

## THE AMERICANS WITH DISABILITIES ACT

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### I. The Americans with Disabilities Act: The Basics

Title I of the Americans with Disabilities Act of 1990 (ADA) makes it unlawful for an employer to discriminate against a qualified applicant or employee with a disability. The ADA applies to private employers with 15 or more employees and to state and local government employers. The U.S. Equal Employment Opportunity Commission (EEOC) enforces the employment provisions of the ADA.

The ADA defines an individual with a disability as a person who: (1) has a physical or mental impairment that substantially limits a major life activity, (2) has a record or history of a substantially limiting impairment, or (3) is regarded or perceived by an employer as having a substantially limiting impairment.

An applicant with a disability, like all other applicants, must be able to meet the employer's requirements for the job, such as education, training, employment experience, skills, and licenses. In addition, an applicant with a disability must be able to perform the "essential functions" of the job either on his or her own, or with the help of "reasonable accommodation." However, an employer does not have to provide a reasonable accommodation that will cause the employer "undue hardship," which is defined as significant difficulty or expense.

The following summarizes the principal provisions of the ADA:

**Title I.** Title I prohibits discrimination by public or private employers. Specifically, Title I, section 102 (a) of the ADA establishes that an employer cannot "discriminat[e] 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, employment compensation, job training, and other terms, conditions, and privileges of employment."

A disabled individual is protected if he or she can perform the "essential functions" of a position. The ADA also requires employers to make "reasonable accommodations" for the disabled employee. Such accommodations include job restructuring; part-time or modified work schedules; reassignment to vacant positions when the disability is so severe that employees no longer qualify for the position for which they were originally hired; or provision of qualified readers or interpreters. The act specifies that employers shall not be guilty of discrimination if "reasonable accommodations" create an "undue hardship" for them, meaning that the action would require "significant difficulty and expense." Prior to an offer of employment, employers may not inquire about whether an applicant is disabled or about "the nature or severity of such disability."

The employment provisions of the act took effect in 1992 for businesses of 25 or more employees, and were applied to establishments with as few as 15 workers as of July 1994.

Originally, government action in response to complaints was supposed to be principally remedial, emphasizing correcting access problems; damage awards were excluded in order to head off predatory lawsuits. However, the 1991 Civil Rights Act amendments added to the ADA jury trials and damage awards of up to \$300,000 for "pain and suffering."

**Title II.** Title II prohibits "discrimination" by state and local governments in the delivery of programs and services, including the facilities in which they operate. In addition, Title II requires that modes of public transportation such as buses, subways, trains, and other facilities be accessible to the handicapped. Enforcement responsibilities rest with the Department of Justice and the Department of Transportation, respectively.

**Title III.** Title III bans discrimination in access to places of public accommodation and commercial facilities that are privately owned or privately operated; thus, hotels, restaurants, theaters, food stores, and other retail outlets must be accessible.

Certain privately operated facilities, mainly transportation facilities, were added soon after the act was passed. The act required that facilities be built to accommodate the disabled. Other establishments were required to add facilities for the disabled when they made substantial modifications, both inside and out. Enforcement of Title III is the responsibility of the Justice Department.

**Title IV.** Title IV requires special telecommunications and closed-caption services for the hearing-impaired.

## II. Discrimination complaints

Complaints involving Title I violations must be filed with the federal government's Equal Employment Opportunity Commission (EEOC). If you think an employer has denied you a job or an equal opportunity to apply for a job based on your disability, refused your request for reasonable accommodation, or has asked you illegal medical inquiries or required you to take an illegal medical examination, you should contact the EEOC. A charge (complaint) of discrimination generally must be filed within 180 days of the alleged act of discrimination. You may have up to 300 days to file a charge if a state or local law provides relief for discrimination on the basis of disability. However, to protect your rights, it is best to contact the EEOC promptly if you suspect discrimination has occurred.

You may file a charge of discrimination by contacting any EEOC field office, located in cities throughout the United States. If you have been discriminated against, you are entitled to a remedy that will place you in the position you would have been in if the discrimination had never occurred. This means you may be entitled to hiring, back pay, or reasonable accommodation. You may also be entitled to attorney's fees.

To contact the nearest EEOC office, call:

1-800-669-4000 (Voice)

1-800-669-6820 (TTY).

## III. New developments in the ADA

## A. “Detectable Warnings”

The Americans with Disabilities Act now requires a surface texture on all new public sidewalk ramps called “Detectable Warnings,” or effectively, “Braille for your feet.” This gives blind and visually impaired persons a “tactile cue” to warn them of impending danger or a grade change at ramps and hazardous vehicular ways. Due to recent federal mandates (July 26, 2001/DOJ, and March 6, 2002, DOT/FHWA), detectable warnings, also referred to as “Truncated Domes,” are now required in all states at all new public ramps for the benefit of blind and visually impaired persons.

These unusual, typically yellow, sometimes brick red, little bumps are being installed on the lower half of all new pedestrian ramps; they are effectively “STOP” signs for visually impaired people. An international standard first developed in Japan for public ramps and transit platform edges in the early 1960’s. In 2002, the Ninth Circuit Federal Court in Barden v. Sacramento stated, among other things, that public sidewalks and ramps are a “public service” and therefore must meet all current ADA (Americans with Disabilities Act) standards, including the installation of detectable warnings for blind and visually impaired. This established a significant precedent with national benefits to blind and visually impaired. On January 22, 2004, Sacramento lost a very public appeal.

As quoted from the “Disability Rights Advocates” web site, “On January 22, 2004, the court granted final approval of the settlement in Barden v. Sacramento. This case set a nationwide precedent requiring cities and other public entities to make all public sidewalks accessible. As a result of the court’s ruling in this case, public entities must address barriers such as missing or unsafe curb cuts throughout the public sidewalk system, as well as barriers that block access along the length of the sidewalks.” The settlement addressed all sidewalk barriers throughout Sacramento. Sacramento agreed to an injunction requiring the city to install 1,500 curb cuts each year until all sidewalks throughout the city become fully accessible to all citizens. The city previously had installed only 100 curb cuts per year. The city also agreed to install detectable warnings. Cities nationwide quickly got the message. Within weeks, states, cities and municipalities across the country recognized their responsibility to enforce the ADA with immediacy.

## B. The Individuals with Disabilities Education Act (IDEA) and the Instructional Materials Accessibility Act (IMAA)

The Individuals with Disabilities Education Act Amendments of 1997 were signed into law on June 4, 1997. The Individuals with Disabilities Education Act (IDEA) is the law that guarantees all children with disabilities access to a free and appropriate public education.

The Americans with Disabilities Act, the Individuals with Disabilities Education Act, and other federal laws clearly establish the policy that individuals with disabilities are entitled to equal treatment in all areas of society. However, the successful implementation of these laws does not occur without clear, specific, and practical standards and systems in place to anticipate

accessibility needs. Currently, there are no federal laws that create standards to facilitate the production of textbooks in Braille.

Twenty-six states have responded to this need by requiring publishers to provide electronic copies of print editions of textbooks. However, there is no consistent file format used among the states, and the electronic copies provided by publishers are frequently not usable for Braille reproduction at all. Congress has not yet enacted the “Instructional Materials Accessibility Act,”—IMAA—which has been negotiated by textbook publishers, the National Federation of the Blind, and other affected groups. This legislation will ensure that blind and visually impaired students will not be left behind in having the textbooks they need in a form they can use. The purpose of the Act is to improve access to printed instructional materials used by elementary and secondary school students who are blind, as well as other students who have print disabilities. This will be achieved through the creation of a system for acquiring and distributing publishers' electronic files of textbooks and other instructional materials, so that these materials can be made available in braille, synthesized speech, digital text, digital audio, or large print.

H.R. 490, a bill originally introduced to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools was introduced by Thomas E. Petri (R-WI). A Senate bill was never introduced. The Committee on Education and the Workforce in the U.S. House of Representatives approved legislation that included provisions to facilitate access to printed educational material. These provisions accomplished certain key elements contained in the Instructional Materials Accessibility Act (H.R. 490). While this was a welcome development, this language did not include a central repository, capacity-building grants and state plan requirements that are part of the IMAA legislation. Provisions based on the IMAA were added to H.R. 1350, the Improving Education Results for Children With Disabilities Act of 2003, a bill to reauthorize the Individuals with Disabilities Education Act.

#### IV. Resources

##### A. Job Applicants and the Americans with Disabilities Act

<http://www.eeoc.gov/facts/jobapplicant.html>

This fact sheet addresses common questions about how the ADA protects applicants with disabilities. The information in this fact sheet also applies to applicants for federal employment, who are protected from discrimination by Section 501 of the Rehabilitation Act. Section 501's requirements are the same as those that apply to employers covered by the ADA. There are many other documents, some of which are listed at the end of this fact sheet, that provide more in-depth information about the employment rights of individuals with disabilities.

##### B. Instructional Materials Accessibility Act (IMAA) - Key Links

[FAQs about the Instructional Materials Accessibility Act](#)

[Barbara McCarthy's testimony before the United States Senate on the Instructional Materials Accessibility Act \(107th Congress\)](#)

[Summary prepared by the Association of American Publishers](#)  
[Key Areas of the Instructional Materials Accessibility Act \(IMAA\) of 2003](#)

H.R. 490 has been referred to the U.S. House of Representatives [Committee on Education and the Workforce](#).

C. ADA MATERIALS AVAILABLE FREE FROM THE DEPARTMENT OF JUSTICE

<http://www.usdoj.gov/crt/ada/publicat.htm> has the following:

The U.S. Department of Justice provides free ADA materials. Printed materials may be ordered by calling the [ADA Information Line](#) (1-800-514-0301 (Voice) or 1-800-514-0383 (TDD)). Automated service is available 24-hours a day for recorded information and to order publications.

Publications are available in standard print as well as large print, audiotape, Braille, and computer disk for people with disabilities.

Many of these materials are available from an automated fax system that is available 24-hours a day. To order a publication by fax, call the [ADA Information Line](#) and follow the directions for placing a fax order. When prompted to enter the document number, enter the specific number from the following publication list.

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#### ADA LEGAL DOCUMENTS

[Public Law 101-336](#). Text of the Americans with Disabilities Act, Public Law 336 of the 101st Congress, enacted July 26, 1990. The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of TDD/telephone relay services.

[ADA Regulation for Title II](#), as printed in the Federal Register (7/26/91). The Department of Justice's regulation implementing title II, subtitle A, of the ADA which prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.

[ADA Regulation for Title III](#), as printed in the Code of Federal Regulations (7/1/94). The Department of Justice's regulation implementing title III of the ADA, which prohibits discrimination on the basis of disability in "places of public accommodation" (businesses and non-profit agencies that serve the public) and "commercial facilities" (other businesses). The regulation includes Appendix A to Part 36 - Standards for Accessible Design establishing minimum standards for ensuring accessibility when designing and constructing a new facility or altering an existing facility.



[Title II & III Regulation Amendment Regarding Detectable Warnings](#), as printed in the Federal Register (11/23/98). This amendment suspends the requirements for detectable warnings at curb ramps, hazardous vehicle areas, and reflecting pools until July 26, 2001. **FAX # 3001**



## GENERAL ADA PUBLICATIONS AND INFORMATION

**[ADA Questions and Answers](#)**. A 31-page booklet giving an overview of the ADA's requirements for ensuring equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation, and requiring the establishment of TDD/telephone relay services. (Spanish, Cambodian, Chinese, Hmong, Japanese, Korean, Laotian, Tagalog and Vietnamese editions available from the [ADA Information Line](#).) **FAX # 3106**

**[ADA Information Services](#)**. A 2-page list with the telephone numbers and Internet addresses of Federal agencies and other organizations that provide information and technical assistance to the public about the ADA. **FAX # 3101**



**[ADA Designated Investigative Agencies](#)**. A 4-page list of the nine federal agencies that are designated to investigate disability-related discrimination complaints filed against State and local government programs under title I or title II of the ADA or against Federally funded or assisted programs under Section 504 of the Rehabilitation Act. **FAX # 3109**



[Investigative Agencies \(HTML\)](#) [Investigative Agencies \(PDF\)](#)



**[Enforcing the ADA: A Status Report from the Department of Justice](#)**. A brief report issued by the Justice Department each quarter providing timely information about ADA cases and settlements, building codes that meet ADA accessibility standards, and ADA technical assistance activities. **FAX # 3102** (for the most current issue)

**[Enforcing the ADA: Looking Back on a Decade of Progress](#)**. A 41-page special edition of the Department of Justice's quarterly status report highlighting accomplishments and activities from 1990 through 2000.



[Enforcing the ADA: Looking Back on a Decade of Progress \(HTML format\)](#) [Acrobat PDF format](#)



**[A Guide to Disability Rights Laws](#)**. A 21-page booklet that provides a brief overview of eleven Federal laws that protect the rights of people with disabilities and provides information about the federal agencies to contact for more information. (Spanish, Cambodian, Chinese, Hmong, Japanese, Korean, Laotian, Tagalog and Vietnamese editions available from the [ADA Information Line](#).) **FAX # 3103**



[A Guide to Disability Rights Laws \(HTML format\)](#) [Acrobat PDF format](#) [En Español](#)



**[A Guide for People with Disabilities Seeking Employment](#)**. A 2-page pamphlet for people with disabilities providing a general explanation of the employment provisions of the ADA and how to file a complaint with the Equal Employment Opportunity Commission. (Spanish edition available from the [ADA Information Line](#).) **FAX # 3108**



[A Guide for People with Disabilities Seeking Employment \(HTML format\)](#) [Acrobat PDF format](#)



**[Learn About the ADA in Your Local Library](#)**. An 10-page annotated list of 95 ADA publications and one videotape that are available to the public in 15,000 public libraries throughout the country. **FAX # 3104**

**[Myths and Facts](#)**. A 3-page fact sheet dispelling some common misconceptions about the ADA's requirements and implementation. This publication contains basic information for businesses and State and local governments. (Spanish edition available from the [ADA Information Line](#).) **FAX # 3105**



**[ADA Mediation Program](#)**. A 6-page publication that provides an overview of the Department's Mediation Program and examples of successfully mediated cases. **FAX # 3107**

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**BUSINESSES AND NON-PROFIT SERVICE PROVIDERS:  
TECHNICAL ASSISTANCE MANUALS AND PUBLICATIONS**

**[Title III Technical Assistance Manual](#)** (1993) and **[Yearly Supplements](#)**. An 83-page manual that explains in lay terms what businesses and non-profit agencies must do to ensure access to their goods, services, and facilities. Many examples are provided for practical guidance. (Spanish edition available from the [ADA Information Line](#).)

**[Title III Highlights](#) | [En Español](#)** A 12-page outline of the key requirements of the ADA for businesses and non-profit agencies. This publication provides detailed information in bullet format for quick reference. (Spanish edition available from the [ADA Information Line](#). **FAX # 3200** )

**[Accessible Stadiums](#)**. A 4-page publication highlighting features that must be accessible in new stadiums and providing guidance on line of sight for wheelchair seating locations. **FAX # 3201**



**[Accessible Stadiums \(TEXT\)](#) [Acrobat PDF format](#)**



**[ADA Guide for Small Businesses](#)**. This 15-page illustrated guide presents an overview of some basic ADA requirements for small businesses that provide goods and services to the public. It provides guidance on how to make their services accessible and how tax credits and deductions may be used to offset specific costs. (Spanish, Cambodian, Chinese, Hmong, Japanese, Korean, Leotian, Tagalog and Vietnamese editions available from the [ADA Information Line](#).) **FAX # 3202**



**[ADA Guide for Small Businesses \(HTML\)](#) [Acrobat PDF format](#)**

**[ADA-TA: A Technical Assistance Update from the Department of Justice](#)**. A serial publication that addresses two topics in each issue: "Common Questions" answers questions about ADA requirements; "Design / Details" provides information and illustrations of particular design requirements.



**[Volume 1: Readily Achievable Barrier Removal and Van-Accessible Parking Spaces](#) **FAX # 3250****



[Readily Achievable Barrier Removal and Van-Accessible Parking \(HTML\)](#) [Acrobat PDF format](#)



[ADA Tax Incentive Packet for Businesses](#) A packet of information to help businesses understand and take advantage of the tax credit and deduction available for complying with the ADA. **FAX # 3203**



**Common ADA Errors and Omissions in New Construction and Alterations.** This 13-page document lists a sampling of common accessibility errors or omissions that have been identified through the Department of Justice's ongoing enforcement efforts. The significance of the errors is discussed and references are provided to the requirements of the ADA Standards for Accessible Design. **FAX # 3207**



[Common ADA Errors and Omissions in New Construction and Alterations \(HTML\)](#) [Acrobat PDF format](#)

**ADA Business Briefs.** Short publications explaining specific ADA issues that are designed to be easily printed and distributed to employees.



[Communicating with People Who are Deaf or Hard of Hearing in Hospital Settings](#) **FAX # 3504**

[Communicating with Guests Who are Deaf or Hard of Hearing in Hotels, Motels, and Other Places of Transient Lodging](#) **FAX # 3503**

[Restriping Parking Lots](#) **FAX # 3500**

[Service Animals](#) **FAX # 3501**

[Assistance at Gas Stations](#) **FAX # 3502**



[Commonly Asked Questions About Service Animals.](#) A 3-page publication explaining the requirements of the ADA regarding animals that accompany and provide services for a person with a disability. (Spanish edition available from the [ADA Information Line.](#)) **FAX # 3204**

[How to File a Title III Complaint | En Español.](#) This publication details the procedure for filing a complaint under title III of the ADA, which prohibits discrimination based on disability by businesses and non-profit agencies. (Spanish edition available from the [ADA Information Line.](#)) **FAX # 3206**



[Commonly Asked Questions About Child Care Centers and the Americans with Disabilities Act](#) A 13-page publication explaining how the requirements of the ADA apply to Child Care Centers. The document also describes some of the Department of Justice's ongoing enforcement efforts in the child care area and it provides a resource list on sources of information on the ADA. **FAX # 3209**





**[Questions and Answers: the ADA and Persons with HIV/AIDS](#)**. A 16-page publication explaining the requirements of the ADA for employers, businesses and non-profit agencies that serve the public, and State and local governments to avoid discriminating against persons with HIV/AIDS. (Spanish edition available from the [ADA Information Line](#).) **FAX # 3206**

**Assistance at Self-Serve Gas Stations**. A 1-page document providing guidance on the ADA and refueling assistance at self-serve gas stations. **FAX # 3210**



[Assistance at Self-Serve Gas Stations \(HTML\)](#) [Acrobat PDF format](#)



**Common ADA Problems at Newly Constructed Lodging Facilities**. An 11-page document lists a sampling of common accessibility problems at newly constructed lodging facilities that have been identified through the Department of Justice's ongoing enforcement efforts. **FAX # 3211**



[Common ADA Problems at Newly Constructed Lodging Facilities \(HTML\)](#) [Acrobat PDF format](#)



**Five Steps To Make New Lodging Facilities Comply With The ADA**. A 3-page document highlighting five steps that owners, operators, and franchisors can take to make sure that new lodging facilities comply with the ADA. **FAX # 3212**



[Five Steps To Make New Lodging Facilities Comply With The ADA \(HTML\)](#) [Acrobat PDF format](#)

**[Americans with Disabilities Act Checklist for New Lodging Facilities](#)**. This 34-page checklist is a self-help survey that owners, franchisors, and managers of lodging facilities can use to identify ADA mistakes at their facilities.



**Americans with Disabilities Act Guide for Places of Lodging: Serving Guests Who Are Blind or Who Have Low Vision**. A 12-page publication explaining what hotels, motels, and other places of transient lodging can do to accommodate guests who are blind or have low vision. **FAX # 3214**



[Americans with Disabilities Act Guide for Places of Lodging: Serving Guests Who Are Blind or Who Have Low Vision \(HTML\)](#) [Acrobat PDF format](#)

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#### **STATE AND LOCAL GOVERNMENTS: TECHNICAL ASSISTANCE MANUALS AND PUBLICATIONS**

**[Title II Technical Assistance Manual](#)** (1993) and **[Yearly Supplements](#)**. A 56-page manual that explains in lay terms what State and local governments must do to ensure that their services, programs, and activities are provided to the public in a nondiscriminatory manner. Many examples are provided for practical guidance. (Spanish edition available from the [ADA Information Line](#).)

**[Title II Highlights](#) | [En Español](#)**. An 8-page outline of the key requirements of the ADA for State and local governments. This publication provides detailed information in bullet format for quick reference. (Spanish edition available from the [ADA Information Line](#).)

**FAX # 3300**



**ADA Guide for Small Towns.** A 21-page guide that presents an informal overview of some basic ADA requirements and provides cost-effective tips on how small towns can comply with the ADA. **FAX # 3307**



[ADA Guide for Small Towns \(HTML\)](#) [Acrobat PDF format](#)

**ADA Checklist for Polling Places.** This 39-page checklist is a self-help survey that voting officials can use to determine whether a polling place has basic accessible features needed by most voters with disabilities.



**The ADA and City Governments: Common Problems.** A 9-page document that contains a sampling of common problems shared by city governments of all sizes, provides examples of common deficiencies and explains how these problems affect persons with disabilities. **FAX # 3308**



[The ADA and City Government: Common Problems \(HTML\)](#) [Acrobat PDF format](#)



**Accessibility of State and Local Government Websites to People with Disabilities.** A 5-page publication providing guidance on making State and local government websites accessible. **FAX # 3309**



[Accessible Websites \(HTML\)](#) [PDF - screen version \(236k\)](#) [PDF - print version \(1444k\)](#)



**Accessible Stadiums.** A 4-page publication highlighting features that must be accessible in new stadiums and providing guidance on line of sight for wheelchair seating locations. **FAX # 3201**



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[Readily Achievable Barrier Removal and Van-Accessible Parking \(HTML\)](#) [Acrobat PDF format](#)



**Commonly Asked Questions About the ADA and Law Enforcement.** A 12-page publication providing information for law enforcement agencies in a simple question and answer format. **FAX # 3301**

**Questions and Answers: The ADA and Hiring Police Officers.** A 5-page publication providing information on ADA requirements for interviewing and hiring police officers. **FAX # 3302**



**[Commonly Asked Questions About Title II of the ADA](#)**. A 6-page fact sheet explaining the requirements of the ADA for State and local governments. **FAX # 3303** (Spanish edition available from the [ADA Information Line](#).)

**Access for 9-1-1 and Telephone Emergency Services**. A 10-page publication explaining the requirements for direct, equal access to 9-1-1 for persons who use teletypewriters (TTYs). **FAX # 3304**



[Access for 9-1-1 and Telephone Emergency Services \(HTML\)](#) [Acrobat PDF format](#)



**[Questions and Answers: the ADA and Persons with HIV/AIDS](#)**. A 16-page publication explaining the requirements of the ADA for employers, businesses and non-profit agencies that serve the public, and State and local governments to avoid discriminating against persons with HIV/AIDS. (Spanish edition available from the [ADA Information Line](#).) **FAX # 3206**

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A 13-page publication explaining how the requirements of the ADA apply to Child Care Centers. The document also describes some of the Department of Justice's ongoing enforcement efforts in the child care area and it provides a resource list on sources of information on the ADA. **FAX # 3209**



**[Title II Complaint Form](#) | [En Español](#)**. Standard form for filing a complaint under title II of the ADA or section 504 of the Rehabilitation Act of 1973, which prohibit discrimination on the basis of disability by State and local governments and by recipients of federal financial assistance. (Spanish edition available from the [ADA Information Line](#).) **FAX # 3306**