

COVID Realities and Implications for People with Disabilities

Applying the Americans with Disabilities Act



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ADA National Network

• Ten regional centers provide guidance, training, and materials on the ADA

- **1-800-949-4232**
- ADAta.org

• Funded by National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), Administration for Community Living, U.S. Department of Health and Human Services



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Disability



• When is COVID-19 or Long COVID a disability under the ADA?

- ADA definition of disability
 - Physical or mental impairment that substantially limits one or more major life activities
 - Record of such an impairment
 - Being regarded as having such an impairment
- Individualized assessment

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Employment

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Reasonable Accommodation



- Covered employers need to provide reasonable accommodations to qualified applicants and employees with disabilities; may include ...
 - Individuals who have COVID or Long COVID when it meets the definition of disability
 - Individuals who have disabilities that make them more vulnerable to contracting COVID and/or experiencing severe effects of COVID
- Individuals who are “regarded as” having disabilities or “associated with” people with disabilities
 - Protected from discrimination, entitled to equal treatment
 - **Not entitled to reasonable accommodations**

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Limitations



- Undue hardship
 - Significant difficulty or expense
- Direct threat
 - Significant risk of substantial harm to the health or safety of one's self or others, which cannot be eliminated or reduced with reasonable accommodation
 - Based on individualized assessment

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Workplace Policies



- Requirements such as ...
 - Use of face masks or other PPE, social distancing and other separation protocols, cleaning procedures, etc.
 - Vaccination
- Generally may be considered valid requirements
 - Subject to obligation to provide **reasonable accommodations** to workers with disabilities

COMMON QUESTION

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Public Programs and Private Businesses



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Core Obligations



- Covered entities must ...
 - Ensure access to programs, goods, services, activities
 - Including non-discrimination in provision of services for which individuals are eligible (medical care, vaccinations, testing, etc.)
 - Make reasonable modifications in policies, practices, and procedures when necessary
 - Communicate effectively with individuals who have hearing, vision, or speech disabilities

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Limitation on Obligations



- Covered entities are not required to take any action that would cause...
 - Fundamental alteration
 - Changing the essential nature of goods, services, activities
 - Undue burden
 - Significant difficulty or expense
- When fundamental alterations or undue burdens arise, entities must consider alternatives!

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Health and Safety



- Covered entities may establish legitimate, necessary safety requirements based on actual risks
- Covered entities do not have to allow an individual with a disability to pose a direct threat to the health or safety of others
 - Individualized assessment

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Policies



- Requirements such as ...
 - Use of face masks or other COVID-related safety protocols
 - Vaccination, in some settings (e.g., schools)
- Generally may be considered valid requirements
 - Subject to obligation to make reasonable modifications, provide auxiliary aids/services for effective communication, etc.

COMMON QUESTION

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Testing, Vaccines, and Treatment



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Sites and Facilities: State and Local Governments



• Program accessibility

- Not all testing, vaccination, or treatment sites need to be accessible, BUT if not all are accessible:
 - A reasonable number of comparable sites must be accessible
 - Information about which sites are accessible should be readily available to the public

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Sites and Facilities: Businesses That Serve the Public



- Existing buildings are subject to requirements to **remove barriers when readily achievable**
 - All existing buildings may not be accessible



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Sites and Facilities: Temporary Facilities



- Services provided in **temporary or mobile facilities** are covered



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Effective Communication



- Auxiliary aids and services may be needed to ensure effective communication with individuals who have vision, hearing, or speech disabilities
 - For example, exchanging notes/using whiteboards, assistive listening devices, amplification or speech-to-text apps, printed materials, accessible digital information
- Telephone systems used to get information or make appointments must be effective for individuals using telecommunications relay services (TRS)

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Digital Access



- Access to websites and mobile apps to find information, make appointments, etc.
 - Effective communication for people with hearing or vision disabilities (websites compatible with assistive technologies used by many people who are blind or have low vision, captioned videos, etc.)
 - Compatibility with assistive technologies used by people with disabilities that affect mobility or dexterity (input other than mouse, time-out features, etc.)
 - Low flash rates (or no flashing elements)
 - Simple designs with plain language

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Reasonable Modifications



• **Examples:**

- Adjusting communication methods to accommodate individuals with intellectual, developmental, or cognitive disabilities
- Modifying a limited visitation policy in a medical facility to enable an individual with a disability to have a needed support person or service provider present
- Admitting service animals
- Providing seating to accommodate individuals who have difficulty standing for long periods of time

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Connecting with Communities



• **Things to consider:**

- How will people learn about testing, vaccination, and treatment options?
 - Use multiple methods, languages to reach out
- How will people get to sites?
 - Consider proximity to public transit where available, as well as other options (collaborations, volunteer programs)
- Will any testing/vaccination sites be able to accommodate individuals who may need to lie down, or who cannot wear face masks?

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Questions?



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Thank You for Joining Us!



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