

THE AMERICANS WITH DISABILITIES ACT

AN OVERVIEW OF TITLES I & II

**Presented by:
Affirmative Action
and Contract Compliance**

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The Americans with Disabilities Act was signed into law on July 26, 1990.

Title I ---- provides an equal employment opportunity for individuals with disabilities. Title I requires that individuals with disabilities be given the same consideration in employment that individuals without disabilities are given. Title I became effective on July 26, 1992.

Title II --- provides for nondiscrimination on the basis of disability in state and local government services. Title II prohibits discrimination in all state and local government programs and activities, including employment. Title II became effective on January 26, 1992.

Who is protected by the ADA?

An individual who is protected by the ADA must meet the definition of a **"qualified individual with a disability."**

Under the ADA, an **individual with a disability** is a person who has:

- a **physical or mental impairment that substantially limits** one or more **major life activities**;
- a **record** of such an impairment; or
- is **regarded** as having such an impairment.

A **physical** impairment is defined by the ADA as:

"(a)ny physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine."

A **mental** impairment is defined by the ADA as:

“(a)ny mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.”

Major life activities are activities that an average person can perform with little or no difficulty. Examples of **major life activities** are:

walking	seeing
speaking	hearing
breathing	learning
performing manual tasks	caring for oneself
working	

An impairment is only a “disability” under the ADA if it **substantially limits** one or more major life activities. An individual must be unable to perform, or be significantly limited in the ability to perform, an activity compared to an average person in the general population.

The regulations provide three factors to consider in determining whether a person’s impairment substantially limits a major life activity:

- its nature and severity;
- how long it will last or is expected to last; and
- its permanent or long term impact, or its expected impact.

A “**qualified individual with a disability**” is:

“an individual with a disability who meets the skills, experience, education and other job-related requirements of a position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of such position.”

There are two basic steps in determining whether an individual is “**qualified**” under the ADA:

- (1) Determine if the individual meets necessary prerequisites for the job, such as:
- education
 - work experience
 - training
 - skills
 - licenses
 - certificates
 - other job-related requirements, such as good judgement or ability to work with other people.
- (2) Determine if the individual can perform the **essential functions** of the job, **with or without reasonable accommodation**.

Essential Functions of a Job

The first consideration is whether employees in the position actually are required to perform the function.

The next consideration is whether removing that function would fundamentally change the job.

The regulations list several reasons why a function could be considered essential. They are:

- the position exists to perform the function;
- there are a limited number of other employees available to perform the function, or among whom the function can be distributed; or
- a function is highly specialized, and the person in the position is hired for special expertise or ability to perform it.

Performing Essential Functions "With or Without Reasonable Accommodation"

If an individual with a disability who is otherwise qualified cannot perform one or more essential job functions because of his or her disability, the employer, in assessing whether the person is qualified to do the job, must consider whether there are modifications or adjustments that would enable the person to perform these functions. These modifications or adjustments are called "reasonable accommodations."

The ADA requires reasonable accommodation in three aspects of employment:

- to ensure equal opportunity in the application process;
- to enable a qualified individual with a disability to perform the essential functions of a job; and
- to enable an employee with a disability to enjoy equal benefits and privileges of employment.

Some **examples of reasonable accommodation** include:

- making existing facilities used by employees readily accessible to, and usable by, an individual with a disability;
- job restructuring;
- modifying work schedules;
- reassignment to a vacant position;
- acquiring or modifying equipment or devices;
- adjusting or modifying examinations, training materials, or policies;

- providing qualified readers or interpreters.

A reasonable accommodation always must take into consideration two unique factors:

- the specific abilities and functional limitations of a particular applicant or employee with a disability; and
- the specific functional requirements of a particular job.

An employer is not required to lower quality or quantity standards to make an accommodation. Nor is an employer obligated to provide personal use items, such as glasses or hearing aids, as accommodations.

Who is entitled to a Reasonable Accommodation?

An individual is entitled to a reasonable accommodation if h/she meets the ADA definition of “a qualified individual with a disability” unless to do so would cause an undue hardship on the employer.

In general, it is the responsibility of the applicant or employee with a disability to inform the employer that an accommodation is needed.

An applicant or employee does not have to specifically request a “reasonable accommodation” but must only let the employer know that some adjustment or change is needed to do a job because of the limitations caused by a disability.

Process for Identifying a Reasonable Accommodation

- 1) Look at the particular job involved. Determine its purpose and its essential functions.

- 2) Consult with the individual with a disability to find out his or her specific physical or mental abilities and limitations as they relate to the essential job functions.
- 3) In consultation with the individual, identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions.
- 4) If there are several effective accommodations that would provide an equal employment opportunity, consider the preference of the individual with a disability and select the accommodation that best serves the needs of the individual and the employer.

Undue hardship

An employer is not required to provide an accommodation if it will impose an undue hardship on the operation of its business. Undue hardship is defined by the ADA as an action that is:

“Excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business.”

ADA Accommodations Committee

In 1997, the Human Resources Department established an ADA Accommodations Committee to assist departments in evaluating employee and applicant accommodation requests.

The ADA Accommodations Committee consists of representatives from:

- the Human Resources Department,
- the affected department, and
- the City’s medical consultant, Dr. Robert Conte.

An Attorney from the Legal Department and the City's ADA Coordinator who represents the Affirmative Action and Contract Compliance Office, also attends these committee meetings.

For more information about this committee contact the current committee chair, Larry Dean at (713) 374-3332.

In brief, **TITLE II** requires that public entities operate programs and services, when viewed in their entirety, be readily accessible and usable by individuals with disabilities.

In addition to facility accessibility, a public entity must ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

In doing so a public entity must furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of a service, program, or activity conducted by that public entity.

Some examples of providing equally effective communication through auxiliary aids and services are:

- Large Print Materials
- Braille
- Audio Tapes
- Readers
- Computer Diskettes
- Telephone Amplifiers
- Captioning
- Telecommunication Devices for the Deaf
- Interpreters
- Assistive Listening Systems

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CITY OF HOUSTON
ADA DEPARTMENT CONTACTS

**CITY OF HOUSTON
AMERICAN WITH DISABILITIES ACT (ADA) CONTACTS**

Contact	Category	Telephone #
AFFIRMATIVE ACTION AND CONTRACT COMPLIANCE DIVISION		
Dolores B. Jacobson	City-wide	713-837-9013
AVIATION DEPARTMENT		
Dolores B. Rodgers	Compliance	281/233-3000 or 1831
Cathy Nicholson	Communications	281/233-3000 or 1759
Jim Sartain (Interim)	Facilities	281/233-3000 or 1963
Carl Holmes	Facilities	281/233-3000 or 1994
BUILDING SERVICES		
Ed Mergele	Compliance	713/837-0093
CITY SECRETARY		
Myra Cormier Banks	Compliance	713/247-1840
COUNCIL OFFICE		
Michelle Bowman	Compliance	713/247-2108
CONVENTION AND ENTERTAINMENT FACILITIES		
<i>(George R. Brown Convention Center)</i>		
Susan Soulant	Compliance	713/853-8011
Sherlean Nelson	Employment	713/250-3660
Lisa Kingsbury	Communications	713/250-3640
Susan Soulant	Facilities	713/853-8011
<i>(Wortham Center)</i>		
Michael Williams	Compliance	713/250-3655
Sherlean Nelson	Employment	713/250-3660
Lisa Kingsbury	Communications	713/250-3640
Michael Williams	Facilities	713/250-3655

(Jones Hall)

Vivian Montejano	Compliance	713/226-4478
Sherlean Nelson	Employment	713/250-3660
Lisa Kingsbury	Communications	713/250-3640
Vivian Montejano	Facilities	713/226-4478

(Parking Services)

Lannie Leshar	Compliance	713/224-9904
Sherlean Nelson	Employment	713/250-3660
Lisa Kingsbury	Communications	713/250-3640
Lannie Leshar	Facilities	713/224-9904

(Houston Center for the Arts)

Brian Watson	Compliance	713/250-3666
Sherlean Nelson	Employment	713/250-3660
Lisa Kingsbury	Communications	713/250-3640
Brian Watson	Facilities	713/250-3666

CONTROLLER'S

Sandra Zeno	Compliance	713/247-2843
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FINANCE AND ADMINISTRATION DEPARTMENT

Robert L. Taylor	Compliance	713/837-9509
Sophia Chang	Employment	713/837-9628
Coy Baskin	Communications	713/837-9755
Jaime Garcia	Facilities	713/247-1150

FIRE DEPARTMENT

Barbara Chelette	Compliance	713/247-5818
Chris Connealy	Employment	713/247-5082
Herbert Sims	Communications	713/247-3660
Ray Vargas	Facilities	713/247-5814

HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT

Annie Hill	Compliance	713/868-8481
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HEALTH AND HUMAN SERVICES DEPARTMENT

Al Amaya	Compliance	713/794-9141
Al Amaya	Employment	713/794-9141
Chrissie Dickerson	Communications	713/794-9303
Bobby Rivers	Facilities	713/694-2676

HUMAN RESOURCES DEPARTMENT

Larry Deane	Compliance	713/374-3332
Roderick Newman (Alternate)	Compliance	713/837-9411

LEGAL DEPARTMENT

Dennis Yaksich	Compliance	713/247-1471
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LIBRARY DEPARTMENT

Roger Hass	Compliance	713/247-1630
Ralph Patterson	Employment	713/247-3558
Carter Roper	Facilities	713/247-3984

MAYOR'S OFFICE

Dolores B. Jacobson	Compliance	713/837-9013
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MUNICIPAL COURTS ADMINISTRATION

Ron Mangus	Compliance	713/247-5680
Joel Albrecht	Compliance	713/865-9301
Alan Baer	Compliance	713/247-5764

MUNICIPAL COURTS JUDICIAL

Judge Bertha Mejia	Compliance	713/247-8749
Nelly Santos	Compliance	713/247-8791

PARKS & RECREATION DEPARTMENT

Ulysses Fogg	Compliance	713/845-1041
Joyce Watson	Employment	713/845-1091
Mark Ross	Facilities	713/845-1053

PLANNING & DEVELOPMENT DEPARTMENT

Sue Norman	Compliance	713/837-7725
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POLICE DEPARTMENT

Assistant Chief N.D. Wong	Compliance	713/308-1550
Captain G.D. Yorek	Communications	713/247-5571
T. Blankenship	Facilities	713/308-3909

PUBLIC WORKS & ENGINEERING DEPARTMENT

Herb Fain	Compliance	713/837-0399
Hilda Scott	Design	713/837-7095
Herb Lum	Construction	713/837-7194

SOLID WASTE MANAGEMENT DEPARTMENT

Louis McKinney	Compliance	713/837-9159
Aleta Jackson	Employment	713/837-9209
Bill Petty	Communications	713/837-9141
Orin Smith	Facilities	713/837-9143