

THE AMERICANS WITH DISABILITIES ACT FOR IDAHO COURTHOUSES

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The Americans With Disabilities Act

Americans with Disabilities Act of 1990

“No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”



“Law, unlike many other fields, is not always all spelled-out, clearly and unequivocally, for everyone to understand immediately. Often, laws are left to courts and federal agencies to interpret and fill-in the blanks.”

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U.S. Department of Justice
Civil Rights Division
Disability Rights Section

Effective Communication
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

FOR IMMEDIATE RELEASE
Justice Department Reaches Multiple Settlements to Stop Discrimination Against Persons with Hearing Disabilities



Guidance Document

U.S. Department of Health & Human Services
PART 80—NONDISCRIMINATION UNDER PROGRAMS RECEIVING FEDERAL ASSISTANCE
MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND...



Federal Register /Vol. 67, No. 117 /Tuesday, June 18, 2002 /Notices 41455

The Americans With Disabilities Act

“A public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.

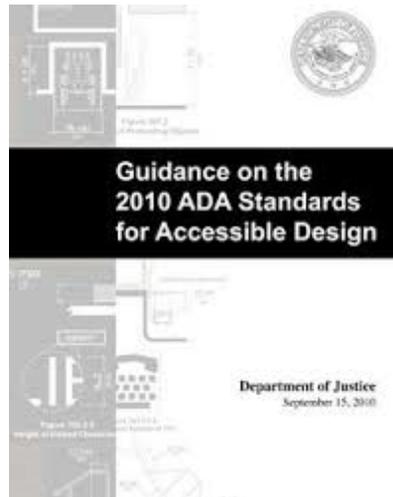
In determining what types of auxiliary aids and services are necessary, **a public entity shall give primary consideration to the requests of individuals with disabilities.**”



See: 28 Code of Federal Regulations §35.160 (a)(b)(2) Part 35 Nondiscrimination on the Basis of Disability in State and Local Government Services

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“ADAAG requires a public entity[such as state or local government] strictly to comply with the ADAAG in the case of any new or altered construction, without regard to any subjective intent or motivation.

Under this strict liability, a public entity must ensure that any new or altered facilities comply with the guidelines. If they do not, then they must be modified to conform.”

Palmer v. Wayne County Airport Authority, (E.D., Mich., 2016)

The Americans With Disabilities Act

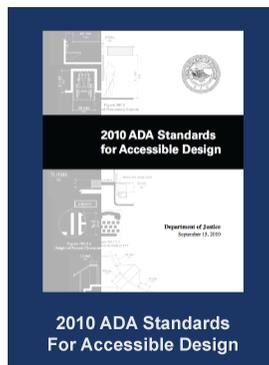
“...[I]f a barrier violating these standards relates to a plaintiff’s disability, it will impair the plaintiff’s full and equal access, which constitutes ‘discrimination’ under the ADA.”

Lozano v. C.A. Martinez Family Limited Partnership, (S.D. Ca., 2015)



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Evaluation – Assessment

Transition Plan – Timeline and Specifics for Compliance



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2010 ADAAG

Courtrooms

808.4 Judges' Benches and Courtroom

Stations. Judges' benches, clerks' stations, bailiffs' stations, deputy clerks' stations, court reporters' stations and litigants' and counsel stations shall comply with 902.

902 Dining Surfaces and Work Surfaces

902.1 General. Dining surfaces and work surfaces shall comply with 902.2 and 902.3.

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2010 ADAAG

403 Walking Surfaces

403.5.1 Clear Width. Except as provided in 403.5.2 and 403.5.3, the clear width of walking surfaces shall be 36 inches (915 mm) minimum.

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Courthouses

Entry Doors – Weight, Handles, Automatic
Parking – Number of Spaces, Dimensions, Locations
Restrooms – From Doors to Interiors
Upper Floors – Elevator, Lift
Courtrooms – Essential Elements
Public Access Points – Clerk's Office

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The Americans With Disabilities Act

Issue: "Grandfather" Clause or Small Entity Exemption

Requirement:

There is no "grandfather" clause in the ADA.

Source: U.S. Department of Justice
Federal Courts

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Courthouses

Historic properties are not exempt from the Americans with Disabilities Act (**ADA**) requirements. To the greatest extent possible, **historic buildings** must be as **accessible** as **non-historic buildings**.

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The federal court held that this Arkansas courthouse was not accessible pursuant to the ADA and

“[C]arrying an individual with a disability is considered ineffective and therefore an unacceptable method for achieving program accessibility.”

Matthews v. Jefferson, 29 F.Supp.2d 525 (W.D. Ark., 1998)

The Americans With Disabilities Act

The Parking Space Case



The Americans With Disabilities Act

• REMEDIAL ACTIONS

- 5. For compliance purposes, all dimensions are subject to conventional building industry tolerances for field conditions. ADA Standards §§ 3.2. The burden is on Oconee County, or any successor in interest, to provide specific evidence of accepted dimensional tolerances, however, no dimensional tolerances shall apply where the ADA Standards specify a *minimum* dimension necessary for an element to be usable by persons with disabilities.
- 6. The County agrees to correct the following violations of the ADA Standards within the term of this Agreement:
 - (a). There is no van accessible parking space in the South parking lot. One van accessible parking space is required. ADA Standards §§ 4.1.2(5)(b), 4.6.1, 4.6.4.
 - (b). In the South parking lot, accessible parking spaces #1, #2, and #4 have slopes greater than 1:50 (2 percent). ADA Standards §§ 4.1.2(5)(a), 4.6.3.
 - (c). In the South parking lot, the access aisles between accessible parking spaces #1 and #2, and between accessible parking spaces #3 and #4, have slopes greater than 1:50 (2 percent). ADA Standards §§ 4.1.2(5)(a), 4.6.3.
 - (d). In the South parking lot, the curb ramp at the head of the access aisle between accessible parking spaces #1 and #2 has a cross slope greater than 1:50 (2 percent). ADA Standards §§ 4.1.2(1), 4.3.8, 4.7.2.
 - (e). In the South parking lot, the curb ramps located at the head of the access aisle between parking spaces #1 and #2, and at the head of the access aisle between parking spaces #3 and #4, have slopes on the left flared side greater than 1:12 (8.33 percent) and the width of the connected accessible route is less than 48 inches. ADA Standards §§ 4.1.2(1), 4.3.8, 4.7.5, Fig. 12(a).
 - (f). There are no accessible parking spaces in the East Employee Parking Lot; one van-accessible parking space is required. ADA Standards §§ 4.1.2(5)(a)-(b), 4.6.2, 4.6.3, 4.6.4.
 - (g). There are no accessible parking spaces in the Staff Parking Garage; one van-accessible parking space is required. ADA Standards §§ 4.1.2(5)(a)-(b), 4.6.2, 4.6.3, 4.6.4.
- 13. This Agreement does not affect the County's continuing responsibility to comply with all aspects of the ADA.
- 14. This Agreement will remain in effect for three years.
- 15. The person signing this document for the County represents that he or she is authorized to bind the County to this Agreement.

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The Americans With Disabilities Act

Website Accessibility...

More Than An IT Solution

Tremendous increase in lawsuits

IT AND The Law



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According to DOJ:

“There is no doubt that the Web sites of state and local government entities are covered by title II of the ADA. See 28 CFR 35.102 (providing that the title II regulation “applies to all services, programs, and activities provided or made available by public entities”). Similarly, there seems to be little debate that the Web sites of recipients of federal financial assistance are covered by section 504 of the Rehabilitation Act.” Emphasis Added



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(b) *Broad coverage.* The primary purpose of the ADA Amendments Act is to make it easier for people with disabilities to obtain protection under the ADA. Consistent with the ADA Amendments Act's purpose of reinstating a broad scope of protection under the ADA, the definition of "disability" in this part shall be construed broadly in favor of expansive coverage to the maximum extent permitted by the terms of the ADA.

28 CFR § 35.101

The Americans With Disabilities Act

"A public entity may be liable for damages under Title II of the ADA or § 504 of the Rehabilitation Act "if it intentionally or with deliberate indifference fails to provide meaningful access or reasonable accommodation to disabled persons."

The "failure to provide reasonable accommodation can constitute discrimination." *Vinson v. Thomas*, 288 F.3d 1145, 1154 (9th Cir. 2002). A public entity may not disregard the plight and distress of a disabled individual." *Updike v. Multnomah County et al, No. 15-35254*, (9th Cir. 2019)

Observations and Resources

Projects completed by external resources:

- Hire architects and contractors who know the ADA
- Consider whether RFPs should require compliance with the ADA and a statement of qualification
- Consider whether contracts should included compliance with the ADA (as well as indemnification)

Projects completed by external resources:

- 2010 standards for accessible design
- US Access Board Animations

And Doorknobs

The Americans With Disabilities Act

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