

ADA: Recreation Inclusion Mandate and Accessible Recreation Sites

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*Park and Recreation Policy Tools for a
Healthier Future*

ADA

The Americans with Disability Act (ADA) is a sweeping civil rights law which is intended to eliminate discrimination in all aspects of life for the millions of Americans with disabilities.

ADA defines a person with a disability as someone...

- with physical or mental impairments that substantially limits one or more of the major “life activities” (caring for oneself, performing manual tasks, walking, seeing, speaking, breathing, learning, or working),
- with a history or a record of such an impairment (for example, a child who has cancer but is now in remission),
- regarded as having such an impairment (for example, a child with a cranio-facial condition)

Who Is a Person with a Disability?

In the US...

16% of the population

35% of the population older than 60

Number on the rise because of...

What is inclusion ?

Let's Make This Personal...

Take a few minutes to think of someone who is close to you. This person can be your mother, boyfriend, significant other, spouse, etc.

Now, imagine if...

This person was in a horrible car accident, and now is paralyzed from the waist down. After extensive rehabilitation, he or she is now ready to participate in his or her favorite recreational or leisure activity.

What does inclusion really mean to you
NOW?

Now Think About the Future...

Far more people with disabilities in 2020 than 2010...

Far more people with disabilities in 2030 than 2020...

Put policies in place today to serve 2020 and 2030

Put resources aside today for 2020 and 2030

Make your infrastructure ready for 2020 and 2030

Other aspects of ADA?

Reasonable Modifications

Essential Eligibility

Reasonable modifications include, but are not limited to;

- the changing of rules, policies and procedures,
- the removal of architectural, transportation, & communication barriers;
- The provision or auxiliary aids and services.
- allowing service animals in programs ,
- purchasing or acquiring adaptive devices to enable participation,
- providing readers, interpreters, assistive listening devices,
- providing information in Braille or large print,
- providing additional staff,
- making home visits.

Essential Eligibility

Essential eligibility can pertain to the qualification used to determine if an individual can use and/or participate in the programs/services provided. It is likely to include:

1. Capacity
2. Charges
3. Relative or Pre-requisite skill
4. Safety/Risk Management

Capacity

Is there room in the program for another participant?

Charges

Fees should be equally assessed for everyone.

Relative or Pre-requisite Skill

If a certain level of skill or a qualification is necessary for participation, be sure this applies to everyone and not just individuals with disabilities (i.e., if you require the ability to swim 50 yards before signing up for the canoeing, be sure this pre-requisite applies to everyone).

Safety/Risk Management

Does the person pose a “direct threat” to others who may be participating? The ADA states that a “direct threat” is a significant risk to the health or safety of others that can not be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids and services.

Barriers to Inclusion? YES!

Barriers restrict or prevent individuals from performing or participating and are the focus of advocacy efforts. They fall into the following categories:

- 1. Structural/Transportation**
- 2. Social/Attitudinal**
- 3. Psychological**
- 4. Communication**
- 5. Economic**
- 6. Programmatic/Lack of Training**

Structural/Transportation

These barriers restrict or prevent an individual from free and independent movement from one space to another.

EXAMPLE:

“I can’t get in!”

Social/Attitudinal

These barriers represent attitudes or personal beliefs of members of our society that are based on prejudices regarding a particular disability, or people, or person with disabilities in general.

EXAMPLE:

“They should be in a special class with others like themselves!”

Psychological

These barriers maintained by individuals with disabilities themselves. They exist when individuals have learned to believe that they are not capable.

EXAMPLE:

“I can’t do that...besides my mother will not want me to!”

Communication

These barriers exist such that individuals with hearing impairments, visual impairments, and speech impairments can not easily access information.

EXAMPLE:

“I would register if I could read the brochure!”

Economic

These barriers exist such that individuals can not afford basics, and can not gain access to basic opportunities.

EXAMPLE:

“We can barely afford all of the medicines, therapist, and additional expenses needed.”

Programmatic/ Lack of Training

These barriers exist when the needs of the individuals with disabilities are not taken into consideration in the program planning and adaptations are not made to accommodate the individual's needs.

EXAMPLE:

“We have no way to get her to the pool...we do not have an accessible van!”

The ADA Brings Clarity...

Provide services? Make them inclusive.

Never use federal money? Irrelevant!

Have policies? Make them so they welcome people with disabilities.

Have buildings or sites? Design, develop, construct, retrofit, and maintain them to be accessible.

Recreation Inclusion Models and Processes

A model is...

A process is...

Models vary from agency to agency

The *process always* includes the same elements

The Recreation Inclusion *Process*

Invitation...

Registration...

Assessment...

Planning...

The Recreation Inclusion *Process (continued)*

Training staff or volunteers...

Communication...

Implementation...

Evaluation...

Recreation Inclusion Model Elements

Full time staff or other type of people supports...

Dedicated funding or grants and mish-mosh...

Centralized or decentralized control & quality...

Top Inclusion Brain Busters!

- Staffing
- Training
- Funding
- Risk Management
- Reasonable Accommodations
- Legal Requirements

Staffing

- Full time or Part time/
- CTRS or not?
- What about volunteers?

Training

- Do you know the types of training you need for your staff? How often should you train them?
- What is the difference between an orientation and a training?
- Who will provide the training needed?

Funding

- Tax dollars?
- Increase fees?
- Are there any grants available?
- Other? (parking fines)

Risk Management

- **Behavior and conduct requirements**
- **Addressing personal care needs**
- **Workers compensation should their be incident**

Reasonable Accommodations/Modifications

- **Providing extra staff**
- **Make changes to the rules if necessary**
- **Add adaptive equipment if necessary**
- **Hire a sign language interpreter if needed**

Legal Requirements

- **Notice to the public**
 - Welcoming Language, ADA statement
- **Complaint process**
 - 50 or more employees must have a procedure/process for complaints in place
- **Transition plan**
 - You and your employer should have had every physical change necessary to accommodate people with disabilities as of January 26, 1995 but...

So what is the bottom Line...

Recreation Accessibility

Starts with *Policy*... (*reject noncompliant bids, require bids to meet or exceed 2010 Standards*)

Always exceed the minimum...ramp slope is 8.33% max, aim for 8%...can use transfer systems in playground, but ramps are better...

Don't be complacent about existing sites, make them accessible (would you accept a site an African American couldn't use, or a woman couldn't use?)

Application of the 2010 Standards

Every new playground (sections 240 and 1008)

Every new sports field or court

Every new golf course (sections 236 and 1005)

Every new swimming facility (sections 242 and 1009)

Every new boating or fishing area (sections 238 and 1006)

Summary of Changes

Recreational Boating Facilities (Section 235, 1003)

- If boat slips are provided at a boating facility, the minimum number that must be accessible depends upon the size of the facility. Accessible boat slips must be dispersed throughout the various types of boat slips.
- When boarding piers are provided at a boat launch ramps, at least 5% (but no fewer than one) must be accessible.

Exercise Machines and Equipment (Sections 206, 236, 1004)

- At least one of each type of exercise equipment must be on an accessible route and must have a clear floor space positioned to enable an individual with a disability to use the equipment

Summary of Changes (continued)

Fishing Piers and Platforms (Section 237, 1005)

- Newly designed, newly constructed, or altered fishing piers must provide accessible routes, subject to the same exceptions permitted for gangways. At least 25% of guardrails or handrails must be no higher than 34 inches and must be dispersed. Clear floor or ground space must be provided at each accessible railing, and turning space must be provided on the pier.

Golf Facilities (Sections 238, 1006)

- Newly constructed and altered golf facilities must have either an accessible route or golf car passages with a minimum width of 48 inches connecting accessible elements and spaces within the boundary of the golf course.
- An accessible route must be provided to the golf car rental area, bag drop-off areas, and other elements that are outside the boundary of the golf course.

Golf Facilities (Sections 238, 1006) (continued)

- One or two teeing grounds (depending on the total number provided) per hole must be accessible.
- If weather shelters are provided, a golf car must be able to enter and exit the shelters.
- Certain percentages of practice teeing grounds, practice teeing stations at driving ranges, and putting greens must be accessible.

Miniature Golf (Sections 239, 1007)

- At least 50% of all holes on a miniature golf course must be accessible. These holes must be consecutive, and they must be on an accessible route.
- The last accessible hole must be on an accessible route that connects to the course entrance or exit without going back through other holes.

Play Area (Sections 240, 1008)

- Play area designed, constructed, and altered for children ages two and over in a variety of settings, including parks, schools, childcare facilities, and shopping centers, are covered.
- Accessible ground and elevated play components, accessible routes, ramps and transfer systems (typically a platform or transfer steps), and accessible ground surfaces must be provided.

Swimming Pools, Wading Pools, and Spas (Sections 242, 1009)

- Accessible means of entry/exit are required for swimming pools. Such accessible means of entry include a pool lift or sloped entry, and spas must provide a pool lift, transfer system, or pool stairs.
- Wading pools must provide a sloped entry, and spas must provide a pool lift, transfer wall, or transfer system.

Swimming Pools, Wading Pools, and Spas (Sections 242, 1009)

- Wave action pools, leisure rivers, and sand bottom pools where user access is limited to one area shall not be required to provide more than one accessible means of entry, either a pool lift, sloped entry, or a transfer system.

Saunas and Steam Rooms (Sections 241, 612)

- Where provided, saunas and steam rooms must be accessible, having appropriate turning space, doors that do not swing into the clear floor space, and, where provided, an accessible bench.
- A readily removable bench is permitted to obstruct the turning space and the clear floor space.

Reach range Requirements (Sections 308)

- The reach range requirements have been changed to provide that the side reach range must now be no higher than 48 inches (instead of 54 inches) and no lower than 15 inches (instead of 9 inches).
- The side reach requirements apply to operable parts on accessible elements, to elements located on accessible routes, and to elements in accessible rooms and spaces.

The 2010 Standards Govern...

Every *NEW* site drawn, poured, constructed, or developed from March 15, 2015 and on...

The evaluation of every existing site and facility...

Exceptions: trails, beaches, campsites, picnic areas, viewing areas...look for US Access Board work on those and please comment

Compliance Requirements and Strategies for Existing Sites

First, conduct an access audit. This is required by 35.105 and should address built or shaped environments, policies, and programs.

Second, identify each barrier & solution for each.

Third, create a plan to remove barriers at some, not necessarily all sites *as soon as is possible*.

***WHEN* is “As soon as is Possible?”**

March 15, 2012 is the date by which a plan should be in place

At the very least have your audit team selected and trained and ready to go...

Suggest that corrective work be the highest priority and be completed no later than 3 years from now...

How Can We Do An Access Audit?

Four tried-and-true ways to do it...

1. Pull staff off of other tasks and train them up to know the Standards and conduct the audits

2. Retain an expert through an RFQ or RFP and have them audit and prepare reports

3. Some hybrid of 1 and 2

4. Wait until a complaint occurs and let an enforcement agency do the audit

Access Audit Qualifications (whether staff, consultant or hybrid)

Must know recreation and parks operations...

Must know disability...

Must know the 2010 Standards...

Must be a good communicator...

Best Approach?

No *single* access audit *approach* is best for all agencies...

Know your staff capability and capacity...

Ask whether you want or need a third party look at your sites...

Know your agency history and culture...

Do Not Delay!

March 15, 2011 title II policy requirements for service animals and Other Power Driven Mobility Devices became effective 50 weeks ago...

Access audit requirement has been effective since 1992...and now with a final Standard is more important than ever...

New 2010 Standards effective March 15, 2012

First, Change the Way You Do Business

**Hire candidates with disabilities and change
the workplace**

**Budget for access retrofits and recreation
inclusion support**

People with and without disabilities, together

Design & build facilities & sites to be accessible

Second, Make Inclusion the *Norm*, Not the Exception

Every program and service

Create inclusion process to invite and support

Adopt and fund elements of an inclusion model

Add the right staff, and train current staff so that
a culture of inclusion thrives

Third, *evaluate existing sites* and retrofit the right number for access

Modifies the 1991 Standards for the built environment

Adopted by the International Building Code (IBC)

Includes a regulation for playgrounds, sports fields and courts, golf, swimming, fitness facilities, boating, and fishing

NOTHING in this is new...all were published in 2000 and 2002

New Policy Required: OPDMDs and Service Animals

DOJ requires you to allow Other Power Driven Mobility Devices in parks and facilities, where a pedestrian can go

Devices don't necessarily have to be designed for use by a person with a disability (golf cars, Segways)

Limited inquiries of customers (are you using that device because of a disability?)

OPDMD *Assessment* Factors...

Type, size, weight, dimension and speed

Varying volume of pedestrian traffic

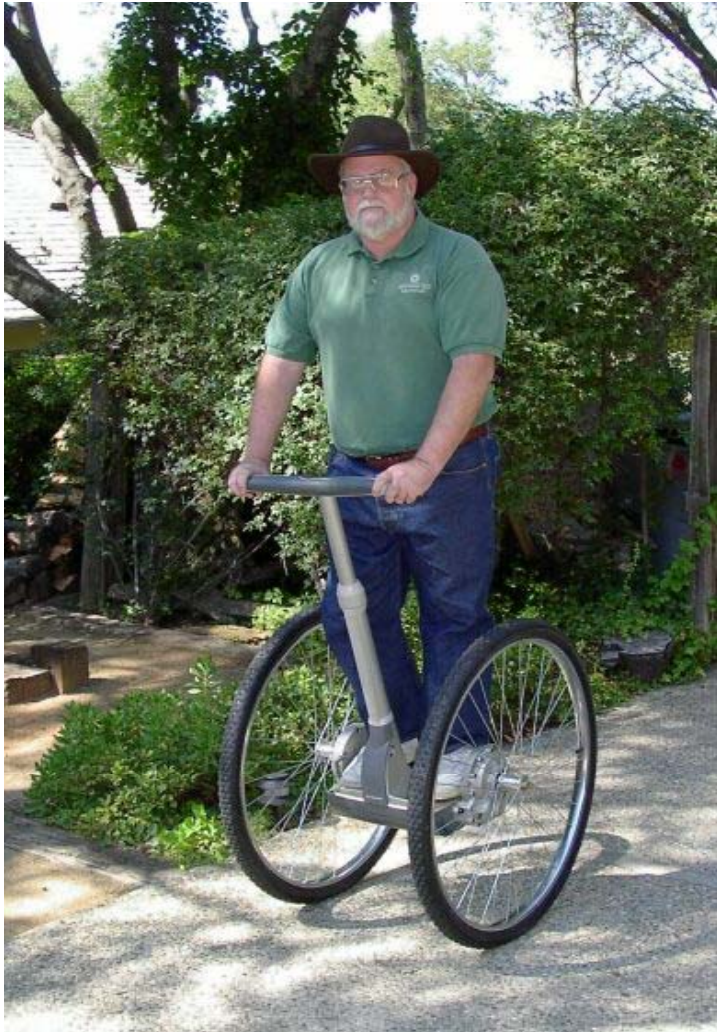
Design and operational issues at the site

Legitimate, objective safety requirements needed

Does device cause risk of serious harm to environment or natural or cultural resources, or conflicts with Federal laws or regs

Outcome?
Welcome
OPDMDs in
Agency Sites and
Facilities









Think Broadly Here...



SERVICE ANIMALS

Service animal is a dog...unless it is a miniature horse

Staff can ask if customer is using the animal as a service animal because of disability

Staff can also ask what the work of the service animal is, but this requires considerable staff training to evaluate the answers (smart practice = don't ask)

SERVICE ANIMALS (con't)

Staff can require “handler” to make certain the service animal is:

1. Housebroken
2. Under control

If not, can require handler and animal to leave site

SERVICE ANIMAL (con't)

CANNOT ASK if service animal has a vest!

CANNOT ask where the service animal was trained!

CANNOT ask for service animal graduation certificate!

CANNOT ask the handler's disability...

CANNOT charge fee for the service animal...

INCLUSION & ACCESS IS A GOOD INVESTMENT!

Avoid paying 7-figure legal fees when losing

Enjoy a better connection to the community

Truly serve ALL your residents

Catch up with your Minnesota neighbors who
ARE making inclusion and access happen!

CLOSE and RESOURCES

Tracey Crawford at NWSRA at tcrawford@nwsra.org

John McGovern at john.mcgovern@rac-llc.com

Department of Justice at 202/514-0301 or www.ada.gov

Access Board at 202/272-0080 at www.access-board.gov