Understanding the Americans With Disabilities Act (ADA)

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The Americans with Disabilities Act

• What is the ADA?

• Who does the ADA cover?

• Who isn’t covered by the ADA?
What is the ADA?

- Signed into law July 26, 1990
- Civil Rights protection to individuals with disabilities.
Who Does The ADA Cover?

- All people with disabilities, visible and hidden
- Public and private businesses
- State & Local Government Agencies
Who Isn’t Covered by the ADA?

- Federal government
- Government Corporations
- Religious organizations
- Native-American Tribes
- Certain Individuals
The ADA Consists Of

- **Title I** – Employment
- **Title II** – Public Services
  - Subtitle A covers state and local governments generally;
  - Subtitle B applies to most public transportation systems
- **Title III** – Public Accommodations and Services (including transportation) Operated by Private Entities
- **Title IV** – Telecommunications
- **Title V** – Miscellaneous
Title I: Employment

No covered entity shall discriminate against a **qualified individual with a disability** because of the disability of such individual in regard to:

- job application procedures,
- the hiring, advancement, or discharge of employees,
- employee compensation,
- job training,
- and other terms, conditions, and privileges of employment.
What To Know About Title I

• **Who is Title I applicable to?**
  – Employers with 15 or more employees may not discriminate against qualified individuals with disabilities.

• **Who enforces Title I?**
  – Equal Employment Opportunity Commission (EEOC)
    • Complaints Taken:
      – 180 days of the date of discrimination
      – 300 days if the charge is filed with a designated state or local fair employment agency

* Lawsuits can only be filed in Federal court after an individual has received a ‘right to sue’ letter from the EEOC.
Title II: Public Services

• Title II prohibits discrimination by state and local government agencies.
• This Title covers:
  – all public agencies, regardless of whether they receive federal assistance.
  – This Title guarantees access to all programs, services and activities provided by a public agency, including:
    • public education, employment, recreation,
    • health care, social services, courts,
    • voting and town meetings.
    • State and local government funded colleges and universities, and
    • other post-secondary educational programs must not discriminate under Title II.
What To Know About Title II

- To provide services that are nondiscriminatory, local governments must evaluate all programs and activities by two main criteria:
  - 1) equal access; and 2) integration of settings.
- Title II essentially defines nondiscrimination as equal access to services and programs in the most integrated settings possible.
  - Therefore, communities need to evaluate all programs and services based upon their accessibility and integration of settings;
  - then identify and remove the barriers that limit access or segregate people with disabilities.

Who enforces Title II?

- The Civil Rights Division of the U.S. Department of Justice is responsible for enforcement of the state and local government activities of Title II of the ADA.
  - Complaints must be filed within 180 days of the date of the discrimination.
* Private lawsuits may also be brought to Federal court without a “to sue” letter.
Title III: Public Accommodations and Commercial Facilities

- Title III prohibits discrimination by private entities and nonprofit service providers operating public accommodations. No individual may be discriminated against on the basis of disability with regards to the full and equal enjoyment of the goods, services, facilities, or accommodations of any place of public accommodation. This includes:
  - privately operated entities that offer licenses and exams,
    - private schools and colleges,
  - banks, restaurants, theaters, hotels,
  - private transportation,
  - supermarkets, shopping malls, museums,
  - health clubs and other recreational facilities, sports arenas,
  - doctor, lawyer and insurance offices, and
  - other commercial facilities.

- Private clubs and religious organizations are exempt.
Readily Achievable

- Installing ramps
- Making curb cuts in sidewalks & entrances
- Reposting shelves
- Rearranging tables, chairs, desks, vending machines, and other furniture
- Reposting telephones
- Adding raised markings on elevator control buttons

- Installing flashing alarm lights
- Widening doors, installing offset hinges to widen doorways
- Eliminating a turnstile or providing an alternative accessible path
- Creating designated accessible parking spaces
What To Know About Title III

Who Enforces Title III?

- The Civil Rights Division of the U.S. Department of Justice is responsible for enforcement of public accommodations of Title III of the ADA.
- Complaints must be filed within 180 days of the date of the discrimination.
- * Private lawsuits may also be brought to Federal court without a ‘right to sue’ letter.
Title IV: Telecommunications

• Title IV addresses telephone and television access for people with hearing and speech disabilities.
• It requires telephone carriers to establish interstate and intrastate telecommunications relay services (TRS) 24 hours a day, 7 days a week.
• TRS enable callers with hearing and speech disabilities who use text telephones (TTYs or TDD), and callers who use voice telephones to communicate with each other through third party assistance.
• Title IV also requires closed captioning of Federally funded public service announcements.
Title V: Miscellaneous

- This title addresses the relationship of the ADA to other laws, development of technical assistance materials, coverage of congressional agencies and prohibits state immunity from remedies.
- This title specifies certain mental disorders which are not covered by the ADA, including:
  - sexual behavior disorders,
  - compulsive gambling,
  - kleptomania or pyromania, or
  - substance use disorders resulting from current illegal use of drugs.
Notable Historic Legislation:
Civil Rights Act of 1964

- July 2, 1964, signed by Lyndon B. Johnson
- 14th amendment guaranteed equal protection
- 15th amendment protect voting rights.
- Ended Racial Segregation
Fair Housing Act of 1968

- **In 1968**, an addition to the Civil Rights Act included Title VIII, better known as the Fair Housing Act which prohibits discrimination on the basis of race, religion, national origin, and sex in the sale and rental of housing.

- **The Fair Housing Act**, (like the Civil Rights Act of 1965) did not protect people with disabilities until it was **amended in 1988 to add two new classes**, people with disabilities and families with children.
Architectural Barriers Act

- Referred to as ABA.
- Accessibility guidelines on federal facilities
- Enforced by the Access Board
The Rehabilitation Act of 1973

- The Rehabilitation Act of 1973 was the first “rights” legislation to prohibit discrimination against people with disabilities.
- This law applied only to programs conducted by Federal agencies, those receiving Federal funds, such as;
  - colleges participating in Federal student loan programs
  - Federal employment
  - and employment practices of businesses with Federal contracts.
Title V of the 1973 Rehabilitation Act

There are several relevant sections of this act under Title V that require reasonable accommodations be provided to persons with disabilities:

- **Section 501** - covering employment in Federal government agencies of the Executive branch
- **Section 503** - covering Federal government contractors and subcontractors
- **Section 504** - covering any program or activity that either receives Federal financial assistance or is conducted by any Executive agency or the United States Postal Service.
- **Section 508** - establishes requirements for electronic and information technology developed, maintained, procured, or used by the Federal government
Access Board

The Access Board is an independent Federal agency devoted to accessibility for people with disabilities. Created in 1973 to ensure access to federally funded facilities, the Board is now a leading source of information on accessible design. The Board develops and maintains design criteria for:

- the built environment,
- transit vehicles,
- telecommunications equipment, and for electronic and information technology.
- It also provides technical assistance and training on these requirements and on accessible design and continues to enforce accessibility standards that cover federally funded facilities.
Americans with Disabilities Act Amendments Act of 2008

- The Amendments Act makes important changes to the definition of the term “disability” by rejecting the holdings in several Supreme Court decisions and portions of the EEOC’s ADA regulations.
- The effect of these changes is to make it easier for an individual see king protection under the ADA to establish that he or she has a disability within the meaning of the ADA.
Chapters 1-2 are ADA application & scoping requirements, Chapters 3-10 are Technical requirements.

1. **Application & Administration** – Dimensions for Adults & Children, Equivalent Facilitation, Referenced Standards, Definitions

2. **Scoping Requirements** – Tells what is required, where it is required, how many are required, and exceptions to requirements

3. **Building Blocks** – Floor or Ground Surfaces and Clear Spaces, Changes in Level, Turning Space, Clear Knee/Toe Clearance, Reach Ranges, Operable Parts

4. **Accessible Routes** – Accessible Routes, Doors, Ramps & Curb Ramps, Elevators, Lifts

5. **General Site & Building Elements** – Parking, Passenger Loading Zones, Stairways, Handrails

6. **Plumbing Elements & Facilities** – Drinking fountains, Toilet & Bathing Rooms, Water Closets & Toilet Compartments, Urinals, Lavatories & Sinks,
Bathtubs, Shower Components, Grab Bars, Washing Machines & Clothes Dryers, Saunas & Steam Rooms

7. **Communication Elements & Features** – Fire Alarm Systems, Signs, Telephones, Detectable Warnings, Assistive Listening Devices, ATMs & Fare Machines, 2-Way Communication Systems

8. **Special Rooms, Spaces, & Elements** – Wheelchair Spaces/Seating and Designated Aisles, Dressing rooms (Locker & Fitting Rooms), Kitchens, Medical Facilities, Transient Lodging, Holding & Housing Cells, Courtrooms, Residential Dwelling Units, Transportation Facilities, Storage

9. **Built-In Elements** – Dining & Work Surfaces, Benches, Check-Out Aisles, Sales & Service Counters

Looking Forward
NPRMs

• **A notice of proposed rulemaking (NPRM)** is a public notice issued by law when one of the independent agencies of the United States government wishes to add, remove, or change a rule or regulation as part of the rulemaking process.
Proposed Rules

- **Diagnostic Equipment** - The Board has issued proposed standards for medical diagnostic equipment for public comment. (Feb. 9, 2012)

- **Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way** (July 26, 2011)

- **Shared Use Paths** – The Board issues supplemental rule to address access to shared use paths. (February 13, 2013)

- **Prescription Drug Label Access** (Oct. 31, 2012)

- **DOT Releases Guidance on Accessible Air Travel**
Accessibility Guidelines on Outdoor Developed Areas

- AGODA
- Issued June 20, 2007
- Guidelines address access to trails, beach access routes, and picnic and camping areas.
Shared Use Paths

- Issued **February 13, 2013**
- Guidelines address access to shared use paths.
- address grade, cross slope, surfaces, and protruding objects
Universal Trails Assessment Process

- UTAP
- Provides trail access information to users
- Documents and monitors trail conditions and the environmental impact of the trail
- Enhance trail access and use for a wide variety of users, including older adults, inexperienced users, families and people with disabilities
Questions
Resources & References

This document is not intended to be comprehensive or exhaustive.

28 CFR Part 35 Title II Regulations
28 CFR Part 35 Title III Regulations
U.S. Department of Justice ADA Information
800-514-0301 voice
800-514-0383 TTY
www.ada.gov

ADA National Network
800-949-4232 voice/TTY connects to your regional ADA Center
wwwadata.org

U.S. Access Board
800-872-2253 voice
800-993-2822 TTY
www.access-board.gov

Additional Resources:
Title II & Title III Technical Assistance Manuals
The Civil Rights Act of 1964
The Rehabilitation Act of 1973
Thank You!

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Cautionary Note/”Disclaimer”

- Like many topics, The ADA’s regulations and standards is a large topic and does not lend itself well to a presentation for anything greater than an overview. The summary herein is not a substitute for a more fundamental understanding of how the ADA should be applied into planning, budgeting, design, construction, and maintenance activities.

- **Our recommendation is to seek professional advise when soliciting solutions to individual complex ADA related issues.**