



# ADA/ACCESSIBILITY

## Overview, Transition Planning & Accommodations

### Disclaimer

Information, materials, and/or technical assistance are intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the ADA, nor binding on any agency with enforcement responsibility under the ADA.

The Mid-Atlantic ADA Center is authorized by the National Institute on Disability and Rehabilitation Research (NIDRR) to provide information, materials, and technical assistance to individuals and entities that are covered by the ADA. The contents of this document were developed under a grant from the Department of Education, NIDRR grant number H133 A110020. However, those contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the Federal Government.





## **The Americans with Disabilities Act - ADA**

The ADA is Civil Rights Legislation. The intended goal of the ADA is to prevent discrimination against individuals who experience disabilities.

The ADA was passed in 1990 and became effective in 1992. The ADA Amendments Act was passed in 2008, followed by the creation of the 2010 ADA Standards for Accessible Design.

### **ADA/Accessibility**

---

#### **Five Titles under the ADA**

Title I	Employment
Title II	State & Local Government operations (Public Sector)
Title III	Public Accommodations (Business – Private Sector)
Title IV	Telecommunications
Title V	Miscellaneous



## ADA/Accessibility

---

### **When it comes to Accessibility...**

Title III entities – the private sector – are required to make their goods and services accessible to individuals with disabilities.

Title II entities – state and local governments - are required to make their facilities (this includes PROW), programs and services, when viewed in their entirety, accessible to individuals with disabilities.

---



## ADA/Accessibility

---

### **When it comes to Accessibility...**

Example: A municipality owns/operates 3 swimming pools. One has a pool lift and it has been determined that it is centrally located and accessible to individuals with disabilities. This means that when viewed in its' entirety, the municipality does have an accessible pool for use by persons with disabilities.

Note: It's important to look at your demographics and any history of requests regarding program accessibility to see if you have chosen program locations that really are centrally located and able to meet the needs of persons with disabilities.

---



## ADA/Accessibility

---

### The ADA is known as “case-by-case” law.

If a decision about lack of access to a program or service needs to be decided in court, the law looks to an individual’s circumstances and their experience of lack of access, based on their disability and how it affects them.

This means that whether a facility, program or service is experienced as Accessible depends on an individual’s experience. So, with the swimming pool example, a court could still decide that the pool with the lift isn’t convenient for a specific individual to get to.



## ADA/Accessibility

---

It is important for a municipality to draw on all departments to work on Accessibility as a team because ADA/Accessibility compliance affects ALL operations of state and local government (even those activities that do not require direct contact with the public, e.g. purchasing). FYI a product labeled “ADA” does NOT assure it meets ADA requirements.

It’s beneficial to think in terms of “ADA & Accessibility Compliance” instead of “ADA Compliance” because of the *strictest standard* requirement of the ADA and the variety of laws that need to be considered (as well as situations that fall in the “absence of standards” area of the ADA).



## ADA/Accessibility

---

The ADA requires that an entity look to the strictest standards on an accessibility topic to achieve compliance; and, in the absence of standards under the ADA, to refer to other applicable legislation and guidelines for Best Practices (e.g. looking to 508 of the Rehabilitation Act and WCAG to meet the Effective Communication requirement under the ADA).

Another example: requirements for Accessible parking spaces in Florida are stricter than the ADA, so in Florida we have to follow the Florida Accessibility Code for Building Construction and related Fl. Statutes to achieve compliance.

Only relying on the ADA will not assure Accessibility compliance. Depending on the operations of the municipality, the following legislation (and more) may also need to be consulted:



## ADA/Accessibility

---

- Fair Housing Act (1968, amended 1988)
- Air Carrier Access Act (1986)
- Section 504 and 508 of the Rehabilitation Act (1973, 508 Refresh 2018)
- ADA Amendments Act of 2008 (& 2010 ADA Standards for Accessible Design)
- Florida Accessibility Code for Building Construction
- Florida Statutes
- PROWAG – Public Rights of Way Accessibility Guidelines (*mandated by FDOT as a Best Practice until standards are formally adopted*)



## ADA/Accessibility

---

Federal funding is also tied to legislation. For example:

CDBG (Community Development Block grant) funds used by a municipality for residential dwellings would require a compliance review of the Fair Housing Act.

FDOT requires that municipalities who want to receive LAP – Local Agency Program funding (and other sources of FDOT funding), meet the ADA requirements of Self-evaluation and ADA Transition planning for a Title II entity.



## ADA/Accessibility

---

The legislation and standards cited in the previous slide also apply to other operations. Examples:

As stated above, if a municipality owns, operates or permits residential dwellings (e.g. an apartment complex), Fair Housing Act requirements apply. FYI – the ADA only covers Service Animals (dogs) but the Fair Housing Act covers therapeutic and support animals (with some exceptions).

If a municipality owns or operates an Airport, the Air Carrier Access Act comes into play. FYI – the Air Carrier Access Act also includes therapeutic and support animals (with some exceptions) in addition to Service Animals.



**ADA/Accessibility**

---

More examples:

If an entity is Federal and is constructing a building, or the building is being constructed with Federal funds specifically, then Section 504 of the Rehabilitation Act and the Architectural Barriers Act would be consulted.

.....

NOTE: Important to remember that Accessibility of a facility includes site arrival point (e.g. bus stop) all the way to the entrance of the facility.



**ADA/Accessibility**

---

Another example:

If a municipality rents or leases facilities to a private sector entity, then both Title II requirements for facility and program access are applied and Title III requirements for Access to Goods and Services. For example, a coffee shop in a library owned by a municipality would combine Title II and III requirements.

This type of arrangement also affects who holds the responsibility for providing accommodations. It is recommended that this be clarified in the contract or agreement between the two parties. It is also advised that a Title II entity not get involved with leasing/renting their facilities to Title III entities, until facility Accessibility has been determined. The reverse is also true.



## ADA/Accessibility

---

Another example:

Your municipality has a recreation facility that it contracts out to private sector entities. For example, an art instructor contracts to teach art classes. If someone signs up for the class and requests a sign-language interpreter, the instructor should be responsible for providing one, but that information should be laid out in contracts or agreements.



## ADA/Accessibility

---

Another example:

Special events held in your municipality, whether they are "your" events or permits are granted to outside entities, need to be accessible to persons with disabilities.

The ADA National Center puts out a publication: "A Planning Guide for Making Temporary Events Accessible to People with Disabilities." This describes all the things an entity needs to be aware of regarding accessibility.





## ADA/Accessibility

---

Since most special events won't be able to become accessible overnight, it is recommended that event coordinators start with making an evaluation of the event as it is "now." This can be done by using the planning guide and checklists. Also, pay attention to public feedback about the events.

Maybe the event has no accessible porta-toilets "now." So, on the checklist it should be explained what the plan is to have accessible porta-toilets the next time the event is held (and every time thereafter).

Maybe the event hasn't put out information to request accommodations. It should be noted on the checklist what will be done the next time regarding notifying the public about accommodation requests.... and so on.



## ADA/Accessibility

---

### **Important to be familiar with both Title II and Title III requirements when members of the public contact your municipality:**

What happens when a member of the public contacts your municipality to complain that a local business (Title III) isn't accessible?

If the business is an established business, refer the individual back to the business, as they hold the authority to make changes, not the municipality. You may want to make the caller aware that there are ADA related tax incentives for small businesses.



## ADA/Accessibility

---

### **Important to be familiar with both Title II and Title III requirements**

If the caller is calling about a building under construction or renovation then your municipality still has responsibility regarding the project, and it is advised that the caller's concerns be checked out before the project is completed. If a situation involving lack of Accessibility ends up in court (or reviewed by the DOJ), the municipality permitting the structure and the private sector entities behind the project are all considered responsible for the end result.



## ADA/Accessibility

---

### **Summing up legislation and standards:**

When working with developers, designers and contractors, make sure that they are aware of all the different standards that may be involved in a project in Florida; always: ADA, FAC and PROWAG. If a facility is built by Federal dollars (public or private sector) then it is subject to requirements under section 504 of the Rehabilitation Act and the Architectural Barriers Act (ABA). If a business involves residential dwellings, then they are also subject to Fair Housing Act requirements.... and so on.



## ADA/Accessibility

---

Remember, when in doubt, consult with an **ADA National Network** center, it's free! You can also use the **United States Access Board** website (they administer the standards for ADA and related Accessibility standards):

<https://www.access-board.gov/> - but remember to always consult FAC for potentially stricter standards!



## ADA/Accessibility

---

In 2018 the CDC reported that 61 million adults in this country live with a disability; that's basically 1 in 4 adults; add children into the stats and they go much higher.

It has been estimated that the discretionary spending power (money to be spent after paying for taxes and necessities) of persons with disabilities and their immediate cohort (friends and family) is well over **\$175 billion dollars** (and that stat doesn't include world travelers outside the U.S. and the money they could spend in the states).

The discretionary spending power of working-age people with disabilities alone in the U.S. is estimated at **\$21 billion**.



## ADA/Accessibility

---

**By 2030 over 71 million Baby Boomers will be 65 or older**, and requiring goods, services and environments that meet their age related needs.

MANY of the people involved in the statistics just mentioned are also voters in our state!

Not only is improving Accessibility required by law, it is an investment in the future – for ALL of us!



## ADA/Accessibility

---

### **Title II Requirements for ADA/Accessibility Compliance and Beginning ADA Self-evaluation and Transition Planning:**

Note: Compliance information for Title II entities is available on the **ADA.gov** website and at **ADAActionGuide.org**.

- Start by determining what staff will be directly involved in ADA/Accessibility: it's recommended that an "Accessibility Liaison" be designated (and trained) for each department (free online [ADA Building Blocks](#) course is a great start). Then, there will be direct points of contact in each department for accessibility related questions.
- Designate a staff person as the municipality's ADA Coordinator and make that person's contact information readily available, including on websites.



## **ADA/Accessibility**

---

There are two organizations commonly used to credential an ADA Coordinator:

NAADAC – National Association of ADA Coordinators

ACTCP – ADA Coordinator Training Certification Program

Both use the free online “ADA Basic Building Blocks Course” (put out by the National ADA Centers) as a prerequisite for beginning the credentialing process.

Both organizations hold conferences with former Dept. of Justice staff and related ADA professionals. The conferences provide the best up-to-date information about the ADA.



## **ADA/Accessibility**

---

### **Title II Requirements for ADA/Accessibility Compliance Beginning ADA Self-evaluation and Transition Planning:**

- Provide a notice of non-discrimination to the public and post it in facilities and on websites.
- Develop a Grievance Procedure and post it in facilities and on websites.

**Samples of both documents are available on the ADAActionguide.org website.**



### ADA/Accessibility

---

- Conduct a Self-evaluation of facilities, programs, services and policies to determine where changes need to be made for Accessibility compliance and to eliminate discrimination based on disability.
- A small municipality may decide to use the ADA Coordinator to organize a team of staff trained in compliance to do the Self-evaluation. Note: If using ADA checklists available online, be sure to include reference to Florida Accessibility Code for Building Construction (e.g. for parking space requirements).
- Large municipalities with numerous facilities may want to retain an outside firm specializing in Accessibility to do the evaluations (ensure that the firm has a track record specific to Accessibility compliance and is familiar with FAC).



### ADA/Accessibility

---

When the ADA Self-evaluation is completed, the Transition Plan needs to be developed (or updated)

**The ADA Transition Plan needs to include:**

- An inventory of physical barriers that limit access to facilities, programs and services.
- A plan to remove the barriers.
- A proposed schedule for completing the work.
- Designated employees responsible for plan implementation/improvements.



### **ADA/Accessibility**

---

#### **The Transition Plan needs to prioritize corrections based on use and population needs:**

- Providing access to state and local government facilities and transportation services are a top priority.
- Access to areas that are frequently used by individuals who are likely to have specific access needs is a priority - such as hospitals, elder care facilities, schools, etc. (this includes site arrival points, access into the facility and the facility itself).
- Areas that the public have expressed Accessibility concerns about are also a priority.



### **ADA/Accessibility**

---

- The public, particularly individuals with disabilities, must be given the opportunity to submit comments about the Transition Plan & prioritization.
- A municipality can form a group to give input, if it is made up of individuals with disabilities and organizations representing individuals with disabilities.
- A municipality can also hold public meetings to review their plan and get feedback that way (document the feedback on comment cards or forms).
- Surveys can also be used to gather feedback (make them available online and in hard copy).



## ADA/Accessibility

---

- The Transition Plan should be posted online with a mechanism to provide feedback (the full plan may be too large to post online, so at least have a summary report with who to contact to obtain additional information).
- The plan needs to be reviewed and updated as needed (potentially, this may need to be yearly).

Note: At the April 2019 ADA Conference facilitated by former DOJ and FDOT staff, it was stated that state DOT's are going to begin requiring submission of ADA Transition Plans yearly, and progress will need to be reflected to maintain funding (no start date for this was given at the conference).



## ADA/Accessibility

---

Resource for Self-evaluation and Transition Planning:

ADA Title II Action Guide for State and Local Government available at:  
[www.ADAActionGuide.org](http://www.ADAActionGuide.org)





## ADA/Accessibility

---

### Customer Service and “People First Language”

Staff training regarding customer service for individuals with disabilities is very important. This should include providing staff with training and materials regarding “People First Language.” People First Language means always putting the person before the disability.

**Examples:** Refer to a person as “a person with a disability” not, “the disabled person.”

“Person who has a mental health condition” not, “mentally ill person.”

**Other appropriate language:**

Say, “there is an accessible entrance” not, “there is a handicapped entrance” (try to stop using “Handicapped” and replace with “Accessible”).



## ADA/Accessibility

---

### Customer Service and “Disability Etiquette”

Always speak to an individual with disabilities even when they are accompanied by a family member or care-giver. If the individual can’t communicate in a way you can understand, the family member or care-giver will tell you.

If a person has a Sign Language interpreter, always speak to the person who is Deaf, not the interpreter.

If an individual uses a wheelchair, try to avoid them having to constantly look up at you, instead pull up a chair or “squat” down a bit.



**ADA/Accessibility**

---

Accommodations – Film Clip



**ADA/Accessibility**

---

Accommodations – Film Clip



## ADA/Accessibility

---

Title II and III entities are required to provide reasonable accommodations upon request.

When a municipality is determining if something is "reasonable" the budget for the entire municipality needs to be considered, not just the department that got the request. For example, a request for a Sign Language Interpreter for a class at the library may not be in the libraries budget, so the whole budget for the municipality would be looked at.

If a request is going to be denied, a member of executive management needs to document why the request is being denied, based on ADA criteria (e.g. undue financial or administrative burden). FYI this reason is rarely approved by the DOJ.



## ADA/Accessibility

---

The option to request accommodations should be on announcements or related promotional material for programs, services and events.

Staff training is very important when it comes to accommodation requests. At minimum, staff should be advised to never say "no" to an accommodation request. They should take the person's information and state they will get back to them, and then confer with the ADA Coordinator and designated Accessibility Liaison.

Create a resource list for accommodations: Sign Language Interpreters, CART (Communication Access Realtime Translation), Braille documents, etc.



## ADA/Accessibility

---

Accommodation requests should be tracked – including date request was made and follow-up actions taken.

If an accommodation isn't available and can't be obtained in the time requested, try to find other resources; another municipality may have what's needed. In the meantime, work on obtaining what is needed for the next time the request is made.

Be sure to ask the person making the request what services, equipment, etc. have helped them in similar situations. The individual knows best what assistance they need.

Plan ahead - use your "Accessibility Group," the one made up of individuals with disabilities and organization representatives to provide suggestions about accommodations they would need to access your facilities, programs and services.



## ADA/Accessibility

---

With periodic events held by an outside entity, within a municipality, advise Event Coordinators that they are responsible for accommodation requests. Include this in contracts, etc.

If outside entities have a history of holding events in your municipality's facilities, try to work with them on accommodation requests. For example, when **NOAA – National Oceanic & Atmospheric Administration** held their Hurricane Hunters event here last year, the City of Lakeland was contacted by members of Deaf community who wanted to participate. NOAA was contacted and together with the City, arrangements were made for Sign Language Interpreters to be present throughout the event.



## **ADA/Accessibility**

---

That wraps up our program. Please remember to take the materials available on the resource table. Everything covered in this program was based on information and resources available on the internet and from the ADA National Centers. Resource material:

- ADA Title II Action Guide postcard
- ADA Checklist for Existing Facilities postcard
- ADA National Network flyer with links to free online courses and documents
- List of Laws pertaining to Individuals with Disabilities
- Florida parking statute
- People First Language flyer
- ADA Basic Building Blocks Course and ADA Coordinator credentialing organizations

Please fill out the evaluation forms.

Questions?

