

# AMERICANS WITH DISABILITIES ACT (ADA)

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November 7, 2025

## RECOMMENDED CITATION

Mohammed loot (2025). *AMERICANS WITH DISABILITIES ACT (ADA)*. Encyclopedia of psychology. Retrieved from <https://encyclopedia.arabpsychology.com/?p=16296>

## Introduction and Legislative Foundation

The Americans with Disabilities Act of 1990 (ADA) stands as a monumental piece of **United States civil rights legislation**, meticulously designed to prohibit discrimination against individuals with disabilities across nearly all facets of public life. This **landmark legislation** guarantees equal opportunities for individuals with disabilities in areas including employment, state and local government services, public accommodations, commercial facilities, and telecommunications. Unlike previous fragmented attempts at protection, the ADA established a comprehensive federal mandate that recognized the systemic marginalization faced by people with disabilities, viewing the issue not as one of charity, but as one of fundamental rights and equality.

Enacted on July 26, 1990, the ADA extended the protections afforded by Section 504 of the Rehabilitation Act of 1973, which only covered federal agencies and federally funded programs, to the private sector and non-federally funded public services. The core philosophy underpinning the ADA is the principle of non-discrimination, requiring that reasonable modifications be made to policies, practices, and structures to ensure that qualified individuals with disabilities can participate fully in society. It fundamentally altered the legal landscape by shifting focus from the individual's impairment to the removal of institutional and architectural **barriers imposed by society**.

The structure of the ADA is divided into five distinct titles, each addressing a specific domain of public and private life, ensuring a broad and systematic approach to accessibility and equity. These titles work synergistically to mandate accessibility standards and prohibit discriminatory practices, supervised primarily by the Equal Employment Opportunity Commission (EEOC) and the Department of Justice (DOJ). The ADA cemented the idea that disability is a natural component of the human experience and that people with disabilities have the right to live independently, enjoy self-determination, and participate in and contribute to society, free from the constraints of unjustified discrimination.

### Title I: Employment Provisions

Title I of the ADA specifically addresses employment discrimination, applying to private employers, state and local governments, employment agencies, and labor unions that have 15 or more employees. This title forbids discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. The central requirement under Title I is that employers must not discriminate against a **qualified individual with a disability**--meaning a person who satisfies the requisite skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of the job.

A critical component of Title I is the mandate for **reasonable accommodation**. Employers are required to make modifications or adjustments to the job application process, the work environment, or the manner or circumstances under which the position held or desired is customarily performed, provided these changes enable a qualified individual with a disability to perform the essential functions of that position. Examples of reasonable accommodation include making existing facilities readily accessible and usable by individuals with disabilities, job restructuring, modifying work schedules, acquiring or modifying equipment or devices, and providing qualified readers or interpreters. This requirement directly addresses the premise that lack of ability to operate at full capacity must be determined only after accommodation has been explored.

However, the duty to provide reasonable accommodation is not absolute. An employer can deny a requested accommodation if it would impose an **undue hardship** on the operation of the business. Undue hardship is defined as an action requiring significant difficulty or expense, when considered in light of the employer's size, financial resources, and the nature and structure of its operation. The determination of undue hardship must be made on a case-by-case basis, necessitating a thorough and individualized assessment of the costs and benefits of the accommodation versus the employer's capacity. This balancing test is designed to protect both the rights of the employee and the viability of the business operation.

### Defining "Disability" and "Essential Functions"

To qualify for protection under the ADA, an individual must meet the strict legal definition of disability, which is purposefully broad and inclusive. The ADA defines disability in three prongs: (1) a physical or mental impairment that **substantially limits one or more major life activities** of such individual; (2) a record of having such an impairment; or (3) being regarded as having such an impairment. Following the passage of the ADA Amendments Act of 2008 (ADAAA), the scope of this definition was significantly broadened, instructing that the term "substantially limits" should be interpreted expansively and that the focus should be on whether discrimination occurred, rather than on the severity of the impairment.

The concept of **major life activities** is central to the first prong of the definition, encompassing fundamental activities that an average person can perform with little or no difficulty. These activities include, but are not limited to, walking, seeing, hearing, speaking, breathing, learning, caring for oneself, performing manual tasks, and, notably, the operation of a major bodily function, including immune, neurological, circulatory, and reproductive functions. By explicitly listing these activities, the ADA ensured that a wide range of impairments, both visible and invisible, cognitive and physical, are covered, provided they impose a significant limitation.

Crucially, Title I protection hinges on the ability of the individual to perform the **essential functions**

of the job, which are the fundamental job duties that an individual must be able to perform, with or without reasonable accommodation. The ADA makes a clear distinction between essential functions and marginal functions. An employer cannot use the inability to perform marginal functions as a basis for discrimination. Evidence of what constitutes essential functions may include the employer's judgment, written job descriptions prepared before advertising or interviewing applicants, the amount of time spent performing the function, and the consequences of not performing the function. If an accommodation would allow the employee to perform these essential functions, the employer must generally provide it, unless it meets the undue hardship standard, thereby ensuring that individuals are excluded only when the disability truly prevents them from meeting the core requirements of the role, even after appropriate modifications.

## Title II: State and Local Government Services

Title II of the ADA prohibits discrimination based on disability in all services, programs, and activities provided by state and local government entities, regardless of whether they receive federal financial assistance. This comprehensive mandate covers everything from public education and public housing to court systems, policing, public meetings, and activities of departments like motor vehicles and parks and recreation. The primary goal of Title II is to ensure **equal opportunity for participation** and access to governmental functions, eliminating barriers that prevent effective communication or physical entry to public services.

Under Title II, public entities are required to make their programs accessible to individuals with disabilities. This requirement is often met through methods known as **programmatic accessibility**, meaning that while every single facility or building might not need to be modified, the service or program as a whole must be made accessible. For instance, if a town hall meeting is held in an inaccessible historical building, the town must provide an alternative accessible location or utilize technology to ensure that individuals with mobility impairments can participate effectively. This flexibility ensures that the core function of government services remains available to all citizens.

Furthermore, Title II has profound implications for public transportation. It establishes detailed requirements for buses, trains, subways, and other public transit systems, mandating the procurement of accessible vehicles and the provision of complementary paratransit services for those who cannot use fixed-route transportation due to their disability. These transportation requirements are fundamental to ensuring that individuals with disabilities can access employment and civic life, underscoring the ADA's role as the **driving force behind mandated handicap access**, which often includes the physical infrastructure necessary for mobility, such as curb cuts and accessible ramps.

### Title III: Public Accommodations

Title III of the ADA is arguably the most visibly impactful section of the Act, as it governs access to private entities that own, lease, lease to, or operate places of public accommodation. Places of public accommodation include a vast array of private businesses that are open to the public, such as restaurants, hotels, movie theaters, schools, doctors' offices, retail stores, banks, museums, and sports arenas. This title ensures that these private organizations do not discriminate against individuals with disabilities and that services are provided in an integrated and equally effective manner.

A central requirement of Title III is the necessity of removing **architectural barriers** and communication barriers where such removal is **readily achievable**, meaning easily accomplishable and able to be carried out without much difficulty or expense. This mandate requires existing facilities to proactively alter physical structures, such as installing ramps, widening doorways, or making restrooms accessible. For new construction and substantial renovations, Title III imposes much stricter standards, requiring full compliance with the ADA Standards for Accessible Design (ADASAD), ensuring that accessibility is built into the structure from the outset, rather than being an afterthought.

Beyond physical access, Title III mandates that public accommodations must also make reasonable modifications to their policies, practices, and procedures to avoid discrimination, unless those modifications would fundamentally alter the nature of the goods or services provided. Additionally, effective communication must be provided to individuals who are deaf or hard of hearing, or blind or visually impaired, often requiring the use of qualified interpreters, note-takers, Braille materials, or auxiliary aids. The pervasive nature of Title III ensures that daily commerce and community engagement are accessible, eliminating discriminatory behavior in areas such as **right of entry to public accommodations** and professional services.

### Title IV: Telecommunications

Title IV of the ADA focuses specifically on the telecommunications sector, ensuring that individuals with hearing and speech disabilities have equivalent access to telephone services. This title mandates that telephone companies offering voice transmission services to the public must also provide interstate and intrastate **Telecommunications Relay Services (TRS)** 24 hours a day, 7 days a week. TRS allows individuals who use text telephones (TTYs) or other non-voice devices to communicate with standard voice telephone users and vice versa, guaranteeing functional equivalence in communication.

The Federal Communications Commission (FCC) is responsible for regulating Title IV, ensuring that relay services meet specific quality standards, including speed, accuracy, and confidentiality. This requirement is crucial because, without the relay services, individuals relying on text-based

communication would be severely limited in accessing vital services, applying for jobs, communicating with family, and participating in general commerce. The provision of TRS is a necessary safeguard against the historical isolation faced by people with hearing or speech impediments.

Furthermore, Title IV requirements have evolved to influence modern communication technologies. While initially focused on traditional telephone systems, the spirit of this title extends to ensuring accessibility in emerging technologies, including internet protocol (IP) based relay services and video relay services (VRS), which utilize sign language interpreters connected via video conferencing. The fundamental principle remains the same: ensuring that individuals with disabilities have access to telecoms and effective communication devices that are **functionally equivalent** to those available to the non-disabled population.

## Historical Context and Impact

Before the ADA, individuals with disabilities were often segregated and excluded due to societal biases and physical barriers, a situation that prompted activists to lobby for comprehensive federal protection. The passage of the ADA marked a profound **paradigm shift**, moving away from the medical model of disability, which viewed disability as an individual deficit requiring cure or institutionalization, toward the social model, which defines disability as a product of environmental and societal barriers. The ADA is thus not merely a list of mandates but a declaration of equality and inclusion.

The immediate and long-term impact of the ADA has been transformative. It is the driving force behind many of the federal legislations and state-level changes that have taken place over the years, specifically the **mandatory implementation of handicap access**, including curb ramps, lowered service counters, accessible restrooms, and audible pedestrian signals. These visible changes have not only aided individuals with mobility impairments but have also improved accessibility for parents with strollers, delivery workers, and the elderly population, demonstrating universal design benefits.

However, the ADA's impact is not static. Since its enactment, the legislation has faced judicial challenges that sometimes narrowed its scope, leading to the passage of the ADA Amendments Act of 2008 (ADAAA). The ADAAA was enacted specifically to restore the broad scope of protection intended by the original legislation, rejecting restrictive interpretations by the Supreme Court and ensuring that virtually all individuals with serious impairments are covered. The legacy of the ADA continues to evolve, currently addressing new frontiers of accessibility, particularly digital access and the requirement for websites and mobile applications used by public entities and public accommodations to be navigable and usable by individuals with sensory or cognitive disabilities.