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ADA

**What Must Associations Do to Comply
with the
Americans With Disabilities Act?**

GKG Law, P.C. Association Law
Educational Series

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What is the Americans With Disabilities Act (ADA)

- Civil Rights Statute designed to protect persons with disabilities against discrimination in employment, housing and utilization of public facilities including both government, commercial buildings
- Designed to promote equal opportunity and access

ADA
Americans
with Disabilities
Act

How do you define disabled under the ADA?

➤ What is a disability?

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

How do you define disabled under the ADA?

- Who is a qualified person with a disability?
 - A person who has the skill sets to perform a job - - with or without a reasonable accommodation

How do you define disabled under the ADA?

- What is a reasonable accommodation?
 - One that does not involve undue hardship or expense

How do you define disabled under the ADA?

- How can you get facts to decide?
 - You can ask a job applicant if he/she could perform certain tasks
 - Sometimes you can ask them to demonstrate that they could perform job-related tasks
 - You can do a post hire physical if you do one for all post hires
 - Tests for illegal use of drugs is okay.

What Must Associations Do to Comply?

➤ Websites

- Accessible to persons with impaired sight
 - Convert to text that can be converted to speech
- Accessible to persons with impaired hearing
 - Captioning
- WCAG.20 Standards
 - w3.org



What Must Associations Do to Comply?

➤ Employment

- Cannot discriminate
- Must make reasonable accommodations
- Person must be qualified
- Have written job descriptions
- Alcoholic v. illegal drug user



What Must Associations Do to Comply?

➤ Offices

- Must be accessible
 - Ramps
 - Grab bars
 - Lower handles
- Must have accessible restrooms
- Can't blame everything on landlord
- Space accessible to public vs. space generally not accessible to the public



What Must Associations Do to Comply?

➤ Meetings Outside of Office

- Fully accessible
- Must ask about special needs - - no personal services
- Hotels must be accessible
- May need speech language interpreters
- Auxiliary aids - - companions
- Subject to fundamental alteration and undue burden test



What Must Associations Do to Comply?

➤ Service Animals



New law effective as of March 13, 2011

- Limited to dogs
- Must not be disruptive
- Cannot be emotional support or guard dogs
- You are limited in what you can ask

What Must Associations Do to Comply?

➤ Mobility Assistance Equipment

- Wheelchairs
- Electric chairs or scooters
- Segways
- ATVs
- Others



What Must Associations Do to Comply?

➤ Tests and Certification

- Nondiscriminatory
- Special accommodations
- Multiple languages (not ADA)
- Validation
- Should ask what individual needs

State Statutes

- Often more restrictive
- Often provides money damages and attorney fees
- Some state agencies not objective



ADA & Disability Law

Federal Enforcement

- DOJ standards
- EEOC standards
- ADAAG



Penalties

- DOJ - - Public Accommodation
- EEOC Employment



Closing Remarks



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