



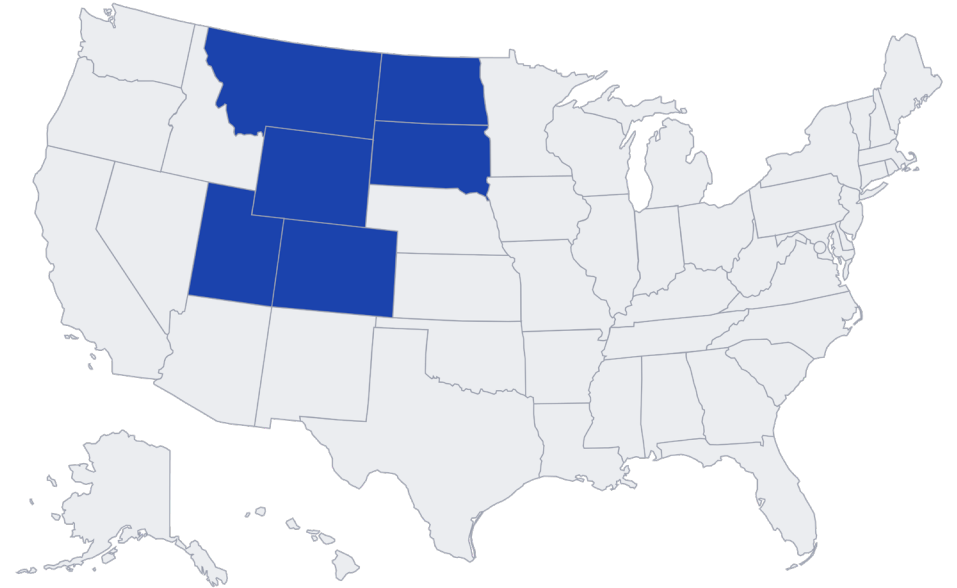
**ROCKY MOUNTAIN  
A D A C E N T E R**

*C O • M T • N D • S D • U T • W Y*

# **Libraries and the ADA (Title II)**

Rocky Mountain ADA Center

Emily Shuman, Director

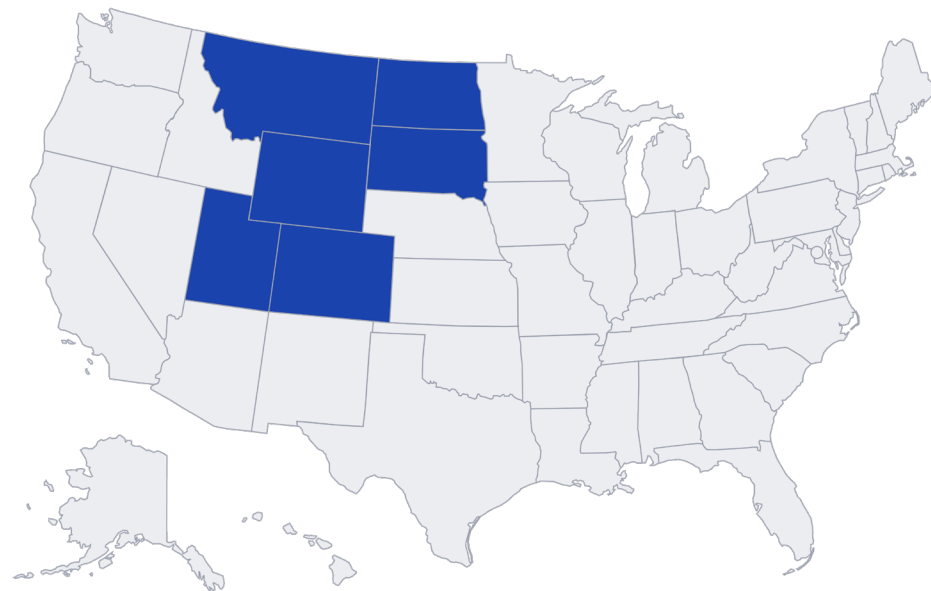




# Disclaimer

Information, materials, and/or technical assistance are intended solely as informal guidance and are neither a determination of your legal rights or responsibilities under the ADA, nor binding on any agency with enforcement responsibility under the ADA.

The Rocky Mountain ADA Center, operated by the University of Northern Colorado, is funded under a grant from the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR grant number 90DPAD0014) to provide technical assistance, training, and materials to Colorado, Utah, Montana, North Dakota, South Dakota, and Wyoming on the Americans with Disabilities Act.

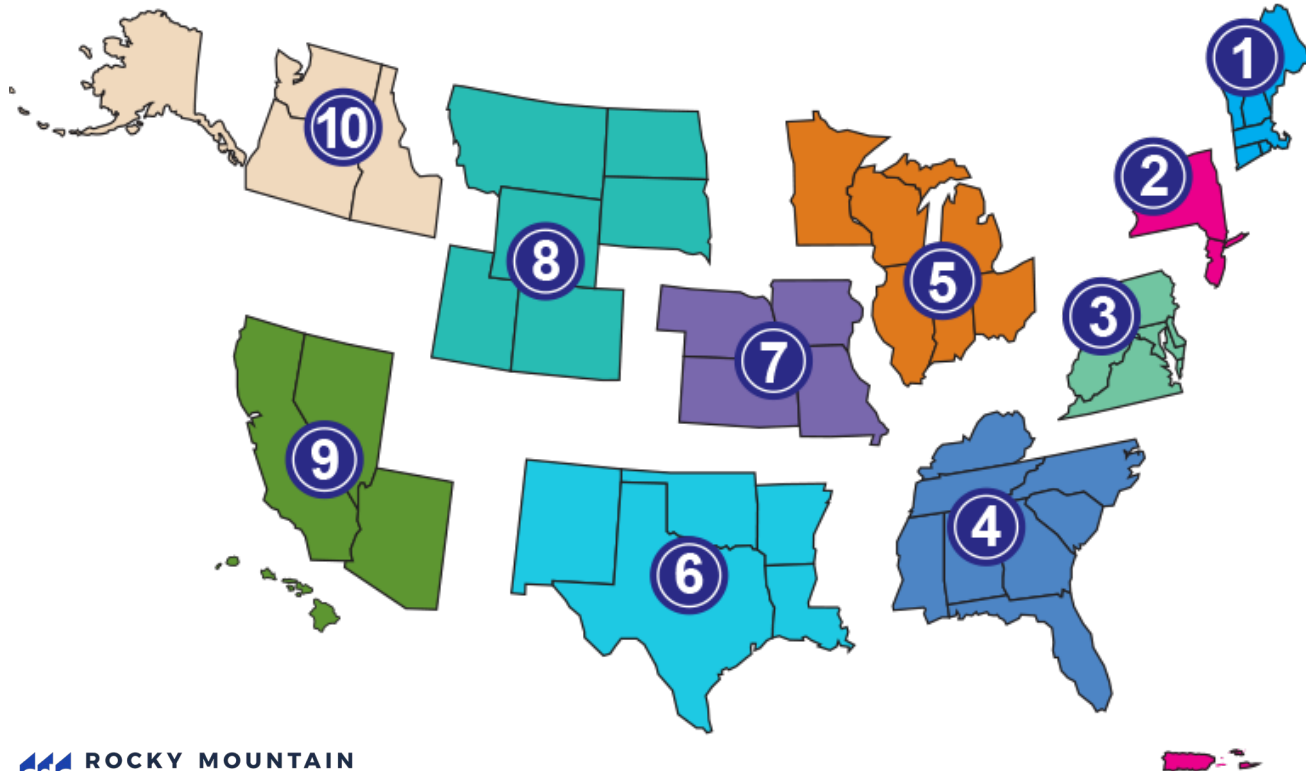


## Contact Information

Regional ADA Centers

1-800-949-4232

[www.adata.org](http://www.adata.org)



## What we do:

- Technical assistance
- Refer and network
- Conduct research
- Provide training
- Publish and share materials
- Social media

# Americans with Disabilities Act (ADA)

**Civil Rights Law** = Legal guarantee of equal opportunity in areas of public life for individuals with disabilities

- Prohibits discrimination on the basis of disability

**“Let the shameful wall of exclusion finally come tumbling down”**



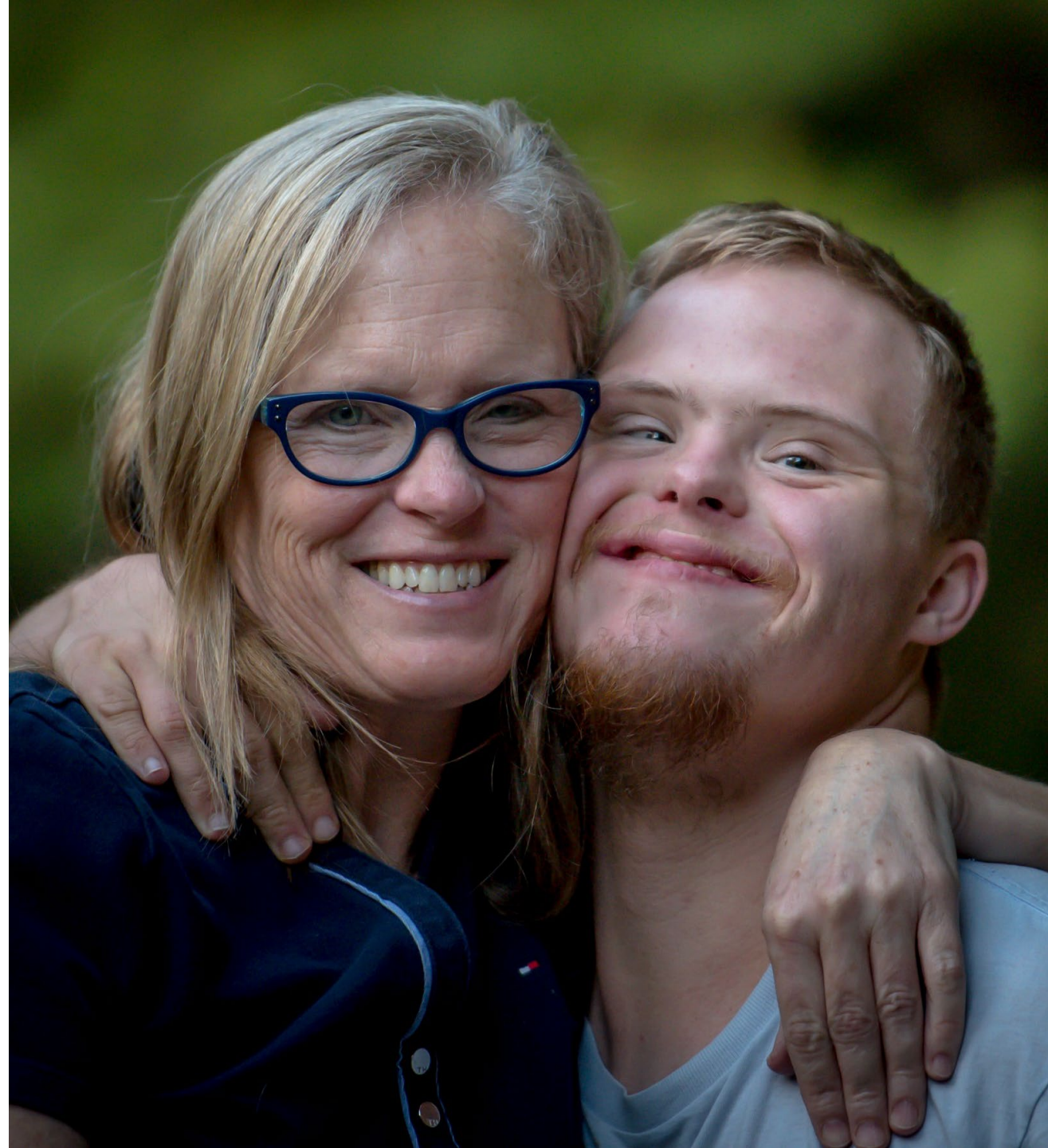
*July 26, 1990 – President George H. W. Bush signing the Americans with Disabilities Act on the South Lawn of the White House. Pictured (left to right): Evan Kemp, Reverend Harold Wilke, President Bush, Sandra Parrino, Justin Dart*

# ADA Definition of Disability

**A physical or mental impairment that substantially limits one or more major life activities.**

The ADA also prohibits discrimination against:

- Those with a **record** of such an impairment
- Those **regarded** as having such an impairment



# Spirit of the Law

## EQUALITY:

Everyone gets the same – regardless if it's needed or right for them.



## EQUITY:

Everyone gets what they need – understanding the barriers, circumstances, and conditions.



# Montanans with Disabilities

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**10.2%**

have serious difficulty  
walking or climbing stairs

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**14.4%**

have serious cognition  
difficulties

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**9.1%**

are deaf or have serious  
difficulty hearing

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**4%**

are blind or have serious  
difficulty seeing



**28.7%**

**(259,669)**

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of adults in Montana  
have a disability

# Why Accessibility Matters



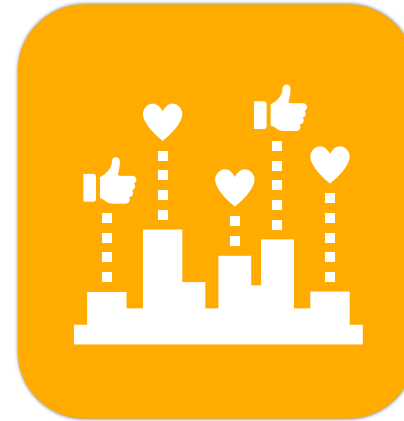
Can acquire this identity today



Largest minority group in the country and world



Reported disability numbers are likely lower than reality (identity conflicts, underdiagnosed, fear of stigma)



Enhances community engagement



Benefits everyone

# Five Titles of the ADA

Title 1 – Employment

**Title 2 – State and local governments**

Title 3 – Businesses/Places of Public Accommodation

Title 4 – Telecommunication

Title 5 – Miscellaneous



# Common Barriers to Equal Access

- Physical obstacles
- Communication barriers
- Attitudinal barriers
- Rigid requirements/lack of flexibility



# Title II of the ADA



Title II applies to **all state and local governments**, their departments, and their agencies (aka public entities)

Prohibits discrimination against qualified individuals with disabilities in all **programs, activities, and services** of public entities

Establishes standards for the **operation of public transit systems**, including commuter and intercity rail (e.g., Amtrak)

Enforced by the **U.S. Department of Justice** (DOJ)

# Title II of the ADA

## Responsibilities

- Ensure equal opportunity to participate in and benefit from the services, activities, and goods
- Make reasonable modifications in policies, practices, or procedures
- Provide effective communication, including providing auxiliary aids and services, when necessary, to eliminate communication barriers
- Provide accessible facilities and programs



Title II

# ADA Coordinator

- Every public entity with 50+ employees must designate at least one employee to **coordinate its efforts to comply with and carry out its responsibilities** under the ADA.
- Facilitates completion of Self Evaluation & Transition Plan, Public Notice, and Grievance Procedure
- The entity must make the name, office address, and telephone number of the ADA Coordinator readily available to all interested individuals.



## Title II

# ADA Coordinator

## Public Notice

- Under Title II, all public entities must provide information to the public, program participants, applicants, and employees about the ADA and how it applies to the public entity ([Sample ADA Public Notice](#))
- Public ADA notice should include brief statements about:
  - Employment
  - Effective communication
  - Reasonable modifications to policies and procedures
  - Requesting auxiliary aids and services or modifications
  - Filing complaints
  - ADA Coordinator's contact information
- Methods for these public notices can include:
  - Public entity's website
  - Social media
  - Notice at facilities
  - Published in the local newspaper
  - Public service announcement broadcast on a local radio or television station
  - Included in a program announcement and application



## Title II

# ADA Coordinator

## Grievance Procedure

- Local governments with 50 or more employees are required to adopt and publish procedures for resolving grievances arising under Title II of the ADA
- Grievance procedures create a system for resolving complaints of disability discrimination in a prompt and fair manner
  - However, if a person with a disability has a complaint about a public entity, they are **not** required to file a complaint with the public entity before filing a complaint with the federal government
- **Grievance procedures should include** ([Sample Grievance Procedure](#)):
  - A description of how and where a complaint under Title II may be filed with the government entity and how to request alternative means of filing
  - A description of the time frames and processes that should be followed by the complainant and the government entity
- After developing the grievance procedure, it should be given to all agency heads and posted for the public

Title II

# Reasonable Modifications

- A change in a policy, practice, or procedure that is done to offer equal access and equal opportunity for a person with a disability
  - Exceptions: Fundamental alteration, undue burden, direct threat, personal services and devices



Title II

# Examples of Reasonable Modifications

- Permitting a service animal to go where the public may go in a building, even though animals are not generally allowed
- Accepting proof of identification outside of a driver's license
- Modifying a “no outside food or drink” policy



# Service Animal Definition

- Any **dog, or miniature horse**, that is individually trained to do work or perform tasks for the benefit of an individual with a disability
  - Any type of disability
  - Any task which mitigates an aspect of an individual's disability
  - No breed restrictions



# Service Animal Handler Rights

- Right to Public Access
- Integration
- Multiple service animals
- No surcharges (Pet fees)
  - Damages can be charged if anyone else with an animal would be charged for the same damages
- Fears or allergies are generally not a valid reason to exclude



# Is It a Service Animal?

Registration – Proof of disability – Harness or vest – Certification – Paperwork – Identification cards – Patches – Documentation from doctor – Proof of training



Credible verbal assurance and actual witnessed behaviors are the only criteria for evaluating legitimacy of service animals



# Seeking Credible Verbal Assurance

There are only two questions you can ask when someone's need for a service animal is not obvious:

1. Is this a service animal required because of a disability?
2. What work or task has the animal been trained to perform?



# TASKS: Must be a VERB, not a passive action

- **Retrieve and carry items:** Medicine, assistive devices, water
- **Mobility:** Bracing, stabilizing, counterbalance
- **Hearing alert:** Doorbell, fire alarm, phone
- **Medical alert:** Diabetes, seizure, allergens, blood pressure, cortisol, nightmares, medicine reminder
- **Medical rescue:** Find help, dial 911, find medicine, place head under handler's head
- **Grounding:** Interrupt behaviors, tactile stimulation, deep pressure therapy, lick, tap
- **Perimeter checks and room clearing:** Checking for presence of people or weapons
- **Self care assistance:** Opening and closing washer/dryer, fridge, bathroom stall, doors, pull blankets on/off, pull blinds, remove socks or other clothing items
- **Cover:** Blocking, "watch my six," alert to approaching person
- **Guiding:** Bathroom, work, store, safe route, watch traffic

# Service Animal Expectations

- **Housebroken**
- **Always under handler's control**
  - Harnessed, leashed, or tethered, unless the individual's disability prevents using these devices or these devices interfere with the service animal's tasks
  - In that case, the individual must maintain control of the animal through voice, signal, or other effective controls
- **No required or forbidden equipment**
- **Must meet local safety requirements**
  - Licensing
  - Vaccination
  - Registration



# Causes for Service Animal Exclusion

## May exclude if:

- Disruptive or out of control **and** handler does not take effective action to control it
- Damages property
- Direct threat to health or safety (not housebroken)
- Fundamental alteration

## If animal is excluded:

- Must be based on **actual** behavior or history, not fears or generalizations about how an animal or breed might behave
- Must offer goods and services to the person without the animal present



# Other Types of Assistance Animals (Not Service Animals!)

## Emotional support or comfort animals

- Provide comfort, companionship, emotional support, or other benefits to an individual simply by being *present*, but are **not trained** to *do* anything specific

## Therapy animals

- Trained to provide comfort or socialization to **general populations** (for example, in pediatric hospital units or nursing homes); **not trained** to serve a specific individual

Because service animals must “**do work or perform tasks**,” and the provision of emotional support, well being, comfort, or companionship **do not constitute work or tasks** for the purposes of the “service animal” definition, **emotional support and therapy animals are not service animals.**

Title II

# Program Access

- Title II responsibility
- A state or local government agency, also known as a public entity, may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are physically inaccessible





# Older buildings do have to follow the Standards!

- Facilities that fall under Title II of the ADA should follow the Standards no matter when they were built
- Safe harbor provision: Any elements built or altered (before March 15, 2012) to comply with the 1991 Standards do not need to be changed to meet the 2010 Standards until alterations (updates) of those elements occur
- “Grandfathering” is not an existent concept under the ADA

# Where to find the Standards and learn more

- [U.S. Access Board — ADA Accessibility Standards](#)
  - [U.S. Access Board — Guide to the ADA Accessibility Standards](#)
- [ADA.gov — ADA Standards for Accessible Design](#)
- [ADA Checklist for Existing Facilities](#)
- Online course: [2010 ADA Standards](#)

# Effective Communication

## Overview

- People with disabilities that affect hearing, seeing, and speaking may use different ways to communicate.
- A public entity must ensure that its communications with individuals with disabilities are as effective as communications with others. Key word: **EFFECTIVE**

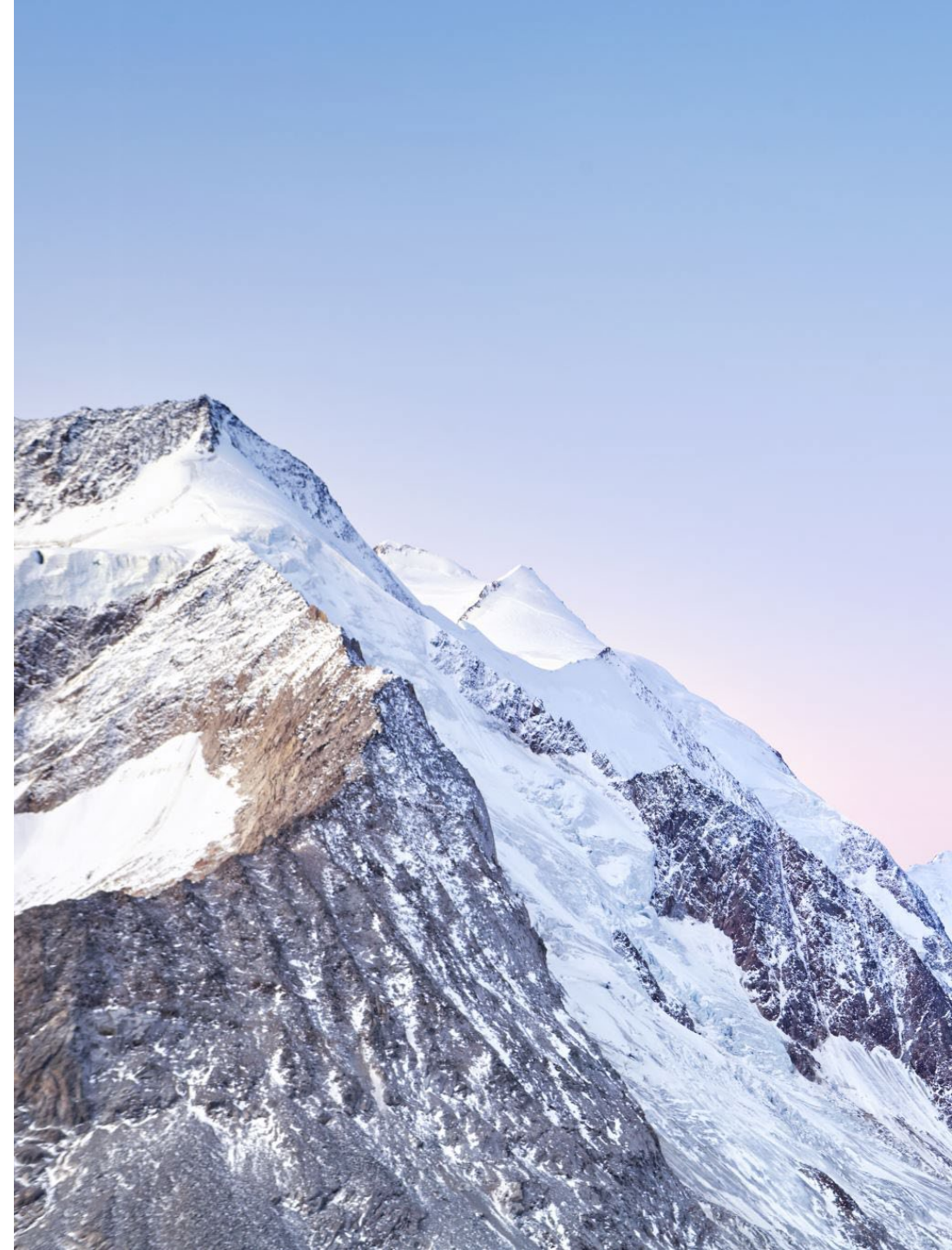
### **Exceptions:**

- Fundamental alteration
- Undue burden

# Undue Burden

## Narrow Exception

- Defined as a significant difficulty or expense
- For Title II entities, this determination can only be made by the head of the public entity (or their designee) and must be accompanied by a written statement of the reasons for reaching that conclusion
- The determination that undue burdens would result must be based on all resources available for use in the program



# Fundamental Alteration

## Narrow Exception

- A change so significant that it alters the nature of the service, program, or activity offered
- Fundamental alteration and undue burden do not completely relieve an entity of its requirements to provide effective communication

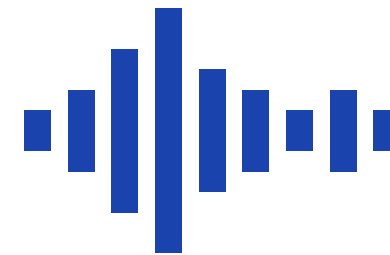
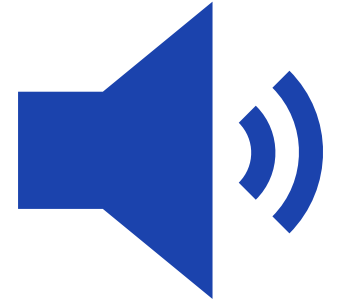
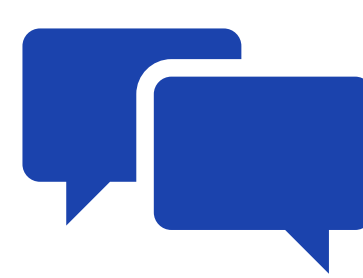


# Auxiliary Aids & Services

- Large print
- Braille
- Sign Language interpreter
- Audio recording
- Printed information
- Assistive listening systems
- Open or closed captioning
- Video relay services
- Screen readers

Give *primary consideration* to **communication preferences** while considering; **the nature, length,** and **complexity** of the communication.

Pay for and provide services and auxiliary aids (**no surcharge**).



# Effective Communication

## Companions

Companions are included when appropriate

- Family members
- Friends
- Associates

Example: Family members or companions with disabilities who come to court proceedings, doctors' appointments, or school meetings



# Effective Communication

Must I have auxiliary aids and services readily available at all times?

- No. If you can have certain auxiliary aids and services always available, that's great! Good access is good business
- However, the need for auxiliary aids and services is usually triggered by requests from individuals with disabilities

## **Best practices:**

- Provide clear, conspicuous information on how individuals can go about requesting effective communication
- Consider communication situations from all angles, assess what auxiliary aids and services could be needed in certain contexts, and have a plan in place for quickly providing them

# Effective Communication

Where to find auxiliary aid and service providers

- [Registry of Interpreters for the Deaf, Inc.](#)
- [CART Services](#)
- Ask for resources from your local [ADA Center](#)
- Check in with your local disability organizations and groups for suggestions, such as your local [Centers for Independent Living](#)
- Ask your network!

# Effective Digital Communication

## ADA Title II

### New as of **April 25, 2024**

- Applies to Title II entities
- Adopts the **Web Content Accessibility Guidelines (WCAG) Version 2.1, Level AA** as the enforceable standard
- Entities have 2-3 years to comply, depending on population size. For many, compliance is here.

# Section 504 of the Rehabilitation Act of 1973

Expands on existing **Section 508** requirements

**New as of May 1, 2024**

- Applies to programs and activities that receive Federal funds
- Adopts the **Web Content Accessibility Guidelines (WCAG) Version 2.1, Level AA** as the enforceable standard
- Closely aligns with Title II web and app provisions
- Adds kiosks
- Entities have 2-3 years to comply, depending on organization size

# Bottom Line

Compliance with the **Web Content Accessibility Guidelines (WCAG), Version 2.1, level AA is required** by several laws.



# Next Steps for Inclusivity

# Staff Training and Awareness

- ADA Rights and Responsibilities
- Disability Etiquette
- Using Assistive Devices and Technology
- Service Animals
- Internal Accessibility Policies
- Disability Employee Resource Group (ERG)

# Representation

- Engage people with disabilities in meaningful ways
- Integrate people with disabilities as contributors to and participants in library programs, services, and resources
- Employ people with disabilities at all levels of the organization



Photo of Alice Wong, an Asian American disabled author, holding a copy of her memoir, *Year of the Tiger*.  
Photo credit: Eddie Hernandez Photography.

Best Practices

# Community Outreach and Engagement

Access Advisory Committee

Partnerships

- Disability organizations
- Parents of disabled children
- Schools and government offices

Emulate the successful practices of others

Network within the industry

Make commitment to inclusion externally visible

# Feedback and Continuous Improvement

- Encourage feedback from disabled patrons
- Provide multiple opportunities to share feedback in a variety of methods
- Review accessibility efforts at regular intervals
- Incorporate feedback, fresh ideas, new technologies, and innovations

# We're here to help.



Emily Shuman



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[RockyMountainADA.org](http://RockyMountainADA.org)



1-800-949-4232



9:00 a.m. – 4:00 p.m. MT  
Monday – Friday

