

Briefing Book:
A Detailed Examination of the Americans with Disabilities Act

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POLI 6150: Federalism and Intergovernmental Relations

April 27, 2024

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Theoretical Justification and Legal Foundation of the Americans with Disabilities Act

A Synopsis of The Americans with Disabilities Act

The Americans with Disabilities Act has an important objective within inclusivity: to allow disabled Americans a chance to participate in society. Some areas the Americans with Disabilities Act, also known as the ADA, regulates is in public building accessibility requirements, wheelchair accessible transportation, accessibility for disabled students, and requiring all workplaces to give disabled workers reasonable accommodations to thrive. Discrimination against disabled Americans happens in more realms than just the school system and the workplace. This includes lacking residential accommodations, public service access, ability to use transportation, communication alternatives, health services, voting, and institutionalization.¹ Section 12101 created the groundwork for American government to provide provisions and protection for disabled citizens, giving them the ability to access public goods and services. Section 12102 of ADA provides the official definition of disability. A person must have at least one of three characteristics to be considered disabled in the United States: a psychological or physical setback that restricts the individual from doing one or more major life activities, a physical record of said setback, or being seen by others as having said setback.²

Why Government Action Is Needed

The federal government is involved when it comes to national accessibility because the ability to participate in life is a given right to all. Disabled Americans had to wait until 1990 to gain protection throughout the nation. The Civil Rights Act of 1964 created a national law

¹ “Americans with Disabilities Act of 1990, as Amended,” sec. 12101.

² “Americans with Disabilities Act of 1990, as Amended,” sec. 12102.

against discrimination on the subjects of “race, color, religion, or national origin.”³ While this was a stepping stone in creating the Americans with Disabilities Act, outlawing discriminatory actions against disabled Americans was not protected; disabled citizens had to wait another 26 years to gain similar rights. According to the ADA National Network, accessibility is a federal concern because the government needs to provide equal opportunity and accommodations nationwide. ADA provides national guidelines to keep uniform accessibility in all forms of public transportation, employment regulations, required state/local governmental services, and building accessibility accommodations.⁴ The issue of disability discrimination is a national issue, not just a state issue. According to the Pew Research Center, 42.5 million Americans are disabled, which makes up 13% of the United States population.⁵ In conclusion: if the federal government handles all other forms of discrimination, disability discrimination should not be any different.

ADA’s History: Where It Began

The National Council on the Handicapped, who are now known as the National Council on Disability, created a report of legislative recommendations called *Toward Independence*. Inside, there were legislative recommendations to provide Congress and the president a roadmap to enact an equal opportunity law. The first revision, according to the ADA National Network, recommended that the law’s title should be “The Americans with Disabilities Act of 1986.”⁶ Two years later, Connecticut Senator Lowell Weicker and Iowa Senator Tom Harkin brought the first official proposal. Along with the senators, California Representative Tony Coelho and

³ “Legal Highlight: The Civil Rights Act of 1964.”

⁴ “What Is the Americans With Disabilities Act (ADA)?”

⁵ Pew Research Center, “For Disability Pride Month, 8 Facts About Americans with Disabilities | Pew Research Center.”

⁶ “Timeline of the Americans with Disabilities Act.”

Massachusetts Representative Silvo Conte brought a similar motion to the House. This fight for disability rights created a rare joint session of both the House and the Senate to hear advocates and representatives' stories of discrimination in America.⁷

Justin Dart, a presidentially appointed member of the National Council on Disabilities, made it his mission to make ADA law. Dart went to all 50 states with a team of disabled Americans to speak about the discrimination they've experienced all over the nation. All of the stories said along the 50-state journey became known as the "discrimination diaries."⁸ 1988 was also a presidential election year, sparking more conversation for immediate action. Then-Vice President George H.W. Bush's campaign relied heavily on creating accessibility for disabled Americans in everyday life.⁹ By 1989, a revised version of ADA passed in the Senate by a 76-to-8 vote. The House passed ADA not long after, and it was signed into law by President Bush in 1990. Title I, Title II, and Title III took into effect in 1992.¹⁰

ADA may have been in motion, but it was not smooth sailing for disabled Americans. A narrow view of the definition for disability caused many disabled citizens to lose cases within Supreme Court rulings. One of the court cases overruled was *Toyota Motor Manufacturing, Kentucky v. Williams*, which was originally ruled upon in 2002. Ella Williams was working within the manufacturing company and claimed her job within the automobile assembly line gave the plaintiff carpal tunnel syndrome. Williams sued Toyota for not providing her reasonable accommodations required by the ADA. In this ruling, the court decided that Williams did not qualify as disabled because it wasn't "substantial" enough.¹¹ It was not until 2008 that the ADA

⁷ "ADA History - in Their Own Words: Part One | ACL Administration for Community Living."

⁸ "ADA History - in Their Own Words: Part One | ACL Administration for Community Living."

⁹ "ADA History - in Their Own Words: Part One | ACL Administration for Community Living."

¹⁰ "Timeline of the Americans With Disabilities Act."

¹¹ "Toyota Motor Mfg., Ky., Inc. v. Williams"

Amendments Act (ADAAA) was signed by President George W. Bush, expanding the coverage of the word “disabled.”¹² This helped Williams and all other victims’ cases get overturned. As of today, ADA is currently celebrating its 34th year since enactment.

Political Context, Statistics, and Public Opinion

Both the Republican Party and Democratic Party were for the creation of the Americans with Disabilities Act, as seen in the passing votes in Congress. According to a *Forbes*, the Americans with Disabilities Act passed in the Senate with 44 Democrats and 32 Republicans voting in favor; 8 Republicans voted against the bill, and 16 senators (11 Democrats and 5 Republicans) did not vote. In the House, 248 Democrats and 155 Republicans voted in favor. 3 Democrats and 17 Republicans voted against the bill, while 9 refused to vote (5 Democrats and 4 Republicans).¹³ The act passed with unwavering support, but there was an obstacle along the way for the bill makers: Democratic Representative Jim Chapman and the National Restaurant Association. Chapman expressed concerns about allowing Americans with HIV/AIDS to work within the food handling industry. Chapman’s amendment to exclude these specific workers from the ADA passed in the House. Disability advocates, Representative Hamilton Fish, and Senator Hatch helped change the language and allow those with HIV/AIDS to be covered not long after the vote. The new wording stated that the Secretary of Health and Human Services has the authority to give guidance on communicable diseases and food handling instead of mentioning those with HIV/AIDS.¹⁴

For many disabled citizens, they see the ADA as a landmark decision in their own rights. On the flip end, many disabled Americans still face discrimination in everyday life, from

¹² “Timeline of the Americans with Disabilities Act.”

¹³ Pulrang, “31 Years Later, 31 Things About the Americans with Disabilities Act.”

¹⁴ “ADA History - in Their Own Words: Part Three | ACL Administration for Community Living.”

microaggressions to outdated, inaccessible buildings. As mentioned earlier, The Pew Research Center said that there are 42.5 million disabled Americans within the population. The biggest disabled age demographic is the elderly, 75 and older, compiling 46% of the overall total; 65–74-year-olds make up 24% of the population. The third biggest demographic was 35–64-year-olds making up 12%. When it comes to the younger groups, 5–17-year-olds make up 7% and 18-30-year-olds make up 18%.¹⁵ An interesting fact found was that most Americans with disabilities still earn less than their able-bodied counterparts. Those with a disability have a median salary of \$28,438 while those without have a median of \$40,948. There may be laws in place to help disabled Americans get jobs, but by these numbers, it shows there is still much work that needs to be done to reach equality. The Pew Research Center explained that disabled workers only make up 4% of the workforce. The last time ADA was a part of a nation-wide discussion was during the pandemic. The act was highlighted in regards to mask mandates and safety of immunocompromised Americans within public education spaces. *Politico* highlighted in 2021 U.S. District Court Judge Lee Yeakel’s ruled that Texas Governor Greg Abbott violated the Americans with Disabilities Act by banning mask mandates in state schools.¹⁶ As of today, the Americans with Disabilities Act is not a hot topic in mainstream news outlets. When looking to see what stories were written currently, only a few articles popped up; they focused on how the ADA provides access for disabled people to vote in the upcoming elections.

¹⁵ Pew Research Center, “For Disability Pride Month, 8 Facts About Americans with Disabilities | Pew Research Center.”

¹⁶ Ward, “Federal Judge Says Texas Governor’s Ban on School Mask Mandates Violates Americans with Disabilities Act.”

Conclusion

The Americans with Disabilities Act is a landmark decision that allowed disabled citizens a chance to participate in an able-bodied society. From 1986 to present day, the disability community was given a voice and a seat at the table of public policy. While there were hiccups within the Supreme Court's definition of disability, the 2008 revision offered comfort and justice to those affected. ADA created a pathway for students and workers to be able to thrive in an academic, productive environment. Without the ADA, an entire perspective and outlook of the American population would be silenced. Tremendous progress has been made throughout this nation-wide law, but there is still work that needs to be done to create a more inclusive society. Federal law is a never-ending process of improvement, and the ADA is no different.

Tools and Incentives for Building Regulations Within the Americans with Disabilities Act

Sources and Levels of Financial Support: Are ADA Building Regulations Funded?

All programs found within the Americans with Disabilities Act (ADA) are supported financially by multiple different governmental agencies. As for ADA building regulations, there has been a recent development for nation-wide funding. The Bipartisan Infrastructure Law (BIL) is currently one of the core sources of funding for upkeep on ADA-complaint buildings. This law was signed by President Biden on November 15, 2021, and BIL provides \$1.2 trillion disbursed over the fiscal years of 2022 until 2026. According to the U.S. Department of Transportation’s Highway Federal Administration, the Bipartisan Infrastructure Law helps upkeep America’s infrastructure, such as bridges, roads, mass transit, building/community resilience, and much more.¹⁷

One of the programs funded by BIL is known as the Building Resilient Infrastructure and Communities (BRIC). The System for Award Management states that the main principles of this program are to promote equity, especially by helping members of overburdened groups, and “to support the adoption and enforcement of the building codes.”¹⁸ BRIC is available in all states, U.S. territories, federally-recognized tribal communities, and local governments that are in need. State and local governments can gain this assistance through B-Project Grants listed on Grants.gov. The grants are reviewed and awarded by the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS).¹⁹ This program is allotted \$1 billion every year, with a small piece allotting for \$200 million in stipends.²⁰ The White House

¹⁷ “Bipartisan Infrastructure Law – FHWA | Federal Highway Administration”

¹⁸ “BRIC: Building Resilient Infrastructure and Communities”

¹⁹ “BRIC: Building Resilient Infrastructure and Communities”

²⁰ “A Guidebook to the Bipartisan Infrastructure Law”

offers information on how President Biden’s BIL is impacting every state in America known as “Investing in America.” In Alabama, BIL brought a total of \$6.3 billion to fund 315 projects state-wide. Approximately \$119.9 million of the overall total have been given to help with infrastructure maintenance and resilience.²¹

Strategic Partners (SPI), a government contract consulting firm, explained that many states and local institutions create their own funds to support ADA compliance. For example, Nevada updated their ADA transition plan in 2022. The state’s Department of Transportation oversaw the first aspect of their proposal, allotting for \$9.3 million to reconstruct public and commercial ramps and cracked, inaccessible sidewalks. As of 2024, Nevada is launching a \$16.4 million extension to continue the ramp and sidewalk improvements all over the state.²²

Regulation and Compliance of ADA Building Standards

Part 1: Agency Regulation and Fines

The U.S. Access Board explained that the Department of Justice and Department of Transportation’s ADA Standards fall under civil rights laws, not building code regulations. Civil right standards are enforced through investigations from “complaints filed with federal agencies, or through litigation brought by private individuals or the federal government.”²³ There isn’t an official ADA plan of review or permitting process, and private entities are not required to be ADA compliant. Religious buildings, private housing, and private clubs are exempt from ADA building standards. The buildings that are required by law to follow ADA guidelines are state/local government facilities, public and commercial buildings, and transportation facilities. The only type of housing options that have to follow ADA guidelines are those that are

²¹ “President Biden’s Bipartisan Infrastructure Law is Delivering in Alabama”

²² “Accessibility Compliance”

²³ “Guide to the ADA Accessibility Standards”

governmentally owned: student/faculty housing, employee housing, nursing homes, public housing, and homeless shelters. Federal-level buildings are not covered by the ADA, but similar standards are held through the Architectural Barriers Act.²⁴

When it comes to successful maintenance needed in ADA building regulations, there are a few methods to keep federal and public spaces regulated. SPI stated that there is \$1.75 billion in grants for state and local government involving ADA compliance maintenance. If state and local governments want access to the BIL funds, governmental and public buildings must show signs of trying to meet ADA building requirements. If not, the federal government will withhold those funds until fixed. Violation of ADA compliance results in a fine of \$75,000 for their first offense and \$150,000 for any other violation after.²⁵

Part 2: Where Are ADA Building Regulation Complaints Filed?

To file a complaint, one must go to the Department of Justice's Civil Rights Division website or mail the ADA complaint form to the headquarters. The complaint may be directed towards the ADA Mediation Program, an option for compromise not involving court action, or a federal agency closer to the filer's location that handles ADA regulatory violations. Complaints sent to the federal government can take up to three months to review.²⁶ For those not wanting to contact the federal government can file an ADA-related complaint to their state government. The State of Alabama Governor's Office on Disability has an Alabama ADA hotline citizens can call.²⁷ Alabama's Department of Human Resources also take complaints, either written and verbal. For those who want local-level support, many cities have departments handling city-

²⁴ "Guide to the ADA Accessibility Standards"

²⁵ "Accessibility Compliance"

²⁶ "File a Complaint"

²⁷ "ADA Hotline"

specific ADA complaints. Auburn, Alabama, for example, has a Grievance Procedure put in place as a spot for all ADA-related complaints against the City of Auburn. John Hoar, Inspection Services Director and ADA Coordinator, handles all complaints and procedures regarding ADA compliance. A complaint to Auburn's local government is only valid if it's submitted within 60 days after the incident/observation occurred. It could take the ADA Coordinator's office 15 days to meet with the filer. If the citizen is upset with the decision, they are also able to appeal the settlement and meet with Auburn's City Manager.²⁸

Other Methods of Accountability: The Press and Private Judicial Action

Those worried about disability restrictions in public places may get impatient waiting for government action, so they turn to their local newspapers and stations as a way to inform others. For example, CBS 42, a local broadcasting news station in Birmingham, Alabama, had a story released this past summer on the absence of handrails at Legion Field. Bobby Pierson, a regular visitor, reached out to the press out of fear. He told the journalist, "... getting to his seats is not as easy as it was 40 years ago."²⁹ This first piece was written in July. Not even a month later, Birmingham Park and Recreation Director Shonae Eddins-Bennett did a story with CBS 42 explaining that the handrails were not in place because the project surpassed their budget. She told the journalist that they didn't ignore the handrail concerns and tried to lessen the publicity about their ADA violation.³⁰

Some file complaints to the U.S. Department of Justice as a way to complain about ADA Building Violations, but others go to a privately-based lawyer for judicial action. *The New York Times* wrote about a disabled Californian, 71-year-old Albert Dytch, and how he filed more than

²⁸ "ADA Compliance Team"

²⁹ "Absence of handrails at Legion Field cause concern for safety"

³⁰ "Birmingham Park and Recreation Responds Following CBS 42 Handrail Investigation at Legion Field"

180 ADA building regulation lawsuits in California. He sued restaurants, movie theaters, shops, and educational institutions, sometimes suing an establishment for up to \$75,000. The article also focuses on another disabled Californian, Samuel Love, suing multiple businesses for ADA commercial building violations. Love's lawyer, Dennis Price, works at the Center for Disability Access, a wing of a private law firm solely focusing on disability discrimination.³¹ Many may see this as either a pro or con for ADA compliance. Small business owners see the numerous lawsuits filed as a quick cash grab while others see it as a result of an inaccessible society.

Conclusion

The Americans with Disabilities Act is interwoven in all aspects of government. For ADA building regulations, most of the funds come from President Biden's Bipartisan Infrastructure Law's subsection: Building Resilient Infrastructure and Communities (BRIC). The BRIC's grant program was given \$1 billion spanned from 2022 until 2026. ADA building standards are regulated differently from other infrastructure statutes because it is recognized as a civil rights law. Instead of constant inspections, ADA violations are filed through complaints and private lawsuits. When the justice system moves slow, some may turn to local news outlets as a way to share their concern. News stories provide news to local, and sometimes national, readers they might not have had otherwise. All of these actions come together for one purpose: to stop disability inequality within public spaces.

³¹ "The Man Who Filed More than 180 Disability Lawsuits"

Institutional and Organizational Relationship Within ADA's Building Standards

Prominent Figures and Agencies Across Each Layer of Government

Part 1: Federally Prominent Figures within ADA Building Standards

The Americans with Disabilities Act is tightly interwoven into a plethora of sectors within the United States government, including local, state, and national involvement. As mentioned in the second milestone, the agency that handles nation-wide ADA regulations is the U.S. Department of Justice, Civil Rights Division. The leader of the DOJ Civil Rights Division is Assistant Attorney General Kristen Clarke.³² Along with Clarke, the Civil Rights Division's Inspector General Michael E. Horowitz leads a team of 500 auditors, inspectors, lawyers, and more to handle all ADA-related complaints sent to the DOJ.³³ Horowitz's team are required to uphold ADA Title III violations, which focuses on public/commercial building regulations. If there is any violation, fines will be given to the building's owner.³⁴ The federal agency known as the U.S. Access Board also holds responsibility when it comes to Title III standards. The Board was in charge of creating the core guidelines public buildings have to follow. This is found in the official ADA document within the "Minimum Guidelines and Requirements for Accessible Design" chapter.³⁵

Part 2: Alabama's State-Wide Figures Within ADA Building Standards

The governor has a specific ADA-related office: Governor's Office On Disability (GOOD). This was created in 1998 by the Alabama Legislature. Through GOOD, there is a hotline service to provide citizens with on any aspect relating to the ADA. The official in charge

³² "Assistant Attorney General Kristen Clarke"

³³ "Meet the Inspector"

³⁴ "Accessibility Compliance"

³⁵ "Department of Justice ADA Responsibilities"

of the Governor's Office On Disability is State ADA Coordinator and Assistant Attorney General Graham Sisson.³⁶ GOOD was created within the state's legislature, but Alabama also has programs stemming from national networks. There is a wing of the federally-funded agency known as the National Disability Rights Network stationed in Tuscaloosa: the Alabama Disabilities Advocacy Program (ADAP).³⁷

There is another branch besides GOOD and ADAP specializing in ADA called Alabama Department of Rehabilitation Services (ADRS). ADRS was formed in 1994 and contains multiple programs targeting disability accommodations/support.³⁸ In regards to ADA building regulations and employment accommodation, ADRS's Business Relations Program works to help disabled job candidates find their place within the workforce. This program includes recruitment services, ADA-related training, hiring incentives, and government assistance with job-site accommodations/modifications. The job-site state-level government support would include ADA building standards that might be missing, like ramps, handicap parking, and functioning elevators. The Business Relations Program is available for Alabama-located manufacturers, customer service companies, the federal government, service industries, small/local businesses, nonprofits, and military-related organizations. The main office for the Business Relations Program is in Montgomery, but there are 12 offices total spread all over Alabama.³⁹ When researching, there aren't strong differences in the U.S. state's ADA agencies, as the ADA requirements are nationally uniform and set-in-stone.

³⁶ "Contact Us"

³⁷ "ADAP Services"

³⁸ "Alabama Department of Rehabilitation Services About"

³⁹ "The Business Relations Program"

Part 3: Locally-Centered Prominent Figures within ADA Standards

Local government is required to have an ADA-related branch for all accessibility issues. For example, Auburn has their own ADA Compliance Office that handles all public/government disability concerns. ADA Coordinator John Hoar wears multiple hats as the inspection services director and building official; the ADA Compliance Team is located at 171 North Ross Street.⁴⁰ Huntsville, the biggest Alabama city, has its own downtown ADA Compliance Office. Trey Riley, a city attorney, is the ADA Coordinator.⁴¹

Intergovernmental Relations: How All Levels Interact

Part 1: Federal Government ADA Intergovernmental Interaction

There is a steady stream of communication when it comes to intergovernmental relations. The federal government, more specifically the DOJ, is in charge of all aspects of the ADA, as it is a nationwide discrimination ban. The DOJ offers the ADA Information Line to help provide businesses, government officials, and citizens access to Americans with Disabilities Act guidelines.⁴² According to a press release written by the department, the agency has helped states uphold guidelines within recent years. For example, the DOJ aided Newton County, Arkansas when it was found that their polling places were riddled with “architectural barriers and lacked functioning, accessible voting machines.”⁴³ Through collaboration on all levels, federal, the state of Arkansas, and Newton County, the DOJ surveyed 2,400 polling sites and increased disability access in 50 jurisdictions. Along with fixing physical accessibility for Arkansas polling sites, the DOJ helped Central Texas College of Killeen by removing physical barriers that restricted

⁴⁰ “Public Notice under the Americans with Disabilities Act”

⁴¹ “ADA – Americans with Disabilities Act”

⁴² “Department of Justice ADA Responsibilities”

⁴³ “Attorney General Garland and Civil Rights Division ...”

disabled students and staff. The college updated handicap parking, entrances, restrooms, information desks, water stations, and created more accessible, quicker routes on campus. From this upgrade, Killeen decided to update their City Hall, public libraries, police stations, emergency centers, and community centers to comply with ADA building code.⁴⁴

Part 2: Alabama and Local Government ADA Intergovernmental Interaction

Within Alabama, the Department of Rehabilitation Services communicates with local and federal government officials on building standards.⁴⁵ The ADRS board has 7 members, each member representing one of the 7 Congressional Regions of Alabama. Auburn's board representative is District 3's Judith M. Gilliam. The board's next regular meeting is in June, and it is open to the public; this allows citizens and other government officials the opportunity to communicate their thoughts and provide the board with guidance.⁴⁶ Tuscaloosa's ADAP communicates with other levels of government and American citizens through disability-related training sessions, a hotline, and individual case/trial advocacy.⁴⁷

Nongovernment Related Sectors Supporting ADA Building Standards

Part 1: Nonprofits

While there aren't nonprofits specifically focusing solely on ADA building standards, there are a handful that advocate in all areas of discrimination. Founded in 1979, the Disability Rights Education and Defense Fund (DRED) is a nonprofit specializing in civil rights law and policies.⁴⁸ Involvement in upholding public building requirements would fall under DRED's legal advocacy sector. Another NPO that offers the same services as DRED is the National

⁴⁴ "Attorney General Garland and Civil Rights Division ..."

⁴⁵ "The Business Relations Program"

⁴⁶ "ADRS Board of Directors"

⁴⁷ "ADAP Services"

⁴⁸ "About Us"

Disability Right Network, specializing in legal support discrimination cases. One section they have under issues is called “Community Integration,” and it basically describes how many aspects of everyday life, including inaccessible public buildings, create segregation for disabled Americans.⁴⁹ Lastly, there are city-centered nonprofits like Chicago’s Access Living. Access Living focuses on the importance of independent, accessible living arrangements for disabled citizens in Chicago. On their website they state, “All of our programs and services revolve around one central belief: that people with disabilities have the right to live the lives they choose for themselves, in an accessible, integrated world.”⁵⁰ To find accessible living spaces, it could involve updating buildings to ADA standards, or at least advocating for them.

Part 2: Private Sector

Most business owners and government officials meticulously need to follow every ADA building regulation. Because of this, there are many private businesses, ranging from consultants to engineers, that specialize in ADA building regulations. In Birmingham, there is architectural consulting firm known as Evan Terry Associates that advertises their knowledge in architectural ADA compliance. Along with their professional architects, the firm also has a team that specifically focuses on ADA regulations.⁵¹ There are also businesses that specialize in wheelchair ramp installation, like Mobile’s Ryan Companies. This company specializes in ADA-compliant wheelchair ramps and will install them for both publicly and privately owned buildings.⁵² The use of privatized construction helps keep buildings on-par with ADA building regulations through efficiency and effectiveness.

⁴⁹ “Community Integration”

⁵⁰ “Our Services”

⁵¹ “Architectural Design”

⁵² “Wheelchair Ramp Installation By Ryan Companies”

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