



Americans with Disabilities Act

Title II Highlights

and

Title III Highlights



Title II Highlights

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I. Who is Covered by Title II of the ADA

- The title II regulation covers “public entities.”
- “Public entities” include any State or local government and any of its departments, agencies, or other instrumentalities.
- All activities, services, and programs of public entities are covered, including activities of State legislatures and courts, town meetings, police and fire departments, motor vehicle licensing, and employment.
 - Unlike section 504 of the Rehabilitation Act of 1973, which only covers programs receiving Federal financial assistance, title II extends to all the activities of State and local governments whether or not they receive Federal funds.
- Private entities that operate public accommodations, such as hotels, restaurants, theaters, retail stores, dry cleaners, doctors’ offices, amusement parks, and bowling alleys, are not covered by title II but are covered by title III of the ADA and the Department’s regulation implementing title III.
- Public transportation services operated by State and local governments are covered by regulations of the Department of Transportation.
 - DOT’s regulations establish specific requirements for transportation vehicles and facilities, including a requirement that all new busses must be equipped to provide services to people who use wheelchairs.

II. Overview of Requirements

- State and local governments --
 - May not refuse to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability.
 - For example, a city may not refuse to allow a person with epilepsy to use parks and recreational facilities.
 - Must provide programs and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.
 - Must eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy their services, programs or activities unless “necessary” for the provisions of the service, program or activity.
 - Requirements that tend to screen out individuals with disabilities, such as requiring a driver’s license as the only acceptable means of identification, are also prohibited.

- Safety requirements that are necessary for the safe operation of the program in question, such as requirements for eligibility for drivers' licenses, may be imposed if they are based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.
- Are required to make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result.
 - For example, a city office building would be required to make an exception to a rule prohibiting animals in public areas in order to admit guide dogs and other service animals assisting individuals with disabilities.
- Must furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.
- May provide special benefits, beyond those required by the regulation, to individuals with disabilities.
- May not place special charges on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as making modifications required to provide program accessibility or providing qualified interpreters.
- Shall operate their programs so that, when viewed in their entirety, they are readily accessible to and usable by individuals with disabilities.

III. "Qualified Individuals with Disabilities"

- Title II of the Americans with Disabilities Act provides comprehensive civil rights protections for "qualified individuals with disabilities."
- An "individual with a disability" is a person who --
 - Has a physical or mental impairment that substantially limits a "major life activity," or
 - Has a record of such an impairment, or
 - Is regarded as having such an impairment.
- Examples of physical or mental impairments include, but are not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. Homosexuality and bisexuality are not physical or mental impairments under the ADA.

- “Major life activities” include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- Individuals who currently engage in the illegal use of drugs are not protected by the ADA when an action is taken on the basis of their current illegal use of drugs.
- “Qualified” individuals.
 - A “qualified” individual with a disability is one who meets the essential eligibility requirements for the program or activity offered by a public entity.
 - The “essential eligibility requirements” will depend on the type of service or activity involved.
 - For some activities, such as State licensing programs, the ability to meet specific skill and performance requirements may be “essential.”
 - For other activities, such as where the public entity provides information to anyone who requests it, the “essential eligibility requirements” would be minimal.

IV. Program Access

- State and local governments--
 - Must ensure that individuals with disabilities are not excluded from services, programs, and activities because buildings are inaccessible.
 - Need not remove physical barriers, such as stairs, in all existing buildings, as long as they make their programs accessible to individuals who are unable to use an inaccessible existing facility.
 - Can provide the services, programs, and activities offered in the facility to individuals with disabilities through alternative methods, if physical barriers are not removed, such as --
 - Relocating a service to an accessible facility, e.g., moving a public information office from the third floor to the first floor of a building.
 - Providing an aide or personal assistant to enable an individual with a disability to obtain the service.
 - Providing benefits or services at an individual’s home, or at an alternative accessible site.
 - May not carry an individual with a disability as a method of providing program access, except in “manifestly exceptional” circumstances.

- Are not required to take any action that would result in a fundamental alteration in the nature of the service, program, or activity or in undue financial and administrative burdens. However, public entities must take any other action, if available, that would not result in a fundamental alteration or undue burdens but would ensure that individuals with disabilities receive the benefits or services.

V. Integrated Programs

- Integration of individuals with disabilities into the mainstream of society is fundamental to the purposes of the Americans with Disabilities Act.
- Public entities may not provide services or benefits to individuals with disabilities through programs that are separate or different, unless the separate programs are necessary to ensure that the benefits and services are equally effective.
- Even when separate programs are permitted, an individual with a disability still has the right to choose to participate in the regular program.
 - For example, it would not be a violation for a city to offer recreational programs specially designed for children with mobility impairments, but it would be a violation if the city refused to allow children with disabilities to participate in its other recreational programs.
- State and local governments may not require an individual with a disability to accept a special accommodation or benefit if the individual chooses not to accept it.

VI. Communications

- State and local governments must ensure effective communication with individuals with disabilities.
- Where necessary to ensure that communications with individuals with hearing, vision, or speech impairments are as effective as communications with others, the public entity must provide appropriate auxiliary aids.
 - “Auxiliary aids” include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDD’s), videotext displays, readers, taped texts, Brailled materials, and large print materials.
 - A public entity may not charge an individual with a disability for the use of an auxiliary aid.
- Telephone emergency services, including 911 services, must provide direct access to individuals with speech or hearing impairments.

- Public entities are not required to provide auxiliary aids that would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. However, public entities must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or undue burdens.

VII. New Construction and Alterations

- Public entities must ensure that newly constructed buildings and facilities are free of architectural and communication barriers that restrict access or use by individuals with disabilities.
- When a public entity undertakes alterations to an existing building, it must also ensure that the altered portions are accessible.
- The ADA does not require retrofitting of existing buildings to eliminate barriers, but does establish a high standard of accessibility for new buildings.
 - Public entities may choose between two technical standards for accessible design: The Uniform Federal Accessibility Standard (UFAS), established under the Architectural Barriers Act, or the Americans with Disability Act Accessibility Guidelines, adopted by the Department of Justice for places of public accommodation and commercial facilities covered by title III of the ADA.
 - The elevator exemption for small buildings under ADA Accessibility Guidelines would not apply to public entities covered by title II.

VIII. Enforcement

- Private parties may bring lawsuits to enforce their rights under title II of the ADA. The remedies available are the same as those provided under section 504 of the Rehabilitation Act of 1973. A reasonable attorney's fee may be awarded to the prevailing party.
- Individuals may also file complaints with appropriate administrative agencies.
 - The regulation designates eight Federal agencies to handle complaints filed under title II.
 - Complaints may also be filed with any Federal agency that provides financial assistance to the program in question, or with the Department of Justice, which will refer the complaint to the appropriate agency.

IX. Complaints

- Any individual who believes that he or she is a victim of discrimination prohibited by the regulation may file a complaint. Complaints on behalf of classes of individuals are also permitted.

- Complaints should be in writing, signed by the complainant or an authorized representative, and should contain the complainant's name and address and describe the public entity's alleged discriminatory action.
- Complaints may be sent to --

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section-NYAV
Washington, D.C. 20530
- Complaints may also be sent to agencies designated to process complaints under the regulation, or to agencies that provide Federal financial assistance to the program in question.

X. Designated Agencies

The following agencies are designated for enforcement of title II for components of State and local governments that exercise responsibilities, regulate, or administer services, programs, or activities in the following functional areas --

- (1) Department of Agriculture: Farming and the raising of livestock, including extension services.
- (2) Department of Education: Education systems and institutions (other than health-related schools), and libraries.
- (3) Department of Health and Human Services: Schools of medicine, dentistry, nursing, and other health-related schools; health care and social service providers and institutions, including "grass-roots" and community services organizations and programs; and preschool and daycare programs.
- (4) Department of Housing and Urban Development: State and local public housing, and housing assistance and referral.
- (5) Department of Interior: Lands and natural resources, including parks and recreation, water and waste management, environmental protection, energy, historic and cultural preservation, and museums.
- (6) Department of Justice: Public safety, law enforcement, and the administration of justice, including courts and correctional institutions; commerce and industry, including banking and finance, consumer protection, and insurance; planning, development, and regulation (unless otherwise assigned); State and local government support services; and all other government functions not assigned to other designated agencies.
- (7) Department of Labor: Labor and the work force.
- (8) Department of Transportation: Transportation, including highways, public transportation, traffic management (non-law enforcement), automobile licensing and inspection, and driver licensing.

XI. Technical Assistance

- The ADA requires that the Federal agencies responsible for issuing ADA regulations provide “technical assistance.”
- Technical assistance is the dissemination of information (either directly by the Department or through grants and contracts) to assist the public, including individuals protected by the ADA and entities covered by the ADA, in understanding the new law.
- Methods of providing information include, for example, audio-visual materials, pamphlets, manuals, electronic bulletin boards, checklists, and training.
- The Department issued for public comment on December 5, 1990, a government-wide plan for the provision of technical assistance.

The Department’s efforts focus on raising public awareness of the ADA by providing--

- Factsheets and pamphlets in accessible formats,
 - Speakers for workshops, seminars, classes, and conferences,
 - An ADA telephone information line, and
 - Access to ADA documents through an electronic bulletin board for users of personal computers.
- The Department has established a comprehensive program of technical assistance relating to public accommodations and State and local governments.
 - Grants will be awarded for projects to inform individuals with disabilities and covered entities about their rights and responsibilities under the ADA and to facilitate voluntary compliance.
 - The Department will issue a technical assistance manual by January 26, 1992, for individuals or entities with rights or duties under the ADA.

For additional information, contact:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section-NYAV
Washington, D.C. 20530
(800) 514-0301 (Voice)
(800) 514-0383 (TTY)



Title III Highlights

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I. Who is Covered by Title III of the ADA

- The title III regulation covers —
 - Public accommodations (i.e., private entities that own, operate, lease, or lease to places of public accommodation),
 - Commercial facilities, and
 - Private entities that offer certain examinations and courses related to educational and occupational certification.
- Places of public accommodation include over five million private establishments, such as restaurants, hotels, theaters, convention centers, retail stores, shopping centers, dry cleaners, laundromats, pharmacies, doctors' offices, hospitals, museums, libraries, parks, zoos, amusement parks, private schools, day care centers, health spas, and bowling alleys.
- Commercial facilities are nonresidential facilities, including office buildings, factories, and warehouses, whose operations affect commerce.
- Entities controlled by religious organizations, including places of worship, are not covered.
- Private clubs are not covered, except to the extent that the facilities of the private club are made available to customers or patrons of a place of public accommodation.
- State and local governments are not covered by the title III regulation, but rather by the Department of Justice's title II regulation.

II. Overview of Requirements

- Public accommodations must --
 - Provide goods and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.
 - Eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy the goods and services of a place of public accommodation.
 - Make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration would result in the nature of the goods and services provided.

- Furnish auxiliary aids when necessary 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 readily achievable alternative measures when removal of barriers is not readily achievable.
- Provide equivalent transportation services and purchase accessible vehicles in certain circumstances.
- 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 Architectural and Transportation Barriers Compliance Board and incorporated in the final Department of Justice title III regulation.
- A public accommodation is not required to provide personal devices such as wheelchairs; individually prescribed devices (e.g., prescription eyeglasses or hearing aids); or services of a personal nature including assistance in eating, toileting, or dressing.
- A public accommodation may not discriminate against an individual or entity because of the known disability of a person with whom the individual or entity is known to associate.
- Commercial facilities are only subject to the requirement that new construction and alterations conform to the ADA Accessibility Guidelines. The other requirements applicable to public accommodations listed above do not apply to commercial facilities.
- Private entities offering certain examinations or courses (i.e., those related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes) must offer them in an accessible place and manner or offer alternative accessible arrangements.

III. “Individuals with Disabilities”

- The Americans with Disabilities Act provides comprehensive civil rights protections for “individuals with disabilities.”
- An individual with a disability is a person who --
 - Has a physical or mental impairment that substantially limits one or more “major life activities,” or

- Has a record of such an impairment, or
- Is regarded as having such an impairment.
- Examples of physical or mental impairments include, but are not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. Homosexuality and bisexuality are not physical or mental impairments under the ADA.
- “Major life activities” include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- Individuals who currently engage in the illegal use of drugs are not protected by the ADA when an action is taken on the basis of their current illegal use of drugs.

IV. Eligibility for Goods and Services

- In providing goods and services, a public accommodation may not use eligibility requirements that exclude or segregate individuals with disabilities, unless the requirements are “necessary” for the operation of the public accommodation.
 - For example, excluding individuals with cerebral palsy from a movie theater or restricting individuals with Down’s Syndrome to only certain areas of a restaurant would violate the regulation.
- Requirements that tend to screen out individuals with disabilities, such as requiring a blind person to produce a driver’s license as the sole means of identification for cashing a check, are also prohibited.
- Safety requirements may be imposed only if they are necessary for the safe operation of a place of public accommodation. They must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.
- For example, an amusement park may impose height requirements for certain rides when required for safety.
- Extra charges may not be imposed on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as removing barriers or providing qualified interpreters.

V. Modifications in Policies, Practices, and Procedures

- A public accommodation must make reasonable modifications in its policies, practices, and procedures in order to accommodate individuals with disabilities.
- A modification is not required if it would “fundamentally alter” the goods, services, or operations of the public accommodation.
- For example, a department store may need to modify a policy of only permitting one person at a time in a dressing room if an individual with mental retardation needs the assistance of a companion in dressing.
- Modifications in existing practices generally must be made to permit the use of guide dogs and other service animals.
- Specialists are not required to provide services outside of their legitimate areas of specialization.
- For example, a doctor who specializes exclusively in burn treatment may refer an individual with a disability, who is not seeking burn treatment, to another provider. A burn specialist, however, could not refuse to provide burn treatment to, for example, an individual with HIV disease.

VI. Auxiliary Aids

- A public accommodation must provide auxiliary aids and services when they are necessary to ensure effective communication with individuals with hearing, vision, or speech impairments.
- “Auxiliary aids” include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDD’s), videotext displays, readers, taped texts, brailled materials, and large print materials.
- The auxiliary aid requirement is flexible. For example, a brailled menu is not required, if waiters are instructed to read the menu to blind customers.
- Auxiliary aids that would result in an undue burden, (i.e., “significant difficulty or expense”) or in a fundamental alteration in the nature of the goods or services are not required by the regulation. However, a public accommodation must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or an undue burden.

VII. Existing Facilities: Removal of Barriers

- Physical barriers to entering and using existing facilities must be removed when “readily achievable.”

- Readily achievable means “easily accomplishable and able to be carried out without much difficulty or expense.”
- What is readily achievable will be determined on a case-by-case basis in light of the resources available.
- The regulation does not require the rearrangement of temporary or movable structures, such as furniture, equipment, and display racks to the extent that it would result in a significant loss of selling or serving space.
- Legitimate safety requirements may be considered in determining what is readily achievable so long as they are based on actual risks and are necessary for safe operation.
- Examples of barrier removal measures include --
 - Installing ramps,
 - Making curb cuts at sidewalks and entrances,
 - Rearranging tables, chairs, vending machines, display racks, and other furniture,
 - Widening doorways,
 - Installing grab bars in toilet stalls, and
 - Adding raised letters or braille to elevator control buttons.
- First priority should be given to measures that will enable individuals with disabilities to “get in the front door,” followed by measures to provide access to areas providing goods and services.
- Barrier removal measures must comply, when readily achievable, with the alterations requirements of the ADA Accessibility Guidelines. If compliance with the Guidelines is not readily achievable, other safe, readily achievable measures must be taken, such as installation of a slightly narrower door than would be required by the Guidelines.

VIII. Existing Facilities: Alternatives to Barrier Removal

- The ADA requires the removal of physical barriers, such as stairs, if it is “readily achievable.” However, if removal is not readily achievable, alternative steps must be taken to make goods and services accessible.

Examples of alternative measures include --

- Providing goods and services at the door, sidewalk, or curb,

- Providing home delivery,
 - Retrieving merchandise from inaccessible shelves or racks,
 - Relocating activities to accessible locations.
- Extra charges may not be imposed on individuals with disabilities to cover the costs of measures used as alternatives to barrier removal. For example, a restaurant may not charge a wheelchair user extra for home delivery when it is provided as the alternative to barrier removal.

IX. New Construction

- All newly constructed places of public accommodation and commercial facilities must be accessible to individuals with disabilities to the extent that it is not structurally impracticable.
- The new construction requirements apply to any facility occupied after January 26, 1993, for which the last application for a building permit or permit extension is certified as complete after January 26, 1992.
- Full compliance will be considered “structurally impracticable” only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features (e.g., marshland that requires construction on stilts).
- The architectural standards for accessibility in new construction are contained in the ADA Accessibility Guidelines issued by the Architectural and Transportation Barriers Compliance Board, an independent Federal agency. These standards are incorporated in the final Department of Justice title III regulation.
- Elevators are not required in facilities under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center, shopping mall, professional office of a health care provider, or station used for public transportation.

X. Alterations

- Alterations after January 26, 1992, to existing places of public accommodation and commercial facilities must be accessible to the maximum extent feasible.
- The architectural standards for accessibility in alterations are contained in the ADA Accessibility Guidelines issued by the Architectural and Transportation Barriers Compliance Board. These standards are incorporated in the final Department of Justice title III regulation.
- An alteration is a change that affects usability of a facility. For example, if during remodeling, renovation, or restoration, a doorway is being relocated, the new doorway must be wide enough to meet the requirements of the ADA Accessibility Guidelines.

- When alterations are made to a “primary function area,” such as the lobby or work areas of a bank, an accessible path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving that area, must be made accessible to the extent that the added accessibility costs are not disproportionate to the overall cost of the original alteration.
- Alterations to windows, hardware, controls, electrical outlets, and signage in primary function areas do not trigger the path of travel requirement.
- The added accessibility costs are disproportionate if they exceed 20 percent of the original alteration.
- Elevators are not required in facilities under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center, shopping mall, professional office of a health care provider, or station used for public transportation.

XI. Overview of Americans with Disabilities Act Accessibility Guidelines for New Construction and Alterations

- New construction and alterations must be accessible in compliance with the ADA Accessibility Guidelines.
- The Guidelines contain general design (“technical”) standards for building and site elements, such as parking, accessible routes, ramps, stairs, elevators, doors, entrances, drinking fountains, bathrooms, controls and operating mechanisms, storage areas, alarms, signage, telephones, fixed seating and tables, assembly areas, automated teller machines, and dressing rooms. They also have specific technical standards for restaurants, medical care facilities, mercantile facilities, libraries, and transient lodging (such as hotels and shelters).
- The Guidelines also contain “scoping” requirements for various elements (i.e., it specifies how many, and under what circumstances, accessibility features must be incorporated).
- Following are examples of scoping requirements in new construction --
 - At least 50 percent of all public entrances must be accessible. In addition, there must be accessible entrances to enclosed parking, pedestrian tunnels, and elevated walkways.
 - An accessible route must connect accessible public transportation stops, parking spaces, passenger loading zones, and public streets or sidewalks to all accessible features and spaces within a building.
 - Every public and common use bathroom must be accessible. Only one stall must be accessible, unless there are six or more stalls, in which case two stalls must be accessible (one of which must be of an alternate, narrow-style design).

- Each floor in a building without a supervised sprinkler system must contain an “area of rescue assistance” (i.e., an area with direct access to an exit stairway where people unable to use stairs may await assistance during an emergency evacuation).
- One TDD must be provided inside any building that has four or more public pay telephones, counting both interior and exterior phones. In addition, one TDD must be provided whenever there is an interior public pay phone in a stadium or arena; convention center; hotel with a convention center; covered shopping mall; or hospital emergency, recovery, or waiting room.
- One accessible public phone must be provided for each floor, unless the floor has two or more banks of phones, in which case there must be one accessible phone for each bank.
- Fixed seating assembly areas that accommodate 50 or more people or have audio-amplification systems must have a permanently installed assistive listening system.
- Dispersal of wheelchair seating in theaters is required where there are more than 300 seats. In addition, at least one percent of all fixed seats must be aisle seats without armrests (or with movable armrests). Fixed seating for companions must be located adjacent to each wheelchair location.
- Where automated teller machines are provided, at least one must be accessible.
- Five percent of fitting and dressing rooms (but never less than one) must be accessible.
- Following are examples of specific scoping requirements for new construction of special types of facilities, such as restaurants, medical care facilities, mercantile establishments, libraries, and hotels --
 - In restaurants, generally all dining areas and five percent of fixed tables (but not less than one) must be accessible.
 - In medical care facilities, all public and common use areas must be accessible. In general purpose hospitals and in psychiatric and detoxification facilities, ten percent of patient bedrooms and toilets must be accessible. The required percentage is 100 percent for special facilities treating conditions that affect mobility, and 50 percent for long-term care facilities and nursing homes.
 - In mercantile establishments, at least one of each type of counter containing a cash register and at least one of each design of check-out aisle must be accessible. In some cases, additional check-out aisles are required to be accessible (i.e., from 20 to 40 percent) depending on the number of check-out aisles and the size of the facility.

- In libraries, all public areas must be accessible. In addition, five percent of fixed tables or study carrels (or at least one) must be accessible. At least one lane at the check-out area and aisles between card catalogs, magazine displays, and stacks must be accessible.
- In hotels, four percent of the first 100 rooms and approximately two percent of rooms in excess of 100 must be accessible to persons with hearing impairments (i.e., contain visual alarms, visual notification devices, volume-control telephones, and an accessible electrical outlet for a TDD) and to persons with mobility impairments. Moreover, an identical percentage of additional rooms must be accessible to persons with hearing impairments.
- Technical and scoping requirements for alterations are sometimes less stringent than those for new construction. For example, when compliance with the new construction requirements would be technically infeasible, one accessible unisex bathroom per floor is acceptable.

XII. Examinations and Courses

- Certain examinations or courses offered by a private entity (i.e., those that are related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes) must either be given in a place and manner accessible to persons with disabilities, or be made accessible through alternative means.
- In order to provide an examination in an accessible place and manner, a private entity must --
 - Assure that the examination measures what it is intended to measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills.
 - Modify the examination format when necessary (e.g., permit additional time).
 - Provide auxiliary aids (e.g., taped exams, interpreters, large print answer sheets, or qualified readers), unless they would fundamentally alter the measurement of the skills or knowledge that the examination is intended to test or would result in an undue burden.
 - Offer any modified examination at an equally convenient location, as often, and in as timely a manner as are other examinations.
 - Administer examinations in a facility that is accessible or provide alternative comparable arrangements, such as providing the examination at an individual's home with a proctor.
- In order to provide a course in an accessible place and manner, a private entity may need to -

- Modify the course format or requirements (e.g., permit additional time for completion of the course).
- Provide auxiliary aids, unless a fundamental alteration or undue burden would result.
- Administer the course in a facility that is accessible or provide alternative comparable arrangements, such as provision of the course through video tape, audio cassettes, or prepared notes.

XIII. Enforcement of the ADA and its Regulations

- Private parties may bring lawsuits to obtain court orders to stop discrimination. No monetary damages will be available in such suits. A reasonable attorney's fee, however, may be awarded.
- Individuals may also file complaints with the Attorney General who is authorized to bring lawsuits in cases of general public importance or where a "pattern or practice" of discrimination is alleged.
- In suits brought by the Attorney General, monetary damages (not including punitive damages) and civil penalties may be awarded. Civil penalties may not exceed \$50,000 for a first violation or \$100,000 for any subsequent violation.

XIV. Technical Assistance

- The ADA requires that the Federal agencies responsible for issuing ADA regulations provide "technical assistance."
- Technical assistance is the dissemination of information (either directly by the Department or through grants and contracts) to assist the public, including individuals protected by the ADA and entities covered by the ADA, in understanding the new law.
- Methods of providing information include, for example, audio-visual materials, pamphlets, manuals, electronic bulletin boards, checklists, and training.
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- Fact sheets and pamphlets in accessible formats,
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- An ADA telephone information line, and
- Access to ADA documents through an electronic bulletin board for users of personal computers.

- The Department has established a comprehensive program of technical assistance relating to public accommodations and State and local governments.
- Grants will be awarded for projects to inform individuals with disabilities and covered entities about their rights and responsibilities under the ADA and to facilitate voluntary compliance.
- The Department will issue a technical assistance manual by January 26, 1992, for individuals or entities with rights or duties under the ADA.

For additional information, contact:

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