

THE CASE FOR ACCOMMODATION

Is your ECC prepared to manage an Americans with Disabilities Act accommodation request?

By Julie Heimkes



This year marks the 36th anniversary of the Americans with Disabilities Act (ADA). When President George H. W. Bush signed the landmark legislation in 1990, he framed it as the removal of a long-standing barrier to full participation in American life.

“Even the strongest person could not scale the Berlin Wall to gain the elusive promise of independence that lay just beyond,” Bush said. “I now sign into legislation an Act, which takes a sledgehammer to another wall, one which has for too many generations separated Americans with disabilities from the freedom they could glimpse but not grasp. We will not

accept, we will not excuse, we will not tolerate discrimination in America.”¹

According to the U.S. Department of Justice Civil Rights Division, “The ADA guarantees that people with disabilities have the same opportunities as everyone else to enjoy employment opportunities, purchase goods and services and participate in state and local government programs.”²

The ADA is an expansive document, and this article provides a high-level overview of key areas of the act that all emergency communications centers (ECCs) should be aware of.

Before examining how the ADA applies in practice, it helps to understand how the law defines disability. Under the ADA, a disability is a physical or mental impairment that substantially limits one or more major life activities. Some examples include muscular/musculoskeletal impairments, sensory impairments, chronic health conditions, neurological disorders, mental illness, autoimmune disorders and respiratory conditions.

Some states have expanded upon the ADA by adopting additional definitions or requirements, often imposing stricter standards than those set at the federal level.

The U.S. Equal Employment Opportunity Commission (EEOC) is the primary enforcement agency for the ADA’s employment provisions. They investigate discrimination complaints filed under ADA, provide guidance on ADA requirements and litigate cases on behalf of the individual filing the claim.

ECCs should be familiar with all ADA compliance standards; however, for the

purposes of this article, two foundational areas are highlighted:

1. Employment standards. These include both qualified applicants and current employees. An individual must be qualified to perform the essential functions of a job, meaning they have the legitimate skill, experience, education and other job-related requirements, and can perform the essential duties of the position. As the EEOC states: “The ADA does not interfere with your right to hire the best qualified applicant. The ADA simply prohibits you from discriminating against a qualified applicant or employee because of his or her disability.”³

2. Accessible design standards. According to ADA.gov, “The 2010 ADA Standards for Accessible Design set minimum requirements — both scoping and technical — for newly designed and constructed or altered state and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities.”⁴

These standards include the accessibility of the technology and equipment, and accessible routes and egress points.

The modern ECC environment depends on multiple interconnected technologies, from CAD and radio consoles to cameras, alarms and voice logging systems. Ensuring ADA compliance includes evaluating whether workstations support wheelchair access, offer adjustable screen layouts and color contrast for visual impairments and provide alternative keyboards or headsets when needed.

Additionally, ECCs must provide accessible routes — unobstructed paths that allow access to all areas of the facility, including common areas, restrooms, locker rooms, break rooms, training rooms and parking areas. This requirement also extends to egress, including exit routes mandated



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under local and state fire and emergency regulations.

Specific ADA regulations detail each of the requirements, such as the width of doorways, the turn radius for wheelchairs and accessible bathroom requirements.⁵

BUILDING RENOVATIONS AND NEW CONSTRUCTION

Local and state building requirements should be reviewed when planning an ECC remodel or renovation. Minor maintenance activities, such as roof replacement or interior painting, generally do not, by themselves, trigger full compliance with the ADA Standards for Accessible Design in facilities constructed before 1991.

More substantial renovations to an existing facility, including changing/moving walls or replacing flooring, may require compliance with applicable ADA accessibility standards.

WHAT HAPPENS AFTER A REQUEST IS MADE

Responding to an ADA accommodation request involves more than a single decision point. The following sections outline internal steps ECC leaders should consider once a request is received, including preparation, documentation and coordination across departments.

As part of that preparation, ECC directors and supervisors should ensure that all job descriptions accurately list the essential functions of each position. Vague or outdated descriptions can make it difficult to determine whether an accommodation request is reasonable.

Leadership should understand the internal processes for determining when to engage their human resources, legal or other appropriate departments after receiving an ADA request. Any communication that reasonably puts an employer on notice that a medical condition may be affecting job performance should prompt consideration of the ADA interactive process and of the agency's established procedures.

Some agencies assume that an accommodation request must be accompanied by formal paperwork as soon as an employee indicates a need for assistance. But when dealing with an ADA reasonable accommodation request, the process begins not with a form, but with a conversation via an interactive process.

The ADA recognizes that a person dealing with a new medical condition or impairment

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can be vulnerable and that being asked to complete a form can be difficult. The law understands that the simplest, least intimidating method of communication is a direct conversation, known as the interactive process. The person making the accommodation request can choose to make this request in writing, but an employer cannot require it to be done in writing.

The interactive process is a good-faith interactive conversation between an employee and their employer. The goal of this process is to ensure that both parties understand the requested accommodation.

The second part of the interactive process is to identify potential accommodation options and how they will meet the needs of the disabled individual.

For both applicants and current employees, the ADA generally prohibits employers from asking whether an individual has a disability or inquiring into the nature of a disability. Employers are also restricted from asking medical questions or requesting medical records unless such inquiries are job-related and consistent with business necessity.

According to the EEOC, "You can ask an applicant or employee questions about ability to perform job-related functions, as long as the questions are not phrased in terms of a disability. You can also ask the applicant or employee to describe or to demonstrate how they, with or without reasonable accommodation, could perform job-related functions."⁶

DOCUMENTATION OF INTERACTION

The Act does require the employer to document the following basic information formally:

1. **Who** made the request.
2. **When** the request was made (date and time).

3. **What** the employee asked for (the specific accommodation).
4. **Where** the employee feels that the problem lies and what job function is hindered by their disability.

This immediate internal documentation ensures compliance, creates the necessary paper trail to track the interactive process timeline, and protects your agency against claims of delayed or inadequate responses.

Depending on your agency's requirements, the above documentation may be done by the ECC manager or turned over to your appropriate agency department for documentation.

WHAT IS A REASONABLE ACCOMMODATION?

It is a violation of the ADA to fail to provide a reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability, unless to do so would impose an undue hardship on the operation of your business. Undue hardship is defined as an accommodation that would require significant difficulty or expense to the ECC. These are all determined on a case-by-case basis and should be handled only by your appropriate departments, such as legal and human resources.

The ADA is just one of the many state and federal requirements that an ECC must comply with. Your agency's processes for managing ADA reasonable accommodation requests should be clearly laid out in your administrative standard operating procedures. Reach out to your human resources or equivalent department regarding a training session for your management and line staff. ●

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REFERENCES:

- 1 National Archives. "Transcript of Remarks By The President During Ceremony for the Signing of the Americans with Disabilities Act of 1990." <https://www.archives.gov/research/americans-with-disabilities/transcriptions/naid-6037492-remarks-by-the-president-during-ceremony-for-the-signing-of-the-americans-with-disabilities-act-of-1990.html>
- 2 ADA.gov, U.S. Department of Justice, Civil Rights Division. "Introduction to the Americans with Disabilities Act." <https://www.ada.gov/topics/intro-to-ada>
- 3 U.S. Equal Employment Opportunity Commission (EEOC). "The ADA: Your Responsibilities as an Employer." <https://www.eeoc.gov/publications/ada-your-responsibilities-employer>
- 4 ADA.gov, U.S. Department of Justice, Civil Rights Division. "2010 ADA Standards for Accessible Design." <https://www.ada.gov/law-and-regs/design-standards/2010-stds/>
- 5 ADA.gov, U.S. Department of Justice, Civil Rights Division. "2010 ADA Standards for State and Local Government Facilities (Title II)." <https://www.ada.gov/law-and-regs/design-standards/2010-stds/#2010-standards-for-state-and-local-government-facilities-title-ii>
- 6 U.S. Equal Employment Opportunity Commission (EEOC). "The ADA: Your Responsibilities as an Employer." <https://www.eeoc.gov/publications/ada-your-responsibilities-employer>

CDE EXAM #77092

1. The ADA stands for the Americans with Disabilities Act
 - a. True
 - b. False
2. According to the ADA, a qualified individual must be able to perform what type of functions?
 - a. Non-essential functions
 - b. Essential functions
 - c. Any function, regardless of qualification
 - d. Functions unrelated to the job
3. If an applicant cannot perform the essential functions of a job, agencies are mandated to provide ADA accommodations during the application process.
 - a. True
 - b. False
4. What is the purpose of having accurate job descriptions according to the ADA?
 - a. To ensure all employees feel included
 - b. To assist in determining reasonable accommodation requests
 - c. To provide detailed training materials
 - d. To comply with union regulations
5. The ADA covers mental disabilities.
 - a. True
 - b. False
6. There are circumstances in which an employer can claim undue hardship from an employee's ADA Reasonable Accommodation request.
 - a. True
 - b. False
7. An employer can require an employee requesting a reasonable accommodation to complete written forms.
 - a. True
 - b. False
8. An employer can always ask an applicant or employee about the nature of their disability.
 - a. True
 - b. False
9. When might a building remodel or renovation require compliance with the ADA Accessible Design Standards?
 - a. When changing or moving walls
 - b. When painting walls
 - c. When repairing a roof
 - d. All of the above
10. An employer should discuss with an employee the accommodation options and how they meet the needs of their disability.
 - a. True
 - b. False

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