



*Helping Older Persons With  
Legal & Long-Term Care  
Problems*

## ***Rights of Americans with Disabilities***

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### ***1. What is the Americans with Disabilities Act?***

The Americans with Disabilities Act (ADA) is a federal law designed to help people with disabilities participate fully in employment, public accommodations, transportation, public services, health services, voting and telecommunications.

### ***2. Who is protected by the ADA?***

The ADA protects individuals with disabilities. The Act defines a disability as a physical or mental impairment that substantially limits one or more of your major life activities, such as caring for yourself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working. However, with work, the disability must substantially limit your ability to do a broad class of jobs, not just a particular one.

Additionally, the ADA prohibits denying goods, services or benefits to someone who is associated with a disabled person because of that association.. For example, if your husband has Alzheimer's disease, your employer cannot discriminate against you if he or she thinks that you will be absent from work frequently because you have to care for him.

### ***3. What types of discrimination does the ADA prohibit?***

No qualified individual with a disability may be excluded from participating in or be denied the benefits of the services, programs or activities of an entity providing public services.

The ADA also prohibits discrimination by employers, public entities and any entity providing public accommodations. Discrimination includes denying participation or benefit from goods, services, facilities, privileges, advantages or accommodations of a business.

#### *4. What changes must be made in public accommodations under the ADA?*

Public accommodations such as restaurants, hotels, theaters, doctors' offices, pharmacies, retail stores, museums, libraries, parks, private schools and daycare centers cannot discriminate against you because you are disabled. Private clubs and religious organizations are exempt.

Reasonable changes in policies, practices and procedures must be made to avoid discrimination. For instance, a public accommodation shall permit the use of a service animal. Theaters must provide lines of sight and admission prices similar to the general public and provide for wheelchair seating next to family. A public accommodation may not impose eligibility criteria that screens out, or tends to screen out, individuals with disabilities. Auxiliary aides and services must be provided to individuals with vision or hearing impairments or other disabilities, unless an undue burden would result. Examples include hotels providing closed caption decoders or businesses that provide for telephone services to provide TDDs.

Public accommodations must remove architectural barriers in existing facilities where it is relatively easy to make the change. If it is more difficult to make such a change, the public accommodation must still make reasonable accommodations to make their services accessible to the disabled. Examples include installing ramps, repositioning shelves, furniture, telephones, vending machines, installing flashing alarm lights, adding raised markings in elevators, widening doors, installing accessible door hardware, paper towel dispensers, widening stalls in bathrooms, removing high pile carpet. A public accommodation cannot charge extra to the disabled for making these changes or providing these accommodations. For instance a hotel cannot charge extra for a room with grab bars or closed caption television or for you having a service animal in the room.

#### *5. What changes must be made by employers under the ADA?*

If you are qualified for a job, an employer cannot discriminate against you because you have a disability. This includes during job application procedures, hiring, advancement, discharge, employee compensation, job training and other terms, conditions and privileges of employment.

Discrimination includes not making reasonable accommodation to the physical or mental limitations of an otherwise qualified individual with a disability. Discrimination also includes limiting, segregating, or classifying an individual to adversely affect job opportunities or denying equal opportunities or benefits to one associated with a disabled person. Employers are not required to make accommodations that would impose an undue hardship and would, therefore, not be reasonable. Employers can require job related qualification standards if consistent with the needs of their business. Further, you must take whatever steps you can to help your situation, such as wearing corrective lenses.

#### *6. How do I enforce my rights under the ADA?*

If you are discriminated against because you are disabled, or you have reasonable grounds for believing this is the case, you can bring a civil action for preventive relief, including

an application for an injunction, restraining order or other court order. When you do this, the court may grant an order declaring the action to be discrimination, may order the action to stop and may order payment of your reasonable attorney fees, litigation expenses and costs. However, with regard to employment discrimination, you must first file your complaint with either the EEOC, U.S. Equal Employment Opportunity Commission, 1-800-669-4000, [www.eeoc.gov](http://www.eeoc.gov), or the state agency, which is the Ohio Civil Rights Commission (OCRC) 1-888-278-7101, [crc.ohio.gov](http://crc.ohio.gov). This is not required when the discrimination is by a state or local government agency. Nor is it required when you want to bring a civil action against a private entity providing public services.

To make a complaint, you must do so within 180 days from the alleged discrimination unless the time for filing is extended by the designated agency for good cause shown. The EEOC enforces the employment provisions of the ADA. Numerous other federal and state agencies are responsible for receiving complaints against public entities, depending on the types of services or programs concerned. A complaint may be filed with the U.S. Department of Justice (800-514-0301 or [www.ada.gov](http://www.ada.gov)) for referral to the appropriate federal agency.

### *7. What other federal laws protect the disabled?*

Section 504 of the Rehabilitation Act of 1973 protects against discrimination based on disability in entities receiving federal funds. This includes nursing homes and other health care providers who receive Medicare and Medicaid dollars.

The Fair Housing Act protects against discrimination based on disability in housing for rental property containing four or more units. Like the ADA, religious organizations and private clubs offering housing are exempt.

If you are disabled, the owner of the property must be willing to let you make, at your own expense, reasonable modifications to allow you to fully enjoy the premises. If you rent, however, the landlord may require you to return the premises to its former condition upon leaving the premises. The act also requires for new dwellings that they provide the common areas, doorways, and dwellings be handicapped accessible.

### *8. What Ohio laws protect the disabled?*

The Ohio Handicap Anti-Discrimination law protects disabled individuals from discrimination based on disability in employment, places of public accommodation, housing, credit, and higher education. Complaints are filed with the OCRC. If the Commission finds it warranted, it will refer the matter to the Ohio Attorney General to bring a civil action, or you can file in court for actual damages and other relief.

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Pro Seniors' Legal Hotline for Older Ohioans provides free legal information and advice by toll-free telephone to all residents of Ohio age 60 or older. If you have a concern that cannot be resolved over the phone, then the hotline will try to match you with an attorney who will handle your problem at a fee you can afford.

In southwest Ohio, Pro Seniors' staff attorneys and long-term care ombudsmen handle matters that private attorneys do not, such as nursing facility, adult care facility, home care, Medicare, Medicaid, Social Security, protective services, insurance and landlord/tenant problems.

This pamphlet provides general information and not legal advice. The law is complex and changes frequently. Before you apply this information to a particular situation, call Pro Seniors' free Legal Hotline or consult an attorney in elder law.

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