



Avoiding ADA Lawsuits 10 Misconceptions of the ADA

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PRESENTERS

Contact Info:

Mark Wood, CBO CASp

Phone: 800-582-6178

Mobile: 530-681-7903

Email: mwood@calcasp.com

Web Site: www.calcasp.com

Paul Klein, CBO CASp

Phone: 800-582-6178

Mobile: 530-870-3941

Email: pklein@calcasp.com

Web Site: www.calcasp.com

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Why So Many Lawsuits



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Question?

**“I am not affected by the
ADA because I am not
changing or remodeling my
business, therefore I am
grandfathered in”**

True__

False__

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Why So Many Lawsuits

Two Different Laws Governing Disabled Access

- Americans with Disabilities Act (ADA)
(Federal Law)
- California Title 24 (CBC)
- California Law **currently** has more
requirements and has a broader scope.

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Why So Many Lawsuits

So Many Codes and Laws!

- Accessibility Laws
 - Only been around for a relatively short time
 - Initially, not taken seriously by Architects, Building Departments and Contractors
 - Not clearly understood or accepted
 - Regulations not consistently enforced

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Why So Many Lawsuits

So Many Codes and Laws!

- Accessibility provisions in the **California Codes** have changed often.
 - Every 3 years
 - Emergency legislation
- Accessibility provisions in the **Federal Codes** have not changes since 1991.
 - **New Federal Codes effective March 15, 2012**

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Why So Many Lawsuits

California Disable Access Law (Title 24)

- Publically funded 1968
 - Required in California for 42 years
- Privately funded 1970
 - Required in California for 40 years
- Alterations 1973
 - Required in California for 37 years

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Why So Many Lawsuits

Americans With Disabilities Act (ADA)

- Readily Achievable Barrier Removal 1991
 - Required in California for 18 years
- Alterations to existing buildings 1992
 - Required in California for 17 years
- New construction for first occupancy 1993
 - Required in California for 16 years

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State and Federal Law?

Differences

- **California Law (Title 24)**
 - Only requires improvements to accessibility when additions, alterations or modifications are proposed
- **Federal Law (ADA)**
 - Is an ongoing obligation
 - You must remove “readily achievable architectural barriers”

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State and Federal Law?

What Is A “Readily Achievable Architectural Barrier”?

- “Readily Achievable” means easily accomplishable and able to be carried out without much difficulty or expense.
- Determining if barrier removal is readily achievable is, by necessity, a case-by-case judgment.

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What Can Be Done To Reduce Lawsuits

If you have not done any alterations, additions, or remodels since your business opened

- Go to the Department of Justice website
<http://www.ada.gov./business.htm>
 - Download PDF
Readily Achievable Checklist for Existing Business Facilities
- Or
- Contact a Certified Access Specialist

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What Can Be Done To Reduce Lawsuits

If you have done alterations, additions, or remodels since your business opened

- Consult with a Certified Access Specialist (CASP)
- List of CASp's
https://www.apps.dgs.ca.gov/casp/casp_certified_list.aspx

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What Can Be Done To Reduce Lawsuits

What is a Certified Access Specialist

- A CASp is one of the results from SB 1608 which became law in late 2008.
- Division of the State Architect was required to test and certify disabled access specialist to specifically perform evaluations for businesses.

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What Can Be Done To Reduce Lawsuits

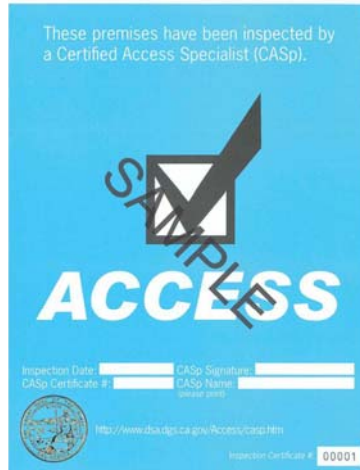
What is the Benefit of Using a CASp

- Tested and certified by the State to specifically perform evaluations for businesses
- Assured competency
- Early Evaluation Conference (EEC)
- Window placard

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Window Placard



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ADA Myths and Facts

Myth: If I make any changes to my business I must make the entire building comply with the latest accessibility standards.

Fact: Neither California accessibility standards (Title 24) or Federal Standards require the entire building meet current standards when an alteration addition or remodel is completed. Only the area of specific remodel and a single path of travel to that area must comply with current accessibility standards.

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ADA Myths and Facts

Myth: There is no limit to the amount of money that a business is required to spend to make their existing facilities accessible.

Fact: The law only requires that public accommodations (e.g., stores, banks, hotels, and restaurants) remove architectural barriers in existing facilities when it is "readily achievable", i.e., it can be done "without much difficulty or expense."

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ADA Myths and Facts

Myth: Everything is readily achievable.

Fact: Not true. Often it may not be readily achievable to remove a barrier -- especially in older structures.

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ADA Myths and Facts

Myth: When violations of accessibility standards are identified they must be corrected immediately.

Fact: Businesses are only required to do what is readily achievable at that time.

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ADA Myths and Facts

Myth: Restaurants must provide menus in braille.

Fact: Not true. Waiters can read the menu to blind customers.

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ADA Myths and Facts

Myth: Businesses must pay large fines when they violate the ADA.

Fact: Courts may levy civil penalties only in cases brought by the Justice Department, not private litigants. The Department only seeks such penalties when the violation is substantial and the business has shown bad faith in failing to comply. Bad faith can take many forms, including hostile acts against people with disabilities, a long-term failure even to inquire into what the ADA requires, or sustained resistance to voluntary compliance.

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ADA Myths and Facts

Myth: When there are several qualified applicants for a job and one has a disability, the ADA requires the employer to hire that person.

Fact: An employer is always free to hire the applicant of its choosing as long as the decision is not based on disability.

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ADA Myths and Facts

Myth: A business must supply auxiliary aids and services such as personal devices including wheelchairs; individually prescribed devices (e.g., eyeglasses or hearing aids); and services of a personal nature including assistance in eating, toileting, or dressing.

Fact: A public accommodation is not required to provide personal devices or services.

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What Is The Most Important Thing to Do First

- **Get Your Parking Lot Right!**

- Train Staff
- Accessible Transaction Counter
- Accessible Public Bathrooms
- Accessible Restaurant and Bar
- Accessible Path of Travel to Rooms
- Accessible Rooms

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Policies and Procedures

- Change policies that exclude or limit participation by people with disabilities
- Service animals must be permitted



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Van Accessible Parking Space

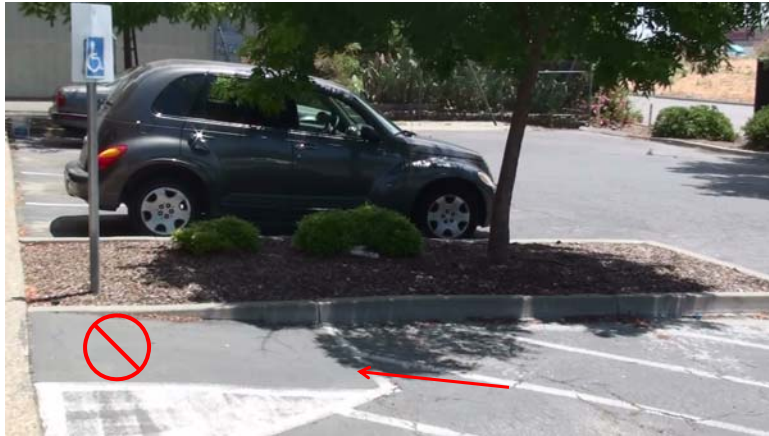
One in Eight Accessible Parking Spaces, but at least one, must be Van Accessible



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Built- Up Curb Ramp In Access Way

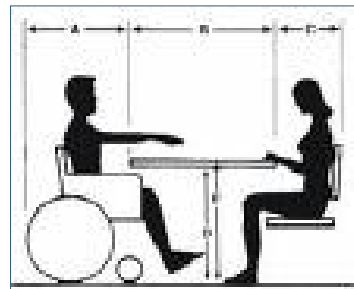


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Fixed seating and tables

- 5% or at least one
- Knee clearance
 - Maximum 34" high
 - Minimum 28" above floor
 - Minimum 19" extended under table for knee and leg clearance
- Range of choices throughout dining area



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Accessible Swimming Pool and Spa



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Hotels and Motels

Choices

- Range of Unit Accommodations
- Room sizes
- Room costs
- Amenities provided
- Number of beds

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Hotels and Motels

Spaces within guest rooms and suites required to be accessible

- The living area
- The dining area
- At least one sleeping area
- Patios, terraces or balconies
- At least one full bathroom
- At least one half-bath
- Carports, garages or parking spaces

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Hotels and Motels

Doors into and within ACCESSIBLE rooms and suites

- Strike side clearance – 18 inches minimum
- Door pressure – 5lbs Max. unless fire door
- Maneuvering clearance
- Hardware, etc....

Doors into and within Non-Accessible rooms and suites

- Must be 32 inches clear

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Hotels and Motels

Access to Beds

- 36" clear along both sides of the bed
- or
- 36" between, if two beds are provided
- Under-the-bed space for personal lift device
 - 7 inches high minimum
 - 30 inches deep minimum
 - 12 inches from the ends maximum

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Hotels and Motels

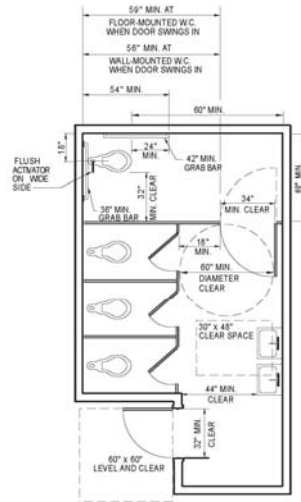
Visual alarms, notification devices, telephones within sleeping rooms and suites

- Capable of notifying occupants of incoming phone calls, door knocks, door bells
- Telephones provided with volume controls
- Outlet w/in 48" of phone connection for text phone use

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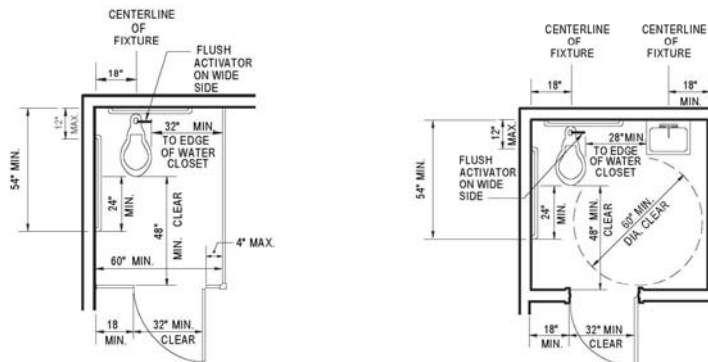
Common Use Bathing and Toilet Facilities



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Common Use Bathing and Toilet Facilities



ACCESSIBLE WATER CLOSET COMPARTMENT
WITHIN A MULTIPLE-ACCOMMODATION TOILET FACILITY

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Bathing and Toilet Facilities

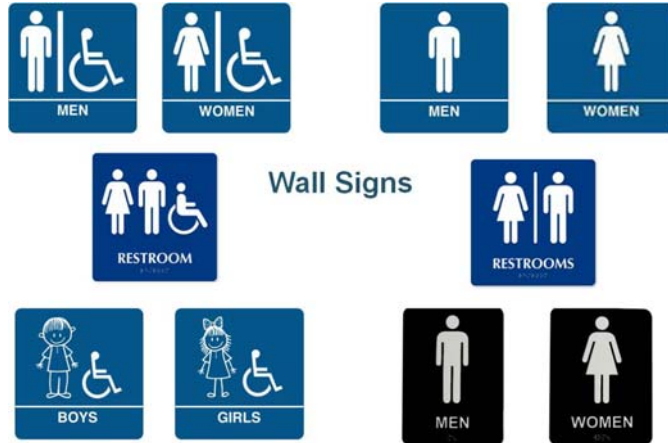
Door Signs



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Bathing and Toilet Facilities



Wall Signs

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Questions?



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Thank You!

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