

I. INTRODUCTION

A. The Disability Rights Bureau

II. LEGAL FRAMEWORK

A. The Laws

- 1. The Americans With Disabilities Act**
- 2. The Rehabilitation Act**
- 3. The Illinois Environmental Barriers Act**
- 4. The Illinois Guide Dog Access Act & The White Cane Law**

“No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, and activities of a public entity, or be subjected to discrimination by such an entity.” ADA

B. When Does the Law Apply?

- 1. All of the Time**
 - a) Any court proceedings;*
 - b) Educational activities and programs;*
 - c) Communications with clerks and other court personnel;*
 - d) Questioning of witnesses, victims and arrestees.*

C. Who Is Protected by the Law?

“An individual with a disability is someone with a physical or mental impairment that substantially limits one or more major life activities.”

- 1. Everyone who fits this definition is entitled to protection – judges, lawyers, parties in a proceeding, witnesses, jurors, court observers.**
- 2. Inquiries – only entitled to information that is necessary.**

D. What is Required Under the Law?

1. A person with a disability cannot be denied the opportunity to participate in an activity. When viewed in its entirety, a program service or activity of a public entity must be accessible and usable by individuals with disabilities.
2. Must administer the activity in the most integrated setting appropriate.
3. Cannot place a surcharge on the person with a disability to cover the costs of meeting the requirements of the ADA.

E. How do you Achieve Program Accessibility?

1. MODIFICATIONS

“A public entity shall make reasonable modifications in policies, practices, or procedures when modifications are necessary to avoid discrimination on the basis of disability unless the public entity can demonstrate that making the modification would fundamentally alter the nature of the service, program or activity.”

a) *Examples of modifications*

- (1) Allowing someone to sit when everyone else is standing;
- (2) Allowing someone to eat in the courtroom;
- (3) Modifying security procedures;
- (4) Having emergency evacuation procedures that take into consideration people with disabilities.
- (5) Service Animals

(a) A service animal means any guide dog, signal dog or any other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching items.

(b) State law – White Can Law and Guide Dog Access Act both require individuals who use service dogs and service dogs in training to have access to public facilities.

(c) *Requirements – the animal must be individually trained to perform tasks for an individual with a disability. **NOT REQUIRED:** proof of training, license, harness or special attire, certification, permits, ID.*

(d) *Permissible inquiries – it is ok to ask what task the animal is trained to perform. It is **NOT OK** to ask what the individual's disability is, why they need a service animal, or if they have paperwork for the animal.*

(e) *When in a public facility, the owner is responsible for caring for the animal.*

(f) *Only allowed to exclude a service animal if they pose a direct threat. **CANNOT EXCLUDE** because someone has an allergy or a fear of dogs.*

2. Auxiliary Aids and Services

a) Examples of Auxiliary Aids

- (1) Sign language interpreters;
- (2) Real time captioning;
- (3) Braille or large print materials.

b) Primary consideration is given to the preference expressed by the individual asking for the auxiliary aid.

c) Always paid for by the public entity.

3. Physical Accessibility

a) For facilities built or altered after 1988, EBA requires that new or altered elements be accessible;

b) For older buildings, the services, programs and activities must be accessible;

c) Not required to take any action that would result in an undue burden.