The Americans with Disabilities Act of 1990

SECTION 1. INTRODUCTION

The Americans with Disabilities Act of 1990 (ADA) is a comprehensive civil rights law barring discrimination against individuals with disabilities. The ADA reinforces or expands rights guaranteed to individuals with disabilities by:

1. the Individuals with Disabilities Education Act Amendments of 1997 (IDEA);
2. Section 504 of the Rehabilitation Act of 1973 (Section 504); and
3. the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Perkins Act).

A.   Key Principles

The ADA is based on five key principles that have been viewed historically as civil rights for individuals with disabilities:
1. a focus on the individual;
2. integration;
3. equal opportunity;
4. physical accessibility; and
5. the provision of reasonable accommodation and auxiliary aids and services.

B.   Effect on Schools

Because the ADA is a civil rights law, it preempts all local, state, and federal laws that grant lesser rights to individuals with disabilities. The ADA does not provide funding to carry out its mandates. Nevertheless, a wide range of public and private institutions, including educational institutions, must comply with the ADA.

The ADA does not directly address schools. Therefore, educators must apply ADA principles to school and training settings without direct guidance. Educators, who already understand and comply with requirements in Section 504 or the IDEA 2004, or with special population requirements in the Perkins Act, are well on their way to complying with the ADA. However, the ADA goes beyond the other three laws. Despite the lack of references to schools, the ADA affects every aspect of the educational process. The ADA mandates cover three broad areas:

1. **Services:** The ADA affects integration, program accessibility, safety, communication, the provision of assistive aids and services, and preparation of a district self-evaluation for compliance.

2. **Physical accessibility:** The ADA affects accessibility audits, removal of barriers both inside and outside a facility, alterations or new construction, and preparation of transition plans.
3. **Employment:** The ADA affects the posting of job notices, setting of job qualifications, interviewing, testing of applicants, hiring, and the provision of reasonable accommodations and training, among other areas.

SECTION 2. DEFINITION

A. Individual with a Disability

As stated in the ADA, "an individual with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities, one who has a record of such an impairment, or is regarded as having such an impairment." This definition of an individual with a disability is identical to the definition used in Section 504.

B. "Qualified" Individuals

Under both the ADA and Section 504, individuals with disabilities are not protected unless they also are "qualified" to participate in an activity. Depending on the case, people may be "qualified" simply by their status as a student or a parent. Under the ADA, schools must assist individuals with disabilities who are qualified to participate in school programs from which they might otherwise be excluded. Educators must realize the ADA's mandate has several implications:

1. Before turning away a student with a disability as unqualified to participate in a school program, educators must consider whether adjustments can be made in policies, practices, or procedures so the student can participate.
2. Educators must ensure that qualifications are relevant.
3. Qualifications must be applied consistently to all individuals.

The ADA does not provide educators with a simple, limited set of requirements to facilitate compliance. The broad, generic nature of the standards highlights the need for educators to use a case-by-case approach in responding to the needs of students with disabilities.

SECTION 3. ADMINISTRATIVE REQUIREMENTS

The ADA contains five broad administrative requirements for public institutions. These requirements include the following:

1. The district must prepare a self-evaluation that will determine if its current services, policies, and practices discriminate against individuals with disabilities and must modify those that do. For one free copy of *Compliance with the Americans with Disabilities Act: A Self-Evaluation Guide for Public Elementary and Secondary Schools,* call 800/949-4232. Additional copies can be purchased from the Government Printing Office by calling 800/512-1800.
2. An individual in the district must be designated to oversee compliance.
3. A transition plan must be developed if structural changes are needed to achieve program accessibility.
4. A grievance procedure must be developed to handle complaints of discrimination based on disability.
5. The district must inform the public about the ADA.

SECTION 4. COMPLAINTS AND ENFORCEMENT

Schools are expected to comply with the ADA and Section 504 even though federal agencies will not conduct general compliance monitoring. Instead, the appropriate agencies will investigate specific complaints.

The ADA's enforcement procedures build on those under Section 505 of the Rehabilitation Act of 1973, which also details compliance procedures for Section 504. Section 504, in turn, incorporates by reference the enforcement procedures found in Title VI of the Civil Rights Act of 1964. Educators who are familiar with enforcement procedures under Section 504 can expect the same procedures under the ADA.

For more information or answers to questions regarding the ADA, contact:

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Information in this appendix was taken in part from *The Educator's Guide to The Americans with Disabilities Act,* published by the American Vocational Association.

For Questions Contact

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