





# CHAPTER 5

## Accessibility and Outdoor Recreation

This chapter addresses some of the common challenges and issues park professionals and other interested persons face when trying to make their programs, services, and activities accessible to people with disabilities. Included is information about the requirements involved, pertinent legislation, guidelines to follow, and potential resources to help succeed in the effort.

### ACCESS TO PROGRAMS AND SERVICES IN EXISTING FACILITIES

Public entities have an ongoing obligation to ensure that individuals with disabilities are not excluded from programs and services because facilities are unusable or inaccessible to them. There is no “grandfather clause” in the ADA that exempts older facilities. However, the law strikes a careful balance between increasing access for people with disabilities and recognizing the constraints many public entities face. It allows entities confronted with limited financial resources to improve accessibility without excessive expense.

In the years since the ADA took effect, public facilities have become increasingly accessible. In the event that changes still need to be made, there is flexibility in deciding how to meet this obligation – structural changes can be made to provide access, the

program or service can be relocated to an accessible facility, or the program or service can be provided in an alternate manner. For example:

- In a two level Nature Center without an elevator, presentations can be moved to a first floor room if the group includes a guest with a mobility disability.
- If an application for a particular program must be made in person at an inaccessible office, the agency could allow a person with a mobility disability to complete and submit the application by mail or email.
- If a property office is inaccessible, staff can provide curb-side service for a patron with a mobility disability to obtain property information.

Structural changes are not required where other solutions are feasible. However, where other solutions are not feasible, structural changes are required. When making structural changes is the method chosen to make a program or service accessible, the changes must meet the requirements of the 2010 ADA Standards—unless it is technically infeasible to do so. When full compliance is not technically feasible, the changes must follow the standards to the maximum extent feasible. For example, if there is not enough space to install a ramp with a slope that complies with the standards, a public entity may install a ramp with a slightly steeper slope. However, deviations from the

standards must not pose a significant safety risk. In addition, public entities are not required to take any action that would threaten or destroy the historic significance of a historic property.

Whatever method is chosen, the public entity must ensure that people with disabilities have access to programs and services under the same terms and conditions as other people. For example:

- If a program is conducted in a conference room by using a PowerPoint presentation on the second floor of a building without an elevator, a public area on the first floor without a screen/projector would not be an acceptable alternate location to present to a client who has a mobility disability. The alternate location must provide access to the same degree of information as the other location.
- If an agency holds a public hearing and a person with a hearing disability provides advance notice that they want to participate, it is not acceptable to conduct the hearing with that person individually with an interpreter, because the group interaction is a critical component of the hearing.

There are limits to a public entity's program access obligations. Entities are not required to take any action that would result in undue financial and administrative burdens. The decision that an action would result in an undue burden must be made by a high-level official of no lower rank than department head, who has budgetary authority and responsibility for making spending decisions, after considering all resources available for use in the funding and operation of the service, program, or activity. Notice of such a decision must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in an undue burden, a public entity must take any other action that would not result in an undue burden but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity.

A key concept is that public programs and services, when viewed in their entirety, must be accessible to people with disabilities, but not all facilities must necessarily be made accessible. For example, if a property has multiple shelters and limited resources, it can decide which shelters to make accessible based on factors such as the geographic distribution of the sites, the terrain surrounding the shelter, and the particular programs offered at each shelter so

that the program as a whole is accessible to and usable by people with disabilities.

Another key concept is that public entities have an ongoing obligation to make programs and services accessible to people with disabilities. This means that if many access improvements are needed, and there are insufficient resources to accomplish them in a single year, they can be spread out over time. It also means that rising or falling revenues can affect whether an access improvement can be completed in a given year. What might have been seen as an undue burden during an economic downturn could become possible when the economy improves and revenues increase. Thus, public entities should periodically reassess what steps they can take to make their programs and services accessible. Public entities should also consult with people with disabilities in setting priorities for achieving program access.

Temporary access interruptions for maintenance, repair, or operational activities are permitted, but must be remedied as soon as possible and may not extend beyond a reasonable period of time. Staff must be prepared to assist individuals with disabilities during these interruptions. For example, if the accessible route to an office is temporarily blocked by chairs from a conference room that is being cleaned, staff must be available to move the chairs so a visitor who uses a wheelchair can get to the office. In addition, if an accessible feature such as an elevator breaks down, public entities must ensure that repairs are made promptly and that improper or inadequate maintenance does not cause repeated failures. Entities must also ensure that no new barriers are created that impede access by people with disabilities. For example, routinely storing a garbage bin or piling snow in accessible parking spaces makes them unusable and inaccessible to people with mobility disabilities.

For activities that take place infrequently, such as a fundraising event, temporary measures can be used to achieve access for individuals who have mobility disabilities.

## WHO BENEFITS FROM ACCESSIBILITY?

There are few recreational programs that have not felt the challenge of doing more with less. With less financial resources, fewer personnel, and less time, it might be tempting to argue that accessibility costs



too much. But have you thought about the cost of not providing access to “people,” as opposed to just “people with disabilities”? If not, you need to.

Accessibility benefits people with disabilities certainly, but many people who end up being helped are not legally disabled. For example, a ramp benefits the following:

- Family with large, heavy gear and folding chairs.
- Mom with a child in a stroller.
- Older person with bad knees.
- Person on crutches coming back from a skiing holiday.
- Park employees taking up equipment from a boat.
- Young artist with heavy paints and easel.
- School group on a field trip (whose participants are less likely to stumble).
- Couple carrying a heavy lunch basket.
- Emergency fire or medical personnel responding with a gurney and equipment.

According to the U.S. Census Bureau, more than one in five Americans, approximately 54 million people, have a disability. In Indiana, there are about 900,000 people 5 years of age and older who reported having a disability. These numbers make people with disabilities the largest minority group in the nation. Many of these people have spouses, children, relatives and friends. They belong to churches, support groups, and social organizations. As more people live longer and naturally encounter disabling conditions and more veterans return home with disabilities, it takes little effort to see that the answer to the question “Who benefits from Accessibility?” is everyone. And these people with disabilities (according to the U.S. Census Bureau) have \$220 billion in discretionary spending power. The Open Doors Organization released a 2015 market study that showed that American adults with disabilities now spend \$17.3 billion annually on just their own travel. Clearly, providing accessible recreation programs can also improve your bottom line.







### Legal Benefits

- Avoid arbitrations/mediations.
- Avoid court cases.

### Technical Benefits

- Ramps are easier to manage/clean.
- Accessibility features require little if any extra effort.
- Good for all, not just people with disabilities.
- Improve use.

### Economic Benefits

- Increase productivity—spend less time defending against complaints.
- Reduce costs (maintenance/support).
- Decrease injury claims (public and worker).
- Increase profits (greater participation).

### P.R. Benefits

- Property seen as inclusive and forward-looking.
- Avoid complaints.
- Avoid bad press.

## NOTHING NEW

For more than 47 years, as required by the Architectural Barriers Act of 1968 and the Rehabilitation Act of 1973, federal government agencies and entities receiving federal funds had to make their facilities and programs accessible to people with disabilities.

In 1990, more than 25 years ago, Congress enacted the Americans with Disabilities Act (ADA), which extended accessibility and non-discrimination requirements in five areas: employment, public services, public accommodations, telecommunications and miscellaneous provisions.

How does this translate to park and recreation providers? State and local governments, including counties, cities, towns and townships, are covered by Title II of the ADA (public services). Likewise, commercial and non-profit park and recreation providers are covered by Title III (public accommodations) because they provide services to the public. These include non-profit groups such as Friends of the Parks and trail groups, YMCAs, and Boys and Girls Clubs, as well as commercial entities that provide canoe rentals, fitness facilities, go-cart racing, amusement parks, ski resorts, rafting, bowling alleys, etc. As a rule of thumb, if you are involved with the public, whether via government or private business, you have had to provide accessible facilities, programs and services for quite a while.

## STANDARDS AND GUIDELINES

If you are asking “What standard do I use?” or “We want to comply, but how?” a good rule is to start with the best, most current information. There are basically two standards, the *2010 ADA Standards for Accessible Design* and *Architectural Barriers Act (ABA) Accessibility Standards*. Detailing various laws and how they apply here is unnecessary. For our purposes, following these standards will satisfy all your requirements.

The ADA is a comprehensive civil rights law that prohibits discrimination on the basis of disability. The ADA requires that newly constructed and altered State and local government facilities, places of public accommodation, and commercial facilities be readily accessible to and usable by individuals with disabilities. To continue to guide in this process, the *2010 ADA Standards for Accessible Design* went into effect on March 15, 2012. The Justice Depart-

ment adopted the 2010 ADA Standards for Accessible Design (2010 Standards or Standards) as part of the revised regulations for Title II and Title III of the Americans with Disabilities Act of 1990 (ADA). The standards can be found at: [www.ada.gov/regs2010/titleII\\_2010/titleII\\_2010\\_regulations.htm](http://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm).

The standards set minimum requirements—both scoping and technical—for new construction and alterations of the facilities of more than 80,000 State and local governments and more than 7 million businesses. Until the 2012 compliance date, entities could use the revised standards to plan current and future projects so that their buildings and facilities are accessible. After the March 15, 2012 date, ALL entities had to use the 2010 standards.

In addition to the official version of the 2010 standards, the DOJ has also posted on its website important guidance about the standards that is compiled from material in the Title II and Title III regulations. This guidance provides detailed information about the DOJ's adoption of the 2010 standards, including changes to the standards, the reasoning behind those changes, and response to public comments received on these topics.

Achieving accessibility in outdoor environments has long been a source of inquiry due to challenges and constraints posed by terrain, the degree of development, construction practices and materials, and other factors.

### **Element-by-Element Safe Harbor for Existing Facilities**

The requirements in the 2010 ADA Standards are, for many building elements, identical to the 1991 standards and the earlier Uniform Federal Accessibility Standards (UFAS). For some elements, however, the requirements in the 2010 standards have changed. For example:

- The 1991 standards allowed light switches, thermostats, and other controls to be installed at a maximum height of 54 inches. Under the 2010 standards, the maximum height is 48 inches.
- The 1991 standards required one van-accessible space for every eight accessible spaces. The 2010 standards require one van-accessible space for every six accessible spaces.
- The 2010 standards for assembly areas contain

revised requirements for dispersion of accessible seating, sightlines over standing spectators, and companion seating.

If a facility was in compliance with the 1991 standards or UFAS as of March 15, 2012, a public entity is not required to make changes to meet the 2010 standards. This provision is referred to as the safe harbor. It applies on an element-by-element basis and remains in effect until a public entity decides to alter a facility for reasons other than the ADA. For example, if a public entity decides to restripe its parking lot (which is considered an alteration), it must then meet the ratio of van-accessible spaces in the 2010 standards. The ADA's definition of the term "alteration" is discussed below.

The 2010 standards also contain requirements for recreational facilities that were not addressed in the 1991 standards or UFAS. These include swimming pools, play areas, exercise machines, court sport facilities, and boating and fishing piers. Because there were no previous accessibility standards for these types of facilities, safe harbor does not apply. Instead, the program-access rules apply, and the 2010 standards must be followed when structural change is needed to achieve program access.

### **New Requirements in the 2010 Standards**

#### *Not Subject to Safe Harbor*

- Amusement rides.
- Recreational boating facilities.
- Exercise machines and equipment.
- Fishing piers and platforms.
- Golf facilities.
- Miniature golf facilities.
- Play areas.
- Saunas and steam rooms.
- Swimming pools, wading pools, and spas.
- Shooting facilities with firing positions.
- Residential facilities and dwelling units.
- Miscellaneous:
  - o Team or player seating.
  - o Accessible route to bowling lanes.
  - o Accessible route in court sports facilities.

## Alterations

When a public entity chooses to alter any of its facilities, the elements and spaces being altered must comply with the 2010 standards. An alteration is defined as remodeling, renovating, rehabilitating, reconstructing, changing or rearranging structural parts or elements, changing or rearranging plan configuration of walls and full-height or other fixed partitions, or making other changes that affect (or could affect) the usability of the facility. Examples include restriping a parking lot; moving walls; moving a fixed ATM to another location; installing a new service counter or display shelves; changing a doorway entrance; or replacing fixtures, flooring or carpeting. Normal maintenance, reroofing, painting, wallpapering, or other changes that do not affect the usability of a facility are not considered alterations. The 2010 standards set minimum accessibility requirements for alterations. In situations where strict compliance with the standards is technically infeasible, the entity must comply to the maximum extent feasible. “Technically infeasible” is defined as something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modifications or additions that comply fully with the standards. The 2010 standards also contain an exemption for certain alterations that would threaten or destroy the historic significance of a historic property.

## New Construction

The ADA requires that all new facilities built by public entities must be accessible to and usable by people with disabilities. The 2010 standards set out the minimum accessibility requirements for newly constructed facilities.

The U.S. Access Board has issued requirements that are now part of the Architectural Barriers Act (ABA) Accessibility Standards and apply to national parks and other outdoor areas developed by the federal government. They do not apply to outdoor areas developed with federal grants or loans. A guide that explains these requirements is available at: [www.access-board.gov/guidelines-and-standards/recreation-facilities/outdoor-developed-areas/a-summary-of-accessibility-standards-for-federal-outdoor-developed-areas](http://www.access-board.gov/guidelines-and-standards/recreation-facilities/outdoor-developed-areas/a-summary-of-accessibility-standards-for-federal-outdoor-developed-areas).

The new provisions address access to:

- Trails.
- Picnic and camping areas.
- Viewing areas.
- Beach access routes. Other components of outdoor developed areas on federal sites when newly built or altered.

They also provide exceptions for situations in which terrain and other factors make compliance impracticable. The new requirements are located in sections F201.4, F216.3, F244 to F248, and 1011 to 1019 of the ABA standards.

The U. S. Access Board intends to develop guidelines for non-federal outdoor sites covered by the ADA and areas developed with federal grants and loans covered by the ADA through subsequent rulemaking.

Although accessibility specifications for these recreational facilities are not yet adopted by standard-setting agencies, they are considered “best available information” and should be used when constructing new or altering existing facilities.

Remember, there is no grandfather clause written into accessibility legislation or standards.

It is a common misconception of facility managers and building owners that facilities built before accessibility standards existed do not need accessibility modifications. As is noted in the next section, this is not the case. According to accessibility standards, altering a facility triggers using the accessibility standards. Furthermore, each State and local government entity is required by Title II to conduct a self-evaluation of the accessibility of programs and facilities, and create a corresponding transition plan to correct identified accessibility deficiencies. Because many facilities built before accessibility standards are mostly inaccessible, the transition plan will include ways to remove barriers from these facilities.

## PROGRAM ACCESS

Program accessibility was first legislated in Section 504 of the Rehabilitation Act of 1973, which states that “No otherwise qualified individual with a disability in the United States, as defined in section 7(20), shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by



any Executive agency or by the United States Postal Service.” This important principle was also written into the ADA legislation: “A public entity may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible.

A public entity’s services, programs, or activities, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as program accessibility, applies to all existing facilities of a public entity. Public entities, however, are not necessarily required to make each of their existing facilities accessible.” (US DOJ, ADA Title II; 1990)

In essence, program accessibility applies to almost anything. Although you may not be constructing new or altered facilities, program access may or may not require you to make physical changes to your facilities. Program access may also require modifications to your policies, practices and/or procedures. Consider the following scenarios:

- The park department main office is located in an inaccessible building built in the 1950s. The park department retrofits the building so that the parking, route to building, public offices, and support facilities such as public restrooms are accessible to the public.
- Signs interpreting the natural and cultural history of the area are provided on a trail. Audio tours may be used to effectively communicate to a person with low or no vision the information contained in the interpretive displays.
- Park board meetings usually are held in an inaccessible historic building. The new park board members decide to officially move the meeting location to an accessible location that allows all interested public, regardless of ability, to attend without prior notification.
- The park department offers movie nights each Friday in September. Staff ensures captions are turned on during each movie to ensure people who are hard of hearing or deaf can also enjoy the show.





## MEASURE, MARK AND MEASURE AGAIN

You have probably heard this rule of thumb before. It refers to making sure the cut is made correctly the first time. But it can extend to the philosophy of doing things correctly and planning for inclusion. Throughout the process, you will be in the best shape if you design for more than the minimum. For example, the range for the height of grab bars in a restroom is 33-36 inches from the floor to the top of the gripping surface. Shooting for 34 or so will give you plenty of wiggle room. It will not cost more, but even if a contractor makes a small adjustment, you'll still be safe.

In addition, you should understand that the ADA standards were developed by a number of individuals with a variety of interests and perspectives. Building to the standards will not accommodate all people with disabilities, just many of them. Exceeding the standards, where possible, will provide increased accessibility and opportunities for even greater numbers of people. For example, incorporating universal design concepts will provide greater access for those in your community with more severe disabilities.

The term "universal design" was coined by the architect Ronald L. Mace to describe the concept of designing all products and the built environment to be aesthetic and usable to the greatest extent possible by everyone, regardless of their age, ability, or status in life. In most instances, the increased cost is negligible while the benefits are significant.

Some examples might be:

- Smooth, ground level, entrances without stairs.
- Surface textures that require less force to travel across.
- Wide interior doors, hallways, and alcoves with 60" x 60" turning space.
- Single-hand operation with closed fist for operable components like door and faucet handles.
- Light switches with large flat panels rather than small toggle switches.
- Buttons and other controls that can be distinguished by touch.
- Bright and appropriate lighting, particularly task lighting.
- Instruction that presents material both orally and visually.

Consider your own preferences and desires. For example, would you be more inclined to take your family

to a well-kept, clean park or, when seeing trash or unmowed areas, just move on? The answer is obvious. The same idea holds for exceeding requirements. Clearly, an area that the community can be proud of will be less likely to be defaced or vandalized. Having a model will draw in people and support from a wider area, which is a major reason for our work in outdoor recreation.

## A WORD ABOUT PRODUCTS, DESIGNERS AND CONSULTANTS

At one time or another (perhaps daily) most park and recreation professionals are responsible for choosing products for use in park and recreation facilities. Whether new additions or replacements, there are many products for which the professional must know how to determine accessibility.

Picnic tables, benches, play structures and surfacing, sinks, lockers, and drinking fountains are among the many products that need to be accessible. It is important for the buyer to investigate potential products and not rely solely on a vendor's claim of accessibility or "ADA Approved."

For more guidance on this topic, refer to "ADA Approved and Other Accessible Product Myths: Choosing Products to Improve Access at Your Parks & Facilities," which is available at [ncaonline.org/resources/index.shtml](http://ncaonline.org/resources/index.shtml).

In addition to purchasing products, recreation practitioners also work with designers and consultants during capital improvement projects. Before hiring a specific company, recreation practitioners should ask how much accessibility experience that company's staff has. While many architects, landscape architects and engineers are aware of accessibility, it is often not their main focus when designing and constructing a new facility or during rehabilitation projects. Before hiring a designer or consultant, requests for qualifications (RFQ) may be posted. If RFQs are used, be sure to ask for information regarding accessibility compliance.

After hiring a company, be sure to have a knowledgeable person on park staff review plans for accessibility as well as other concerns before bidding. Work with the person (consultant or in-house) preparing the bid document to include language regarding the liability of the contractor as it relates to accessibility. Include people with disabilities in the process.



Asking for this input/perspective not only provides an informed second opinion, but also helps spread the word about your program.

## WRAP-UP AND RESOURCES

Our intent is to provide the tools necessary to ensure that whatever program you develop will be the best it can be for all. No one, including people with disabilities, wants to be unnecessarily singled out or treated differently. We all want to enjoy our natural resources in as natural an environment as possible, but we also want to make sure we do not create barriers to accessibility that could be avoided. Please contact the following resources for free and anonymous accessibility information and/or technical assistance.

### U.S. Department of Justice:

Find out more about the ADA or the 2010 ADA Standards for Accessible Design using the toll free ADA Information Line at 800-514-0301 (Voice) or 800-514-0383 (TTY), or go to [ada.gov](http://ada.gov).

### The U.S. Access Board:

The Access Board is an independent federal agency devoted to accessibility for people with disabilities. Created in 1973 to ensure access to federally funded facilities, the board is now a leading source of information on accessible design. The board develops and maintains design criteria for the built environment, transit vehicles, and telecommunications equipment, as well as for electronic and information technology. It also provides technical assistance and training on these requirements and on accessible design and continues to enforce accessibility standards that cover federally funded facilities.

United States Access Board  
1331 F Street, NW, Suite 1000  
Washington, DC 20004-1111

Phone (voice): 202-272-0080  
Toll free: 800-872-2253  
Phone (TTY): 202-272-0082  
Toll free: 800-993-2822  
Fax: 202-272-0081

[access-board.gov](http://access-board.gov)  
[info@access-board.gov](mailto:info@access-board.gov)

### Great Lakes ADA Center:

The DBTAC-Great Lakes ADA Center provides information, materials, technical assistance and training on the ADA. Topics addressed include the nondiscrimination requirements in employment, the obligations of State and local governments and business to ensure programs, services and activities are readily accessible to and usable by people with disabilities. This includes access to the information technology used by these entities including but not limited to websites, software, kiosks, etc.

Great Lakes ADA Center  
University of Illinois at Chicago  
Institute on Disability and Human Development  
(MC 728)

1640 W. Roosevelt Road, Room 405  
Chicago, IL 60608

312-413-1407 (V/TTY) M-F 8 a.m.-5 p.m. CT or  
800-949-4232 (V/TTY) M-F 8 a.m.-5 p.m. CT  
312-413-1856 (Fax)

[adagreatlakes.com](http://adagreatlakes.com)

### National Center on Accessibility:

The National Center on Accessibility is a nonprofit center operating under Indiana University in Bloomington. The center offers information, training, research, technical assistance, and consultation on issues related to accessibility to parks, recreation programs, activities and services.

National Center on Accessibility  
Indiana University Research Park  
501 N. Morton Street, Suite 109  
Bloomington, IN 47404

812-856-4422  
TTY: 812-856-4421  
Fax: 812-856-4480

[ncaonline.org](http://ncaonline.org)  
[nca@indiana.edu](mailto:nca@indiana.edu)