

The Americans with Disabilities Act: Rights for People with Disabilities

The Americans with Disabilities Act (ADA) was passed in 1990. It is a comprehensive piece of civil rights legislation that impacts a broad range of people with disabilities, including developmental disabilities. The ADA is designed to prevent discrimination against people with disabilities in public and private arenas so that people with disabilities have the same rights as the general population. ADA cases and disputes should be assessed on a case by case basis that investigates the particular facts and circumstances of each situation.

This handout is meant to provide basic information and general guidelines, but nuances of individual cases may mean the information below does not apply. See the resources section at the end of this document for information on more ways to learn about the ADA and seek assistance.

Protected Population

The people covered by the ADA's protections include anyone with a disability, which the ADA defines as a person who has a physical or mental impairment that substantially limits one or more major life activity, such as movement, breathing, thinking, communicating, working, and many others. The definition also includes people who have a record of disability, even if that disability is no longer present. Lastly, it includes people who are "regarded as having a disability," meaning people assumed to have a disability.

Covered Areas and Enforcement Bodies

There are five main sections of the ADA, called Titles. Each one governs a different sphere.

1. **Title I- Employment**

Title I applies to any employer with 15 or more employees, as well as state and local government employers of any size. It makes discrimination in hiring, training, and ongoing employment on the basis of disability illegal. This means that an employer cannot fail to hire, demote, or otherwise penalize an applicant or employee who can perform the "essential functions" of a job with or without "reasonable accommodations." It mandates that employers offer "reasonable accommodations" to employees unless they would cause "undue hardship." If the requested accommodation would cause undue hardship, other means of achieving the same result should be explored.

Someone must identify as having a disability and request accommodations in order to receive accommodations. Employees may opt to self-identify during the hiring, offer, or employment phase of their relationship with their employer, though they are never mandated to do so unless they would like accommodations of any kind.

If employers have concerns about the ability of an applicant to perform the job, they may state the job tasks and ask the applicant if they can perform them. The potential employer may also request a demonstration of how the employee would perform the task, with any requested accommodations, in some cases.

Most Title I issues are enforced by the U.S. Equal Employment Opportunity Commission (EEOC). If you think you may have experienced any disability-based discrimination in the employment process, you must file with the EEOC within 300 days in the state of Virginia.

2. Title II- State and Local Governments

Title II of the ADA focuses on state and local governments, outside of employment issues covered in Title I. It mandates that state and local government facilitates, services, programs, and activities accommodate people with disabilities. Title II includes public transportation operated by states and localities, polling places, courts, jails, and public defenders. People with disabilities should be provided reasonable modifications to access facilities and services unless doing so would cause an undue burden, put safety at risk, or fundamentally alter the program or service.

Title II is primarily enforced by the Department of Justice, though in some cases other federal agencies may be tasked with enforcement. You have 300 days from the date an issue occurred to file a complaint.

3. Title III- Public Accommodations

Title III governs facilities, programs, and services of private entities that are open to the public. This includes places like hotels, places of recreation, daycare centers, and hospitals. People with disabilities should be provided reasonable modifications in receiving all of the services, goods, privileges, and more of these public places unless doing so would cause an undue burden, put safety at risk, or fundamentally alter the program or service.

Title III is primarily enforced by the Department of Justice, though in some cases other federal agencies may be tasked with enforcement.

4. Title IV- Telecommunications

Title IV focuses on telephone and internet communications, and ensuring there is a network of telecommunications relay options for people whose disability prevents them from effectively using a standard telephone.

Title IV is enforced by the Federal Communications Commission.

5. Title V- Miscellaneous Provisions

Title V contains some regulations that apply to all of the other titles, sometimes called cross-cutting issues. This includes topics like the definition of disability, requirements for integration, reasonable modifications, charges for accommodations, and safety concerns.

Filing a Complaint

In general, filing a complaint as fast as possible after an incident or concern is ideal. Having a paper trail or any other proof of requested modifications, denials, and/or discrimination is tremendously helpful.

- To file an employment complaint, contact the EEOC <https://www.eeoc.gov/employees/charge.cfm>
- To file a complaint about state or local government or places of public accommodation, contact the Department of Justice <https://www.ada.gov/complaint/>

ADA Resources

1. Mid-Atlantic ADA Center- information, guidance, training, and staff to answer ADA questions, <http://www.adainfo.org/>
2. ADA National Network- ADA information and guidance, www.adata.org
3. Department of Justice- past settlements, guidance documents, filing a complaint, <https://www.ada.gov>
4. Equal Employment Opportunity Commission- information on employee rights and resources, guidance documents, filing a complaint <https://www.eeoc.gov/laws/types/disability.cfm>
5. Federal Transit Administration- information and guidance on transportation issues, www.fta.gov/ada