



Employment and the ADA

The Americans with Disabilities Act (ADA) covers all aspects of employment including hiring and firing, raises, promotions, job training, insurance and other benefits.

- ★ Employers are not required to hire a person with a disability nor does the ADA set hiring quotas for employers. The ADA does prevent employers from discriminating against a job applicant based on the applicant's disability.
- ★ Employers are not allowed to include questions about a disability on a job application or in a job interview. Employers are allowed to ask about the ability to perform the essential functions of the job with or without reasonable accommodation. Employers are not allowed to withdraw a job offer because an applicant needs reasonable accommodation.
- ★ Employers are required to provide appropriate accommodations when an employee declares a disability. Employees can declare a disability at anytime.
- ★ Employees who ask for reasonable accommodations must be involved in making the decision about the most appropriate solution. Employers make the final decision about reasonable accommodation.



- ★ Employers who say reasonable accommodation cannot be made because it would cause undue hardship must offer proof of the potential hardship. If an applicant or employee does not agree, a complaint may be filed.
- ★ Employers can use drug testing to ensure that individuals who illegally used drugs in the past are not currently using illegal drugs.
- ★ Employees who are currently using a drug illegally, even if the drug has legal uses, are not covered by the ADA.
- ★ Employees who have completed or currently are participating in a supervised rehabilitation program or who have been accused wrongly of using drugs illegally are covered by the ADA.
- ★ Employers who provide accommodations may receive a federal tax credit and/or a federal tax deduction.

Discrimination complaints may be filed with the Equal Employment Opportunity Commission or with the Human Rights Commission (see below). Employers also may contact these agencies for more ADA information.

U.S. Equal Employment Opportunity Commission
600 Dr. Martin Luther King Jr. Place
Suite 268
Louisville, KY 40202
Phone (502) 582-6082
TDD: (502) 582-6285

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Equal Education and Employment Opportunities M/F/D

Kentucky Human Rights Commission
332 West Broadway
Louisville, Ky. 40222
Phone: (502) 595-4801
Toll free: 1-800-292-5566
TDD: (502) 595-4084



State and Local Governments and the ADA

The Americans with Disabilities Act (ADA) prohibits discrimination in all services, programs and activities provided by state and local government agencies. This includes activities carried out by anyone who has contracts with state and local governments.

- ★ Government agencies are required to make reasonable accommodations at a program, service or activity when requested by an individual with a disability unless the agency can prove that providing reasonable accommodation would change the basic nature of these events.
- ★ Individuals with disabilities are not required to accept an accommodation. Whenever possible, a program should be provided in a setting that includes persons with and without disabilities.



- ★ Government agencies must provide free auxiliary aids or services for people with disabilities at meetings and programs.
- ★ Government agencies are not responsible for providing personal devices (such as wheelchairs), individually prescribed devices (such as eyeglasses), or services of a personal nature (assistance in eating or dressing) for individuals with disabilities.
- ★ Government agencies cannot deny equal services, programs or activities to someone based on that person's relationship to or association with an individual with a disability.
- ★ Government agencies may provide a program specifically designed to accommodate individuals with disabilities, but an individual with a disability has the right to choose to participate in a program (if the individual is qualified to participate) that is open to the general public.
- ★ Public school systems' services, programs and activities, including those available to parents and the general public, must comply with the ADA. This includes but is not limited to school plays, parent/teacher conferences, graduation and sports events.



For additional information contact:

U.S. Department of Justice ♦ Civil Rights Division ♦ Disability Rights Section - NYAV ♦ 950 Pennsylvania Avenue NW ♦ Washington, D.C. 20530
Toll-free: 1-800-514-0301 ♦ TDD: 1-800-514-0383



Public Access/Accommodation and the ADA

The Americans with Disabilities Act (ADA) requires that access and/or accommodations in facilities, services, policies and programs be made for people with disabilities.

★ When there is new construction of a public facility or changes are made to an existing public facility, these facilities, referred to as public accommodations, must be made accessible (e.g. a wheelchair ramp) to people with disabilities. Public accommodations that fall under the ADA include:

- ◆ Lodging (inns, hotels, motels)
- ◆ Establishments serving food or drink (restaurants, bars)
- ◆ Places of exhibition or entertainment (theaters, motion picture houses, concert halls, stadiums)
- ◆ Places of public gathering (auditoriums, convention centers, lecture halls)
- ◆ Sales or rental businesses (bakeries, grocery stores, hardware stores, shopping centers)
- ◆ Service establishments (laundromats, dry cleaners, banks, barber shops, beauty shops, funeral parlors, gas stations, accountant, lawyer, pharmacies, insurance offices, professional offices of health care providers, hospitals)
 - ◆ Public transportation terminals, depots or stations (not including air transportation)
 - ◆ Places of public display or collection (museums, libraries, galleries)
 - ◆ Recreational facilities (zoos, nature and amusement parks, bowling alleys, golf courses)
 - ◆ Places of education (nursery schools, elementary, secondary, undergraduate, or postgraduate private schools)
 - ◆ Social service center establishments (day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies)
 - ◆ Health and exercise businesses (gyms, health spas)
 - ◆ Office buildings



★ Businesses can set safety standards, but those standards cannot be based on prejudice or stereotypes.

(More information on back.)

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- ★ Businesses whose policies screen out or tend to screen out individuals with disabilities may be used only if it is necessary for the service to be provided. Example: A store cannot require a drivers license from a person with a disability who cannot drive as the only acceptable form of identification for cashing a check.
- ★ Businesses are not required to make changes that would alter the basic nature of a service being provided. Example: A doctor who treats only burn patients would not be discriminating against a patient who is deaf if she referred that patient to another doctor for treatment of a broken leg.
- ★ Businesses are required to provide some type of auxiliary aid or service for individuals with hearing or vision impairments when these aids or services are needed for communication. Aids and services may include qualified interpreters, assistive listening devices or brailled or large print materials.
- ★ Businesses that cannot supply the aforementioned aids or services, are required to provide an alternate form of assistance. Examples: If a restaurant does not have brailled menus, a waiter may read a menu to a person who is blind; a store clerk could communicate with a person who is deaf by writing on paper.
- ★ Businesses must remove barriers to access of existing facilities if it does not cause undue hardship or expense. Examples: A department store could accommodate people in wheelchairs by installant ramps, lowering the elevation of telephones and widening aisles.
- ★ Businesses that cannot easily remove a barrier, must take other steps to ensure that people with disabilities have access. Examples: A grocery might provide an employee who can retrieve items from tall shelves or provide home delivery without additional charge if the store is not easily made accessible.
- ★ Businesses that require tests or courses related to applications, licenses, and certifications must provide a place for people with disabilities to take the tests or courses. Businesses must also offer tests or courses to people with disabilities that accommodates their particular disability. Auxiliary aids such as taped exams, answer sheets with large print or interpreters must be provided for individuals with disabilities who request them.
- ★ Businesses can refuse service to a person with a disability if that individual poses a direct threat to the health and safety of others in such a way that the business cannot remove the threat. In this case, businesses can also prohibit the person with the disability from entering the building or remove him from the establishment.
- ★ Businesses may not refuse to serve an individual with a disability because of limits on coverage or rates in its insurance policies. Exclusion of individuals with disabilities must be based on legitimate safety concerns rather than on the terms of the insurance contract.
- ★ Businesses may provide insurance plans that limit certain kinds of coverage. However, this must be based on classification of risk and not because of a person's disability.
- ★ In matters of alleged discrimination against a person with a disability, individuals can file complaints with the U.S. Department of Justice (see front of sheet for contact information) or file a lawsuit against the owner of a business or public facility.



Communications and the ADA

The Americans with Disabilities Act (ADA) requires that communications for people with disabilities must be effective and that requested auxiliary aids and services must be made available to facilitate communications.

- ★ For individuals with hearing loss, auxiliary aids and services may be needed for communication. These include qualified interpreters; assistive listening systems and devices; telephones compatible with hearing aids; open and closed captions; and telecommunication devices for the deaf (TDDs).
- ★ For individuals with visual impairments, auxiliary aids and services may be needed for communication. These include qualified readers; taped texts; audio recordings; brailled materials; large print materials; and assistance in locating items.
- ★ For individuals with speech impairments, auxiliary aids and services may be needed for communication. These include TDDs; computer terminals; speech synthesizers; and communication boards.



- ★ If an individual with a disability requests a specific auxiliary aid or service, the aid or service must be provided unless another method or alteration of a service would adequately meet the individual's needs.
- ★ Interpreters and other auxiliary aids must be provided free of charge.
- ★ Businesses may require a reasonable, refundable deposit for the use of portable TDDs, decoders or assistive listening devices to ensure return of equipment. A fee may not be charged for the use of the equipment.
- ★ Businesses must make their telephone services accessible to individuals with hearing loss. [In most cases, the Kentucky Relay Service will permit persons who are deaf to call businesses and public facilities. The service (1-800-648-6056 ,TDD, or 1-800-648-6057, voice) provides specially trained communication assistants who relay messages between individuals who are deaf, hard of hearing or speech impaired and persons who can hear.]

(More information on back.)

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- ★ Businesses that use recorded messages to direct calls should offer another method for incoming calls. This may include a separate line for TDDs or relay service calls.
- ★ A relay service may be used to call customers and clients who are deaf. But businesses must provide TDDs upon request when a person who is deaf or hearing impaired needs to make a phone call. Example: Hospitals and hotels that provide telephones in their rooms must have TDDs available for guests and patients who are deaf. Hotels should also have a TDD at the front desk to take calls from guests who use TDDs in their rooms.
- ★ Police and fire departments and ambulance services are required to have TDDs.

ADA

Americans with Disabilities Act

Transportation and the ADA

The Americans with Disabilities Act (ADA) requires that certain public and private modes of transportation must offer access to people with disabilities.

- ★ Privately owned inter-city buses ordered on or after July 26, 1996, must be accessible.



- ★ All new public buses ordered on or after August 26, 1990, must be accessible. In addition, paratransit services must be provided to persons with disabilities who are unable to ride regular buses even when they are accessible.
- ★ Charter bus services must have some accessible buses, but not all buses have to be accessible.

- ★ Taxi services cannot discriminate against a person with a disability. Example: A taxi driver cannot refuse to pick up someone who uses a wheelchair because the driver does not want to lift the wheelchair into the trunk or put it in the back seat.

- ★ Hotels or other places of lodging do not need to make all of their shuttles accessible if the hotel is addressing access for people with disabilities in another way.

- ★ All new rail vehicles ordered on or after August 26, 1990, must be accessible. Rail systems in existence before July 26, 1995, must have one accessible car per train; all rail cars in a system built after that date must be accessible.



- ★ Insurance companies cannot deny automobile insurance to a person with a disability if that disability does not pose risks while driving.
- ★ Insurance companies cannot impose requirements on a person with a disability that are not imposed on a person without a disability.

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