

# The ADA in

# Review

A Guide by  
The Arc of New Jersey  
Family Institute

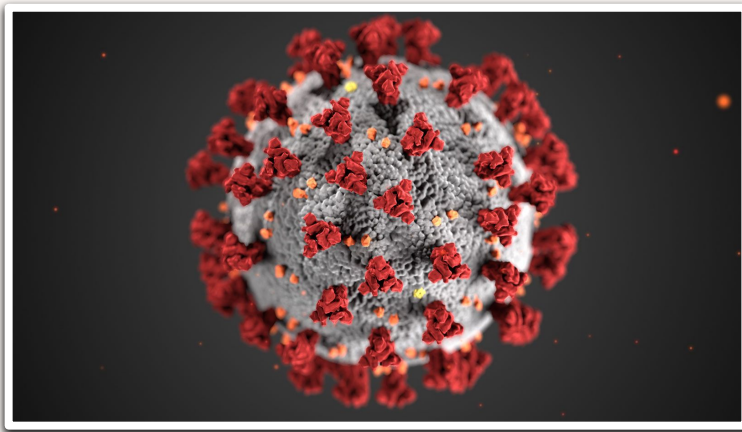


The Arc of New Jersey Family Institute is dedicated to providing timely information, advocacy, support, and training to family members of individuals with intellectual and developmental disabilities.

[www.thearcfamilyinstitute.org](http://www.thearcfamilyinstitute.org)



# The Arc of New Jersey COVID-19 Resource Page

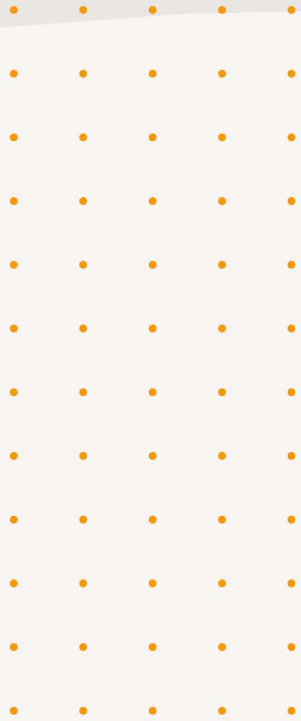


[www.arcnj.org/information/covid-19-updates-information.html](http://www.arcnj.org/information/covid-19-updates-information.html)

# Today's Agenda

1. History of the ADA
2. Defining a Disability
3. Title I: Employment
- • • 4. Title II: State and Local Government
- • • 5. Title III: Public Facilities
- • • 6. Title IV: Telecommunication
- • • 7. Title V: Miscellaneous Provisions

# History of the ADA



# The Americans with Disabilities Act

- Signed into law on July 26th, 1990 by George H.W. Bush.
- Civil rights law prohibiting discrimination based on disability.
- Ensures equal opportunity for people with disabilities in employment, state and local government, public accommodations, and transportation.
- Amended in 2008 by George W. Bush.



# Legislative Precursors

## **Civil Rights Act (1964)**

Outlawed discrimination based on race, religion, gender, and national origin.

## **Architectural Barriers Act (1968)**

First accessibility requirements for federal buildings.



## **Rehabilitation Act (1973)**

Prohibits discrimination based on disability by federal agencies. Section 504 also extends civil rights to people with I/DD. Amended in 1974.

## **Individuals with Disabilities Education Act (1975)**

Mandates that students with disabilities receive a Free Appropriate Public Education tailored to their individual needs.

# Post-ADA Legislation

## Help America Vote Act (2002)

- Requires voting systems be accessible for people with disabilities.
- Requires every polling location have one fully accessible voting system which provides the same opportunity and privacy of the voter.

## 21st Century Communications and Video Accessibility Act (2010)

- Created accessibility requirements for electronic messaging, video conferencing, and “telephone-like devices.”
- Requires the availability of captioning for the online television and video streaming.
- Outlines requirements for “video-description.”



# Defining a Disability Under the ADA

The ADA defines a disability as a physical or mental impairment that substantially limits one or more **Major Life Activity (MLA)**.

Also covered under the ADA are:

- Individuals who have a record of the above definition of a disability.
- Individuals who is regarded as having a disability as defined above.

# Major Life Activities

Breathing

Walking

Speaking

Working

Learning

Personal  
Care

Hearing

Sitting

Digestive  
Function

# Title I: Employment

- Title I of the Americans with Disabilities Act of 1990 prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

# Qualified Individuals

1. Must satisfy the primary requirements of the position.
2. Can perform the essential job functions with or without a reasonable accommodation.
3. Meets the qualifications for for the position he/she seeks


An individual MUST disclose his/her disability in order to be covered under the ADA.



# Reasonable Accommodations

A reasonable accommodation is any assistance or change to a position or workplace that will enable a qualified individual to successfully perform their job.

The ADA does not require an employer to provide a reasonable accommodation that would cause a major alteration to the workplace or significant financial expense.



# Can you name some examples of Reasonable Accommodations?

Enter your answers in the chat!

# When could you disclose a disability?



01

## ON YOUR APPLICATION

Some job applications will include a comment/notes section where you could disclose.

02

## BEFORE YOUR INTERVIEW

You could ask that the interview be conducted via video or in an alternate location.

03

## DURING YOUR INTERVIEW

You could ask about accessible facilities within the workplace.

04

## AFTER THE JOB IS OFFERED

You can also disclose any time during employment (if you wish to).

Claims of workplace discrimination under the ADA or decisions on Reasonable Accommodations are handled by the Equal Employment Opportunity Commission.

[www.eeoc.gov](http://www.eeoc.gov)

1-800-669-4000







# Title II: "Public Entities"

- Prohibits discrimination on the basis of disability by any local or state government agency, including public transportation agencies.
- Requires an ADA compliance employee for any public agency employing over 50 people.
- Outlines requirements for reasonable modifications.
- Agencies must make information about the ADA available to the public.

# Transportation

- Under Title II, it is considered discrimination for a public entity to purchase any vehicle that is not equally accessible to all individuals.
- Public entities that operate on a fixed route system must provide paratransit services.
- Public entities may not place a surcharge on an individual with a disability to cover additional expenses.
- Public entities must provide reasonable modifications.
- “Kneeling Buses”



# The ADA in Schools

## IDEA

Applies to students enrolled in public school up to age 21.

Defines a disability differently than Section 504 and the ADA, using specific categories for students.

## Section 504

Applies to public schools that receive federal funding, and to students receiving federal funding in a private school.

Civil rights law.

## ADA Title II

Applies to all public and private schools, except those with religious affiliation. Protection extends beyond the student.

Civil rights law.

	<b>IDEA</b> ( <i>Individuals with Disabilities Education Act</i> )	<b>Section 504</b>	<b>ADA</b> ( <i>Americans with Disabilities Act</i> )
<b>Mission</b>	<ul style="list-style-type: none"> <li>Provide a free, appropriate, public education (FAPE) in the least restrictive environment (LRE)</li> </ul>	<ul style="list-style-type: none"> <li>Establish a "level playing field" and prevent discrimination based on a disability</li> <li>Protects individuals from discrimination based on their disability in connection with any public or private program receiving federal financial assistance</li> </ul>	<ul style="list-style-type: none"> <li>Strengthens Section 504 and extends coverage to employment, private institutions and other previously unnamed agencies and organizations.</li> </ul>
<b>Applies to</b>	<ul style="list-style-type: none"> <li>All public schools , pre-kindergarten through 12th grade or age 21 if enrolled in a public secondary program</li> </ul>	<ul style="list-style-type: none"> <li>All institutions and programs receiving federal financial assistance. Includes private institutions where students receive federal financial assistance (i.e., colleges and universities receiving federal aid).</li> </ul>	<ul style="list-style-type: none"> <li>Public and private education, employment, transportation, accommodations and telecommunications, regardless of whether there is federal funding (i.e., all colleges and universities).</li> </ul>
<b>Covers</b>	<ul style="list-style-type: none"> <li>Students who have educational disabilities that require special education services to age 21 or until graduation</li> </ul>	<ul style="list-style-type: none"> <li>All qualified persons with disabilities regardless of whether they received services in elementary or secondary school. A person is "otherwise qualified" if s/he is able to meet the requisite academic and technical standards, with or without accommodations.</li> </ul>	<ul style="list-style-type: none"> <li>All qualified persons with disabilities and people without disabilities who are discriminated against because of their relationship with a person with a disability.</li> </ul>
<b>Defined as</b>	<ul style="list-style-type: none"> <li>All disabilities covered under IDEA</li> </ul>	<ul style="list-style-type: none"> <li>No specific list of disabilities. The definition of a person with a disability is a person with a physical or mental impairment that: <ul style="list-style-type: none"> <li>Substantially limits one or more major life activities</li> <li>Has a record of the disability</li> <li>Is regarded as having the disability</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Same criteria as Section 504. HIV status, contagious and noncontagious diseases are also defined as disabilities.</li> </ul>
<b>ID / Process</b>	<ul style="list-style-type: none"> <li>Responsibility of the school. No expense to the parent or the student. Transfer of parental rights to the student at age of 18 (unless parent obtains guardianship)</li> </ul>	<ul style="list-style-type: none"> <li>Responsibility of the student to self-identify to the institution and provide appropriate documentation of disability.</li> </ul>	<ul style="list-style-type: none"> <li>Responsibility of the student to self-identify to the institution and provide appropriate documentation of disability.</li> </ul>



# Title III: Public Accommodations

“No individual shall be discriminated against on the basis of disability with regards to the full and equal enjoyment of the goods, services, facilities, or accommodations of any place of public accommodation by any person who owns, leases, or operates a place of public accommodation.”

**\*Private membership clubs and religious organizations may be exempt from Title III.**

Provide goods and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.

Furnish auxiliary aids when necessary to ensure effective communication, unless the result is a fundamental alteration.

## Requirements For Public Accommodations

Eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy the goods and services of a place of public accommodation.

Remove architectural and structural barriers in existing facilities where readily achievable, or provide readily achievable alternatives.

# 12 Types of Public Accommodation

- Lodging
- Restaurants
- Entertainment Venues
- Convention Centers
- Sales Establishments
- Service Establishments
- Transit Stations
- Public Collections
- Places of Recreation
- Private Education Facilities
- Social Services
- Fitness Centers



What are some reasonable accommodations people might need under Titles II and III?

Type your answers in the chat!



# Title IV: Telecommunications

- Requires that telecommunications companies in the U.S. take steps to ensure functionally equivalent services for people with disabilities.
- Requires all public service announcements with federal funding must have closed captioning.
- Mandates the use of Telecommunication Devices for the Deaf (TDD).
- Amended the Communications Act of 1934.

# Title V: Miscellaneous

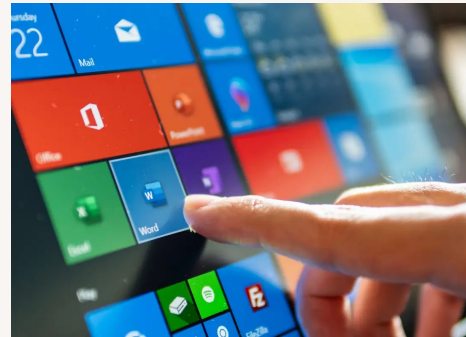
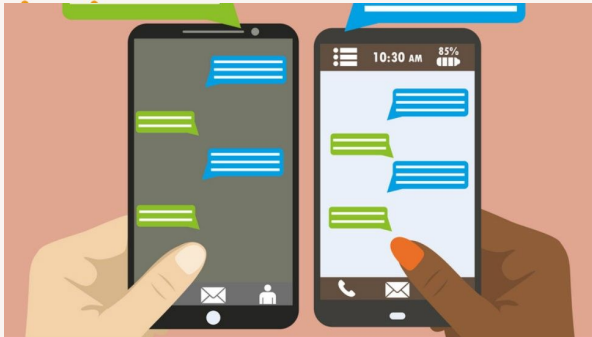
- The ADA does not invalidate or override any other laws that provide equal or greater protections for people with disabilities.
- Details specific exclusions.
- Prohibits retaliation, coercion, and interference of people with disabilities and advocates.
- Extends coverage to the U.S. Congress.

# A Word on Universal Design

- Describes designing structures and products to be accessible to everyone.
- Equitable, flexible, and intuitive
- First coined by architect Ronald Mace
- Grew out of “barrier-free” design theory



# Innovation for Everyone

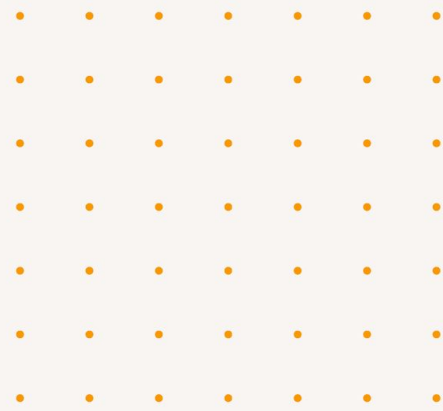
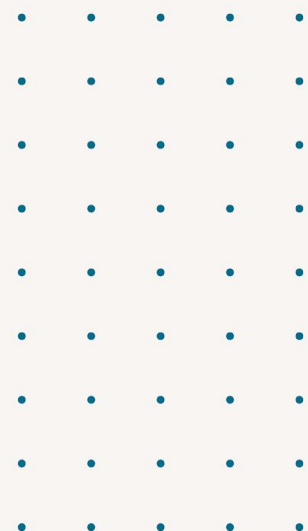


# Questions?

Michael Pearson Jr.  
Assistant Director, Children's Advocacy  
The Arc of New Jersey Family Institute

[mpearson@arcnj.org](mailto:mpearson@arcnj.org)

732-246-4897



# Resources

1. [www.ada.gov](http://www.ada.gov)
2. <https://harkinstitute.drake.edu/what-we-do/disabilities/about-ada/>
3. [www.adainfo.org](http://www.adainfo.org)
4. <http://www.ldonline.org/article/6108/>
5. <https://www2.ed.gov/about/offices/list/ocr/504faq.html>
6. <https://www.nad.org/resources/education/k-12-education/section-504-and-ada-obligations-of-public-schools/>
7. <http://sycamoretransition.weebly.com/ada-vs-idea-vs-504.html>