

ADA Awareness Plan:

How to Conduct an ADA Awareness Program in Your Community:

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What is the ADA? The Americans with Disabilities Act (ADA) is a Federal civil rights law that prohibits discrimination against disabled individuals during common activities, such as seeing a movie, eating a meal at a restaurant, exercising at the health club, or having the oil changed or putting gas in the car.

To meet the goals of the ADA, the law established requirements that went into effect on January 26, 1992 for large and small businesses. Businesses that serve the public are required to modify policies and practices that discriminate against disabled individuals; comply with accessibility design standards when constructing or altering facilities; remove barriers in existing facilities when possible; and provide auxiliary aids and services when needed to ensure effective communication with people who have speech, hearing, or vision impairments. Businesses that do not serve the public, must also comply with accessible design standards when constructing or altering facilities.

Why ADA Awareness? ADA awareness makes business owners aware of the challenges a disabled person may endure while attempting to accomplish common activities. It informs a business of the simple steps it can take to make their facility more accessible to disabled individuals. It points out solutions that both business owners and disabled individuals can agree on that will make assessing their business easier. Most importantly, ADA awareness makes everyone understand the importance of a clear path to an exit during an emergency situation that requires immediate evacuation.

What is an ADA Awareness Program? An ADA Awareness Program is an organized day or week that incorporates local businesses participating together in order to better understand the problems that a disabled individual may encounter in everyday life. Each participant may participate in spending the day with the group confined to a wheelchair. The participant will be expected to enter as many public businesses as possible, and to look at the accessibility design of the business, barriers, or discriminating factors when entering and leaving the business. The day should include going to a restaurant, a movie theatre, a museum, retail stores, a grocery store, etc. The participants should be briefed before the event of the ADA Standards. The participants will know what to look for when entering a business that pertains to the ADA Standards. Participants will attempt to suggest to the business manager/owner of the modifications that need to take place in order to be in compliance with the Standards. Reactions should be noted, and hopefully awareness will be achieved. The program involves:

1. Recruiting businesses (or participants) by the use of flyers, public announcements, etc., that would like to volunteer their employees or business owners/managers in experiencing what it is like to be disabled.

- a. Participating businesses may or may not be in compliance with the ADA standards already. They may be businesses that express doubt or curiosity in the challenges a disabled person actually experiences.
 - b. Participating businesses may already be in full support and compliance of the ADA standards, and curious to inquire of the accessibility of their neighboring businesses.
 - c. Participating businesses may be aware of the ADA Standards, and anxious to get their business up to speed so that it can be safe during emergency situations for disabled and able-bodied individuals.
 - d. Participants may not be business owners or workers, but instead citizens interested in the ADA or emergency response.
2. Finding a medical supply business to donate wheelchairs for the participants to use for the day.

This would be good promotion for a medical supply store, so more than one medical supply business may participate.

3. Alerting the press, local businesses, mayor, council man/woman, public radio stations, city fire marshal, etc. of the ADA Awareness Program and the dates that it is to take place on.
4. Compile a list of participants and route:
 - a. If the group of participants exceeds ten, the program may need to be extended into a second day.
 - b. The experiences of each participant are very important; how they were able to or not able to maneuver in and out of stores, doorways, pathways, and utilize the accommodations that a business provides. If the group is too large, these experiences may be overlooked and not recorded.
 - c. A general route through the local city should be chosen. The route should cover at least one of many types of businesses.
 - d. A program coordinator should be appointed, and he or she may require an assistant to record participant experiences, and to keep the group of participants on track and on the route intended to take.
5. Participants shall meet before the scheduled ADA Awareness Day, and a discussion shall be held regarding what to expect from the day. Topics during this meeting should include:
 - a. Participants may want to bring a small tape recorder with them on ADA Awareness Day or a note pad in order to record their thoughts and experiences.

- b. Select a day/date for the event.
- c. A review of the ADA Standards.
 - Knowledge of the most important aspects of the Standard is required so that the participants know what exactly to look for when they are inside of each business. For more detailed information of exact measurements for doorways, ramps, etc. participants should consult the ADA Standards original document. But for this purpose, certain sections of the ADA Standards Document have been selected here to outline topics that should be covered during the initial participant meeting:

Purpose/Requirements of the ADA Standards

Sec.36.101 Purpose.

The purpose of this part is to implement title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181), which prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with the accessibility standards established by this part.

General Requirements

Sec.36.201 General.

(a) Prohibition of discrimination. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any private entity who owns, leases (or leases to), or operates a place of public accommodation.

(b) Landlord and tenant responsibilities. Both the landlord who owns the building that houses a place of public accommodation and the tenant who owns or operates the place of public accommodation are public accommodations subject to the requirements of this part. As between the parties, allocation of responsibility for complying with the obligations of this part may be determined by lease or other contract

Important Definitions

Commercial facilities means facilities –

- (1) Whose operations will affect commerce;

Commerce means travel, trade, traffic, commerce, transportation, or communication

- (2) That are intended for nonresidential use by a private entity

- (1) The phrase physical or mental impairment means --

- (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs;

respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

Place of public accommodation means a facility, operated by a private entity, whose operations affect commerce and fall within at least one of the following categories --

(1) An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor;

(2) A restaurant, bar, or other establishment serving food or drink;

(3) A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(4) An auditorium, convention center, lecture hall, or other place of public gathering;

(5) A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(6) A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(7) A terminal, depot, or other station used for specified public transportation;

(8) A museum, library, gallery, or other place of public display or collection;

(9) A park, zoo, amusement park, or other place of recreation;

(10) A nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(11) A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(12) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

Accessibility Should Be Maintained

Sec.36.211 Maintenance of accessible features.

(a) A public accommodation shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the Act or this part.

(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

Modifications/ Compliance

Sec.36.302 Modifications in policies, practices, or procedures.

(a) General. A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges,

advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

Sec.36.304 Removal of barriers.

(a) General. A public accommodation shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense.

(b) Examples. Examples of steps to remove barriers include, but are not limited to, the following actions --

- (1) Installing ramps;
- (2) Making curb cuts in sidewalks and entrances;
- (3) Repositioning shelves;
- (4) Rearranging tables, chairs, vending machines, display racks, and other furniture;
- (5) Repositioning telephones;
- (6) Adding raised markings on elevator control buttons;
- (7) Installing flashing alarm lights;
- (8) Widening doors;
- (9) Installing offset hinges to widen doorways;
- (10) Eliminating a turnstile or providing an alternative accessible path;
- (11) Installing accessible door hardware;
- (12) Installing grab bars in toilet stalls;
- (13) Rearranging toilet partitions to increase maneuvering space;
- (14) Insulating lavatory pipes under sinks to prevent burns;
- (15) Installing a raised toilet seat;
- (16) Installing a full-length bathroom mirror;
- (17) Repositioning the paper towel dispenser in a bathroom;
- (18) Creating designated accessible parking spaces;
- (19) Installing an accessible paper cup dispenser at an existing inaccessible water fountain;
- (20) Removing high pile, low density carpeting; or
- (21) Installing vehicle hand controls.

(c) Priorities. A public accommodation is urged to take measures to comply with the barrier removal requirements of this section in accordance with the following order of priorities.

(1) First, a public accommodation should take measures to provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.

(2) Second, a public accommodation should take measures to provide access to those areas of a place of public accommodation where goods and services are made available to the public. These measures include, for example, adjusting the layout of display racks, rearranging tables, providing Brailled and raised character signage, widening doors, providing visual alarms, and installing ramps.

(3) Third, a public accommodation should take measures to provide access to restroom facilities. These measures include, for example, removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.

(4) Fourth, a public accommodation should take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation

Sec.36.403 Alterations: Path of travel.

(a) General. An alteration that affects or could affect the usability of or access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.

(b) Primary function. A "primary function" is a major activity for which the facility is intended. Areas that contain a primary function include, but are not limited to, the customer services lobby of a bank, the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public accommodation or other private entity using the facility are carried out. Mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, corridors, and restrooms are not areas containing a primary function.

Enforcement

Sec.36.501 Private suits.

(a) General. Any person who is being subjected to discrimination on the basis of disability in violation of the Act or this part or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303 of the Act or subpart D of this part may institute a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in the civil action if the Attorney General or his or her designee certifies that the case is of general public importance. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security. Nothing in this section shall require a person with a disability to engage in a futile gesture if the person has actual notice that a person or organization covered by title III of the Act or this part does not intend to comply with its provisions.

Sec.36.502 Investigations and compliance reviews.

(a) The Attorney General shall investigate alleged violations of the Act or this part.

(b) Any individual who believes that he or she or a specific class of persons has been subjected to discrimination prohibited by the Act or this part may request the Department to institute an investigation.

(c) Where the Attorney General has reason to believe that there may be a violation of this part, he or she may initiate a compliance review.

Sec.36.503 Suit by the Attorney General.

Following a compliance review or investigation under Sec.36.502, or at any other time in his or her discretion, the Attorney General may commence a civil action in any appropriate United States district court if the Attorney General has reasonable cause to believe that --

(a) Any person or group of persons is engaged in a pattern or practice of discrimination in violation of the Act or this part; or

(b) Any person or group of persons has been discriminated against in violation of the Act or this part and the discrimination raises an issue of general public importance.

Sec.36.504 Relief.

(a) Authority of court. In a civil action under Sec.36.503, the court --

(1) May grant any equitable relief that such court considers to be appropriate, including, to the extent required by the Act or this part --

(i) Granting temporary, preliminary, or permanent relief;

(ii) Providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) Making facilities readily accessible to and usable by individuals with disabilities;

(2) May award other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(3) May, to vindicate the public interest, assess a civil penalty against the entity in an amount

(i) Not exceeding \$50,000 for a first violation; and

(ii) Not exceeding \$100,000 for any subsequent violation.

6. Participants should plan on receiving both positive and negative responses from the businesses they encounter. Points to emphasize when encountering argumentative business owners are:
 1. Making a business comply with ADA standards make the business safe for disabled people as well as able-bodied individuals.
 2. During an emergency situation, a business that is in compliance with ADA, is easier for emergency responders and fire fighters to evacuate and work. This should be of great importance in gymnasiums, schools, hospitals, nursing homes, and public businesses that are capable of holding many occupants.

3. Businesses can lose customers by non-compliance with the ADA, and make wheel chair bound persons feel uncomfortable. Businesses run the risk of being sued if a disabled person is justified in a discrimination case against the business.