Responding to the Americans with Disabilities Act (ADA)

Became law on July 26, 1990

PGA Tour v. Martin (2001)

What is ADA?
A civil-rights law intended to eliminate discrimination against people with disabilities in the areas of:
- Employment
- Public services
- Public accommodations
- Transportation
- Telecommunications

Disability Laws Preceding ADA
- Architectural Barriers Law of 1968: required that all facilities built in part or in whole with federal funds be accessible to individuals with disabilities
- Rehabilitation Act of 1973: required that agencies that received federal funding to make their programs, services and activities accessible

Why is ADA Distinctive?
- Under the ADA, protections found in the public sector are now extended to the private sector as well
- Who must comply with ADA? Quasi-public recreation agencies, restaurants, hotels, theaters, retail stores, museums, libraries, and parks
- Who is exempt from ADA? Private clubs; churches, mosques, synagogues

Consider the Existence of Undue Burden
- Economic burden: may not be feasible given the operating budget
- Administrative burden (e.g., severe shortage of qualified personnel)
- Programmatic burden: may result in a fundamental alteration of the nature of the program
Determine Essential Eligibility Requirements
- Capacity
- Fee
- Rules of conduct
- Safety
- Necessary skills
- Age
- Residence

Major Sections of ADA
- Title 1: Employment Practices
- Title 2: Government Services/Public Transportation
- Title 3: Public Accommodations by Private Agencies
- Title 4: Communication Systems
- Title 5: Miscellaneous

Title I
- Employers may not discriminate on the basis of disability in recruitment, hiring, retention, or promotion of employees
- Employers need not provide accommodations that impose “undue hardships” on business operations
- Employers of fewer than 15 people are exempt from Title I, unless the employer is a state or local government
- Employers may need to provide “reasonable accommodation” to individuals with disabilities.

Title II
- Subpart A: Requires that state and local government entities and programs be made accessible
- Subpart B: Covers transportation and requires that public transportation systems be made fully accessible to and usable by individuals with disabilities

Title III
- Covers the accessibility and availability of programs, goods, and services provided to the public by private entities
- By definition, a public accommodation is privately owned and/or operated

Examples of public accommodations
- Places of lodging (does not include bed and breakfast)
- Restaurants/bars
- Theaters, stadiums
- Sales or rental establishments (e.g., grocery stores, clothing stores)
- Service establishments (e.g., banks, beauty parlors, dry cleaners)
Examples of public accommodations

- Places of public display (e.g., museums, libraries, galleries)
- Places of recreation (e.g., parks, zoos, amusement parks)
- Places of education
- Social service centers (e.g., day care)
- Places of exercise (e.g., gymnasiums, health spas, bowling alleys, golf courses)

Title IV

- Requires that telecommunication services be made accessible to individuals with hearing and speech impairments.
- Companies offering telephone service to the general public must offer telephone relay services to individuals who use text telephones or similar devices.

Title V

Contains miscellaneous provisions that apply to all of the other titles, including regulation and enforcement.