Americans with Disabilities Act of 1990

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Long title	An Act to establish a clear and comprehensive prohibition of discrimination on the basis of disability
Colloquial acronym(s)	ADA
Enacted by the	101st United States Congress
Effective	July 26, 1990
Citations	
Public Law	101-336
Stat.	104 Stat. 327
Title(s) amended	42
U.S.C. sections created	12101 et seq.

Legislative history
• **Introduced in the Senate as** S.933 **by** Sen. Tom Harkin (D-IA) **on** May 9, 1989 • **Passed the Senate on** September 7, 1989 (76-8) • **Passed the House of Representatives on** May 22, 1990 (unanimous voice vote) • **Reported by the joint conference committee on** July 12, 1990; **agreed to by the House of Representatives on** July 12, 1990 (377–28) **and by the Senate on** July 13, 1990 (91-6) • **Signed into law by President** George H. W. Bush **on** July 26, 1990
Major amendments
Codification
United States Supreme Court cases
Bragdon v. Abbott *Olmstead v. L.C.* *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*
• v • t • e

The **Americans with Disabilities Act of 1990**[1][2] (**ADA**) is a law that was enacted by the U.S. Congress in 1990. It was signed into law on July 26, 1990, by President George H. W. Bush, and later amended with changes effective January 1, 2009.[3]

The ADA is a wide-ranging civil rights law that prohibits, under certain circumstances, discrimination based on disability. It affords similar protections against discrimination to Americans with disabilities as the Civil Rights Act of 1964,[4] which made discrimination based on race, religion, sex, national origin, and other characteristics illegal. Disability is defined by the ADA as "...a physical or mental impairment that substantially limits a major life activity." The determination of whether any particular condition is considered a disability is made on a case by case basis. Certain specific conditions are excluded as disabilities, such as current substance abuse and visual impairment that is correctable by prescription lenses.

On September 25, 2008, President George W. Bush signed the ADA Amendments Act of 2008 (ADAAA) into law. This was intended to give broader protections for disabled workers and "turn back the clock" on court rulings that Congress deemed too restrictive.[5] The ADAAA includes a list of "major life activities."

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Titles of the ADA [edit]

Title I—Employment [edit]

See 42 U.S.C. §§ 12111–12117.

Speech cards used by President George H. W. Bush at the signing ceremony of the Americans with Disabilities Act (ADA) on July 26, 1990.[1]

The ADA states that a *covered entity* shall not discriminate against *a qualified individual with a disability*.[6] This applies to job application procedures, hiring, advancement and discharge of employees, workers' compensation, job training, and other terms, conditions, and privileges of employment. *Covered entity* can refer to an employment agency, labor organization, or joint labor-management committee, and is generally an employer engaged in interstate commerce and

having 15 or more workers.[7] Discrimination may include, among other things, limiting or classifying a job applicant or employee in an adverse way, denying employment opportunities to people who truly qualify, or not making reasonable accommodations to the known physical or mental limitations of disabled employees, not advancing employees with disabilities in the business, and/or not providing needed accommodations in training materials or policies, and the provision of qualified readers or interpreters. Employers can use medical entrance examinations for applicants, after making the job offer, only if *all* applicants (regardless of disability) must take it and it is treated as a confidential medical record. *Qualified individuals* do not include any employee or applicant who is currently engaging in the illegal use of drugs when that usage is the basis for the employer's actions.[8]

Part of Title I was found unconstitutional by the United States Supreme Court as it pertains to states in the case of *Board of Trustees of the University of Alabama v. Garrett* as violating the sovereign immunity rights of the several states as specified by the Eleventh Amendment to the United States Constitution. The provision allowing private suits against states for money damages was invalidated.

Title II—Public entities (and public transportation) [edit]

See 42 U.S.C. §§ 12131–12165.

Access sign

Title II prohibits disability discrimination by all public entities at the local (*i.e.* school district, municipal, city, county) and state level. Public entities must comply with Title II regulations by the U.S. Department of Justice. These regulations cover access to all programs and services offered by the entity. Access includes physical access described in the ADA Standards for Accessible Design and programmatic access that might be obstructed by discriminatory policies or procedures of the entity.

Title II applies to public transportation provided by public entities through regulations by the U.S. Department of Transportation. It includes the National Railroad Passenger Corporation, along with all other commuter authorities. This section requires the provision of paratransit services by public entities that provide fixed route services sign of Illuminate.

Title II also applies to all state and local public housing, housing assistance, and housing referrals. The Office of Fair Housing and Equal Opportunity is charged with enforcing this provision.

Title III—Public accommodations (and commercial facilities) [edit]

See 42 U.S.C. §§ 12181–12189.

The ADA sets standards for construction of accessible public facilities. Shown is a sign indicating an accessible fishing platform at Drano Lake, Washington.

Under Title III, no individual may be discriminated against on the basis of disability with regards to the full and equal enjoyment of the goods, services, facilities, or accommodations of any place of *public accommodation* by any person who owns, leases (or leases to), or operates a place of *public accommodation*. "Public accommodations" include most places of lodging (such as inns and hotels), recreation, transportation, education, and dining, along with stores, care providers, and places of public displays, among other things.

Under Title III of the ADA, all "new construction" (construction, modification or alterations) after the effective date of the ADA (approximately July 1992) must be fully compliant with the Americans With Disabilities Act Accessibility Guidelines (ADAAG)[1] found in the Code of Federal Regulations at 28 C.F.R., Part 36, Appendix *A*.

Title III also has application to existing facilities. One of the definitions of "discrimination" under Title III of the ADA is a "failure to remove" architectural barriers in existing facilities. See 42 U.S.C. § 12182(b)(2)(A)(iv). This means that even facilities that have not been modified or altered in any way after the ADA was passed still have obligations. The standard is whether "removing barriers" (typically defined as bringing a condition into compliance with the ADAAG) is *readily achievable*, defined as "...easily accomplished without much difficulty or expense."

The statutory definition of *readily achievable* calls for a balancing test between the cost of the proposed "fix" and the wherewithal of the business and/or owners of the business. Thus, what might be "readily achievable" for a sophisticated and financially capable corporation might not be readily achievable for a small or local business.

There are exceptions to this title; many private clubs and religious organizations may not be bound by Title III. With regard to historic properties (those properties that are listed or that are eligible for listing in the National Register of Historic Places, or properties designated as historic under State or local law), those facilities must still comply with the provisions of Title III of the ADA to the "maximum extent feasible" but if following the usual standards would "threaten to destroy the historic significance of a feature of the building" then alternative standards may be used. Nonetheless, as Frank Bowe predicted when he testified as the lead witness on Title III in the Senate hearings leading up to enactment[*citation needed*], the fact that Title III calls for

accessibility in, and alterations to, thousands of stores, restaurants, hotels, etc., in thousands of communities across the U.S. means that this Title probably has had more effect on the lives of more Americans with disabilities than any other ADA title.[9]

On September 15, 2010, the Department of Justice issued revised regulations for implementation of Titles II and III, effective March 15, 2011.[10] The rules contain many new requirements for public accommodations, as well as an "element by element safe harbor."[11] Public swimming pool owners and operators must gear up for compliance with the 2010 Standards for Accessible Design with regard to existing swimming pools, wading pools and spas by January 31, 2013.[12] The Department of Justice published *ADA 2010 Revised Requirements: Accessible Pools - Means of Entry and Exit* to help pool owners and operators understand the new accessibility requirements, application of the requirements, and longstanding obligations of pool owners and operators in connection with the new requirements.[13] The ADA Revised Requirements require that newly constructed or altered swimming pools, wading pools, and spas have an accessible means of entrance and exit to pools for disabled people. However, providing accessibility is conditioned on whether providing access through a fixed lift is “readily achievable.” The technical specifications for when a means of entry is accessible are available on the (DOJ website). [1] Other requirements exist, based on pool size, include providing a certain number of accessible means of entry and exit, which are outlined in Section 242 of the Standards. However, businesses should consider the differences in application of the rules depending on whether the pool is new or altered, or whether the swimming pool was in existence before the effective date of the new rule. Full compliance may not be required for existing facilities; Section 242 and 1009 of the 2010 Standards outline such exceptions.[14]

Title IV—Telecommunications [edit]

Title IV of the ADA amended the landmark Communications Act of 1934 primarily by adding section 47 U.S.C. § 225. This section requires that all telecommunications companies in the U.S. take steps to ensure functionally equivalent services for consumers with disabilities, notably those who are deaf or hard of hearing and those with speech impairments. When Title IV took effect in the early 1990s, it led to installation of public Teletypewriter (TTY) machines and other TDDs (Telecommunications Device for the Deaf). Title IV also led to creation, in all 50 States and the District of Columbia, of what were then called dual-party relay services and now are known as Telecommunications Relay Services (TRS), such as STS Relay. Today, many TRS-mediated calls are made over the Internet by consumers who use broadband connections. Some are Video Relay Service (VRS) calls, while others are text calls. In either variation, communication assistants translate between the signed/typed words of a consumer and the spoken words of others. In 2006, according to the Federal Communications Commission (FCC), VRS calls averaged two million minutes a month.

Title V—Miscellaneous provisions [edit]

> *See 42 U.S.C. §§ 12201–12213.*

Title V includes technical provisions. It discusses, for example, the fact that nothing in the ADA amends, overrides or cancels anything in Section 504.[15] Additionally, Title V includes an anti

retaliation or coercion provision. The Technical Assistance Manual for the ADA explains it: "III-3.6000 Retaliation or coercion. Individuals who exercise their rights under the ADA, or assist others in exercising their rights, are protected from retaliation. The prohibition against retaliation or coercion applies broadly to any individual or entity that seeks to prevent an individual from exercising his or her rights or to retaliate against him or her for having exercised those rights ... Any form of retaliation or coercion, including threats, intimidation, or interference, is prohibited if it is intended to interfere.

Major life activities [edit]

The ADA defines a covered disability as "...a physical or mental impairment that substantially limits a major life activity." The Equal Employment Opportunity Commission (EEOC) was charged with interpreting the 1990 law with regard to discrimination in employment. Its regulations narrowed "substantially limits" to "significantly or severely restricts."[*citation needed*]

In 2008, effective January 1, 2009, the ADAAA broadened the interpretations and added to the ADA examples of "major life activities" including, but not limited to, "caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working" as well as the operation of several specified *major bodily functions*.[5] The Act overturns a 1999 U.S. Supreme Court case that held that an employee was not disabled if the impairment could be corrected by mitigating measures; it specifically provides that such impairment must be determined without considering such ameliorative measures. Another court restriction overturned is the interpretation that an impairment that substantially limits one major life activity must also limit others to be considered a disability.[5]

The ADAAA will undoubtedly lead to broader coverage of impaired employees. The United States House Committee on Education and Labor states that the amendment "...makes it absolutely clear that the ADA is intended to provide broad coverage to protect anyone who faces discrimination on the basis of disability."[16] Required doctor visits may not be held against anyone with a disability.[*citation needed*]

"Capitol Crawl" [edit]

Shortly before the Act was passed, disability rights activists with physical disabilities coalesced in front of the Capitol Building, shed their crutches, wheelchairs, powerchairs and any other assistive devices, and immediately proceeded to crawl and pull their bodies up all 100 of the Capitol's front steps, without warning. As the activists did so, many of them chanted "ADA Now!!" and "Vote! Now!!". Some activists who remained at the bottom of the steps held signs and yelled words of encouragement at the 'Capitol Crawlers'. One young child with cerebral palsy is videotaped as she pulls herself up the steps, using mostly her hands and arms, saying "I'll take all night if I have to!". This direct action is reported to have "inconvenienced" several Senators and to have pushed them to approve the Act. While there are those who do not attribute much overall importance to this action, the Capitol Crawl is seen by many present-day disability activists in the United States as being the single action most responsible for 'forcing' the ADA

into law.[17] Today, the Capitol Crawl action is not very well-known amongst the US public when compared to other United States civil rights movement actions, partly owing to the US mainstream media of 1990 failing to highlight the story.

Opposition to the act [edit]

Opposition from religious groups [edit]

The debate over the Americans with Disabilities Act led some religious groups to take opposite positions.[18] Some religious groups, such as the Association of Christian Schools International, opposed the ADA in its original form.[19] ACSI opposed the Act primarily because the ADA labeled religious institutions *public accommodations*, and thus would have required churches to make costly structural changes to ensure access for all.[20] The cost argument advanced by ACSI and others prevailed in keeping religious institutions from being labeled as *public accommodations*, and thus churches were permitted to remain inaccessible if they choose.

In addition to opposing the ADA on grounds of cost, church groups like the National Association of Evangelicals testified against the ADA's Title I (employment) provisions on grounds of religious liberty. The NAE felt that the regulation of the internal employment of churches was "... an improper intrusion [of] the federal government."[18]

Opposition from business interests [edit]

Many members of the business community opposed the passage of the Americans with Disabilities Act. Testifying before Congress, Greyhound Bus Lines stated that the Act had the potential to "...deprive millions of people of affordable intercity public transportation and thousands of rural communities of their only link to the outside world." The US Chamber of Commerce argued that the costs of the ADA would be "enormous" and have "a disastrous impact on many small businesses struggling to survive."[21] The National Federation of Independent Businesses, an organization that lobbies for small businesses, called the ADA "a disaster for small business."[22] Pro-business conservative commentators joined in opposition, writing that the Americans with Disabilities Act was "an expensive headache to millions" that would not necessarily improve the lives of people with disabilities.[23]

Quotations [edit]

President Bush signs the Americans with Disabilities Act into law

Remarks on the Signing of the Americans with Disabilities Act (July 26, 1990)

George H. W. Bush's July 26, 1990 Remarks on the Signing of the Americans with Disabilities Act

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On signing the measure, George H. W. Bush said:

I know there may have been concerns that the ADA may be too vague or too costly, or may lead endlessly to litigation. But I want to reassure you right now that my administration and the United States Congress have carefully crafted this Act. We've all been determined to ensure that it gives flexibility, particularly in terms of the timetable of implementation; and we've been committed to containing the costs that may be incurred.... Let the shameful wall of exclusion finally come tumbling down.[24]

On the debate of what it means to be disabled, American poet Joan Aleshire stated in the book *Voices From the Edge*:

If the definition of disability is the inability to do the common daily tasks of life—getting out of bed, washing, dressing, eating, going to the bathroom—and working at one's age level in school, I've never really been disabled.[25]

About the importance of making employment opportunities inclusive, Shirley Davis, director of global diversity and inclusion at the Society for Human Resource Management, said:

People with disabilities represent a critical talent pool that is underserved and underutilized.[26]

Criticism [edit]

Employment [edit]

The ADA has been a frequent target of criticism. For example, a common claim is that individuals who are diagnosed with one of the so-called "lesser disabilities" are being "accommodated" when they should not be.[*citation needed*] As one law review article pointed out, the

perception that the ADA primarily helps freeloaders was harshly satirized by *The Onion* in 1998 in the form of an article about the *Americans With No Abilities Act*.[27] The fictional Act would have provided "benefits and protection for more than 135 million talentless Americans," and prohibited discriminatory questions such as "What can you bring to this organization?"[28][29]

On the other hand, court decisions have made necessary "an individualized assessment to prove that an impairment is protected under the ADA. Therefore, the plaintiff must offer evidence that the extent of the limitation caused by the impairment is substantial in terms of his or her own experience;" a medical diagnosis or physician's declaration of disability is no longer enough.[30] Even those who support the intent of the law worry that it might have unintended consequences. Among other arguments, supporters hypothesize that the Act creates additional legal risks for employers who then quietly avoid hiring people with disabilities to avoid this risk. And such researchers[31] claim to have documented a sharp drop in employment among individuals with a disability after passage of the Act.[32] Others believe that the law has been ineffectual.[33]

"Professional plaintiffs" [edit]

The ADA allows private plaintiffs to receive only injunctive relief (a court order requiring the public accommodation to remedy violations of the accessibility regulations) and attorneys' fees, and does not provide monetary rewards to private plaintiffs who sue non-compliant businesses. Unless a state law, such as the California Unruh Civil Rights Act,[34] provides for monetary damages to private plaintiffs, persons with disabilities do not obtain direct financial benefits from suing businesses that violate the ADA.

Thus, "professional plaintiffs" are typically found in states that have enacted state laws that allow private individuals to win monetary awards from non-compliant businesses.[34] At least one of these plaintiffs in California has been barred by courts from filing lawsuits unless he receives prior court permission.[34] The attorneys' fees provision of Title III does provide incentive for lawyers to specialize and engage in serial ADA litigation, but a disabled plaintiff does not obtain financial reward from attorneys' fees unless they act as their own attorney, or as mentioned above, a disabled plaintiff resides in a state that provides for minimum compensation and court fees in lawsuits. Moreover, there may be a benefit to these "private attorneys general" who identify and compel the correction of illegal conditions: they may increase the number of public accommodations accessible to persons with disabilities. "Civil rights law depends heavily on private enforcement. Moreover, the inclusion of penalties and damages is the driving force that facilitates voluntary compliance with the ADA."[35] Courts have noted: "As a result, most ADA suits are brought by a small number of private plaintiffs who view themselves as champions of the disabled. For the ADA to yield its promise of equal access for the disabled, it may indeed be necessary and desirable for committed individuals to bring serial litigation advancing the time when public accommodations will be compliant with the ADA."[36]

ADA case law [edit]

There have been some notable cases regarding the ADA. For example, two major hotel room marketers (Expedia.com and Hotels.com) with their business presence on the Internet were sued because its customers with disabilities could not reserve hotel rooms through their websites

without substantial extra efforts that persons without disabilities were not required to perform.[37] These represent a major potential expansion of the ADA in that this, and other similar suits (known as "bricks vs. clicks"), seeks to expand the ADA's authority to cyberspace, where entities may not have actual physical facilities that are required to comply.

National Federation of the Blind v. Target Corporation

This is a case where a major retailer, Target Corp., was sued because their web designers failed to design its website to enable persons with low or no vision to use it.[38]

Board of Trustees of the University of Alabama v. Garrett

Board of Trustees of the University of Alabama v. Garrett, 531 U.S. 356 (2001), was a United States Supreme Court case about Congress's enforcement powers under the Fourteenth Amendment to the Constitution. It decided that Title I of the Americans with Disabilities Act was unconstitutional insofar as it allowed private citizens to sue states for money damages.

Barden v. The City of Sacramento

Another example, filed in March 1999, claimed that the City of Sacramento failed to comply with the ADA when, while making public street improvements, it did not bring its sidewalks into compliance with the ADA. Certain issues were resolved in Federal Court. One issue, whether sidewalks were covered by the ADA, was appealed to the 9th Circuit Court of Appeals, which ruled that sidewalks were a "program" under ADA and must be made accessible to persons with disabilities. The ruling was later appealed to the U.S. Supreme Court, which refused to hear the case, letting stand the ruling of the 9th Circuit Court.[39]

Bates v. UPS

This was the first equal opportunity employment class action brought on behalf of Deaf and Hard of Hearing (D/HH) workers throughout the country concerning workplace discrimination. It established legal precedence for D/HH Employees and Customers to be fully covered under the ADA. Key finding included (1) UPS failed to address communication barriers and to ensure equal conditions and opportunities for deaf employees; (2) Deaf employees were routinely excluded from workplace information, denied opportunities for promotion, and exposed to unsafe conditions due to lack of accommodations by UPS; (3) UPS also lacked a system to alert these employees as to emergencies, such as fires or chemical spills, to ensure that they would safely evacuate their facility; and (4) UPS had no policy to ensure that deaf applicants and employees actually received effective communication in the workplace. The outcome was that UPS agreed to pay a $5.8 million dollar award and agreed to a comprehensive accommodations program that was implemented in their facilities throughout the country.

Spector v. Norwegian Cruise Line Ltd.

This was a case that was decided by the United States Supreme Court in 2005. The defendant argued that as a vessel flying the flag of a foreign nation was exempt from the requirements of

the ADA. This argument was accepted by a federal court in Florida and, subsequently, the Fifth Circuit Court of Appeals. However, the U.S. Supreme Court reversed the ruling of the lower courts on the basis that Norwegian Cruise Lines was a business headquartered in the United States whose clients were predominantly Americans and, more importantly, operated out of port facilities throughout the United States.

Olmstead, Commissioner, Georgia Department of Human Resources, et al. v. L. C., by zimring, guardian ad litem and next friend, et al. (not to be confused with *Olmstead v. United States*, 277 U.S. 438 (1928), a case regarding wiretapping)

This was a case before the United States Supreme Court in 1999. The two plaintiffs L.C. and E.W. were institutionalized in Georgia for diagnosed mental retardation and schizophrenia. Clinical assessments by the state determined that the plaintiffs could be appropriately treated in a community setting rather than the state institution. The plaintiffs sued the state of Georgia and the institution for being inappropriately treated and housed in the institutional setting rather than being treated in one of the state's community based treatment facilities.

The Supreme Court decided under Title II of the ADA that mental illness is a form of disability and therefore covered under the ADA, and that unjustified institutional isolation of a person with a disability is a form of discrimination because it "...perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life." The court added, "Confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment."

Therefore, under Title II no person with a disability can be unjustly excluded from participation in or be denied the benefits of services, programs or activities of any public entity.[40]

Michigan Paralyzed Veterans of America v. The University of Michigan

This was a case filed before The United States District Court for the Eastern District of Michigan Southern Division on behalf of the Michigan Paralyzed Veterans of America against University of Michigan – Michigan Stadium claiming that Michigan Stadium violated the Americans with Disabilities Act in its $226-million renovation by failing to add enough seats for disabled fans or accommodate the needs for disabled restrooms, concessions and parking. Additionally, the distribution of the accessible seating was at issue, with nearly all the seats being provided in the end-zone areas. The U.S. Department of Justice assisted in the suit filed by attorney Richard Bernstein of The Law Offices of Sam Bernstein in Farmington Hills, Michigan, which was settled in March 2008.[41] The settlement required the stadium to add 329 wheelchair seats throughout the stadium by 2010, and an additional 135 accessible seats in clubhouses to go along with the existing 88 wheelchair seats. This case was significant because it set a precedent for the uniform distribution of accessible seating and gave the DOJ the opportunity to clarify previously unclear rules.[42] The agreement now is a blueprint for all stadiums and other public facilities regarding accessibility.[43]

Paralyzed Veterans of America (or "PVA") v. Ellerbe Becket Architects and Engineers

One of the first major ADA lawsuits, Paralyzed Veterans of America (or "PVA") v. Ellerbe Becket Architects and Engineers, Inc., was focused on the wheelchair accessibility of a stadium project that was still in the design Phase, MCI Center in Washington, D.C. Previous to this case, which was filed only five years after the ADA was passed, the DOJ was unable or unwilling to provide clarification on the distribution requirements for accessible wheelchair locations in large assembly spaces. While Section 4.33.3 of ADAAG makes reference to lines of sight, no specific reference is made to seeing over standing patrons. The MCI Center, designed by Ellerbe Becket Architects & Engineers, was designed with too few wheelchair and companion seats, and the ones that were included did not provide sight lines that would enable the wheelchair user to view the playing area while the spectators in front of them were standing. This case and another related case established precedent on seat distribution and sight lines issues for ADA enforcement that continues to present day.

Toyota Motor Manufacturing, Kentucky, Inc. v. Williams

Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) was a case in which the Supreme Court interpreted the meaning of the phrase "substantially impairs" as used in the Americans with Disabilities Act. It reversed a Sixth Court of Appeals decision to grant a partial summary judgment in favor of the respondent, Ella Williams that qualified her inability to perform manual job-related tasks as a disability. The Court held that the "major life activity" definition in evaluating the performance of manual tasks focuses the inquiry on whether Williams was unable to perform a range of tasks central to most people in carrying out the activities of daily living. The issue is not whether Williams was unable to perform her specific job tasks. Therefore, the determination of whether an impairment rises to the level of a disability is not limited to activities in the workplace solely, but rather to manual tasks in life in general. When the Supreme Court applied this standard, it found that the Court of Appeals had incorrectly determined the presence of a disability because it relied solely on her inability to perform specific manual work tasks, which was insufficient in proving the presence of a disability. The Court of Appeals should have taken into account the evidence presented that Williams retained the ability to do personal tasks and household chores, such activities being the nature of tasks most people do in their daily lives, and placed too much emphasis on her job disability. Since the evidence showed that Williams was performing normal daily tasks, it ruled that the Court of Appeals erred when it found that Williams was disabled.[44][45] This ruling is now, however, no longer good law—it was invalidated by the ADAAA. In fact, Congress explicitly cited Toyota v. Williams in the text of the ADAAA itself as one of its driving influences for passing the ADAAA.

Access Now v. Southwest Airlines

Access Now v. Southwest Airlines was a case where the District Court decided that the website of Southwest Airlines was not in violation of the Americans with Disability Act because the ADA is concerned with things with a physical existence and thus cannot be applied to cyberspace. Judge Patricia A. Seitz found that the "virtual ticket counter" of the website was a virtual construct, and hence not a "public place of accommodation." As such, "To expand the ADA to cover 'virtual' spaces would be to create new rights without well-defined standards."[46]

Ouellette v. Viacom International Inc.

Ouellette v. Viacom International Inc. followed in Access Now's footsteps by holding that a mere online presence does not subject a website to the ADA guidelines. Thus Myspace and YouTube were not liable for a dyslexic man's inability to navigate the site regardless of how impressive the "online theater" is.

Resources [edit]