

# Hudson Estuary Accessibility Project: What Businesses Need to Know



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*In Partnership with:*



*This document was prepared for the Hudson River Estuary Program, NYSDEC, with support from the NYS Environmental Protection Fund, in cooperation with Cornell.*



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Hello!

In 2013, the New York State Department of Environmental Conservation (NYSDEC) provided funding to the Northeast ADA Center (NEADA) at Cornell University to coordinate the Hudson Estuary Accessibility Project. Program support originated from the NYSDEC's Hudson River Estuary program in partnership with the NYS Water Resources Institute at Cornell and New York Sea Grant. The project entailed the evaluation of 18 recreational sites within the mid-Hudson area with a goal of increasing accessibility to and inclusion of individuals with disabilities. As the DEC uses the information from the project to improve access at the sites, the hope is that more people will visit these settings and the surrounding businesses.

This handbook is designed to assist you, as a member of the mid-Hudson area business community, to attract and respond to the needs of customers and patrons with disabilities. It includes information about your rights and responsibilities under the Americans with Disabilities Act (ADA) as well as practical tips for interacting with and providing good customer service to individuals with disabilities.

If you have questions about this handbook or would like additional information about the ADA, please contact the Northeast ADA Center at [northeastada@cornell.edu](mailto:northeastada@cornell.edu) or 1-800-949-4232. NEADA provides free, confidential technical assistance to help businesses, state and local municipalities, and individuals to understand their rights and responsibilities under the ADA and offers training and other resources related to the employment and community inclusion of individuals with disabilities.

Best wishes,



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# The Hudson Estuary Accessibility Project Partners

Hudson River Estuary Program <http://www.dec.ny.gov/lands/4920.html> (Frances Dunwell)

New York Sea Grant <http://www.seagrant.sunysb.edu/> (Nordica Holochuck)

NYS Department of Environmental Conservation <http://www.dec.ny.gov/> (Larry Wilson)

United Spinal Association [www.unitedspinal.org](http://www.unitedspinal.org) & Accessibility Services [www.accessibilityservices.com](http://www.accessibilityservices.com) (Kleo King)

&

Capital District Center for Independence (CDCI)  
845 Central Avenue, South 3  
Albany, NY 12206  
<http://www.cdciweb.com>  
Contact: Heather Francisco

Independent Living Center of the Hudson Valley (ILCHV)  
15-17 3rd Street  
Troy, NY 12180  
<http://www.ilchv.org>  
Contact: Denise Figueroa

Resource Center for Accessible Living (RCAL)  
727 Ulster Avenue  
Kingston, NY 12401  
<http://www.rcal.org>  
Contact: Gilles Malkine

Rockland Independent Living Center (RILC)  
873 Route 45, Suite 108  
New City, NY 10956  
<http://www.rilc.org>  
Contact: Sarah Mitchell-Weed

Taconic Resources for Independence (TRI)  
82 Washington Street, Suite 214  
Poughkeepsie, NY 12601  
<http://www.taconicresources.org>  
Contact: Cynthia Fiore

Westchester Disabled on the Move, Inc. (WDOM) Yonkers Center  
984 No. Broadway, Suite LL 10  
Yonkers, NY 10701  
[www.wdom.org](http://www.wdom.org)  
Contact: Melvyn Tanzman

Westchester Independent Living Center (WILC)  
200 Hamilton Avenue, 2nd Floor  
White Plains, NY 10601  
<http://www.wilc.org>  
Contact: Michael Hellmann

# Who are “people with disabilities”?

“People with disabilities” represent a diverse group of individuals who have different needs to consider when designing facilities, providing services and selling goods.

- 1 in 5 Americans has a disability and the number is growing!
- 20 million families have a member with a disability
- 7 out of 10 people will acquire some kind of disability by age 75
- 25%-30% of your customers have a disability or a friend/family member with a disability

## It’s about Business:

### Can you afford to turn away nearly 30% of your customers?

One of the myths about people with disabilities is that they have little spending power. Although as a group, individuals with disabilities tend to have higher rates of unemployment and lower wages, there is considerable spending power within the disability community. Research about the impact of the ADA on the tourism industry conducted in 2002 and 2004 indicated that:

- People with disabilities have \$175 billion in discretionary income – more than twice that of teenagers
- Travelers with disabilities spend \$13.6 billion annually
- Guests with disabilities spend \$4.2 billion on lodging
- Patrons with disabilities spend \$35 billion in restaurants, annually

More recently, O’Connell (2012) reported that “...the disability market, which includes customers with disabilities and their spheres of influence, represents \$1 trillion in disposable income worldwide. In this country specifically, people with disabilities control \$247 billion in disposable income.” Further, it is estimated that globally, persons with disabilities, their families and friends, control over \$8 trillion in annual disposable income (Donovan, 2013).

In a study conducted by New Mobility Magazine (Bysek, 2013) nearly 44% of survey respondents reported that they typically travel for family vacations, more than 32% for couple getaways, and 18.5% for work-related trips. The majority of respondents stated that they generally aimed to spend between \$100-150 per night on travel accommodations. These findings suggest that people with disabilities have considerable spending power and often travel with others, indicating even greater potential impact on leisure and hospitality-related businesses.

*“No visible presence of access or disability-friendliness...shows that no people with disabilities are welcome...”*

Making sure that your place of business and the goods and services you offer are accessible to people with disabilities means your business will be more welcoming and accessible to other customers, too. For example, a location with a stair-less entry and light weight or automatic doors also benefits parents with strollers, guests with heavy bags, customers who are exhausted, and patrons with temporary disabilities such as a broken ankle. When you consider the additional revenue these customers represent, it's easy to see that accessibility is good business!

## **It's also about the Law**

Title III of the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in the activities of places of public accommodations (businesses that are generally open to the public and that fall within one of 12 categories listed in Title III, such as restaurants, movie theaters, recreation facilities, and places of lodging) and requires newly constructed or altered places of public accommodation—as well as commercial facilities (privately owned, nonresidential facilities such as office buildings)—to comply with the ADA Standards for Accessible Design. Under the ADA, individuals with disabilities are entitled to equal access to and equal opportunity to participate in and benefit from the services and goods provided by Title III entities. Places of public accommodation, may not discriminate against, nor deny full and equal enjoyment of the goods, services, and facilities to customers with disabilities or their family members, friends, and associates.

## **Ways that the ADA may Impact Your Business**

The ADA requires that places of public accommodation make “reasonable modification to policies, practices, or procedures when such modifications are necessary to provide persons with disabilities with full and equal enjoyment...unless...such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.”

### **Personal Services and Devices**

Although businesses are to make reasonable modifications by providing minor assistance, such as reading a menu to a customer who has a visual impairment, they are not required to provide personal devices (such as wheelchairs) or personal services (such as assistance with toileting or feeding).

However, businesses, such as hotels, must provide assistive devices that enable guests with disabilities to enjoy the same amenities as guests without disabilities. For example, they must provide smoke detectors that have flashing lights so that guests with hearing impairments will know they need to evacuate and alarm clocks that shake the bed so that individuals with hearing impairments will know when to get up. By providing these devices, the establishment gives equal access to the same amenities that are available to guests without disabilities.

## **Service Animals**

Individuals with a variety of physical, sensory and mental disabilities may use service animals. Under Titles III of the ADA, a service animal is defined as a dog (and in some cases, miniature horse) *specifically trained to perform tasks that the individual has difficulty doing because of his or her disability*. You may ask if the individual has a disability and what task(s) the animal has been trained to perform. You may not ask about the specific disability and the owner is not required to show any paperwork verifying the animal's training nor is the animal required to wear a vest.

Service animals are not pets and must be allowed to enter even if you have a "no pets" policy. This includes restaurants and other places where food may be served. The U.S. Food and Drug Administration has advised that it is not a health risk or violation for service animals to be around food! Further, individuals with service animals cannot be segregated to certain rooms or parts of a restaurant.

If a service animal poses a direct threat to others (i.e., growls at people or acts out of control), the owner may be asked to take the animal from the premises. *Note, however, that it may be the animal's job to whine or bark to alert the owner of danger, a pending seizure, or as a reminder to needed medication, etc.; these behaviors would not represent a direct threat to others.* Maintaining control of the service animal is the owner's responsibility. If the animal must leave, it should be made clear to the owner that he or she is welcome to return without the service animal.

## **Effective Communication**

Public accommodations are required to make available auxiliary aids and services where necessary to ensure effective communication. For individuals with hearing and speech disabilities this may include providing written materials, note writing, assistive listening devices or technologies such as Telecommunications Device for the Deaf (TDD/TTY) or Video Remote Interpreting (VRI). For persons with visual impairments, communication may be provided in Braille, large print, electronically in a format that can be read by a screen reader, or through providing physical guidance to find an item or location.

## **Places of Lodging**

Hotels and motels must ensure that people with disabilities can make reservations *during the same time and in the same manner as others*, including via the internet and through at least some of the third party vendors (e.g., Priceline, Expedia) where the hotel makes its rooms available.

Staff must be able to *describe access features* so potential guests can decide if these features will meet their needs. The needed room type must be guaranteed. Further, a reserved, accessible room cannot be given away to another guest; in other words, a *specific room is to be reserved and available for the specific person on the specific dates*.

Accessible rooms cannot be given to guests without disabilities, unless someone requests a specific room type and the last one of that type is an accessible room.

Services available to other guests must be available to guests with disabilities. For example, if a hotel offers complimentary shuttle service to and from the airport, it must provide an accessible transportation option. If the hotel does not have a wheelchair accessible vehicle, it must arrange for accessible transportation for guests who require this, at no cost to the individual.

*“Allowing access to all obviously increases traffic and potential economic benefits.”*

## Places of public accommodation may not

- Use admittance criteria that screens out people with disabilities – For example, while you can require identification, you cannot require that it be in the form of a driver’s license since some disabilities prevent an individual from driving. You must allow alternative forms of identification such as a state-issued ID.
- Unnecessarily inquire about the existence of a disability
- Charge fees for providing access or modification – You may collect a nominal security deposit for such items as an accessible alarm clock; however this money is to be returned to the individual when they return the item.

## What if a customer poses a health or safety risk to others?

If you believe a customer or patron poses a health or safety risk to others, first, make sure that this belief is based on objective, current facts, not on generalizations or stereotypes about the disability. Next, see if the risk can be eliminated or reduced by reasonable modifications or auxiliary aids or services. If not, the individual may be excluded if their presence poses a direct threat to the health or safety of others.

### Barrier Removal

Businesses are required to be physically accessible. When they are not, Title III entities are responsible for “readily achievable” barrier removal which is defined as “easily accomplishable and able to be carried out without much difficulty or expense.” Some of the factors to consider when determining if barrier removal is readily achievable include, the nature and cost given

overall financial resources; the number of employees and size of the business; the impact upon the operation; and the type of operation (structure, location, functions, etc.). In situations in which physical modifications cannot easily be made, businesses are required to provide alternate ways for patrons and potential customers to access the goods and services offered.

*“People with disabilities need recreational opportunities...they need to be a part of community life.”*

For more information about reasonable modification, service animals, effective communication, reservation requirements for lodging facilities, and physical access requirements, please see the ADA National Network’s Title II and Title III Regulations fact sheets at the back of this handbook.

For the ADA Checklist for Readily Achievable Barrier Removal, based on the 2010 ADA Standards for Accessible Design, please see <http://www.adachecklist.org/checklist.html>

## Interacting with Customers and Patrons with Disabilities

There are many different types of disabilities. Physical disabilities include conditions that impact mobility, strength, dexterity and stamina. Sensory disabilities are conditions which impact vision, hearing, and speech. Non-obvious disabilities including cognitive and intellectual limitations, psychiatric disabilities, and chronic health conditions, can affect individuals in a variety of ways. Below are some suggestions for interacting with individuals with different types of disabilities.



### Physical Disabilities

- Personal space includes an individual’s wheelchair, cane, or other mobility aid; do not touch these devices without the person’s permission or invitation.
- If you interact with a person in a wheelchair for more than a few minutes, seat yourself so that you are both at eye level. This is more respectful and does not require the person to strain his or her neck by looking up at you during the conversation.



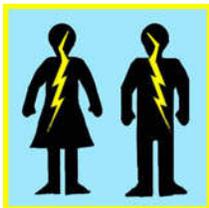
## Hearing Disabilities

- Before speaking, make sure you have his or her attention
- Talk directly to the person, even if an interpreter is present
- If the person is speech/lip reading, face the person, keep your hands and objects away from your mouth, and maintain eye contact
- If you do not understand the person's speech, ask them to repeat what they have said or to write it down



## Speech Disabilities

- Talk to the person as you would anyone else
- Be patient; it may take a little longer for the person to speak
- Use alternative communication methods such as written notes, if needed



## Hidden or Non-Visible Disabilities

- Respect requests for assistance, even when you can't see why the person is asking
- Follow the person's lead
- Don't make assumptions

*“People with disabilities want to enjoy the sites and facilities like everyone else. We have family and friends and want to join with them in ... activities.”*

# How Accessible is Your Business?

How prepared are you to welcome and serve customers and patrons with disabilities? Here is a checklist of things to consider:

## Marketing and Signage

- Is information about your business accessible to a range of potential customers (including information on a website)?
- How can customers and patrons request needed accommodations? Is this clearly indicated on all promotional materials? Is it indicated by onsite signage?
- If your business sells/serves food, are food options available for those with allergies or dietary restrictions?
- Is staff knowledgeable about communicating and interacting with people with various disabilities?

## Parking and Pathways

- Are there accessible parking spaces near the accessible entrance? Are these clearly marked with the international symbol of accessibility? Are the spaces and access aisles at least 96 inches wide? Are the access aisles clearly marked with “no parking” signs?
- Are there enough accessible parking spaces given the particular event? If you are expecting the event to appeal to people with disabilities, have you blocked off additional parking to accommodate more who may need accessible parking?
- Is there an accessible route from parking/drop-off to the entrance? (Recommended distance no more than 200 feet). Is the sidewalk from the parking lot at least 36 inches wide?
- Is the accessible path of travel a paved and level surface?

## Entrances and Doors

- Is at least one of the primary entrances accessible? (if there are stairs, there must also be a ramp or lift)
- Does the entrance door have an opening of at least 32 inches of clear width?
- Do non-accessible entrances have signs giving directions to the accessible entrance?
- Is there an automatic door or is the pull force on interior doors 5 pounds or less? Although there is not a pound requirement for exterior doors, these suggestions would be helpful for those doors as well.

## Public Areas

- Does the registration area have a 36 inch wide counter that is 36 inches maximum above the finished floor?
- Are all accessible routes free of protruding objects?
- If there is an upper floor, is there a working elevator?
- Do room signs have raised and Braille characters?

## Restrooms

- Are restrooms located along an accessible route of travel?
- Does signage at inaccessible restrooms direct people to accessible restrooms?
- Does the door to the restroom provide a minimum of 32 inches of clear opening width?

- Does the restroom door have levered handles?
- Is there an accessible toilet stall (a minimum of 60 inches wide and 56 inches deep minimum for wall hung water closets and 59 inches deep minimum for floor mounted water closets)? Are grab bars at the side and back of the toilet (33 inches minimum and 36 inches maximum above the finish floor measured to the top of the gripping surface) above the floor?
- Can the toilet paper be reached while seated on the toilet (7 inches minimum and 9 inches maximum in front of the water closet measured to the centerline of the dispenser)?
- Is the door to the accessible stall at least 32 inches wide? Does it swing outward? Is it self-closing?
- Does the sink provide knee clearance of 27 inches minimum?
- Are soap, paper towel dispenser and amenities located at or below 48 inches?

## Meeting Rooms

- Are meeting rooms on an accessible route?
- Do the doors provide at least 32 inches clear width?
- Is there a clear pathway through the room (at least 36 inches wide)?
- Is the stage or elevated area wheelchair accessible?
- Is there an assistive listening system available?
- Are microphones available for presenters and participants?
- Is there movable seating to make room for a wheelchair?
- Is there adequate lighting for persons with low vision or if a sign language interpreter is needed?

## Meeting Activities

- Are food/drinks provided at tables of less than 34 inches high with all items within reach from a seated position? Do tables provide knee and toe clearance of 27 inches minimum above finished floor with a depth of 19 inches?
- How will the potential need for accessible transportation be addressed?
- If an overnight stay is required, is there accessible lodging that will meet individual needs (i.e., roll-in shower versus a bathtub with grab bars) available?
- Are assistive communication devices available for participants with hearing impairments?

## Emergency Planning

- Are exits clearly marked and accessible?
- Do fire and emergency alarms have both audible and visual signals?
- What is the evacuation plan for individuals with disabilities?

## Considerations for Guests' Free Time

- Do you provide information about accessible recreation on and off-site?
  - Do you provide information about accessible restaurants on and off-site?
- Do you provide information about accessible transportation? Remember, if you provide transportation services for other guests, equivalent services must be provided to guests with disabilities. For guidance about this see: <http://www.ada.gov/reachingout/lesson71.htm>

# References and Other Resources

ADA National Network (2012) ADA Title II and Title III Regulations Fact Sheet Series

[http://adata.org/factsheets\\_en](http://adata.org/factsheets_en)

Bysek, J. (November 2013). How to get an accessible hotel room. *New Mobility Magazine*, p. 18-22.

Department of Justice 2010 Americans with Disabilities Act Title III Regulations

[http://www.ada.gov/regs2010/titleIII\\_2010/titleIII\\_2010\\_regulations.htm](http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm)

Department of Justice ADA Business Connection – Publications for Businesses

<http://www.ada.gov/business.htm>

Donovan, R. (April 3, 2013). Sustainable value creation through disability: The global economics of disability annual report. <http://returnondisability.com/wp-content/uploads/2012/09/The%20Global%20Economics%20of%20Disability%20-%202013%20Annual%20Report.pdf>

Gallaudet University, “Terminology Describing Deaf Individuals”

[http://www.gallaudet.edu/clerc\\_center/information\\_and\\_resources/info\\_to\\_go/educate\\_children\\_283\\_to\\_2129/resources\\_for\\_mainstream\\_programs/terminology.html](http://www.gallaudet.edu/clerc_center/information_and_resources/info_to_go/educate_children_283_to_2129/resources_for_mainstream_programs/terminology.html)

O’Connell, M. (2012). *NOD President Challenges ‘Fortune 500’ CEOs to Resolve to Hire More People with Disabilities*.

[http://www.nod.org/news/harris\\_interactive\\_survey\\_largest\\_min](http://www.nod.org/news/harris_interactive_survey_largest_min)

United Spinal Association, “Disability Etiquette: Interacting with People with Disabilities”

<http://www.unitedspinal.org/pdf/DisabilityEtiquette.pdf>

Van Horn, L. (2007). Disability Travel in the United States: Recent Research and Findings

accessed at <http://opendoorsnfp.org/wp-content/uploads/2011/06/TRANSED-2007-Paper.pdf>

**For additional information about the Americans with Disabilities Act, please contact the Northeast ADA Center at [northeastada@cornell.edu](mailto:northeastada@cornell.edu) or 1-800-949-4232. NEADA provides free, confidential technical assistance to help New York, New Jersey, Puerto Rico and the US Virgin Island businesses, municipalities, and individuals to understand their rights and responsibilities under the ADA. NEADA also offers training and other resources related to the employment and community inclusion of individuals with disabilities.**





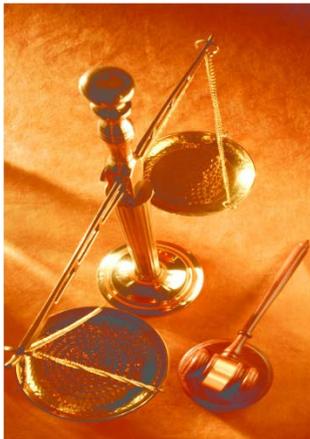
## Americans with Disabilities Act Title II and Title III Revised Regulations Fact Sheet Series

Call us toll-free: 1-800-949-4232

Find your regional center at: [www.adata.org](http://www.adata.org)

### Fact Sheet #1

# Overview of Revised Title II and Title III Regulations



The Department of Justice (DOJ) has amended its regulations implementing Title II and Title III of the Americans with Disabilities Act (ADA), which apply to public/state and local government entities and private businesses/places of public accommodation, respectively. These revised regulations took effect on March 15, 2011, with some exceptions. Fact Sheets in this series are available on each of these topics.

### Summary of Changes

#### Fact Sheet #2 - Effective Communication

- Companions with disabilities must be provided with effective communication.
- Video Remote Interpreting (VRI) services are now considered an auxiliary aid that may be used to provide effective communication.
- A covered entity shall not rely on an adult or minor child accompanying an individual with a disability to provide interpreting services except in an emergency or if the individual who is deaf wants the accompanying adult to interpret if appropriate.
- A qualified reader is an individual who is able to read effectively, accurately and impartially using any specialized vocabulary.

#### Fact Sheet #3 - Examinations and Courses

- If an entity requires documentation of disability before granting an accommodation request, then the documentation requirement needs to be reasonable and limited to the need for the modification, accommodation, or auxiliary aid or service requested.
- Prior modifications received in similar situations should be granted considerable weight
- A covered entity must respond in a timely manner to requests for modifications.

#### Fact Sheet #4 - Places of Lodging

- Effective March 15, 2012, these regulations will impact the definition of place of lodging, reservation processes, information provided through reservation systems regarding accessible features, holding accessible guest rooms, third party reservation providers and scoping for accessible guest rooms.

### **Fact Sheet #5 - Service Animals**

- Service Animal is now defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability.
- Other animals, whether wild or domestic, do not qualify as service animals.
- Reasonable modifications in policies must also be made to allow individuals with disabilities to use miniature horses, with some restrictions, if they have been individually trained to do work or perform tasks for individuals with disabilities.

### **Fact Sheet #6 - Ticketing**

- Guidance is now provided on the sale of tickets for accessible seating, information covered entities must provide about accessible seating, ticket prices, options for purchasing multiple tickets, hold and release of tickets for accessible seating, ticket transfer, the secondary ticket market, and prevention of fraud.

### **Fact Sheet #7 - Wheelchairs and Other Power-Driven Mobility Devices (OPDMDs)**

- Wheelchairs must be permitted in all areas open to pedestrian use.
- OPDMDs- any mobility device powered by batteries, fuel or other engines, used by individuals with disabilities as their mobility device of choice, whether designed primarily for use by individuals with disabilities or not (such as the Segway® PT), must be permitted unless the covered entity can demonstrate that such use would fundamentally alter its business/operations, create a direct threat, or create a safety hazard.

### **Fact Sheet #8 - Detention and Correctional Facilities**

- Qualified inmates or detainees with disabilities shall not be excluded from participation in, or be denied the benefits of, the services, programs or activities of a public entity in the most integrated setting appropriate.
- Requires three percent of newly constructed or altered cells to be accessible.

### **Fact Sheet #9 – Overview of the 2010 ADA Standards for Accessible Design**

- DOJ has adopted revised ADA design standards On March 15, 2012; compliance with the 2010 Standards will be required for new construction and alterations. In the period between September 15, 2010 and March 15, 2012, covered entities may choose between the 1991 Standards or the 2010 Standards. *Note: Title II entities can also choose the Uniform Federal Accessibility Standards (UFAS).*
- “Safe Harbor”: facilities that were built or altered in compliance with 1991 Standards or the UFAS do not have to be brought into compliance with 2010 Standards unless the facility undergoes an alteration on or after March 15, 2012. The safe harbor provisions do not apply to those elements in existing facilities that are subject to supplemental requirements (i.e., elements for which there are neither technical nor scoping specifications in the 1991 Standards).

**Call your Regional ADA Center at 1.800.949.4232 for more information on the new Title II and Title III regulations and to get other Fact Sheets in our nine part series!**

The contents of this fact sheet 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.



## Americans with Disabilities Act Title II and Title III Revised Regulations Fact Sheet Series

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### Fact Sheet #2

## Effective Communication



The Department of Justice (DOJ) has issued revised Americans with Disabilities Act (ADA) Title II and Title III regulations which took effect March 15, 2011. These regulations affect the obligations of Title II public entities (state and local government entities) and Title III private businesses (a.k.a. places of public accommodation) to furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities. (§35.104, §35.160, §36.104, §36.303) This includes an obligation to provide effective

communication to companions who are individuals with disabilities. The term “companion” means a family member, friend, or associate with whom the public entity or private business would typically communicate.

### Providing Auxiliary Aids and Services

Examples of common auxiliary aids and services include qualified sign language interpreters in person or through video remote interpreting (VRI) services; note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices and systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones or equally effective telecommunications devices; videotext displays; qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; and accessible electronic and information technology.

The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. A private business should consult with individuals with disabilities whenever possible to determine what type of auxiliary aid is needed to ensure effective communication, but the ultimate decision as to what measures to take rests with the private business, provided that the method chosen results in effective communication. However, public entities must give primary consideration to the request of the individuals with disabilities.

- To be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.
- A public entity or private business is financially responsible for the cost of the auxiliary aid or service provided unless it can demonstrate that it would be an undue financial burden in light of the overall financial resources of the entire entity, including any parent corporation if applicable. It cannot impose a surcharge on an individual with a disability to cover the costs of the auxiliary aid or service provided. Even if it is determined that a particular auxiliary aid or service is an undue financial burden, the entity must still provide effective communication utilizing a different auxiliary aid or service.

### **Sign Language Interpreters**

Public entities and private businesses cannot require an individual with a disability to bring another individual to interpret for him or her. A public entity or private business shall not rely on an adult accompanying an individual to interpret or facilitate communication, except:

- In an emergency involving imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
- When the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for assistance is appropriate under the circumstances.

A public accommodation shall not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available.

### **Telecommunications**

When a public entity or private business uses an automated-attendant system, including, but not limited to, voicemail and messaging, or an interactive voice response system, for receiving and directing incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including text telephones (TTYs) and relay services, including Internet-based relay systems. A public entity or private business shall respond to telephone calls from a relay service in the same manner that it responds to other telephone calls. A public entity or private business may use relay services in place of direct telephone communication for receiving or making telephone calls incident to its operations.

A public entity or private business that offers a customer, client, patient, or participant the opportunity to make outgoing telephone calls using their equipment on more than an incidental convenience basis shall make available accessible public telephones, TTYs, or other telecommunications products and systems for use by an individual who is deaf or hard of hearing, or has a speech impairment.

**Call your Regional ADA Center at 1.800.949.4232 for more information on Effective Communication and to get other Fact Sheets in our nine part series!**



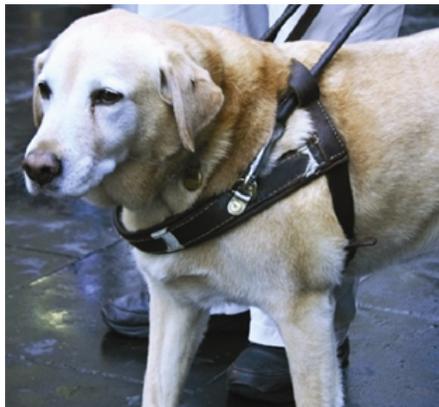
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### Fact Sheet #5

## Service Animals



The Department of Justice has issued revised ADA Title II (state and local government programs) and Title III (private businesses, a.k.a. places of public accommodation) regulations which took effect March 15, 2011. These regulations revise the definition of service animal and add additional provisions. (§35.104, §35.136, §36.104, §36.302)

### Definition

A service animal is any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not considered to be service animals. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping individuals with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks and as such do not meet the definition of a service animal.

### Miniature Horses

A public entity or private business shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse as a service animal by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability subject to an assessment of the type, size, and weight of the miniature horse and whether the facility can accommodate these features. The same provisions that apply to service dogs also apply to miniature horses.

## **Inquiries**

To determine if an animal is a service animal, a public entity or a private business may ask two questions: 1) Is this animal required because of a disability? 2) What work or task has this animal been trained to perform? These inquiries may not be made if the need for the service animal is obvious (e.g., the dog is guiding an individual who is blind or is pulling a person's wheelchair.) A public entity or private business may not ask about the nature or extent of an individual's disability. It also may not require documentation, such as proof that the animal has been certified, trained or licensed as a service animal, or require the animal to wear an identifying vest.

## **When and Where a Service Animal is Allowed Access**

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of public facilities and private businesses where members of the public, program participants, clients, customers, patrons, or invitees are allowed to go. If a service animal's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation, they can be excluded from the facility (e.g., from a surgery or intensive care unit in a hospital in which a sterile field is required.)

A public entity or a private business may ask an individual with a disability to remove a service animal from the premises if the animal is not housebroken or if the animal is out of control and the individual does not take effective action to control it. An individual shall use a harness, leash or other tether with their service animal unless either the individual is unable to do so because of a disability or unless the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks. In these cases, the service animal must be under the individual's control through voice control, signals, or other effective means. If a service animal is excluded, the individual with a disability must still be offered the opportunity to obtain goods, services, and accommodations without having the service animal on the premises.

## **Other Provisions**

- A public entity or private business is not responsible for the care and supervision of a service animal.
- A public entity or private business shall not ask nor require an individual with a disability to pay a surcharge or deposit, even if people accompanied by pets are required to pay such fees.
- If a public entity or private business normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

## **Relationship to Other Laws**

- These provisions related to service animals apply only to entities covered by the ADA. The Fair Housing Act covers service animal provisions for residential housing situations and the Air Carrier Access Act covers service animal provisions for airline travel. The definition of a service animal under each of these laws is different than the definition under the ADA.

**Call your Regional ADA Center at 1.800.949.4232 for more information on Service Animals and to get other Fact Sheets in our nine part series!**



## Americans with Disabilities Act Title II and Title III Revised Regulations Fact Sheet Series

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### Fact Sheet #9

## Overview of the 2010 Standards for Accessible Design



The Americans with Disabilities Act (ADA) requires the U.S. Department of Justice (DOJ) to publish ADA design standards that are consistent with the guidelines published by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). The DOJ has adopted revised ADA design standards that include the relevant chapters of the Access Board's 2004 ADA/ABA Accessibility Guidelines as modified by specific provisions of the DOJ's revised rules implementing Title II and Title III of the ADA.

To minimize compliance burdens on entities subject to more than one legal standard, these design standards have been harmonized with the Federal standards implementing the Architectural Barriers Act and with the private sector model codes adopted by most states. The changes to the design guidelines were adopted by the Access Board as a series of separate rules that were combined in the 2004 ADA/ABA guidelines. These rules addressed a variety of facilities and the revision of the Access Board's 1991 guidelines. These changes have been adopted, with some modifications, as the 2010 Standards for Accessible Design.

On March 15, 2012, compliance with the 2010 Standards will be required for new construction and alterations. In the period between September 15, 2010 and March 15, 2012, covered entities may choose between the 1991 Standards or the 2010 Standards. Note: Title II entities can also choose the Uniform Federal Accessibility Standards (UFAS). Under the "safe harbor" provision, facilities that were built or altered in compliance with the 1991 Standards or the UFAS do not have to be brought into compliance with 2010 Standards unless the facility undergoes an alteration on or after March 15, 2012. Elements for which there were no 1991 standards are not eligible for safe harbor.

Examples of Areas and Facilities Impacted by the Changes (Note this list is not exhaustive):

#### A. Recreation Facilities:

- Amusement rides (Sections 234, 1002)
- Recreational boating facilities (Sections 235, 1003)
- Exercise machines and equipment (Sections 206, 236, 1004)
- Fishing piers and platforms (Sections 237, 1005)
- Golf facilities (Sections 238, 1006)
- Miniature golf (Sections 239, 1007)
- Play areas (Sections 240, 1008)

- Saunas and steam rooms (Sections 241, 612)
- Swimming pools, wading pools, and spas (Sections 242, 1009)

B. Public Facilities:

- Judicial facilities (Sections 231, 807, 808)
- Detention and correctional facilities (Sections 232, 807)
- Residential dwelling units (Sections 233, 809)

C. Changes to the 1991 Standards: The 2010 ADA Standards for Accessible Design contain more than incremental changes. These changes are addressed in detail in Appendix B to the Title III regulations and in the DOJ's regulatory impact analysis. A few examples of areas impacted by these changes are:

- Children's standards (optional)
- Slope of clear floor space and cross slopes maximum 1:48 (Sections 305, 403)
- Standard knee and toe clearance used for all fixtures (Section 306)
- Reach range requirements (Section 308)
- Door surface (Section 404)
- Maneuvering clearance required at automatic doors (Section 404)
- Curb ramp level landings (Section 406)
- Limited Use/Limited Application elevators instead of platform lifts (Section 408)
- Van parking spaces (Section 502)
- Passenger loading zones at the same level as the vehicle (Section 503)
- Stair handrail extension no longer required (Sections 504, 505)
- Drinking fountain knee clearance and spout height for those standing (Section 602)
- Clustered single user toilet rooms (Sections 213, 603)
- Single user toilet door swing (Section 603)
- Water closet clearances and center lines (Section 604)
- Ambulatory accessible toilet compartments (Section 604)
- Urinals, reduced scoping (Sections 213, 605)
- Lavatories and sinks (Section 606)
- Bathtub seat height and width (Section 607)
- Shower compartment thresholds and controls (Section 608)
- Washing machines and clothes dryers (New – Section 611)
- Detectable warnings (Section 705)
- Automatic Teller Machines and fare machines (Section 707)
- Assembly areas (Sections 221, 802)
- Kitchens and kitchenettes (New – Section 804)
- Common use circulation paths in employee work areas (Sections 203.9, 206.2.8)
- Location of both accessible routes and accessible routes to stages (Section 206)
- Transient lodging guest rooms (Sections 224, 806)
- Benches, size and side transfer (Section 903)

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## Contact Information

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