

Transcript: Accessibility and Disability Related Laws, Emily Shuman.
AccessibilityPlus 2022.

Welcome everyone, my name is Emily Shuman, and I'm the Director of the Rocky Mountain ADA Center and I'm here today to talk to you about accessibility and disability related laws and especially some of the more critical ones that you might need to know if you interface with customers.

So we're going to talk through some of those. So let's just jump right into it. If you've ever been to one of the presentations offered by the Rocky Mountain ADA Center before, you know that we always need to include this little disclaimer, which is to say that the information that you're getting today in this little training is intended solely as informal guidance and shouldn't be considered legal advice or a determination of your legal rights or responsibilities. You know, definitely if you're in need of that type of service, you know, consult a lawyer. We are, however, authorized and funded by the National Institute on Disability Independent Living and Rehabilitation Research.

So I want to tell you a little bit more about the ADA National Network, which is what the Rocky Mountain ADA Center is a part of. So we serve Region eight, which is that Colorado, Utah, Montana, Wyoming, North Dakota and South Dakota region.

But we're just one of ten centers that serve the entire country and comprise the ADA National Network. And so all of the ten centers are really tasked with helping people understand their rights and responsibilities under the ADA and helping people navigate the complicated world of disability laws and services.

And, you know, all of the things that go into not only living with a disability, but perhaps supporting those with disabilities, serving people with disabilities. So all of these ten centers can be reached using the same 1-800 number.

So it's 1-800-949-4232. You will be connected to the ADA center that serves your state based on your phone number. So all you have to do is call that 800 number. And so again, our mission is really just to help people understand their rights and responsibilities under the ADA.

And we do that through a variety of services. So all of the ten centers in the nations share these services that they offer, so you can find these services at any whichever ADA Center serves you. You know, the biggest part of what we do is what's known as technical assistance or just answers to questions. Businesses or individuals or municipalities, you know, anybody who has a right or responsibility under the ADA can get a hold of us, whether it's calling us or emailing us, DMing us on social media, and we will, help you answer your ADA related questions.

So how does this apply in my situation? You know, what do I need to do next? How do I file a complaint? Those types of things. Technical assistance is always free and it's always confidential. So we're not an enforcement agency.

We're not advocacy either. We're just strictly information. Another big part of what the ADA National Network does is referrals and networking with other disability organizations. You know, the enforcing agencies for the ADA and some of these other laws that we're going to talk about.

We also conduct a lot of research on implementation of the ADA, as well as barriers to implementation. We provide training like what you're seeing today. We publish and share materials. So we have a lot of helpful pocket guides and fact sheets and things for people who want to dig a little bit deeper on certain ADA related topics.

And then, of course, we have a large social media presence. Each center has their own social media channels, and then there's social media for the ADA National Network as well. So, you know, we always like it if you search us on your favorite social media platform and follow so that you can stay connected with us and stay in the know about ADA related topics. All right, so just this last little thing to tell you about the Rocky Mountain ADA Center. We are operated by Meeting the Challenge, which is a full-service compliance consulting firm. So this is a more hands-on service for anybody who's in need of help with developing a self-evaluation or transition plan, conducting a facility audit, reviewing architectural plans or policies, help with your website accessibility, help with any ADA lawsuit that you might be dealing with. So I just want to make sure everybody's aware and familiar with this as a resource in case that's something that you you might be interested in. All right, so our learning objectives for this session today are going to be to introduce federal laws that relate to disability and accessibility. And then we're going to break down four of the most critical laws for customer-facing organizations to be aware of.

And then we're going to understand where to go to get more information about all of the laws that relate to accessibility and disability. So there are no less than 25 federal laws that are related to disability and accessibility.

Some of the laws, like the Americans with Disabilities Act and Individuals with Disabilities Education Act and the Air Carrier Access Act are entirely related to disability rights. Many more, however, are broader laws that include some comprehensive provisions for citizens with disabilities contained in them.

So, you know, and sometimes situations get a little bit complex because more than one law applies in a particular situation. So an example of this is a privately owned, federally funded homeless shelter is going to have obligations under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act and the Fair Housing Act.

So, you know, as we introduce these laws, be aware that sometimes they do overlap and interact with one another. Today even though I've listed those 25 laws, you know, that either have something or or entirely, some, you know, either are in

whole or in part related to disability rights, The four that I want to focus on today are going to be the Americans with Disabilities Act, the Air Carrier Access Act, the Fair Housing Act and the Individuals with Disabilities Education Act. And again, the goal today is for you to be aware of the basic characteristics of these laws and to understand where to find more information as you continue to learn more about them or want to know more about different laws. So as I mentioned, we'll start with the Americans with Disabilities Act. I would definitely say this is probably the primary law that is related to people who serve the public.

People who serve customers. So this is, you know, definitely one to learn a lot more about. So the ADA, the Americans with Disabilities Act, is a civil rights law, which means that it's a legal guarantee for all citizens, regardless of any other identities or circumstances that apply to them.

It's a broad civil rights law that promises equal treatment and prohibits discrimination on the basis of disability in employment, state and local governments, public accommodations, commercial facilities, transportation and telecommunication. And it also applies to the United States Congress.

The ADA does not apply to federal government agencies or the U.S. Postal Service, and it was signed into law in 1990 by President George H.W. Bush, and it passed with a 377 to 28 margin. So it's considered a very bipartisan law.

We always like to point out that the ADA is descriptive, not prescriptive. This means that the law does not necessarily enumerate or prescribe what to do in every single situation. Instead, it's descriptive in that it describes what nondiscrimination should look like and then acknowledges that it's going to apply differently in each individual situation.

So it's important to understand that to be protected under a disability rights law, a person has to meet the law's specific definition of disability. So we're going to talk about this through each of these laws that we address.

So with the ADA, the definition of disability should be considered a legal definition of disability, not necessarily a medical definite definition. So when the ADA was amended, Congress stated that the definition of disability should be construed in favor of broad coverage of individuals to the maximum extent permitted by the law and generally should not require extensive analysis. So Congress wanted our focus to be on ensuring that people have an equal opportunity to participate and are not discriminated against on the basis of disability, rather than having us focus on whether someone needs a narrow definition of disability.

So there, to that end, the definition of disability under the ADA is someone who has a physical or mental impairment that substantially limits one or more major life activities or someone who has a record of such an impairment or someone who has regarded as having an impairment.

OK, so that's the legal definition of disability under the ADA. The ADA is divided into five main sections, which are called Titles. Title I covers employment. Title II covers state and local governments. Title III covers public accommodations and commercial facilities.

Title IV addresses telecommunications. And Title IV addresses miscellaneous items. Generally speaking, the ADA does not apply to religious entities or airlines, but we will cover the law that does next, or private residential situations, but we're going to cover that one later as well.

As I mentioned, the ADA is probably one of the more important laws for you to be aware of. And in the short timeframe today, we're not going to get too deeply into any of these laws.

We're just going to give you a high level overview, but I definitely would recommend, you know, if you're a public facing organization, you serve customers somewhere you are going to fall into the ADA in terms of, you know, are you a public accommodation or are you a state and local government.

And if you're an employer, you know, anybody who's employing anybody has some rights and responsibilities as well. So I would definitely recommend investing in some more training on the ADA or finding some more resources to learn more about this law if you don't already have a good understanding of it.

I think it's also important to understand who enforces these federal laws, not only you know, you might need this information to request enforcement at some point in your life. But enforcing agencies are actually also really great places to get more information on the laws and how they should be interpreted.

So I really want to encourage you to, don't be afraid to reach out to these enforcing agencies if you're not totally clear on what your responsibilities are under the law. So Title I of the ADA, that employment title, is enforced by the Equal Employment Opportunity Commission, the EEOC. Titles II and III, that's your state and local governments and your public accommodations, those Titles are enforced by the U.S. Department of Justice. Title IV, that telecommunications title, is enforced by the Federal Communications Commission. OK, so moving on to the Air Carrier Access Act.

The Air Carrier Access Act was passed in 1986 and prohibits discrimination on the basis of disability in air transportation, including flights of U.S. airlines and flights to or from the United States by foreign airlines. So some of the key provisions included in this law are to provide for assistance with boarding, deplaning and making connections. Making sure that there's treatment and storage of wheelchairs and other mobility aids for people with disabilities, making sure that there are provisions for accessibility in newly-built aircraft, not requiring that people give advance notice that a person with a disability is traveling.

Having portable oxygen policies in place, allowing for service animals, not requiring that a person with a disability has to travel with another person, except in certain limited circumstances where the rule permits that the airline require a safety assistant.

But generally, you can't require a person with a disability to travel with another person. There's some provisions around security screening and providing priority seating for people with disabilities. OK, so once again, remember to be protected under one of these laws, you have to meet the definition of disability.

Now, easy enough, the definition of disability under the Air Carrier Access Act is the exact same as the definition under the ADA that we just covered. So again, an individual with a disability means any individual who has a physical or mental impairment that on a permanent or temporary basis, substantially limits one or more major life activities, someone who has a record of such an impairment or someone who is regarded as having such an impairment. So the enforcement of the Air Carrier Access Act is done through the US Department of Transportation or individuals can bring a lawsuit in federal court.

All right, so next up, we have the Fair Housing Act. The Fair Housing Act was passed in 1968 and was later amended in 1988, because before that it didn't actually include provisions for people with disabilities. So the Fair Housing Act applies to a wide range of entities, including, but not limited to, property owners, housing managers, homeowners and condominium associations, lenders, real estate agents. The law prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status and national origin. And it makes it unlawful to discriminate in any aspect of selling or renting housing or to deny a dwelling to a buyer or renter because of the disability of that person or any individual associated with them, or an individual who intends to live in the residence. OK, so some of the key provisions here for the Fair Housing Act is that housing providers must make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities.

So, for example, a landlord with a no pets policy may be required to grant an exception to this rule to allow an individual who is blind to have a guide dog in their residence. Housing providers also have to allow tenants with disabilities to make reasonable access-related modifications to their private living spaces, as well as to common use spaces. So examples here could be things like installing grab bars in the bathtub or ramping the entrance. So the Fair Housing Act further requires that new multifamily housing with four or more units be designed and built to allow access for persons with disabilities.

So that also includes those common use areas, doors that are wide enough for wheelchairs, kitchens and bathrooms that allow a person using a wheelchair to maneuver and all kinds of other adoptable features within the units. So again, remember, you know, that that qualification you have to be you have to meet the definition of disability per that law in order to receive its protections. And once

again, the definition here is the same as the one we find with the ADA. That same three prong definition. So someone who has a physical or mental impairment that substantially limits one or more major life activities, someone who has a record of such an impairment or is regarded as having such an impairment. So the Fair Housing Act complaints, enforcement of the Fair Housing Act is done through the U.S. Department of Housing and Urban Development, so that's where a person would file a complaint if they felt that their rights had been violated.

All right. Next up, we have the Individuals with Disabilities Education Act or IDEA, as I'll probably refer to it at least once because it's kind of a mouthful. All right. So the IDEA, the Individuals with Disabilities Education Act was passed in 1975 and requires schools to make available to all eligible children with disabilities, a free and appropriate public education in the least restrictive environment appropriate to their individual needs. So this covers certain children with disabilities from birth to age 21 or graduation. And this also includes early intervention services that children can receive even before they reach school age.

So under the key provisions here, the IDEA requires that public school systems develop appropriate individualized education programs, or IEP's, for each child. The specific special education and related services outlined in each IEP have to reflect the individualized needs of each student.

The IDEA law also mandates that particular procedures be followed in the development of that IEP, so each student's IEP must be developed by a team of knowledgeable people and has to be reviewed at least annually. The team of people that develop the IEP can include the teacher, the parents, even the child, if that's appropriate. An agency representative who's qualified to provide or supervise the provision of special education and any other individuals at the parents or agencies discretion. And finally, here, if parents disagree with the proposed IEP, they can also request a due process hearing and review from the State Educational Agency.

They can also appeal the state's decision to the state or federal court. So getting into that definition, that disability definition, we have a different definition than we've been used to in the other laws. So under the IDEA the definition is as follows...

But of course I have to note here that some of the language in this definition is not considered good etiquette, good disability etiquette. There can be a little bit of you're putting in a little bit of tough position, but I do think it's important for me to present the exact information from the law. But be aware that some of this language is out of date and considered a little bit offensive. So with that said the definition of disability under the IDEA is a child with specific disabilities who by reason there of needs specially designed instruction and related services.

And then it goes on to list several categories of disability, Autism, deaf-blind, deafness, emotional disturbance. That's one that I wouldn't say normally. Hearing impairment, intellectual disability, multiple disabilities, orthopedic impairments,

other health impairments, special specific learning disabilities, speech or language impairments, traumatic brain injury, visual impairment including blindness.

So again, some of that language is not favored by the disability community, especially those impairment terms. So just keep that in mind. So that's the official definition as it stands now. Another interesting tidbit about this law is that in the law Congress states that disability is a natural part of the human human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living and economic self-sufficiency for individuals with disabilities.

All right, so again, getting into this enforcement piece, the IDEA can be enforced by either your state education agency or the U.S. Department of Education's Office of Special Needs and Rehabilitation Services. So there's kind of a two-fold with enforcement for this law.

OK, so I also want to make this little point here at the end, which is that, you know, individuals with disabilities also may be protected by state anti-discrimination laws, some of which are more stringent than the federal laws.

So it's important that you all be aware of what what laws are on your state books, right, so that you can comply with both federal law and state law. And so I recommend to learn more about rights under state laws, contact your state Governor's office on disability issues, and they should be able to help talk you through which laws would apply to you or which state laws you need to be aware of. So I do want to leave you here with some additional resources, because I know we didn't get too in-depth in terms of talking about any of those laws. So if you are interested in learning more about all of the federal disability rights laws, the Rocky Mountain ADA Center has a guide, a resource guide, that will walk you through all of those. One of our partner centers, the New England ADA Center, also has a really great online learning module that talks about disability rights laws as an overview of that. Of course, I can't recommend enough contacting your local ADA Center, so in getting in touch with that ADA National Network. I mentioned, you know, going to those federal agency websites and using those enforcement agencies as a resource for more information.

I know they can be a little intimidating, but I promise they're a wealth of good information and are really there to help. If you're not familiar with the U.S. Access Board, they're again, another wealth of information, it's a federal board.

They're really kind of the agency that establishes a lot of the standards for compliance with these laws, so they can be a great resource for more information as well. And then, of course, we mentioned that State Office of Disability in your own state to learn more about what your state laws have to say.

So that's the end of my presentation, but I always like to leave you with my contact information. Please do feel free to reach out to me if you have more questions

about this content or if you have questions about anything else, we're more than happy to continue the discussion beyond today's presentation.

Thank you.

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