

The Americans with Disabilities Act (ADA) of 1990

School District Functions and Responsibilities

Services for Employees

Process and respond to requests for services/accommodations from school district employees with disabilities.

Serve as Chairperson of the ADA District Consultative Committee.

Convene and facilitate the work of the ADA District Consultative Committee, which is charged with determining if the employee is a qualified individual with a disability, and providing reasonable accommodations, if necessary.

Facilitate the provision of services/accommodations to employees with disabilities, as directed by the ADA District Consultative Committee.

Provide inservice training to school district staff regarding the requirements and implementation of the ADA and related issues.

Make recommendations to the ADA District Consultative Committee, as necessary or appropriate.

Lead Responsibility:

Human Resources Standards

Telephone: 305-995-7116

TDD: 305-995-2400

ada-employee@dadeschools.net

Facilities Accessibility Compliance

Survey the school district's facilities and make recommendations to ensure compliance with the ADA.

Serve as a resource to school district staff with respect to ADA accessibility requirements.

Receive, process, and respond to complaints from employees and the public regarding ADA accessibility compliance.

Serve as the school district's ADA Accessibility Coordinator and as a member of the District Consultative Committee.

Communicate with local, state, federal agencies, and educational entities regarding the implementation of ADA accessibility requirements.

Lead Responsibility:

Division of Facilities ADA Compliance

Telephone: 305-995-4650

TDD: 305-995-2400

ada-facilities@dadeschools.net

Compliance with the ADA

Receive, process, and investigate internal complaints from employees alleging discrimination or harassment on the basis of disability.

Receive, process, and investigate complaints from employees, students and applicants alleging that the school district is not meeting its obligations under the provisions of ADA.

Serve as a resource to school district staff on requirements of the ADA, and as a member of the ADA District Consultative Committee.

Provide inservice training to school district staff regarding compliance issues.

Respond to state and federal agencies regarding complaints of discrimination filed against the school district on the basis of disability.

Lead Responsibility:

Civil Rights Compliance

Telephone: 305-995-1580

TDD: 305-995-2400

crdc@dadeschools.net

The Americans with Disabilities Act (ADA)

What is the ADA?

The ADA is a civil rights law protecting qualified individuals with disabilities from employment discrimination and giving them access to public services, public accommodations, public transportation, commercial facilities, and telecommunications. In general, it covers all employers who have 15 or more employees (including certain part-time employees) working for them for 20 or more calendar weeks in the current or preceding calendar year.

The ADA is not a “guaranteed-jobs law” for people with disabilities. If an individual with a disability who meets the minimum requirements applies for a job and a nondisabled individual with more experience also applies, it is not a violation for the employer to select the more experienced applicant.

What Does the ADA Require?

The **public accommodations provisions of the law** requires the removal of architectural and structural barriers that limit access to disabled individuals from places of public access where doing so is readily achievable meaning, easily accomplished and able to be carried out without much difficulty or expense. Factors to be considered in determining whether barrier removal is readily achievable include the nature and cost of the barrier removal, the overall financial resources of the institution, and the number of people employed.

The United States Department of Justice suggests that the institutions rank priorities for achieving accessibility in the following order:

- ♿ entrances, including providing signage for designated parking, passenger loading zones, curb cuts, and widening entrances and ramping steps;
- ♿ location of services, including, for example, moving services to ground floors when lacking elevators;
- ♿ public restroom accessibility and features; and
- ♿ other accessibility measures.

The **ADA’s employment provisions** prohibit discriminating against qualified individuals with disabilities in the recruiting, application, and hiring processes, as well as in the terms and conditions of employment, including promotion and training opportunities. Discrimination includes, but is not limited to, limiting, segregating, classifying, or treating a job applicant or employee in a way that adversely affects job opportunities or status because of the individual’s disability.

The ADA requires covered entities to provide “reasonable accommodations” to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee unless the entity can demonstrate that the accommodation would impose an undue hardship.

Employers are not only prohibited from outright, blatant discrimination against employees with disabilities but also from using practices that have the effect of discriminating; for example, qualification standards,

employment tests, or selection criteria that tend to screen out individuals with disabilities, unless the standard is “job related.”

The law requires employers to engage in an “interactive” process, in good faith, with an employee to consider and make “reasonable accommodations” to the known physical or mental limitations, of a qualified individual with a disability, unless doing so would impose an undue hardship on the employer. Additionally, under certain circumstances, applicants for jobs may also require reasonable accommodation in the application process.

Who is a Disabled Individual Under the ADA?

The ADA prohibits employment discrimination against “**qualified individuals with disabilities.**”

Definition

A **disabled** individual, under the ADA, is a person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. “Major life activities” refer to activities that are of central importance to most people’s daily lives. They include such things as seeing, hearing, walking, caring for oneself, performing manual tasks central to daily life, speaking, breathing, learning, and working. Other examples of major life activities include sitting, standing, lifting, and mental and emotional processes, such as thinking, sleeping, concentrating, and interacting with others.

As indicated by the above definition, an individual may qualify as “disabled” if (s)he has a record of such an impairment. An employee has a record of a substantially limiting impairment if (s)he:

- has a history of a substantially limiting impairment, or
- has been classified or misclassified as having a substantially limiting impairment.

Additionally, an individual may qualify as “disabled” if (s)he is **regarded** as having a substantially limiting impairment. An employee is regarded as disabled if (s)he:

- has an impairment that does not substantially limit the major life activity of work, but is treated by the employer as if it did, or
- has an impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment.

The crucial factor in the “regarded as” scenario is that by treating an individual, who may not otherwise qualify under the ADA, as having an impairment that significantly restricts her/him from working, the employer is regarding the employee as having an impairment that substantially limits the major life activity of working, whether or not the employee truly has such an impairment, and thereby extending the protections of the ADA to that employee.

What is “Substantially Limiting”?

Definition

An impairment is ***substantially limiting*** if it prevents or to a large degree restricts an individual's ability to perform a major life activity, as compared to the ability of the average person in the general population performing the same activity.

The determination of whether an impairment substantially limits a major life activity depends on the nature and severity of the impairment, the duration or expected duration of the impairment. The impairment's impact must be permanent or long-term.

Short-term, temporary restrictions are generally not substantially limiting, but an impairment does not have to be permanent to rise to the level of a disability. Temporary impairments that take significantly longer than normal to heal, long-term impairments, or potentially long-term impairments of indefinite duration may be disabilities, if they are severe.

What is an Impairment?

Definition

An ***impairment*** is a physiological disorder or condition affecting one or more body systems or a mental or psychological disorder such as emotional or mental illness. It is not the name of the impairment or condition that determines whether a person is disabled under the ADA, but rather, the effect the impairment has on the major life activities of the particular person.

Individuals with disabilities such as vision, hearing, and mental and motor impairments as well as those with debilitating diseases such as HIV/AIDS are included and, therefore, covered by the ADA.

Persons with temporary disabilities, such as a broken leg, and those with minor impairments (such as poor vision that is correctable with eyeglasses) that do not substantially limit major life activities, are not covered by the ADA.

The following conditions are not impairments:

- environmental, cultural, and economic disadvantages;
- homosexuality and bisexuality;
- pregnancy;
- physical characteristics (eye and hair color, left-handedness);
- personality traits or behaviors; and
- normal deviations in height, weight, or strength.

The regulations implementing the ADA define “mental impairment” to include “any mental or psychological disorder.” Mental or psychological disorders are further defined to include, but are not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The following are not considered to be mental impairments:

- gender identity disorders, not resulting from physical impairments, or other sexual disorders; and
- conditions resulting from current illegal use of drugs.

Who is “Qualified” Under the ADA?

Definition

A ***qualified individual with a disability*** is one who has a disability, within the meaning of the ADA, who satisfies the requisite skills, experience, education, and licensing requirements, and who, with or without a reasonable accommodation, can perform the essential functions of the job.

Essential Functions of the Job

The essential functions of a position are those that are central to accomplishing the tasks that are required of the position, not those that are marginally related to the outcome. In determining whether a particular duty is an essential function, the employer needs to focus on the purpose of the function and the result to be obtained, and consider whether transferring the function to another employee would fundamentally alter the nature of the job. Although not required by the ADA, job descriptions can be considered evidence of the employer’s intent in so far as essential/marginal functions are concerned.

The following types of questions can provide assistance in determining which functions are essential to a job:

- Will removing the functions fundamentally alter the position?
- Is the function included in the written job description?
- Is the function specified under collective bargaining agreements?
- How much time is spent performing the function?
- What are the consequences of the employee failing to perform the function?
- How many other employees are available to perform the job function?
- Does the position exist to perform the function?
- What experience is needed to perform the function?
- What is the experience of past and/or current incumbents of the job?

The term “*essential functions*” refers only to the tasks to be performed, and not to the manner in which those tasks are performed.

For example: In a job requiring the use of a computer, the essential function is the ability to access, input, and retrieve data from the computer. It is not “essential” that the employee be able to use a keyboard or be able to visually read the data from a computer screen. Adaptive devices or software may enable a person with no arms or with impaired vision to control the computer and access information.

What is a Reasonable Accommodation?

Definition

A **reasonable accommodation** is any change in the work environment or the manner in which a job is usually performed that enables an individual with a disability to enjoy equal employment opportunities. It includes modifications or adjustments to processes, job positions, worksites accessibility, work schedules, or equipment which allows an applicant to apply for a job or an employee to perform the essential functions of the job.

Some of the major issues to consider in regard to reasonable accommodation, include the following:

- In general, it is the responsibility of the employee to inform her/his supervisor of the need for accommodation(s);
- Administrators should immediately refer employees’ requests for accommodation to Ms. Madeleine Rodriguez, Executive Director, Human Resources Standards, and Chairperson of the M-DCPS ADA District Consultative Committee (hereinafter referred to as the Committee), at 305-995-7116;
- The determination as to what may constitute a reasonable accommodation should be made, on a case-by-case basis, by the Committee, after its determination of the employee’s eligibility under the provisions of the law; and
- The accommodation offered need not be the best accommodation, or the one preferred by the employee; but it must be adequate to enable the employee to perform the essential functions of the job.

Examples of reasonable accommodations include the following:

- job restructuring (reallocating non-essential or marginal job functions);
- acquisition or modifications of equipment or devices;
- provision of qualified readers or interpreters;
- making existing facilities readily accessible to and usable by persons with disabilities (“path of travel”);

- ☑ part-time or modified work schedule;
- ☑ appropriate adjustments or modifications of examinations, training materials, or policies;
- ☑ provision of assistance by other support personnel for specific non-essential/marginal functions;
- ☑ permitting the use of accrued paid leave or providing additional unpaid leave for necessary treatment; and
- ☑ reassignment to a vacant job position for which the employee is qualified, if the disabled person is unable to perform the original job. (Reassignment should be considered only where there are no possible accommodations that would allow the employee to perform the current position without creating an undue hardship on the employer. The employee should identify vacant positions for which the individual is qualified and which have equivalent pay status and conditions of employment).

Communication Access for the Blind/Low Vision and Deaf/Hard-of-Hearing

Communication access is essential for the productive employment of blind/low vision and deaf/hard-of-hearing individuals. Access refers not only to equipment, but also to ways to improve the flow of communication. This includes eliminating barriers to communication and ensuring that blind/low vision and deaf/hard-of-hearing employees are kept informed and included in the school and district activities.

Open communication between employers and visually and hearing impaired employees is critical to complying with the law. Employers should encourage employees with visual or hearing impairments to discuss their needs. It is the responsibility of the employee with the visual or hearing impairment to let employers know what kind of accommodation(s) they need to effectively perform the essential functions of their job. **It is the employers' obligation to make sure that the accommodation(s) is implemented.**

Reasonable accommodations for the **blind/low vision** individuals include, but are not limited to, the following:

- Assistive technology, including:
 - a closed circuit television system (CCTV) for reading printed materials;
 - an external computer screen magnifier;
 - cassette or digital recorders;
 - software that will read information on the computer screen; and
 - an optical scanner that can convert print documents into electronic form.
- Written materials in an accessible format, such as in large print, Braille, audio cassette, or electronic format;

- Allow use of guide dog in the workplace;
- Modification of an employment test;
- A human reader when materials cannot be converted electronically;
- An accessible website; and
- Modified training or training in the use of assistive technology.

For Example: A school site has decided to upgrade its computer programs. In order to teach its staff about the new systems, it has set up several “hands-on” training classes in which groups of employees will be shown how to execute various functions using the new software and then will have an opportunity to complete a series of exercises using those functions with guidance from the instructor. Most of the demonstrations and exercises will involve use of a computer mouse to execute functions. A blind employee who uses a screen reading program is unable to use a computer mouse effectively and will require individualized instruction that will enable him/her to learn how to perform necessary functions using keyboard commands.

Reasonable accommodations for individuals with hearing loss, include but are not limited to, the following:

- Telecommunication Devices for the Deaf (TDD) which include text telephones (TTY), amplified telephones;
- Visual alarms which include fire alarms, smoke alarms, doorbells, school bell schedule, and telephone ring signalers;
- Visible accommodations to communicate audible messages (i.e., announcements made over the public address system);
- Assistive listening systems (i.e., FM system, infrared loop);
- Captioned media (i.e., closed-captioned decoders, televisions with built-in decode chip(s), open-captioned videotapes, closed-captioned videotapes);
- Sign language interpreter services for deaf employees who rely on sign language; and
- Oral interpreter or transcription services for deaf/hard-of-hearing employees who do not use sign language.

Under the ADA, the employer must provide a sign language or oral interpreter for all mandatory faculty meetings, workshops, parent conferences, and special activities in which the deaf and/or hard of hearing employee is required to participate. To ensure the availability of interpreting services, requests should be made at least ten (10) business days prior to the date of the event. The employer should request that the sign language interpreter possess national certification or at least a minimum of a Quality Assurance Level II (QAII) to ensure effective communication. Please refer to Appendix C for a list of local agencies that provide interpreting services on a contractual basis.

Drug and Alcohol Abuse

The ADA specifically permits employers to ensure that the workplace is free from the illegal use of drugs and the abuse of alcohol, and to comply with other federal laws and regulations regarding alcohol and drug abuse.

An employer may discharge or deny employment to current users of illegal drugs, on the basis of such drug use, without fear of being held liable for disability discrimination. Current users of illegal drugs are not "*individuals with disabilities*" under the ADA. If an individual tests positive on a test for the use of illegal drugs, the individual will be considered a current drug user under the ADA where the test correctly indicates that the individual is engaging in the illegal use of a controlled substance.

Persons who are addicted to drugs, but who are no longer using illegal drugs and are receiving treatment for drug addiction or who have been rehabilitated successfully, are protected by the ADA from discrimination on the basis of **past** drug addiction. The employee may be protected because (s)he has a history of addiction or because (s)he may be "*regarded as*" being addicted if the employee is regarded as being substantially limited in a major life activity.

An employee claiming discrimination because of past history or perceived illegal drug addiction, may be asked by the Committee to prove that (s)he has a record of, or is regarded as having an addiction to drugs.

For example: If a supervisor perceived someone to be addicted to illegal drugs based upon rumor and the groggy appearance of the employee, but the rumor was false and the appearance was the side effect of a lawfully prescribed medication, this individual would be "*regarded as*" an employee with an impairment (drug addiction), and would be protected from discrimination based upon that false assumption if the employee is regarded as being substantially limited in a major life activity.

While a current user of illegal drugs has no protection under the ADA if the employer acts on the basis of such use, a person who currently abuses alcohol is not automatically denied protection simply because of the alcohol abuse. An alcoholic is a person with an impairment under the ADA and may be entitled to consideration for accommodation, if (s)he otherwise, meets the requirements of the ADA definition of "disability." In so far as an individual's job performance or conduct is adversely affected by the abuse of alcohol, the employer may discipline, discharge, or deny employment based on said conduct. However, the employer may not discipline an alcoholic employee more severely than (s)he does other employees for the same performance or conduct.

For example: If an individual who suffers from alcoholism is frequently late to work or is not able to perform the duties of the job, an employer may take disciplinary action only on the basis of the poor performance and conduct.

Workers' Compensation and the ADA

The workers' compensation law is designed to provide compensation and assistance to employees who suffer work-related injuries, while the purpose of the ADA is to protect people from discrimination on the basis of a disability.

Whether an employee out on workers' compensation is protected by the ADA will depend on whether or not the individual meets the definition of a "*qualified individual with a disability*." The employee must have an impairment that substantially limits a major life activity, or have a record of, or be regarded as having such an impairment.

Therefore, not every employee injured on the job will meet the definition of a "*qualified individual with a disability*" and thus be entitled to the protections afforded by the ADA. Work-related injuries do not always cause a physical or mental impairment severe enough to substantially limit a major life activity. A great number of job injuries heal within a short period of time and have little or no long-term or permanent impact. Such injuries are not, therefore, considered "disabilities" under the ADA.

The fact that an employee is awarded workers' compensation benefits or even is assigned a disability rating under the state workers' compensation laws does not automatically establish that the person is "disabled" and within the protection of the ADA. The Committee will consider work-related injuries on a case-by-case basis to determine whether or not the employee may qualify for protection under the ADA.

Even though a work-related injury may not be disabling under the ADA, it is possible that such an impairment could result in a disability in certain circumstances.

Additionally, if an impairment or condition caused by an on-the-job injury does not substantially limit an employee's ability to work, but the supervisor regards the individual as having an impairment that makes her/him unable to perform a class of jobs, such as "heavy labor," this employee would be "regarded" by the supervisor as having a disability.

Finally, **under the provisions of the ADA**, an employer cannot refuse to let an individual with a disability return to work because the employee is not fully recovered from an injury, except when (s)he: 1) cannot perform the essential functions of the job that (s)he held or desired, with or without an accommodation; or 2) would pose a significant risk of substantial harm that could not be reduced to an acceptable level with reasonable accommodation(s).

Because a reasonable accommodation may include reassignment to a vacant position, an employer may be required to consider an employee's qualifications to perform other vacant jobs for which (s)he is qualified, when the employee can no longer perform the job held at the time of the injury.

Family Medical Leave Act and the ADA

The Family Medical Leave Act (FMLA) of 1993 requires employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees. Employees are eligible if they have worked for a covered employer for at least one year and working 1,250 hours over the previous 12 months.

Unpaid leave must be granted for **any** of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

The employer may require medical certification to support a request for leave of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness to work examination for the employee's return.

The United States Labor Department states that the FMLA is not intended to modify or affect the ADA. Employees entitled to leave under both the FMLA and the ADA are entitled to the benefits of whichever law provides the greater rights. If an employee is a "qualified individual with a disability" within the definition of the ADA, the employer must make a reasonable accommodation under that law, while at the same time granting applicable FMLA rights.

If an employee is entitled to FMLA leave, the Department of Labor states that an employer may not, instead of granting the leave, require an employee to take a job.

All worksite administrators are required to grant FMLA leave to employees for the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

M-DCPS Procedures for ADA Eligibility Determination and Accommodations

All worksite administrators are required to:

- Post in visible areas the Discrimination/Harassment and ADA School District Functions and Responsibilities posters; (See Appendix B)
- Refer employees seeking assistance under the ADA to Ms. Madeleine Rodriguez, Executive Director, Human Resources Standards, at 305-995-7116;
- Provide appropriate information, to facilitate the Committee's assessment of the merits of the request. This may entail, but is not limited to, providing technical assistance to determine essential functions of a job; attending Committee meeting(s); providing job performance information, and other relevant information;
- Maintain confidentiality of medical records submitted to the site administrator; and
- Refer any complaints from employees alleging that the school district is not meeting its obligations under the employment and/or accessibility requirement provisions of the ADA to the Civil Rights Compliance office, at 305-995-1580.

The determination of eligibility under the ADA, as well as the review of requests for accommodation from employees and job applicants has been delegated to the ADA District Consultative Committee. This Committee meets the third Tuesday of every month. It is comprised of a core group of District personnel representing the School Board Attorney's Office, Office of Personnel Support Programs, Division of

Facilities ADA Compliance, Office of Human Resources, Civil Rights Compliance, Office of Risk and Benefits Management, Regional Centers, Office of Professional Standards, and a Board-approved medical consultant. Additionally, other individuals from the district or outside agencies are requested to provide assistance or expertise as necessary, based upon the need for information required by the particular case(s) under review.

The Committee's process involves the following steps:

- Identification of employee seeking accommodation through the following types of referrals to the Chairperson of the Committee:
 - Employee Self-Referral;
 - Referral by a collective bargaining unit representative; and
 - Referral by a district level support office (e.g., Workers' Compensation, Civil Rights Compliance, Employee Assistance Program, Administrative/Professional and Technical Staffing, Worksite Administrator, etc.).
- Employee completes the Employee Self-Referral Form (See Appendix D) and provides a Release of Medical Information Form (See Appendix D), and requested medical documentation.
- If necessary, a conference will be scheduled, to include the Chairperson of the Committee, the employee, and the site administrator or designee.
- The Committee meets to accomplish the following possible actions:
 - Review of the employee's request for accommodation(s);
 - Review of findings of the on-site consultative conference;
 - Review of medical and other appropriate support documentation;
 - Determination of employee's eligibility as a "qualified individual with a disability";
 - Determination regarding the requested accommodation; and
 - Recommendation for closing the case or further follow-up by the Chairperson of the Committee.
- Follow-up Committee meeting(s) convened in response to one or more of the following:
 - The Committee has requested follow-up from the Chairperson, including gathering of additional documentation or expert opinion from an outside agency/medical personnel;
 - The Committee has requested follow-up in regard to accessibility requirement issues;
 - The Committee has requested clarification from the School Board's Attorney's Office;

- The Committee has requested follow-up from District or Regional Center personnel; and
- Employee has not accepted the determination/accommodation(s) offered by the Committee and requests to personally make a presentation before the Committee.

Job Application and Interview Do's and Don'ts

According to the United States Equal Employment Opportunity Commission (EEOC), the following are examples of questions that **CANNOT** be asked on a job application or during a job interview:

- Have you ever had or been treated for a medical condition or disease?
- Please list any conditions or diseases for which you have been treated in the past three years.
- Have you ever been hospitalized? If so, for what condition?
- Have you ever been treated by a psychiatrist or psychologist? If so, for what condition?
- Have you ever been treated for any mental condition?
- Is there a health-related reason why you may not be able to perform the job for which you are applying?
- Have you had a major illness in the last five years?
- How many days were you absent from work because of illness last year?
- Do you have any physical defects which preclude you from performing certain kinds of work? If yes, describe such defects and specific work limitations.
- Do you have any disabilities or impairments which may affect your performance in the position for which you are applying?
- Are you taking prescribed drugs?
- Have you ever been treated for drug addiction or alcoholism?
- Have you ever filed for workers' compensation?

Pre-employment questions that **CAN** be asked are the following:

- Can you meet the requirements of our attendance policy?
- Can you perform the tasks of this position with or without accommodation?
- Describe or demonstrate how you would perform this function, with or without an accommodation. (Such a question can be asked of an applicant who has a known disability that might prevent her/him from performing a job function. If the disability would not interfere

with a job function, however, the person could only be asked to demonstrate job performance if all other candidates are also asked to do so.)

Interviewing Applicants with Specific Disabilities

Interviewing people with disabilities is generally the same as interviewing people without disabilities. The focus of the interview should be on the applicant's qualifications and competencies, including experience and skills for doing the job. At times, employers may be at a loss when interviewing someone with a disability. The following are some basic guidelines for keeping a job interview focused on the applicant's qualifications.

When interviewing an applicant who uses a wheelchair:

- Keep accessibility in mind. If a chair poses a barrier to the wheelchair user, move it aside.
- Don't hold or lean on the wheelchair.
- Don't assume that the individual wants to be pushed; always ask first.
- Maintain eye contact and eye level with the applicant.
- Don't be embarrassed to use such phrases as, "Let's walk over to the other office."

When interviewing applicants who are blind or have vision impairments:

- Immediately identify yourself and others in the room or have the individuals introduce themselves. This will assist the applicant with orientation to the room and its occupants.
- Tell the applicant when someone is leaving the room.
- Use verbal cues; be descriptive in giving directions.
- Verbalize chair location, or place the person's hand on the back of the chair, but **do not** place the person in the chair.
- Speak directly to the applicant using a normal tone of voice.
- Don't be embarrassed to use such phrases as, "Do you see what I mean?"
- Keep doors either open or closed, a half-open door is a serious hazard.
- Never touch or distract a service guide dog.

Be prepared to read aloud information that is written, or ask the person if (s)he could use the services of a trained reader.

When interviewing an applicant who is deaf or hard of hearing:

- You may need to use a physical signal to attract the applicant's attention before starting a conversation.

- If the applicant is lip reading, enunciate clearly and keep your mouth clear of obstructions.
- Don't shout. Speak directly to the applicant using a normal tone of voice.
- If you cannot understand what the applicant is telling you, ask the applicant to repeat the sentence.
- Not all people who are deaf or hard-of-hearing know or use sign language. Do not assume they need interpreters.
- If using a sign language or oral interpreter, always face and speak directly to the applicant, not the interpreter. Speak clearly and keep your hands away from your face.

Accessibility Requirements

The thrust of the ADA in regard to facilities is to provide a working environment that is readily accessible and “user friendly” to people with disabilities. New facilities being designed and constructed today can readily incorporate such features. However, it is a more complicated proposition to retrofit existing buildings.

A survey of a facility can be made as part of an overall assessment, or as an independent assessment that focuses solely on ADA compliance. Elements that are routinely considered in such a survey include, but are not limited to:

- | | |
|--------------------------------|---|
| ✓ Means of egress | ✓ Counters |
| ✓ Parking | ✓ Drinking fountains |
| ✓ Alarms/life safety | ✓ Signage |
| ✓ Curb ramps | ✓ Public telephones |
| ✓ Entrances | ✓ Tables and seating |
| ✓ Ramps and stairs | ✓ Assembly/Work areas |
| ✓ Elevators and platform lifts | ✓ Restrooms, including toilet stalls, toilets, urinals, sinks, and mirrors |
| ✓ Doors and door hardware | ✓ Bathrooms, including bathtubs, shower stall, tub/shower seats and grab bars |

Modifying the work environment is a traditional form of making a reasonable modification. It entails examining the worksite to meet the needs of a qualified individual with a disability. Alterations of the site can include the following:

- removing architectural barriers, for example, installing a ramp or modifying a bathroom;
- rearranging files or shelves for accessibility to people in wheelchairs;
- placing tactile labels on shelves and controls so that visually-impaired individuals can identify them;
- relocating meetings to an accessible site; or
- rearranging parking to allow a disabled person to park at the entrance closest to her or his worksite.

The above list is far from exclusive. Additionally, the employer should approach proposed modifications from the perspective of allowing disabled employees to function independently, affording them dignity and respect in their worksite.

In many cases, modifications to the worksite do not require costly purchases or alterations; a common sense approach being the best method.

For Example: If an employee in a wheelchair cannot use the standard desk given to staff at a particular worksite, it might be possible to elevate the desk (e.g., using blocks) to a height that allows access to the wheelchair, rather than purchasing a specially constructed desk.

Disabled employees themselves are often the best sources of ideas for cost-effective modifications and their requests are always fully considered by the members of the Committee.

The M-DCPS Division of Facilities ADA Compliance was established by Board action on January 19, 1994. The purpose of the Division is to support the District by surveying all Board owned/leased facilities for ADA compliance and to identify necessary changes to make **programs accessible** to disabled individuals, with minimal physical changes to existing facilities. The Division supports the Office of School Facilities in its remodeling and renovation projects to achieve the incorporation of ADA requirements into projects during the planning/design phase or through change orders, as appropriate.

ADA deficiencies are categorized by the Division into three levels:

- Level 1** – deficiencies to be corrected to provide immediate access/signage to all public areas on ground level (disabled parking, administration office, auditorium, cafeteria, male/female restrooms, and specific classrooms);
- Level 2** – deficiencies that can be made accessible by way of personnel assistance (reaching shelves, access to specialty equipment, etc.); and
- Level 3** – deficiencies preventing access to upper floors (elevators, lifts, etc.).

The District's multi-year ADA compliance plan is managed in conjunction with the Five (5) Year Capital Construction/Maintenance program to provide **PROGRAM ACCESSIBILITY** to the disabled; and is prioritized using the following three (3) categories:

Category 1 – Emergency – existing student/staff requiring immediate on site accommodation(s);

Category 2 – Urgent – ADA accommodations required within one to six months; and

Category 3 – Planned – ADA deficiency corrections to be incorporated in the Five (5) Year Plan.

The Division of Facilities ADA Compliance is also responsible for the investigation of complaints alleging ADA accessibility violations. In such cases, the Division conducts a Violation Verification Inspection and forwards recommendations for compliance to the Office of School Facilities and the Civil Rights Compliance office.

All questions, concerns, and complaints covering accessibility under the ADA, including scope of work, interpretation, and implementation, must be addressed to Mr. Auguste Nicoleau, Executive Director, Division of Facilities ADA Compliance, at 305-995-4650.

Guidelines for Designing Universal Accessible Websites

As the web becomes increasingly important in our society, access to the web becomes vital for people with disabilities. Technology plays an important role in providing individuals with disabilities an opportunity to increase their independence and become active members of the community. Poorly designed websites, however, can create unnecessary barriers for people with disabilities, just as poorly designed buildings prevent some from entering. The design or format of a web page may determine whether this resource can be conveniently accessed by everyone – including users with disabilities.

Many people with disabilities use “assistive technology” to enable them to use computers and access the Internet. Blind people who cannot see computer monitors may use screen reader devices that speak the text that would normally appear on a monitor. People who have difficulty using a computer mouse can use voice recognition software to control their computers with verbal commands and people with other types of disabilities may use still other kinds of assistive technology.

Guidelines have been developed to assist web page writers with the development of universal accessibility of web pages. When developing and revising web pages, the following suggestions should be used to ensure accessibility by a diverse audience.

Web Content Accessibility Guidelines:

- Make documents clear and simple;
- Maintain a simple, consistent page layout throughout the site;
- Provide context and orientation information;
- Provide clear navigation mechanisms;
- Keep backgrounds simple with good contrast;
- Use standard HTML (Hypertext Markup Language);
- Design large buttons;

- Provide equivalent alternatives to auditory and visual content;
- Don't rely on color alone; and
- Include notes about accessibility.

The following suggestions will greatly assist access for people facing vision barriers:

- Design screens with little clutter;
- Leave considerable space around all items;
- Avoid placing more than one hyperlink on any one line;
- Avoid tile backgrounds; text can become obscured;
- Avoid dark or bright colored backgrounds; high contrast between text and background is desirable;
- Avoid the use of multi-column presentations or tables;
- For each page which contains images, provide a text-only alternative page. This alternative page can then be "spoken" with screen reading software; and
- Include text descriptions for images (which can be "spoken" by those using screen reading software).

Compliance Provisions

All District and school site administrators are responsible for the compliance of their school, department, division, or bureau with the requirements of the Americans with Disabilities Act (ADA). It is recognized that discrimination or harassment complaints on the basis of a disability may arise from actual or perceived situations.

In order for complaints to be resolved in an expeditious, orderly, and equitable manner, School Board Rule 6Gx13- 4A-1.32, Discrimination/Harassment: Complaint Procedures for Employees, establishes appropriate procedures to ensure nondiscrimination in employment. Any individual, who after discussing the allegations with the worksite administrators, as appropriate, feels that her/his complaint is not satisfactorily resolved, may file a complaint with the Civil Rights Compliance office at 305-995-1580.