

## **Fact Sheet**

### **about the Americans with Disabilities Act of 1988**

- The Americans with Disabilities Act of 1988 was a key recommendation of the National Council on the Handicapped in its 1986 report, *Toward Independence*.
- The Act prohibits discrimination on the basis of handicap in areas such as employment, housing, public accommodations, travel, communications, and activities of State and local governments.
- The Act covers employers engaged in commerce who have 15 or more employees; housing providers covered by Federal fair housing laws; public accommodations; transportation companies; those engaged in broadcasting or communications; and State and local governments.
- The Act specifically defines discrimination, including various types of intentional and unintentional exclusion; segregation; inferior or less effective services, benefits or activities; architectural, transportation, and communication barriers; failing to make reasonable accommodations; and discriminatory qualifications and performance standards.
- The Act specifies those actions that do not constitute discrimination. They include unequal treatment wholly unrelated to a disability or that which is the result of legitimate application of qualifications and performance standards necessary and substantially related to the ability to perform or participate in the essential components of a job or activity.
- The Architectural and Transportation Barriers Compliance Board will issue minimum accessibility guidelines. Other regulations will be issued by the Attorney General, the U.S. Equal Employment Opportunity Commission, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Federal Communications Commission, and the Secretary of Commerce.
- The Act will not repeal Sections 503 and 504 of the Rehabilitation Act of 1973 and all regulations issued under those sections will remain in full force and effect.
- Enforcement procedures include administrative remedies, a private right of action in Federal court, monetary damages, injunctive relief, attorney's fees, and cutoffs of Federal funds.

# The Americans with Disabilities Act of 1988

## Section by Section Summary

### Section 1 - Short Title

Provides that the law may be cited as the Americans with Disabilities Act of 1988.

### Section 2 - Findings and Purpose

Subsection (a) presents Congressional findings about people with disabilities, their disadvantaged status in our society, the seriousness of discrimination against them, and the costliness of such discrimination to our country.

Subsection (b) provides a statement of the overall purposes of the Act centering on the establishment of a clear and comprehensive National mandate for the elimination of discrimination against persons with disabilities.

### Section 3-Definitions

Provides definitions of key terms used in the Act, including "on the basis of handicap," "physical or mental impairment," and "reasonable accommodation." The former are defined consistently with their definition in existing regulations under Section 504 of the Rehabilitation Act of 1973. The definition of "reasonable accommodation" is drawn from *Accommodating the Spectrum of Individual Abilities*, a report issued by the U. S. Commission on Civil Rights.

### Section 4-Scope of Discrimination Prohibited

Tells what persons and agencies are prohibited from discriminating against persons with disabilities. Provides broad scope of coverage in line with other types of civil rights laws. Includes, among others, employers engaged in commerce and having 15 or more employees, housing providers covered by Federal Fair Housing laws, public accommodations, transportation companies, those engaged in broadcasting or communications, and State and local governments.

### Section 5-Forms of Discrimination Prohibited

Subsection (a) tells what actions constitute discrimination prohibited by the law. These include various types of intentional and unintentional exclusion; segregation; inferior or less effective services, benefits, or activities; architectural, transportation, and communication barriers; failing to make reasonable accommodations; and discriminatory qualifications and performance standards.

Subsection (b) specifies that certain actions do not constitute discrimination. These include unequal treatment that is wholly unrelated to a person's disability, or is the result of the legitimate application of qualifications and performance standards that are necessary and related to the ability to perform or participate in the essential components of the job or activity involved.

## Section 6-Discrimination in Housing

This section provides standards regarding the application of nondiscrimination requirements in housing. The standards are drawn from the current version of the disability portions of the Federal Fair Housing Amendments bill in the Senate Judiciary Committee. Their primary focus is upon accessibility in future design and construction of housing.

## Section 7-Limitations on the Duties of Accommodation and Barrier Removal

Subsection (a) provides that barrier removal or reasonable accommodations are not required to be made if to do so would fundamentally alter or threaten the existence of the program, business, activity, or facility in question.

Subsection (b) permits a reasonable period of time, not to exceed two years, for making substantial modifications to existing buildings and facilities in order to remove barriers. This period may be extended up to five years through regulations governing particular classes of buildings and facilities.

Subsection (c) provides that regulations may permit a reasonable period of time, not to exceed ten years, for making substantial modifications to existing platforms and stations of mass transportation systems.

## Section 8-Regulations

Subsection (a) calls for the Architectural and Transportation Barriers Compliance Board to issue minimum guidelines for accessibility of buildings, facilities, vehicles, and rolling stock. The remainder of the Section calls for Federal agencies to issue regulations for implementing and enforcing the requirements of the Act, including the following:

Employment	Equal Employment Opportunity Commission
Housing	Secretary of Housing & Urban Development
Transportation	Secretary of Transportation
Public accommodations	Secretary of Commerce
Communications	Federal Communications Commission
State and local governments, and coordination	Attorney General (Department of Justice)

## Section 9-Enforcement

Establishes enforcement procedures for the requirements of the Act. These include administrative remedies, a private right of action, monetary damages, injunctive relief, attorney's fees, and cutoffs of Federal funding.

## Section 10-Effective Date

Provides that the Act shall take effect on the date of its enactment.