Transcription Services (CART)**
- **Assistive Listening Systems**
- **Open and Closed Captioning on Videos**
- **TTYs**
- **Telephone amplifiers**
- **Hearing aid compatible telephones**

Computer Aided Real-time Transcription CART



XYZ Agency provides a variety of services including emergency shelters, transitional housing and support groups. Ms. C calls from a pay phone and asks the person answering the phone to mail information in Braille about all the agency's services to her neighbor's house.

The person answering the phone:

- 1. Makes arrangements for the info to be Brailled (where??)**
- 2. Tells her supervisor**
- 3. Tells the ADA coordinator**
- 4. Other**

For People Who are Blind or Visually Impaired

- Braille
- Email files
- Computer disks, thumb drive
- Qualified readers
- Audio recordings
- Large Print (what size font?)

When providing an auxiliary aid or service, your organization is required to provide what the person wants no matter how much it costs.

True or False?

Undue Burden

If the auxiliary aid or service is necessary to ensure equally effective communication

Provide unless it would be an undue financial and administrative burden

ADA & Section 504

- ✓ **General nondiscrimination**
- ✓ **Effective communication**

Facility access

Employment

Facility Accessibility



New construction and alterations must be accessible

ADA Standards for Accessible Design
July 1, 1994 (that's not a typo!)

New Construction and Alterations

ADA Standards for Accessible Design
July 1, 1994 (that's not a typo!)

Department of Justice to adopt US
Access Board's 2004 ADA Accessibility
Guidelines

What About Equipment?

Ms. M has quadriplegia and uses a power wheelchair. She has been raped She is at the clinic for a sexual assault exam. The exam table is at a fixed height and Ms. M is unable to transfer onto the table.

“Existing” Facilities



How much accessibility is required in older buildings?

Existing Facilities

Two different requirements

ADA Title II & Section 504

Program accessibility

ADA Title III

Readily achievable barrier removal

ADA Title II & Section 504 Existing Facilities

Program accessibility:

Ensure that each program, service and activity, when viewed in its entirety, is accessible to people with disabilities

ADA Title II & Section 504 Program Accessibility Methods

- **Reassignment to accessible site**
- **Home visits**
- **Assignment of aides (human)**
- **Make structural changes**

Most integrated setting appropriate.

What method is appropriate for your program?

Section 504 Small Providers Program Accessibility

- Fewer than fifteen employees
- Not required to make significant structural alteration in existing facilities
- May refer person to other service providers that are accessible (is there one available??)

ADA Title III

Existing Facilities

Readily Achievable Barrier Removal

Make access improvements that are
“readily achievable”

Easily accomplishable and able to be
carried out without much difficulty or
expense

ADA Title III

Readily Achievable Barrier Removal

Priorities

1. Getting in
2. Getting to the goods and services
3. Restroom
4. Other amenities (public telephones, water fountains, alarms, etc.)

ADA Title III

Readily Achievable Barrier Removal

- Landlords and tenants have barrier removal obligations
- Tax credits/deductions are available
- On-going obligation

Maintenance of Accessible Features

Maintain in operable working condition those features of facilities and equipment that are required to be readily accessible



ADA & Section 504

- ✓ **General nondiscrimination**
- ✓ **Effective communication**
- ✓ **Facility access**

Employment

ADA & Section 504

Nondiscrimination in Employment

1. Do not discriminate on the basis of disability
2. Provide reasonable accommodation
 - pre-employment
 - on the job to perform essential job functions
 - related to benefits and privileges of employment

ADA & Section 504

Reasonable Accommodation

- Any change in the work environment or in the way things are usually done that results in equal employment opportunity for an individual with a disability
- Provide if needed, unless undue hardship

ADA & Section 504

- ✓ **General nondiscrimination**
- ✓ **Effective communication**
- ✓ **Facility access**
- ✓ **Employment**

ADA Title II & Section 504 Administrative Requirements

1. Notify public, participants, applicants, about compliance & what's accessible
2. Conduct a Self-Evaluation
3. Develop a Transition Plan
4. Adopt a grievance procedure
5. Designate a responsible employee

ADA Title II

Administrative Requirements

1. Notify public, participants, applicants, about compliance & what's accessible
2. Conduct a Self-Evaluation
3. Develop a Transition Plan*
4. Adopt a grievance procedure*
5. Designate a responsible employee*

**Required if 50 or more employees*

Dept of Justice Section 504 Regs Administrative Requirements

1. Notify public, participants, applicants, about compliance & what's accessible
2. Conduct a Self-Evaluation
3. Develop a Transition Plan
4. Adopt a grievance procedure*
5. Designate a responsible employee*

** Required if 50 or more employees and receive \$25,000 min per year*

Questions, Discussion