

Americans With Disabilities Act (ADA), cont. . .

Eligibility

All persons who fall under the definition of disabilities are covered by ADA. Title I of the Act forbids discrimination in employment on the basis of an individual disability. If a person with a disability is qualified for a job, he or she is entitled to a "reasonable accommodation." State and local governments are covered under Title II of ADA and must provide "reasonable accommodation" for employees and perspective employees under this Title of the Act. Not all employers are covered by Title I. Employers of fewer than 15 people are exempt from Title I as well as all religious organizations.

Education and the ADA

Title II of the Act prohibits all public entities, even those completely independent from federal funding, from discriminating against people with disabilities. Title II provides protection to individuals with disabilities that are at least equal to those provided by the nondiscrimination provisions of Title V of the Rehabilitation Act, which includes Section 504. The more specific requirements imposed on a school district under Section 504 are applicable under Title II when necessary to ensure that Title II is interpreted in a way that is consistent with the intent of the ADA. The obligations of a school district, specifically described under Section 504, to provide a Free Appropriate Public Education (FAPE) to school-age individuals with disabilities, regardless of the nature or severity of their disabilities, are incorporated in the general provisions of Title II.

Provision of FAPE requires a school district to provide regular or special education and related aids or services that are: (1) designed to meet the individual needs of persons with disabilities as adequately as the needs of non-disabled persons are met; and (2) able to satisfy requirements regarding educational setting, evaluation and placement, and due process safeguards. Examples of related aids and services that may be provided to individuals with disabilities in either regular or special education programs include: interpreters for students with hearing impairments; readers for students with visual impairments; equipment and equipment modifications to accommodate the needs of students with mobility impairments, manual impairments, hearing impairments, or visual impairments; speech therapy; psychological services; physical and occupational therapy; school health services; or school social work services.

Schools may not deny children the opportunity to take home assistive devices if those devices are needed to enable those children to have an equal opportunity to participate in school.

A school district must provide an appropriate public education to a person with a disability without cost to the person or to his or her parents or guardians, except for those fees that are also imposed on non-disabled persons or their parents or guardians.

In general, Title II does not require school districts to provide personal devices such as wheelchairs, prescription eyeglasses or hearing aids, readers for personal use or study, or services of a personal nature, including assistance in eating, toileting, or dressing. This provision serves as a limitation on the school district's obligation to comply with other Title II requirements, including the duty to provide auxiliary aids and services to facilitate communication, and the duty to modify policies, practices, and procedures to ensure accessibility. This provision does not affect the obligation of a school district to provide a personal device or service in the form of special education or a related aid or service if that device or service is necessary to provide FAPE to the individual student.

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The ADA requires that all state and local government services be accessible to people with disabilities as defined in Section 504 of the Rehabilitation Act. Title II of the ADA provides comprehensive civil rights protection for "qualified individuals with disabilities."

ADA and Section 504 protection for children with disabilities is much broader than that of the Individuals with Disabilities Education Act (IDEA). Children with disabilities or temporary disabilities who do not meet the criteria for Special Education Services under IDEA may be able to receive AT regardless of whether it is needed to allow the child to benefit from special education.