



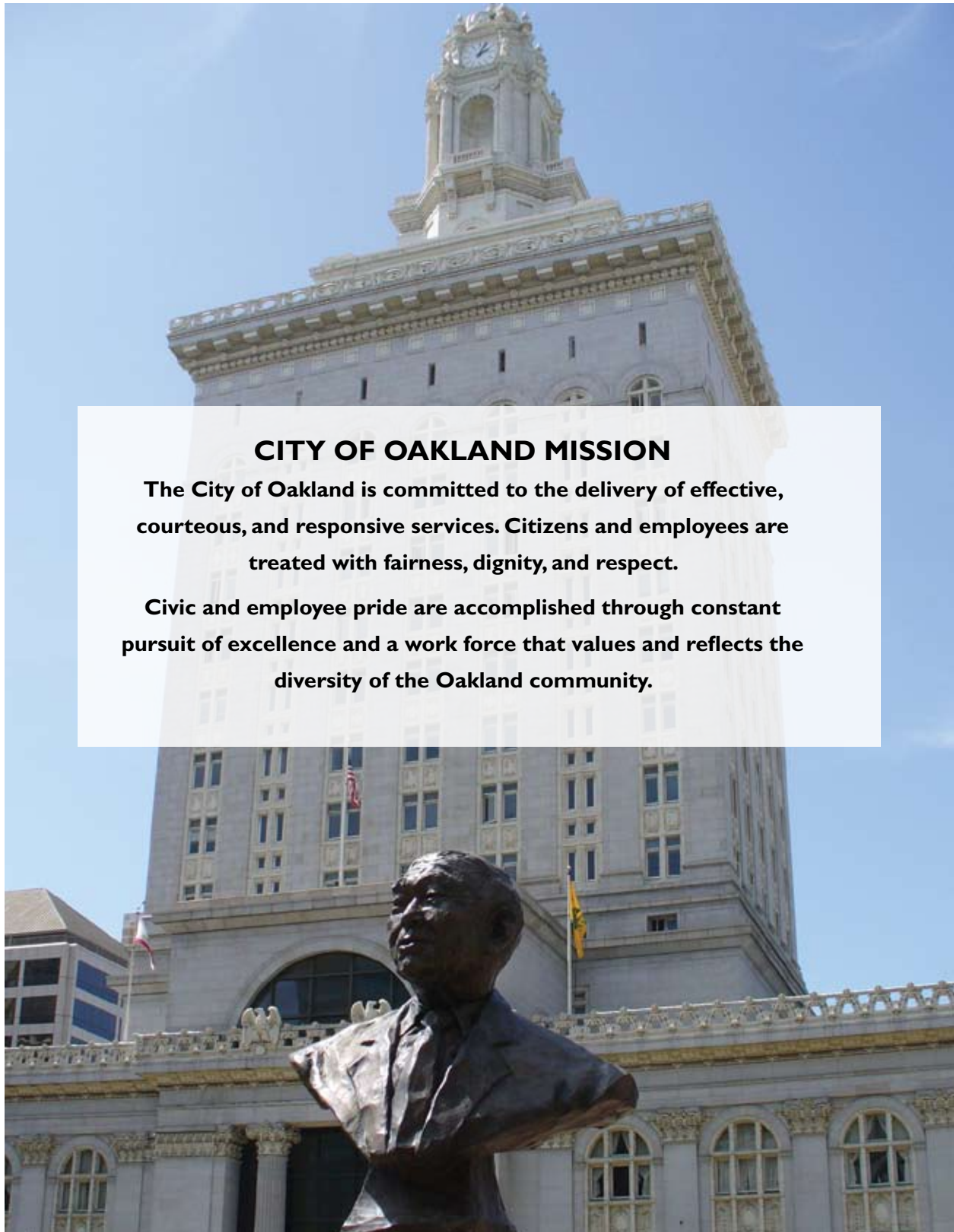
PUBLIC ACCOMMODATIONS AND THE AMERICANS WITH DISABILITIES ACT



ADA PROGRAMS DIVISION
Office of the City Administrator

JANUARY 2009





CITY OF OAKLAND MISSION

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PUBLIC ACCOMMODATIONS AND THE AMERICANS WITH DISABILITIES ACT

**A compliance guide for commercial facilities, privately funded non-profit organizations,
and private entities providing services to the general public.**

**To request this document in an alternative format such as Braille,
audio translation or electronic copy, please contact:**

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Thank you to Jung Design (jungw@pacbell.net) for icon design and document layout.

The requirements of the Americans with Disabilities Act ("ADA") are subject to various, and possibly contradictory, interpretations. The editors of this manual have used their reasonable professional efforts and judgments to interpret the ADA and U.S. Department of Justice technical assistance documents as they apply to Title III entities. The contents of this publication are presented with no warranty either expressed or implied, and the City of Oakland assumes no legal responsibility for the information contained herein. Neither is liability assumed for the outcome of decisions, contracts, commitments or obligations made on the basis of this publication.

All program names used in this document are fictitious and any resemblance to actual program names is purely coincidental.

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INTRODUCTION

This guide is written for commercial facilities and private entities that provide goods and services to the general public, including private nonprofit organizations. Private organizations are not owned or operated by government agencies (i.e., federal, state, county or city governments). They may, however, receive funds or other support from federal, state or local government sources.

The purpose of this guide is to help you understand the process of complying with the Americans with Disabilities Act (ADA) and making the programs, activities, and services of your organization accessible to persons with disabilities.

Private organizations that provide goods and services to the public have independent responsibilities under Title III of the ADA, regardless of their funding sources. Government entities that fund or otherwise support private or nonprofit organizations must ensure that the organizations they fund do not discriminate on the basis of disability and that funded goods and services are ADA-compliant.

Accordingly, the City of Oakland now requires all of the organizations it funds to sign a written "Declaration of Compliance with the Americans with Disabilities Act," also referred to as Schedule C-1 (*see Appendix A*). This guide will help clarify for you the obligations your organization assumes by signing the Declaration of Compliance.

The City of Oakland has also developed and regularly updates, *Disability Resources Guide*, a guide designed to assist you in your efforts to comply with the ADA and serve customers with disabilities. It contains valuable contact information for a full range of local, state and federal programs, which provide services and resources to people with disabilities. It also includes local resources for obtaining frequently requested disability accommodations, such as Braille and sign language interpreting services. You can obtain a copy of the *Disability Resources Guide* by contacting:

ADA Programs Division

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Oakland, CA 94612

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What is the ADA?

The ADA is a federal civil rights law that provides the same civil rights protection to persons with disabilities as afforded all other Americans. Unlike prior disability laws and regulations, the ADA puts the onus of accommodation on society rather than the individual with a disability. The ADA guarantees equal opportunity for individuals with disabilities in public and private sector services and in employment. It is a comprehensive anti-discrimination law that extends to virtually all areas of society and every aspect of daily living.

The ADA is organized into five titles:

1. TITLE I: EMPLOYMENT — Requires employers with 15 or more employees ensure that their employment practices do not discriminate against qualified people with disabilities. Title I provides protection for job applicants and employees during all phases of employment, including the application process, interviewing, hiring, employment itself, and discharge from employment. Employers must also reasonably accommodate the disabilities of qualified applicants and employees, unless an undue hardship would result.

NOTE: In California, this applies to employers who have 5 or more employees.¹

2. TITLE II: STATE AND LOCAL GOVERNMENT SERVICES — Requires public programs and services be made accessible to persons with disabilities. Mandates non-discrimination on the basis of disability in policy, practice and procedure. Prescribes a self-evaluation process, and requires that architectural and communications barriers be removed to the extent necessary to provide full access to programs and services.

3. TITLE III: PUBLIC ACCOMMODATIONS — Requires places of public accommodation to be accessible to, and usable by, people with disabilities. Places of public accommodation include private businesses and privately owned and operated organizations that offer goods and services to the general public, such as office buildings, factories, convention centers, museums, libraries, parks, zoos, private schools, day care centers, restaurants, hotels, theatres, retail stores, shopping centers, pharmacies, hospitals, doctor offices, private entities that own, operate, or lease to places of public accommodations, and more.

Title III entities must not discriminate by excluding people based upon disability, or by requiring people with disabilities to participate in separate programs, except where inclusion would constitute a direct threat to the health or safety of others which cannot be eliminated or reduced to an acceptable level through providing reasonable modifications. Reasonable modifications must be made to policies, practices and procedures so that people with disabilities may participate. Auxiliary aids and services that ensure effective communication with people with disabilities must also be provided so long as they do not create an undue burden or fundamentally alter the services that the program offers.

New construction and alteration projects must be barrier-free. In existing buildings, architectural barriers to access for persons with disabilities must be removed when such removal is readily achievable. "Readily achievable" means "easily accomplishable and able to be carried out without much difficulty or expense."² Title III entities must review possible readily achievable barrier removal on an ongoing basis, typically annually or with each new program budget.

4. TITLE IV: TELECOMMUNICATIONS — Mandates the establishment of a national network of telecommunication relay services that is accessible to people who have hearing and speech disabilities. It also requires captioning of all federally funded television public service announcements.

5. TITLE V: NON-RETALIATION, AND OTHER PROVISIONS — Explicitly prohibits retaliation against people exercising their rights under the ADA. It sets forth specific responsibilities for the adoption of enforcement regulations by federal agencies. It also includes a number of miscellaneous provisions.

The U.S. Equal Employment Opportunity Commission and the U.S. Department of Justice have been designated as the lead federal agencies for enforcement of the ADA.

The U.S. Access Board develops accessibility guidelines (architectural standards) for enforcement of the ADA. The ADA includes a set of federal architectural standards called the *Americans with Disabilities Act Accessibility Guidelines* (ADAAG). All Title II and Title III entities must comply with ADAAG requirements for new construction and alteration building projects. You can read ADAAG requirements on the U.S. Access Board web site at: www.access-board.gov/adaag/

In California, public and private building projects must also comply with state accessibility regulations (Title 24, The California Building Standards Code of the California Code of Regulations). Title 24 incorporates specifications found in the ADAAG. The Title 24 standards and codes are developed and maintained by the State of California Division of the State Architect, Access Compliance. For more information on Title 24 requirements, visit the California Building Standards Commission web site at: www.bsc.ca.gov/title_24/

Who is an individual with a disability?

The ADA has established that, an individual with a disability is a person who has “a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.”³ Major life activities are essential functions such as personal care tasks, manual tasks, walking, seeing, hearing, speaking, breathing, thinking, learning, and working.

According to the 2000 U.S. Census, more than 49.7 million people in the U. S. age 5 and over have a disability— nearly 1 in 5 U.S. residents, or 19 percent of the population.⁴ More Americans will become either temporarily or permanently disabled during their lifetimes and will claim their rights under the Act.

What does the ADA require of public accommodations?

Commercial facilities, most private entities, and non-profit organizations operated by private agencies (whether or not they receive federal, state, or local funding) are considered places of public accommodation under the ADA and are therefore subject to Title III requirements. Religious organizations, including places of worship, and private membership clubs are not subject to Title III requirements, except in instances where they provide rental space to the general public. The remainder of this manual discusses in detail the requirements of Title III of the ADA so that organizations can gain understanding of how to be in compliance.

The Civil Rights Division of the U.S. Department of Justice has provided the following overview of the responsibilities of Title III entities. Under the ADA, public accommodations must:

- ✓ Provide services to people with disabilities in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.
- ✓ Eliminate unnecessary eligibility standards or rules to afford individuals with disabilities an equal opportunity to enjoy the activities, benefits, and services of the organization.
- ✓ Make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the nature of the program would result.
- ✓ When necessary, furnish auxiliary aids to ensure effective communication, unless an undue burden or fundamental alteration would result.
- ✓ Remove architectural and structural communication barriers in existing facilities where readily achievable.
- ✓ Provide alternative means of delivering services when removal of barriers is not readily achievable.
- ✓ Provide equivalent transportation services and purchase accessible vehicles in certain circumstances. If an organization provides transportation to the public, equivalent accessible transportation for people with disabilities must be provided.
- ✓ Maintain accessible features of facilities and equipment.
- ✓ Design and construct new facilities and, when undertaking alterations, alter existing facilities in accordance with the Americans with Disabilities Act Accessibility Guidelines issued by the United States Access Board and incorporated in the U.S. Department of Justice Title III regulations.

FOUR STEPS TOWARD ADA COMPLIANCE

Public accommodations, including organizations who contract with the City of Oakland, must take action to overcome four fundamental types of barriers in order to comply with ADA requirements and provide people with disabilities an equal opportunity to benefit from services. Fundamental types of barriers include:

- (1) attitudinal barriers;**
- (2) discriminatory policies, practices, and procedures;**
- (3) communication barriers; and**
- (4) architectural barriers.**

The remainder of this guide will elaborate upon actions to facilitate the removal of these four types of barriers.

STEP ONE: CHANGING ATTITUDES

Opening doors to public accommodations for persons with disabilities

An attitudinal barrier can be defined as a way of thinking or feeling that limits the potential of people with disabilities to function independently within society and to receive services otherwise available to the public.

How important is disability-related staff training?

In order to make ADA compliance efforts truly successful, staff must have the skills and the willingness to respond to the needs of clients with disabilities. Staff training is essential to overcoming attitudinal barriers that prevent people with disabilities from receiving equally effective services.

Disability awareness training should include efforts to ensure that staff members: (1) overcome their fears and stereotypes of people with disabilities; (2) learn about the rights of people with disabilities and the responsibilities of private and nonprofit entities under the ADA; and (3) develop the skills and resources to provide equally effective services to people with disabilities.

People with disabilities who are familiar with the ADA can provide the best initial training for your organization. Local independent living centers can be an excellent resource for meeting persons with disabilities who can provide pertinent training and technical assistance:

California Foundation of Independent Living Centers

916-325-1690 (Voice)

www.cfilc.org

Oakland Center for Independent Living

510-763-9999 (Voice)

www.cilberkeley.org

Negative myths about disability tend to lessen opportunities for social contact between people with and without disabilities. It is crucial that people who attend disability awareness training have the opportunity

to meet and ask questions of people with a wide variety of disabilities. Panel discussions often provide the best opportunity for this dialogue and serve as a possible springboard for further contact and cooperation.

High quality disability awareness training should be led by facilitators who have the skills to create an environment in which people feel free to discuss the fears that they have and the stereotypes that they may hold.

We've never had a client with a disability — how do we conduct outreach to the disability community?

The intention of the ADA is to bring people with disabilities into the mainstream of American society.

The ADA requires that private and nonprofit entities make their programs and services accessible, even if organizations have no record of serving a client with a disability.

The following actions have proven effective in creating a client base of people with disabilities:

1. **Institute an ongoing campaign to publicize your programs and services to people with disabilities. Send disability-specific program information to local advocacy agencies for persons with disabilities, such as the California Department of Rehabilitation, campus disabled student services offices, independent living centers, and rehabilitation hospitals and clinics.**
2. **Establish links with organizations in your community that provide advocacy and services to people with disabilities, such as independent living centers. Invite their representatives to speak at staff meetings and send your staff to speak at their events.**
3. **Actively seek qualified persons with disabilities when searching for advisory board members.**
4. **Actively seek qualified persons with disabilities when hiring new staff members. You may want to consult with agencies such as the California Department of Rehabilitation, California Independent Living Centers, the California Employment Development Department, disabled student service programs at local colleges and universities, and specific disability agencies to help you find qualified applicants.**

Many other organizations can also be useful for networking and training purposes. Remember to include advocacy groups for parents of children with disabilities and advocacy organizations for people with specific disabilities, such as arthritis, cerebral palsy, multiple sclerosis, muscular dystrophy, and vision and hearing disabilities. Do not forget your local mental health association, and local veterans' and seniors' groups. The City of Oakland *Disability Resources Guide* and your local United Way may help you to locate these organizations.

Wherever possible, develop outreach materials in formats that are accessible to people with disabilities, such as in large print, audio format, or on computer disk. Also, arrange for any outreach videos to be captioned for the Deaf and people who are hard of hearing. (See page 20 for more information.)

DISABILITY ETIQUETTE

Although there are no formal written guidelines on disability etiquette, there are a few basic etiquette rules which are generally accepted within the disability community:

Use PERSON FIRST language: Refer to the individual first, and always use the noun form of disability rather than the adjective. For example, you should use "person with a disability" instead of "disabled person," and "person who has epilepsy" rather than "person who is epileptic." It is suitable to refer to people who have hearing loss but communicate in spoken language as "hard of hearing." Individuals with profound hearing loss and who usually communicate through some form of sign language most often refer to themselves as "Deaf," with a capital "D."

Do not refer to people who do not have a disability as NORMAL or HEALTHY: This implies that there is something abnormal or unhealthy about people with disabilities. Instead, use "people without disabilities" or "non-disabled."

Avoid NEGATIVE STEREOTYPES: Do not use language which supports an old view that people with disabilities are hopeless or in constant distress. Similarly, do not use language that portrays individuals with disabilities as superheroes.

1. Words such as "cripple," "victim," "afflicted," "suffers from," "invalid," "handicapped," "wheel-chair-bound," and "special" are not appropriate. Remember, *handicap* is not a synonym for disability, but a barrier imposed by society. *Handicap* can be used when citing laws and physical barriers, but not to describe an individual.
2. Words such as "brave," "courageous," and "inspirational" should not be used unless the situation is such that the individual performed a brave act.

BE RESPECTFUL: Extend to individuals with disabilities the same respect and courteous behavior as you would to individuals who are non-disabled.

1. Always talk directly to the person with a disability and not to their companion or language interpreter.
2. Items such as canes, wheelchairs, crutches, communication equipment and other assistive devices are personal property, and should not be touched, used, or played with by any other persons without the explicit permission of the owner.
3. Never patronize or treat individuals with disabilities as though they have less intelligence or capability.
4. It is appropriate to offer assistance to an individual with a disability. Be respectful that they may refuse your help. If they do accept your offer, wait for instructions on how best to help or ask the individual how you may be of assistance.

STEP TWO: CREATING CHANGE

Revising policies, practices, and procedures

Access for people with disabilities is often thought of in terms of physical access to the built environment. Most people understand the need for ramps, curb ramps, and parking spaces for people with disabilities. What many do not consider are the non-physical barriers people with disabilities face – policies, practices, and procedures that discriminate or tend to discriminate on the basis of disability. We cannot see these “administrative barriers,” but they have as much impact on people with disabilities as physical barriers or obstacles.

The ADA sets forth a substantial number of requirements to protect people with disabilities from administrative barriers. It is necessary for organizations to review existing policies, practices, and procedures and adopt new ones in order to avoid discrimination and ensure compliance with ADA Title III requirements. This administrative review should be performed by the executive director or another individual who is thoroughly familiar with the organization and has the authority to effect policy changes.

The following section is intended to answer questions that you may have about specific policies, practices, and procedures relevant to organization operation.

For sample ADA policies and procedures, see Appendix B.

FIRST CONTACT

Discrimination against people with disabilities often occurs during first contact. Therefore, an important first step is to evaluate the policies, practices, and procedures of your admissions process. The admissions process includes recruitment, referral, screening, and intake of clients with disabilities – everything that occurs prior to receipt of services or participation in the program.

May we refuse to serve people with certain disabilities?

No. Organizations may not refuse to serve people solely based upon disability. Blanket policies, practices, and procedures that prohibit the participation of people with

disabilities are discriminatory and are in violation of the Americans with Disabilities Act.

May we decide to restrict the participation of people with certain disabilities?

No. Organizations should not presume that an individual or group of individuals with a certain disability can or cannot participate in a program. An important step in ensuring nondiscrimination on the basis of disability is to establish procedures by which each individual is evaluated based upon his or her unique needs and abilities.

Even if architectural or communications barriers seemingly prevent access for people with certain disabilities, the program must give each individual with a disability an opportunity to determine for him or herself whether he or she can function within the program’s constraints.

EXAMPLE: A day program for seniors has no funds to hire staff with special training in communicating with people who have speech impairments. The program cannot refuse to admit people with severe speech impairments (such as those caused by a stroke) based upon this constraint. An individual with speech impairment must be apprised of the program’s limitations, and may be referred to other programs seemingly more suited to his or her needs. The individual, however, can still opt to participate in the day program.



Can we limit the number or proportion of people with disabilities served by our organization?

No. Quotas are prohibited under the ADA.

EXAMPLE: An organization cannot limit the number of Deaf persons that it serves in a given year based upon the desire to limit the cost of sign language interpreting services.

If architectural, financial, or other constraints limit the number of people with disabilities that a program can serve at any given time, the program must make every effort to ensure that it will provide individuals with disabilities with other options for services, such as a referral to a comparable program. The individual with a disability should be apprised of all options and his or her preferred choice of program must be given primary consideration.

EXAMPLE: An after-school youth activity program has a wheelchair accessible bus, but there is only room for one wheelchair. There is already a participant who uses a wheelchair occupying that space. A person who uses a wheelchair and has the ability to transfer to a seat may opt to ride the bus with their manual wheelchair folded up. A person who cannot transfer to a fixed seat, however, may choose to ride paratransit in order to participate in the program, or may require a referral to an alternate accessible program.

What if a person's disability prevents him or her from meeting our eligibility requirements?

Private and nonprofit organizations may require that people with disabilities meet essential eligibility criteria in order to participate in programs, activities, and services. Programs must demonstrate that these requirements are essential and that no person with a disability is unnecessarily excluded or limited from participation. Essential requirements are those requirements that are fundamental to the nature of a program or activity.

Entities may refuse services to individuals with disabilities who cannot meet these requirements.

EXAMPLE 1: A requirement of minimum vision level (with or without the use of corrective lenses) could be an essential eligibility requirement for an archery class, but not for a sculpture class.

EXAMPLE 2: A media arts program cannot require a California Driver's License as sole proof of identification for program eligibility, because this would exclude otherwise qualified applicants who do not drive because of their disabilities. A California State Identification Card or other official form of identification could be used for this purpose.

The Department of Justice does not consider it discriminatory for an organization specializing in a particular area to refer an individual with a disability to a different organization if (1) the individual is seeking a service or treatment outside the referring program's area of expertise; and (2) the program would make a similar referral for an individual who does not have a disability.

EXAMPLE: A family literacy program offers several literacy classes for recent immigrants. A wheelchair user who was born and raised in California, but who cannot read or write, applies for admission into one of the literacy classes for immigrants. The program can refer this applicant to another local agency that provides literacy classes for non-immigrants in a wheelchair accessible location.



Studio One Art Center, located at 365 - 45th Street, offers integrated arts and media programs for youth with and without disabilities through the City of Oakland Office of Parks & Recreation.

May we require more information or documentation from persons with disabilities than other applicants or participants, such as health information?

No. Programs cannot require that people with disabilities provide information not required of other applicants. Eligibility for participation may not be determined based upon disability unless the program or service is specifically designated for people with disabilities.

EXAMPLE: A youth sports program cannot require that an applicant with HIV provide medical records or disclose health information that is not required of other applicants. A housing referral program for people with HIV/AIDS can, however, ask for certification that applicants have HIV/AIDS.

Can we refuse services to individuals currently engaging in illegal use of drugs?

Yes. The Department of Justice offers the following guidance in regard to the illegal use of drugs by those seeking public services:

Drug addiction is an impairment under the ADA... Protected individuals include persons who have successfully completed a supervised drug rehabilitation program or have otherwise been rehabilitated successfully and who are not engaging in

*current illegal use of drugs. In addition, discrimination is prohibited against an individual who is currently participating in a supervised rehabilitation program and is not engaging in current illegal use of drugs. Finally, a person who is erroneously regarded as engaging in current illegal use of drugs is protected.*⁵

A public accommodation generally may base a decision to withhold services or benefits in most cases on the fact that an addict is engaged in the current and illegal use of drugs.

*Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. It does not include use of controlled substances pursuant to a valid prescription or other uses that are authorized by the Controlled Substances Act or other Federal law. Alcohol is not a "controlled substance," but alcoholism is a disability.*⁶

The Department of Justice defines current use as:

*The illegal use of controlled substances that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem. Therefore, a private entity should review carefully all the facts surrounding the belief that an individual is currently taking illegal drugs to ensure that the belief is a reasonable one.*⁷



Is drug testing permitted under the ADA?

Yes. The Department of Justice has indicated:

*Public accommodations may utilize reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.*⁸

It is important not to discriminate against those who use medications appropriately. Sometimes individuals who are using prescription medications appropriately will test positive, even if they have not been using drugs illegally, because the drug test is not sensitive enough to differentiate between types of drugs.

Can we refuse to serve an individual whose disability poses a direct threat to the health and safety of others?

Yes. One of the rare instances in which a program may deny participation in activities to a person based upon disability is when the individual's disability legitimately presents a direct threat to the health or safety of others **AND** the direct threat cannot be eliminated or reduced to an acceptable level by reasonable changes to policies, practices, or procedures or by the provision of auxiliary aids and services. The program must establish that the threat is real and not based upon preconceptions or unwarranted fears about the individual's disability. Assessments must consider both the particular activity and the actual abilities and disabilities of the individual.

The Department of Justice gives the following guidance for direct threat assessment:

The individual assessment must be based on reasonable judgment that relies on current medical evidence, or on the best available objective evidence, to determine —

- 1) The nature, duration, and severity of the risk;*
- 2) The probability that a potential injury will actually occur; and*
- 3) Whether reasonable modifications of policies, practices, or procedures will mitigate or eliminate the risk.*

Such an inquiry is essential to protect individuals with disabilities from discrimination based on prejudice, stereotypes, or unfounded fear, while giving appropriate weight to legitimate concerns, such as the need to avoid exposing others to significant health and safety risks. Making this assessment will not usually require the services of a physician.⁹

Sources for medical knowledge include public health authorities, such as the U.S. Department of Health and Human Services (www.hhs.gov), the Centers for Disease Control and Prevention (www.cdc.gov), the National Institutes of Health (www.nih.gov), and the National Institute of Mental Health (www.nimh.nih.gov). The U.S. National Library of Medicine and the National Institutes of Health provide an excellent resource for medical information called MedlinePlus which offers extensive health information about 700 topics on conditions, diseases and wellness. To use this resource, go to the MedlinePlus website (<http://medlineplus.gov>) and click on "Health Topics."

EXAMPLE 1: A youth counseling program may not refuse to admit an individual because he or she has advanced facial melanoma (skin cancer). Cancer is not a direct threat to the health and safety of other program participants because it cannot be transmitted through casual contact.

EXAMPLE 2: A childcare program may refuse to admit a child with a contagious form of tuberculosis if the program finds that it cannot reasonably provide other participants with adequate protection from the disease.

What questions about disability can we ask?

Necessary inquiries about disability include questions asked to provide program modifications, auxiliary aids and services, health care, or emergency services to the client. You may also ask questions to assess the client's conformity with legitimate health and safety requirements, and when necessary for some other essential purpose. Unnecessary inquiries about disability include questions asked to screen out the participation of people with disabilities, to satisfy one's curiosity, or to discriminate in the provision of treatment, health care, emergency services, etc. These types of unnecessary inquiries are in direct violation of the ADA. Public accommodations should adopt policies and procedures to ensure that written and verbal inquiries about disability are limited to necessary questions.

While organizations cannot require that clients disclose information about disability, they may give clients an opportunity to voluntarily provide information about disability. This is especially true if the intention is to use information about disability in order to accommodate clients.

When can we ask questions about disability?

Inquiries about disability made prior to admission, acceptance, or enrollment in programs are generally unnecessary and should not be made, unless having a disability is a requirement for participation in the program. Once a person is admitted to the program, necessary inquiries can be made regarding accommodations that he or she may need. Application forms, consent forms, and other documents should be reviewed and revised accordingly.

EXAMPLE 1: A vocational program for persons who are legally blind may ask for a doctor's letter confirming that the individual is legally blind prior to admission because being legally blind is a prerequisite for participation.

EXAMPLE 2: A childcare program should not ask questions about disability prior to offering a child a place in the program, but may ask necessary questions about disabilities during the admissions process.

Is information about a client's disability confidential?

Yes. Organizations should have a written policy and procedure in place to ensure that records pertaining to a client's disability are kept confidential and not used in a discriminatory manner.

To what extent must we modify our program(s) for individuals with disabilities?

The ADA requires that Title III entities make reasonable modifications to policies, practices, or procedures to ensure equal opportunity and to avoid discrimination against people with disabilities. Reasonable modification means any modification that does not fundamentally alter the nature of the program. Clients should be consulted as to the modifications they will need to participate successfully in the program.

EXAMPLE 1: An after-school youth program whose policy is that parents or guardians must pick up children may need to modify its policy to accommodate children with disabilities who are picked up by certified paratransit drivers.

EXAMPLE 2: A childcare center that serves two-to-five-year old children and provides diapering and toileting assistance for children less than three years of age cannot refuse to provide these services to a child who is four years old and needs diapering or toileting assistance because of her disability. The center must reasonably modify its policy to provide diapering or toileting assistance when needed for older children with disabilities, as long as staff would not be required to leave other children unattended in order to provide this service.



Inclusive Recreation Supervisor, Scott Means, provides instruction to youth in American Sign Language during an arts project.

EXAMPLE 3: A swimming program at a community recreation center has a policy of prohibiting the use of swim fins to reduce the risk of potential injury to other swimmers. The program must modify this policy to allow a person who has a mobility disability who swims well when using fins, but cannot swim without fins, to swim with fins so that he can participate in the program on an equal basis.

EXAMPLE 4: A domestic violence prevention program offers informational workshops and counseling at a community location that is not wheelchair accessible. A woman who is eligible for the program's services and is a wheelchair user wishes to attend counseling sessions with her partner. Upon the woman's request, the program must make arrangements to provide counseling to the couple at an alternate community location that is wheelchair accessible, or to provide it in the couple's home.

When is it appropriate to place persons with disabilities in programs designed especially for them?

The primary emphasis of organizations in serving persons with disabilities must be integration into regular programs. However, the ADA does not prohibit the establishment of target programs to serve communities of persons with disabilities, such as a day program for seniors with Alzheimer's disease.

Nevertheless, individuals with disabilities cannot be excluded from regular programs or be required to accept separate services or benefits simply because target programs are available.¹⁰

EXAMPLE: Your organization has established a day program for seniors with Alzheimer's disease. You offer this separate program in order to meet the unique cognitive and environmental needs of this population. Your organization cannot, however, require that seniors with early Alzheimer's disease only participate in this separate program, or refuse to admit them to your organization's day programs for seniors because of their disability.

Can persons with disabilities refuse separate services and choose instead to participate in regular programs?



Individuals with disabilities are provided with reasonable modifications and auxiliary aids and services to City of Oakland programs in an integrated setting.”

Yes. Persons with disabilities are entitled to participate in regular programs whether or not program personnel believe that they can benefit from regular services. The existence of separate programs does not excuse entities of their obligation to provide reasonable modifications and auxiliary aids and services to individuals choosing to participate in regular programs. (See page 17 for an explanation of auxiliary aids and services.)

EXAMPLE: Rainbow Studio, a cultural arts program, offers multi-media art classes. A quadriplegic named Lee applies to the studio. Program staff advise Lee that many of the activities that make up the program require dexterous use of paintbrushes and other tools. They suggest an alternate program that offers separate classes for persons with physical disabilities.

Lee chooses to join the Rainbow Studio program despite the availability of a separate program for people with physical disabilities. Lee believes that she can perform the requisite activities if Rainbow Studio provides some program modifications.

Rainbow Studio may limit the extent of modifications provided to Lee because of the availability of an appropriate alternative program, but they cannot refuse to admit Lee. Rainbow Studio must still reasonably accommodate her, but they need not make extraordinary modifications, such as the purchase of costly specialized tools. They may also modify Lee's curriculum, with input from her regarding which projects she is able to perform.

Is our program required to cover the cost of personal equipment and attendant services?

No. A public accommodation is required to provide auxiliary aids [such as a Telecommunications Device for the Deaf (TDD) or TeleTypewriter (TTY)] and assistance to persons with disabilities (such as help with filling out application forms) in order to ensure effective communication. However, a public accommodation is not required to provide equipment or services of a personal nature (such as wheelchairs, prescription eyeglasses, hearing aids, or assistance in eating, toileting, and dressing).¹¹

Can we charge people with disabilities for the extra costs of providing services to them?

No. If ADA compliance measures may result in an additional cost for serving clients with disabilities, organizations may raise the fee for all clients. They may not, however, place a surcharge “on particular individuals with disabilities or groups of individuals with disabilities to cover these expenses.”¹²

EXAMPLE: A health education and screening program for youth is located on the second floor of an older four-story building that does not have an elevator. The director has determined that providing physical access to the program for those unable to climb stairs would not be readily achievable, and she has thus chosen to provide off-site services as a readily achievable alternative to barrier removal.

Health educators or nurses will visit clients off-site, if needed. The program may not charge individuals with disabilities for the additional cost of providing off-site services to them.

Can we prohibit smoking?

Yes. The Department of Justice has indicated that public accommodations are permitted to prohibit or impose restrictions on smoking at their facilities.¹³

Must we allow the use of service animals in our facility?

Yes. Private and non-profit entities must allow a service animal (such as a guide, hearing or companion dog, or any other animal trained to perform tasks for the benefit of an individual with a disability) to accompany a person with a disability for all services except when doing so would fundamentally alter the particular activity or jeopardize the safe operation of the program. (These instances are very rare.) Furthermore, the owner may not be charged a deposit as a condition for permitting the service animal into the facility. It is the responsibility of the animal’s owner to feed, walk, and care for the service animal in any other way.¹⁴

EXAMPLE: An individual who is blind wishes to be accompanied by his guide dog to an organization’s annual open house event. The organization must permit the guide dog to accompany its owner in all areas of the facility open to the public, including eating areas, and may not insist that the dog be separated from him at any time.

Service animals are not pets, and must be permitted in and around the facilities of your organization even if you currently uphold a no pet policy. Service animals must be permitted in all areas of business where the general public is normally allowed to go. This includes facilities where food is being sold or prepared, regardless of state or local health codes.¹⁵



Service animals and emotional support animals are permitted to accompany their owners into all City of Oakland buildings, facilities and events, and onto the premises of contractors providing City programs, activities and services.

People with Disabilities and Their Allies Are Protected from Retaliation and Coercion

Organizations may not take any retaliatory action against persons who exercise their rights under the ADA, or individuals who assist others in exercising their rights. This protection extends to employees who may provide people with disabilities with information about their rights under the ADA, or may assist people with disabilities to exercise these rights.¹⁶

STEP THREE: UNDERSTANDING IS EVERYTHING

Overcoming communications barriers

The ADA requires private and nonprofit organizations to ensure that communications with people with disabilities are as effective as communications with others. Organizational activities which involve communications include, but are not limited to, outreach, education, admission interviews, provision of direct services, meetings, telephone, electronic and mail communications, special events, and health services. Removing communication barriers is especially important for people who are Deaf or hard of hearing, or have speech, vision or learning disabilities.

What are auxiliary aids and services?

Auxiliary aids and services include a wide range of services and equipment that allow people with disabilities to communicate and access information. "The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved," and the individual's preference and ability to use a particular aid or service.¹⁷ The Department of Justice offers the following examples of auxiliary aids and services:



Sign Language interpreters and other auxiliary aids are available upon request at all City sponsored events and meetings to ensure integration of persons with disabilities.

Auxiliary aids and services include... qualified interpreters, note takers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD's), video-text displays, and exchange of written notes.

Examples for individuals with vision impairments include qualified readers, taped texts, audio recordings, Brailled materials, large print materials, and assistance in locating items.

Examples for individuals with speech impairments include TDD's, computer terminals, speech synthesizers, and communication boards.¹⁸

Other auxiliary aids which may provide effective means of communication with and for individuals with disabilities include offering materials on computer disk and providing assistance with the completion of forms.

What auxiliary aids and services must we provide?

Public accommodations should be prepared to provide a wide variety of auxiliary aids and services to people with disabilities. The ADA suggests that individuals with disabilities be given the opportunity to request the auxiliary aids and services of their choice, and that primary consideration be given to the choice expressed by the individual.

It is important to consult with the individual with a disability to determine the most appropriate auxiliary aid or service because the individual is most familiar with his or her disability, and is in the best position to determine the most effective aid or service.

For example, some individuals who are Deaf since birth, or who lost their hearing before acquiring language, use sign language as their primary form of communication. They may be uncomfortable or not proficient with written English. This can make use of

a notepad an ineffective method of communication for them. However, some individuals who lose their hearing later in life can communicate most effectively through writing, and may not be skilled in sign language.

While consultation with the person with a disability who is requesting the auxiliary aid or service is strongly encouraged, the organization makes the ultimate determination of which measures to take, provided that the method chosen results in effective communication.¹⁹

LIMITATIONS AND ALTERNATIVES

The ADA does not require entities to provide “any auxiliary aid or service that would fundamentally alter the nature of the goods or services offered or that would result in an undue burden.”²⁰

What is a fundamental alteration?

A fundamental alteration, as defined by the Department of Justice, is “a modification that is so significant that it alters the essential nature of the goods, services, facilities, privileges, advantages, or accommodations offered.”²¹

EXAMPLE 1: Allowing persons who use wheelchairs to participate in a standard basketball program would alter the essential nature of the activity. Establishing a separate wheelchair basketball program with competitions between non-disabled and wheelchair athletes is a reasonable alternative.

EXAMPLE 2: A youth program that provides after-school tutoring in a quiet, study hall environment cannot restrict the participation of a teenager who uses a speech synthesizer on the grounds that the synthesizer’s speech output would fundamentally alter the quiet environment. Procedures could be modified to accommodate the teenager.

What is an undue burden?

Undue burden is defined as “significant difficulty or expense.” The Department of Justice advises programs to consider the following factors in determining whether an action would result in an undue burden:²²

- 1) *The nature and cost of the action;*
- 2) *The overall financial resources of the site or sites involved; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements necessary for safe operation, including crime prevention measures; or any other impact of the action on the operation of the site;*
- 3) *The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;*
- 4) *If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and*
- 5) *If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.*

Any program that cannot provide an accommodation on the basis of fundamental alteration or undue financial burden concerns should make every effort to provide an equally effective alternative accommodation. The program should carefully document the entire process and be prepared to substantiate its claim of fundamental alteration or undue burden in a court of law.

EXAMPLE: An individual who is Deaf requests that a sign language interpreter be provided at all times while he is participating in a short-term housing for the homeless program called Bridges. Bridges operates on a small budget and cannot afford to hire an interpreter for frequent and extended periods of time. Bridges staff tried and failed to find volunteer interpreters. Bridges determines that it would be an undue financial burden to provide professional interpreting services for all aspects of services, but resolves to provide an interpreter for important and complex activities and services such as housing referral activities, group meetings, etc. Furthermore, Bridges welcomes the client to bring a friend or relative to interpret for him at other times, and makes a computer terminal available for typed communications between the Deaf client and program staff.

Who is qualified to provide sign language interpreting services?

Your organization must ensure that any interpreter it hires or otherwise provides is qualified. A number of sign language systems exist, with the most commonly used systems being American Sign Language and Signed English. Individuals who use one form of sign language may not be able to communicate effectively with an interpreter who does not use that same sign language system. A qualified interpreter is “an interpreter who is able to sign to the individual who is

deaf what is being said by the hearing person and who can voice to the hearing person what is being signed by the individual who is deaf.” This communication must be conveyed in the type of sign language used by the person who is Deaf “effectively, accurately, and impartially through the use of any necessary specialized vocabulary.”

EXAMPLE: Healthy Seniors, a non profit organization that provides one-on-one counseling for seniors to better understand their Medicare health insurance options, has provided an interpreter for Robert, a senior who is Deaf. Although Robert and the interpreter are both able to communicate through American Sign Language, the interpreter may not be considered a qualified interpreter if she is unable to accurately describe some of the health systems jargon due to her lack of health systems experience.

How do we make telephone communications accessible?

If your organization has frequent or extensive telephone communications with clients and members of the general public, a Telecommunication Device for the Deaf (TDD) or Tele-Typewriter (TTY) makes telephone communications accessible to individuals who are Deaf, hard of hearing, or people who have a speech impairment. A TTY allows individuals to communicate over regular telephone lines through text rather than voice. Often, a continuous tone or a

series of beeps will be heard when an individual calls from a TeleType-writer. This is the signal to place the phone receiver in your TTY machine and begin text communication. You may consider installing a separate telephone line for TTY calls to eliminate confusion when receiving a TTY signal over the voice telephone line. If you do provide a separate TTY phone line, that number should be listed wherever you advertise the number for your voice telephone service.

In California, individuals who use a TTY may communicate with agencies without a TTY through a service called the California Relay Service, reached by dialing 711. An operator acts as an intermediary, reading to the agency staff what the TTY caller is typing, and typing to the TTY caller what the agency staff is saying. Until your organization obtains a TTY, it should use the relay service to call clients who have TeleTypewriters. Staff should be advised that some individuals will use the relay service to call, even if you have a TeleType-writer. These calls should always be accepted.

Some Deaf or hard of hearing persons, and some individuals with speech disabilities, may find it more efficient to use e-mail, faxes, or text messaging as a means of communication. In determining the best means of contacting a person with a hearing or communication disability, you may ask if the person has access to e-mail, text messaging or a fax machine, and if they would prefer this means of communication to a TTY call.

What about outgoing calls by clients, customers, or program participants?

The Department of Justice advises that, “TDD’s must be provided when customers, clients, patients, or participants are permitted to make outgoing calls on ‘more than an incidental convenience basis.’”²⁴ If you regularly allow use of agency telephone lines, you must also have a TTY device on-hand for use by clients who are Deaf or hard of hearing.

What emergency communication and evacuation assistance must we provide for people with disabilities?

As a matter of public safety, and because the City of Oakland has its own obligations under Title II of the ADA and other federal laws, the City may require the programs and services it funds to ensure that people with disabilities are provided with evacuation assistance in emergencies.

In an emergency, evacuation routes and procedures need to be appropriately communicated to people with vision, hearing and cognitive disabilities, who may not be able to hear or understand spoken instructions, or read posted evacuation route maps. People with disabilities, due to difficulties with mobility, vision or communication, may need to be escorted to areas of safety.

The Deaf and individuals who are hard of hearing may need to be given written evacuation instructions, in clear, simple language. Evacuation routes may need to be clearly described orally to people with vision impairments. People who are blind or have limited vision may need to be guided to safety exits. People with cognitive or learning disabilities may need to be provided with a combination of written and spoken instructions in simple language, and may need to be escorted to safe areas.

The *ADA Accessibility Guidelines (ADAAG)* requires you to provide areas of rescue assistance for people with disabilities on floors above or below the ground floor of your facility.²⁵ A means of two-way communication, to call for help, which makes use of both visual and audible signals, must be provided at all areas of rescue assistance.²⁶ This means of communication should not depend on voice alone, as that may be non usable by people with hearing or speech disabilities.

EXAMPLE: Providing a signal light, in addition to an audible signal, in an area of rescue assistance that is activated by a push of a button once the request for assistance has been received by a responder would allow the Deaf persons who are waiting for assistance to know that help is on the way.

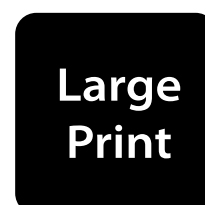
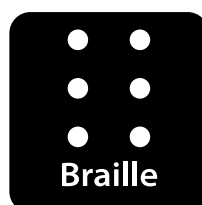
In an emergency, first responders (such as firefighters, paramedics and police) should be specifically notified whenever people are waiting to be evacuated at areas of rescue assistance. Notification information should include the number of people waiting, exactly where they are waiting, and a description of their needs.

For more information about ADAAG accessibility requirements for facility evacuation routes, exits, and areas of rescue assistance, see page 24.

How do we make print, audio and videocassettes, and other program materials accessible?

Public accommodations should be prepared to provide alternative format program materials upon request by persons with disabilities. Alternative formats include, but are not limited to:

- Audio versions (CD or cassette tape), large print, computer disk, Braille or raised text format may be made available to blind or visually impaired individuals.
- Computer disk format may be made available for people with limited upper body use.
- Videotapes may be made available to Deaf or hard-of-hearing individuals in captioned format (with subtitles).
- Audiotapes may be made available to Deaf or hard-of-hearing individuals in print format.



How can we make advertisements accessible?

If your organization advertises its services, then these advertisements should be made in a sufficient variety of formats to ensure accessibility for people with disabilities. For example, radio advertisements are not accessible to Deaf persons, and newspaper advertisements are not readily accessible to individuals who are blind. To reach both groups of people, both of these forms of advertising need to be used.

In addition, organizations should make an effort to advertise to agencies that provide services to people with disabilities. The City of Oakland's *Disability Resources Guide* contains contact information for many local disability organizations.

What can we do to make the information we provide on the Internet accessible?

Some carefully thought out, relatively simple steps in web design can greatly increase accessibility for Internet users with disabilities. For example, people with vision disabilities and learning disabilities frequently use screen readers (devices and software that provide voice output, so that text on the computer screen is read aloud). However, not all web pages are compatible with screen readers, which cannot show or describe graphics. Providing text captions for all graphic images on web pages is part of affording accessibility to screen reader users.

Navigating web pages can also pose challenges for the Deaf and people with mobility disabilities. For instance, many people with hand and arm mobility impairments may have difficulty using a mouse. Scroll down menus and rollover navigational links are often not accessible for them. Site maps can be an easier to use alternative. Site maps are also useful for people who utilize screen readers.

Audio video feed posted on web sites can limit the ability of a Deaf person to receive information if it is not captioned or a text equivalent is not provided on the web site.

The Section 508 Web Accessibility Guidelines, developed by the U.S. Access Board, apply to all federal web pages, and to the web pages of all agencies that interact with the federal government. The World Wide Web Consortium (W3C) is the organization that standardizes the programming language followed by all web developers. The Web Accessibility Initiative (WAI) of the W3C has also established specific guidelines for designing accessible web pages. Both the U.S. Access Board and the W3C have published information about their respective sets of guidelines on the Internet.

To learn about the U.S. Access Board's Section 508 Web Accessibility Guidelines or to obtain quick tips for designing an accessible web site, visit:

W3C Web Accessibility Initiative
www.w3c.org/WAI/Resources

In addition, the U. S. Department of Justice has published an excellent 5-page booklet, *Accessibility of State and Local Government Websites to People with Disabilities*, which is available on its web site, at the following web address:

www.usdoj.gov/crt/ada/websites2_prnt.pdf

DESIGNING AND SELECTING OUTREACH, EDUCATIONAL, AND OTHER PROGRAM MATERIALS

Title III entities should include the following in all outreach, educational, and other materials that they produce:

- A statement of the organization's responsibilities under the ADA and its commitment to provide effective communication to people with disabilities. (*See the sample policies "General Policies: Statement of Non-Discrimination," and "Communication Access: General Policy" in Appendix B.*)
- A description of the accommodations and resources that the organization has available for people with disabilities.

Educational or other material produced by your organization should not contain any discriminatory language or stereotypical representation of people with disabilities. Organizations should also take steps to ensure that no material produced by



New and modified web content produced by the City of Oakland is designed to be universally accessible.

others, but distributed by the organization, contains any discriminatory language or stereotypical representation of people with disabilities.

MAKING PUBLIC MEETINGS AND EVENTS ACCESSIBLE

The City of Oakland has its own obligations under Title II of the ADA and other federal laws. Thus, the City must ensure that special events it funds or sponsors are accessible to people with disabilities. The programs, activities and services that the City funds should therefore hold all of their public meetings and special events in locations that are accessible to people with disabilities, and ensure that communication accessibility is provided.

People with disabilities must be informed that these public meetings and events are held in an accessible location, and that they may request auxiliary aids and services from the program in advance of the meeting or event to ensure that effective communication will be provided. Contact information for requesting auxiliary aids and services should be included in meeting and special event announcements and flyers. These documents should also include a statement that the meeting or event location is accessible. In addition, announcements of public meetings and events can be provided to disability organizations.

What steps must we take?

The City of Oakland has adopted meetings and special events access and notification policies. See Appendix B for an example of sample meeting accessibility and notification policies. The following are minimum guidelines for holding an accessible public meeting or event:

- Make invitations, flyers, and other announcements available in alternative formats upon request (*see page 20*). Provide materials to persons with known disabilities in an accessible format.
- On announcements, include clip and return forms, e-mail addresses, and phone numbers. These will allow persons with disabilities to contact your program in advance in order to request accommodations, such as large-print handouts or sign language interpreter services.
- Hold public meetings and events at a wheelchair accessible location. At a minimum, these sites should have wheelchair accessible parking, entrances, paths of travel, seating, and lavatory facilities.
- Whenever possible, secure a sign language interpreter for the event. Otherwise, provide notice in your advertisements that a sign language interpreter will be available if requested at least three business days in advance. Include contact information for requesting a sign language interpreter.
- Whenever possible, make written handout materials readily available in the following common alternative formats: large print, computer disk, and audio translation.
- When refreshments and handout materials are offered, place them in a location that is accessible for people who have mobility impairments.

STEP FOUR: IT DOESN'T HAVE TO COST MUCH!

Physical access can be readily achieved

What is an architectural barrier?

Architectural barriers are physical elements of a facility that impede access by people with disabilities. These barriers include more than obvious impediments, such as steps and curbs that prevent access by people who use wheelchairs.

In many facilities, telephones, drinking fountains, mirrors, and paper towel dispensers are mounted at a height that makes them inaccessible to people using wheelchairs. Conventional doorknobs and operating controls may impede access by people who have limited manual dexterity. Deep pile carpeting on floors and unpaved exterior ground



An aquatic lift and water-safe wheelchair is available at Temescal Pool in Oakland to provide access in to and out from the pool for persons with mobility impairments.

surfaces often are a barrier to access by people who use wheelchairs and people who use other mobility aids, such as crutches. Impediments caused by the location of temporary or movable structures, such as furniture, equipment, and display racks, are also considered architectural barriers.²⁷

What is a facility?

The term 'facility' includes all or any part of a building, structure, equipment, vehicle, site (including roads, walks, passageways, and parking lots), or other real or personal property. Both permanent and temporary facilities are subject to the barrier removal requirements.²⁸

What scope of renovation is required of our existing facility if our organization is not publicly funded?

Under the ADA, privately operated organizations should remove architectural (or physical) barriers to program areas in existing facilities, where it is readily achievable to do so. Readily achievable is defined by the Department of Justice as "easily accomplishable and able to be carried out without much difficulty or expense."²⁹

Title III of the ADA allows that barriers be removed slowly, over time, as it becomes readily achievable to do so. According to Title III, however, programs should have removed all barriers which can be removed by readily achievable means no later than January 26, 1992. Over time, programs are obligated to take stock of remaining barriers, and to evaluate what resources they have, so that they can determine which additional barriers can be removed.

ADA requirements for new construction and alteration projects are much more stringent than the readily achievable barrier removal standard for existing facilities. Organizations in California must comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and Title 24 of the California Code of Regulations when undertaking a new construction or alteration project.

What scope of renovation is required at our facilities if our organization receives City funding?

The City of Oakland has its own obligations under the ADA and other federal laws; and we may hold organizational programs we fund to a higher standard of access than readily achievable. The City requires that all City funded organizations with 15 or more employees achieve programmatic access. This means that physical barriers to City funded programs and services must be removed whether or not it is readily achievable to do so. Organizations with several facilities may be allowed to make only one facility accessible per this higher standard if each facility provides essentially the same program (same services and target population) and the facilities are located within the same general geographic area.

Programs with fewer than fifteen employees are required to refer persons with disabilities to essentially equivalent accessible programs within their service area. If no such equivalent accessible program is available, City funded programs with fewer than fifteen employees will most likely be required to achieve programmatic access. The City of Oakland's ADA Coordinator can help you determine what is currently required of your program.



To contact the City of Oakland ADA Coordinator:

**ADA Programs Division
City Administrator's Office
1 Frank H. Ogawa Plaza, 3rd Floor
Oakland, CA 94612**

510-238-5219 (Voice)

510-238-2007 (TTY)

510-238-3304 (FAX)

adaprograms@oaklandnet.com

In addition, it is strongly recommended that programs have a long-term plan to achieve programmatic access, whether or not this is immediately required by the City.

Must the emergency evacuation routes of our facilities be accessible?

Yes. Title III of the ADA contains the *Americans with Disabilities Act Accessibility Guidelines* (ADAAG). ADAAG requires an accessible egress route or area of rescue assistance for people with disabilities for each facility exit that is required by the local fire code.³⁰ Wherever emergency alarm systems are provided, an accessible alarm system, with both visual and audible signals, is also required.³¹

Accessible paths of travel to all of your facility's ground floor fire exits should be maintained. Do not narrow these paths of travel, or block them with obstacles such as boxes or furniture. Make sure they are stable, firm and slip resistant, and ensure that exit doors have accessible hardware and can be opened from both inside and outside the facility.

On floors above or below the ground floor, ADAAG requires that you provide areas of rescue assistance to people with disabilities. These accessible areas are generally located near fire doors and near stairwells of adequate width (at least 48 inches) for evacuating wheelchair users. Two-way communication to call for help, using both visual and audible signals, must be provided at areas of rescue assistance. ADAAG contains specific, detailed requirements for the location and configuration of areas of rescue assistance.³²

In an emergency, first responders (such as firefighters, paramedics and police) must be specifically notified whenever people are waiting to be evacuated at areas of rescue assistance. Notification information should include the number of people waiting, exactly where they are waiting, and a description of their needs.

According to the programmatic access standard, communication assistance also must be provided to people with disabilities in an emergency, so that they can be evacuated safely.

(See page 20 of this guide for a discussion of the type of communication assistance you may need to provide to people with disabilities in an emergency.)

How do we determine what renovations to make?

ADAAG or California Title 24 regulations for new construction or alteration projects are often used as the standard to survey an existing facility. Once the survey is complete, you may be able to narrow the scope of renovation depending upon the level of access immediately required or readily achievable. Necessary programmatic access may also narrow the scope of renovation.

Organizations that have not already done so should perform a survey of their facilities to identify physical barriers to programs and services. A person who is familiar with

physical access standards and the operation of your organization should perform the survey. This is important because the surveyor should be able to identify and prioritize physical barriers to program access, not just to identify ADAAG or Title 24 violations in general. A surveyor who understands the nature of your program's activities and services can suggest cost-efficient solutions and alternatives to physical barrier removal. The Department of Justice also advises that this process include consultation with individuals with disabilities or organizations representing them. They can provide useful guidance in identifying the most significant barriers to remove, and the most efficient means of removing them. "A serious effort at self-assessment and consultation can diminish the threat of litigation and save resources by identifying the most efficient means of providing required access."³³

Depending upon the nature of your organization's programs, services and activities, barriers that prevent access to toilet and shower facilities, classrooms, performance spaces, meeting areas, dining halls, counseling offices, medical offices, and other essential program areas would be considered programmatic barriers. Programmatic barriers often also include stairs, narrow doorways, and lack of accessible features such as parking spaces for persons with disabilities, toilet stalls, sinks, showers, pay telephones, and drinking fountains.



Certain rooms and areas, such as restrooms and essential program spaces, must be made accessible. In many cases, however, alternative measures to barrier removal can narrow the scope of renovation required while providing equivalent program access for persons with disabilities.

This may sound very complicated on paper, but in most cases barrier removal is a common sense issue. Becoming familiar with the ADA Title III physical access requirements is an important first step toward undertaking a barrier removal project. You can use the Checklist for Readily Achievable Barrier Removal, Appendix C, to familiarize yourself with ADA physical access requirements and to conduct a general survey of your facility.

What barriers are readily achievable to remove?

There is no definitive answer to this question, because determinations as to which barriers can be removed without much difficulty or expense must be made on a case-by-case basis. The following examples are modifications that may be readily achievable. This list is neither wholly inclusive nor exhaustive, but is intended to be illustrative of many barrier removal activities which may be readily achievable:³⁴

- 1) *Installing ramps;*
- 2) *Making curb cuts in sidewalks and entrances;*
- 3) *Repositioning shelves;*
- 4) *Rearranging tables, chairs, vending machines, display racks, and other furniture;*
- 5) *Repositioning telephones;*
- 6) *Adding raised markings on elevator control buttons;*
- 7) *Installing flashing alarm lights;*
- 8) *Widening doors;*
- 9) *Installing offset hinges to widen doorways;*
- 10) *Eliminating a turnstile or providing an alternative accessible path;*
- 11) *Installing accessible door hardware;*
- 12) *Installing grab bars in toilet stalls;*
- 13) *Rearranging toilet partitions to increase maneuvering space;*
- 14) *Insulating lavatory pipes under sinks to prevent burns;*
- 15) *Installing a raised toilet seat;*
- 16) *Installing a full-length bathroom mirror;*
- 17) *Repositioning the paper towel dispenser in a bathroom;*
- 18) *Creating designated accessible parking spaces;*
- 19) *Installing an accessible paper cup dispenser at an existing inaccessible water fountain;*
- 20) *Removing high pile, low density carpeting; or*
- 21) *Installing vehicle hand controls.*



Accessible door hardware such as vertical door handle grab bars provide access for individuals with limited strength or manual dexterity.

How do we determine when barrier removal is readily achievable?

The Department of Justice states:

Determining if barrier removal is readily achievable is necessarily a case-by-case judgment. Factors to consider include:

- 1) *The nature and cost of the action;*
- 2) *The overall financial resources of the site or sites involved; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements necessary for safe operation, including crime prevention measures; or any other impact of the action on the operation of the site;*

- 3) *The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;*
- 4) *If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and*
- 5) *If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.*

If the public accommodation is a facility that is owned or operated by a parent entity that conducts operations at many different sites, the [program] must consider the resources of both the local facility and the parent entity to determine if removal of a particular barrier is 'readily achievable.' The administrative and fiscal relationship between the local facility and the parent entity must also be considered in evaluating what resources are available for any particular act of barrier removal.³⁵

▶
A ramp was installed to provide access to the photography dark room at Studio One Arts Center.

Does the ADA permit covered entities to consider the effect of a modification on the operation of its programs, activities, and services?

Yes. "The ADA permits consideration of factors other than the initial cost of the physical removal of a barrier."³⁶ Other factors may include the effect of a modification on the operation of programs, activities, and services.

EXAMPLE: A small photography studio offering workshops is considering setting up an area for a wheelchair user to have access to equipment. After an appropriate access survey and consultation, it is determined that the only way to add an accessible station would be to eliminate three current stations. The loss of two stations, and therefore two students per workshop, can be considered in the process of determining whether adding an accessible station would be readily achievable.

What are the priorities for barrier removal?

The Department of Justice has recognized that resources may not be adequate for removal of all existing barriers. Their list of priorities is provided "to facilitate long-term planning and to maximize the degree of effective access that will result," as follows:

A public accommodation's first priority should be to enable individuals with disabilities to physically enter its facility. This priority on "getting through the door" recognizes that providing physical access to a facility from public sidewalks, public transportation, or parking is generally preferable to any alternative arrangements in terms of both business efficiency and the dignity of individuals with disabilities.

The next priority is for measures that provide access to those areas of a public accommodation where goods and services are made available to the public. ...



The third priority should be providing access to restrooms, if restrooms are provided for use by customers or clients.

The fourth priority is to remove any remaining barriers to using the public accommodation's facility, for example, lowering telephones.³⁷

These priorities are recommended, and are therefore not mandatory. It is wholly appropriate and necessary that organizations use this priority list as a reference, and exercise discretion in determining barrier removal precedence within and around their own facilities.

If we find barriers that should be removed, but it is not readily achievable to undertake all of the modifications now, what should we do?

It is recommended that organizations develop an implementation plan should all necessary modifications for barrier removal not be readily achievable. If designed and executed well, an implementation plan "could serve as evidence of a good faith effort to comply with the ADA's barrier removal requirements."³⁸

What are "alternatives to barrier removal?"

When a program can demonstrate that the removal of barriers is not readily achievable, the program must make its services available through alternative methods, if such methods are readily achievable.

EXAMPLE: A youth program that has classrooms upstairs and downstairs determines that it is not readily achievable to provide a ramp or elevator to these upstairs rooms. However, the program is still required to provide access to its services, if any readily achievable alternative method of delivery is available. Therefore, this program would be required to make its services available in downstairs classrooms when needed.

How can we determine if an alternative to barrier removal is readily achievable?

"The factors to consider in determining if an alternative is readily achievable are the same as those that are considered in determining if barrier removal is readily achievable."³⁹ (See page 26.)

If we provide services through alternative measures, such as home visits, may we charge the client for this separate service?

No. Increased fees or surcharges are not permitted to be imposed on individuals with disabilities for receiving services through an alternative method provided as an accommodation when your facility is not in compliance with accessibility guidelines.⁴⁰ It may be permitted to impose or raise fees associated with receiving services through your organization to offset your costs of providing services, but only if they are levied at an equal rate to all individuals your program serves regardless of whether or not they receive alternative accommodations.

May we consider security issues when determining whether an alternative is readily achievable?

Yes. "Security is a factor that may be considered when a public accommodation is determining if an alternative method of delivering its goods or services is readily achievable."⁴¹

Must barriers be removed in areas used only by employees?

No. "The 'readily achievable' obligation to remove barriers in existing facilities does not extend to areas of a facility that are used exclusively by employees as work areas."⁴² However, if one or more employees have disabilities which need to be accommodated through barrier removal, then barrier removal must be carried out unless it poses an undue hardship to the employer. This undue hardship standard is established by Title I of the ADA.

Are portable ramps permitted?

Yes, but “only when the installation of a permanent ramp is not readily achievable. In order to promote safety, a portable ramp should have railings and a firm, stable, non-slip surface. It should also be properly secured.”⁴³

Do we have to install an elevator?

“The readily achievable standard does not require barrier removal that would necessitate extensive restructuring or burdensome expense.”⁴⁴ However, if you are substantially altering your facility, or constructing a new building, then an elevator may be required. According to the programmatic access standard, small, privately operated organizations that have limited budgets generally would not be required to remove a barrier to physical access posed by a flight of steps, if removal would require extensive ramping or an elevator. However, the programmatic access standard requires that program services be moved to an accessible site when needed.

Does the ADA require barrier removal in historic buildings?

Yes, if it is readily achievable. However, the ADA takes into account the national interest in preserving significant historic structures. Barrier removal would not be considered readily achievable if it would threaten or destroy the historic significance of a building or facility that is eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470, et seq.), or is designated as historic under State or local law.⁴⁵

EXAMPLE 1: An organization is located in a century-old house that was designed by a famous architect and is listed in the National Register of Historic Places. An architect familiar with disability access regulations has determined that installing a ramp to the front entrance would require extensive structural modifications to the front porch. The porch roof is supported by decorative columns which cannot be moved, and a ramp cannot fit between them. Therefore, installing a ramp to the front entrance would not

be readily achievable. It would be readily achievable, however, to remove obstacles and broaden a pathway to a side door on the ground level which is wide enough to permit wheelchair access.

EXAMPLE 2: A senior center is located in a private building where city founders signed a charter 150 years ago. The building itself has no architectural features which are historic. However, it is well known that the charter was signed there, and a plaque near the front entrance commemorates this fact. The entrances to this building are each up several steps. It would be readily achievable to install a ramp or a platform lift adjacent to the steps at the front entrance if the program had the resources to do so, and if access to the plaque and the plaque’s visibility were not obstructed by the ramp or lift.

If we move, do we have an obligation to search for accessible space?

Organizations are “not required to lease space that is accessible. However, upon leasing, the barrier removal requirements for existing facilities apply. In addition, any alterations to the space must meet the accessibility requirements for alterations.”⁴⁶

Who has responsibility for ADA compliance in leased facilities, the landlord or the tenant?

Regulations allow the landlord and tenant to allocate responsibility in a lease or any other contract. However, these allocations are only effective between the parties. Regardless of any agreements or allocations, both the landlord and the tenant are considered public accommodations and will remain equally legally responsible for complying with all applicable ADA Title III requirements.⁴⁷

Maintaining the accessible features of your facility

All equipment and features necessary to comply with Title III must be kept in working order to provide ready access to individuals with disabilities. Accessible facility doors must remain unlocked when open for business. All accessible paths of travel must remain usable. They must not be blocked by obstacles or other items. Temporary

disruption in access is not prohibited, such as the placement of an item on an accessible route, which is promptly removed.

EXAMPLE 1: Placing a vending machine on the accessible route to an accessible restroom would be a violation if it obstructed the route.

Although it is recognized that mechanical failures in equipment such as elevators or automatic doors will occur from time to time, the obligation to ensure that facilities are readily accessible to and usable by individuals with disabilities would be violated, if repairs are not made promptly or if improper or inadequate maintenance causes repeated and persistent failures. Inoperable or “out of service” equipment does not meet the requirements for providing access.⁴⁸

FINAL REMARKS!

People with disabilities need services as much as everyone else in society. Your ADA implementation efforts will help to ensure that people with disabilities in your service area or target population receive services they need. The City of Oakland hopes that this compilation of information from the U.S. Department of Justice ADA Title III Technical Assistance Manual has been of assistance to you. If needed, further technical assistance is available from the following organizations:

Pacific ADA and IT Center, Technical Assistance Hotline:

800-949-4232 (Voice/TTY)
www.pacdbtac.org

Department of Justice ADA Hotline

800-514-0301 (Voice)
800-514-0383 (TTY)
www.ada.gov

US Access Board

800-872-2253 (Voice)
800-993-2822 (TTY)
www.access-board.gov

Appendix B:

Sample ADA Policies and Procedures for Title III Covered Entities

I. GENERAL POLICIES

1. Statement of Nondiscrimination

- a. It is the policy of _____(organization)_____ to support and comply with the requirements and principles of the Americans with Disabilities Act of 1990 (ADA) and to ensure that, to the maximum extent practicable, persons with disabilities are afforded equal access to the facilities, programs, and services of _____(organization)_____.
_____(Organization)_____ has assigned overall responsibility for ensuring equal opportunity and nondiscrimination in the provision of services and ongoing compliance with the ADA to _____(title)_____.
- b. The following notice will be included in all contracts we enter into with other entities to provide services to our program and customers:

“Federal law requires that you comply with the Americans with Disabilities Act of 1990 and _____(organization)_____ requires you to adhere to our policy of nondiscrimination when providing services to _____(organization)_____ and our customers.”

2. Outreach and Advertising

- a. All written _____(organization)_____ outreach and advertising materials will be available in alternative formats upon request.
- b. All advertisements will contain a statement that _____(organization)_____ does not discriminate against people with disabilities. Whenever possible, information will be circulated to organizations and agencies that serve people with disabilities.

3. Benefits and Services

_____(Organization)_____ will ensure that persons with disabilities are provided maximum opportunity to participate in and benefit from all our programs, services, and activities. Moreover, it is our goal that persons

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with disabilities be able to participate in an equally effective manner as those without disabilities.

4. **Providing Accommodations**

- a. _____(Organization)_____ will accommodate the known disabilities of otherwise qualified applicants and participants. When a prospective customer or program participant identifies having a disability that requires accommodation, program staff will discuss possible disability accommodations with that person.
- b. Whenever possible, preference will be given to the individual's first choice of disability accommodation. If that accommodation cannot be provided, program staff will suggest one or more alternative accommodations that could be provided to ensure the individual's full participation in the program.
- c. If necessary, staff will seek the assistance of disability service providers in order to develop effective accommodations.

5. **Medications**

Program participants will not be excluded from our program because they take appropriately prescribed medications to maintain their health.

6. **Application Forms and Intake Questions**

The criteria for admission into our programs shall not exclude or restrict the participation of people with certain types of disabilities. During the application process, staff shall not ask questions about disability, unless this information is part of necessary medical history intake, and such medical history intake is required of all prospective participants. If a prospective participant self-identifies as having a disability, intake staff may ask questions about how to accommodate the person's disability-related needs.

7. **Risk Identification**

When staff or other participants are concerned that a participant or prospective participant with a disability may pose a significant risk to others' health and safety, supervisory staff will conduct an assessment of that potential risk. This assessment will take into account factual information about the person's disability and abilities. It will exclude from consideration stereotypes, hearsay, rumors, and unwarranted fears.

II. COMMUNICATION ACCESS

1. **General Policy**

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- a. _____(Organization)_____ will ensure equally effective communication and participation in our programs, activities and services for people with disabilities.
 - b. Auxiliary aids and services for people with disabilities (including people who are Deaf, hard of hearing, or who have vision, speech, learning or cognitive disabilities) will be provided in all phases of participation in our program.
 - c. These will be provided unless the Program Director determines that a specifically requested auxiliary aid or service would fundamentally alter the nature of our program or result in an undue financial burden.
 - d. The individual with the disability will be provided an opportunity to request the auxiliary aid or service of their choice. If it is not feasible for _____(organization)_____ to provide the requested aid or service, the Program Director will suggest other effective aids or services which _____(organization)_____ can provide to accommodate the individual's needs.
2. **Telecommunication Device for the Deaf (TDD)/TeleTypewriter (TTY)**
_____ (Organization)_____ has a TTY, and at least one staff person per shift is trained in how to use it. Our TTY phone line, if separate, is included in our local telephone directory and in all our advertising materials. Program participants will, as needed, have access to and use of this TTY.
 3. **California Relay Service**
At least one staff person per shift is trained in how to use the California Relay Service. This person will train other staff in how to use the California Relay Service, if necessary.
 4. **Sign Language Interpreter Services**
Upon being provided with reasonable prior notice of need _____(organization)_____ will, to the maximum extent feasible, provide sign language interpreters for program services and/or activities by contacting _____ in our community.
We have the goal of allocating funds in our budget for providing sign language interpreter services in case they are needed.
 5. **Written Materials**
All written program materials distributed to customers/participants will, upon reasonable prior notice of need, be made available in alternative formats (large print, cassette tape, Braille, computer disk).

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III. ACCESSIBILITY OF PUBLIC MEETINGS AND SPECIAL EVENTS

1. Facility Access

- a. All meetings and events shall be held at wheelchair accessible facilities as defined by the ADA Accessibility Guidelines (ADAAG). The facility shall have at least one wheelchair accessible entrance.
- b. If the facility provides off-street parking for the public, then accessible disabled parking shall be provided. An uninterrupted path of travel shall be provided for wheelchair users from off-street parking and public sidewalks to the accessible entrance(s).
- c. Wheelchair accessible restrooms shall be provided. Accessible drinking fountains and pay telephones shall be provided if they are provided to the public. An accessible route shall connect the accessible entrance(s), event venue(s), and accessible restrooms, drinking fountains, and pay telephones.
- d. Signs shall be provided directing persons to wheelchair accessible features if not all features of the facility are accessible, including entrances, restrooms, drinking fountains, and pay telephones.
- e. A wheelchair accessible stage shall be provided for any meeting or event where individuals who use wheelchairs, or are otherwise unable to climb stairs, will perform, speak, etc.

2. Wheelchair Seating Areas

In any assembly area with fixed seating, space for wheelchair users shall be provided according to the ADA Accessibility Guidelines (ADAAG). At least one companion fixed seat shall be provided next to each wheelchair seating area.

3. Path of Travel

- a. All paths of travel serving wheelchair users or others with mobility impairments must be kept clear of equipment and patrons. Meeting and event organizers will ensure that paths of travel are monitored during meetings and events to prevent obstructions.
- b. Appropriate signage shall be posted at each wheelchair ramp to identify the ramp as a wheelchair access point and to indicate that loitering on the ramp is prohibited.

4. Qualified Interpreters

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- a. American Sign Language (ASL) interpreters shall be routinely provided for all organizational meetings and events with an expected attendance of more than 400.
 - b. Qualified interpreters for the Deaf and hard of hearing shall be provided upon request for all meetings and events.
 - c. At least five seats shall be reserved directly opposite the interpreter for persons who are Deaf or hard of hearing.
 - d. An assistive listening device, such as a loop or FM transmitter that gives effective access to the amplification system for people who are hard of hearing, shall be provided upon request for all organizational meetings and events.
5. **Meeting and Event Advertising**
All fliers, posters, and media announcements shall include:
- a. a statement that the event is accessible to wheelchair users;
 - b. a statement indicating either that American Sign Language (ASL) interpreters will be at the event or will be provided upon request;
 - c. a procedure for requesting additional disability-related information and/or accommodations; and
 - d. appropriate telephone contact information to accommodate individuals who are Deaf or hard of hearing, such as a TDD or TTY number.
 - e. _____(Organization)_____ will make every effort to ensure that all printed advertisements be made available in alternative formats, including large print, audiocassette, Braille, and computer disk.
6. **Alternative Format Materials**
All printed materials distributed by event staff shall be made available in alternative formats, including large print, audiocassette, Braille, and computer disk, upon request.
7. **Assistance for People with Disabilities**
- a. An appropriately trained staff member shall be designated to assist person with disabilities at all events. These individuals shall be trained to:
 - i. provide information about accessible seating areas and accessible routes of travel for wheelchair users and others with mobility impairments;

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- ii. accompany wheelchair users and others with mobility impairments to accessible seating areas, in situations of severe crowding;
 - iii. provide printed information about event programs with qualified interpreters, including the title, time, and location of such programs;
 - iv. use short notes to communicate with persons who are Deaf or hard of hearing, when appropriate; and
 - v. provide information about medical assistance available at the event and, if not such assistance is available, the location of the nearest emergency medical facility.
- b. At events with an expected attendance of more than 400, a disability assistance table or booth shall be established and staffed by at least one person who is trained to assist persons with disabilities.
 - c. The following statement shall be included in all public meeting and special event announcements:

“This meeting is wheelchair accessible. To request materials in alternative formats, or to request a qualified interpreter, captioning, or assistive listening device, please call _____(name)_____ at _____(Voice Number)_____ OR _____(TTY Number)_____ at least three business days in advance. Please refrain from wearing scented products to this meeting/event so persons who may experience chemical sensitivities can attend.”

IV. EMERGENCY COMMUNICATIONS AND EVACUATION

1. **General Policy**
 - a. Our fire safety and emergency warning systems are configured and maintained in compliance with application State and local building codes and regulations. Visual alarms to alert the Deaf and those who may be hard of hearing to fire and other emergency situations are affixed within building facilities and tested as frequently as is required by State and local building codes and regulations to ensure working order.
 - b. An emergency evacuation plan is in place for all building employees, visitors, and clients, and considers the needs of individuals with disabilities, including those with visual and mobility impairments, cognitive disabilities, and the Deaf or hard of hearing.

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- c. Appropriate signage is available to notify the public and emergency assistance personnel of routes leading to and areas of rescue assistance on all floors above or below the ground level of our facility.
- d. During an emergency, first responders will be immediately notified of the location of all areas of rescue assistance, and will be given the number of people waiting and a description of their needs whenever this information is available.

2. Communication

A means of two-way communication to call for assistance is provided at every area of rescue assistance. This device is equipped with visible and audible signal. They are tested as frequently as is required by State and local building codes and regulations to ensure working order.

V. TRANSPORTATION

1. General Policy

- a. Whenever transportation is provided as a component of our services, _____(organization)_____ will provide appropriate accessible transportation to all participants with disabilities.
- b. Participants in need of accessible transportation may notify _____(title)_____ at _____(Voice Number)_____ / _____(TTY Number)_____ at least 72 hours prior to requested pick-up.
- c. _____(Organization)_____ contracts with _____(name of service)_____ to provide accessible transportation services should _____(organization)_____ vehicles used for transporting individuals with disabilities be out of order, and as needed to accommodate a significant number of participants with disabilities.

VI. SERVICE ANIMALS

1. General Policy

- a. Service animals are not pets. This policy shall take priority over, yet not remove, any and all “no pets” policies _____(organization)_____ may currently recognize.
- b. _____(Organization)_____ shall permit access to all facilities and events open to the general public, including areas of food preparation and service, to individuals with disabilities

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accompanied by their service animal without being required to pay an extra charge or security deposit for their service animal.

2. Recognition of Service Animals

- a. _____(Organization)_____ shall recognize all animals which have been individually trained to provide assistance to a person with a disability as a service animal.
 - i. Owners will not be required to show any document which would prove or authorize that the animal has been individually trained.
 - ii. _____(Organization)_____ will be permitted to ask **only** the following questions to determine if the animal is a valid service animal:
 - 1. “Is the animal a service animal required due to a disability?”
 - 2. “What tasks have the animal been trained to perform?”
 - iii. _____(Organization)_____ is not permitted to ask any questions regarding the state or existence of the owner’s disability.
- b. In accordance with the City of Oakland, _____(organization)_____ shall recognize emotional support animals as valid service animals. Owners may be required to show documented proof by a licensed medical doctor that an emotional support service animal is required.

3. Animal Behavior & Damage Liability

- a. _____(Organization)_____ shall not require or request a service animal to be removed from the facilities which are open to the general public, nor shall _____(organization)_____ require any service animal to wear a muzzle in order to remain on the premises, except where:
 - i. The service animal is out of control and the animal’s owner does not take effective action to control the animal; and/or
 - ii. The service animal poses a direct threat to the health or safety of others, which are **not** due to allergies or fear of the animal.
- b. _____(Organization)_____ will only take reactionary measures toward removal of the animal from the facilities, and will not make any assumptions regarding the behavior or attitude of service animals prior to the animal exhibiting those behaviors.
- c. _____(Organization)_____ shall permit the animal’s owner to remain on premises without the service animal should _____(organization)_____ have the need to request or require a service animal to leave the facilities based on (3)(a)(i) and (3)(a)(ii) above.

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- d. The owner of the service animal will remain liable for any damage done to the premises or facilities by his or her service animal.

VII. GRIEVANCE PROCEDURES

1. Grievance Complaints

- a. All program participants are eligible to file a complaint alleging discrimination against _____(organization)_____ on the basis of disability in the provision of services, activities, programs, or benefits.

- b. Complaints will be accepted in writing, as well as in alternative formats such as audio tape or personal interviews to accommodate individuals with disabilities. Complaints should include the name, address, and phone number of the complainant; as well as the location, date, and description of the problem.

- c. Complaints should be submitted no later than 60 calendar days after the alleged violation to:

_____(Title)_____
_____(Organization Department)_____
_____(Organization address)_____
_____(Telephone)_____

- d. _____(Title)_____ or his/her designee will contact complainant within 15 calendar days after receipt of the complaint to discuss the complaint and possible resolutions.

- e. _____(Title)_____ or his/her designee will respond within 15 calendar days in writing, or any other accessible format appropriate for effective communication with the complainant (i.e., large print, Braille, or audio tape), and offer options for resolution.

2. Appeals

- a. The complainant has the right to appeal any decisions taken by _____(organization)_____ in the matter of their original complaint, and may do so by contacting:

_____(Title – High Level Manager)_____
_____(Organization Department)_____
_____(Organization address)_____
_____(Telephone)_____

- b. _____(Title – High Level Manager)_____ will adhere to (1) (d); and (1) (e) above.

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- c. If complainant is still not satisfied, they have the right to appeal to:
United States Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Disability Rights Section – NYAVE
Washington, D.C. 20530

3. **Written Complaints**

- a. All written complaints received by _____(title)_____ or his/her designee, appeals to _____(Title – High Level Manager)_____ or his/her designee, and responses from these two offices will be retained by _____(organization)_____ for at least three years.

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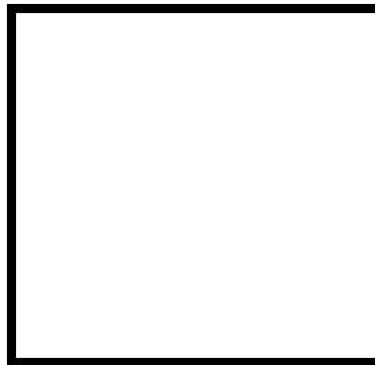
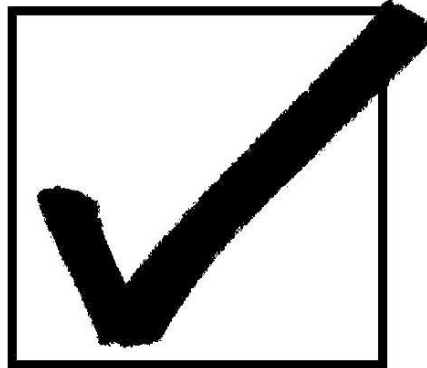
Checklist for Existing Facilities version 2.1



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The Americans with Disabilities Act Checklist for Readily Achievable Barrier Removal

August 1995

Appendix C

Checklist for Existing Facilities version 2.1

Introduction

Title III of the **Americans with Disabilities Act** requires public accommodations to provide goods and services to people with disabilities on an equal basis with the rest of the general public. The goal is to afford every individual the opportunity to benefit from our country's businesses and services, and to afford our businesses and services the opportunity to benefit from the patronage of all Americans.

The regulations require that architectural and communication barriers that are structural must be removed in public areas of **existing facilities** when their removal is **readily achievable**—in other words, easily accomplished and able to be carried out without much difficulty or expense. **Public accommodations** that must meet the barrier removal requirement include a broad range of establishments (both for-profit and nonprofit)—such as hotels, restaurants, theaters, museums, retail stores, private schools, banks, doctors' offices, and other places that serve the public. People who own, lease, lease out, or operate places of public accommodation in existing buildings are responsible for complying with the barrier removal requirement.

The removal of barriers can often be achieved by making simple changes to the physical environment. However, the regulations do not define exactly how much effort and expense are required for a facility to meet its obligation. This judgment must be made on a case-by-case basis, taking into consideration such factors as the size, type, and overall financial resources of the facility, and the nature and cost of the access improvements needed. These factors are described in more detail in the ADA regulations issued by the Department of Justice.

The process of determining what changes are readily achievable is not a one-time effort; access should be re-evaluated annually. Barrier removal that might be difficult to carry out now may be readily achievable later. Tax incentives are available to help absorb costs over several years.

Purpose of This Checklist

This checklist will help you identify accessibility problems and solutions in existing facilities in order to meet your obligations under the ADA.

The goal of the survey process is to plan how to make an existing facility more usable for people with disabilities. The Department of Justice (DOJ) recommends the development of an Implementation Plan, specifying what improvements you will make to remove barriers and when each solution will be carried out: "...Such a plan...could serve as evidence of a good faith effort to comply...."

Technical Requirements

This checklist details some of the requirements found in the ADA Standards for Accessible Design (Standards). The ADA Accessibility Guidelines (ADAAG), when adopted by DOJ, became the Standards. The Standards are part of the Department of Justice Title III Regulations, 28 CFR Part 36 (*Nondiscrimination on the basis of disability... Final Rule*). Section 36.304 of this regulation, which covers barrier removal, should be reviewed before this survey is conducted.

However, keep in mind that full compliance with the Standards is required only for new construction and alterations. The requirements are presented here as a guide to help you determine what may be readily achievable barrier removal for existing facilities. The Standards should be followed for all barrier removal unless doing so is not readily achievable. If complying with the Standards is not readily achievable, you may undertake a modification that does not fully comply, as long as it poses no health or safety risk.

In addition to the technical specifications, each item has a scoping provision, which can be found under Section 4.1 in the Standards. This section clarifies when access is required and what the exceptions may be.

Each state has its own regulations regarding accessibility. To ensure compliance with all codes, know your state and local codes and use the more stringent technical requirement for every modification you make; that is, the requirement that provides greater access for individuals with disabilities. The barrier removal requirement for existing facilities is new under the ADA and supersedes less stringent local or state codes.

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What This Checklist is Not

This checklist does not cover all of the requirements of the Standards; therefore, it is **not** for facilities undergoing new construction or alterations. In addition, it does not attempt to illustrate all possible barriers or propose all possible barrier removal solutions. The Standards should be consulted for guidance in situations not covered here.

The Title III regulation covers more than barrier removal, but this checklist does **not** cover Title III's requirements for nondiscriminatory policies and practices and for the provision of auxiliary communication aids and services. The communication features covered are those that are **structural** in nature.

Priorities

This checklist is based on the four priorities recommended by the Title III regulations for planning readily achievable barrier removal projects:

- Priority 1: Accessible **approach and entrance**
- Priority 2: Access to **goods and services**
- Priority 3: Access to **rest rooms**
- Priority 4: Any **other measures** necessary

Note that the references to ADAAG throughout the checklist refer to the Standards for Accessible Design.

How to Use This Checklist

✓ **Get Organized:** Establish a time frame for completing the survey. Determine how many copies of the checklist you will need to survey the whole facility. Decide who will conduct the survey. It is strongly recommended that you invite two or three additional people, including people with various disabilities and accessibility expertise, to assist in identifying barriers, developing solutions for removing these barriers, and setting priorities for implementing improvements.

✓ **Obtain Floor Plans:** It is very helpful to have the building floor plans with you while you survey. If plans are not available, use graph paper to sketch the layout of all interior and exterior spaces used by your organization. Make notes on the sketch or plan while you are surveying.

✓ **Conduct the Survey:** Bring copies of this checklist, a clipboard, a pencil or pen, and a flexible steel

tape measure. With three people surveying, one person numbers key items on the floor plan to match with the field notes, taken by a second person, while the third takes measurements. **Be sure to record all dimensions!** As a reminder, questions that require a dimension to be measured and recorded are marked with the ruler symbol. Think about each space from the perspective of people with physical, hearing, visual, and cognitive disabilities, noting areas that need improvement.

✓ **Summarize Barriers and Solutions:** List barriers found and ideas for their removal. Consider the solutions listed beside each question, and add your own ideas. Consult with building contractors and equipment suppliers to estimate the costs for making the proposed modifications.

✓ **Make Decisions and Set Priorities:** Review the summary with decision makers and advisors. Decide which solutions will best eliminate barriers at a reasonable cost. Prioritize the items you decide upon and make a timeline for carrying them out. Where the removal of barriers is not readily achievable, you must consider whether there are **alternative methods** for providing access that *are* readily achievable.

✓ **Maintain Documentation:** Keep your survey, notes, summary, record of work completed, and plans for alternative methods on file.

✓ **Make Changes:** Implement changes as planned. Always refer directly to the Standards and your state and local codes for complete technical requirements before making any access improvement. References to the applicable sections of the Standards are listed at the beginning of each group of questions. If you need help understanding the federal, state, or local requirements, contact your Disability and Business Technical Assistance Center.

✓ **Follow Up:** Review your Implementation Plan each year to re-evaluate whether more improvements have become readily achievable.

To obtain a copy of the Title III regulations and the Standards or other technical information, call the U.S. Dept. of Justice ADA Information Line at (800) 514-0301 Voice, (202) 514-0381 TDD, or (800) 514-0383 TDD. For questions about ADAAG, contact the Architectural and Transportation Barriers Compliance Board at (800) USA-ABLE.

Appendix C

QUESTIONS

POSSIBLE SOLUTIONS

Priority

1 Accessible Approach/Entrance

People with disabilities should be able to arrive on the site, approach the building, and enter as freely as everyone else. At least one route of travel should be safe and accessible for everyone, including people with disabilities.

Route of Travel (ADAAG 4.3, 4.4, 4.5, 4.7)


Is there a route of travel that does not require the use of stairs?

Yes No

- Add a ramp if the route of travel is interrupted by stairs.
- Add an alternative route on level ground.


Is the route of travel stable, firm and slip-resistant?

- Repair uneven paving.
- Fill small bumps and breaks with beveled patches.
- Replace gravel with hard top.

 Is the route at least 36 inches wide?

width

- Change or move landscaping, furnishings, or other features that narrow the route of travel.
- Widen route.

 Can all objects protruding into the circulation paths be detected by a person with a visual disability using a cane?

distance from wall/height


- Move or remove protruding objects.
- Add a cane-detectable base that extends to the ground.
- Place a cane-detectable object on the ground underneath as a warning barrier.

In order to be detected using a cane, an object must be within 27 inches of the ground. Objects hanging or mounted overhead must be higher than 80 inches to provide clear head room. It is not necessary to remove objects that protrude less than 4 inches from the wall.

Do curbs on the route have curb cuts at drives, parking, and drop-offs?

- Install curb cut.
- Add small ramp up to curb.

Ramps (ADAAG 4.8)







 Are the slopes of ramps no greater than 1:12?

slope

- Lengthen ramp to decrease slope.
- Relocate ramp.
- If available space is limited, reconfigure ramp to include switchbacks.




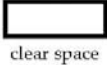
Slope is given as a ratio of the height to the length. 1:12 means for every 12 inches along the base of the ramp, the height increases one inch. For a 1:12 maximum slope, at least one foot of ramp length is needed for each inch of height.

Appendix C

QUESTIONS		POSSIBLE SOLUTIONS											
<p>Ramps, continued</p> <p>Do all ramps longer than 6 feet have railings on both sides?</p>		<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p><input type="checkbox"/> Add railings.</p>										
<p> Are railings sturdy, and between 34 and 38 inches high?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p><input type="text"/></p> <p>height</p>	<p><input type="checkbox"/> Adjust height of railing if not between 30 and 38 inches.</p> <p><input type="checkbox"/> Secure handrails in fixtures.</p>											
<p> Is the width between railings or curbs at least 36 inches?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p><input type="text"/></p> <p>width</p>	<p><input type="checkbox"/> Relocate the railings.</p> <p><input type="checkbox"/> Widen the ramp.</p>											
<p>Are ramps non-slip?</p>		<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p><input type="checkbox"/> Add non-slip surface material.</p>										
<p> Is there a 5-foot-long level landing at every 30-foot horizontal length of ramp, at the top and bottom of ramps and at switchbacks?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p><input type="text"/></p> <p>length</p>	<p><input type="checkbox"/> Remodel or relocate ramp.</p>											
<p> Does the ramp rise no more than 30 inches between landings?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p><input type="text"/></p> <p>rise</p>	<p><input type="checkbox"/> Remodel or relocate ramp.</p>											
<p>Parking and Drop-Off Areas (ADAAG 4.6)</p> <p> Are an adequate number of accessible parking spaces available (8 feet wide for car plus 5-foot access aisle)? For guidance in determining the appropriate number to designate, the table below gives the ADAAG requirements for new construction and alterations (for lots with more than 100 spaces, refer to ADAAG):</p> <table border="1" data-bbox="219 1371 560 1518"> <thead> <tr> <th>Total spaces</th> <th>Accessible</th> </tr> </thead> <tbody> <tr> <td>1 to 25</td> <td>1 space</td> </tr> <tr> <td>26 to 50</td> <td>2 spaces</td> </tr> <tr> <td>51 to 75</td> <td>3 spaces</td> </tr> <tr> <td>76 to 100</td> <td>4 spaces</td> </tr> </tbody> </table>		Total spaces	Accessible	1 to 25	1 space	26 to 50	2 spaces	51 to 75	3 spaces	76 to 100	4 spaces	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p><input type="text"/></p> <p>number of accessible spaces</p> <p>Note widths of existing accessible spaces:</p>	<p><input type="checkbox"/> Reconfigure a reasonable number of spaces by repainting stripes.</p>
Total spaces	Accessible												
1 to 25	1 space												
26 to 50	2 spaces												
51 to 75	3 spaces												
76 to 100	4 spaces												
<p> Are 8-foot-wide spaces, with minimum 8-foot-wide access aisles, and 98 inches of vertical clearance, available for lift-equipped vans?</p> <p>At least one of every 8 accessible spaces must be van-accessible (with a minimum of one van-accessible space in all cases).</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p><input type="text"/></p> <p>width/vertical clearance</p>	<p><input type="checkbox"/> Reconfigure to provide van-accessible space(s).</p>											

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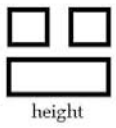

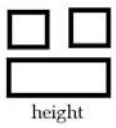

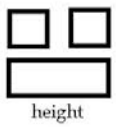

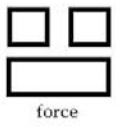

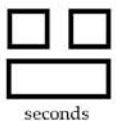
Appendix C

QUESTIONS		POSSIBLE SOLUTIONS
<p>Parking and Drop-Off Areas, continued</p> <p>Are the access aisles part of the accessible route to the accessible entrance?</p> <p>Are the accessible spaces closest to the accessible entrance?</p> <p>Are accessible spaces marked with the International Symbol of Accessibility? Are there signs reading "Van Accessible" at van spaces?</p> <p>Is there an enforcement procedure to ensure that accessible parking is used only by those who need it?</p>		<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> Add curb ramps. <input type="checkbox"/> Reconstruct sidewalk.</p> <p><input type="checkbox"/> Reconfigure spaces.</p> <p><input type="checkbox"/> Add signs, placed so that they are not obstructed by cars.</p> <p><input type="checkbox"/> Implement a policy to check periodically for violators and report them to the proper authorities.</p>
<p>Entrance (ADAAG 4.13, 4.14, 4.5)</p> <p>If there are stairs at the main entrance, is there also a ramp or lift, or is there an alternative accessible entrance?</p> <p>Do not use a service entrance as the accessible entrance unless there is no other option.</p> <p>Do all inaccessible entrances have signs indicating the location of the nearest accessible entrance?</p> <p>Can the alternate accessible entrance be used independently?</p>		<p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> If it is not possible to make the main entrance accessible, create a dignified alternate accessible entrance. If parking is provided, make sure there is accessible parking near all accessible entrances.</p> <p><input type="checkbox"/> Install signs before inaccessible entrances so that people do not have to retrace the approach.</p> <p><input type="checkbox"/> Eliminate as much as possible the need for assistance—to answer a doorbell, to operate a lift, or to put down a temporary ramp, for example.</p>
<p> Does the entrance door have at least 32 inches clear opening (for a double door, at least one 32-inch leaf)?</p>	<p><input type="checkbox"/> <input type="checkbox"/></p> <p> clear opening</p>	<p><input type="checkbox"/> Widen the door to 32 inches clear. <input type="checkbox"/> If technically infeasible, widen to 31-3/8 inches minimum. <input type="checkbox"/> Install offset (swing-clear) hinges.</p>
<p> Is there at least 18 inches of clear wall space on the pull side of the door, next to the handle?</p> <p>A person using a wheelchair or crutches needs this space to get close enough to open the door.</p>	<p><input type="checkbox"/> <input type="checkbox"/></p> <p> clear space</p>	<p><input type="checkbox"/> Remove or relocate furnishings, partitions, or other obstructions. <input type="checkbox"/> Move door. <input type="checkbox"/> Add power-assisted or automatic door opener.</p>

Appendix C

QUESTIONS

POSSIBLE SOLUTIONS

	Yes	No	
<p> Entrance, continued Is the threshold edge 1/4-inch high or less, or if beveled edge, no more than 3/4-inch high?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> If there is a single step with a rise of 6 inches or less, add a short ramp. <input type="checkbox"/> If there is a threshold greater than 3/4-inch high, remove it or modify it to be a ramp.
			
<p> If provided, are carpeting or mats a maximum of 1/2-inch high?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Replace or remove mats.
			
<p>Are edges securely installed to minimize tripping hazards?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Secure carpeting or mats at edges.
<p> Is the door handle no higher than 48 inches and operable with a closed fist?</p> <p>The "closed fist" test for handles and controls: Try opening the door or operating the control using only one hand, held in a fist. If you can do it, so can a person who has limited use of his or her hands.</p>	<input type="checkbox"/>	<input type="checkbox"/>	
			
<p> Can doors be opened without too much force (exterior doors reserved; maximum is 5 lbf for interior doors)?</p> <p>You can use an inexpensive force meter or a fish scale to measure the force required to open a door. Attach the hook end to the doorknob or handle. Pull on the ring end until the door opens, and read off the amount of force required. If you do not have a force meter or a fish scale, you will need to judge subjectively whether the door is easy enough to open.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Adjust the door closers and oil the hinges. <input type="checkbox"/> Install power-assisted or automatic door openers. <input type="checkbox"/> Install lighter doors.
			
<p> If the door has a closer, does it take at least 3 seconds to close?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Adjust door closer.
			

Appendix C

QUESTIONS	POSSIBLE SOLUTIONS
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Priority

2 Access to Goods and Services

Ideally, the layout of the building should allow people with disabilities to obtain materials or services without assistance.

Yes No

Horizontal Circulation (ADAAG 4.3)

Does the accessible entrance provide direct access to the main floor, lobby, or elevator?

- Add ramps or lifts.
- Make another entrance accessible.

Are all public spaces on an accessible route of travel?

- Provide access to all public spaces along an accessible route of travel.

Is the accessible route to all public spaces at least 36 inches wide?

width

- Move furnishings such as tables, chairs, display racks, vending machines, and counters to make more room.

Is there a 5-foot circle or a T-shaped space for a person using a wheelchair to reverse direction?

width

- Rearrange furnishings, displays, and equipment.

Doors (ADAAG 4.13)

Do doors into public spaces have at least a 32-inch clear opening?

clear opening

- Install offset (swing-clear) hinges.
- Widen doors.

On the pull side of doors, next to the handle, is there at least 18 inches of clear wall space so that a person using a wheelchair or crutches can get near to open the door?

clear space

- Reverse the door swing if it is safe to do so.
- Move or remove obstructing partitions.

Can doors be opened without too much force (5 lbf maximum for interior doors)?

force

- Adjust or replace closers.
- Install lighter doors.
- Install power-assisted or automatic door openers.

Are door handles 48 inches high or less and operable with a closed fist?

height

- Lower handles.
- Replace inaccessible knobs or latches with lever or loop handles.
- Retrofit with add-on levers.
- Install power-assisted or automatic door openers.

Are all threshold edges 1/4-inch high or less, or if beveled edge, no more than 3/4-inch high?

height

- If there is a threshold greater than 3/4-inch high, remove it or modify it to be a ramp.
- If between 1/4- and 3/4-inch high, add bevels to both sides.

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Appendix C

QUESTIONS		POSSIBLE SOLUTIONS
<p>Rooms and Spaces (ADAAG 4.2, 4.4, 4.5) Are all aisles and pathways to materials and services at least 36 inches wide?</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/></p> <p>width</p>	<p><input type="checkbox"/> Rearrange furnishings and fixtures to clear aisles.</p>
<p>Is there a 5-foot circle or T-shaped space for turning a wheelchair completely?</p>	<p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/></p> <p>width</p>	<p><input type="checkbox"/> Rearrange furnishings to clear more room.</p>
<p>Is carpeting low-pile, tightly woven, and securely attached along edges?</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	<p><input type="checkbox"/> Secure edges on all sides. <input type="checkbox"/> Replace carpeting.</p>
<p>In circulation paths through public areas, are all obstacles cane-detectable (located within 27 inches of the floor or higher than 80 inches, or protruding less than 4 inches from the wall)?</p>	<p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/></p> <p>height/ protrusion</p>	<p><input type="checkbox"/> Remove obstacles. <input type="checkbox"/> Install furnishings, planters, or other cane-detectable barriers underneath.</p>
<p>Emergency Egress (ADAAG 4.28) If emergency systems are provided, do they have both flashing lights and audible signals?</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	<p><input type="checkbox"/> Install visible and audible alarms. <input type="checkbox"/> Provide portable devices.</p>
<p>Signage for Goods and Services (ADAAG 4.30) Different requirements apply to different types of signs.</p>		
<p>If provided, do signs and room numbers designating permanent rooms and spaces where goods and services are provided comply with the appropriate requirements for such signage?</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	<p><input type="checkbox"/> Provide signs that have raised letters, Grade II Braille, and that meet all other requirements for permanent room or space signage. (See ADAAG 4.1.3(16) and 4.30.)</p>
<p>• Signs mounted with centerline 60 inches from floor.</p>	<p>Y N <input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/></p> <p>height</p>	
<p>• Mounted on wall adjacent to latch side of door, or as close as possible.</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>• Raised characters, sized between 5/8 and 2 inches high, with high contrast (for room numbers, rest rooms, exits).</p>	<p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/></p> <p>character height</p>	
<p>• Brailled text of the same information.</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>• If pictogram is used, it must be accompanied by raised characters and braille.</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	

QUESTIONS	POSSIBLE SOLUTIONS
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Directional and Informational Signage

The following questions apply to directional and informational signs that fall under Priority 2.

Yes No



If mounted above 80 inches, do they have letters at least 3 inches high, with high contrast, and non-glare finish?

letter height	

Review requirements and replace signs as needed, meeting the requirements for character size, contrast, and finish.

Do directional and informational signs comply with legibility requirements? (Building directories or temporary signs need not comply.)

--	--

Review requirements and replace signs as needed.

Controls (ADAAG 4.27)



Are all controls that are available for use by the public (including electrical, mechanical, cabinet, game, and self-service controls) located at an accessible height?

height	

Relocate controls.

Reach ranges: The maximum height for a side reach is 54 inches; for a forward reach, 48 inches. The minimum reachable height is 15 inches for a front approach and 9 inches for a side approach.

Are they operable with a closed fist?

--	--

Replace controls.



Seats, Tables, and Counters (ADAAG 4.2, 4.32, 7.2)
Are the aisles between fixed seating (other than assembly area seating) at least 36 inches wide?

width	

Rearrange chairs or tables to provide 36-inch aisles.

Are the spaces for wheelchair seating distributed throughout?

--	--

Rearrange tables to allow room for wheelchairs in seating areas throughout the area.
 Remove some fixed seating.



Are the tops of tables or counters between 28 and 34 inches high?

height	

Lower part or all of high surface.
 Provide auxiliary table or counter.



Are knee spaces at accessible tables at least 27 inches high, 30 inches wide, and 19 inches deep?

height/ width/ depth	

Replace or raise tables.

Appendix C

QUESTIONS	POSSIBLE SOLUTIONS
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Seats, Tables, and Counters, continued

At each type of cashier counter, is there a portion of the main counter that is no more than 36 inches high?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>
<div style="display: flex; justify-content: center; gap: 20px;"> <div style="border: 1px solid black; width: 100px; height: 20px;"></div> <div style="border: 1px solid black; width: 100px; height: 20px;"></div> </div> <p style="text-align: center; margin-top: 5px;">height</p>	

- Provide a lower auxiliary counter or folding shelf.
- Arrange the counter and surrounding furnishings to create a space to hand items back and forth.

Is there a portion of food-ordering counters that is no more than 36 inches high, or is there space at the side for passing items to customers who have difficulty reaching over a high counter?

<input type="checkbox"/>	<input type="checkbox"/>
<div style="display: flex; justify-content: center; gap: 20px;"> <div style="border: 1px solid black; width: 100px; height: 20px;"></div> <div style="border: 1px solid black; width: 100px; height: 20px;"></div> </div> <p style="text-align: center; margin-top: 5px;">height</p>	

- Lower section of counter.
- Arrange the counter and surrounding furnishings to create a space to pass items.

Vertical Circulation (ADAAG 4.1.3(5), 4.3)

Are there ramps, lifts, or elevators to all public levels?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

- Install ramps or lifts.
- Modify a service elevator.
- Relocate goods or services to an accessible area.

On each level, if there are stairs between the entrance and/or elevator and essential public areas, is there an accessible alternate route?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

- Post clear signs directing people along an accessible route to ramps, lifts, or elevators.

Stairs (ADAAG 4.9)

The following questions apply to stairs connecting levels *not* serviced by an elevator, ramp, or lift.

Do treads have a non-slip surface?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

- Add non-slip surface to treads.

Do stairs have continuous rails on both sides, with extensions beyond the top and bottom stairs?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

- Add or replace handrails if possible within existing floor plan.

Elevators (ADAAG 4.10)

Are there both visible and verbal or audible door opening/closing and floor indicators (one tone = up, two tones = down)?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

- Install visible and verbal or audible signals.

Are the call buttons in the hallway no higher than 42 inches?

<input type="checkbox"/>	<input type="checkbox"/>
<div style="border: 1px solid black; width: 100px; height: 20px;"></div> <p style="text-align: center; margin-top: 5px;">height</p>	



- Lower call buttons.
- Provide a permanently attached reach stick.

Do the controls inside the cab have raised and braille lettering?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

- Install raised lettering and braille next to buttons.

Appendix C

QUESTIONS		POSSIBLE SOLUTIONS	
Elevators, continued		Yes	No
	Is there a sign on both door jambs at every floor identifying the floor in raised and braille letters?	<input type="checkbox"/>	<input type="checkbox"/>
	If an emergency intercom is provided, is it usable without voice communication?	<input type="checkbox"/>	<input type="checkbox"/>
	Is the emergency intercom identified by braille and raised letters?	<input type="checkbox"/>	<input type="checkbox"/>
Lifts (ADAAG 4.2, 4.11)			
	Can the lift be used without assistance? If not, is a call button provided?	<input type="checkbox"/>	<input type="checkbox"/>
	Is there at least 30 by 48 inches of clear space for a person in a wheelchair to approach to reach the controls and use the lift?	<input type="checkbox"/>	<input type="checkbox"/>
	Are controls between 15 and 48 inches high (up to 54 inches if a side approach is possible)?	<input type="checkbox"/>	<input type="checkbox"/>
		clear space	
		height	
Priority 3 Usability of Rest Rooms			
When rest rooms are open to the public, they should be accessible to people with disabilities.			
Getting to the Rest Rooms (ADAAG 4.1)			
	If rest rooms are available to the public, is at least one rest room (either one for each sex, or unisex) fully accessible?	<input type="checkbox"/>	<input type="checkbox"/>
	Are there signs at inaccessible rest rooms that give directions to accessible ones?	<input type="checkbox"/>	<input type="checkbox"/>
Doorways and Passages (ADAAG 4.2, 4.13, 4.30)			
	Is there tactile signage identifying rest rooms?	<input type="checkbox"/>	<input type="checkbox"/>
	Mount signs on the wall , on the latch side of the door, complying with the requirements for permanent signage. Avoid using ambiguous symbols in place of text to identify rest rooms.		

Appendix C

QUESTIONS

POSSIBLE SOLUTIONS

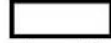
Doorways and Passages, continued

Are pictograms or symbols used to identify rest rooms, and, if used, are raised characters and braille included below them?

Yes No


- If symbols are used, add supplementary verbal signage with raised characters and braille below pictogram symbol.

NOTE Is the doorway at least 32 inches clear?


 clear width


- Install offset (swing-clear) hinges.
- Widen the doorway.

NOTE Are doors equipped with accessible handles (operable with a closed fist), 48 inches high or less?


 height


- Lower handles.
- Replace knobs or latches with lever or loop handles.
- Add lever extensions.
- Install power-assisted or automatic door openers.

NOTE Can doors be opened easily (5 lbf maximum force)?


 force

- Adjust or replace closers.
- Install lighter doors.
- Install power-assisted or automatic door openers.


NOTE Does the entry configuration provide adequate maneuvering space for a person using a wheelchair?


 clear width

- Rearrange furnishings such as chairs and trash cans.
- Remove inner door if there is a vestibule with two doors.
- Move or remove obstructing partitions.

A person in a wheelchair needs 36 inches of clear width for forward movement, and a 5-foot diameter or T-shaped clear space to make turns. A minimum distance of 48 inches clear of the door swing is needed between the two doors of an entry vestibule.

NOTE Is there a 36-inch-wide path to all fixtures?


 width


- Remove obstructions.

Stalls (ADAAG 4.17)

Is the stall door operable with a closed fist, inside and out?

- Replace inaccessible knobs with lever or loop handles.
- Add lever extensions.

NOTE Is there a wheelchair-accessible stall that has an area of at least 5 feet by 5 feet, clear of the door swing, OR is there a stall that is less accessible but that provides greater access than a typical stall (either 36 by 69 inches or 48 by 69 inches)?


 length/
 width

- Move or remove partitions.
- Reverse the door swing if it is safe to do so.

QUESTIONS	POSSIBLE SOLUTIONS
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Stalls, continued

In the accessible stall, are there grab bars behind and on the side wall nearest to the toilet?

Yes No

Add grab bars.

MIN Is the toilet seat 17 to 19 inches high?

height

Add raised seat.

Lavatories (ADAAG 4.19, 4.24)

MIN Does one lavatory have a 30-inch-wide by 48-inch-deep clear space in front?

clear space

- Rearrange furnishings.
- Replace lavatory.
- Remove or alter cabinetry to provide space underneath.
- Make sure hot pipes are covered.
- Move a partition or wall.

A maximum of 19 inches of the required depth may be under the lavatory.

MIN Is the lavatory rim no higher than 34 inches?

height

Adjust or replace lavatory.

MIN Is there at least 29 inches from the floor to the bottom of the lavatory apron (excluding pipes)?

height

Adjust or replace lavatory.

Can the faucet be operated with one closed fist?

Replace with paddle handles.

Are soap and other dispensers and hand dryers within reach ranges (see page 7) and usable with one closed fist?

- Lower dispensers.
- Replace with or provide additional accessible dispensers.

MIN Is the mirror mounted with the bottom edge of the reflecting surface 40 inches high or lower?

height

- Lower or tilt down the mirror.
- Add a larger mirror anywhere in the room.

Priority

4 Additional Access

Note that this priority is for items not required for basic access in the first three priorities.

When amenities such as drinking fountains and public telephones are provided, they should also be accessible to people with disabilities.

Drinking Fountains (ADAAG 4.15)

MIN Is there at least one fountain with clear floor space of at least 30 by 48 inches in front?

clear space


Clear more room by rearranging or removing furnishings.

QUESTIONS	POSSIBLE SOLUTIONS
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Drinking Fountains, continued

QUESTION Is there one fountain with its spout no higher than 36 inches from the ground, and another with a standard height spout (or a single "hi-lo" fountain)?

Yes No



 height

Are controls mounted on the front or on the side near the front edge, and operable with one closed fist?

Yes No

QUESTION Is each water fountain cane-detectable (located within 27 inches of the floor or protruding into the circulation space less than 4 inches from the wall)?

Yes No



 height/
 protrusion

- Provide cup dispensers for fountains with spouts that are too high.
- Provide accessible cooler.
- Replace the controls.
- Place a planter or other cane-detectable barrier on each side at floor level.

Telephones (ADAAG 4.31)

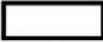
QUESTION If pay or public use phones are provided, is there clear floor space of at least 30 by 48 inches in front of at least one?

Yes No


 clear space


QUESTION Is the highest operable part of the phone no higher than 48 inches (up to 54 inches if a side approach is possible)?

Yes No


 height

QUESTION Does the phone protrude no more than 4 inches into the circulation space?

Yes No


 protrusion

Does the phone have push-button controls?

Yes No

Is the phone hearing-aid compatible?

Yes No

Is the phone adapted with volume control?

Yes No

Is the phone with volume control identified with appropriate signage?

Yes No

If there are four or more public phones in the building, is one of the phones equipped with a text telephone (TT or TDD)?

Yes No

Is the location of the text telephone identified by accessible signage bearing the International TDD Symbol?

Yes No

- Move furnishings.
- Replace booth with open station.
- Lower telephone.
- Place a cane-detectable barrier on each side at floor level.
- Contact phone company to install push-buttons.
- Have phone replaced with a hearing-aid compatible one.
- Have volume control added.
- Add signage.
- Install a text telephone.
- Have a portable TT available.
- Provide a shelf and outlet next to phone.
- Add signage.

Footnotes

- ¹ *California Fair Employment and Housing Act, Government Code § 12940.3.*
- ² The Americans with Disabilities Act Title III Technical Assistance Manual, Section III-4.4200 “Readily achievable barrier removal,” 31.
- ³ The Americans with Disabilities Act of 1990, Section I. § 3. (2).
- ⁴ U.S. Census Bureau, Census 2000. Table DP 2, Profile of Selected Social Characteristics: 2000 - Disability Status of the Noninstitutionalized Population, www.census.gov/2k00.xls.
- ⁵ The Americans with Disabilities Act Title III Technical Assistance Manual, Section III-2.3000 “Drug addiction as an impairment,” 10.
- ⁶ *Ibid.*, 10.
- ⁷ *Ibid.*, 10.
- ⁸ *Ibid.*, 11.
- ⁹ *Ibid.*, Section III-3.8000 “Direct threat,” 18.
- ¹⁰ *Ibid.*, Section III-3.4200 “Right to participate in the regular program,” 15.
- ¹¹ *Ibid.*, Section III-4.2600 “Personal services and devices,” 25.
- ¹² *Ibid.*, Section III-4.1400 “Surcharges,” 22.
- ¹³ *Ibid.*, Section III-3.10000 “Smoking,” 19.
- ¹⁴ *Ibid.* Section III-4.2300 “Service animals,” 23-24.
- ¹⁵ U.S. Department of Justice, ADA Business Brief: Service Animals, April 2002.
- ¹⁶ *Ibid.* Section III-3.6000 “Retaliation or coercion,” 16-17.
- ¹⁷ *Ibid.*, Section III-4.3200 “Effective communication,” 26.
- ¹⁸ *Ibid.*, Section III-4.3300 “Examples of auxiliary aids and services,” 28.
- ¹⁹ *Ibid.*, Section III-4.3200 “Effective communication,” 27.
- ²⁰ *Ibid.*, Section III-4.3600 “Limitations and alternatives,” 29.
- ²¹ *Ibid.*, 29.
- ²² *Ibid.*, 29.
- ²³ *Ibid.*, Section III-4.3200 “Effective communication,” 27.
- ²⁴ *Ibid.*, Section III-4.3420 “Outgoing calls by customers, clients, patients, or participants,” 28.
- ²⁵ Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG), § 4.1.3(9), www.access-board.gov/adaag/html/adaag.htm.
- ²⁶ *Ibid.*, § 4.3.11.4.
- ²⁷ The Americans with Disabilities Act Title III Technical Assistance Manual, Section III-4.4100 “Removal of barriers – General,” 30.
- ²⁸ *Ibid.*, 31.
- ²⁹ *Ibid.*, Section III-4.4200 “Readily achievable barrier removal,” 31.
- ³⁰ Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG), § 4.1.3(9), www.access-board.gov/adaag/html/adaag.htm.
- ³¹ *Ibid.*, § 4.28.
- ³² *Ibid.*, § 4.3.11.
- ³³ The Americans with Disabilities Act Title III Technical Assistance Manual, Section III-4.4500 “Priorities for barrier removal,” 36.
- ³⁴ *Ibid.*, 32-33.
- ³⁵ *Ibid.*, 31-32.
- ³⁶ *Ibid.*, 34.
- ³⁷ *Ibid.*, 35-36.
- ³⁸ *Ibid.*, 36.
- ³⁹ *Ibid.*, Section III-4.5100 “Alternatives to barrier removal – General,” 40.
- ⁴⁰ *Ibid.*, 40.
- ⁴¹ *Ibid.*, 40.
- ⁴² *Ibid.*, Section III-4.4500 “Priorities for barrier removal,” 36.
- ⁴³ *Ibid.*, Section III-4.4300 “Standards to apply,” 34.
- ⁴⁴ *Ibid.*, Section III-4.4200 “Readily achievable barrier removal,” 33.
- ⁴⁵ Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG), § 4.1.7, www.access-board.gov/adaag/html/adaag.htm.
- ⁴⁶ The Americans with Disabilities Act Title III Technical Assistance Manual, Section III-4.4200 “Readily achievable barrier removal,” 33.
- ⁴⁷ *Ibid.*, Section III-1.2000 “Public accommodations,” 3.
- ⁴⁸ *Ibid.*, Section III-3.7000 “Maintenance of accessible features,” 17.



PUBLIC ACCOMMODATIONS AND THE AMERICANS WITH DISABILITIES ACT



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