

## The Americans with Disabilities Act (ADA) from a Civil Rights Perspective

*“...We're here to rejoice in and celebrate another “independence day,” one that is long overdue. With today's signing of the landmark Americans for Disabilities Act, every man, woman, and child with a disability can now pass through once-closed doors into a bright new era of equality, independence, and freedom. As I look around at all these joyous faces, I remember clearly how many years of dedicated commitment have gone into making this historic new civil rights act a reality.”*

President George Bush

Remarks at the Signing of the Americans with Disabilities Act

July 26, 1990

In its findings in the text of the ADA, Congress stated “The Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals.” The ADA is a broad civil rights law designed to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities. The ADA takes the legal framework of the Civil Rights Act of 1964 and combines it with the statutory language from the Rehabilitation Act of 1973 and applies it to all entities, regardless of whether or not they receive Federal funds. Therefore the law is new only for entities that have never received Federal Funds, such as places of public accommodation (private sector) and governmental entities too small to receive Federal subsidies (towns, townships, localities, etc.). Like the Civil Rights Act of 1964 that prohibits discrimination on the basis of race, color, religion, national origin, and sex, the ADA seeks to ensure **equal opportunity** for people with disabilities. It does not guarantee equal results, establish quotas, or require preferences favoring individuals with disabilities over those without disabilities.

Civil rights laws such as the ADA are unique when compared to other laws that provide specific and objective criteria for compliance. Unlike federal legislation like the Clean Air Act where

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standards are highly specific and measurable, there is no way to objectively measure a violation under civil rights laws except in the context of a specific individual in a particular situation. Each requirement of the ADA must be applied on an individualized, fact-specific, case-by-case basis.

An appreciation of this uniqueness is paramount to one's ability to engage in meaningful compliance, especially for people with significant disabilities. Four key elements are:

1. knowledge;
2. emotional context;
3. balance and compromise; and
4. case-by-case analysis.

In addition, changing one's business practices involves an understanding of three key elements: values, awareness, and skills. Below are some guiding principles in facilitating voluntary compliance:

1. **Know What the Law Requires.** The ADA is a comprehensive civil rights law for individuals with disabilities. It is not a law requiring affirmative action. There are no quotas to meet. Employees with disabilities may be fired if for example, they fail to meet workplace standards and requirements. People with disabilities can be denied equal opportunity if they do not meet essential program eligibility requirements.
2. **Recognize and Manage the Emotional Context.** Negotiations and disputes under civil rights laws are, by their very nature, often fraught with emotion. Typically you have an individual who feels that his/her basic rights have been violated or denied by the action of another. On the other hand, you have an entity that may view or interpret the situation very differently. Providing reasonable accommodations for an employee with a disability is a much more visible action than settling a complaint of discrimination based on race, gender, or age. When providing reasonable accommodations for someone with a disability, the employer may be concerned that other employees will view the accommodation as "special treatment." The employee, in turn, may resent the necessity of documenting the functional restrictions resulting from his/her disability.
3. **Balance and Compromise.** Civil rights laws require a process of negotiation in which neither side has the upper hand—a difference in the traditional balance of power. Instead of one side overruling the other, whether through hierarchies or negotiations, solutions to a situation involving civil rights must be mutually beneficial and viewed as a win-win for all parties. As a result, entities with responsibilities must not only be familiar with relevant laws but they must also find mutually beneficial solutions that ensure the inclusion of people with disabilities without compromising the integrity of their services. Our decisions are based on our values and attitudes. How we think affects what we do. Are we more concerned about maintaining the status quo, or do we truly embrace an environment that values all that each individual has to offer?

4. **Case-by-Case Analysis.** Decisions about civil rights result from fact-specific, case-by-case analysis of the particular situation involving the person's needs within a specific context. Because of this case-by-case approach, it is imperative that entities with responsibilities carefully analyze their resources against the needs of a person and not make "knee jerk" decisions when deciding whether to act in a particular manner. The ADA requires that everyone be flexible and creative in their compliance efforts.

Once you understand what makes civil rights laws unique, it is important to focus on three components that are necessary for positive change to occur.

1. **Values:** If you don't believe that people with disabilities have the right to work, play, and participate in the community, we will not be able to move forward. All parties involved win when situations can be resolved with solutions that encompass the underlying values that people with disabilities are able to participate in the community.
2. **Awareness:** In order to create change, you must be aware that a barrier exists in order to identify and address it.
3. **Skills:** Once you are aware, then you need skills and tools to help resolve the issue to everyone's satisfaction. The [ADA National Network by DBTAC](http://adata.org/) (<http://adata.org/>) is your one stop information center for information about the Americans with Disabilities Act. They have a wealth of technical assistance and training materials posted on their national training website, the [ADA Training Resources](http://adacourse.org/) (<http://adacourse.org/>) to strengthen your skills and provide you with tools for your various training needs.

The ADA is a comprehensive, far reaching piece of civil rights legislation for people with disabilities. The intended outcome is equal access to the economic, social, educational, and environmental resources of American society. The law says, "disability is a natural part of the human experience that in no way diminishes the right of individuals to:

- Live independently
- Enjoy self-determination
- Make choices
- Contribute to society
- Pursue meaningful careers
- Enjoy full inclusion and integration

We are unable to legislate people's attitudes. However, by changing our behavior, we hope that our attitudes will also become one that is more inclusive of people with disabilities so that everyone has an equal opportunity to enjoy all that America has to offer.