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“Ensuring people with disabilities the right to enter the economic and social mainstream of American life.”



AMERICANS WITH DISABILITIES ACT

Your Guide to Reasonable
Accommodations and Your Rights


MSCOD

Minnesota State Council
on Disability

Your Policy, Training and Technical Resource

PURPOSE

In passing the 1990 Americans with Disabilities Act (ADA), Congress found that some 54 million Americans have one or more physical or mental disabilities and that discrimination against such individuals persists in such critical areas as employment, public accommodations, transportation, education, communications and access to public services. The purpose of the ADA, then, is to provide a clear and comprehensive national mandate to end discrimination against persons with disabilities!

The ADA applies to employers, services and programs of State and local government, public accommodations, communication providers and transportation providers regardless of whether they receive or benefit from federal funding. Receiving federal funding is a compliance requirement under the 1973 Rehabilitation Act.



DEFINITION

The ADA defines “person with a disability” to mean a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities
- Has a record of such impairment
- Or is regarded as having such an impairment.

“Major life activities” include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing and learning.

The ADA provides coverage in five areas:

- Employment
- Public Services/Transportation
- Public Accommodations/Transportation
- Telecommunications
- Miscellaneous



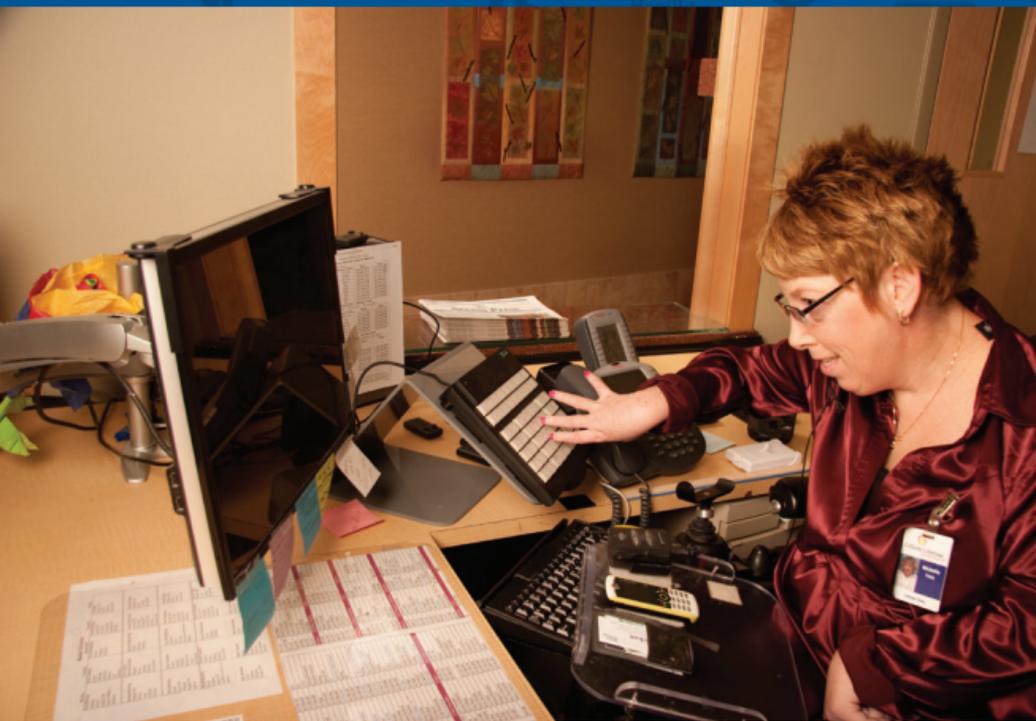
EMPLOYMENT

The ADA states that no covered employer shall discriminate against any qualified person with a disability in regard to all terms, conditions or privileges of employment. A covered employer is a private employer with 15 or more employees or a State or local government employer regardless of the number of employees it has. A qualified individual with a disability is one who, with or without a reasonable accommodation, can perform the essential functions of a job.

Examples of discrimination include:

- Testing or application procedures that tend to screen out a person or class of persons with a disability;
- Medical examinations that are required prior to a conditional offer of employment, that are not directly related to job duties or that would not be required of all qualifying candidates;
- Pre-employment questions, whether on the application form or in the interview, that are related to a person's disability rather than a person's ability to do certain job-related tasks.

The Minnesota Human Rights Act also requires medical examinations to be directly related to job duties.



EMPLOYMENT (cont.)

Discrimination in employment also includes not making reasonable accommodations to the known limitations of a qualified person with a disability, unless the employer can demonstrate that the accommodation would impose an undue hardship. Examples of reasonable accommodations include: making existing facilities accessible; job restructuring; part-time or modified work schedules; acquisition or modification of equipment or devices, assistive technology; the provision of qualified readers and interpreters and other similar accommodations.

The Minnesota Human rights Act prohibits discrimination by any size employer, but requires reasonable accommodation be provided only when the employer has 15 or more employees.

PUBLIC SERVICES

The ADA specifies that no qualified individual with a disability may be discriminated against by a department, agency, special purpose district or other instrumentality of a State or local government. Public services shall operate their programs so that, when viewed in their entirety, they are readily accessible to and usable by individuals with disabilities. Requirements of State and local government include:

- May not refuse to allow a person with a disability to participate in a service, program or activity simply because of person's disability
- Must provide programs and services in the most integrated setting possible to ensure equal opportunity
- Must make reasonable modifications to rules, practices and procedures that deny equal access
- Must ensure that individuals with disabilities are not excluded from services, programs and activities because buildings are inaccessible;
- Must ensure that newly constructed buildings and facilities are free of architectural and communication barriers that restrict access or use by individuals with disabilities;
- Must provide auxiliary aids and services when necessary to ensure effective communication. Examples include: large print, Braille and taped materials, sign language interpreters, readers, assisted listening systems, TTYs and open/closed captioning.

PUBLIC SERVICES (cont.)

This section also requires newly purchased regular route buses, rail vehicles, and other regular route vehicles to be accessible.

Where a fixed route, non-commuter service operates, an ADA comparable para transit system should exist to provide transportation to individuals with disabilities.

PUBLIC ACCOMMODATIONS

(e.g., private entities that own, operate, lease or lease to places of public accommodation).

The ADA specifies that no person shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations, of any place of public accommodation, such as restaurants, hotels, doctors' offices, grocery stores, museums and retail stores.



PUBLIC ACCOMMODATIONS (cont.)

Requirements of Public Accommodations include:

- Provide goods and services in the most integrated setting possible;
- Make reasonable modifications in policies, practices and procedures that deny equal access, 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. Readily available is defined as easily accomplishable and able to be carried out without much difficulty or expense. Examples include the installation of grab bars, changing door hardware, providing accessible parking and installing a ramp.

This section also requires public transportation services owned by private companies to make new over-the-road buses accessible.

TELECOMMUNICATIONS

The ADA specifies that telephone services offered to the general public must include interstate and intrastate telecommunication relay services for hearing and speech impaired persons. This allows customers who use TTYs or similar devices, because of their disabilities, to have equal service to those who use voice telephone services.

This section also requires that any public service announcement funded in part or whole by the Federal Government be closed-captioned.

MISCELLANEOUS

This section of the ADA explains the relationship between the ADA and other Federal and State laws; explains that the ADA does not disrupt the current nature of insurance underwriting; prohibits retaliation; makes it clear that states are not immune from actions in federal court for a violation of the ADA; provides a directive to the Architectural and Transportation Barriers Compliance Board to issue guidelines; authorizes attorney's fees and mandates a study of the Wilderness Act's effect on persons with disabilities.

OUR MISSION

The Minnesota State Council on Disability (MSCOD) is a state agency providing leadership to empower and strengthen the rights of Minnesotans with disabilities. We collaborate with the public and private sectors as a policy, training and technical resource advisor.



Your Policy, Training and Technical Resource

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