

Highlights from the Americans with Disabilities Act

The Americans with Disabilities Act (ADA) of 1990 and its amendments contain definitions, standards, and specifications for service animals, mobility devices, communications, polling places, programs and activities, buildings, parking lots, and more. Title II applies to all State and local governments; all departments and agencies; all programs, services, activities; and all contractors who provide public services.

Excerpts are verbatim from *ADA Update: A Primer for State and Local Governments*, U.S. Department of Justice, Civil Rights Division, Disability Rights Section, July, 2015, unless explicitly noted. **Bold face** type is used for ease of locating a particular topic.

Detroit Disability Power is an organization which provides information, training programs, policies and advocacy on a local level. Contact information is in Sources.

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BASIC PRINCIPLES

- Equal treatment. People with disabilities must not be treated in a different or inferior manner.
- Integration into the mainstream of public life is a fundamental purpose of the ADA.
- Programs, services, and activities must be provided in integrated settings. This means that persons with disabilities may not be denied the right to participate in programs provided to everyone else.
- People with disabilities must meet the essential eligibility requirements for public programs (age, educational background, experience, etc.) just like everyone else. However, a public entity may not impose criteria that screen out or tend to screen out disabled persons unless the criteria are necessary for the provision of the service.
- Rules that are necessary for safe operation of a program or service are allowed.
Example: Passing a swim test to participate in a white-water rafting trip.

DEFINITIONS

Mobility device. Walker, cane, crutches or braces, manual or powered wheelchairs, electric scooters, other power-driven mobility devices (Segway®, golf carts, etc.)

Auxiliary aids and services. Readers, notetakers, sign language interpreters, assistive listening systems and devices, open and closed captioning, text telephones (TTYs), videophones, information provided in large print, Braille, audible, or electronic formats, and other tools for people who have communication disabilities.¹ Newer technology is also permitted: real-time captioning (CART), and video remote interpreting (VRI) for off-site sign language interpreters. ADA regulations include standards for these services.²

Service animal. A dog which has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability. Under the ADA, "comfort," "therapy," or "emotional

¹ TTY: The abbreviation for teletypewriter; synonymous with TDD (telecommunications for the Deaf.) TTY devices are used to send and receive typed messages through various communications channels. TDD devices are used by the hearing impaired for typed communications over telephone lines. (*Wikipedia*)

² See Title II Regulations, US Department of Justice, 28 CFR Part 35.
https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.pdf

support,” animals do not meet the definition of a service animal because they have not been trained to do work or perform a specific task related to a person’s disability.

WHO IS PROTECTED UNDER THE ADA?

- People who have a physical or mental impairment that substantially limits their ability to perform one or more major life activities, such as breathing, walking, reading, thinking, seeing, hearing, or working.
- It also applies to someone who uses leg braces to walk, as well as to people who are temporarily substantially limited in their ability to perform a major life activity.
- The ADA does *not* apply to people whose impairment is unsubstantial, such as someone who is slightly nearsighted or someone who is mildly allergic to pollen.
- Reasonable modifications are required. Example: Staff must provide a chair to a person on crutches waiting in line. The ADA does not require that staff move him/her to the front of the line.
- Modifications which are fundamental alterations to a program, service, or activity are not required. Example: At a museum’s gift shop, accompanying and assisting a customer who uses a wheelchair may not be reasonable when there is only one person on duty.

COMMUNICATING WITH PEOPLE WHO HAVE DISABILITIES

- Because the nature of communications differs from program to program, the rules allow for flexibility in determining which solution fits the circumstances.
- Public entities are required to give primary consideration to the type of auxiliary aid or service requested by the person with the disability. They must honor that choice, unless they can demonstrate that another equally effective means of communication is available or that the aid or service requested would fundamentally alter the nature of the program, service, or activity.³

³ See *ADA 2010 Revised Requirements: Effective Communication*
<https://www.ada.gov/effective-comm.htm>

SERVICE ANIMALS

- Service animals must be allowed in all areas of a facility where the public is allowed, except where the dog's presence would create a legitimate safety risk.
- Public entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry. In situations where it is not apparent that the dog is a service animal, a public entity may ask only two questions: 1) is the animal required because of a disability? and, 2) what work or task has the dog been trained to perform?
- Public entities may not ask about the nature or extent of an individual's disability. Example: A public entity may not ask about the extent of vision or hearing loss, or other disability.
- The ADA does not restrict the breeds of dogs that may be used as service animals. Therefore, a town ordinance that prohibits certain breeds must be modified to allow a person with a disability to use a service animal of a prohibited breed, unless the dog's presence poses a direct threat to the health or safety of others.
- The ADA does not require service animals to be certified, licensed, or registered as a service animal. Nor are they required to wear service animal vests or patches, or to use a specific type of harness. The Department of Justice does not recognize these as proof that the dog is a service animal under the ADA.

WHEELCHAIRS AND OTHER MOBILITY DEVICES

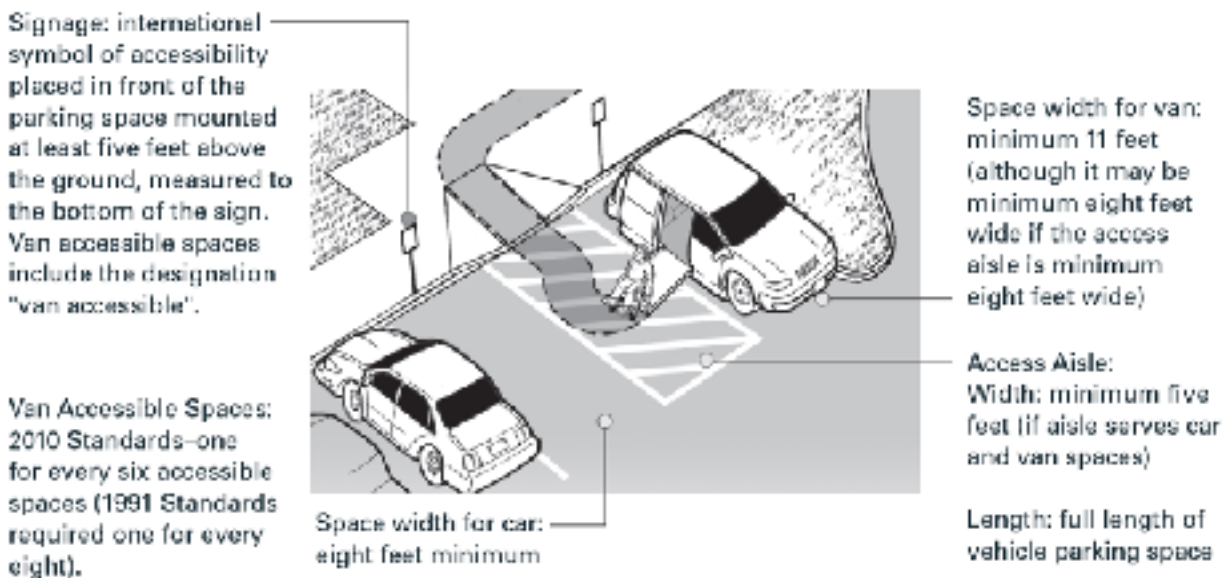
- Allowing mobility devices into a facility is a "reasonable modification."
- Public entities must allow individuals with disabilities who use these devices into all areas where the public is allowed to go, unless the entity can demonstrate that the particular type of device cannot be accommodated because of legitimate safety requirements. Such safety requirements must be based on actual risks.
- Public entities may not ask individuals using such devices about their disability. They may ask for a credible assurance that the device is required because of a disability. If the person presents a valid, State-issued disability parking placard or card, or a State-issued proof of disability, that must be accepted as credible assurance on its face.
- Written documentation is not required, unless that person is observed doing something that contradicts the assurance.

POLLING PLACES

The following are selections from *ADA Checklist for Polling Places*, US Department of Justice, Civil Rights Division, Disability Rights Section, June 2016. This booklet discusses polling place accessibility; the tools election officials need to assess locations; describes problems and offers solutions; and has the complete checklist.

Parking

- Is there at least one designated van accessible space with the International Symbol of Accessibility sign and designated “van accessible”?
- Are the surfaces of the designated accessible parking spaces and access aisles stable, firm, and slip resistant?
- Are the designated accessible parking spaces located on the shortest accessible route to the accessible entrance?



An overview of accessible parking requirements

(p. 13, *ADA Update: A Primer for State and Local Governments*)

Passenger Drop-Off Areas

- Is the vehicle pull-up space on a level surface?
- Is a curb ramp provided if a curb separates the access aisle from the accessible route to the accessible entrance?

- Does an accessible route connect the access aisle and curb ramp to the accessible entrance of the polling place?
- Is the route at least 36" wide?
- Is the route free of surface openings greater than 1/2", such as grates or holes in the pavement?
- Are walking surfaces stable, firm, and slip resistant?

Routes, Entrances, Doors, and Areas with Voting Machines

- Are surfaces stable, firm, and slip resistant?
- Is the route at least 36" wide?
- If the route to the voting area has stairs, is a platform lift or elevator provided?
- If voters are directed to an alternative accessible entrance, is this entrance kept unlocked during voting hours?
- Do inaccessible entrances have signs directing voters to the accessible entrance?
- Is the clear width of the door opening (one door or one active leaf of a double door) at least 32" wide?
- Is each door's hardware useable with one hand without tight grasping, pinching, or twisting of the wrist?
- Is there enough room to provide a route at least 36" wide to the registration table and voting stations?
- Is there enough room to provide a turning space in front of at least one voting station and voting machine, such as a circle that is at least 60" in diameter?

Additional Items

There are more checklist items for ramps, lifts, and elevators. Please refer to the full document.

SOURCES

ADA 2010 Revised Requirements: Effective Communication, US Department of Justice, Civil Rights Division, Disability Rights Section, January, 2014.

<https://www.ada.gov/effective-comm.htm>

The ADA and City Governments: Common Problems, US Department of Justice, Civil Rights Division, Disability Rights Section, February, 2020.

<https://www.ada.gov/comprob.htm>

ADA Checklist for Polling Places, US Department of Justice, Civil Rights Division, Disability Rights Section, June 2016.

<https://www.ada.gov/votingck.htm>

ADA Update: A Primer for State and Local Governments, U.S. Department of Justice, Civil Rights Division, Disability Rights Section, July, 2015.

https://www.ada.gov/regs2010/titleII_2010/title_ii_primer.html

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Title II Regulations, US Department of Justice, 28 CFR Part 35.

https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.pdf