

The Americans with Disabilities Act

Practical Information You Can Use

The Mission of the Miami-Dade County Internal Services ADA Office

A civil rights-focused office that ensures the County's programs, services, and facilities are accessible to and usable by people with disabilities.

We do not enforce the ADA.

What is the ADA?*

(*It's not a person, place or group.)



Federal civil rights law : protections to individuals with disabilities like those provided to individuals on basis of race, color, sex, national origin, age, & religion.

Guarantees equal opportunity for individuals with disabilities in employment, State & local gov't. services, public accommodations, telecommunications, & transportation.

The ADA prohibits state and local governments from refusing to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability.

EXAMPLES:

- *County may not refuse to allow a wheelchair user to use parks and recreational facilities.*
- *County may not refuse to allow a person with epilepsy to board a bus.*

**How does the ADA apply
to public accommodations?**



To be considered a public accommodation, an entity must be private and it must own; lease; lease to; or operate a place of public accommodation.

ADA Title III

Definition of “Public Accommodation”

A facility whose operations affect commerce and fall within at least one of the following 12 categories:

- Places of lodging
- Establishments serving food or drink
- **Places of exhibition or entertainment**
- Places of public gathering
- Sales or rental establishments (e.g. , bakeries, grocery stores, hardware stores, shopping centers)
- Service establishments (e.g. , laundromats, dry-cleaners, banks, barber shops, beauty shops, travel services, shoe repair services, funeral parlors, gas stations, offices of accountants or lawyers, pharmacies, insurance offices, professional offices of health care providers, hospitals);
- Public transportation terminals, depots, or stations
- **Places of public display or collection (e.g., museums, libraries, galleries);**
- Places of recreation (e.g. , parks, zoos, amusement parks);
- Places of education
- Social service center establishments (e.g. , day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies); and
- Places of exercise or recreation (e.g. , gymnasiums, health spas, bowling alleys, golf courses).

A public accommodation may not discriminate against an individual with a disability in its operations.

Individuals with disabilities **may not be denied full and equal enjoyment of the "goods, services, facilities, privileges, advantages, or accommodations."**

The phrase "goods, services, facilities, privileges, advantages, or accommodations" applies to **whatever type of good or service a public accommodation provides** to its customers or clients.

In other words, a public accommodation must ensure **equal opportunity for individuals with disabilities.**



**Equal
opportunity to
participate**

**Equal
opportunity to
benefit; and**

**Receipt of
benefits in the
most integrated
setting
appropriate.**

Relationship between ADA Title II and Title III

Government – such as Miami-Dade County – is not subject to ADA Title III, which covers only public accommodations. Conversely, public accommodations are not subject to Title II.

In many situations, however, gov't. has a close relationship to public accommodations that are covered by Title III, **with the result that certain activities may be at least indirectly affected by both titles.**



A privately owned restaurant in a State park operates for the convenience of park users under a concession agreement with a State parks dep't. As a public accommodation, the restaurant is subject to Title III & must meet those obligations. The parks dep't is subject to title II, & is obligated to ensure by contract that the restaurant is operated in a manner that enables the parks dep't. to meet its Title II obligations, even though the restaurant is not directly subject to Title II.

The ADA prohibits discriminatory denial of services or benefits to individuals with disabilities.

Under the Civil Rights Act of 1964, a restaurant cannot refuse to admit an individual because of his or her race. Under the ADA, it cannot refuse to admit an individual merely because he or she has a disability.

ILLUSTRATION: A theater cannot refuse to admit an individual with Down Syndrome to a performance merely because of the individual's disability.

The ADA mandates an equal opportunity to participate in or benefit from the goods and services offered by a place of public accommodation, but does not guarantee that an individual with a disability must achieve an identical result or level of achievement as persons without disabilities.

ILLUSTRATION: An individual who uses a wheelchair may not be excluded from an exercise class at a health club because he or she cannot do all of the exercises and derive exactly the same result from the class as persons without disabilities.

A primary goal of the ADA is the equal participation of individuals with disabilities in the "mainstream" of American society.

- Individuals with disabilities must be integrated to the maximum extent appropriate.
- Separate programs are permitted where necessary to ensure equal opportunity. A separate program must be appropriate to the particular individual.
- Individuals with disabilities cannot be excluded from the regular program, or required to accept special services or benefits.

Any separate or special programs must, however, be specifically designed to meet the needs of the individuals with disabilities for whom they are provided.

EXAMPLE: Museums generally do not allow visitors to touch exhibits because handling can cause damage to the objects. A museum may offer a special “touch tour” for individuals with vision impairments during which they’re permitted to handle specific objects on a limited basis.

Even if a separate or special program for individuals with disabilities is offered, a **public accommodation cannot deny an individual with a disability participation in its regular program**, unless some other limitation on the obligation to provide services applies.

EXAMPLE: A museum cannot forbid someone who is blind from going on a standard tour, even if a special “touch tour” is also offered.

Although it is recognized that mechanical failures in equipment such as elevators or automatic doors will occur occasionally, the obligation to ensure that facilities are accessible to individuals with disabilities would be violated, **if repairs are not made promptly or if improper or inadequate maintenance causes repeated and persistent failures.**



A public accommodation cannot impose eligibility criteria that screen out persons w/ disabilities from enjoying goods, services, privileges, advantages, or accommodations offered to those w/o disabilities, unless it can show that such requirements are necessary.

EXAMPLE: A cruise ship discovers that an individual who uses a wheelchair has made a reservation for a cruise and plans to travel independently. The cruise line notifies the individual that she **must** bring a "traveling companion" or her reservation will be cancelled.

Requiring a traveling companion as an eligibility criterion **violates** the ADA, unless the cruise line demonstrates that its policy is necessary for some **compelling reason**.



A public accommodation must reasonably modify its policies, practices, or procedures to avoid discrimination.

A “no pets” policy must be modified to permit service animals.

Safety requirements that are necessary for the safe operation of a program may be imposed if they are based on actual risks and **not on mere speculation, stereotypes, or generalizations** about individuals with disabilities.

If the public accommodation can demonstrate, however, that a modification of a program or policy would fundamentally alter the nature of the goods/services provided, it is not required to make the modification.

EXAMPLE: A science museum includes a planetarium. During the shows, the lights are turned down so patrons can see the stars and planets projected onto the dome. The management would not have to leave the lights on to accommodate a patron whose disability has taken away his night vision. **Leaving the lights on would fundamentally alter the planetarium's programs.**

A public accommodation is not required to provide individuals with disabilities with personal devices (i.e. wheelchairs, glasses, hearing aids, etc.) or to provide services of a personal nature, such as assistance in eating, toileting, or dressing.

BUT the phrase "services of a personal nature" does not include minor assistance.

For example, **measures taken as alternatives to barrier removal**, such as retrieving items from shelves or providing home delivery, or **actions required as modifications in policies, practices, and procedures**, such as a waiter's removing the cover from a customer's straw, a kitchen's cutting up food into smaller pieces, or a bank's filling out a deposit slip, would **not** be considered "services of a personal nature."

Can a facility or organization refuse to provide a requested accommodation?

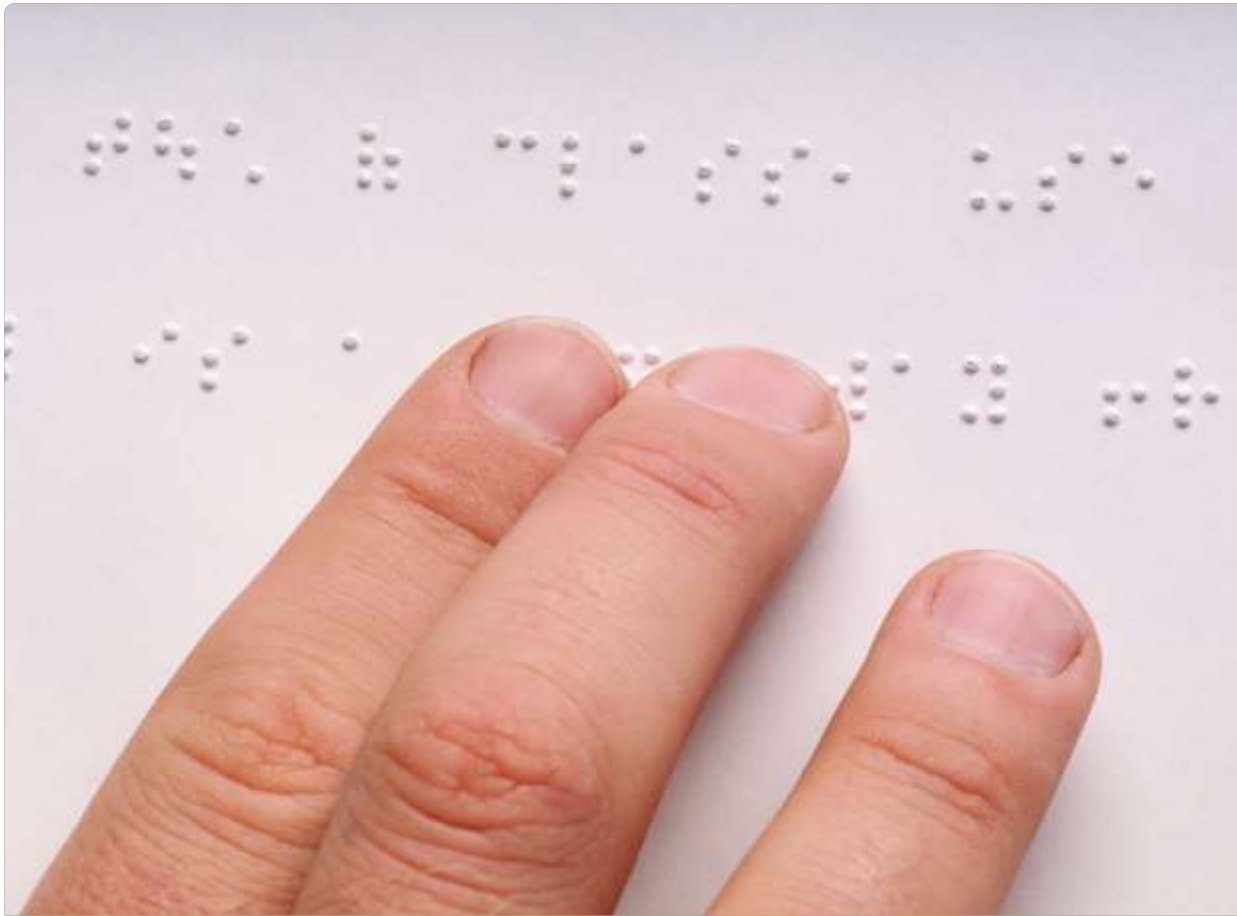


Yes, if:

1. Requester does **not** have a disability; **OR**
2. The accommodation is either **not related to the requester's disability or not necessary** for the requester to access programs/services; **OR**
3. The accommodation is **not reasonable**: costs too much or is a request for something the facility does not otherwise provide.

You must ensure that you **communicate as effectively** with persons with disabilities as you do with those who don't have disabilities.

Sometimes this means that you must provide **“auxiliary aids”** when communicating with individuals with hearing, vision, or speech impairments.



"Auxiliary aids" include sign language interpreters, assistive listening headsets, TV captioning, phones with volume control, written words recorded on audiotape, large print materials and Brailled materials.

The best way to find out what auxiliary aid is the right one is to **ask the person who needs it.**

Only 5-10% of people who are blind can read and write in Braille.

Instead, most rely on screen reading and voice recognition software.

The type of auxiliary aid/service necessary to ensure effective communication **will vary in accordance with the length and complexity of the communication** involved.



When communications are very short and simple, exchanging notes with someone who is deaf or has a speech impairment is considered acceptable.*



Persons who are deaf from birth or become deaf before learning language frequently cannot communicate well via conventional written language.

American Sign Language is not English, but rather its a unique language with its own syntax and rules of grammar.

There is no well-established writing system for ASL.

Many deaf and hard of hearing people do not lip read well, if at all.

90% of deaf people do not read lips proficiently. This is because many speech sounds have identical mouth movements and are difficult to discern.

Those who have grown up deaf may never have heard the spoken language and are unlikely to be fluent users of it.

Even when someone has lip reading skills, **accuracy is typically around 30%.**

“Deaf and hard-of-hearing people are hit particularly hard by the vocabulary of English. The English vocabulary of an average deaf 15-year-old is nowhere near that of a hearing 9-year-old and, unlike the vocabulary of the 9-year-old, will probably not improve significantly.

Simply put, many deaf people do not understand the words we are using, even if the words are put into a visible form by writing or finger-spelling. In fact, many relatively educated deaf people will not recognize English words that are known by uneducated, functionally illiterate hearing people.”

-- Quote from *Audrey R. Linton v. State of Texas*

11th Annual
Party in the Park

60s, 70s, & 80s Festival
Live Music
Great Food

Presented By Catholic Health Services

FEATURING
EDDIE MONEY

May 4, 2014
11 a.m. – 6:30 p.m.

Greynolds Park
18500 NE 22nd Ave.
North Miami Beach

www.miamipartyinthepark.com

MIRAMONTE COUNTY
MIAMI-DADE COUNTY
MIAMI 102.7
at&t

To request material in accessible format, information on access for persons with disabilities, or sign language interpreter services (7 days in advance), call 305-755-7944.

Universal Access Statement

People with disabilities need a mechanism to request accessible communications or other types of accommodations as well as materials in alternate format prior to a public meeting or event. To provide this mechanism, all notices of public meetings and events must contain a universal access statement.

UNIVERSAL ACCESS STATEMENT

County Procedure No. **579**:

PROVIDING EFFECTIVE COMMUNICATION TO PERSONS WITH DISABILITIES

To request materials in accessible format, sign language interpreters, and/or any accommodation to participate in any County-sponsored program or meeting, please contact _____ five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service.)

[THE ABOVE BLANK IS TO BE FILLED IN WITH THE NAME, TELEPHONE NUMBER, AND E-MAIL ADDRESS, OF THE RESPONSIBLE DEPARTMENTAL PERSON. IF THE DEPARTMENT HAS A TTY AND WISHES TO CONTINUE USING IT, IT MAY INCLUDE THE TTY NUMBER AS WELL, BUT THE TTY NUMBER MUST BE IN ADDITION TO THE EMAIL ADDRESS, AND NOT A SUBSTITUTE FOR IT.]

When public meeting notices do not contain the access statement or are not sent out sufficiently in advance of the meeting for addressing accommodations requests, sign language interpreters and materials in accessible format *must be provided* by the department unless the department knows that no persons needing such accommodations will be attending.

When the County **disseminates materials to the general public** (such as brochures, pamphlets, etc.), people with disabilities need a mechanism by which they can request such materials in alternate format. In order to provide this mechanism, all publications to be disseminated to the general public shall contain the following statement:

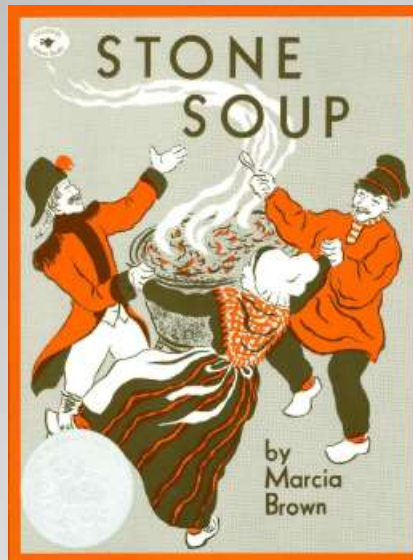
To obtain this information in accessible format, please call_____.

[THE ABOVE BLANK IS TO BE FILLED IN WITH A DEPARTMENTAL PHONE NUMBER THAT IS MANNED BY A STAFF MEMBER WHO CAN APPROPRIATELY RESPOND TO SUCH REQUESTS. AN EMAIL ADDRESS MAY ALSO BE INCLUDED ALONG WITH THE PHONE NUMBER]

Consult with individuals with disabilities wherever possible to determine what type of auxiliary aid is needed.

However, the ultimate decision as to what measures to take rests with your organization, provided that the method chosen results in effective communication.

EXAMPLE: S has tickets to a play. When S arrives at the theater, the usher notices that S is an individual who is blind and guides S to her seat. An usher is also available to guide S to her seat following intermission. With the provision of these services, a Brailled ticket is not necessary for effective communication in seating S.



Stone Soup: Theatre Class for 6-8 year olds

4 week session:
Tuesdays in February 2/3-2/24
4-5pm

TICKETING

PATRONS WITH DISABILITIES MUST HAVE AN EQUAL OPPORTUNITY TO PURCHASE TICKETS FOR ACCESSIBLE SEATING:

1. During the same **hours**;
2. During the same **stages** of ticket sales, including, but not limited to, pre-sales, promotions, lotteries, wait-lists, and general sales;
3. Through the same **methods of distribution**;
4. In the same types and numbers of **ticketing sales outlets**, including telephone service, in-person ticket sales at the facility, or third-party ticketing services, as other patrons; and
5. Under the same **terms and conditions** as other tickets sold for the same event or series of events.

TICKET PRICES

- The **price** of tickets for accessible seating shall not be set higher than the price for other tickets in the **same seating section**.
- Tickets for accessible seating must be made available **at all price levels** for every event or series of events.
- If tickets for accessible seating at a particular price level are not available because of inaccessible features, then the **percentage of tickets** for accessible seating that should have been available at that price level (determined by the ratio of the total number of tickets at that price level to the total number of tickets in the assembly area) shall be offered for purchase, at that price level, in a nearby or similar accessible location.

Secondary Market

- Facility must modify policies/practices/procedures to ensure **disabled patron may use a ticket acquired in secondary ticket market** under same terms and conditions as others who hold a ticket acquired in secondary ticket market.
- If disabled patron acquires a ticket to inaccessible seat through secondary market, facility shall make reasonable mods to its policies/practices/procedures to allow individual to **exchange ticket for one to accessible seat in a comparable location** if accessible seating is vacant when ticket is presented.

Newseum



Dynamic, interactive museum allows visitors to experience the stories of yesterday & today through the eyes of the media while celebrating the freedoms guaranteed to all Americans by the First Amendment.

US DOJ announced in Dec. 2013 that it reached a settlement with the Newseum to address alleged ADA violations.

The settlement agreement resolved allegations that the Newseum was **operating exhibits and providing facilities that were not accessible to people with disabilities.**

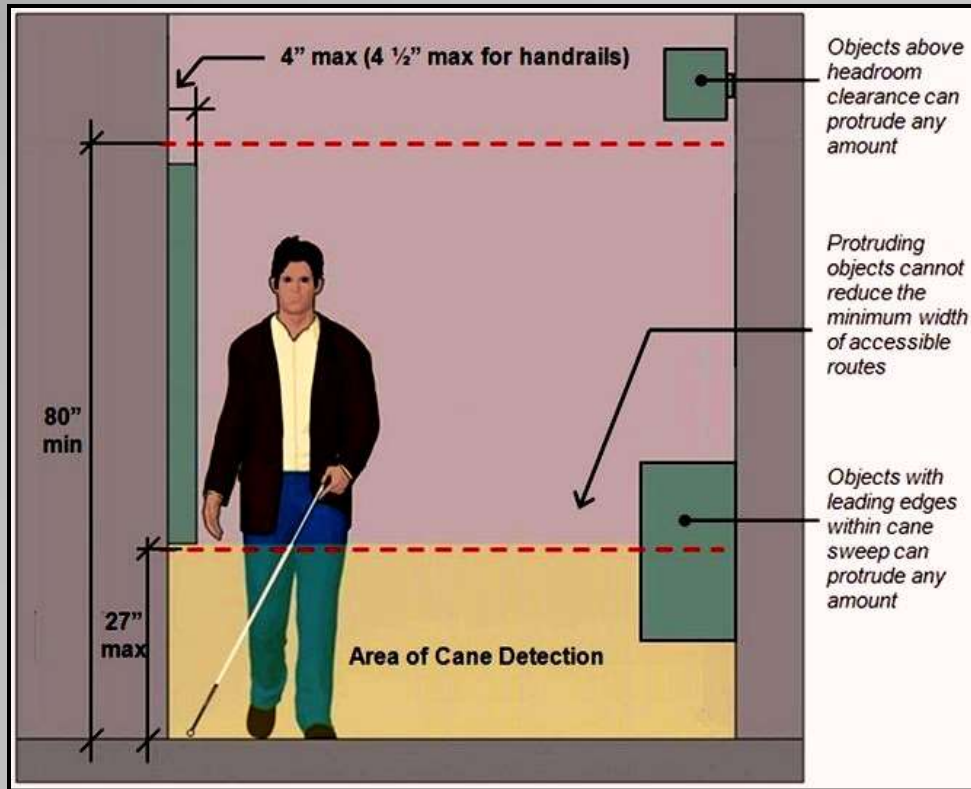
Settlement required the Newseum to take steps to ensure that all of its **programs, exhibits and facilities are accessible to people with disabilities.**

The museum's current location was built at a cost of \$450 million and opened its doors to the public on **April 11, 2008.**

Item	Location	Findings	1991 Stds Citation 28 CFR pt 36	Remedial Measures
28	The “Running from Danger” Theater	There are 2 benches of equal length in this room so the wheelchair locations are not “an integral part of the fixed seating plan” as required.	§ 4.33.3	Modify the front bench to be shorter so that there is a wheelchair space at the end of the bench similar to the configuration in the “Sidebar” theaters on Level 5.

Categories of ADA Barriers in Newseum Settlement

- Architectural Findings & Remedial Measures
- Auxiliary Aids & Services for Patrons Who Are Blind or Have Low Vision
- Auxiliary Aids & Services for Patrons Who Are Deaf or Hard of Hearing
- Effective Communication & Modifications of Policies, Practices, & Procedure
- Modification of Policies, Practices, & Procedures for Patrons With Mobility Disabilities



- The bottom edge of the roof structure of the "Berlin Wall Death Tower" is 77½ inches above the finish floor, not the min. 80 inches above the finish floor.
- Entry doors into all public use toilet rooms require more than the max. allowable 5 lbs of force to open.
- Accessible portion of gift shop counter is obstructed by merchandise.
- Pay phones adjacent to coat check near Pulitzer Prize photos lacks required 27 inches high by 30 inches wide knee space.
- Building's floor plan is available only in print format.

NEWSEUM SETTLEMENT REMEDIAL MEASURES

- Providing additional wheelchair spaces & companion seats in the Annenberg Theater.
- Providing assistive listening devices for patrons who are deaf or hard of hearing in the Newseum's 15 theaters, & providing captioning & other auxiliary aids/services throughout its more than 20 galleries of exhibitions & interactive programs
- Ensuring that operating controls of all Newseum interactive programs are within the reach-range of people who use wheelchairs.
- Providing tours that are audio described and include tactile experiences for individuals who are blind or have impaired vision.
- Providing printed materials and maps in alternate formats (e.g., audio, large print and Braille).



Provide tactile experiences with objects/models that convey the themes of exhibits:

- Ted Kacsynski's cabin
- Robert Hanssen's espionage tools
- Bullet-ridden truck used by *Time* photographers in the Balkans
- Raised-line versions of Pulitzer Prize winning photos

2003 CONSENT DECREE US DOJ AND SHUBERT ORGANIZATION



- U.S. Attorney's Office filed suit against Shubert challenging inaccessibility of 16 Broadway theaters. Parties entered a consent decree resolving the lawsuit.
- Shubert agreed to take a wide range of steps to dramatically increase accessibility for persons with disabilities
- In addition, Shubert agreed to pay a civil penalty of \$50,000.

SHUBERT CONSENT DECREE

- Modified theater **entrances** to be accessible
- Created WC **seating locations** in orchestra sections of all 16 theaters
- Adjusted ticket prices for WC seats to **compensate for inaccessibility** of mezzanines and balconies
- Installed **unisex** accessible restrooms in most theaters
- Tickets for accessible seating **restricted to purchase** by people with disabilities until all other seating in theater is sold out.
- Offer **waiter service** to WC users in theaters in which concession stands are inaccessible and cannot be modified
- Provide cane-detectable barriers at **protruding objects**

COMMON ADA BARRIERS IN THEATER SETTING

- **Online ticket purchases:** Seating charts not sufficiently detailed; websites that block purchase of a single WC seat b/c not on end of row; purchases from secondary market, i.e. Stub Hub
- **Websites:** Need more info appropriately organized; accessible via screen-reading software; create an app containing access info
- **Main entrance** is not the accessible one and there's a lack of accessible entrance/route signage
- **Info:** No clearly marked location to get info upon arrival
- **Staff:** Willingness to help is great, but they must be knowledgeable
- **Distribution of seats:** Locations, number of seats, inflexibility
- **Seating line of sight:** Pricier orchestra seats should allow patron to see stage better than cheaper balcony seats
- **Restroom access:** More unisex/family restrooms, please!
- **Vending counters:** Concessions and souvenirs

ARTS RESOURCES

- **VSA Arts**
- **Cummer Museum of Art & Gardens:** Adaptive Art Resources
- **National Arts and Disability Center:** promotes full inclusion of audiences & artists with disabilities into all facets of arts community.
- **Job Accommodation Network:**
<http://askjan.org/media/ASD.html>



You must allow patrons with mobility disabilities to use wheelchairs and manually-powered mobility aids in any areas open to pedestrian use.

Mobility Devices



Devices are evolving

OTHER POWER-DRIVEN MOBILITY DEVICES (OPDMDS)

Any mobility device **powered by batteries, fuel, or other engines** -- whether or not designed primarily for use by individuals with mobility disabilities -- that is used by individuals with mobility disabilities **for the purpose of locomotion**, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, **but that is not a wheelchair.**

You must make reasonable modifications in policies/practices/procedures to permit use of **OPDMDs** by individuals with mobility disabilities unless you can demonstrate that the class of **OPDMDs** cannot be operated in accordance with legitimate safety requirements necessary for the safe operation of applicable services/programs/activities.

You must ensure, however, that safety requirements are based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

To determine whether an OPDMD will be allowed in a specific facility, you must consider the following:

1. The **type, size, weight, dimensions, and speed** of the device;
2. The facility's **volume of pedestrian traffic** (which may vary at different times of the day, week, month, or year);
3. The **facility's design and operational characteristics** (e.g., whether its service, program, or activity is conducted indoors, its square footage, the density and placement of stationary devices, and the availability of storage for the device, if requested by the user);
4. Whether **legitimate safety requirements** can be established to permit the safe operation of the **OPDMD** in the specific facility; and
5. Whether the use of the **OPDMD** creates a **substantial risk of serious harm** to the immediate environment or natural or cultural resources, or poses a conflict with all applicable land management laws and regulations.

I'M WALLY'S
SERVICE MONKEY.
I'LL BE FIELDING ANY
QUESTIONS DIRECTED
AT WALLY.



Dilbert.com DilbertCartoonist@gmail.com

WITH ALL DUE
RESPECT, A BUSINESS
MEETING IS NO PLACE
FOR A MONKEY.



4-28-12 © 2012 Scott Adams, Inc. /Dist. by Universal Uclick

WITH ALL DUE RESPECT,
THAT WAS A STRONGER
ARGUMENT BEFORE I
SAW YOUR POWERPOINT
SLIDES.



A Word About Service Animals

Owner's Obligations

A service animal must have a harness, leash, or other tether, unless the owner is unable to utilize such measures because of a disability.

Owner cannot be asked to remove his/her service animal from the premises **unless**:

- The animal is **out of control** and owner does not take effective action to control it (for example, a dog lunges or shows other aggressive behavior) or
- The animal is **not housebroken**.

**NO EXOTIC SPECIES
PRIMARYLY DOGS
*OCCASIONALLY MINI HORSES**



Cannot require the owner to present any special ID cards or proof that animal has been certified, trained, or licensed as a service animal.

May ask **(1)** if animal is a service animal & **(2)** what tasks the animal has been trained to perform.

Cannot ask questions about the nature or extent of owner's disability.

One of the most serious consequences . . . is the dehumanizing negative evaluations we attach to people when they have been plastered with a damning label. Because we have slapped a label on them, we assume we have identified the essence of this person semantically branded . . . The power of labels to stigmatize, create self-fulfilling prophecies and reduce or enhance self-images is awesome . . . Until we learn to appreciate the power of language and the importance of using it responsibly, we will continue to produce negative social consequences for those victimized by dangerous language habits.

-- J. Dan Rothwell, *Telling It Like It Isn't: Language Misuse and Malpractice/What We Can Do About It*

What is People-First Language?

- A way of speaking and referring to people with disabilities that respects them as human beings, rather than dehumanizes them.
- Emphasizes the person first and their disability second.
- Uses language that is objective rather than words that are subjective or have pejorative connotations.

EXAMPLES

YES

- People with disabilities
- People with AIDS
- Kate has (a diagnosis of) autism.
- Bob has a mobility disability or impairment.
- Nora uses a wheelchair/is a wheelchair user.
- Tom has a mental health condition.

- Children without disabilities
- Tonya has a developmental disability.
- Pedro has multiple sclerosis.

NO

- The handicapped or disabled
- AIDS victims/AIDS patients
- Kate is autistic.
- Bob is a quadriplegic/cripple.

- Nora is confined to a wheelchair/is wheelchair bound.
- Tom is emotionally disturbed/mentally ill/crazy.
- Normal/healthy/typical children
- Tonya is retarded.

- Pedro is stricken/afflicted with MS; is an MS victim.

Breaking Down Barriers

Tolerance, understanding, and respect.



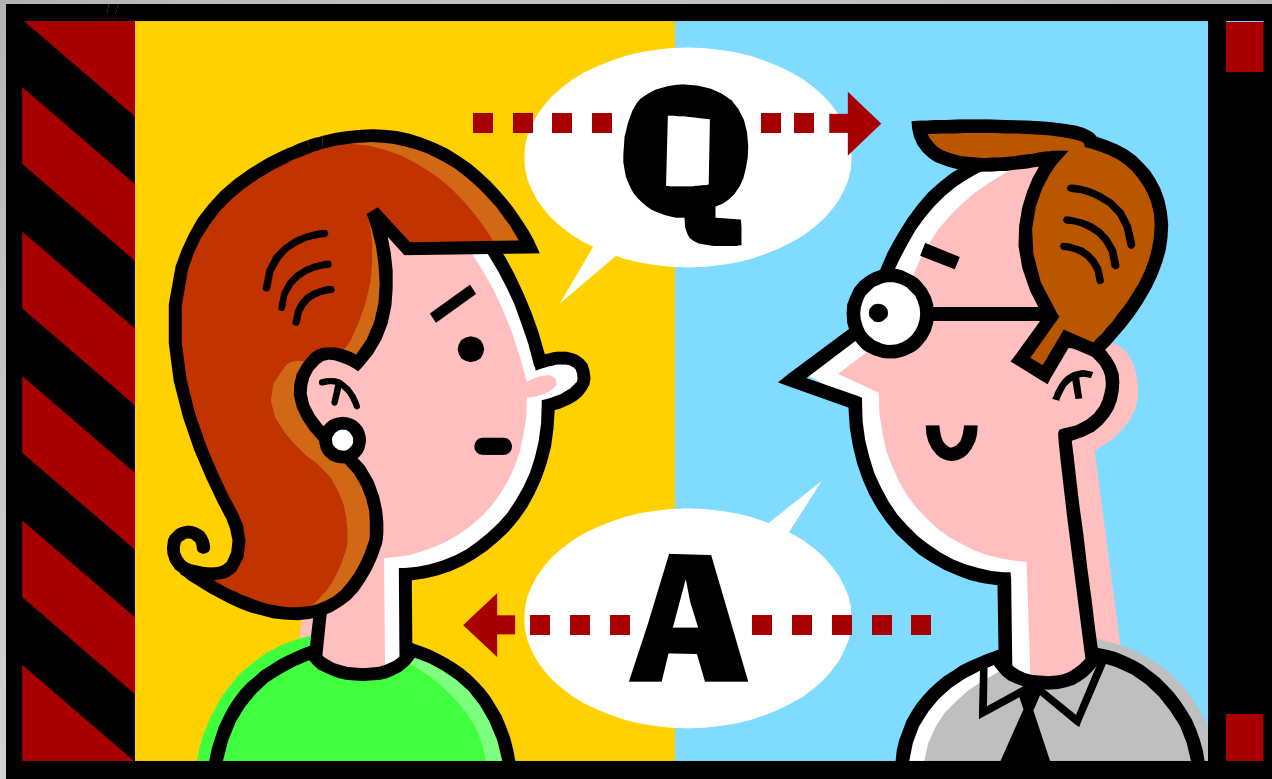
You can offer assistance to a someone with a disability, but wait until your offer is accepted before you help.

The person with a disability will know the best way to assist him/her.



- Listen to the person with the disability. Don't make assumptions about what he/she can or cannot do.
- When speaking with a person with a disability, talk directly to the person, not through his or her companion. This applies when speaking with someone who is deaf and uses an interpreter.

If the someone has a speech impairment and you are having trouble understanding what he/she is saying, ask the person to repeat rather than pretend you understand.



QUESTIONS?