



ADA Paths – Part 1: No One Left Behind

An Online Continuing Education Course for Engineers

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SERIES INTRO

Purpose

In September of 2010, the U.S. Department of Justice published a comprehensive set of building design standards to facilitate accessibility by handicapped individuals. The regulations were titled “2010 ADA Standards for Accessible Design.” The acronym referred to the “Americans with Disabilities Act,” previously passed in 1990. The publication clarified what was being requested from designers by that earlier legislation. It included 275 pages of suggestions, including some graphic illustrations showing how to meet the requested design goals.

We will look at those ADA standards and illustrations and summarize as best as possible, how to meet their intent. This specific course will examine regulations covering the applicability of these guidelines, parking requirements for facilities, accessible routes from parking to facility entrances, and entries and doors suitable for use by disabled individuals.

APPLICABILITY OF GUIDELINES

The 2010 ADA Standards for state and local governments were created to explain minimum requirements for access to buildings by occupants with handicaps. One section was written as laws applicable to newly designed, constructed or altered, state and local government facilities. The second portion contains similar provisions, intended as guidelines for designing public accommodations and commercial facilities, making them readily accessible to, and usable by, individuals with disabilities.

The first portion consisted of Title II regulations 28 CFR 35.151 and the 2004 ADAAG at 36 CFR part 1191, appendices B and D. These specific guidelines established laws governing facilities built with public funds, enforceable with all such facilities built after March 15, 2012.

The 2010 Standards for public accommodations and commercial facilities, the second portion of the same publication, sets guidelines for buildings for public use, built by private entities. They consist of Title III regulations at 28 CFR part 36, subpart D, and the 2004 ADAAG at 36 CFR part 1191, appendices B and D. These were suggested guidelines only.

The two sets of guidelines and their subject content are almost identical. The primary difference is in enforceability. Guidelines are much different than building codes: one offers suggestions while the other creates law. With this distinction, when adopting model codes, almost all jurisdictions incorporate some or all of the 2010 Standards for public accommodations and commercial facilities into their regulations. At that point, such guidelines became law.

Other regulations governing accessible design have also been published, and some are more stringent than the 2010 Standards. Jurisdictions can and have adopted other model guidelines. But suffice it to say, almost no jurisdiction with building regulations has failed to include laws governing accessible design. Those laws seem to have become more stringent with each new edition of regulations, and in some cases, now exceed original guidelines proposed in the ADA.

Accessibility requirements apply to both temporary and permanent facilities. Temporary facilities can include reviewing stands, temporary classrooms, bleacher areas, stages, platforms, fixed furniture systems, wall systems, exhibit areas, temporary banking facilities, and temporary health screening facilities.

Some exceptions to these rules exist and will be addressed later. One broad group of exceptions applies to renovation and addition projects when it is desirable to make previously built facilities more accessible, but budget considerations preclude full compliance. Another group of exceptions involves the renovation of historic structures. If compliance would destroy the historical value of an existing structure, some variation from guidelines is permitted.

Here is an overview of the first section, creating laws governing the design of public structures.

28 CFR PART 35.151 NEW CONSTRUCTION AND ALTERATIONS

This initial portion of the guidelines opens with this statement:

“Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility, or part of the facility, is readily accessible to and usable by individuals with disabilities.”

Compliance Dates

Regarding compliance with these guidelines or laws, all time frames in which a building might have been exempted have long since expired. All new projects must now comply.

Scope of Coverage

The 1990 ADA and the 2010 Standards apply to fixed or built-in elements of buildings, structures, site improvements, pedestrian routes, or vehicular ways located on a site. Unless stated otherwise, advisory notes, appendix notes, and illustrations contained in the 1990 ADA and the 2010 Standards explain or illustrate requirements of the rule. These ancillary materials, intended for clarification, do not in and of themselves, establish enforceable requirements.

Exceptions

Some needed exceptions to these laws were immediately recognized and written into the act.

Exception for Structural Impracticality

New public facilities must be accessible in whole or in part to those with disabilities, but:

- Full compliance with accessibility laws is not required when unique characteristics of terrain prevent incorporating accessibility features. A public entity must demonstrate how full compliance is impossible before provisions are waived.
- Although covered entities can limit the scope of an alteration to individual elements, renovating multiple elements within a room or space in the same project is usually a more cost-effective way to make the entire room or space accessible.

- Even if full compliance cannot be accomplished in a specific instance, any portion of a building that can be made fully accessible must still meet requirements.
- If the building cannot be made accessible to wheelchairs, accessibility must still be possible for persons with other types of disabilities (who use crutches, have sight, hearing or mental impairments, etc.) in accordance with regulations.

Exception for Historic Properties

Alterations to existing facilities must be made, so the altered portions have been made accessible.

- Public entities are obligated to achieve accessibility under ADA regulations, and those operating historic preservation programs must give priority to methods providing physical access to the disabled.
- When an entity believes compliance for accessibility will threaten or destroy historical significance, they should consult with the State Historic Preservation Officer. If that officer agrees, the exception will be permitted. The path of travel requirements still needs to be met, even when renovating for other purposes than creating accessibility.
- If alterations would endanger historical significance, fundamentally alter the program, or result in undue financial or administrative burdens, regulations allow alternative methods to achieve accessibility. These include using audio-visual materials to depict inaccessible portions of the building or relocating programs and services to accessible locations.
- Alterations to historic buildings should comply with pertinent provisions, when possible.
- If it is not feasible to provide physical access to a historic property, without threatening or destroying historical significance, other means of access can be provided.

Exception for Alterations to Primary Functions

Alterations affecting the usability of, or access to, an area housing a primary function need to be made so to the maximum extent possible, the path of travel to altered areas and restrooms, telephones, and drinking fountains serving the altered area all remain accessible.

- A primary function is a major activity for which the facility was created.
- Such functions include dining areas in cafeterias, meeting rooms in conference centers, offices, and other work areas housing primary activities.

- Where a facility contains multiple primary uses, each portion must comply.
- Mechanical rooms, boiler rooms, supply storage rooms, employee lounges/locker rooms, janitorial closets, entrances, and corridors are not areas for primary functions.
- Restrooms are not primary functions, other than for structures like highway rest stops.
- Alterations to windows, hardware, controls, electrical outlets, and signage are not deemed to affect the usability of areas with primary functions.
- Mixed-use facilities may include numerous primary function areas to which regulations apply, not limited to public use areas. For example, both a bank lobby and the bank's employee areas, like teller areas and a walk-in safe, are primary function areas.
- In existing transportation facilities, primary functions are defined under regulations published by the Secretary of the Department of Transportation or the Attorney General.
- Residential dwelling units are exempt from these regulations.

Defining the Path of Travel

A “path of travel” includes a continuous, unobstructed pedestrian passage through which an area may be approached, entered, and exited. It also encompasses exterior features like sidewalks, streets, parking areas, and facility entries. An accessible path of travel can include; walks and sidewalks, curb ramps, interior or exterior ramps, paths through lobbies, corridors, rooms, parking access aisles, elevators, and lifts or a combination of these elements. It may also encompass restrooms, telephones, and drinking fountains, serving the altered area.

- An alteration decreasing accessibility of a building or facility, below the requirements for new construction at the time of the alteration, is prohibited.
- An alteration of a facility will not impose greater requirements for accessibility than new construction.
- Unless required elsewhere, where elements or spaces are altered, but the circulation path to the altered element or space is not changed, an accessible route will not be required.

Exception for Disproportionality

Alterations providing an accessible path of travel are considered disproportionate to overall alterations when their cost exceeds 20% of the cost to alter the primary function area.

- If making an accessible path of travel is disproportionately expensive, changes to that path can be scaled back to match the budget.
- When scaling back, priority should be kept in the order of; an accessible entrance, an accessible route to altered areas, at least one accessible restroom for each sex or a single unisex restroom, accessible telephones, accessible drinking fountains and then additional accessible elements like parking, storage, and alarms.
- Path of travel costs include costs to create a more accessible route, like widening doorways or installing ramps.
- The cost of making restrooms accessible by installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls is included.
- Money spent to make telephones accessible can be included.
- So can relocating a previously inaccessible drinking fountain.
- If alterations can be made in one project, providing an accessible path of travel cannot be avoided by breaking a project into small enough scopes that the cost of accessibility becomes disproportionate.
- A budget for project costs will include any alterations over a three year period.

Requirements Pertaining to

A few specific requirements

Social Service Centers

This includes; group homes, temporary sleeping accommodations

- Sleeping rooms with at least 5% of them.
- Facilities with 50 beds must have at least one roll-in shower with a seat. If there are separate showers for men and women, a shower must be provided for each group.

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