

## Ten Steps to Accessibility

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## **STEP 1: Know the Laws and How They Apply to Your Organization, Patrons and Audiences with Disabilities**

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### **Guidance About Federal Laws and Legal Requirements**

Section 504 and the ADA are **standard legal requirements**, which are intended to provide people with disabilities the same opportunity to be employed and enjoy your organization's programs, services and facilities as non-disabled people. By law, all programs should be accessible.

The four major requirements of accessibility laws are:

- 1) Non-discrimination
- 2) Equal opportunity (and the provision of any reasonable modifications, auxiliary aids or services necessary to achieve it)
- 3) Basic standard of architectural access
- 4) Equal access to employment, programs, activities, goods and services

Access efforts **should not simply respond to legal requirements**, but celebrate the positive benefits of full access to cultural activities, and the opportunity to serve and educate all segments of the public.

**Access laws have clout and financial consequences for non-compliance.** "Good faith efforts" in complying with access laws, and an attitude that treats **all people** with equality and dignity, will help avoid complaints and costly lawsuits.

**To show that your organization is making a "good faith effort" to comply with the law, you should complete and have on file records that demonstrate your access efforts.** This would include a written description of what your organization has completed to date, how you are involving the disability community, an access self-

evaluation, a transition plan (if needed), readily achievable changes that have been accomplished, and other relevant documents, actions or training. These records are your organization's proof of compliance work, and should be made available to requesting parties.

**Involving people with various disabilities in the evaluation, education and implementation process is key to successful and cost-effective compliance.**

**Implementing access does not have to be difficult or expensive**, and can be a creative, engaging and instructive process in which your organization's entire staff should take part.

**The Americans with Disabilities Act does not supersede state and/or local laws, which provide equal or greater protection** for individuals with disabilities, including persons with AIDS. For complete structural requirements, see both the ADA Accessibility Guidelines (<http://www.access-board.gov/adaag/html/adaag.htm>), and the Uniform Federal Accessibility Standards (<http://www.access-board.gov/ufas/ufas-html/ufas.htm>). Local ordinances and the state code also apply - and the most stringent specification for any standard must be met for compliance.

## **Section 504 Regulations and The American with Disabilities Act**

### **Rehabilitation Act of 1973, as amended**

(Public Law 93-112)

In 1973, Congress passed the Rehabilitation Act in a national effort to end discrimination on the basis of disability by agencies and organizations, which receive or benefit from federal financial assistance. The Rehabilitation Act included a provision, Section 504, which states:

*“No otherwise qualified handicapped individual in the United States shall solely by reason of his handicap 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.”*

This provision has come to be regarded as the vital core of the disability rights movement.

The Rehabilitation Act contains five sections that address different aspects of equal opportunity for people with disabilities. In summary, the sections and their requirements are:

#### **Section 501**

Prohibits discrimination on the basis of disability in the federal government and requires affirmative action in the hiring of people with disabilities by government agencies.

**Section 502**

Establishes the Architectural and Transportation Barriers Compliance Board now known as the [Access Board](http://www.access-board.gov/) (<http://www.access-board.gov/>) and gives the Board authority to enforce the Architectural Barriers Act of 1968.

**Section 503**

Prohibits employment discrimination by private sector employers and requires state and local governments receiving federal contracts in excess of \$10,000 to have an affirmative action plan for hiring qualified people with disabilities.

**Section 504**

Prohibits discrimination on the basis of disability and requires federal agencies and any organization that receives federal funding to make its programs and activities accessible to people with disabilities.

**Section 508**

Amended in 1998, requires that any electronic or information technology developed, maintained, procured or used by federal agencies be accessible and usable by federal employees and members of the public with disabilities seeking information or services. The electronic or information technology includes computer hardware and software as well as web pages.

Federal agencies each have their own Section 504 regulations, and private and public cultural organizations must comply with these regulations if they receive federal funds. This includes organizations that receive funds directly from a federal agency such as the National Endowment for the Arts, or indirectly through pass through money or sub grants from a state agency that receives federal funds. Federal funds are distributed through a number of state agencies such as state arts agencies, humanities councils, state departments of education, rehabilitation services and others. In each case the recipient of the federal funds must comply with the dispensing agency's Section 504 regulations.

The National Endowment for the Arts was the third federal agency to issue its Regulations for Nondiscrimination on the Basis of Handicap, effective May 25, 1979, in order to comply with section 504. The Endowment's regulations state, in part:

These regulations implement section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, 29 U.S.C. 794. The regulations define and forbid acts of discrimination against qualified handicapped persons in programs and activities receiving federal financial assistance from the National Endowment for the Arts. As employers, recipients are prohibited from engaging in discriminatory employment practices on the basis of handicap and must make reasonable accommodation to the handicaps of employees unless the accommodation would cause the employer undue hardship. As providers of services, recipients are required to make programs operated in existing facilities accessible to

handicapped persons, to ensure that new facilities are constructed in a manner readily accessible to handicapped persons, and to operate their programs in a nondiscriminatory manner.

### **Brief Summary of Americans with Disabilities Act (ADA) and its Titles**

(Public Law 101-336)

Signed into law on July 26 1990, the Americans with Disabilities Act is wide-ranging legislation intended to make American society more accessible to people with disabilities. It is the nation's first comprehensive civil rights law for people with disabilities. The ADA prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation and telecommunications. While the employment provisions of the ADA apply to employers of fifteen employees or more, its public accommodations provisions apply to all sizes of business, regardless of number of employees. State and local governments are covered regardless of size.

The ADA is divided into five titles that extend different aspects of equal opportunity for people with disabilities. The titles and their requirements are as follows:

#### **Title I- Employment**

Requires all employers with 15 or more employees to provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others.

#### **Title II- State and Local Government**

Requires all state and local governments (their departments and agencies) give people with disabilities an equal opportunity to benefit from all public programs, activities and services (e.g. public education, employment, transportation, recreation, healthcare, social services, courts, voting and town meetings).

#### **Title III- Public Accommodation and Services Operated by Private Organizations**

Requires places of public accommodation to meet architectural accessibility standards for new construction and modified buildings and remove barriers in existing buildings where such removal is readily achievable; make reasonable modifications to policies, practices and procedures; provide effective communication mechanisms for people with hearing, vision or speech disabilities; and other access requirements.

#### **Title IV- Telecommunications**

Amended the Communications Act of 1934 to require common carriers (telephone companies) to provide interstate and intrastate Telecommunication

Relay Services (TRS) 24 hours a day, 7 days a week. This title addresses captioning of public service announcements.

### **Title V- Miscellaneous Provisions**

States, among other provisions, that federal laws shall not supersede state laws with more stringent accessibility provisions.

## **ADA Publications**

### **Overview of the ADA**

#### **Americans with Disabilities Act, A Summary**

(<http://www.dol.gov/odep/pubs/misc/summada.htm>) A description of the enforcement jurisdiction, effective dates and which regulatory agencies are responsible for the enforcement of each of the titles and parts of the Act published by the Department of labor.

#### **Americans with Disabilities Act: Questions and Answers**

(<http://www.usdoj.gov/crt/ada/q&aeng02.htm>) A 15-page publication from the U.S. Department of Justice containing answers to commonly asked questions about the Americans with Disabilities Act. Question topics pertain to: 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.

**Facts About the Americans with Disabilities Act**, (<http://www.eeoc.gov/facts/fs-ada.html>) This publication provided by the U.S. Equal Employment Opportunity Commission directly addresses **Title I** of the ADA, which prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment.

### **ADA Title I**

#### **Title I Technical Assistance Manual** (<http://www.jan.wvu.edu/links/ADAtam1.html>)

This *Manual* provides guidance on the practical application of legal requirements established in the statutes and EEOC regulations. It also provides a directory of resources to aid in compliance. The *Manual* is designed to be updated periodically with supplements as the Commission develops further policy guidance and identifies additional resources. Part One of the *Manual* explains key legal requirements in practical terms, including:

- Who is protected by, and who must comply with, the ADA;
- What the law permits and prohibits with respect to establishing qualification standards, assessing the qualifications and capabilities

of people with disabilities to perform specific jobs, and requiring medical examinations and other inquiries;

- The nature of the obligation to make a reasonable accommodation;
- How the law's nondiscrimination requirements apply to aspects of the employment process such as promotion, transfer, termination, compensation, leave, fringe benefits and contractual arrangements;
- How ADA provisions regarding drug and alcohol use affect other legal obligations and employer policies concerning drugs and alcohol; and
- How ADA requirements affect workers' compensation policies and practices.

## **ADA Title II**

**Title II Highlights** (<http://www.usdoj.gov/crt/ada/t2hlt95.htm>) An 8-page outline published by the Department of Justice highlighting the responsibilities of state and local governments under the Americans with Disabilities Act, Title II. Subtitle A of Title II of the Americans with Disabilities Act, Pub. L. 101-336 prohibits discrimination on the basis of disability by public entities. Subtitle A protects qualified individuals with disabilities from discrimination on the basis of disability in the services, programs, or activities of all state and local governments. This document gives a detailed overview of:

- Who is covered by Title II of the ADA
- The requirements of local and state governments in complying with the ADA
- What the term “Qualified Individuals with Disabilities” means
- Program access and integration
- Communications
- New constructions and alterations
- Enforcement
- Complaints
- Designated agencies
- Technical assistance

**Commonly Asked Questions About Title II of the Americans with Disabilities Act (ADA)** (<http://www.usdoj.gov/crt/ada/pubs/t2qa.txt>) A helpful 5-page publication for state and local government agencies, it provides compliance information in a simple question and answer format. Topics include:

- The accessibility requirements of the ADA
- Providing appropriate auxiliary aids to ensure effective communication
- Printing document and signs in Braille and/or large print
- The availability of government funds in setting up accessibility projects

## **ADA Title III**

### **Fact Sheet 1: Who Has Obligations Under Title III?**

(<http://www.adaptiveenvironments.org/neada/fact1.php>) Summarizes obligations of commercial facilities, (privately owned, non residential facility) as well as places of public accommodation (non profit or for profit private establishments, including theatres and museums).

**Title III Highlights** (<http://www.usdoj.gov/crt/ada/t3hilght.htm>) A 9-page resource produced by the Department of Justice that outlines the key requirements of the ADA for businesses and non-profit agencies. This publication provides detailed information in bullet format for quick reference. Topics covered include:

- Who is covered by title III of the ADA
- Overview of requirements
- “Individuals with disabilities”
- Eligibility for goods and services
- Modifications in policies, practices and procedures
- Auxiliary aids
- Existing facilities: removal of barriers
- Existing facilities: alternatives to barrier removal
- New construction
- Alterations
- Overview of Americans with Disabilities Act Accessibility
- Examinations and courses
- Enforcement of the ADA and its regulations
- Technical assistance

## **ADA and 504 Resource Directory**

The following directory identifies agencies that are responsible for the enforcement of ADA and Section 504 of the Rehabilitation Act of 1973 or provide technical assistance.

### **Access Board**

1331 F Street, N.W. Ste. 1000

Washington, DC 20004-1111

Phone: (202) 272-0080

TTY: (202) 272-0082

Internet: <http://access-board.gov>

**Description:** The Access Board is an independent federal agency devoted to accessibility for people with disabilities. It operates with about 30 staff and a governing board of representatives from federal departments and a public member appointed by the President. Key responsibilities of the Access Board include:



- Developing and maintaining accessibility requirement for the built environment, transit vehicles, telecommunications equipment, and for electronic and information technology
- Providing technical assistance and training on these guidelines and standards
- Enforcing accessibility standards for federally funded facilities

### **Department of Transportation (DOT)**

400 Seventh Street, S.W.

Washington, DC 20590

Phone: (202)366-4000

Internet: <http://dot.gov/accessibility>

**Description:** The DOT enforces the regulations to implement the transportation requirements of the ADA. Contact DOT for specific information and publications about ADA requirements affecting transportation.

### **Equal Employment Opportunity Commission (EEOC)**

1801 L Street, N.W.

Washington, DC 20507

Phone: (800) 669-4000

(202) 663-4900

TTY: (800) 669-6820

(202) 663-4494

Internet: <http://www.eeoc.gov>

**Description:** The EEOC is responsible for enforcing the ADA Title I employment regulations including through settlements, conclusions, mediation and litigation. Investigates charges of employment discrimination and works to resolve problems through conciliation. The 800 numbers will automatically connect you with the nearest EEOC field office and provide information on discrimination laws in English and Spanish, and free publications.

Publications produce by the EEOC that might be of interest include:

- The Americans with Disabilities Act: Your Responsibilities as an Employer (<http://www.eeoc.gov/facts/ada17.html> )
- Fact Sheet: ADA Discrimination, (<http://www.eeoc.gov/facts/fs-ada.html>)
- EEOC: Information for the Private Sector and State and Local Governments

### **Federal Communications Commission (FCC)**

445 12<sup>th</sup> Street

Washington, DC 20544

Phone: (888) CALL-FCC

TTY: (888) TELL-FCC (835-5322)

Internet: <http://www.fcc.gov/cgb/dro/>

**Description:** The FCC is an independent United States government agency, directly responsible to Congress. The FCC was established by the Communications Act of 1934

and is charged with regulating interstate and international communications by radio, television, wire, satellite and cable. The FCC is responsible for enforcing the regulations to implement Title IV telecommunications requirements for hearing impaired and speech impaired. The FCC has a “disabilities issues” page with information and resources about available services.

### **National Endowment for the Arts Civil Rights Office**

1100 Pennsylvania Ave., N.W., Room 812

Washington, DC 20506

Phone: (202) 682-5454

TTY: (202) 682-5695

Internet: <http://www.nea.gov/about/Civil.html>

**Description:** The NEA’s Office of Civil Rights (OCR) investigates and resolves external/internal allegations of discrimination. External allegations of discrimination apply to applicants and recipients of Federal financial assistance, and internal allegations of discrimination apply to employees of the National Endowment for the Arts and applicants for employment with the Endowment. The OCR is responsible for the administration of Title VI and VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (specifically Title I: Employment of Persons with Disabilities), discrimination on the basis of race, color, national origin, disability, and age in programs and activities receiving Federal financial assistance. Provides copies of the Endowment’s Section 504 regulations and the **Section 504 Self-Evaluation Workbook** (free, 32 pp.), a checklist designed to assist Endowment grantees in evaluating the accessibility of their programs, activities and facilities, as well as help them comply with the Section 504 regulations.

### **Pacific ADA and IT Center**

Disability and Business Technical Assistance Centers

Phone: (800) 949-4232

Internet: <http://www.adata.org/dbtac.html>

**Description:** Funded by the National Institute on Disability and Rehabilitation Research under the U.S. Department of Education, each of the regional Disability and Business Technical Assistance Centers has a toll-free hotline that can answer specific questions on the ADA. Private businesses, individuals, schools and local or county governments can call for advice and information. Callers also may order materials from the Center’s extensive library of ADA and disability-related publications. Go to Web site to obtain information and phone numbers of the applicable regional center.

### **U.S. Department of Justice**

950 Pennsylvania Ave., NW

Civil Rights Division

Disability Rights Section- NYAV

Washington, DC 20530

Phone: (800) 514-0301

TTY: (800) 514-0383

Internet: <http://www.ada.gov>

**Description:** The U.S. Department of Justice is responsible for developing and enforcing the ADA state and local government (Title II) and public accommodations (Title III) regulations. DOJ has many publications, some of which were jointly produced with the Equal Employment Opportunity Commission (EEOC). To get a list of ADA publications go to: (<http://www.usdoj.gov/crt/ada/publicat.htm>).

For general ADA information, answers to specific technical questions, free ADA materials or information about filing a complaint call their 800 number.