

## FACT SHEET ABOUT

# Basic Requirements of Americans with Disabilities Act

The Americans with Disabilities Act (ADA) provides for a comprehensive prohibition of discrimination on the basis of disability in employment, State and local government services (including transportation), public accommodations and services (including transportation), and telecommunications.

## Employment (Title I)

- Provides requirements for State and local and private employers
- Covers Congress
- The lead agency is the Equal Employment Opportunity Commission (EEOC)
- Title VII of the Civil Rights Act of 1964 is the basis for enforcement of ADA, Title I
- Discrimination on the basis of disability is prohibited in all facets of employment
- Employers must provide reasonable accommodations to the applicant or employee with a disability unless to do so would be an undue burden, alter the fundamental nature of the program, or pose a direct threat to others (some courts have added to self)
- Provides for the posting of notices in accessible formats
- Department of Justice (DOJ) EEOC coordinating rule provides that EEOC will process employment complaints

## Public Services and Transportation (Title II)

- Covers public entities-State and local governments and their instrumentalities
- Department of Transportation is the lead agency for transportation. DOJ is the lead agency for everything else but has designated certain agencies to be delegated compliance responsibilities. Department of the Interior (DOI) is one of these designated agencies.
- Remedies and procedures of Title VI of the Civil Rights Act is the basis for enforcement of ADA, Title II.
- Section 504 of the Rehabilitation Act (504) federally assisted and conducted regulations was the foundation used by Congress in providing the requirements of ADA, Title II



- ADA, Title II essentially extends the antidiscrimination prohibition embodied in 504 to all States and local entities
- Covers all facets of employment without restriction by number of employees (coordinating rule provides that EEOC will assume compliance responsibilities for employment area)
- Requires a self-evaluation of an entities programs-structural and non-structural
- Requires an entity to develop a transition plan for the correction of all structural non-compliance
- Provides for a choice of design standards between the Uniform Federal Accessibility Standards (UFAS) and the Americans with Disabilities Act Accessibility Guidelines (ADAAG) by entity (experience has been that UFAS has never been chosen)
- Provides that non-structural public services be accessible by Jan 26, 1992
- Provides that buses and subway cars purchased or leased after August 25, 1990 be accessible
- Provides that one car per train be accessible by July 26, 1995
- Existing “key stations” for rapid, commuter, and light rail systems be accessible by July 26, 1993
- Provides for exceptions of undue burden and alteration of the fundamental nature of the program
- Provides for making historic programs accessible unless to do so would cause a substantial impairment of significant historical features
- Provides for complaint resolution by the agency with 504 jurisdiction or the designated agency (the designated agency gets it)
- Must seek voluntary resolution; if not attainable may submit to DOJ

### **Public Accommodations and Commercial Facilities including Transportation (Title III)**

- Provides for structural access-barrier removal if readily achievable
- Provides for non-structural access unless undue burden, fundamental alteration, or direct threat to others
- DOJ lead agency
- ADAAG is the design standard
- Provides that buses and subway cars be accessible after Aug 25, 1990
- Provides that new “over-the-road” buses ordered after July 26, 1996 (July 26, 1997 for small companies) must be accessible
- Penalties: permanent or temporary injunctions and Attorney general may fine up to \$50,000 1<sup>st</sup> violation and \$100,000 subsequent violations
- Contractors of public entities are dually responsible under ADA, Titles II and III



## Telecommunications (Title IV)

- Required telecommunications relay system for deaf and hard of hearing
- Required closed captioning of certain public announcements
- Federal Communications Commission is the lead agency
- Enforcement basis is the Federal Communications Act

## Miscellaneous Provisions (Title V)

- States not immune under the 11<sup>th</sup> amendment (recent Supreme Court decisions say they are but not under 504)
- Prohibits retaliation and coercion
- Required Access Board to provide design standards by 4/26/91 for ADA, Titles II & III
- Provides for payment of attorneys fees for prevailing parties
- Provision for Federal lead agencies to provide technical assistance (DOJ-Technical assistance Guides; Department of Education-funds 10 Technical Assistance Centers around the country)
- Provides for a wilderness area study relating to access
- Provides for the coverage of the House & Senate
- Amends the Rehab Act to provide that disability does not include current illegal use of drugs or alcohol at the workplace
- Provides, where appropriate, for the use of alternative means of dispute resolution including settlement negotiations, conciliation, facilitation, mediation, mini-trials, and arbitration

