

ASSISTIVE TECHNOLOGY AND TITLE II AND TITLE III OF THE AMERICANS WITH DISABILITIES ACT (ADA)

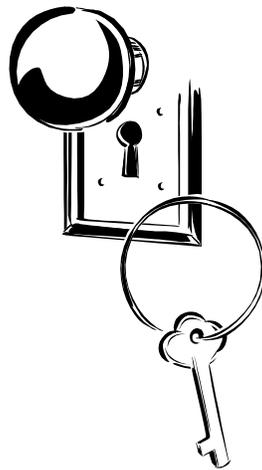


Figure 1: Door knob and key.

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ASSISTIVE TECHNOLOGY AND TITLE II AND TITLE III OF THE AMERICANS WITH DISABILITIES ACT (ADA)

This brochure gives you information on when government and public accommodations must provide assistive technology under the Americans with Disabilities Act (ADA) so that persons with disabilities can use their programs and services. This brochure does not include Title I of the Americans with Disabilities Act (ADA), which covers employment. For more information on employment, please review the Disability Rights Network of Pennsylvania's brochure, "Reasonable Accommodations in Employment." This brochure also does not discuss the many other rights that you may have under the Americans with Disabilities Act (ADA). For more information on the Americans with Disabilities Act (ADA), please go to the Disability Rights Network of Pennsylvania website at: <http://www.drnpa.org>.

**PLEASE NOTE: THIS INFORMATION IS NOT INTENDED TO BE LEGAL ADVICE
APPLICABLE TO SPECIFIC FACTUAL SITUATIONS.**

I. WHAT IS ASSISTIVE TECHNOLOGY?

Assistive technology is a device or service that helps a person with a disability to function better in his or her daily life. Assistive technology can be "low tech" or "high tech."

The Assistive Technology Act of 2004 defines an assistive technology device as "any item, piece of equipment, or product system, whether acquired commercially, modified,

or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.” Examples of assistive technology devices are wheelchairs, augmentative communication devices, feeding tubes, hearing aids, ramps, stair glides, lifts, and equipment to make a van usable by a person who uses a wheelchair.

An assistive technology service is “any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.”

Examples of assistive technology services are repair of a device or training on the use of a device.

Assistive technology can be found in the home, workplace, school, institution, and community. Assistive technology provides access to buildings and to programs and services. Assistive technology helps a person with a disability to become or remain independent.

Many things are assistive technology, but the Americans with Disabilities Act (ADA) deals with assistive technology in a more limited way. This is discussed below.

II. WHAT IS THE AMERICANS WITH DISABILITIES ACT?

The Americans with Disabilities Act (ADA) is a civil rights law for persons with disabilities. Title II of the Americans with Disabilities Act (ADA) states that state and local governments, and government programs and services, cannot discriminate against

persons with disabilities. Title III of the Americans with Disabilities Act (ADA) states that public accommodations cannot discriminate against persons with disabilities.

Many things are assistive technology, but the Americans with Disabilities Act (ADA) deals with assistive technology in a more limited way. Under the Americans with Disabilities Act (ADA), governments and public accommodations do not have to provide you with your own personal device or service. Governments and public accommodations, however, must provide certain devices and services when you need them to use their programs and services. An example is a movie theater loaning you an assistive listening device if you are deaf or hard of hearing.

III. WHAT DOES TITLE II OF THE AMERICANS WITH DISABILITIES ACT SAY ABOUT ASSISTIVE TECHNOLOGY?

Title II of the Americans with Disabilities Act is for public entities. Public entities are local and state governments. Title II says that public entities cannot discriminate against persons with disabilities. Government services, programs, and activities cannot exclude persons with disabilities. Examples of public entities that are covered by Title II include the Commonwealth of Pennsylvania, the Department of Public Welfare, the County Assistance Office, and the Pittsburgh Housing Authority.

If you are a qualified person with a disability, you have the right to participate equally in a government program, service, or activity. Because you have the right to access everything that a person without a disability can access, the local or state government must do certain things:

1. The government must change its practices and procedures so that you can participate in its services, programs, and activities. For example, you cannot be denied Medical Assistance (Medicaid) because you cannot fill out the application for benefits. The County Assistance Office must help you fill out the application.

2. Government buildings that are built or changed after January 26, 1992 must be fully usable by people with disabilities. Builders and designers must make sure that people with disabilities can get in and out of the building. This can include the use of assistive technology. Examples are ramps, automatic doors, and universal door handles. Signs must be used to let you know where the accessible entrance is. The government must also make sure that people with disabilities can get around the inside of the building. This could include the use of assistive technology, such as automatic sinks and hand dryers in restrooms and universal door handles. Everything must be kept in working condition.

There are different rules if the government building was built before January 26, 1992. Not every government building built before January 26, 1992 must be made accessible. However, the government must make sure that people with disabilities have access to their programs and services. The government can choose to have the service, program, or activity in a different place that is accessible.

3. The government must communicate with you in a way that is helpful. The government must also provide assistive technology so that you can use its services,

programs, and activities if you have a visual, language, hearing, or other sensory disability. Examples are TTY, telephone handset amplifiers, assistive listening devices, taped texts, Brailled materials, and large-print materials. Examples also include getting or modifying equipment. Everything must be kept in working condition. You have the right to ask for assistive technology so that you can participate equally with others. For example, if you are blind, you can ask for public housing brochures in Braille.

NOTE: The government does not have to give you your own device for your personal use, such as a motorized wheelchair, a feeding tube, or physical therapy. The government only must provide assistive technology devices or services so that you can use the government service, program, or activity.

4. The Americans with Disabilities Act (ADA) states that the government must provide you with programs and services in the most integrated setting. This means that you have the right to live in the community, when possible. Thus, the government may need to give you assistive technology so that you can be in programs and services with people who do not have disabilities. For example, if you are in a nursing facility but the doctor says that you can live in the community with supports, the government must provide these supports. These supports can include many things, such as assistive technology to make a home accessible for you.

In any situation (#1 to #4 above), the government cannot make you pay for the assistive technology that it must provide under the Americans with Disabilities Act (ADA).

IV. WHAT IF I CANNOT USE A GOVERNMENT BUILDING OR PROGRAM?

There are many steps that you may wish to take if you cannot use a government building or program.

- ▶ Send a letter to the government. You can ask that the government provide assistive technology so that you can use the building, programs, or services. It is best to write a letter. Save a copy of the letter for yourself. Keep notes on who you asked, the date, and the response. If you are still denied access, there are other things that you can do.

- ▶ Make a complaint against the government under Title II. Individuals and groups can make civil rights complaints against governments. This is not a lawsuit but a complaint made to a federal government agency. **Complaints must be filed within 180 days of the alleged discriminatory act.**

To make a complaint against a government, send your written complaint to:

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights - NYAVE
Washington, D.C. 20530

You may also contact the Department of Justice's ADA Information Hotline at 800-514-0301 (voice) or 800-514-0383 (TTY).

To make a complaint against government health care and human services providers, send your written complaint to:

Director, Office for Civil Rights
U. S. Department of Health and Human Services
200 Independence Avenue, SW

H.H.H. Building, Room 509-F
Washington, D.C. 20201
Telephone: 202-619-0403
Email: ocrmail@hhs.gov

To make a complaint against a school, send your complaint to:

U.S. Department of Education
Office for Civil Rights
Customer Service Team
550 12th Street, SW
Washington, D.C. 20202-1100
Telephone: 800-421-3481
FAX: 202-245-6840
TTY: 877-521-2172
Email: OCR@ed.gov

To make a complaint against a housing authority or Section 8 landlord, send your written complaint to:

Philadelphia Regional Office of FHEO
U.S. Department of Housing and Urban Development
The Wanamaker Building
100 Penn Square East, 12th Floor
Philadelphia, Pennsylvania 19107-3380
Telephone: 215-656-0663, ext. 3241 or 888-799-2085
TTY: 215-656-3450

► Make a complaint with the Pennsylvania Human Relations Commission. You can make a human relations complaint against the government. This is not a lawsuit but a complaint made to a state government agency. **Complaints must be filed within 180 days of the alleged discriminatory act.** You need to file your complaint with one of the Commission's three regional offices. The county is determined by the location of the alleged act of harm, not the county in which you live.

Harrisburg Regional Office*
Riverfront Office Center
1101-1125 S. Front Street, 5th Floor

Harrisburg, PA 17104-2515
Telephone: 717-787-9784
TTY: 717-787-7279

*This office serves the following counties: Adams, Bedford, Berks, Blair, Bradford, Cambria, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York.

Philadelphia Regional Office**
711 State Office Building
1400 Spring Garden Street
Philadelphia, PA 19130
Telephone: 215-560-2496
TTY: 215-560-3599

**This office serves residents in the following counties: Bucks, Chester, Delaware, Montgomery, and Philadelphia.

Pittsburgh Regional Office***
11th Floor State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: 412-565-5395
TTY: 412-565-5711

***This office serves the following counties: Allegheny, Armstrong, Beaver, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Potter, Venango, Warren, Washington, and Westmoreland.

► [File a lawsuit](#). People and groups can file lawsuits in federal court under the Americans with Disabilities Act (ADA). **There is a deadline to file a lawsuit, so contact a civil rights lawyer immediately after the discrimination occurs.**

V. **WHAT DOES TITLE III OF THE AMERICANS WITH DISABILITIES ACT SAY ABOUT ASSISTIVE TECHNOLOGY?**

Title III of the Americans with Disabilities Act (ADA) is for public accommodations.

Public accommodations are private entities that own, lease, or operate a place of public accommodation. Places of public accommodation include hotels, private apartments, restaurants, movie theaters, grocery stores, banks, zoos, private schools, fitness clubs, hospitals, and doctors' offices. Public accommodations cannot discriminate against persons with disabilities in providing goods, services, and other benefits to the public. Both the owner of the building and the tenant that runs the public accommodation are covered by the Americans with Disabilities Act (ADA).

If you are a person with a disability, you have the right to get benefits from a public accommodation equally with persons who do not have disabilities. Public accommodations must do the following:

1. You cannot be denied goods, services, and other benefits because you have a disability. You cannot be given different goods, services, and other benefits because you have a disability. The public accommodation must accommodate your needs. For example, you must be allowed to stay in a hotel with your service dog. You can only be denied goods or services if you would pose a direct threat to the health or safety of others.

2. Buildings that are built or changed after January 26, 1993 must be fully usable by people with disabilities. Builders and designers must make sure that people with

disabilities can get in and out of the building, and can get around inside the building. This can include the use of assistive technology. Examples are ramps, automatic doors, universal door handles, automatic hand dryers in restrooms, accessible drinking fountains, and signs with Braille. Shelves and aisles must be usable by people with disabilities.

There are different rules if the building was built before January 26, 1993. In this case, if it does not cost too much and is not too difficult, the public accommodation must make sure that you can get in and out of the building. This could include ramps, stair glides, universal door handles, and other assistive technology. The public accommodation must also provide accessible shelves, aisles, bathrooms, and other facilities inside the building. This could include assistive technology. Everything must be kept in working condition. If it costs too much or is too difficult, the public accommodation must get you the goods or services in another way. One example of this is home delivery.

3. The public accommodation must communicate with you in a way that is helpful. The public accommodation must also provide assistive technology so you can use its goods, services, and other benefits if you have a visual, language, hearing, or other sensory disability. Examples are TTY for outgoing calls, closed caption decoders, telephone handset amplifiers, assistive listening devices, taped texts, Brailled materials, and large-print materials. Examples also include getting or modifying equipment. Everything must be kept in working condition. You have the right to ask for assistive technology so that you can use goods and services equally with others. For example, if you are deaf

and staying in a hospital, you can ask that a hospital have closed caption television in your room. The public accommodation does not have to give you your own device or service for your daily use. The public accommodation only has to give you a device or service so that you can use its goods, services, and other benefits.

In any situation (#1 to #3 above), the public accommodation cannot make you pay for the assistive technology that it must provide under the Americans with Disabilities Act (ADA).

VI. WHAT IF I CANNOT GET INTO A PLACE OF PUBLIC ACCOMMODATION OR USE ITS GOODS AND SERVICES?

There are many steps that you may wish to take if you cannot get into a place of public accommodation or use its goods and services.

▶ Send a letter to the public accommodation. You can ask that the public accommodation provide assistive technology so that you can use the building, programs, goods, or services. It is best to write a letter. Save a copy of the letter for yourself. Keep notes on who you asked, the date, and the response. If you are still denied access, there are other things that you can do.

▶ Make a complaint against a public accommodation under Title III. Individuals and groups can make civil rights complaints against public accommodations. This is not a lawsuit but a complaint made to a federal government agency. **Complaints must be filed within 180 days of the alleged discriminatory act.**

To make a complaint against a public accommodation, send your written complaint to:

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights - NYAVE
Washington, D.C. 20530

You may also contact the Department of Justice's ADA Information Hotline at 800-514-0301 (voice) or 800-514-0383 (TTY).

► Make a complaint with the Pennsylvania Human Relations Commission. You can make a human relations complaint against a public accommodation. This is not a lawsuit but a complaint made to a state government agency. **Complaints must be filed within 180 days of the alleged discriminatory act.** You need to file your complaint with one of the Commission's three regional offices. The county is determined by the location of the alleged act of harm, not the county in which you live.

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► File a lawsuit. People and groups can file lawsuits in federal court under the Americans with Disabilities Act (ADA). **There is a deadline to file a lawsuit, so contact a civil rights lawyer immediately after the discrimination occurs.**

VII. WHO CAN I CONTACT FOR HELP?

Please contact the Disability Rights Network of Pennsylvania (DRN) at 800-692-7443 (voice) or 877-375-7139 (TTY). Our email address is: drnpa-hbg@drnpa.org.

The mission of the Disability Rights Network of Pennsylvania is to advance, protect, and advocate for the human, civil, and legal rights of Pennsylvanians with disabilities.