

Focal Point: Federal, State, and Local Laws: Conflicts or Complements?

Here at the ADA Center we get a lot of questions from callers to our toll-free information line and from participants in our training sessions about laws other than the ADA. There are countless disability-related laws on federal, state, and local levels. Some are similar to the ADA – civil rights laws designed to address discrimination. Other laws are designed to establish specific benefits or entitlements for people with disabilities, such as specific educational services for children with disabilities, or financial assistance for people with disabilities who are unable to work.

Different laws may apply to different situations, so it's important to know which law is relevant in order to address issues appropriately. Sometimes more than one law applies to the *same* situation, so it's important to sort out and resolve potential conflicts and achieve compliance all around.

Civil Rights

The Americans with Disabilities Act (ADA) is not the only federal civil rights law that protects people with disabilities, though it may be the most well-known (it's the "youngest"). The Rehabilitation Act, an older law on which the ADA is based, covers the agencies of the executive branch of the federal government, as well as recipients of federal funding and most federal contracts. The Air Carriers Access Act (ACAA) applies to the operation of airlines, and the Fair Housing Act (FHA) applies to a variety of residential situations. The provisions of the ACAA and the FHA are quite distinct from those of the ADA and the Rehabilitation Act.

These laws sometimes rub up against common boundaries, and sometimes they cross those boundaries. The ADA doesn't venture into several areas that were already occupied by older laws. For example, the ADA doesn't reach the operation of airlines (the ACAA was already in place when the ADA was being developed) or dwelling units in private residential communities (the FHA was already there). On the other hand, due to the broad nature of Title II of the ADA (which covers everything state and local governments do), the Rehabilitation Act, and the FHA, these three laws typically *all* apply to state and local government housing.

States, commonwealths, territories, and the District of Columbia all have civil rights laws, too, as do many local entities, such as counties and cities. These laws are sometimes called “human rights,” “human relations,” “equal rights,” “equal opportunity,” or “fair” (for example, “fair employment” or “fair housing”) laws. They are generally designed to prohibit discrimination against people based on factors such as race, religion, gender, or disability. State and local agencies, councils, and commissions work to implement and enforce them.

While the ADA does not override other federal laws, it will override state or local laws that provide less protection or benefit. However, **if a state or local law provides more protection or greater benefit, it will override the ADA. If an entity (such as an employer) is covered by a state or local law *and* by the ADA, the entity must comply with each provision of *all* the applicable laws, according to which provision is the most generous to individuals with a disabilities.**

For example, private companies are only covered by the ADA’s employment provisions if they have at least fifteen workers. Many state laws cover smaller employers; the Pennsylvania Human Relations Act (PHRA) covers most private employers with only four workers, and the District of Columbia Human Rights Act covers most of those who employ just one worker. These small employers must abide by their state laws even if they are exempt from the ADA.

At the same time, those employers who do have at least fifteen workers must also comply with any ADA provisions which are more stringent than state law. For example, the ADA requires employers to maintain the confidentiality of employees’ medical information to a greater extent than Pennsylvania’s law. The PHRA permits disclosure to labor organization representatives in the context of a labor dispute, but the ADA makes no such allowance. Employers covered by both laws must ensure compliance with the ADA’s restrictions.

There may be complementary provisions in other settings as well. For example, there is quite an assortment of state and local laws related to service animals in public places such as restaurants, theaters, or offices. Some state laws are more generous than the ADA, and some are less so.

A service animal must be “trained” (note the past tense; the animal must have *completed* training) and be working for an individual with a disability in order for the individual to invoke the protections of the ADA; a business does not have to make any allowances for animals “*in training.*” However, many states extend protections to trainers and animals in training, allowing them access to public places.

On the other hand, some local ordinances restrict ownership of certain breeds of dogs, such as bulldogs. The ADA's definition of a service animal does not exclude any breed, so if an individual with a disability has such a dog which is a trained service animal, the local authority must consider an individualized reasonable modification of the rules.

Facility Access and Building Codes

Although the ADA is a civil rights law, it has something in it that looks a lot like a building code; the ADA Standards for Accessible Design provide requirements for new construction and alteration projects, as well as a gauge for judging the accessibility of existing structures. The accessibility requirements of many state and local building codes are based on the ADA Standards or on the International Building Code (IBC), which is very similar, but frequently there are differences or unique requirements in these local codes. Again, where one project is subject to local codes *and* ADA Standards, the most stringent requirements of *each* must be followed.

For example, Maryland's state code requires a greater number of van-accessible parking spaces than the ADA Standards; Maryland code requires one of every *four* accessible spaces to be van-accessible, while the ADA requires one of every *six*. Projects subject to *both* requirements must provide the greater number required by the state code.

Additionally, there is a fundamental difference in the nature of civil rights laws and building codes. Civil rights laws are about preventing discrimination and promoting equality of opportunity, while building codes are based on general concerns about structural integrity and

the safety of building occupants. Building code requirements tend to be triggered by specific, planned building activities, such as new construction or major renovations. Detailed plans reviews and permits are often required for site development, wiring, plumbing, or structural work. Few building codes include requirements to improve accessibility in existing structures that are not being altered or undergoing some change of use.

On the other hand, the ADA requires covered entities operating in existing buildings to address the structural barriers that prevent people with disabilities from obtaining goods and services, participating in programs, or gaining employment opportunities.

The Bottom Line

- Compare the ADA with state or local laws that apply to a specific situation considering *each* provision, requirement, or exception *separately*
- A specific provision that is of greater benefit to people with disabilities will override one that is less generous

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