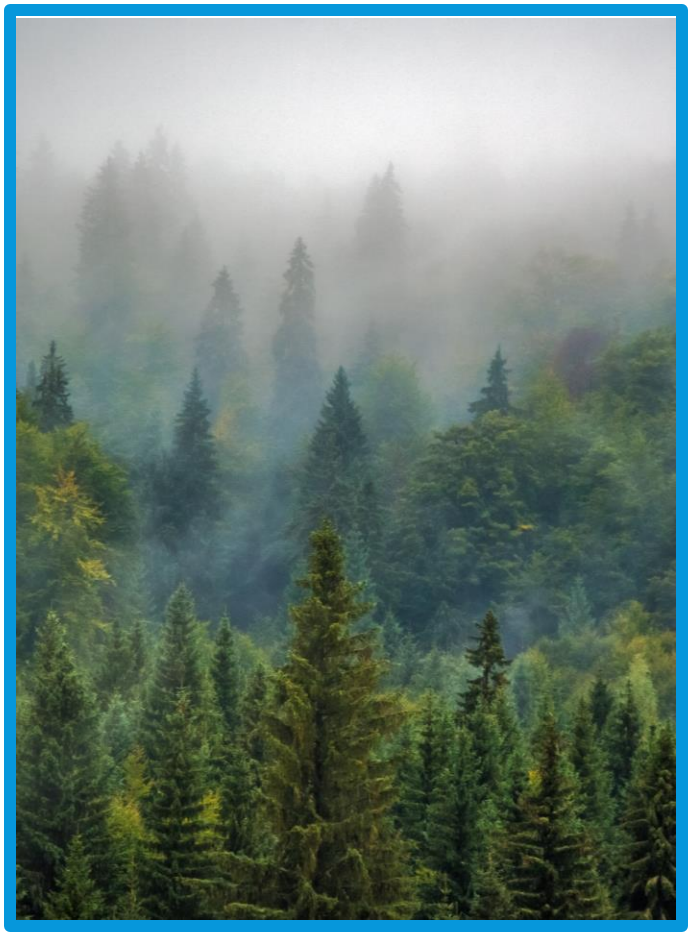
Disability Rights Accessibility in Action



Disability Rights Laws: the 10,000 Foot View

- Americans with Disabilities Act
- Rehabilitation Act
- Affordable Care Act
- Fair Housing Act
- IDEA
- Colorado Anti-Discrimination Act
- Other State Laws

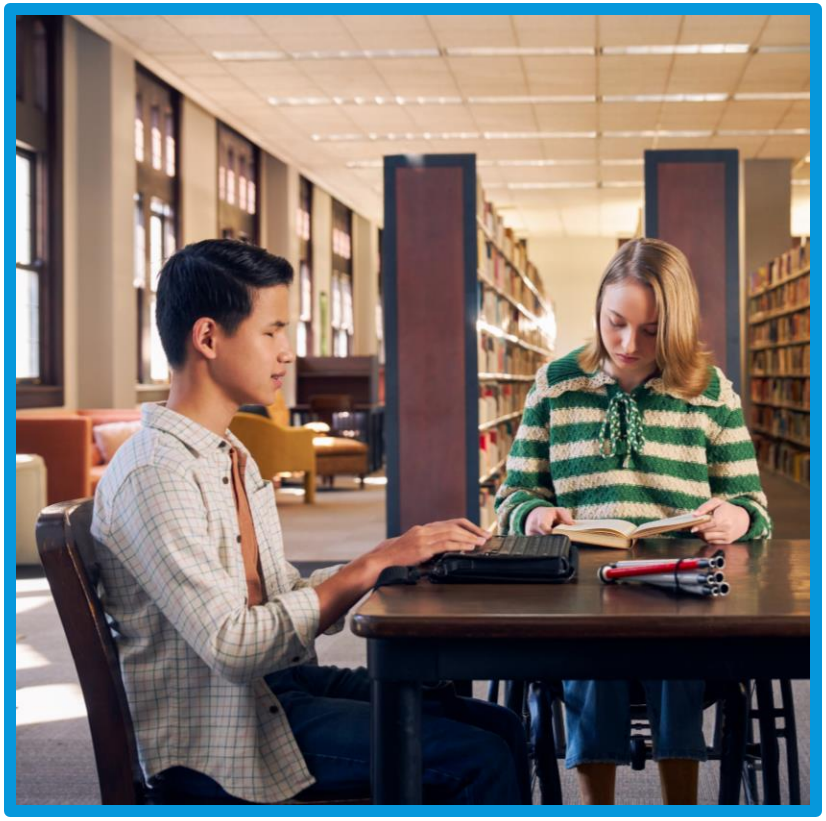


General Structure of the ADA

- Title I
  - Employment
- Title II
  - Public Entities
- Title III
  - Places of Public Accommodations
- Title IV
  - Telecommunications
- Title V
  - Miscellaneous Provisions



Definition of "Disability"



- Substantial limitation on a major life activity
- ADAAA – Restored scope and Interpretive Guidance

Title I – Employment

- No [public or private employer] shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. 42 U.S.C. § 12112(a).
  - Reasonable Accommodations. *Id*. at (b)(5).
    - Interactive Process
  - Essential Functions

Title II – Public Entities

- Public Entity is "any State or local government; any department, agency, special purpose district, or other instrumentality of a State or States or local government . . . ." 42 U.S.C. § 12131(1).

- "A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability . . . ." 28 C.F.R. § 35.130(b)(7).

- Physical Access and Program Access Requirements

Title III – Public Accommodations

Public Accommodation is defined as:

(A) 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 such establishment as the residence of such proprietor;

(B) a restaurant, bar, **or other** establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, **or other** place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, **or other** place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, **or other** sales or rental establishment;

(F) 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;

(G) a terminal, depot, **or other** station used for specified public transportation;

(H) a museum, library, gallery, **or other** place of public display or collection;

(I) a park, zoo, amusement park, **or other** place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, **or other** place of education;

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

(L) a gymnasium, health spa, bowling alley, golf course, **or other** place of exercise or recreation.

42 U.S.C.A. § 12181(7).

Title III – Public Accommodations

- Title III: "a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities . . . ." 42 U.S.C.A. § 12182(b)(2)(A)(ii).

- Physical Access Requirements

State Laws



- Colorado Anti-Discrimination Act ("CADA"), Colo. Rev. Stat. §§ 24-34-301—806.
- Deceptive Trade Practices/RID Certification Requirement, Colo. Rev. Stat. § 6-1-707(e).
  - Credentials approved by Division

Beyond Compliance

People with Disabilities are…

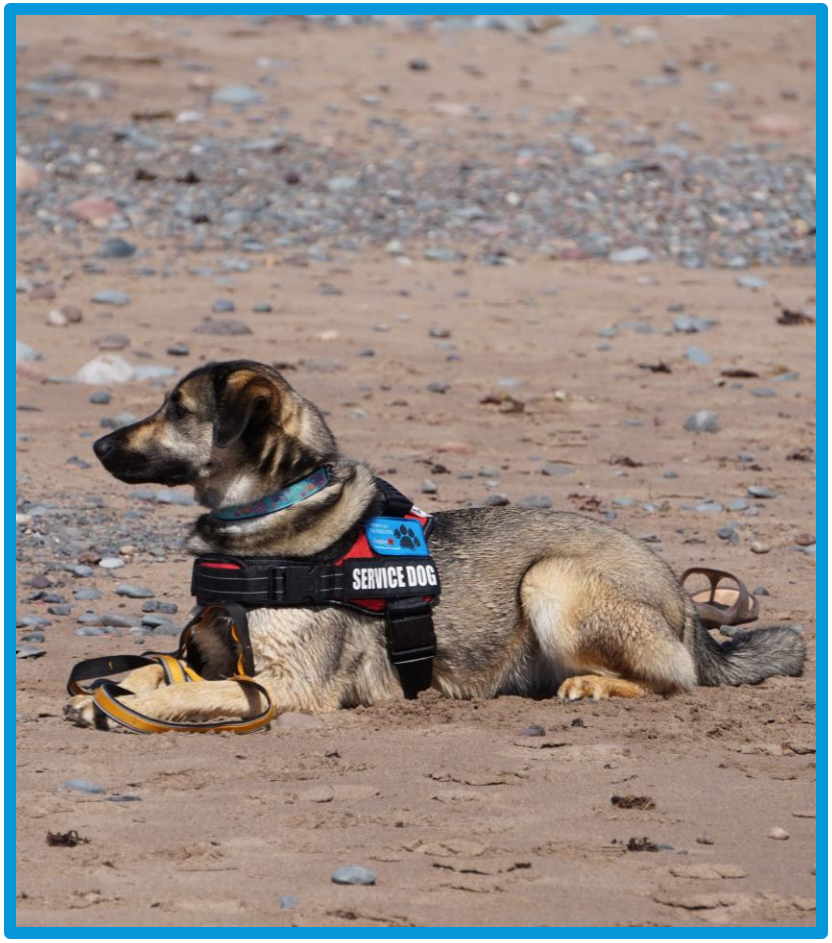
- Our friends, family members, neighbors, customers, and employees.
  - CDC: 28.7% of people in the US have a disability
  - More than 30,000 people in Boulder County alone. US Census Bureau.
- Overlooked Consumers.
  - $674.3 billion in disposable income, including $107 billion in discretionary income. American Institutes for Research April 2026 Report.
- Chronically underemployed.
  - 43.3% versus 78.3%, DOL Office of Disability Employment

Takeaways

- Disability Discrimination is Different
  - Treat the same by treating differently
  - Usually not animus-based
- Inches Matter
- Communication is a two-way street
- The ADA is the floor, not the ceiling
- Universal Design
  - Curb Ramp Effect

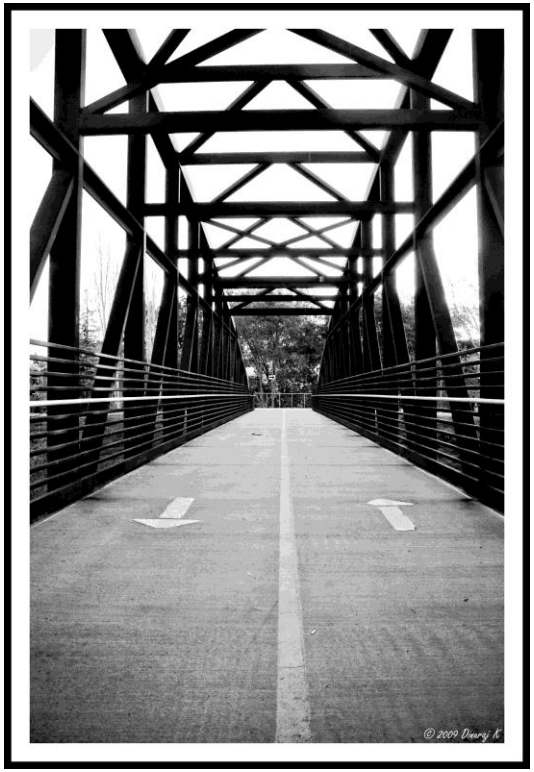


Deeper Dive: Service Animals



- Dogs only (or nay?)
  - But, Emotional Support Animals can be anything
- No Vests, Identification Tags, or Proof Needed
  - Leash unless it interferes
- Two Questions Only
  - “Is it a service animal?”
  - “What tasks is it trained to perform?”

Deeper Dive: Effective Communication



- What does that mean?
  - "…as effective as communication with others." 28 C.F.R. pt. 35, app. A.
- Auxiliary Aids and Services
  - Interpreter, CART, Reader, LOOP, **lip reading and writing**
    - Qualified versus Certified
- Expressive and Receptive
- Primary Consideration
- Other disabilities
  - CP, TBIs, DDs and IDs

Deeper Dive: Undue Burden

Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;

(4) If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

28 C.F.R. § 36.104

Deeper Dive: Existing Facilities

- "Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense." 28 C.F.R. § 36.104.
  - Similar factors to Undue Burden
- Prior to ~1992
- Alterations must comply with 2010 Standards



Resources

- USDOJ – Title III (Business) Guidance
  - https://www.ada.gov/topics/title-iii/
- EEOC – Employer Responsibilities
  - https://www.eeoc.gov/publications/ada-your-responsibilities-employer
- 2010 Standards
  - https://www.ada.gov/law-and-regs/design-standards/2010-stds/
- LOTS of Additional Guidance and Resources
  - https://www.ada.gov/resources/?filters=

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