

## **The ABC's of the ADA**

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### *Part Two*

*In the previous issue of The Heart Line, part one of this series on the Americans with Disabilities Act (ADA) covered who is protected by this law. This issue addresses the various sections of the ADA and the government agencies that enforce these provisions.*

The ADA is broken down into five major sections called titles. These sections address prohibitions against discrimination on the grounds of disability in the areas of employment, government, public accommodations, commercial facilities, transportation and telecommunications, as well as other miscellaneous provisions.

### **Title I – Employment**

Title I prohibits discrimination against people with disabilities by businesses with 15 or more employees. These businesses are required to provide reasonable accommodations to known physical or mental limitations of qualified applicants, unless the accommodation would impose an undue hardship on the employer. Examples of such accommodations include changing the layout of workstations, modifying existing equipment and providing readers or interpreters.

Other employment-related issues addressed in this section include protection against discrimination in the application and hiring processes, wages and other benefits. For instance, this section limits the type of questions employers may ask about applicants' disabilities before a job offer is made. A complaint concerning provisions of Title I may be filed with the U.S. Equal Employment Opportunity Commission (EEOC) within 180 days of the date of discrimination, or 300 days if the charge is filed with a designated state or local fair employment practices agency. Individuals may file a lawsuit in federal court only after receiving a "right-to-sue" letter from the EEOC.

### **Title II - Activities of state and local governments**

Title II requires state and local governments to extend equal opportunity to the benefits of their programs, services and activities to people with disabilities. Examples of government services or activities covered by this section include public education, transportation, recreation, social services and voting. Governments do not need to remove physical barriers, such as stairs, in all existing buildings, as long as their programs remain accessible to individuals with disabilities.

Title II also attempts to ensure that people with disabilities have access to existing public transportation services by requiring all new buses to be accessible and that transit authorities provide alternative transportation services for riders who cannot use fixed-route bus service. Complaints regarding Title II discrimination may be filed with the Department of Justice or in private lawsuits brought in federal court. It is not necessary to receive a "right-to-sue" letter before going to federal court.

### **Title III - Public accommodations**

Title III covers a broad range of private businesses and non-profit service providers such as restaurants, retail stores, hotels, movie theaters, private schools, day care centers, doctors' offices, recreation facilities, zoos, convention centers, fitness clubs and sports stadiums, which are required to comply with basic nondiscrimination requirements that prohibit exclusion.

Specific architectural standards must be met for new buildings and barriers in existing buildings must be removed where it is reasonable to do so.

All new construction and major renovations of existing public facilities must comply with ADA accessibility guidelines and all public accommodations must include auxiliary aids for persons with visual, hearing or sensory impairments. Title III complaints may be filed with the Department of Justice or through private law suits in federal court.

#### **Title IV - Telecommunications**

Title IV addresses telephone and television access for people with hearing and speech disabilities. Telephone companies must provide telecommunications relay services (TRS) that allow individuals with hearing impairments to communicate using a TTY (teletypewriter) TDD (telecommunication devices for the deaf) or other non-voice devices. This section also requires all television public service announcements funded with federal dollars to include closed captioning. Violations of this section are filed with the Federal Communications Commission, which must resolve complaints alleging violations of this section within 180 days of the date complaints are filed.

#### **Title V - Miscellaneous provisions**

Title V addresses such topics as how the ADA relates to other federal and state laws, the inclusion of Congress under the law and the ability to recoup attorney fees. Title V also establishes a mechanism for technical assistance along with specific instructions to many federal agencies required to implement the act. This section prohibits threatening or retaliating against a person with a disability or people attempting to aid persons with a disabilities in asserting their rights under the ADA. These provisions apply to all sections of the ADA.

The ADA provides broad protections, but interpretations of its provisions are left to the specific entities subject to the act. The EEOC files employment-related grievances and the Department of Justice or by private law suits in federal court have jurisdiction over complaints related to building and construction guidelines.

Because some topics such as public transportation are addressed by more than one title of the ADA, (and more than one act of Congress), it is important to know which complaints pertain to which regulations and laws. The ADA was enacted to eliminate discrimination against people with disabilities, but it is our responsibility to make proper use of this awesome inclusion tool.

#### **Reference materials for this article include:**

Equal Employment Opportunity Commission, [www.eeoc.gov](http://www.eeoc.gov)

Job Accommodation Network, [www.jan.wvu.edu](http://www.jan.wvu.edu)

U.S. Department of Justice, [www.usdoj.gov](http://www.usdoj.gov)

WorkWORLD, [www.workworld.org](http://www.workworld.org)