

## ADA & STATE LOCAL GOVERNMENTS 2018

ALYSE BASS, U.S. DOJ CIVIL RIGHTS DIVISION  
DISABILITY RIGHTS SECTION &  
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### DISABILITY RIGHTS SECTION & ADA

- Investigate
- Mediate (Active mediation program)
- Litigate
- Regulate and Coordinate
- Technical Assistance/Outreach

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### UNITED STATES ATTORNEY'S OFFICE (USAO)

- In coordination with the Civil Rights Division, the USAO enforces the ADA and other Civil Rights Laws enforced by the DOJ.
- USAO in Denver also partners with the Disability Rights Section on matters in Colorado.

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### AMERICANS WITH DISABILITIES ACT (ADA)

#### Prohibits Discrimination on Basis of Disability in:

- Employment
- All Programs Services and Activities of State & Local government
- Public accommodations
- Commercial facilities
- Transportation
- Telecommunications



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### ADA REQUIREMENTS RELEVANT TO MUNICIPALITIES

- Title I ADA: Non-Discrimination & Reasonable Accommodation in Employment
- Title II ADA: Program Access & Non-Discrimination by State and Local Governmental Entities

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### WHAT IS A DISABILITY UNDER THE ADA?

- 1) A physical or mental impairment that substantially limits one or more major life activities or major bodily functions;
- 2) A record (or past history) of such an impairment; or
- 3) Being regarded as having a disability.

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## WHAT IS A DISABILITY UNDER THE ADA?

- The definition of "disability" should be interpreted broadly
- Whether an individual's impairment is a disability under the ADA should not demand extensive analysis
- The term "substantially limits" is construed broadly in favor of expansive coverage

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## EXAMPLES OF INDIVIDUALS WITH DISABILITIES

- Individuals with Mobility Impairments who use wheelchairs or other mobility aids
- Individuals who are Deaf or Blind, or Deaf-Blind
- Individuals with chronic health issues including, for example Diabetes, Epilepsy, Depression, Anxiety or who are in Recovery from Substance Use Disorder
- Individuals with Intellectual or Mental Health Impairments including, for example veterans with PTSD

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## ADA PROTECTIONS FOR OTHERS

- Individuals who participate in protected activity and who face retaliation, interference or coercion as a result (e.g. adverse employment action against someone for testifying or otherwise supporting an individual with a disability in an ADA matter)
- "Aggrieved individuals" (e.g. a parent of a child with a disability who is denied access to a camp or program because of disability)

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## WHO IS NOT COVERED BY THE ADA?

- Current users of illegal drugs, or current abusers of prescription drugs or alcohol if the entity acts on the basis of that illegal drug use.
  - However, ADA covers those in recovery from Substance Use Disorder (SUD), who currently do not use drugs illegally, or abuse alcohol. This includes individuals undergoing MAT.

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## INDIVIDUALS IN TREATMENT FOR SUBSTANCE USE DISORDER MAY BE COVERED BY THE ADA

MAT: Medication-Assisted Treatment (treatment for OUD combining the use of medications such as methadone, buprenorphine, or naltrexone with counseling and behavioral therapies)

OUD: Opioid Use Disorder

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## ADA TITLE I: EMPLOYMENT

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### WHO IS COVERED BY TITLE I OF THE ADA?

Title I of the ADA makes it unlawful to discriminate in employment against a qualified individual with a disability

- Protects:
  - Both applicants and employees
  - Part-time, probationary & temporary employees

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### WHO ENFORCES TITLE I OF THE ADA?

- The Equal Employment Opportunity Commission & the United States Department of Justice
- Individual Charges may only be filed with the EEOC
- EEOC investigates and if EEOC finds “reasonable cause” that discrimination occurred, it engages in conciliation with the Employer to attempt to resolve the matter.

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### WHO ENFORCES TITLE I OF THE ADA?

➢ If Conciliation fails:

- Private Employer - EEOC files suit or issues a “notice of right to sue” letter
- Public Employer - EEOC forwards to the DOJ Civil Rights Division for further action

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### WHO ENFORCES TITLE I OF THE ADA

The U.S. DOJ has jurisdiction over all employment discrimination matters against State & Local governments (including all agencies or subdivisions thereof), e.g. police, sheriff, fire, transit, courts, etc.

- 1) Based on EEOC referrals, and
- 2) DOJ may self-initiate an investigation of potential systemic discrimination by a state or local government.

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### WHAT EMPLOYMENT PRACTICES ARE COVERED? ALL

Requires employers with 15+ employees to provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities

- |                       |                                  |
|-----------------------|----------------------------------|
| ■ Recruitment         | ■ Reasonable accommodations      |
| ■ Pay                 | ■ Other privileges of employment |
| ■ Hiring & Promotions |                                  |
| ■ Training            |                                  |



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### WHO IS A “QUALIFIED” INDIVIDUAL WITH A DISABILITY?

- **For Purposes of Title I: (Employment)** an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position held or desired.

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## WHO IS A QUALIFIED INDIVIDUAL WITH A DISABILITY UNDER TITLE I?

- A person who meets legitimate skills, experiences, education, or other job requirements
- Able to perform the *essential functions of the job* with or without a reasonable accommodation
- This determination always involves an individualized analysis

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## WHO IS A QUALIFIED INDIVIDUAL WITH A DISABILITY UNDER TITLE I?

- We look at Job Descriptions (but they are not definitive).
- Best Practice – Ensure Job Descriptions are:
  - Comprehensive
  - Accurate
  - Up-to-date
  - List the Essential Functions that are Actually Performed by Incumbents

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## QUALIFICATION STANDARDS

- Permitted, but if an individual fails to meet a qualification standard due to a disability, employer must be able to show that the standard is “job related and consistent with business necessity.”
- Fact specific Analysis
  - e.g. CDL, licenses

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## WHAT CAN AN EMPLOYER ASK ABOUT DISABILITY?

- To an Applicant? Nothing. ADA Prohibits asking about an applicant's disability
- To an Employee? Post-offer medical exams allowed, but only when all individuals in a job category (e.g. entry level police) are subject to it. The results, however, must be used in a lawful manner
- Examinations & inquiries of incumbent employees prohibited unless job related and consistent with business necessity



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## REASONABLE ACCOMMODATIONS

- Title I of the ADA requires employers make reasonable accommodation to the known physical or mental limitations of qualified individuals with disabilities, unless it results in undue hardship

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## REASONABLE ACCOMMODATIONS

- Modifications to job functions, work environments, or the way things usually are done so that a qualified individual with a disability is afforded an equal employment opportunity
- An employer is not required to provide an accommodation that is primarily for personal use – accommodations should assist a person in performing job functions.

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## REASONABLE ACCOMMODATIONS

- making work environment physically accessible
- restructuring or re-allocating marginal job functions
- altering when or how essential job function performed
- part-time or modified work schedules, breaks to attend to chronic conditions
- use of accrued paid leave or allowing additional unpaid leave
- providing or modifying equipment
- re-assignment to a vacant position

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## REASONABLE ACCOMMODATION & INTERACTIVE PROCESS

- When a reasonable accommodation is sought, or the employer is made aware that one is necessary, the employer and employee should engage in what is called an "interactive process."
- Both sides should communicate and use a problem-solving approach and make a good faith attempt to reach a resolution.

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## DEFENSE: DIRECT THREAT

- The ADA does not prohibit an action with respect to an individual whose physical or mental impairment constitutes a direct threat to the health or safety of others, and in some limited circumstances, to the individual with a disability
- A "direct threat" is a significant risk to the health or safety of others that cannot be eliminated or reduced with reasonable accommodation.

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## DEFENSE: UNDUE HARDSHIP

- An accommodation is not reasonable if it would impose an undue hardship on the employer
- Undue hardship is a significant difficulty or expense considering the size of the employer and the resources available to the employer – this is to be decided on a case-by-case basis
- The same accommodation may be reasonable in some circumstances but not others

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## TITLE I: EMPLOYMENT CASE EXAMPLE: CITY AND COUNTY OF DENVER & DENVER SHERIFF DEPARTMENT (MAY 2018)

- Complainant worked for the City and County of Denver for over 17 years as a Deputy Sheriff and had a strong performance record.
- Complainant has Type I diabetes, which substantially limits bodily functions, including the endocrine system and is an individual with a disability under the ADA.

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## TITLE I: EMPLOYMENT CASE EXAMPLE: CITY AND COUNTY OF DENVER & DENVER SHERIFF DEPARTMENT (MAY 2018)

- Complainant filed a charge of Discrimination with the EEOC alleging discrimination based on disability, including failure to accommodate.
- EEOC investigated and found reasonable cause that discrimination had occurred. Denver declined to conciliate.
- The matter was forwarded to the DOJ. The Justice Department conducted further investigation of that charge, and of a later charge filed by the Complainant.

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**TITLE I: EMPLOYMENT CASE EXAMPLE: CITY AND COUNTY OF DENVER & DENVER SHERIFF DEPARTMENT (MAY 2018)**

- Denver cooperated with the U.S. and indicated a willingness to resolve the matter.
- The Justice Department filed a complaint in federal Court alleging that Denver discriminated against Complainant by failing to engage in the interactive process, failing to provide reasonable accommodations, and by terminating the employee, in violation of the ADA.

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**TITLE I: EMPLOYMENT CASE EXAMPLE: CITY AND COUNTY OF DENVER & DENVER SHERIFF DEPARTMENT**

- During the United States' investigation, Denver reinstated the employee and reassigned the employee to a vacant position.
- Under the Settlement Agreement, Denver agreed to revise its reasonable accommodation policies and procedures, and conduct training on the ADA for Sheriff Department supervisors, command staff, and human resources personnel. In addition, Denver agreed to pay \$100,000 in compensatory damages to the employee.

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**TITLE I: EMPLOYMENT CASE EXAMPLE: WASHINGTON METROPOLITAN TRANSIT AUTHORITY (WMATA) (MARCH 2017)**

- Complaint alleged that WMATA extended a job offer as an elevator/escalator parts supervisor to an applicant but withdrew the offer upon learning that the applicant had epilepsy.
- The complaint also alleged that WMATA failed to engage in the Interactive Process—failed to discuss with the applicant how his disability might affect his ability to do the job or whether there were any available accommodations that would allow him to do the job.

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**TITLE I: EMPLOYMENT CASE EXAMPLE: WASHINGTON METROPOLITAN TRANSIT AUTHORITY (WMATA)**

- Under the agreement, WMATA agreed to:
  - Institute new policies to ensure that employees and job applicants with disabilities have the opportunity to confer with WMATA about reasonable accommodation in the workplace.
  - Ensure that supervisors are fully trained in those policies.
  - Pay \$175,000 in compensatory damages to the applicant.

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**TITLE I CASE EXAMPLE: NEW ALBANY SETTLEMENT AGREEMENT**

- U.S. Complaint, filed in federal court, alleged that the New Albany Police Department and Merit Commission disclosed to the public and press an employee's confidential medical information, which it had obtained through employment-related medical examinations and inquiries. The complaint further alleged that New Albany provided documents and information detailing the employee's disability, prescription medications, medical care, and psychological evaluations to the press and that, as result of this unlawful disclosure, local press widely publicized the employee's medical information.
- Under the Agreement, Respondents enacted policies and procedures to ensure employees' medical information is kept confidential, conducted training, and paid \$100,000 in compensatory damages to the employee.

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**TITLE I: EMPLOYMENT CITY OF RIVERSIDE, CALIFORNIA (OCT. 2015)**

- Consent decree resolved allegations that County withdrew conditional job offer to youth corrections officer solely because of his controlled epilepsy. County physician based his recommendation on erroneous assumptions about the job duties (rather than by analyzing the actual essential functions of the position)

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#### TITLE I: EMPLOYMENT CASE EXAMPLE: CITY OF PHILADELPHIA (JAN. 2017)

- Agreement resolved allegations that City terminated employee after he had a heart attack and his doctor placed him under a 20-pound lifting restriction, which prevented him from continuing as a sanitation worker. Although the employee made several requests for reassignment and the City had numerous vacant positions, the city failed to consider the employee for reassignment to a different position for which he was qualified. Instead, the city terminated the employee because of his disability.

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#### TITLE I: EMPLOYMENT CASE EXAMPLE: CITY OF PHILADELPHIA

- Agreement required the city's Streets Department to revise its policies to ensure that reassignment is considered as a reasonable accommodation for employees with disabilities, train relevant employees on the ADA, and report to the Justice Department on implementation of the decree.
- City offered to reinstate and reassign the employee to an open position for which he is qualified and paid the employee a total of \$90,000 for back pay, accrued interest and compensatory damages.

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#### TITLE I: EMPLOYMENT CASE EXAMPLE: COLORADO SPRINGS POLICE DEPARTMENT

- 2008 agreement resolved a civil action brought by the United States alleging that City violated the ADA's non-retaliation prohibition when the City failed to promote an officer to Sergeant in retaliation for an ADA claim that his wife — a former police officer with the Colorado Springs Police Department— brought against the City and/or for his participation and assistance with that action.

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#### BEST PRACTICES

- Ensure job descriptions and qualification standards are accurate
- Train all supervisors about ADA and reasonable accommodation
- Engage in an interactive process with the employee or applicant about potential accommodations, and maintain records of that process
- Employees with disabilities that have chronic health conditions may often need one or more reasonable accommodations, ensure that Supervisors understand this ADA requirement

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#### BEST PRACTICES

- If qualification standards screen out an individual because of disability, make sure those standards are actually necessary and "consistent with business necessity"
- Keep employee medical information & records confidential
- Leave (with or without pay) is often a reasonable accommodation, including additional leave in conjunction with, or following, FMLA leave,
- If an employee can no longer perform the essential functions of a job because of a disability, consider reassignment to a vacant position

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#### ADA TITLE II: STATE & LOCAL GOVERNMENT ACTIVITIES

PROGRAM ACCESS AND NON DISCRIMINATION



## TITLE II: STATE & LOCAL GOVERNMENT

**"[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs or activities of a public entity, or be subjected to discrimination by any such entity."**

**42 U.S.C. § 12132.**

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## TITLE II: STATE & LOCAL GOVERNMENT

- State & local governments must provide individuals with disabilities an equal opportunity to benefit from all of their programs, services & activities.

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## TITLE II: PROGRAM ACCESS

- What is a program, activity or service covered by title II of the ADA?
- Every activity -- regardless of the receipt of federal funding is covered. Unlike 504, there is no funding requirement.



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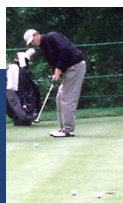
## TITLE II: PROGRAM, SERVICE OR ACTIVITY

- Courts
- Law enforcement services
- Access to public education
- Transportation
- Camps
- Recreation
- Health care
- Social services
- Voting
- Zoning Decisions



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## PICTURES



## WHO IS A "QUALIFIED " INDIVIDUAL WITH A DISABILITY?

- **For Purposes of Title II:** an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

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## TITLE II: HOW IS IT ENFORCED?

- DOJ maintains an online complaint process, and USAO also accepts complaints directly
- Mediation program available in certain situations
- DOJ may resolve informally or may bring a lawsuit where it has investigated a matter & has been unable to resolve violations
- Title II may also be enforced through private lawsuits in Federal court

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## TITLE II: PROGRAM ACCESS & FACILITY ACCESS

- Governmental Entities are required to follow specific architectural standards in new construction & alteration of their buildings
- Must provide Program Access to all services, programs or activities, even those located in inaccessible older buildings by relocation, barrier removal or otherwise

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## WHAT IS PROGRAM ACCESS ?

- Examples of Program Access: Moving a course with advanced registration requirement to an accessible location if an individual with a disability registers
- For unique spaces, e.g. a Court House, may require removal of physical barriers to ensure program access.

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## TITLE II: STATE & LOCAL GOVERNMENT - EFFECTIVE COMMUNICATION

- Must provide Auxiliary Aids and services to ensure effective communication with people who have hearing, vision, or speech disabilities.
- Primary Consideration must be given to the method of communication requested by the individual with a disability

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## TITLE II: STATE & LOCAL GOVERNMENT DEFENSES TO REQUEST FOR REASONABLE MODIFICATIONS

- Governmental entities are required to make **reasonable modifications** to policies, practices & procedures where necessary to avoid discrimination—unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity
- Not required to take actions resulting in undue financial and administrative burdens

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## REASONABLE MODIFICATION

- Examples: Medication Assistance for Children at Summer Camp (e.g. diabetes care, epilepsy medication)
- Modifying a no pets policy to permit service animals
- Ensuring that program or service delivery is achieved in the most integrated setting available

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## TITLE II: INTEGRATION MANDATE AND OLMSTEAD

- The Title II regulations require public entities to "administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities."<sup>15</sup> The preamble discussion of the "integration regulation" explains that "the most integrated setting" is one that "enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible . . . ."
- In *Olmstead v. L.C.*, 527 U.S. 581 (1999), the Supreme Court held that Title II prohibits the unjustified segregation of individuals with disabilities.

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## TITLE II: INTEGRATION MANDATE AND OLMSTEAD

- Consent decree resolving 2014 findings that the State of Rhode Island violated the ADA, including the Supreme Court's decision in *Olmstead v. L.C.*, by failing to serve individuals with intellectual and developmental disabilities (I/DD) in the most integrated day activity service setting appropriate for their needs, and by placing transition-age youth at serious risk of segregation. The consent decree focuses on three target populations: (1) individuals in sheltered workshops; (2) individuals in facility-based day programs; and (3) youth in transition from secondary school.

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## TITLE II CASE EXAMPLES: ZONING DISCRIMINATION

- Persons with disabilities, or facilities serving those persons, shall not be subject to different, and more burdensome, zoning standards because of unfounded stereotypes.
- 2003 Settlement with City of Jackson, Mississippi based on allegations that City Council denied application for down-zoning land for construction of mental health crisis intervention center.

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## TITLE II CASE EXAMPLES: ZONING DISCRIMINATION

- 2009 Department lawsuit alleging that the City of Baltimore violated the ADA because its zoning code required residential substance abuse treatment facilities to go through a burdensome "conditional ordinance" zoning process. Other comparable facilities were not required to go through this process, which requires approval by the Baltimore City Council and the local neighborhood association. DOJ alleged that because of unfounded stereotypes about people who are in drug treatment, the process has resulted in facilities either being denied a permit or having to expend tremendous resources to get the permit.

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## TITLE II: CASE EXAMPLE LOUISIANA SUPREME COURT (AUG. 2014)

- Title II covers licensing programs.
- Settlement Agreement with the Louisiana Supreme Court to change court's policies, practices and procedures for evaluating bar applicants with mental health disabilities.
- The Department's investigation found that during the Louisiana Bar's admissions process, its licensing entity based recommendations about bar admission on mental health diagnosis and treatment rather than conduct that would warrant denial of admission to the bar.



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## TITLE II: LAW ENFORCEMENT LARIMER COUNTY SHERIFF'S OFFICE (MAY 2017)

- Lack of effective communication, failed to provide auxiliary aids and services to deaf individual during booking and while incarcerated in the Larimer County Jail
- Asked for ASL interpreter
- Disciplined for non-compliance with jail rules
- Forced to communicate about medical issues without an ASL interpreter

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**TITLE II: LAW ENFORCEMENT  
LCSO SETTLEMENT TERMS**

- Designate ADA Coordinator to coordinate:
  - requests for reasonable modifications, auxiliary aids, or services
  - process, investigate, and promptly act upon inmate complaints
- Training for staff
- Acquisition of auxiliary aids to enable deaf/hard of hearing individuals to communicate with others, and posting of availability of such aids
- Compile and maintain information for and on interactions with individuals who are deaf/hard of hearing

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**TITLE II: LAW ENFORCEMENT  
LCSO SETTLEMENT TERMS**

- Ongoing nature of need to evaluate requests for effective communication
- Provision of ASL interpreters in a timely manner
- Reasonable modification of handcuffing for arrestees who need use of hands in order to communicate
- Revised grievance procedures

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**TITLE II: LAW ENFORCEMENT  
COLUMBIA, SOUTH CAROLINA POLICE DEPARTMENT (MAY 2016)**


- Police department failed to provide sign language interpreter for deaf arrestee
- Settlement terms:
  - Communications assessment at intake & evaluate ongoing need
  - To ask whether someone who may be deaf or hard of hearing wants a qualified sign language interpreter, show them pictogram for "sign language interpreter"



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**TITLE II: LAW ENFORCEMENT  
COLUMBIA, SOUTH CAROLINA POLICE DEPARTMENT (MAY 2016)  
SETTLEMENT TERMS**

Use communication cards for routine interactions in the field




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**TITLE II: LAW ENFORCEMENT  
COLUMBIA, SOUTH CAROLINA POLICE DEPARTMENT (MAY 2016)  
SETTLEMENT TERMS**

Use communication cards for routine interactions in the field


The best way to communicate with me is:




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**TITLE II: STATE & LOCAL GOVERNMENT**


**PROJECT CIVIC ACCESS (PCA)**




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 **PROJECT CIVIC ACCESS (PCA)**

- Wide-ranging effort to ensure that cities, counties, and other public entities throughout the country comply with the ADA by eliminating physical, communication, and other barriers that prevent people with disabilities from participating fully in community life




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 **PROJECT CIVIC ACCESS (PCA)**

- Has resulted in over 220 resolutions, in every state (between 15 and 20 in the past couple of years)
- Agreements available on ADA website—helpful resource for thinking about program access in your communities


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 **PCA EXAMPLE:  
HUMBOLDT COUNTY, CALIFORNIA (SEPT. 2016 CD)**

- DOJ Site Review followed by a settlement agreement that expired July 2011
- County failed to take most actions to come into compliance by dates required
- Because of non compliance, DOJ filed a complaint in federal court, which was later resolved by consent decree, to ensure the county followed through on its commitment to improve access




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 **PCA: HUMBOLDT COUNTY  
CONSENT DECREE TERMS**


- Hire an ADA Coordinator who is trained and knowledgeable about the ADA
- Adopt detailed grievance procedures
- Use an Independent Licensed Architect to certify whether any alterations, additions, or modifications made comply with ADA
- Publicize nondiscrimination notices

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 **PCA: HUMBOLDT COUNTY  
LAW ENFORCEMENT & EFFECTIVE COMMUNICATIONS**

- Distribute policy on communication with people who are deaf and hard of hearing to all sheriff department officers
- Contract with oral & sign-language interpreters available 24-hours a day
- Equip jail and detention facilities with TTYs, videophones, and hearing aid compatible telephones

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 **PCA: HUMBOLDT COUNTY  
LAW ENFORCEMENT & EFFECTIVE COMMUNICATION**

- Policy on communication with people who are deaf and hard of hearing:
  - Entitled to effective communication in all situations, including: traffic stops, responding to calls, interviewing victims, witnesses, & suspects, making arrests, interrogations, etc.
  - Use of auxiliary aids & services, including visual aids, exchanging written notes, assistive listening devices, interpreters
  - Primary consideration should be given to the communication aid or service that works best for that person



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## PCA: HUMBOLDT COUNTY LAW ENFORCEMENT & EFFECTIVE COMMUNICATION

- Because a qualified interpreter must be able to interpret impartially, a family member, child, or friend of the individual who is deaf may not be qualified to render the necessary interpretation because of factors such as professional, emotional, or personal involvement, or considerations of confidentiality.
- A qualified sign language or oral interpreter is one who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

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## PCA: HUMBOLDT COUNTY LAW ENFORCEMENT & EFFECTIVE COMMUNICATION

- Effective communication considerations:
  - Length of communication
  - Number of persons involved
  - Purpose of communication
  - Complexity of information being communicated



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## PCA: HUMBOLDT COUNTY EMERGENCY MANAGEMENT

- Addresses ADA obligations for planning, preparedness, evacuation, shelters, medical and social services, lodging and housing programs, recovery, and rebuilding
- Community evacuation plans to enable people who have disabilities to either safely self-evacuate or be evacuated by others
- If the County's emergency warning system uses sirens or other audible alerts, establish procedures to effectively inform people who are deaf or hard of hearing of an impending disaster



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## PCA: HUMBOLDT COUNTY EMERGENCY MANAGEMENT

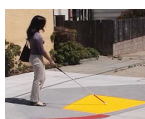
- Back-up generator/power: access to electricity for those who require life-sustaining medical devices, motorized wheelchairs, and preserving certain medications (such as insulin)
- Procedures to ensure that people who use service animals are not separated from them when sheltering during an emergency, even if pets are prohibited in shelters



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## PCA: HUMBOLDT COUNTY PROGRAM ACCESS

- Accessible sidewalks with curb cuts
- Accessible websites & online services
- Remediate currently identified violations for buildings
- Make any new additions/modifications using 2010 ADA Standards



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## PCA: COLORADO AGREEMENTS

- Trinidad PCA
- Denver PCA (on ADA.gov)



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## FACILITY ACCESS BASICS FOR MUNICIPALITIES

Title II Entities have specific obligations with respect to:  
**NEW CONSTRUCTION AND ALTERATIONS &  
 PROGRAM ACCESS AND BARRIER REMOVAL**

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## WHAT IS AN ALTERATION?

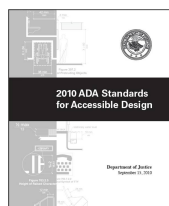
- Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.

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## 2010 ADA STANDARDS

Title II Regulations  
 28 C.F.R. 35.151  
 plus  
 2004 ADAAG



## ON OR AFTER MARCH 15, 2012...

- 2010 Standards must be followed
  - New Construction
  - Alterations
- 2010 Standards are new reference point
  - Program Accessibility
  - Barrier Removal



## SAFE HARBOR

- Elements in an Existing Facility that already complied with the 1991 ADA Standards or UFAS



do not need to be modified to meet the 2010 Standards unless they are altered on or after March 15, 2012.

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## FACILITY ACCESS – NEW CONSTRUCTION OR ALTERATION

- All areas of newly designed and constructed buildings and facilities & altered portions of existing buildings and facilities shall comply with scoping and technical requirements.
- SCOPING REQUIREMENTS – how many and where?
- TECHNICAL REQUIREMENTS - how big/how many?

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## PARKING



**Scoping**


- number per total
- 1 in 6 van accessible
- location - shortest accessible route

**Technical:**

- dimensions space and access aisle
- surface and slope
- signage at 60"

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## SIDEWALKS AND CURB CUTS



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## CHANGES IN LEVEL/ FAILURE TO MAINTAIN ACCESSIBLE FEATURES



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## CURB RAMPS/CURB CUTS



- Ensure that running slope and cross slope do not exceed slope maximums.
- Ensure appropriate width


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## DETECTABLE WARNINGS



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## PASSENGER DROP OFF AREA



- Level Pull-Up Space
- Level Access Aisle
- Vertical Clearance
- Curb Ramp

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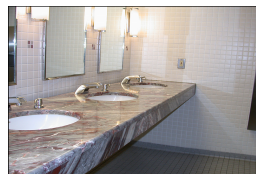
## ROUTE TO ACCESSIBLE ENTRANCE



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## LAVATORIES



- Clear floor space
- height
- clearances
- exposed pipes
- faucets



## TOILETS

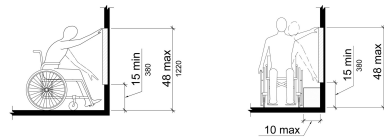


- location/centerline
- clear floor space
- seat height
- grab bars placement, length and height
- flush controls
- toilet paper dispensers

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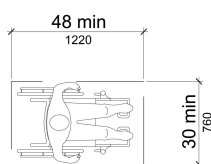
## BUILDING BLOCKS: REACH RANGES



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## BUILDING BLOCKS: CLEAR FLOOR SPACE



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## 2010 STANDARD COVER PLAYGROUNDS (AND OTHER ELEMENTS NOT PREVIOUSLY COVERED)



- When newly constructed
- Elements in an Existing playgrounds (even those that were not subject to requirements in the 1991 Standards) must comply with 2010 Standards when altered.

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## PLAY AREA ACCESSIBILITY GUIDELINES




- For example, there are standards for
  - ground level components and elevated components
  - Surfaces, slopes, width & vertical clearance




## TITLE II: PUBLIC TRANSPORTATION

- DOJ and DOT (Federal Transit Administration) have a collaborative Memorandum of Understanding for public transit
- Title II covers city buses, public rail transit (e.g., subways, commuter trains, Amtrak)
- Detailed requirements for public transit are contained in the Department of Transportation's regulations



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## TITLE II: PUBLIC TRANSPORTATION

- Public transportation authorities must:
  - Not discriminate against people with disabilities in the provision of their services
  - Comply with accessibility requirements in newly purchased vehicles
  - Remanufacture buses in an accessible manner
  - Provide paratransit\* service where they operate fixed-route bus or rail systems, unless resulting in an undue burden

\* Paratransit: a service where individuals who are unable to use the regular transit system independently are picked up and dropped off at their destination


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## BEST PRACTICES

What is your organizational Structure for Ensuring Non-discrimination on the basis Of Disability?

If your organizational structure is like this... **You need:**





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## BEST PRACTICE ADA COORDINATOR

WELL TRAINED ADA COORDINATOR WITH KNOWLEDGE AND AUTHORITY TO IMPLEMENT NECESSARY ACTIONS

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## TITLE II: BEST PRACTICES FOR STATE & LOCAL ENTITIES

- Have a well-trained ADA Coordinator—whose contact information is readily available (on website)—who is responsible for ensuring equal access to programs services and activities, and responding to requests for reasonable modifications.
- Larger entities may need more than one ADA coordinator and/or a point person for particular systems (e.g. access to Courts or Public Transportation Services)
- Have a detailed, workable & responsive grievance process

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