

# Overview of the ADA: Key Title II Requirements

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# Today's Presenter



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# Northeast ADA Center



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**Northeast ADA Center**

...providing training, technical assistance, consultation, and materials on a broad range of topics related to disability in the United States.

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# Today's Agenda



## I. What is the ADA?

- Five Titles of the Law and Enforcement Agencies
- ADA Definition: *Person with a Disability*

## II. Review of ADA Title II Obligations, Including:

- Program Accessibility
- Self Evaluation & Transition Planning
- Reasonable Modifications/Accommodations
- Effective Communication

## III. Questions

# The Americans with Disabilities Act (ADA)



# What is the ADA?



- Federal civil rights law passed in 1990 and amended in 2008
- Goal is to achieve equal opportunity and equal access for people with disabilities

# Who Benefits from ADA Design Standards?





# What the ADA is Not



- Is not an agency
- Is not a social service program
- Is not a “cure-all” for every disability injustice



# Five Titles of the ADA



## Title I Employment

Prohibits disability discrimination in all employment processes **(EEOC Enforcement)**



## Title II Accessibility in State/Local Government

Physical and program accessibility in state/local govt. entities **(U.S. DOJ and DOT Enforcement)**

## Title III Accessibility in Public Accommodations

Physical and program accessibility in restaurants, hotels, stores, places of business **(U.S. DOJ Enforcement)**

## Title IV Telecommunications

Telephone and communications systems for the public **(FCC and U.S. DOJ Enforcement)**

## Title V Miscellaneous

Protection from retaliation

# The ADA...



Protects the rights of individuals with disabilities.

*A person with a disability* is defined as a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities,
- Has a record of such an impairment, or
- Is regarded as having such an impairment.



# Major Life Activities



- Walking
- Seeing
- Hearing
- Speaking
- Sleeping
- Limitations of major bodily functions



- Breathing
- Learning
- Caring for oneself
- Performing manual tasks
- Working





# Nondiscrimination



The ADA states that people with disabilities must be able to **obtain or enjoy “the same goods, services, facilities, privileges, advantages, or accommodations” that are provided to other members of the public...**entities may not:

- Discriminate on the basis of disability in areas of programs, services, or activities.
- Ask unnecessary questions about a person’s disability.
- Deny benefits or services to people with disabilities.
- Impose eligibility requirements that exclude or segregate individuals with disabilities.
- Impose extra charges for people with disabilities to cover costs that are necessary to ensure nondiscriminatory treatment, such as removing barriers or providing qualified interpreters.

# Title II of the ADA



# Title II Examples



- Local, county or state recreation agencies
- Local, county or state court houses
- County buildings and agencies
- Public schools
- Polling sites
- Public museums and libraries
- Public Transportation facilities (i.e. bus stations and subways)
- Correctional facilities



# ADA Title II

## State and Local Government



Title II of the ADA covers programs, activities, and services of public entities. It is intended to protect qualified individuals with disabilities from discrimination on the basis of disability in the services, programs, or activities of all state and local governments, including public transportation.

It extends the prohibition of discrimination on the basis of disability established by Section 504 of the Rehabilitation Act of 1973, as amended, to all activities of state and local governments, including those that do not receive federal financial assistance.





**So...it's not just about *building*  
accessibility**

**Programs and services must also be  
accessible**

# ADA Title II

## *Program Accessibility*

(Ensuring that **Programs** are accessible to people with disabilities)

- Does not necessarily require physical changes in pre-ADA buildings.
- **Examples:** Methods of providing program accessibility
  - Relocating services to accessible part of same building or site
  - Delivery of services at alternate sites
  - Modifying policies and procedures
  - Delivering services in alternate way
- Must give priority to most integrated setting appropriate

# What are “Programs, Services and Activities”?

Broadly defined:

For purposes of the self-evaluation and transition plan, a “program” is a service or activity with a single purpose. It is an activity undertaken by a department that affords benefits, information, opportunities or activities to one or more members of the public.



# What are “Programs, Services and Activities”?

## Example: County Board Meetings

- Assume Facts:
  - Meetings held to conduct County business and communicate with residents of the county
  - All are in person
  - Some are held on regular basis, some are responsive to urgent situations (disasters, fiscal issues, etc.)
- Include each type of meeting that may be held in your assessment

# ADA Title II

## 5 Administrative Requirements

### 1. Designate a responsible employee

- Someone with sufficient authority to make decisions and take action
- Often referred to as “ADA Coordinator”

### 2. Grievance Procedure

- Establish and publicize a procedure for addressing complaints regarding ADA Compliance

### 3. Notice to the Public

- Public statement of ADA Compliance to be made available across multiple platforms (print, auditory, website, etc.)

# ADA Title II

## 5 Administrative Requirements

- 4. Conduct a Self-Evaluation** – An assessment of all programs and services to identify any barriers to participation by people with disabilities
- Required by all entities, regardless of size
  - Must be kept on file for 3 years for entities with 50 or more employees (From 1991 Regulations)

To be completed by July 26, 1993

# ADA Title II

## 5 Administrative Requirements

- 5. Develop a Transition Plan** - A plan that identifies the architectural barriers that impact access to programs and activities offered by a public entity
- Only required for entities with 50 or more employees

**To be completed by July 26, 1992 and barriers to be removed by July 26, 1995**

# What if we have less than 50 employees?

Public entities with less than fifty employees are not required to appoint an ADA Coordinator and establish a grievance procedure, but they are strongly encouraged to do so to effectively facilitate ADA compliance.



# Title II Basics

## Non-Discrimination Provisions

- Equal opportunity to participate in and benefit from programs, services, and activities
- Reasonable modifications to policies, practices, and procedures
- Effective communication
  - Auxiliary Aids and Services
- No eligibility criteria that exclude or screen out based on disability.
- Equal access to licensing and exams
  - Accessible location
  - Alternate formats
  - Auxiliary Aids
- No surcharges
  - Service animals
  - Alternate format documents
- Non-discrimination in employment

# Reasonable Accommodation Examples



- Request help filling out library card application
- Reaching materials on high shelves
- Handouts in large print (18 Font)

# Modification of Policies, Practices and Procedures

## Principles:

- The entity must make reasonable modifications to policies, practices, and procedures to allow people with disabilities to participate, unless a fundamental alteration in the program would result.
- A "fundamental alteration" is a change that is so significant that it alters the essential nature of the goods, services, facilities, privileges, advantages, or accommodations offered.
- Includes modifications to **application requirements** and the **program itself**.

# The ADA & Service Animals



**DEFINITION:** Dogs individually trained to do work or perform tasks for people with disabilities.



# Common Questions



*Only two questions may be asked:*

1. Is the animal **required** because of a disability?
2. **What work or task** has the animal been trained to perform?



# Physical Accessibility Issues to Consider

Programs in existing facilities must be accessible in their entirety (cannot deny benefits, services, etc. due to inaccessible facilities).

- What's an “existing” facility? **(Pre-1992)**
- When is a feature/element “accessible”?

# When is a feature/element “Accessible?”



- New(er) reference point: 2010 ADA Standards (Standards for new construction, alterations in older facilities and program accessibility)  
**Mandatory Compliance date: March 15, 2012**
- 1991 ADAAG or UFAS may provide “safe harbor”
  - If by March 15, 2012, facility elements affecting programs met these standards for accessibility
  - Major new obligations for those elements not safe harbored...  
examples:
    - **Pools**
    - **Recreational Boating Facilities**
    - **Fishing Piers/Platforms**
    - **Golf/Mini Golf**
    - **Exercise machines and equipment**
    - **Play areas**
    - **Team or player seating**

# 2010 ADA Standards for Accessible Design



Apply to:

- State/ local gov't facilities
- Places of public accommodation
- Commercial facilities
- Transportation facilities (DOT's 2006 Standards)



Available at [www.ada.gov](http://www.ada.gov)



# The Basic Elements



- Site arrival points – parking, public transportation
- Path of travel to the accessible entrance – curbs ramps, sidewalks, ramps
- Entrances – doors, vestibules
- **Primary function of the space**
- Toilet Rooms
- Drinking fountains
- Public Telephones

# Library – Primary Function Areas



- Study areas
- Stacks
- Desks
- Book depositories
- Computers
- Meeting rooms



# ADA Checklist



Produced by the New England ADA Center,  
A Project of the Institute for Human Centered  
Design

<http://www.adachecklist.org/>



# Effective Written Communication

## Highlights:

- Policy for providing materials in alternate formats
  - Advance notice requirement
  - Notification to public
- Bulletin boards, written displays, exhibits or brochure displays



# Auxiliary Aids and Services

## Highlights:

- Sign Language Interpreters
- Policies for providing Auxiliary Aids and services
  - Advance request, No charge
- Reasons for not providing
- Licensed

# Effective Telephone Communication

## Highlights:

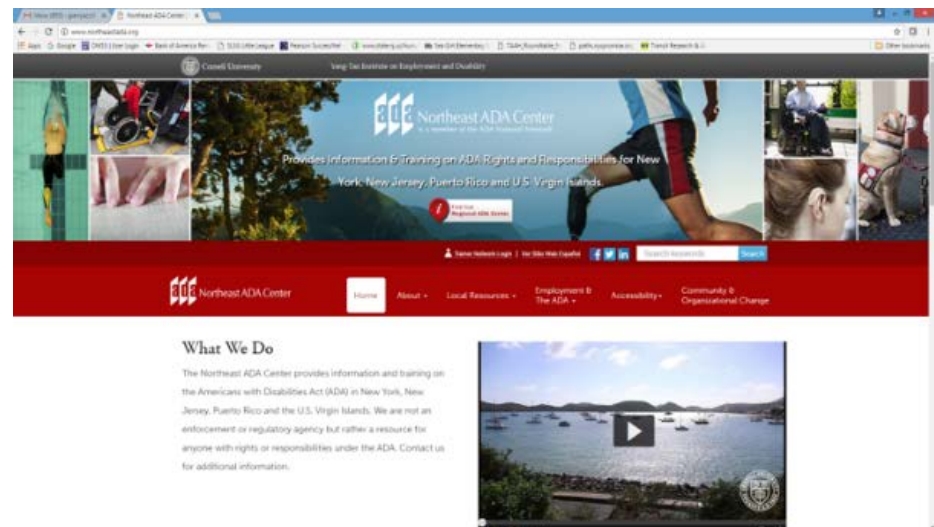
- Telephone communication with public
  - TTY
- Telecommunication relay service
- Designated telephones for public at facility
- Public use of front desk or staff phones



# Effective Electronic Communication

## Principles:

- As a means of communication with members of the public, information that is communicated through electronic media must be accessible to people with disabilities
- Equipment that is used to communicate information or provide an interactive component with the public must be accessible to people with disabilities



# Why is ADA Compliance Important?

- It's the law
- To meet the needs of a growing and aging population
- To achieve the entity's goal to make their programs and services accessible to citizens and visitors
- To provide equal access to people with disabilities seeking to use the facilities and services
- To educate and empower government personnel about the importance of providing access





# Resources



ADA Title II Action Guide for State and Local Governments

<https://www.adaactionguide.org/>

Frequently Asked Questions about Service Animals and the ADA

[https://www.ada.gov/regs2010/service\\_animal\\_qa.pdf](https://www.ada.gov/regs2010/service_animal_qa.pdf)

Accessibility of State and Local Government Websites  
to People with Disabilities

[https://www.ada.gov/websites2\\_scrn.pdf](https://www.ada.gov/websites2_scrn.pdf)

ADA Update: A Primer for State and Local Governments

[https://www.ada.gov/regs2010/titleII\\_2010/title\\_ii\\_primer.html](https://www.ada.gov/regs2010/titleII_2010/title_ii_primer.html)

# Questions?



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