

CHAPTER 5

Accessibility and Outdoor Recreation

This chapter addresses some of the common challenges and issues park professionals and other interested people face when trying to make their programs, services, and activities accessible to people with disabilities. Included is information about the requirements involved, pertinent legislation, guidelines to follow, and even potential resources to help succeed in the effort.

WHO BENEFITS FROM ACCESSIBILITY?

There are few recreational programs that have not felt the challenge of doing more with less. Fewer financial resources, fewer personnel, less time ... It might be tempting to argue that accessibility costs too much. Have you thought about the cost of not providing access to people and not just “people with disabilities?”

Accessibility benefits many with disabilities, but there is a significant number of people who end up being helped who are not technically “disabled.” For example, a ramp benefits the:

- Family with large, heavy gear and folding chairs
- Person pushing a child in a stroller
- Older person with bad knees
- Person on crutches coming back from a skiing holiday
- Park employees taking equipment from a boat

- Young artists with heavy paints and easel
- School group on a field trip (less likely to stumble)
- Couple carrying a heavy lunch basket
- Emergency personnel responding with equipment

It is estimated there are more than 54 million people in our country today who meet the legal definition of a person with a disability. This includes those who have significant degrees of mobility, sensory, or cognitive limitations. In Indiana, there are about 900,000 people 5 years of age and older who reported having a disability. These numbers make people with disabilities the largest minority group in the nation. Many of these people have spouses, children, relatives, and friends. They belong to churches, support groups, and social organizations.

Further, when we consider the growing percentage of our population that is age 65 or older, those with invisible disabilities such as cardiac and respiratory problems, returning veterans, those who have temporary disabilities such as broken arms or legs, parents with strollers and wheeled devices, and the families and friends who travel with these individuals, it takes little effort to see that virtually everyone benefits from accessibility.

And these people with disabilities (according to

the U.S. Census Bureau) have \$220 billion in discretionary spending power. Open Doors Organization released a 2015 Market Study that showed American adults with disabilities spend \$17.3 billion annually on just their own travel. When facilities and programs are “universally designed” to serve all people, access is generally enhanced for everyone.

This is not the case with non-accessible design. In addition, research has shown that if accessibility is provided at the design stage, the extra cost is negligible. Studies show that the additional cost of making a building accessible costs an average of 0.5% more, and rarely more than 1.0% of the total cost. This incremental cost is modest, especially relative to the large percentage of the population who benefits.

We believe that the best way to approach the issue of accessibility is in a comprehensive, organized way rather than on a project-by-project basis. The primary goal is to develop and coordinate a systemwide, comprehensive approach to achieving the highest level of accessibility that is reasonable while ensuring consistency with other legal mandates as well as the conservation and protection of the resources we manage.

Since at least 1993, the DNR has worked with an accessibility coordinator to:

1. assess the level of accessibility of various properties;
2. identify the barriers to accessibility;
3. develop policies and guidelines regarding appropriate methods and techniques for improving access; and
4. provide technical assistance and in-service training on effective approaches and program implementation.

There are many reasons for initiating accessibility efforts:

Legal benefits

- Meeting the legal mandates
- Avoid arbitrations/mediations
- Avoid court cases

Technical benefits

- Ramps are easier to manage/clean
- Accessibility features require little if any extra effort
- Good for all, not just people with disabilities
- Improve use

Economic benefits

- Increase productivity—spend less time defending complaints
- Reduce costs (maintenance/support)
- Decrease injury claims (public and worker)
- Increase profits (from greater participation)

PR benefits

- Property seen as inclusive and forward-looking
- Avoid complaints
- Avoid negative media coverage

It simply makes good sense to employ principles of “universal design” in providing facilities for everyone rather than for only a portion of the population.

While there are sanctions that can be brought for noncompliance with legal requirements, it is the fact that it simply makes sense that, in the long term, is the most significant reason for providing accessibility.

DEFINE YOUR TERMS

We refer to legal terms and other concepts that are critical to understanding our responsibilities. Most of the following definitions are taken from the laws, rules, regulations, and standards that have been promulgated in connection with disability rights legislation in this country. That includes the authorities, implementation regulations, and official standards developed by the Department of Justice and the U.S. Access Board.

Architectural Accessibility means the design, construction and/or alteration of a building or facility that follows officially sanctioned design standards. Because of the creation of the official design standards for accessibility, this term carries a legal definition. Buildings or facilities that are not in compliance with official standards are not considered to be “accessible.” This term is used in concert with the concept of “program accessibility.” (28 CFR 35 Subpart D)

Auxiliary Aids means services or devices that enable people to have an equal opportunity to participate in and enjoy the benefits of programs, services, or activities. Some examples of auxiliary aids and services include:

- Qualified Interpreters
- Qualified Readers for people with vision limitations
- Brailled materials
- Audio recordings

- Assistive listening devices
- Telephone handset amplifiers
- Telephones compatible with telecommunication devices for deaf
- Written materials

Qualified Individual with a Disability means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs, services or activities provided by a public entity. (The definition of “disability” can be found at § 35.108.)

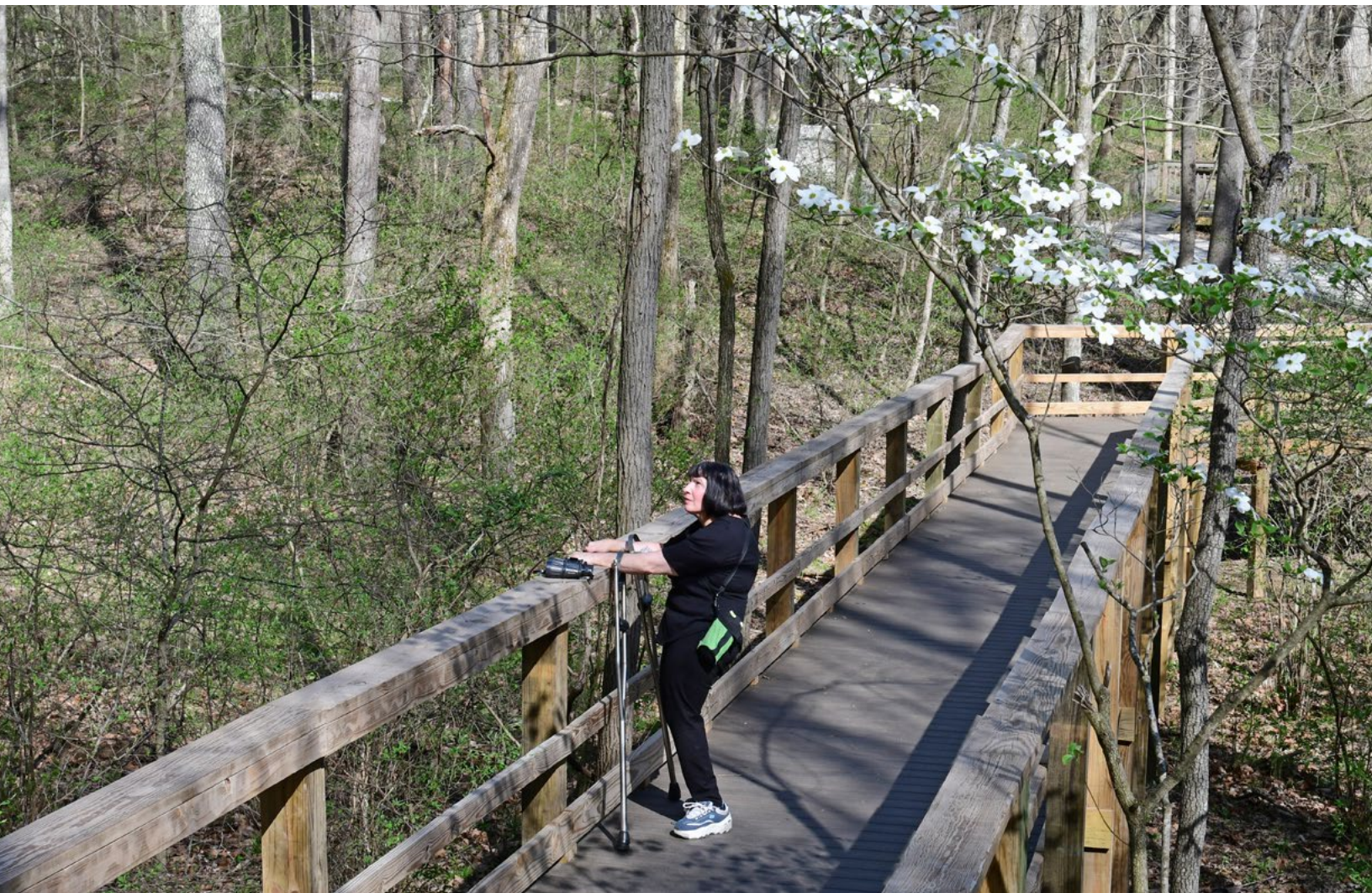
Program Accessibility means that the programs, services, and activities provided to visitors and/or employees will be provided in conformance with 28 CFR Part 35. This means they will be provided in such a way that individuals with disabilities are not excluded from nor denied the benefits of that program, ser-

vice, or activity. This term is used in concert with the concept of “architectural accessibility.”

Reasonable means not only capable of being accomplished but also staying within the bounds of common sense and sound judgment when considering other factors such as costs, benefits, the nature of the environment, and the responsibilities toward protecting park resources and values.

Universal Design is the design of products and environments to be usable by all people to the greatest extent possible without the need for adaptation or specialized design. The universal design concept simplifies life for everyone by making products, communications and the built environment more usable by more people at little or no extra cost. The universal design concept targets all people of all ages, sizes and abilities. (The Center for Universal Design, North Carolina State University)

The Architectural Barriers Act of 1968 (P.L. 90-480) requires all buildings and facilities built or renovated in whole or in part with federal funds to





be accessible to and usable by physically disabled persons. Since 1968, official standards for making buildings accessible have been developed and the U.S. Architectural and Transportation Barriers Compliance Board has been created to monitor and enforce compliance with the law.

Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112), as amended, is more encompassing than the Architectural Barriers Act. While the act requires physical access to buildings and facilities, Section 504 requires program accessibility in all services provided with federal dollars. The act itself is brief. It states:

“No otherwise qualified individual with a disability in the United States shall, solely by reason of disability, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity conducted by Federal Financial Assistance or by any Executive Agency.”

This means we not only have to be concerned with enabling people with disabilities to have access to parks and facilities but, once achieved, we must do everything feasible to enable them to receive as close to the same benefits as those received by other visitors.

Americans with Disabilities Act of 1990 (P.L. 101-336), as amended, provides a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.

NOTHING NEW

One of everyone’s goals is to ensure that all people, including the estimated 54 million with disabilities, have the highest level of accessibility that is reasonable to our programs, services and activities in conformance with applicable regulations and standards.

This is one reason we seek to provide that level in the planning, construction, and renovation of buildings and facilities and in the provision of programs, services, and activities for the public and our employees. In conforming to the appropriate standards, the level of accessibility will be largely determined by the nature of the area and program and will be consistent with our obligation to conserve State resources and preserve the quality of the experience.

For about 57 years, as required by the Architectural Barriers Act of 1968 and the Rehabilitation Act of 1973, federal agencies and entities receiving federal funds had to make their facilities and programs accessible to people with disabilities.

In 1990, more than 35 years ago, Congress enacted the Americans with Disabilities Act (ADA), which extended accessibility and nondiscrimination requirements in five areas: employment, public services, public accommodations, telecommunications, and miscellaneous provisions.

How does this translate to park and recreation providers? State and local governments, including counties, cities, towns and townships, are covered by Title II of the ADA (public services). Likewise, commercial and nonprofit park and recreation providers are covered by the ADA Title III (public accommodations) because they provide services to the public. These include nonprofit groups such as “friends of the parks” and trail groups, YMCAs and Boys and Girls clubs, as well as commercial entities providing canoe rentals,

fitness facilities, go-cart racing, amusement parks, ski resorts, rafting companies, bowling alleys, etc. As a rule of thumb, if you are involved with the public, whether via government or private business, you have had to provide accessible facilities, programs, and services for quite a while.

STANDARDS AND GUIDELINES

In determining what standard to use or how to comply, a good rule is to start with the best, most current information. There are basically two standards to look at, the **2010 ADA Standards for Accessible Design and Architectural Barriers Act (ABA) Accessibility Standards**. Detailing various laws and how they apply is unnecessary. For our purposes, following these standards will satisfy all your requirements.

These standards give detailed guidance based on the minimum requirements set forth in laws, rules, and regulations. Please don't miss this: "... based on the minimum requirements" One fundamental, guiding principle is that we will seek to provide the highest level of accessibility that is reasonable and not simply provide the minimum level that is required by law. Consequently, managers are encouraged to exceed the requirements for visitor accessibility through innovative techniques and partnerships whenever possible and reasonable. The five objectives of this are to:

1. Incorporate the long-range goal of providing the highest level of accessibility that is reasonable for people of all abilities in all programs, services, and activities instead of providing "separate" or "special" programs.
2. Implement this goal within the daily operation of the DNR, its policies, organizational relationships, and implementation strategies.
3. Provide further guidance and direction regarding the DNR interpretation of laws and policies.
4. Establish a framework for the effective implementation of actions necessary to achieve the highest level of accessibility that is reasonable; and,
5. Ensure the implementation of "universal design" principles within the DNR.

The ADA is a comprehensive civil rights law that prohibits discrimination on the basis of disability. The ADA requires that newly constructed and altered state and local government facilities, places of pub-

lic accommodation, and commercial facilities be readily accessible to and usable by individuals with disabilities. To continue to guide this process, the 2010 ADA Standards for Accessible Design went into effect on March 15, 2012. The Justice Department adopted the 2010 ADA Standards for Accessible Design (2010 Standards or Standards) as part of the revised regulations for Title II and Title III of the ADA. The standards can be found at: ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm.

As mentioned earlier, the standards set minimum requirements—both scoping and technical—for new construction and alterations of the facilities of more than 80,000 state and local governments and more than 7 million businesses.

In addition to the 2010 standards, the DOJ has also posted on its website important guidance about the standards compiled from material in the Title II and Title III regulations. This guidance provides detailed information about their adoption of the 2010 standards, including changes to the standards, the reasoning behind those changes, and response to public comments received on these topics.

The 2010 Standards for Accessible Design contains codified specifications for these recreational facilities:

- Amusement Rides
- Recreational Boating Facilities
- Exercise Machines and Equipment
- Fishing Piers and Platforms
- Golf Facilities
- Miniature Golf Facilities
- Play Areas
- Saunas and Steam Rooms
- Swimming Pools, Wading Pools and Spas
- Shooting Facilities with Firing Positions

Achieving accessibility in outdoor environments has long been a source of inquiry due to challenges and constraints posed by terrain, the degree of development, construction practices and materials, and other factors.

The U.S. Access Board has issued requirements that are now part of the Architectural Barriers Act (ABA) Accessibility Standards and apply to national parks and other outdoor areas developed by the federal government. They do not apply to outdoor areas developed with federal grants or loans; however, they offer "best practices" as entities determine the

proper way to provide access. A guide that explains these requirements is available here: [access-board.gov/guidelines-and-standards/recreation-facilities/outdoor-developed-areas/a-summary-of-accessibility-standards-for-federal-outdoor-developed-areas](https://www.access-board.gov/guidelines-and-standards/recreation-facilities/outdoor-developed-areas/a-summary-of-accessibility-standards-for-federal-outdoor-developed-areas).

The newest provisions address access to:

- trails,
- picnic and camping areas,
- viewing areas,
- beach access routes,
- and other components of outdoor developed areas on federal sites when newly built or altered.

They also provide exceptions for situations where terrain and other factors make compliance impracticable. These requirements are in sections F201.4, F216.3, F244 to F248, and 1011 to 1019 of the ABA Standards.

The U. S. Access Board intends to develop guidelines for nonfederal outdoor sites covered by the ADA and areas developed with federal grants and loans covered by the ABA through subsequent rulemaking.

As noted above, accessibility specifications for these recreational facilities are not yet adopted by standard-setting agencies but are considered “best available information” and should be used when constructing new or altering existing facilities.

Remember, there is no grandfather clause written into accessibility legislation or standards.

It is a common misconception of facility managers and building owners to believe that facilities built before accessibility standards do not need accessibility modifications. As noted in the following section, this is not the case. According to accessibility standards, altering a facility triggers using the current accessibility standards. Furthermore, each state and local government entity is required by Title II to conduct a self-evaluation of the accessibility of programs and facilities and create a corresponding Transition Plan to correct identified accessibility deficiencies. Because many facilities built before accessibility standards are often not compliant, the Transition Plan will include ways to remove barriers from these facilities.

PROGRAM ACCESS

Program accessibility was first legislated in Section 504 of the Rehabilitation Act of 1973, which states:

“No otherwise qualified individual with a disabili-

ty in the United States, as defined in section 7 (20), shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.”

This important principle was also written into the ADA legislation: “A public entity may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible.

“A public entity’s services, programs, or activities, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as ‘program accessibility,’ applies to all existing facilities of a public entity. Public entities, however, are not necessarily required to make each of their existing facilities accessible.” (US DOJ, ADA Title II; 1990) In essence, program accessibility applies to almost anything. Although you may not be constructing new or altered facilities, program access may or may not require you to make physical changes to your facilities. Program access may also require modifications to your policies, practices and/or procedures. Consider the following scenarios:

- A property’s main office is located in an inaccessible building built in the 1950s. The property retrofits the building so that the parking, route to the building, public offices, and support facilities such as public restrooms are accessible to the public.
- Signs interpreting the natural and cultural history of the area are provided on a trail.
- Audio tours may be used to effectively communicate to a person with low or no vision the information contained in the interpretive displays.
- Commission board meetings usually are held in an inaccessible historic building. The new commission members have decided to officially move the meeting location to an accessible location that allows all interested public, regardless of ability, to attend without prior notification.
- A property offers movie nights each Friday in September. Staff ensure captions are turned on during each movie so people who are hard of

hearing or deaf can also enjoy the show without having to ask or attend a particular show.

Staff training is a key component to ensuring programs and services are accessible. Disability awareness and accessibility training should be provided for all staff and volunteers. This helps ensure visitors with disabilities are treated with respect and requests for accommodation are responded to appropriately.

MEASURE, MARK AND MEASURE AGAIN

You have probably heard this rule of thumb. It refers to making sure the cut is made correctly the first time. But it can extend to the philosophy of doing things correctly. Throughout the process, you will be in the best shape if you design to exceed the minimum. For example, the range for the height of grab bars in a restroom is 33-36 inches from the floor to the top of the gripping surface. Shooting for 34 or so

will give you plenty of wiggle room. Doing will not cost more, but even if a contractor makes a small adjustment, you will still be safe.

In addition, you should understand that the ADA/ABA Standards were developed by several individuals with a variety of interests and perspectives. Building to the standards will accommodate many but not all people with disabilities. Exceeding the standards where possible will provide increased accessibility and opportunities for even greater numbers of people. For example, incorporating Universal Design concepts will provide greater access for those in your community with more severe disabilities.

The term Universal Design was coined by architect Ronald L. Mace to describe the concept of designing all products and the built environment to be aesthetic and usable to the greatest extent possible by everyone regardless of age, ability, or status in life. In most instances, the increased cost is negligible while the benefits are significant.



Some examples:

- Smooth, ground-level entrances without stairs
- Surface textures that require less force to travel across
- Wide interior doors, hallways, and alcoves with 60 inch x 60 inch turning space
- Single-hand operation with closed fist for operable components like door and faucet handles
- Light switches with large flat panels rather than small toggle switches
- Buttons and other controls that can be distinguished by touch
- Bright and appropriate lighting, particularly task lighting
- Instruction that presents material both orally and visually

Consider your own preferences and desires. Would you be more inclined to take your family to a well-kept, clean park or, when seeing trash or unmowed areas, just move on? The same idea holds for exceeding requirements. Clearly, an area that the community can be proud of will be less likely to be defaced or vandalized. Having a model will draw in people and support from a wider area.

This is a major reason why we do what we do.

A WORD ABOUT PRODUCTS, DESIGNERS AND CONSULTANTS

At one time or another (perhaps daily) most park and recreation professionals are responsible for choosing products for use in their facilities. Whether additions or replacements, there are many products for which the professional must know how to determine accessibility.

Picnic tables, benches, play structures and surfacing, sinks, lockers, and drinking fountains are among the many products that must be accessible. It is important for the buyer to investigate potential products and not rely solely on a vendor's claim of accessibility or "ADA Approved."

In addition to purchasing products, recreation practitioners also work with designers and consultants during capital improvement projects. Before hiring a specific company, recreation practitioners should ask how much accessibility experience their staff has. While many architects, landscape architects, and engineers are aware of accessibility, it is often not their focus while designing and construct-

ing new facilities or during rehabilitation projects. Before hiring a designer or consultant, requests for qualifications (RFQ) may be posted. If RFQs are used, be sure to ask for information regarding accessibility compliance.

After hiring a company, be sure to have a knowledgeable person on park staff review plans for accessibility as well as other concerns before bidding. Work with the person (consultant or in-house) preparing the bid document to include language regarding the liability of the contractor regarding accessibility. Include people with disabilities in the process. Asking for this input/perspective not only provides a "new set of eyes," but also helps spread the word about your program.

WRAP-UP AND RESOURCES

The primary reason for making programs, services, and activities accessible is it is the right thing to do. It makes sense to employ the principles of "universal design" in providing facilities and programs that are accessible to and usable by everyone. Failure to do so denies the opportunity for more than 54 million citizens with disabilities to have an equal opportunity to enjoy their properties. Penalties for noncompliance can be significant in terms of the cost associated with having to remove features that have been constructed inappropriately and replacing them. The costs in terms of denying people with disabilities the opportunity to enjoy the grandeur and educational values of these experiences is also significant, though not easily measured. The laws and regulations contain compliance enforcement procedures. In the final analysis, the ultimate measure of accountability will be the degree to which people with disabilities can visit, receive the same services, and access the same opportunities as other visitors.

Our intent is to provide the tools necessary to ensure that whatever program you develop will be the best it can be for all. No one, including people with disabilities, wants to be unnecessarily singled out or treated differently. We all want to enjoy our natural resources in as natural an environment as possible, but we also want to make sure we do not create barriers that could be avoided. Please contact the following resources for free and anonymous accessibility information and/or technical assistance.

U.S. Department of Justice:

Find out more about the ADA or the 2010 ADA Standards for Accessible Design using the toll free ADA Information Line at 800-514-0301 (voice) or 833-610-1264 (TTY) or go to ada.gov.

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
4CON, 9th Floor
Washington, DC 20530
Phone (voice): (202) 307-0663

The U.S. Access Board

The Access Board is an independent federal agency devoted to accessibility for people with disabilities. Created in 1973 to ensure access to federally funded facilities, the board is a leading source of information on accessible design. The board develops and maintains design criteria for the built environment, transit vehicles, telecommunications equipment, and electronic and information technology. It also provides technical assistance and training on these requirements and on accessible design and continues to enforce accessibility standards that cover federally funded facilities.

United States Access Board
1331 F Street, NW, Suite 1000
Washington, DC 20004-1111
Phone (voice): (202) 272-0080
Phone (TTY): (202) 272-0082
Fax: (202) 272-0081
access-board.gov
Email: info@access-board.gov

Great Lakes ADA Center

The DBTAC-Great Lakes ADA Center provides information, materials, technical assistance, and training on the ADA. Topics addressed include the nondiscrimination requirements in employment, the obligations of state and local governments and business to ensure programs, services, and activities are readily accessible to and usable by people with disabilities. This includes access to the information technology used by these entities including but not limited to websites, software, kiosks, etc.

DBTAC—Great Lakes ADA Center (MC 728)
1640 W. Roosevelt Road, Room 405
Chicago, IL 60608
(312) 413-1407 (V/TTY) or
800-949-4232 (V/TTY)
(312) 413-1856 (Fax)
adagreatlakes.org

National Center on Accessibility

The National Center on Accessibility is a nonprofit center operating under Indiana University in Bloomington. The center offers information, training, research, technical assistance, and consultation on issues related to accessibility to parks, recreation programs, activities, and services.

National Center on Accessibility
2805 E. 10th Street, Suite 170
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(812) 855-3095
ncaonline.org