



Basic Information Packet – ADA

Americans with Disabilities Act

In 1990 when the Americans with Disabilities Act came into being, there were three basic areas of coverage---Title I covered Employment, Title II covered the facilities, programs, and operations of State and Local Governments, and Title III covered private sector locations such as Commercial Facilities and Places of Public Accommodation. At that time, there also were two other “Titles.” Title IV covered Telecommunications and Title V covered Miscellaneous Provisions. These last two sections were almost completely eclipsed by the first three, and most certainly have since been eclipsed by new regulations and changes in technology. In fact, the whole picture of the ADA has expanded so dramatically over the years that the original creators of the Act, and the people who shepherded it through Congress, would barely recognize it or be able to grasp the entire picture. The regulatory coverage has expanded and the regulatory process has sometimes made it difficult to understand what current law is. This latter difficulty has been made worse by the fact that the courts have interpreted, and continue to interpret, the various aspects of the Act and its related regulations. A good example of the complexity and slowness of the regulatory process is the ADAAG, *the ADA Accessibility Guidelines*. This was the “nuts and bolts” scoping and specification manual that, along with the UFAS (*Uniform Federal Accessibility Standard*, but don’t even worry about these), prescribed the way things should be built, or rebuilt. Below is a short regulatory history. This is important because we are still straddling the space between the old specifications and the ones developed to replace them. (As of today, July 2009.)

The [old] ADAAG & the [new] ADA/ABA Guidelines

In July 1991, one year after the ADA was signed into law, the Access Board published the ADAAG. (You will find more on the Access Board below.) In 1994, a recognition emerged that revision of the ADAAG would be of benefit to all parties involved, including builders, designers, business owners, and persons with disabilities. A Public Advisory Committee was established and this committee issued a report (1996) on what to change and how to improve this fundamental document. After three years of consideration, the Access Board published a proposed rule to update and revise the ADAAG. After a public comment period and hearings, the Access Board published a draft final revised ADAAG in April of 2002. After more regulatory evaluation, including an economic impact assessment, the document was published in July 2004. It is called the *Americans With Disabilities Act/Architectural Barriers Act Accessibility Guidelines*. The short name is *ADA/ABA Guidelines*.

After several Notices of Proposed Rule Making (NPRM) (June 2008), and public comment, to include critical input from the International Code Council, among others, the new guidelines are set to become enforceable law as soon as they are adopted by the required federal agencies, several of which already have adopted the guidelines.

In the meantime, the old ADAAG is enforceable law, but the current advice from most quarters, official and unofficial, is to become familiar with the new *ADA/ABA Guidelines* and to follow the stricter of the two until the final adoption process is complete. Many people are simply designing and building to the new specifications. You can find these documents at:

www.accessboard.gov

You can obtain a free copy of each by going to the above web site, under “Online Services,” and clicking on “Publications.” The Access Board had proven to be very timely in sending out these items, and you can choose which format you prefer.

Title I

Title I of the ADA deals with employment. The document you are reading is set up to provide basic information to citizens, businesses, contractors, and the like. Nothing in this document is meant to be legal advice, and since virtually any information dealing with employment could border over into the legal arena, you are advised to consult your human resources professional, an attorney, or a professional consultant.

Title II

Title II pertains to State and Local Governments. Title II entities have to meet a very high standard in making their programs, services, and facilities accessible to persons with disabilities.

Title III

Title III applies to Commercial Facilities and Places of Public Accommodation. Commercial Facilities mean facilities that will affect commerce and that are intended for nonresidential use by a private entity. Public Accommodation means a private entity that owns, leases (or leases to), or operates a place of public accommodation. Place of Public Accommodation means a facility, operated by a private entity, whose operations affect commerce and fall within at least one of the following categories:

- (1) An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor;
- (2) A restaurant, bar, or other establishment serving food or drink;
- (3) A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

- (4) An auditorium, convention center, lecture hall, or other place of public gathering;
- (5) A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
- (6) A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;
- (7) A terminal, depot, or other station used for specified public transportation;
- (8) A museum, library, gallery, or other place of public display or collection;
- (9) A park, zoo, amusement park, or other place of recreation;
- (10) A nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;
- (11) A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and
- (12) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

If you plan to build a commercial facility or place of public accommodation, or if you plan to make significant alterations or improvements to an existing facility, you must ensure that it meets the ADA accessibility compliance requirements. If this activity takes place within the city limits of Manhattan, the local building code office will want to review your plans.

The Access Board

Though it is not well known to the general public, there was a disability rights advocacy movement in this country that had many parallels to the Civil Rights Movement. In 1965 Congress established a national commission to look at the problem of physical and architectural barriers to persons with disabilities. In 1968, Congress passed the ABA, the Architectural Barriers Act. This Act was aimed at making federal facilities accessible, but also was viewed as an example for state and local governments and for private industry.

In 1973, as part of the Rehabilitation Act of 1973, Congress created the Architectural and Transportation Barriers Compliance Board---this later took on the shorter name of the Access Board. The Act also gave the Access Board some enforcement clout for compliance. In 1978, the mandate of the board was expanded to include the establishment of minimum necessary accessibility guidelines and also expanded the board's role in technical assistance.

In 1982, the Access Board issued the *Minimum Guidelines and Requirements for Accessible Design*, and these became the basis for the *Uniform Federal Accessibility Standards (UFAS)* which were issued in 1984.

With the passage of the *Americans with Disabilities Act* in 1990, much broader protections for persons with disabilities were put in place to include civil rights measures in addition to physical accessibility and barrier removal.

As stated above, the areas that are now covered by regulations are too numerous to mention---things such as recreational areas and surfaces, outdoor developed areas, passenger vessels, pedestrian ways and traffic signal devices, detectable warnings at curb ramps and hazardous vehicular lanes, correctional facilities, electronic/information technology, and much, much more. The ADA, and all the efforts that came before, has transformed the country.