25TH ANNIVERSARY of the AMERICANS WITH DISABILITIES ACT 1990 — 2015 & THE ADA HOW IT AFFECTS PSYCHOLOGISTS

American Psychological Association
The Americans With Disabilities Act and How It Affects Psychologists

This brochure is written in recognition of the 25th anniversary of the signing of the Americans With Disabilities Act (ADA). The ADA has been a watershed in American disability policy, with far-reaching effects on the status of individuals with disabilities. At its essence, it is a civil rights law that prohibits discrimination against people with disabilities in nearly every domain of life including employment, transportation, education, recreational activities, and health and mental health services. In enacting the ADA, Congress intended “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” The emergence of both the disability rights and independent-living movements were critical to the development of the ADA. The disability rights movement emerged in tandem with the 1960s civil rights movement in the United States. Based on the fundamental principles of autonomy and self-determination, it was a response to perceived injustices toward people with disabilities. The 1970s saw numerous grassroots movements and activism as people with disabilities became increasingly visible, closing down buildings, creating independent living centers, and protesting on college campuses.

Over time, this civil rights movement was advanced by behavioral and social science research and by political actions. Psychological research helped demonstrate the pervasive nature of stigma associated with disabilities and the adverse mental health effects of discrimination. It
The Americans With Disabilities Act and How It Affects Psychologists (con't.)

also supported arguments for the elimination of barriers to people with disabilities so they could share the same social and legal rights and responsibilities as nondisabled people. Social psychologists showed that a variety of psychological and sociological mechanisms—including stereotyping, stigmatization, psychological discomfort, and paternalization—caused nondisabled individuals to hold prejudicial views against people with disabilities. Community psychology as well influenced the disability rights movement with its recognition of community participation and involvement, capacity building, empowerment, and community control.

With this research in hand, APA became involved in the developmental processes leading to the passage of the ADA. APA provided oral and written testimonies on all aspects of the regulations, particularly those related to people with mental disabilities. The association and its collaborators were successful in assuring final passage of the ADA without weakening amendments, such as those that would have excluded people with mental and emotional disabilities from coverage and protection under the law.

Let’s take this opportunity to celebrate this milestone by reacquainting ourselves with key aspects of the ADA and recommitting to the spirit and goals of this important legislation.
An Overview of the ADA

Termed a “quiet revolution” and a “celebration of the uniquely American notion that all our citizens can contribute to society if we provide them with the tools and opportunities they need,” the ADA established a clear and comprehensive mandate for the elimination of discrimination against people with disabilities. The act provides broad protections in the areas of employment, public services, public accommodations, and services operated by private entities in the areas of transportation and telecommunications.

The ADA has four titles:

• **Title I** prohibits discrimination against qualified people with disabilities in the area of employment, including hiring and promotion practices and employee benefits such as training, fringe benefits, and social opportunities.

• **Title II** precludes the denial of benefits or exclusionary practices of programs and services operated by public entities. The term “public entity” includes all state and local government agencies and any department, agency, special purpose district, or other instrumentality of a state or local government.

• **Title III** mandates that all public facilities such as services, businesses, agencies, and public transportation be accessible to individuals with disabilities.

• **Title IV** requires that all telecommunication services be accessible to individuals with disabilities.
In response to several U.S. Supreme Court decisions that narrowed those eligible for protection under the ADA, Congress passed the Americans With Disabilities Act Amendments Act of 2008 (ADAAA), which became effective January 1, 2009. Congress passed the ADAAA to ensure the ADA’s original intent of protecting disabled people was adhered to despite several earlier Supreme Court rulings. The ADAAA’s goal is to broaden eligibility under the ADA while maintaining the original definition of disability: a physical or mental impairment that substantially limits a major life activity.

The ADAAA has important implications for psychologists:

• The determination of whether an impairment substantially limits a major life activity must be made without reference to the ameliorative effects of mitigating measures such as medications, medical supplies and equipment, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image), prosthetics, hearing aids and cochlear implants, mobility devices, assistive technology, and behavioral or adaptive neurological modifications.

• An impairment that is episodic or in remission is a disability if it substantially limits a major life activity when active. As an example, a person with a seizure disorder controlled by anti-seizure medication would nevertheless have a qualifying impairment if the seizures substantially limit a major life activity when they occur.
How the ADA Affects Psychologists

The mandates of the Americans With Disabilities Act and its amendments apply to psychologists who:

- are employed in health care settings or clinical private practice
- work in academic settings
- serve as employers

- segregating, or screening out individuals with disabilities
- providing individuals with goods, services, or accommodations different or separate from those afforded other individuals
- imposing increased fees for reasonable accommodations provided (e.g., sign language interpreters)
- failing to make reasonable modifications in policies, practices, and procedures when such modifications may be necessary to afford services to individuals with disabilities
- not communicating with individuals with disabilities, such as those who are blind or have hearing loss, who are seeking or receiving services

In addition, ask yourself:

- Is it possible for people with visual and auditory disabilities to learn about and seek out my services?
How the ADA Affects Psychologists (con't.)

• Am I prepared to secure the services of a sign language interpreter, reader, or other support person for a client with a disability when such accommodation is requested?

How the ADA Affects Psychologists as Educators

The ADA prohibits disability discrimination in education and training programs. Title II of the ADA applies to state-funded schools such as universities, community colleges, and vocational schools. Title III of the ADA covers private colleges and vocational schools.

To meet the obligations of the ADA, you should be aware of:

• opting not to provide reasonable accommodations or the academic adjustments that have been approved by the institution's designee when such accommodations are requested.

• making assumptions about a disabled student's ability to work in a particular field.

In addition, ask yourself:

• Are my office and the facility where I teach classes accessible to individuals with disabilities?

• Are the materials I use for class instruction, research, and clinical work accessible to people with learning, visual, or hearing disabilities?

• Is our state psychological licensure examination fully accessible to qualified applicants with disabilities?

• Are internship sites in the community accessible to students with disabilities?
How the ADA Affects Psychologists (con't.)

How the ADA Affects Psychologists in Employment

If you as a psychologist are an employer, ask yourself these questions to determine compliance with the ADA:

• Am I familiar with the pre-employment and medical screening prohibitions in the ADA?

• Do I know how to identify the essential functions of a position?

• Am I aware of the impact of the ADA on collective bargaining agreements?

• Do I know what the confidentiality requirements of the ADA are?

• Am I able to advise employees about the impact of the ADA on collective bargaining agreements?

• Am I aware of the technical assistance resources available to assist in the identification of an appropriate accommodation for a particular employee?
Americans With Disabilities Act National Network
wwwadata.org

Bazelon Center for Mental Health Law
www.bazelon.org

Job Accommodation Network
www.askjan.org

Information and Technical Assistance on the Americans With Disabilities Act
www.ada.gov

American Psychological Association Office on Disability Issues in Psychology
www.apa.org/pi/disability

APA Disability Issues Office DART Toolbox

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