Main Legislation

Rehabilitation Act of 1973 (as amended)

Americans with Disability Act (ADA) of 1990

Individuals with Disability Education Act (IDEA) Amendments of 1997

Telecommunications Act of 1996

Fair Housing Act of 1988

Air Carrier Access Act

Assistive Technology Act of 1998

Medicaid

Medicare
Rehabilitation Act

Prohibits *discrimination* on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contractors (Sec. 504)

Mandates *reasonable accommodation* in employment and secondary education when receiving federal funding

- Resulted in architectural changes on campuses and work settings (elevators, ramps, voice and Braille labels)

Requires that each state include a *provision for Assistive Technology* in each *vocational rehabilitation plan*

Sec. 508 ensures access to *electronic office equipment* (including IT and telecommunications) to persons with disabilities working for the federal government

- “Accessible” means that be operated in a variety of ways and does not rely on a single sense or ability of the user.
Rehabilitation Act

Authorizes **funding for the states** to provide rehabilitation services for people with disabilities to prepare for, engage in, or retain gainful employment. These services include:

- Evaluation
- Counseling
- Training
- Placement
- Rehab technology services

Defines **Rehabilitation Technology** as “the application of technologies, engineering methods, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities”. This includes:

- Rehabilitation engineering
- Assistive technology devices
- Assistive technology services
Vocational Rehabilitation

Vocational Rehabilitation (VR) is administered through state rehab agencies (federal-state partnership)

Operates at the case services level through a Individual Plan for Employment (IPE)

– Contract between service provider and recipient
– Must include the provision of rehab technology services to assist in the implementation of intermediate and long-term goals, where it is found appropriate

Some individuals are deemed ineligible for VR service because (1) they don’t have vocational goals or (2) VR does not believe it can help them

– In this case, they may use Independent Living services
  • Provided through community-based independent living centers
– Independent living is also funded by the Rehab Act
American with Disability Act (ADA)

The ADA prohibits discrimination on the basis of disability in:

- Employment
- State and local government
- Public accommodations
- Commercial facilities
- Transportation
- Telecommunications

It also applies to the US Congress
ADA - Rationale

“Individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment and relegated to a position of political powerlessness in our society”

“So some will argue that it costs too much to implement this bill. But I reply, it costs too much to go on without it. Four percent of the American gross product is spent on keeping disabled people dependent”
Definition - ADA

According to the American with Disability Act, a person has a disability if she or he (1) has a physical or mental impairment that substantially limits a major life activity, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. A person must satisfy at least one of these three parts of the definition to be considered an individual with a disability.

Note: disadvantage is not necessarily disability!
- E.g., someone using glasses, or speaking with a stutter
ADA Titles

Title I
Employment

Title II
State and Local Government Activities
Public Transportation

Title III
Public Accommodation

Title IV
Telecommunications Relay Services
ADA Title I - Employment

Requires **employers with 15 or more employees** to provide qualified individuals with disabilities an **equal opportunity to benefit** from the full range of employment-related opportunities available to others.

- Prohibits discrimination in **recruitment, hiring, promotions, training, pay, social activities**
- Restricts **questions** that can be asked about an **applicant's disability** before a job offer is made
- Requires that employers make **reasonable accommodation** to the known physical or mental limitations of otherwise qualified individuals with disabilities, unless it results in undue hardship
  - “Reasonable” depends on the circumstances, but it may mean using Assistive Technology
ADA Title I - Employment

IMPORTANT:

– ADA does not require preferential treatment for people with disabilities!

– ADA clearly states that the individual must be qualified or, stated another way, the individual must be able to perform the essential functions of the job (with or without accommodations) and is not exempted from any legitimate requirement or qualification
ADA Title II
State and Local Gov’t Activities

Covers all activities of State and local governments
- Regardless of the government entity's size or receipt of Federal funding
  • Includes UCSC!

Requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities
- Public education
- Employment
- Transportation
- Recreation
- Health care
- Social services
- Courts
- Voting
- Town meetings
ADA Title II
State and Local Gov’t Activities

State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings.

- They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision, or speech disabilities
  - Public entities are not required to take actions that would result in undue financial and administrative burdens.

They are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination

- Unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided.
ADA Title II
Public Transportation

Covers public transportation services, such as city buses and public rail transit (e.g. subways, commuter rails, Amtrak)

Public transportation authorities may not discriminate against people with disabilities in the provision of their services. They must:

- Comply with requirements for accessibility in newly purchased vehicles
- Make good faith efforts to purchase or lease accessible used buses
- Remanufacture buses in an accessible manner
- Unless it would result in an undue burden, provide paratransit where they operate fixed-route bus or rail systems
  - Paratransit is a service where individuals who are unable to use the regular transit system independently (because of a physical or mental impairment) are picked up and dropped off at their destinations.
ADA Title III: Public Accommodation

Covers:

- **Businesses** and **nonprofit service providers** that are public accommodations
  - Such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers, and recreation facilities including sports stadiums and fitness clubs.

- Privately operated entities offering certain types of courses and examinations

- Privately operated transportation, and commercial facilities.
ADA Title III: Public Accommodation

Public accommodations must comply with:

- Basic **nondiscrimination requirements** that prohibit exclusion, segregation, and unequal treatment

- Specific requirements related to
  - **Architectural standards** for new and altered buildings
  - Reasonable **modifications** to policies, practices, and procedures
  - Effective **communication** with people with hearing, vision, or speech disabilities
  - Other access requirements.

Additionally, public accommodations must **remove barriers in existing buildings** where it is easy to do so without much difficulty or expense, given the public accommodation's resources.
Courses and examinations related to professional, educational, or trade-related applications, licensing, certifications, or credentialing must be provided in a place and manner accessible to people with disabilities, or alternative accessible arrangements must be offered.

Commercial facilities, such as factories and warehouses, must comply with the ADA's architectural standards for new construction and alterations.
What is “Undue Burden”? 

Titles II and III apply not only to physical barriers, but also to other barriers that may interfere with access to or the ability to benefit from a public program or commercial facility/service.

Two standards of requirements:

1. In some cases (e.g., existing architectural barriers in an existing building) barriers must be removed if it is “readily achievable” to do so.

2. In other cases (e.g., when a building is being renovated) barriers must be removed unless doing so would constitute “undue burden” (more demanding than “easily achievable”).

In some cases, Titles II and III require the provision of auxiliary aids and services where barrier removal is impossible or otherwise required action would be undue burden.
ADA Title IV: Telecommunications Relay Services (TRS)

Addresses **telephone** and **television** access for people with **hearing** and **speech** disabilities

Requires common carriers (telephone companies) to establish interstate and intrastate **telecommunications relay services (TRS) 24/7**

- TRS enables callers with hearing and speech disabilities who use telecommunications devices for the deaf (TDDs or TTYs), and callers who use voice telephones to communicate with each other through a third party communications assistant
  
  - The Federal Communications Commission (FCC) has set minimum standards for TRS services

Also requires **closed captioning** of **Federally funded public service announcements**
Individuals with Disabilities Education Act (IDEA)

Requires public schools to make available to all eligible children with disabilities a **free appropriate public education** in the **least restrictive environment** appropriate to their individual needs

- Before 1975, more than 1 million children with disabilities were excluded from American public schools
- Deaf and blind students in the US were traditionally educated in special *residential schools*
  - There have been growing objections to the segregated education provided in such schools
  - In recent years, the percentage of students educated in residential schools has declined substantially
Least restrictive environment:

- "To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are [1] educated with children who are not disabled, and [2] special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."
IDEA (cont’d)

An individual educational program (IEP) must be written for each student.

A student’s IEP sets out the child’s present educational performance, establishes annual and short term objectives, and describes the specially designed instruction and services that will enable the child to meet those objectives.

- A student's IEP must address the issue of least restrictive environment.
- In a situation where a child will not participate fully with peers without disabilities, the IEP must include an explanation of why and to what extent the child will not be included.
- Devices ranging from sensory aids to augmentive communication devices to specialized computers can be part of a student’s IEP.
Telecommunications Act

Requires manufacturers of telecommunications equipment and providers of telecommunications services to ensure that such equipment and services are **accessible** to and **usable** by persons with disabilities, if readily achievable

- Covers telephones, cellphones, fax, pagers, answering machines, and televisions
- **Accessible**: must provide accessible input, control, and mechanical functions, as well as accessible output, display and control functions
  - For example, a pager that has both audio and visual controls for inputting information, as well as both audio and visual methods for retrieving messages, would be accessible to a person who is blind or deaf
- **Usable**: people with disabilities must be able to learn about and operate the product's or service's features effectively
Telecommunications Act (cont’d)

Where access is not readily achievable, requires manufacturers and service providers to make their devices and services compatible with peripheral devices and specialized customer premises equipment that are commonly used by people with disabilities, if such compatibility is readily achievable

– Peripheral devices are devices that help make telecommunications products and services accessible to individuals with disabilities.

  • Examples: TTY (text phone for the deaf, aka TDD), visual signaling devices, and amplifiers.
Telecommunications Act
Closed Captioning

Open captions: Visible by all viewers
– E.g.: burnt-it captioning

Closed captions: Visible only when requested
– Via a separate display or via a decoder
  • Requires that apparatus designed to receive television pictures broadcast simultaneously with sound be equipped with built-in decoder circuitry designed to display closed-captioned television transmissions when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size.
– FCC has adopted rules requiring closed captioning of most, though not all, television programming
  • Two categories of programming: new programming and pre-rule programming.
    – Certain exemptions from the captioning requirements apply to both categories of programming.
Fair Housing Act

Prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status, and national origin

- Covers private housing, housing that receives Federal financial assistance, and State and local government housing

Requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities

- For example, a landlord with a "no pets" policy may be required to grant an exception to this rule and allow an individual who is blind to keep a guide dog in the residence
Fair Housing Act (cont’d)

Requires landlords to allow tenants with disabilities to make **reasonable access-related modifications** to their private living space, as well as to common use spaces

– The landlord is not required to pay for the changes

Requires **new multifamily housing** with four or more units to be designed and built to allow **access** for persons with disabilities

– Including accessible common use areas, doors that are wide enough for wheelchairs, kitchens and bathrooms that allow a person using a wheelchair to maneuver
Air Carrier Access Act

Prohibits discrimination in air transportation by domestic and foreign air carriers against qualified individuals with physical or mental impairments

- Applies only to air carriers that provide regularly scheduled services for hire to the public.

Requirements address a wide range of issues including boarding assistance and certain accessibility features in newly built aircraft and new or altered airport facilities.
Definition - SSA

Social Security Administration

Disability is defined as:

“Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months.”
Medicare

Medicare is a federally managed medical insurance plan, regardless of income, for consumers age 65 and older, and for persons under 65 who are eligible for SSI.

Medical expenditures fall into:

- Hospital insurance (Part A)
- Supplementary medical insurance (Part B)
  - Covers for physician services, outpatient care, some short term rehab services, therapies, etc.
  - Prosthetic and orthotic devices can also be covered (include artificial legs and arms)
  - Also devices such as electronic speech aids may be covered as prosthetic devices
Medicaid

Medicaid is the federally funded program that provides **health insurance** to persons who meet the applicable definitions of low income

People with **chronic illness** or **disabilities** who qualify for **Supplemental Security Income (SSI)** are automatically eligible for Medicaid in 39 states

- An individual is eligible for SSI if he/she is:
  - Aged 65 or older, or
  - Blind, or
  - Disabled

- And
  - Has limited income and resources
Medicaid

The program may provide services as medical supplies, durable medical equipment, and orthotic (braces) and prosthetic devices

- Devices typically purchased through Medicaid include canes, crutches, walkers, manual wheelchairs, manual hospital beds.
- Hearing aids and glasses are covered up until the age of 21

Another program is the **In-Home Supportive Service**

- Considered an alternative to out-of-home care
- Eligibility: same as SSI
Independent Living Centers

**Basic principle**: Freedom to **make choices** and the ability to **live in the community** is a **basic civil right** that should be extended to all people, regardless of disability

- Liberating people with disabilities from **institutional living**
- Freedom to make choices, including mistakes, empowers people to further their involvement in their life and community

Rather than “**being taken care of**”, persons with disabilities are **empowered** to make their own choices and to manage their own lives

- In the past, agencies “would take care of their needs”, without control from the individual with a disability

**1st ILC**: Berkeley, 1971

- Now 28 in CA, many more in US
  - e.g.: Central Coast Center for Independent Living

By charter, at least 51% of the staff and 51% of board of directors must be individuals with disabilities

- All disabilities should be represented
ILCs (cont’d)

ILCs do not operate any type of residential facilities!

ILCs do provide:
– Peer counseling
– Information and referral
– Independent living skills training
– Individual advocacy
– Systems advocacy for the community.

Individual centers may provide more services, including:
– Children and youth services,
– Community mobility training including using public transit
– Personal assistance service
– Assistive Technology outreach coordination
– Transportation services
– Vocational services