



2024 ADA Celebration!

The History of the ADA, Current Wins, & Ongoing Efforts



History



The Americans with Disabilities Act: An Basic Overview

The Disability Rights Movement



To Justin Dart. Without your drive, your 'believing' and your leadership this day would not have been possible. With respect & friendship
Cap Bunk

“Three weeks ago we celebrated our nation's Independence Day. Today we're here to rejoice in and celebrate another “independence day,” one that is long overdue. With today's signing of the landmark Americans for Disabilities Act, every man, woman, and child with a disability can now pass through once-closed doors into a bright new era of equality, independence, and freedom. As I look around at all these joyous faces, I remember clearly how many years of dedicated commitment have gone into making this historic new civil rights act a reality. **It's been the work of a true coalition, a strong and inspiring coalition of people who have shared both a dream and a passionate determination to make that dream come true.**

...

Today's legislation brings us closer to that day when **no Americans will ever again be deprived of their basic guarantee of life, liberty, and the pursuit of happiness.”**

- George H.W. Bush during the Signing of the ADA at July 26, 1990

The Americans with Disabilities Act

- It is important to remember that in the context of the ADA, “disability” is a legal term rather than a medical one
- A person who has a physical or mental impairment that substantially limits one or more major life activity. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability.



Disability Under the ADA

Definition

1. a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
2. a person with a record of such an impairment
3. a person who is regarded as having such an impairment

Regulations

- 42 U.S.C. § 12102(1)
- 29 U.S.C. § 705(9)(B)
- (20)(B)
- 28 C.F.R. §§ 35.108, 36.105
- 45 C.F.R. §92.102(c).

Major Life Activity Examples:

- Breathing
- Walking
- Talking
- Hearing
- Seeing
- Sleeping
- Caring for one's self
- Performing manual tasks, and
- Working



May include major bodily functions such as immune system functions, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions

Wins



Oregon Senate Bill 1606



VISITOR

- Hospitals must allow a patient to designate at a minimum 3 support persons
- Help with medical decisions
- ADLs



POLST/DNR

- No coercion
- Patients don't have to sign forms about end of life care
- Still best practice to inform & support patients who wish to engage



ADA

- Modifications
- Accommodations
- Applies to all hospital policies

SB 578 & Civil Gideon


- SB 578 took effect state-wide on January 1, 2024
- Appoints DRO as attorneys to ensure guardianship proceedings are accessible
- Trends





Guidance on “Long COVID” as a Disability Under the ADA, Section 504, and Section 1557

Although many people with COVID-19 get better within weeks, some people continue to experience symptoms that can last months after first being infected, or may have new or recurring symptoms at a later time. This can happen to anyone who has had COVID-19, even if the initial illness was mild. People with this condition are sometimes called “long-haulers.” This condition is known as “long COVID.”

In light of the rise of long COVID as a persistent and significant health issue, the Office for  Civil Rights of the Department of Health and Human Services and the Civil Rights Division of the Department of Justice have joined together to provide this guidance.

This guidance explains that long COVID can be a disability under Titles II (state and local government) and III (public accommodations) of the Americans with Disabilities Act

DOJ Long COVID Guidance

- Lung damage that causes shortness of breath & fatigue substantially limiting respiratory function
- Intestinal pain, vomiting, and nausea that have lingered for months substantially limiting gastrointestinal function
- Memory lapses and “brain fog” substantially limiting brain function, concentrating, and/or thinking.



The Americans with Disabilities Act

- Title I of the ADA protects persons with disabilities from discrimination in employment
- Covers employers with ≥ 15 employees (state ≥ 6)
- Applies to recruitment, hiring, promotions, training, pay, social activities, and other aspects of employment
- Restricts disability questions during hiring process
- Requires reasonable accommodation

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Seeking Employment Accommodations

Asking for Accommodation

- A workplace barrier related to your disability
- Ask for adjustment or change based on disability
- Example: "I'm having trouble standing at the cash register due to dizziness related to long COVID. I'd like to use a stool to sit."

Resources

- [U.S. HHS Office of Civil Rights](#)
- [U.S Equal Employment Opportunity Commission \(EEOC\)](#)
- [Job Accommodation Network \(JAN\)](#)
- [Disability Rights Oregon \(DRO\)](#)

Reasonable Accommodations in the Workplace

- The ADA requires employers to make reasonable accommodations for the physical or mental functional limitations of a person with a disability
- Definition: A modification or adjustment to a job, the work environment, employer policy or practice, or the way things are usually done

Reasonable Accommodation Examples

Typical

- Physical changes to the work environment
- Accessible communications
- Adjustments or modification to training materials
- Modified work schedules
- Unpaid leave for someone who needs medical treatment for a disability
- Assistive technologies
- Job restructuring
- Reassignment to vacant position

COVID Related

- Changes to the work environment (glass barriers, distancing of desks)
- PPE
- Reduced direct contact with people
- Temporary job restructuring
- Remote work
- Requests for leave

Ongoing Efforts



Service Animals: A Basic Overview

- Under Title II and III of the ADA, a service animal is:
 - for an individual with a disability (handler)
 - individually trained to do work or perform tasks
 - that are directly related to the person's disability.
- It is a working animal, not a pet.
- Dogs and miniature horses can be service animals.

Service Animals in Employment

Title I: Employment rights of a person with a disability

- Title I does not specifically address service animals
- Reasonable accommodation request*
- Protection from discrimination
- Freedom from harassment
- Protection from retaliation

Employer Verification Requests

- When applicant/employee has requested reasonable accommodation, and
 - Person's disability is not obvious, or
 - Link between disability and requested accommodation is not obvious
- From employee's licensed health care provider*
- Includes disability's nature, duration, severity, limitations on tasks
- Not entitled to extensive medical information

Oregon State Law

- Unlike the ADA, Oregon State law provides protections for service animals in training.
- Individuals facing discrimination can file a complaint with the Civil Rights Division of the Oregon State Bureau of Labor and Industries (BOLI).

Defining a Service Animal

- How do I know it's really a service animal?
 - Two questions permitted when a person with an animal enters without an obvious disability:
 1. Is this animal required because of a disability?
 2. What work or task has the animal been trained to perform?

Common Service Animal Tasks

- Guiding a person who is blind.
- Alerting a person who is deaf.
- Picking up items for a person who uses a wheelchair.
- Alerting and protecting a person who is having a seizure.
- Providing stability for a person who has difficulty walking.

Where Can Service Animals Go?

- With its handler, a service animal is generally allowed wherever members of the public can go.
- May be excluded from certain areas if it:
 - Fundamentally changes or interferes with business
 - Jeopardizes safety
 - Goes against public health
 - Is out of its handler's control

TRUE OR FALSE #1

Only dogs (and in some cases, miniature horses) are recognized as service animals under the ADA.



TRUE OR FALSE #2

Under the ADA, service animals must wear a vest or tags identifying them as service animals.



TRUE OR FALSE #3

Places of public accommodation must assist individuals with service animals by providing water for the animal and taking the animal outdoors to eliminate.



POOPER SCOOPER

That would be nice, wouldn't it?

TRUE OR FALSE #4

If a service animal is threatening, out of control, or not housebroken, a public accommodation can require that the animal be removed from the premises.



TRUE OR FALSE #5

A service dog can be excluded from a place of public accommodation if other patrons are allergic to dogs, afraid of dogs, or the service animal is a pit bull.



Digital Accessibility: Title II Entities

Nondiscrimination on the Basis of Disability:
Accessibility of Web Information and Services of State
and Local Government Entities

U.S. Attorney General Order No. 5919-2024

Publication Date: April 24, 2024

From the Department of Justice

The new rule mandates state and local governments make their web content and mobile applications accessible to people with disabilities, also covering any organizations that contract with state and local government agencies to provide public services.

It requires state and local governments to make their websites and mobile apps accessible to all, recognizing the critical role these platforms play in modern public life.

By adopting the WCAG 2.1, Level AA standards, the rule provides a clear benchmark for what accessible digital content should look like.

From the Department of Justice

“By allowing individuals with disabilities to engage more fully with their governments, accessible web content and mobile apps also promote the equal enjoyment of fundamental constitutional rights, such as rights with respect to speech, assembly, association, petitioning, voting, and due process of law.

Just as stairs can exclude people who use wheelchairs from accessing government buildings, inaccessible web content and mobile apps can exclude people with a range of disabilities from accessing government services.”

Title II: State and Local Governments

State and local governments:

- counties
- cities
- transportation agencies
- libraries
- schools
- courthouses
- parks
- voting centers

Enforced by the US Department of Justice (DOJ)

Implementation

- City or County population size:
 - 1 to 49,999 persons must comply by April 26, 2027
 - 50,000 and more must comply by April 24, 2026
 - Special district governments by April 26, 2027
- A school district is not a special district government. If it is a city school district, it would use the population of the city for compliance date. If it is a county school district, it would use the population of the county.
- A city police department looks to the city population number. A county library looks to the county population, and so on.

Implementation Considerations

- The ADA requires that state and local governments must provide individuals with disabilities with effective communication, reasonable modifications, and an equal opportunity to participate in or benefit from their services, programs, and activities.

Continuing Title II Obligations

- Sometimes an individual with a disability may not be able to access a state or local government's web content or mobile apps even if they meet WCAG 2.1, Level AA.
- The state or local government is not required to make more changes to its web content or mobile apps that meet the technical requirement.
- However, the entity must still satisfy its other obligations under the ADA to provide individuals with disabilities with effective communication, reasonable modifications, and an equal opportunity to participate in or benefit from their services, programs, and activities.

Implementation Considerations

- Under the ADA, state and local governments do not need to take actions that would result in a fundamental alteration or an undue burden.
- Determining what is a fundamental alteration or undue burden is different from entity to entity and sometimes from one year to the next.

Developing Accessibility Policies

- State and local government organizations will need to formulate clear policies that define their commitment to digital accessibility, including standards and who is responsible for implementing them.
- Set realistic deadlines for when services should meet accessibility goals and regularly check progress to ensure compliance.
- Update these policies to keep pace with evolving technology and accessibility practices.

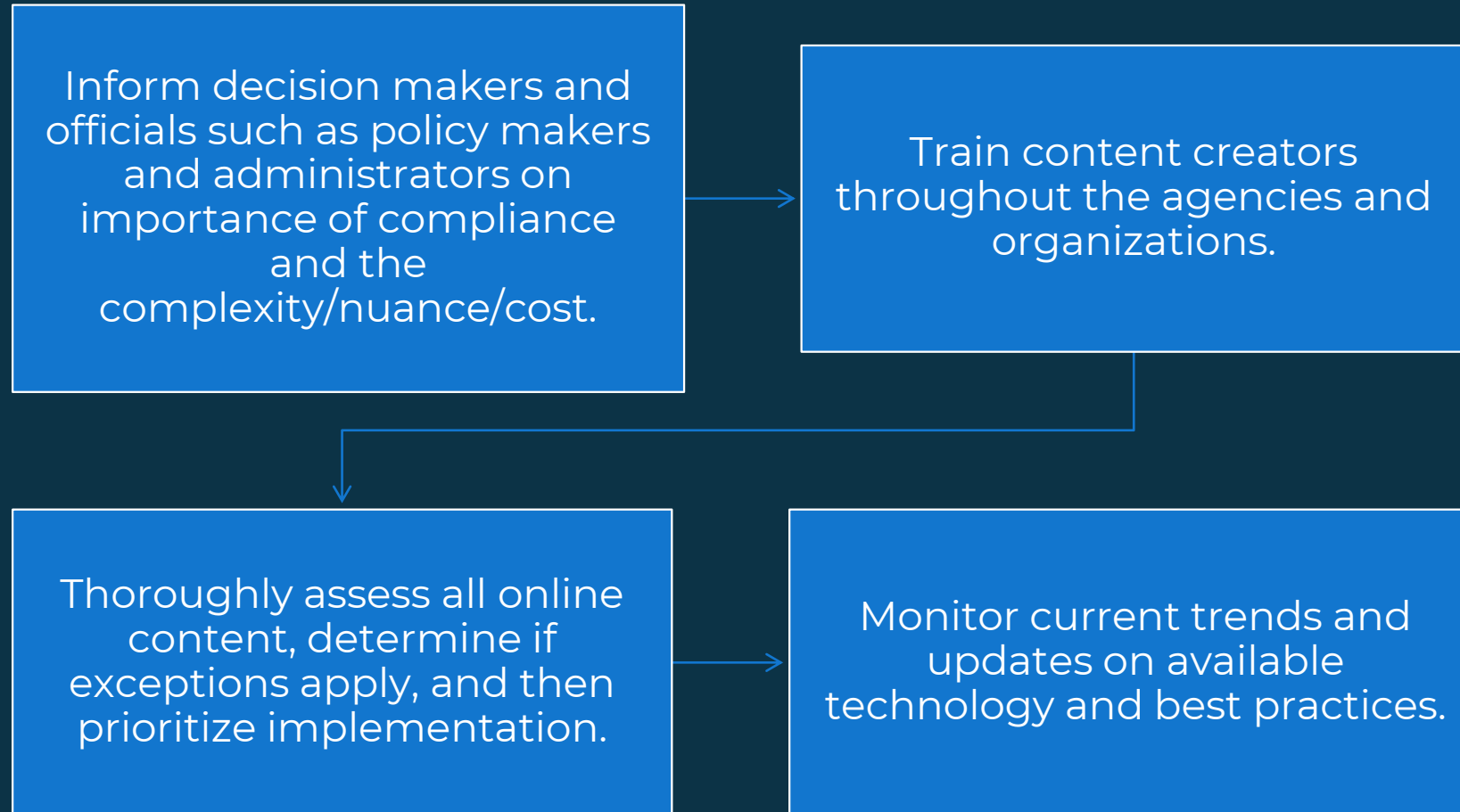
Compliance Exceptions

- Archived web content
- Pre-rule electronic documents
- Unaffiliated third-party content posting
- Individualized password-protected documents
- Pre-rule social media posts

WCAG 2.1 Compliance Exceptions

- In some limited situations, state and local governments may be able to show that their web content or mobile apps do not meet WCAG Version 2.1, Level AA in a way that is so minor that it would not change a person with a disability's access to the content or mobile app.
- If the state or local government can show effective compliance, then they are not violating the rule.

The Challenge Going Forward: Creating and Maintaining Access



The ADA and Law Enforcement

Unexpected actions taken by some individuals with disabilities may be misconstrued by officers or deputies as suspicious or illegal activity, or as uncooperative behavior.

Oregon House Bill 2498



- Beginning in 2022, Oregonians can voluntarily apply to have the International Symbol of Access for Hearing Loss added to their driver license, driver permit, or identification card.
- The deaf or hard of hearing designation will also be visible to law enforcement through the DMV record.

Common Scenarios

- An officer approaches a vehicle and asks the driver to step out of the car. The driver, who has a mobility disability, reaches behind the seat to retrieve her assistive device for walking. This appears suspicious to the officer.
- Individuals who are deaf or hard of hearing, or who have speech disabilities or intellectual disabilities, or who are blind or visually impaired may not recognize or be able to respond to police directions. These individuals may erroneously be perceived as uncooperative.

Additional Scenarios

- An officer yells “freeze” to an individual who is running from an area in which a crime has been reported. The individual, who is deaf, cannot hear the officer and continues to run. The officer mistakenly believes that the individual is fleeing from the scene.
- An officer observes a vehicle with one working headlight and pulls the vehicle over. When the driver hands the registration to the officer, the officer notices that the driver’s hand is trembling, and her speech is slurred. The officer concludes that the individual is under the influence of alcohol, when in fact the symptoms are caused by a neurological disability.

Title II Includes Law Enforcement Agencies

- Law enforcement agencies are covered since they are programs of State or local governments, regardless of whether they receive Federal grants or other Federal funds. The ADA affects virtually everything that officers and deputies do, for example:
 - receiving citizen complaints
 - interrogating witnesses
 - arresting, booking, and holding suspects
 - operating telephone (911) emergency centers
 - providing emergency medical services
 - enforcing laws



Thank You