

TRANSPORTATION SYMPOSIUM

2019

ADA in the 21st Century

Is the Americans with Disabilities Act (ADA) Still Relevant?



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Accessible by Design, LLC

ADA in the 21st Century

- Enacted almost 29 years ago, is the Americans with Disabilities Act still relevant?
- This session will describe the basis of this landmark Civil Rights Law, discuss how it is still current and why it is imperative that we continue to strive to provide safe and accessible transportation facilities and services to all our customers.



President George H. W. Bush

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- The ADA is based on Section 504 of the Rehabilitation Act of 1973
 - Accessibility to federal programs – entities that receive federal funds
- The ADA was enacted on July 26, 1990
 - The ADA is not tied to federal funding
 - Under Title II, all government agencies must comply
 - Under Title III, most private entities must comply
- Regulations & Standards were published on July 26, 1991
- The ADA became effective on January 26, 1992
- It was updated in 2008 – ADA Amendments Act (ADAAA)
 - Restated Congressional intent

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- **Congressional Findings (ADA 1990)**

1. Many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;
2. Historically, society has tended to isolate and segregate individuals with disabilities and continue to be a serious and pervasive social problem;

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- **Congressional Findings (ADA cont.)**

3. discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;
4. individuals who have experienced discrimination on the basis of disability often had no legal recourse to redress such discrimination;

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- **Congressional Findings (ADA cont.)**

5. Individuals with disabilities continually encounter various forms of discrimination, in the areas of architectural, transportation, and communication barriers, failure to make modifications to existing facilities and practices, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;
6. Census data, national polls, and other studies have documented that people with disabilities are severely disadvantaged socially, vocationally, economically, and educationally;

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- **Congressional Findings (ADA cont.)**

7. The Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and
8. The continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis, to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

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- **Purposes (ADA 1990)**

It is the purpose of this chapter...

1. to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
2. to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

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- **Purposes (ADA cont.)**

3. to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and
4. to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

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- **Congressional Findings (ADAAA 2008)**

1. In enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" and provide broad coverage;
2. In enacting the ADA, Congress recognized that physical and mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

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- **Congressional Findings (ADAAA cont.)**

3. While Congress expected that the definition of disability under the ADA would be interpreted consistently, that expectation has not been fulfilled;
4. The holdings of the Supreme Court in *Sutton v. United Air Lines* and companion cases have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect;

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- **Congressional Findings (ADAAA cont.)**

5. The holding of the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams* further narrowed the broad scope of protection intended to be afforded by the ADA;
6. As a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities;

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- **Congressional Findings (ADAAA cont.)**

7. In particular, the Supreme Court, in the case of Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, interpreted the term "substantially limits" to require a greater degree of limitation than was intended by Congress; and
8. Congress finds that the current Equal Employment Opportunity Commission ADA regulations defining the term "substantially limits" as "significantly restricted" are inconsistent with congressional intent, by expressing too high a standard.

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- **Purposes (ADAAA 2008)**

1. To carry out the ADA's objectives of providing "a clear and comprehensive national mandate for the elimination of discrimination" and "clear, strong, consistent, enforceable standards addressing discrimination" by reinstating a broad scope of protection to be available under the ADA;
2. To reject the requirement enunciated by the Supreme Court in *Sutton v. United Air Lines* and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to mitigating measures;

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- **Purposes (ADAAA cont.)**

3. To reject the Supreme Court's reasoning in *Sutton v. United Air Lines, Inc.*, and to reinstate the reasoning of the Supreme Court in *School Board of Nassau County v. Arline*, which set forth a broad view of the third prong of the definition of handicap
4. To reject the standards enunciated by the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, that the terms "substantially" and "major" in the definition of disability under the ADA "need to be interpreted strictly to create a demanding standard for qualifying as disabled"

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- **Purposes (ADAAA cont.)**

5. In Williams, and applied by lower courts in numerous decisions, has created an inappropriately high level of limitation necessary to obtain coverage under the ADA, and whether an individual's impairment is a disability under the ADA should not demand extensive analysis; and
6. To express Congress' expectation that the Equal Employment Opportunity Commission will revise that portion of its current regulations that defines the term "substantially limits" as "significantly restricted" to be consistent with this Act, including the amendments made by this Act.

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- **ADA Regulations**

- DOT 49 CFR 37 – transportation services and facilities
- DOJ 35 CFR 28 – other facilities and sites

- **ADA Standards**

- ADA Standards for Transportation Facilities – ‘Transportation’ is the primary function of the facility
 - Bus stops, transit stations, railway stations, airports, etc.
- ADA Standards for Accessible Design – Buildings and Sites
 - Office buildings, shopping, restaurants, movie theaters, etc.

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- **49 CFR 37**

- (a) For purposes of this part, a transportation facility shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the requirements set forth in Appendices B and D to 36 CFR part 1191, which apply to buildings and facilities covered by the Americans with Disabilities Act, as modified by Appendix A to this part.

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- **49 CFR 37**

- Appendix A – Modifications

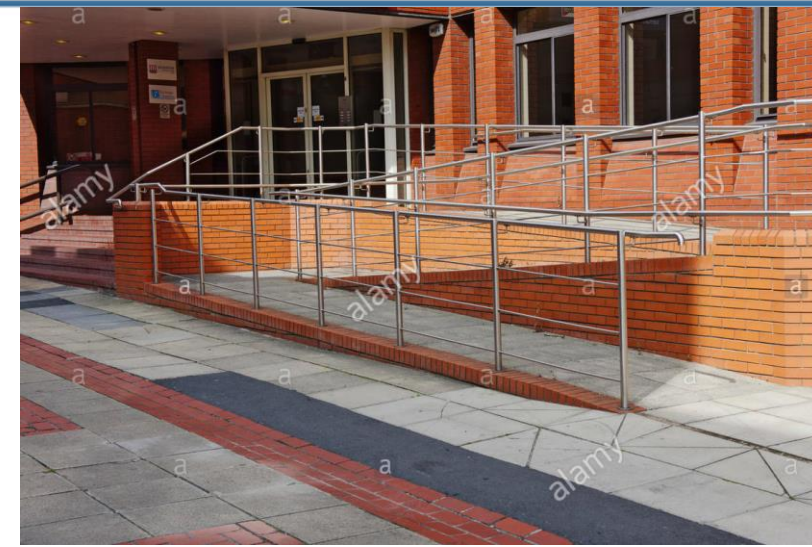
- Location of Accessible Routes (206.3)
 - Detectable Warnings on Curb Ramps (406.8)
 - Bus Boarding and Alighting Areas (810.2.2)
 - Rail Station Platforms (810.5.3)

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- **49 CFR 37 Modifications**

- Location of Accessible Routes (206.3)

- Accessible routes shall coincide with, or be located in the same area as general circulation paths. Where circulation paths are interior, required accessible routes shall also be interior. ***Elements such as ramps, elevators, or other circulation devices, fare vending or other ticketing areas, and fare collection areas shall be placed to minimize the distance which wheelchair users and other persons who cannot negotiate steps may have to travel compared to the general public.***



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- **49 CFR 37 Modifications**

- Detectable Warnings on Curb Ramps (406.8)
 - *A curb ramp shall have a detectable warning complying with 705. The detectable warning shall extend the full width of the curb ramp (exclusive of flared sides) and shall extend either the full depth of the curb ramp or 24 inches deep minimum measured from the back of the curb on the ramp surface.*

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- **49 CFR 37 Modifications**

- Bus Boarding and Alighting Areas (810.2.2)

- Bus boarding and alighting areas shall provide a clear length of 96 inches, measured perpendicular to the curb or vehicle roadway edge, and a clear width of 60 inches, measured parallel to the vehicle roadway. ***Public entities shall ensure that the construction of bus boarding and alighting areas comply with 810.2.2, to the extent the construction specifications are within their control.***



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- **49 CFR 37 Modifications**

- Rail Station Platforms (810.5.3)

- Station platforms shall be positioned to coordinate with vehicles in accordance with the applicable requirements of 36 CFR part 1192. Low-level platforms shall be 8 inches minimum above top of rail. ***In light rail, commuter rail, and intercity rail systems where it is not operationally or structurally feasible to meet the horizontal gap or vertical difference requirements of part 1192 or 49 CFR part 38, mini-high platforms, car-borne or platform-mounted lifts, ramps or bridge plates or similarly manually deployed devices, meeting the requirements of 49 CFR part 38, shall suffice.***



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- **Accessible Transportation Facilities**
 - Sidewalks
 - Surface, width, slope, cross-slope, etc.
 - Curb ramps
 - Surface, width, slope, etc.
 - Detectable warnings
 - Truncated domes, placement, etc.
 - Crossings
 - Slopes, cross-slopes, etc.
 - Pedestrian Signals
 - Reach ranges, maneuvering area, controls, etc.

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- **Sidewalks**

- Firm, stable & slip-resistant (wet or dry)
- Clear Width:
 - Min. 36" in a building or on a site
 - Min. 48" within the public right of way
- Slope: **36" (2010 ADASAD)**
 - Max. 1:20/5% (not a ramp)
 - Max. 1:12/8.3% (ramp, also needs handrails)*
 - *Along roadway, match roadway profile grade
- Cross-slope
 - Max. 2% (design to 1.5%?)



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- **Curb Ramps**

- Width

- Min. 36" wide in a building or on a site
 - Min. 48" wide within the public right of way

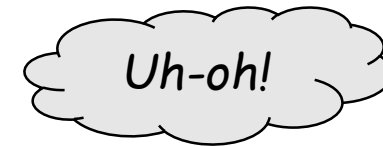
- Slope **36" (2010 ADASAD)**

- Max. 1:12/8.3% (design to 1:14/7.1%?)

- Cross-slope

- Max. 2%*

- *Match sidewalk and roadway grade



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- **Detectable Warnings**

- Truncated domes
 - In rectangular pattern
 - Color/contrast with surrounding surfaces
- Placement
 - 2'-0" min. depth from back of curb
 - Max. 5'-0" from back of curb (CR-F, CR-G, etc.)
 - Full-width of sidewalk or curb ramp
 - Within 1-2" (allow for constructability)



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- **Crossings (PROWAG)**

- Slope of crossing is cross-slope of roadway
- Cross-slope of crossing is slope of roadway
 - Max. 5% slope of crossing
 - Max. 2% cross-slope of crossing – STOP or YIELD controlled crossing
 - Max. 5% cross-slope of crossing – signal or no control crossing
 - Match roadway grade – mid-block crossing



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- **Pedestrian Signals (MUTCD)**

- Location

- Standard: 2'-6' from edge of roadway pavement or curb face
 - Max. 10' from pavement or curb face

- Reach Ranges to Push-button

- Side reach: 42"-48" above walking surface
 - Forward reach: 42"-48" above walking surface
 - 10" max. offset over base, guardrail, edge of sidewalk, etc.



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- **Pedestrian Signals (cont.)**

- Maneuvering Space

- Level surface: max. 2% slope in any direction (i.e., top of curb ramp)
 - Min. 30"x48" w/in reach range of push-button

- Controls/Operable Parts

- 2" diameter button
 - Max. 5# force to operate



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- **Pedestrian Signals (cont.)**

- Accessible Pedestrian Signals

- For pedestrians with vision impairments
 - Used in conjunction with pedestrian signal timing
 - Add “non-visual” information:
 - Tactile features
 - Audible tones
 - Vibrating surfaces
 - Speech messages
 - Must indicate which crossing is served by each device



ADA Standards – FDOT Standard Plans – PROWAG

Accessible Feature	ADA Standards	DOT Standard Plans	PROWAG
AR/PAR Width	36"	48"	48"
Passing Space	8' x 8' - 200'	8' x 8' - 200'	8' x 8' - 200'
AR/PAR Grade	5% max.	Match roadway grade	Match roadway grade
AR/PAR Cross-slope	2% max.	2% max., Sidewalk	2% max., Sidewalk
Ramp Slope	8.3% max.	8.3% max.	8.3% max.
Surfaces	Firm, stable, slip-resistant	Firm, stable, slip-resistant	Firm, stable, slip-resistant
Vertical Alignment	¼" max.	¼" max.	¼" max.
Discontinuities	½" w/1:2 slope	½" w/1:2 slope	½" w/1:2 slope
Horizontal Openings	½" max.	½" max.	½" max.
RR Flangeway Gaps	n/a	2 ½" Passenger	2 ½" Passenger
RR Flangeway Gaps	n/a	5" Freight	5" Freight
Curb Ramp Width	36" min.	48" min.	48" min.
Curb Ramp Slope	1:12 max.	1:12 max.	1:12 max.
Landing at Top	36" x 36"	48" x 48"	48" x 48"
Landing at Bottom	48" x 48"	48" x 48"	48" x 48"
Curb Ramp Cross-slope	2% max.	2% max.	2% max., Stop/Yield
Curb Ramp Cross-slope	2% max.	Match road grade, Signal or Mid-block	Match road grade, Signal or Mid-block
Counter Slope	5% max.	5% max.	5% max.
Detectable Warnings	24" x full width	24" x full width	24" x full width
DW Placement	Back of curb	Back of curb / 5'	Back of curb / 5'
DW Placement at RRs	n/a	6'-15' to CL of nearest rail	6'-15' to CL of nearest rail
Crossing Cross-slope	2% max.	2% max., Stop/Yield	2% max., Stop/Yield
Crossing Cross-slope	2% max.	5% max., Signal	5% max., Signal
Crossing Cross-slope	2% max.	Match road grade, Mid-block	Match road grade, Mid-block
Pedestrian Signal Timing	n/a	3.5 fps or less	3.5 fps or less
Accessible Pedestrian Signals	n/a	Upon request	Required
Boarding & Alighting Area	n/a	5' x 8' / 2%	5' x 8' / 2%
On-street parking	n/a	8' wide x 22' long	No size criteria
Passenger Loading Zones	5' x full-length of space	n/a	5' x full-length of space

Feature = FDOT has adopted PROWAG criteria

Feature = FDOT has not adopted PROWAG criteria

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- **Other Issues regarding pedestrians, especially for those with disabilities**
 - Safety and accessibility...
 - At roundabouts
 - Around/through work zones
 - To, from and at transit facilities
 - At railroad crossings

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- **Safety and accessibility – At Roundabouts**

- Especially for pedestrians who are blind or have low vision
 - Where to cross: How do I find the crossing?
 - Which way to cross: What are the alignment cues?
 - When to cross: How do I distinguish 'gaps' in traffic?
 - Will drivers yield?



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- **Safety and accessibility – Around/through work zones**
 - Temporary Traffic Control (TTC) plans, must include...
 - Advance warning of sidewalk closures
 - “Accessible” pedestrian detours/diversions
 - Protection devices
 - Way-finding/Channelizing devices



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- **Safety and accessibility – To, from and at transit facilities**

- What are the originations and destinations?
- Are there pedestrian facilities to the bus stop?
 - Sidewalks, shoulders, etc.
- What amenities are at the bus stop?
 - Bench, shelter, bike rack, waste receptacle, shopping cart corral, etc.
- Are any/all of these accessible?
 - (Note: they should be...)

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- **Safety and accessibility – At railroad crossings**

- Does the pedestrian way cross the tracks?
 - Or stop/start on each side?
- What is the pedestrian crossing material?
 - Concrete, asphalt, rubber, wood, etc.
- How are the flangeway gaps handled?



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• References

- Manual on Uniform Traffic Control Devices (MUTCD)
 - https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/pdf_index.htm
- ADA Standards for Transportation Facilities (ADASTF)
 - <https://www.access-board.gov/guidelines-and-standards/transportation/facilities/ada-standards-for-transportation-facilities>
- Public Rights of Way Accessibility Guidelines (PROWAG)
 - <https://www.access-board.gov/guidelines-and-standards/streets-sidewalks>
- FDOT ADA Website
 - <https://www.fdot.gov/roadway/ada>

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U.S. Access Board

- Accessibility Guidelines - ADAAG
- www.access-board.gov



U.S. Dept. of Justice - ADA

- Accessibility Standards for Facilities & Sites
- www.ada.gov



U.S. Dept. of Transportation – FHWA

- Accessibility Guidance & Standards for Public Rights of Way
- www.dot.gov/citizen_services/disability/disability.html



Florida Dept. of Transportation - FDOT

- ADA information on Website
- www.fdot.gov/roadway/ADA/default.shtm

Help is available



- Local:
 - City/County ADA Coordinator
- State:
 - FDOT District ADA Coordinator
 - FDOT C.O. ADA Coordinator
 - Brad Bradley 850-414-4295
 - brad.Bradley@dot.state.fl.us
- Federal:
 - U.S. Access Board
 - U.S. DOT - FHWA
 - U.S. Department of Justice

Thank You!

Merci! Todah Rabbah

Arigato!

Dhanya Vaad!

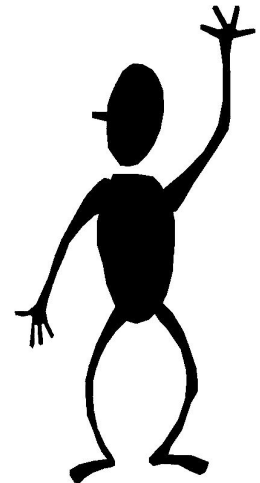
Xie Xie!

Gracias!

Shokran!

Danke!

LIVE LONG AND PROSPER!



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Bye!



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