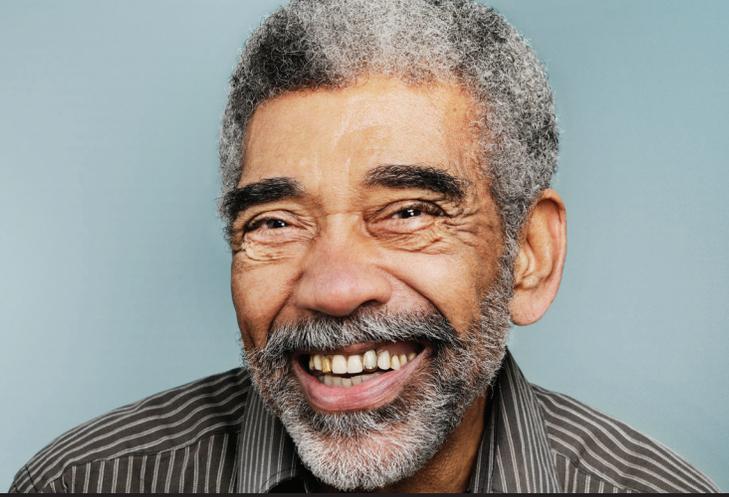


DISABILITY & AGING RIGHTS



DEVELOPED BY EQUIP FOR EQUALITY UNDER A GRANT PROVIDED BY THE ILLINOIS DEPARTMENT ON AGING



DISCRIMINATION

Legal Rights of People with Disabilities to Access Government Services

People with disabilities, including older Americans with physical, cognitive, sensory and mental impairments, have a legal right to access government services. Under Title II of the Americans with Disabilities Act (ADA), state and local government must not discriminate against people with disabilities. This fact sheet will provide an overview of your right to access government services under the ADA.

The ADA protects people with disabilities who need services provided by state and local governments

Under Title II of the Americans with Disabilities Act (ADA), state and local governments must not discriminate against people with disabilities. The ADA covers public services that are available from state and local governments, including, but not limited to, public programs and services such as:

- Police and fire protection
- State-operated mental health and developmental disabilities centers
- Park and recreation programs and state parks
- Employment services and programs
- Public schools, universities and colleges
- Public transportation
- State, county and city legislatures
- State and county courthouses
- Elections and voting

NOTE: The ADA does **not** cover programs and services provided by the **federal government**. However, another law, Section 504 of the Rehabilitation Act of 1973, does cover disability discrimination by federally funded entities.

What does “qualified individual with a disability” mean under Title II?

To be qualified, you must meet certain requirements to receive services or participate in a public entity’s programs, activities or services. You must be eligible either with or without the following accommodations:

- Reasonable modifications to a public entity’s rules, policies or practices
- Removal of architectural, communication or transportation barriers
- Provision of auxiliary aids and services

What must state and local governments do under Title II to make services accessible?

- State and local governments cannot refuse to allow you to participate in a service, program or activity based on a disability. For example, a city may not refuse to allow a person with epilepsy to use parks and recreational facilities.
- State and local governments must make reasonable modifications to policies, practices and procedures, unless doing so results in a fundamental alteration to the program. For example, a city office building would be required to make an exception to a rule prohibiting animals in public areas in order to admit guide dogs and other service animals assisting people with disabilities.
- State and local governments must eliminate standards or rules that deny you an equal opportunity to enjoy their services, programs or activities. For example, a city could not require a driver’s license as the only means of identification needed to participate in a city program because many people with disabilities do not drive.



- State and local governments must provide aids and services when necessary to ensure effective communication, unless it creates an undue hardship or fundamental alteration to the service. For example, a state could be required to provide a sign language interpreter on the floor of the state legislature.

Program access under Title II

Unlike private entities (which are covered under Title III), state and local governments are not required to remove access barriers from each public facility, even if the removal is readily achievable. Instead, the public entity's obligation is only to make its services and programs accessible. Physical changes are required only when there is no other feasible way to achieve this.

For example, a public library, whose open stacks are located on an upper floor and are inaccessible because there is no elevator, may have its staff retrieve materials for people who use wheelchairs, rather than making the stacks accessible.

Improper means to achieve program accessibility

- State and local governments may not physically carry a person with a disability as a method of providing program access, except in “manifestly exceptional” circumstances.
- Back doors and freight elevators may be used to satisfy program accessibility only as a last resort and only if it is comparable to the accessibility provided to people without disabilities. A back door may be

acceptable if it is kept unlocked during the same hours that the front door remains unlocked, and if individuals with mobility impairments do not have to travel excessive distances or through nonpublic areas to gain access.

Integrated programs

- Integration of people with disabilities into the mainstream of society is central to the purposes of the Americans with Disabilities Act.
- Separate or different programs that offer services or benefits may not be provided to people with disabilities unless the separate programs are necessary to ensure that the benefits and services are equally effective.
- Even when separate programs are permitted, you still have the right to choose to participate in the regular program. State and local governments cannot require you to accept a special accommodation or benefit if you choose not to accept it.

What are the communication requirements under Title II of the ADA?

State and local governments must ensure effective communication with people with disabilities. The public entity must provide appropriate auxiliary aids where necessary to ensure that communication with people with hearing, vision or speech impairments is as effective as communication with others.

Examples of auxiliary aids and services

- For people with hearing impairments: qualified interpreters, note takers, computer-aided transcription services, telephone handset amplifiers, telecommunications devices for deaf persons (TDDs) and video-text displays
- For people with vision impairments: qualified readers, audio recordings, Braille and large print materials

Extra charge prohibited

Public entities may not charge a person with a disability for the use of an auxiliary aid.

How will the ADA's requirements for state and local governments be enforced?

In Illinois, you may enforce your rights under Title II by filing a lawsuit in court within two years of the discrimination. You may also file a complaint with the Department of Justice or with the federal agency that covers a particular issue. For example, if you have a claim of discrimination by a county medical or mental health center, you could file with the Department of Justice or with the Office of Civil Rights at the Department of Health and Human Services. However, if you file with a federal agency, the time to file in court is still two years from the date of the alleged discrimination. The deadline for filing in court does not change just because you filed a complaint with a federal agency. ■

For more information:

Visit the U.S. Department of Justice ADA website at www.ada.gov for more information about your rights and the responsibilities of state and local governments under Title II of the ADA.



Equip for Equality
20 North Michigan Avenue
Suite 300
Chicago, IL 60602

www.equipforequality.org
1-800-537-2632
1-800-610-2779 (TTY)

Illinois Department on Aging
One Natural Resources Way
Suite 100
Springfield, IL 62702-1271

Senior HelpLine:
1-800-252-8966
1-888-206-1327 (TTY)
www.illinois.gov/aging

The Illinois Department on Aging does not discriminate in admission to programs or treatment of employment in programs or activities in compliance with appropriate State and Federal statutes. If you feel like you have been discriminated against, call the Senior HelpLine at 1-800-252-8966, 1-888-206-1327 (TTY).