

ADA COORDINATORS: Roles & Responsibilities



**4th Annual
ADA for State and Local
Governments Conference
Atlanta, Georgia
May 15th, 2014**



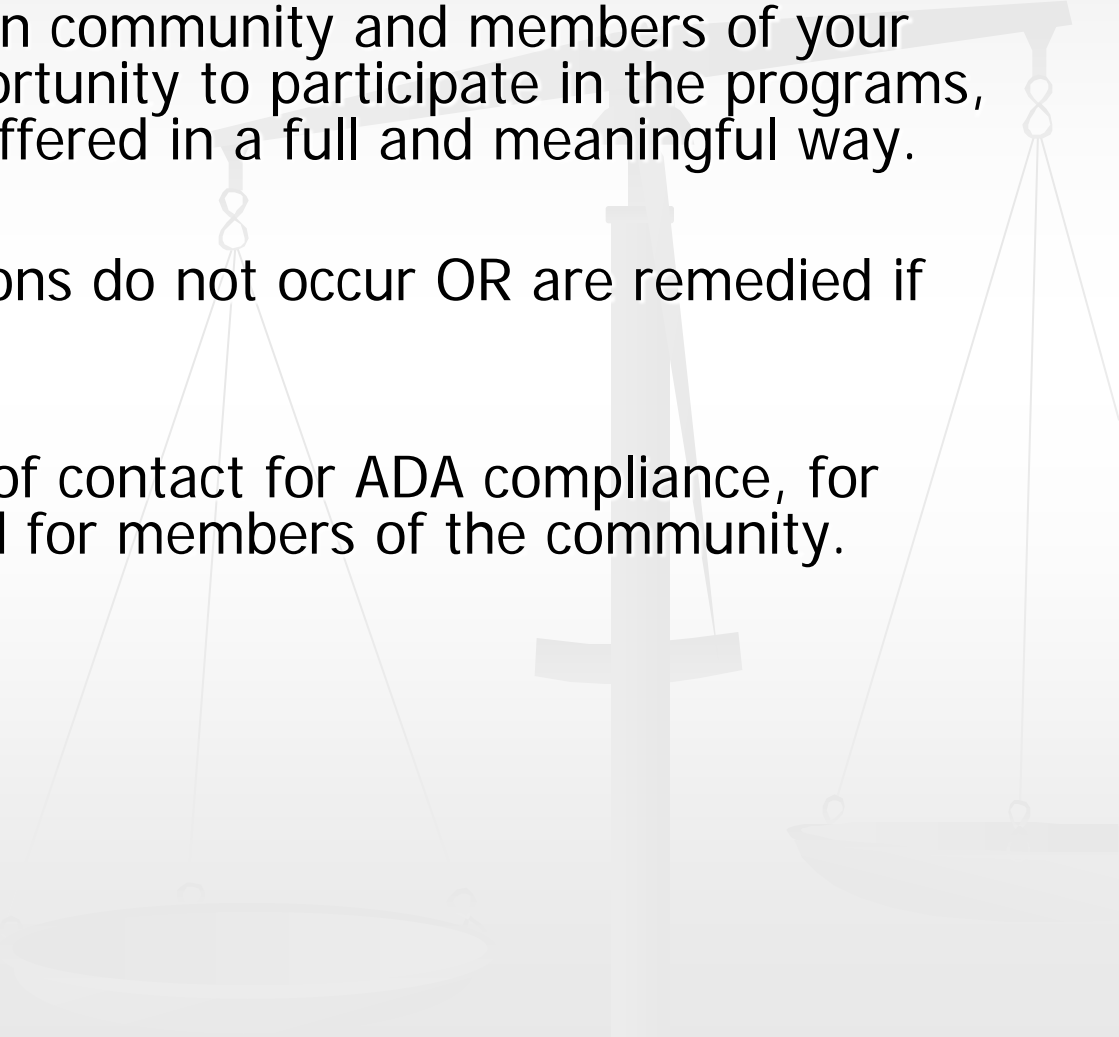
"The ADA is nothing less than an emancipation proclamation for people with disabilities."

- Senator Tom Harkin, 1990

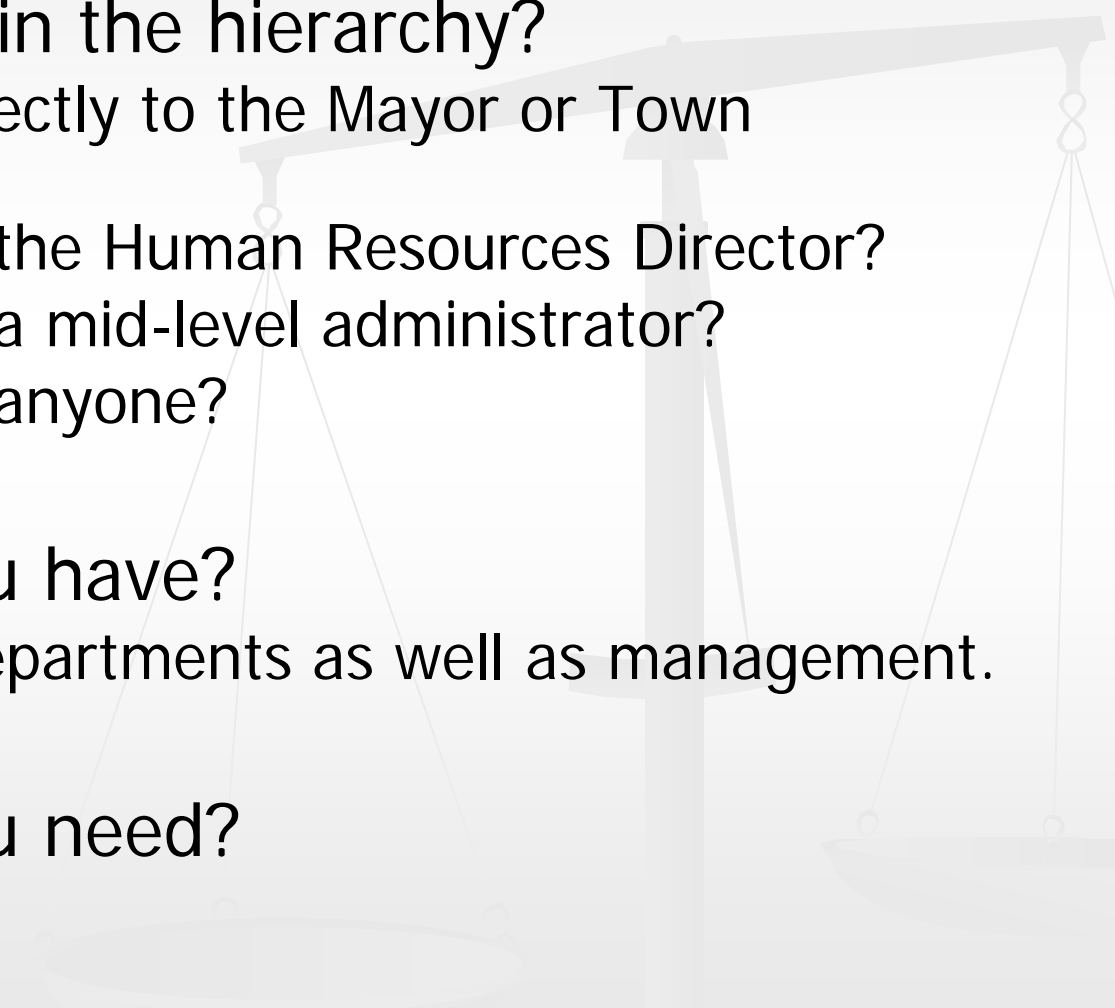
Revisions to ADA Regulations Published September 15, 2010

- First major updates/revisions in 19 years
 - ❖ Update of nondiscrimination policies
 - ❖ Adoption of updated accessibility standards
- Two regulations
 - ❖ Title II: State and local governments
 - ❖ Title III: Public accommodations and commercial facilities

Primary Roles of an ADA Coordinator

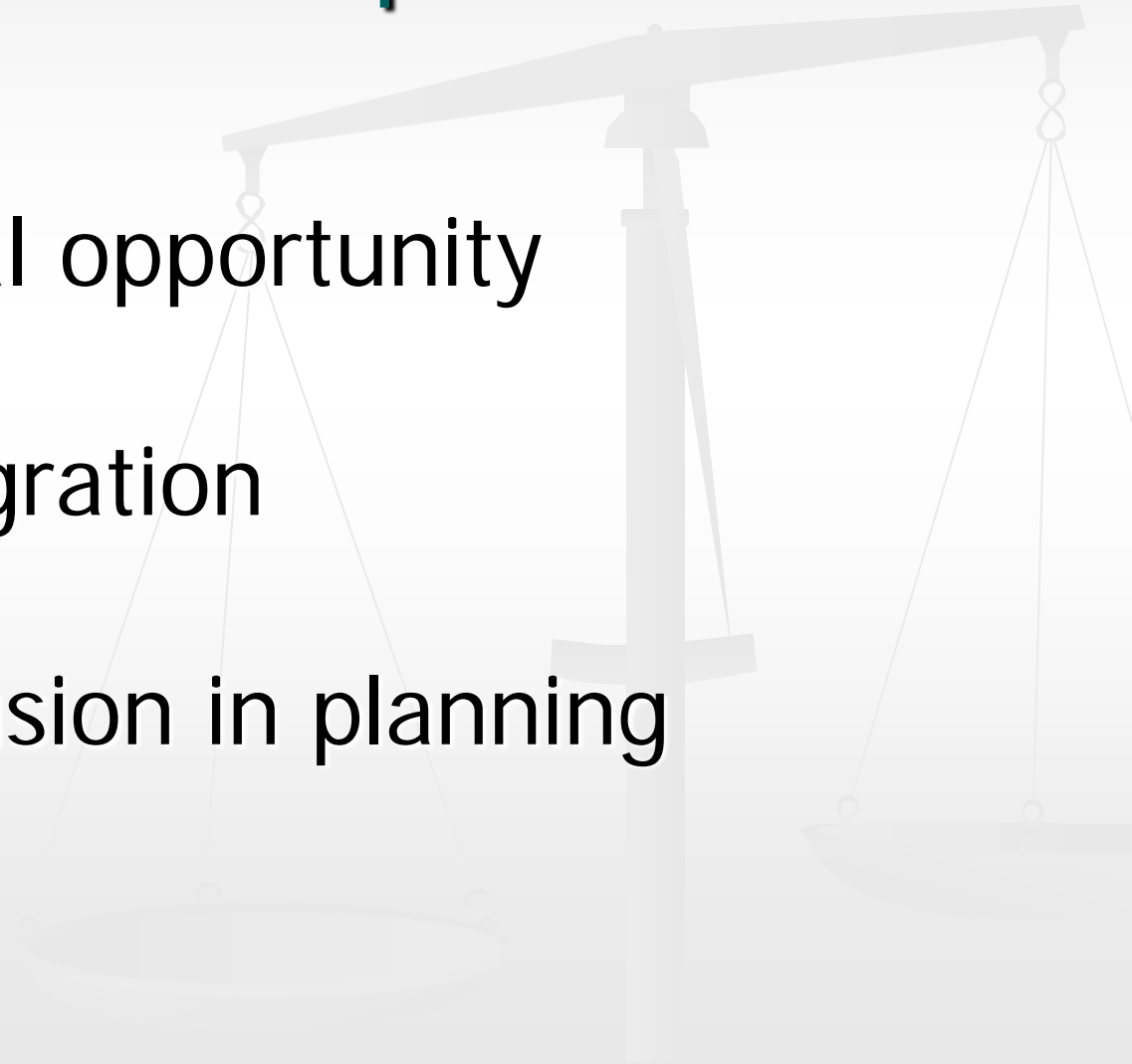
- 1) Ensure that all citizens in community and members of your workforce have an opportunity to participate in the programs, activities and services offered in a full and meaningful way.
 - 2) Ensure that ADA violations do not occur OR are remedied if they do.
 - 3) Serve as primary point of contact for ADA compliance, for both your employer and for members of the community.
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Some Important Questions

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- Where do you fit in the hierarchy?
 - ❖ Do you report directly to the Mayor or Town Manager?
 - ❖ Do you report to the Human Resources Director?
 - ❖ Do you report to a mid-level administrator?
 - ❖ Do you report to anyone?
 - Whose ear do you have?
 - ❖ Consider other departments as well as management.
 - Whose ear do you need?
 - ❖ Same as above.

Basic Principles

- Equal opportunity
- Integration
- Inclusion in planning

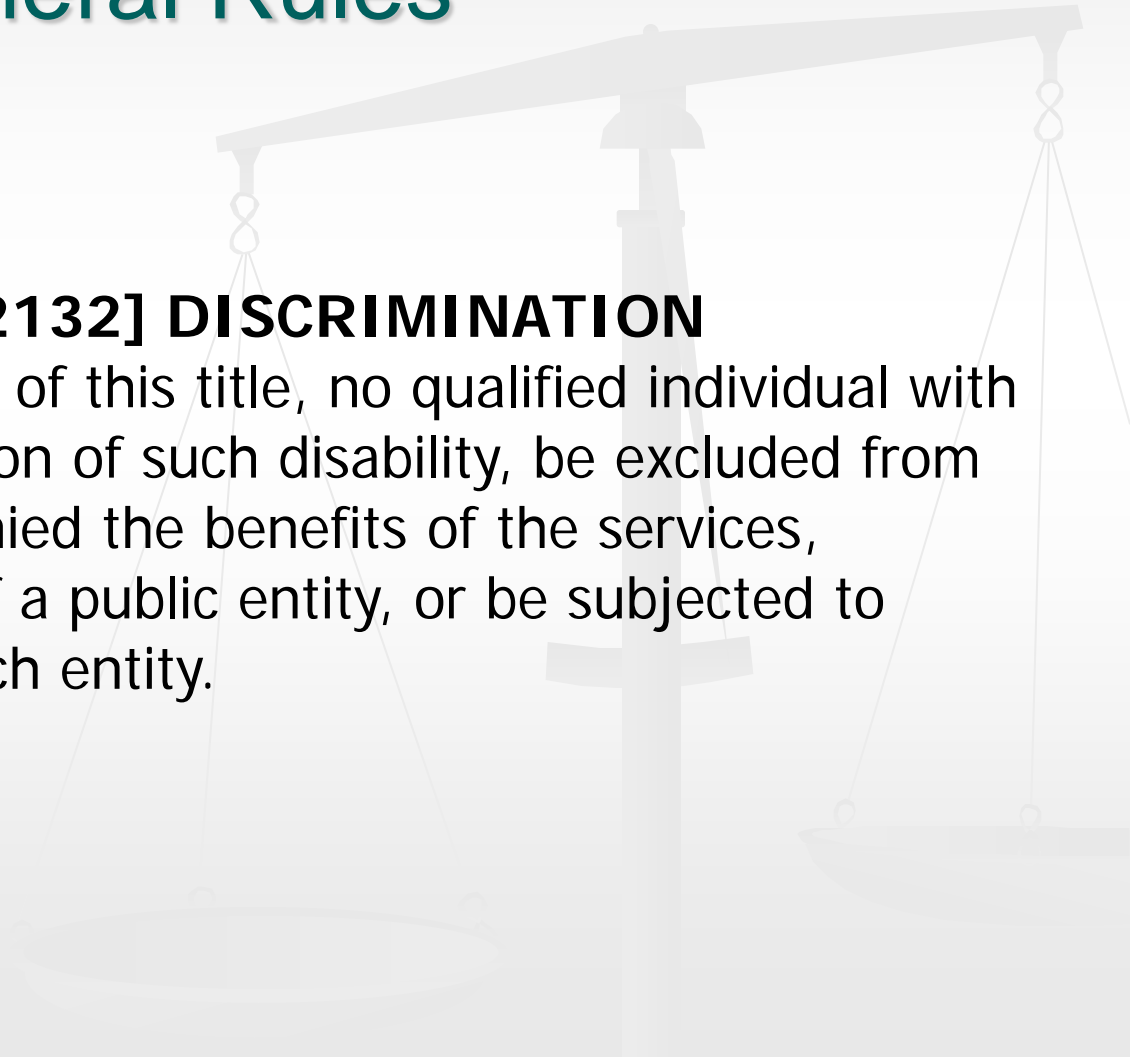


What Does the Law Say I Have to Do?

General Rules

Sec. 202 [42 U.S.C. 12132] DISCRIMINATION

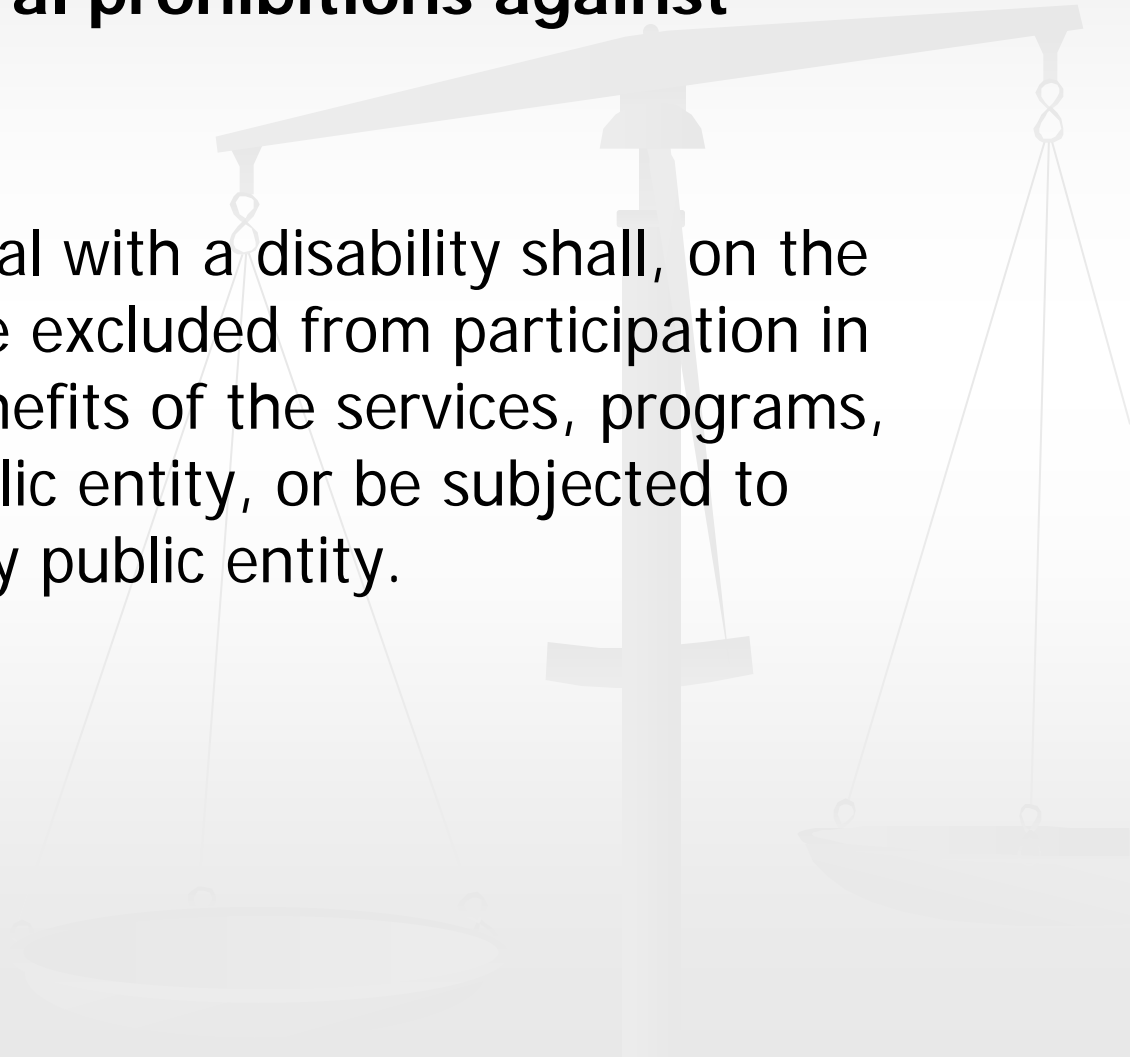
Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.



General Rules

§ 35.130(a) General prohibitions against discrimination

No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.



Where Does it Say That???

- **A. Statute: 42 United States Code § 12101 et seq. (The Americans with Disabilities Act of 1990)**
 - ❖ Enacted by Congress - the law itself;
 - ❖ States broad principles of the law;
 - ❖ Charges enforcement agencies with developing implementing regulations;
 - ❖ Outlines purpose of the law;
 - ❖ Cites Congressional findings justifying the need for the law.

Where Does it Say That???

- **B. 28 CFR Part 35 (Implementing Regulations)**
 - ❖ Provides specific rules for compliance with the law;
 - ❖ Outlines more specific enforcement provisions;
 - ❖ “Operating manual”.

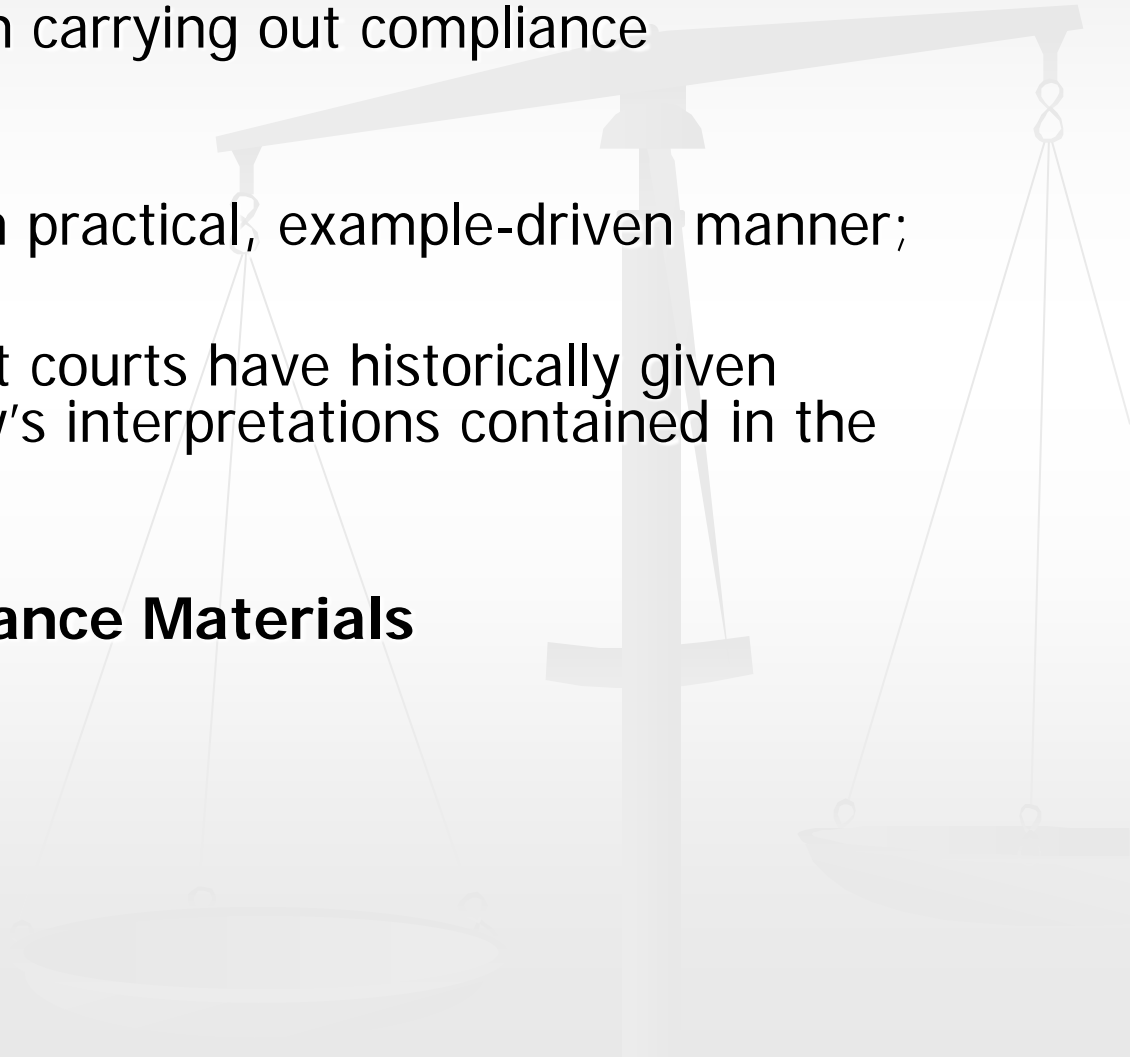


Where Does it Say That???

■ C. Technical Assistance Manuals

- ❖ Provides guidance in carrying out compliance responsibilities;
- ❖ Non-legal, written in practical, example-driven manner;
- ❖ Not enforceable, but courts have historically given deference to agency's interpretations contained in the manuals.

■ D. Technical Assistance Materials



Just a Few Words About.....



.....Program Access



Program Access



No qualified individual with a disability shall,
*because a public entity's facilities are
inaccessible or unusable,*

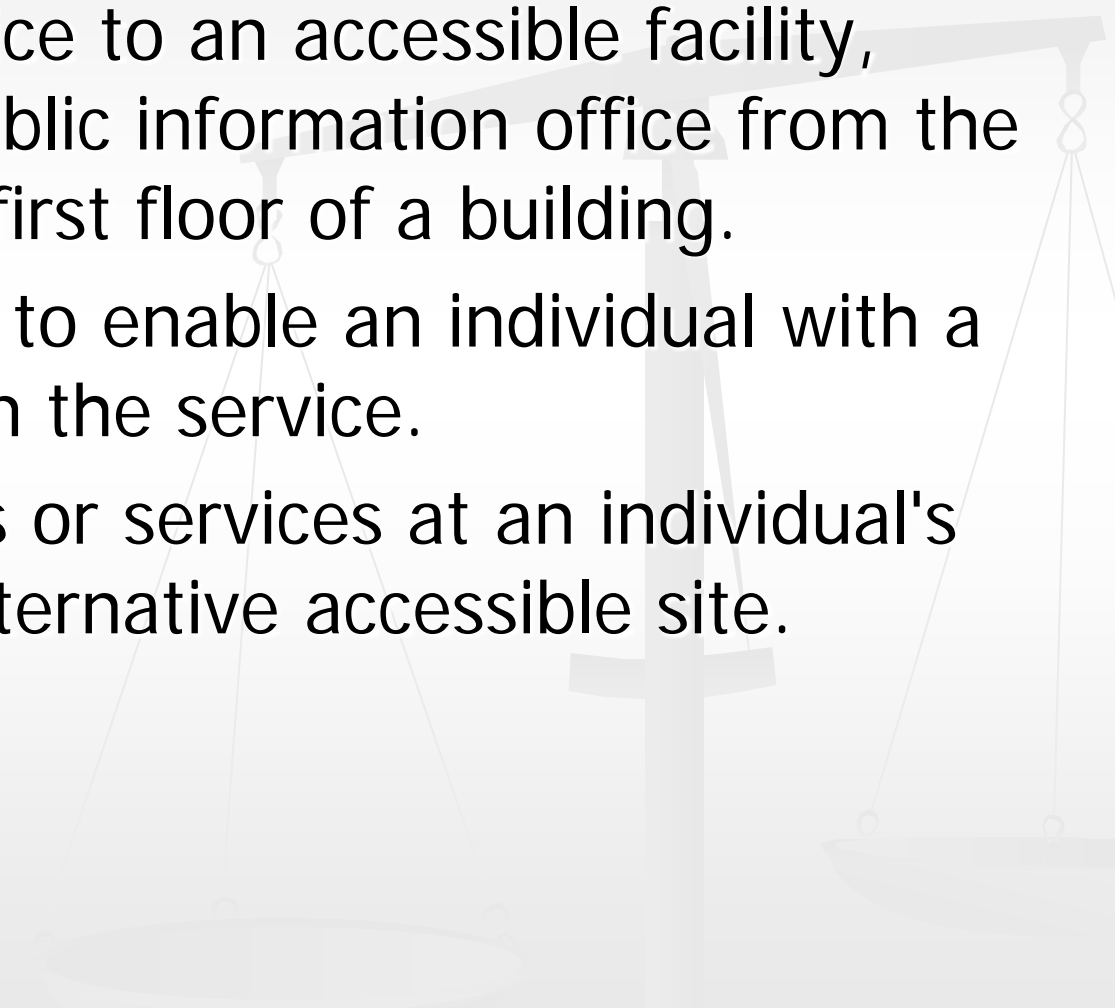
Be excluded from participation;
Be denied benefits of programs;
Be subjected to discrimination.

Existing facilities

Operate each *service or activity* so that, when viewed *in its entirety*, it is *accessible to* and *usable* by people with disabilities.

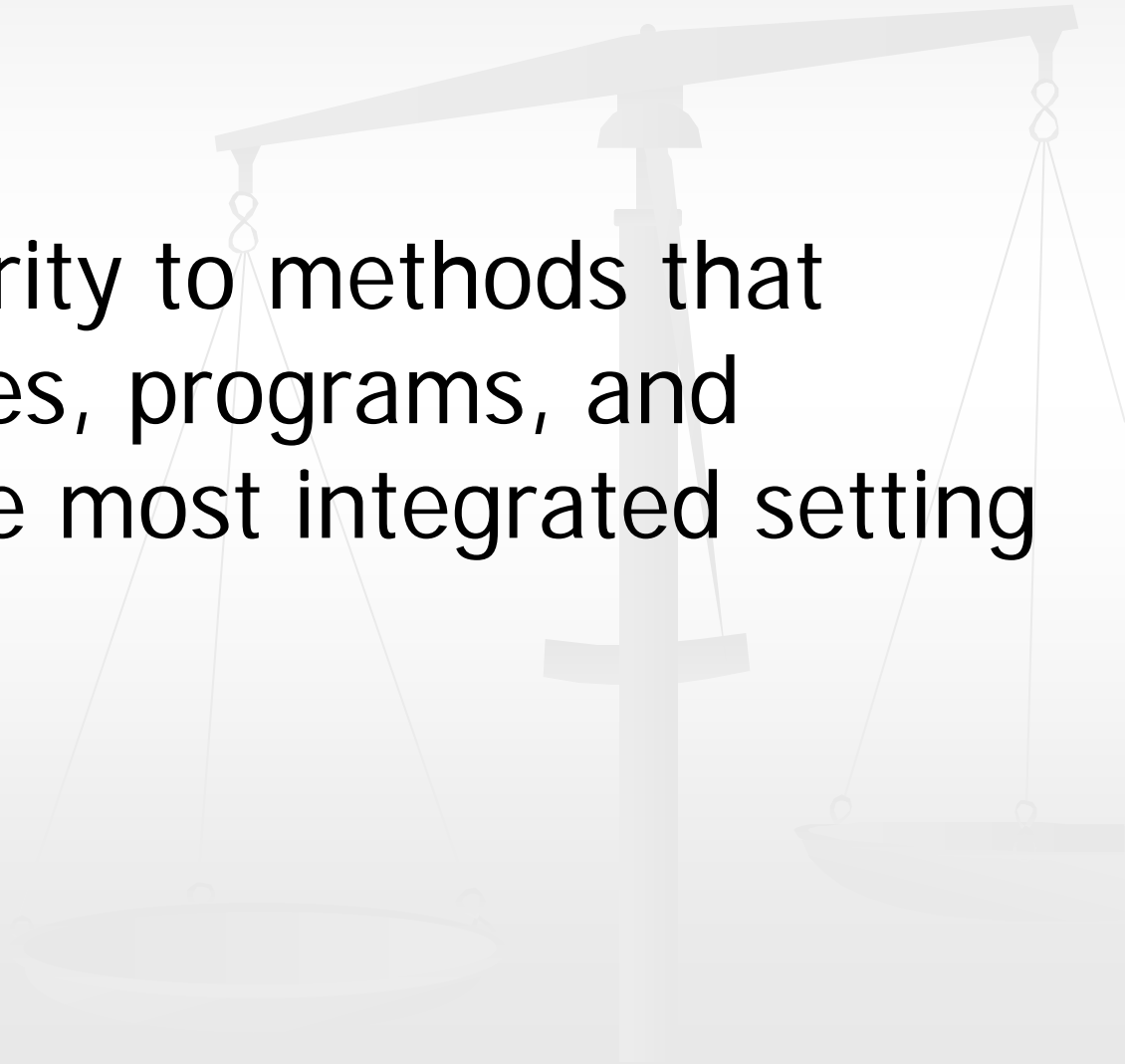
Applies to ALL facilities.

Examples of Program Access

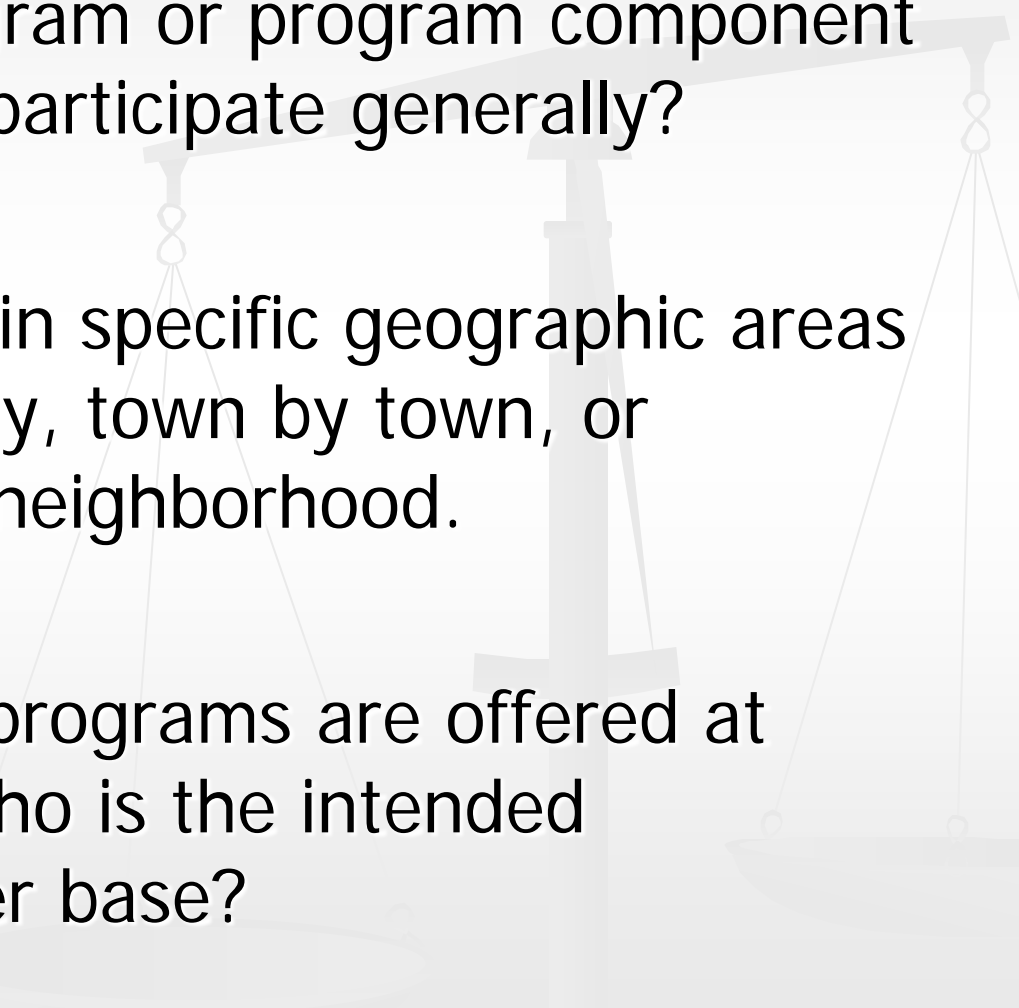
- Relocating a service to an accessible facility, e.g., moving a public information office from the third floor to the first floor of a building.
 - Providing an aide to enable an individual with a disability to obtain the service.
 - Providing benefits or services at an individual's home, or at an alternative accessible site.
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Integration

Must give priority to methods that provide services, programs, and activities in the most integrated setting appropriate.

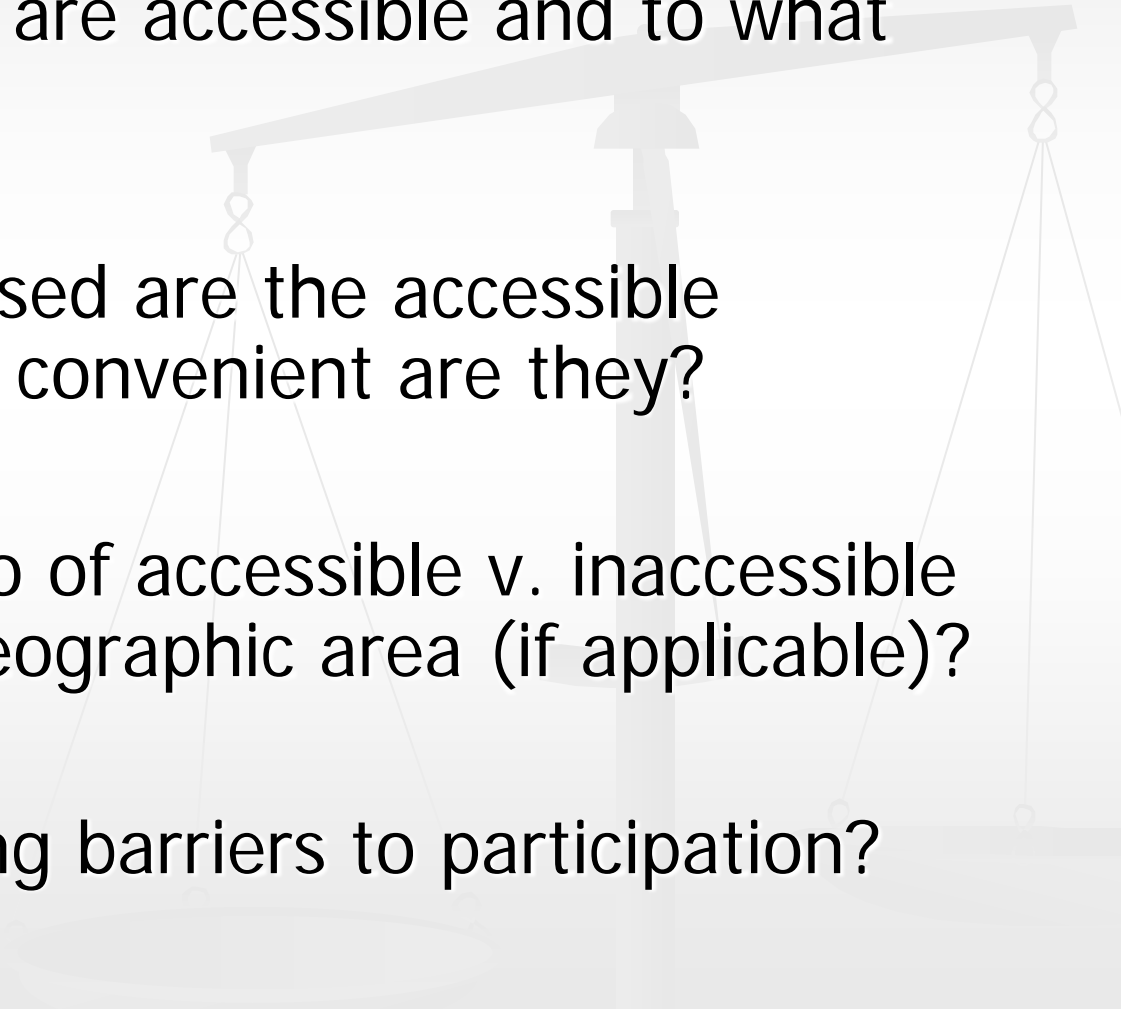


“When Viewed in Its Entirety”

- Look at each program or program component
 - how do people participate generally?
 - Identify locations in specific geographic areas
 - county by county, town by town, or neighborhood by neighborhood.
 - What services or programs are offered at each location? Who is the intended audience/customer base?
- 

“When Viewed in Its Entirety” ...

Part II

- Which locations are accessible and to what extent?
 - How well dispersed are the accessible locations? How convenient are they?
 - What is the ratio of accessible v. inaccessible locations in a geographic area (if applicable)?
 - What are existing barriers to participation?
- 

Program Access

- Exceptions:
 - ❖ fundamental alteration in the nature of the service, program, or activity
 - ❖ undue financial and administrative burdens.
 - ❖ BUT, public entities must take any other action that would ensure that individuals with disabilities receive the benefits or services.
- May not carry an individual with a disability as a method of providing program access, except in “manifestly exceptional” circumstances.



Self-Evaluations and Transition Plans & The Importance of the ADA Coordinator

We Need to do WHAT?

- I already did them 20 years ago!!!!
 - ❖ Times change - so do facilities, programs, and staff, and..... the 2010 ADA requirements.
- I think we did them 20 years ago, but I can't find it anywhere!!!!
 - ❖ See above.
- I just got here and I don't know anyone or where anything is – help!!
 - ❖ Hang in there.

Planning for Success

- The 2010 revised regulations do not specifically require a new self-evaluation or transition plan. So, are we off the hook?
- How can you plan to meet compliance obligations without assessing where you are now and where you need to go?
- Completing an assessment, developing a plan, and following through may serve as evidence of a good faith effort to comply.

Self-Evaluation

- **Assess.** A public entity shall, within one year of the effective date of this part, evaluate its current *services, policies, and practices*, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.
- **Seek Input.** A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

Self-Evaluation

- (c) **Keep records.** A public entity that *employs 50 or more persons* shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:
 - (1) A list of the interested persons consulted;
 - (2) A description of areas examined and any problems identified; and
 - (3) A description of any modifications made.

Transition Plan

- **Make a Plan.** *In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity that employs 50 or more persons shall develop.... a transition plan setting forth the steps necessary to complete such changes.*
- **Seek Input.** A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments.
- **Let the Public Know.** A copy of the transition plan shall be made available for public inspection.

Transition Plan

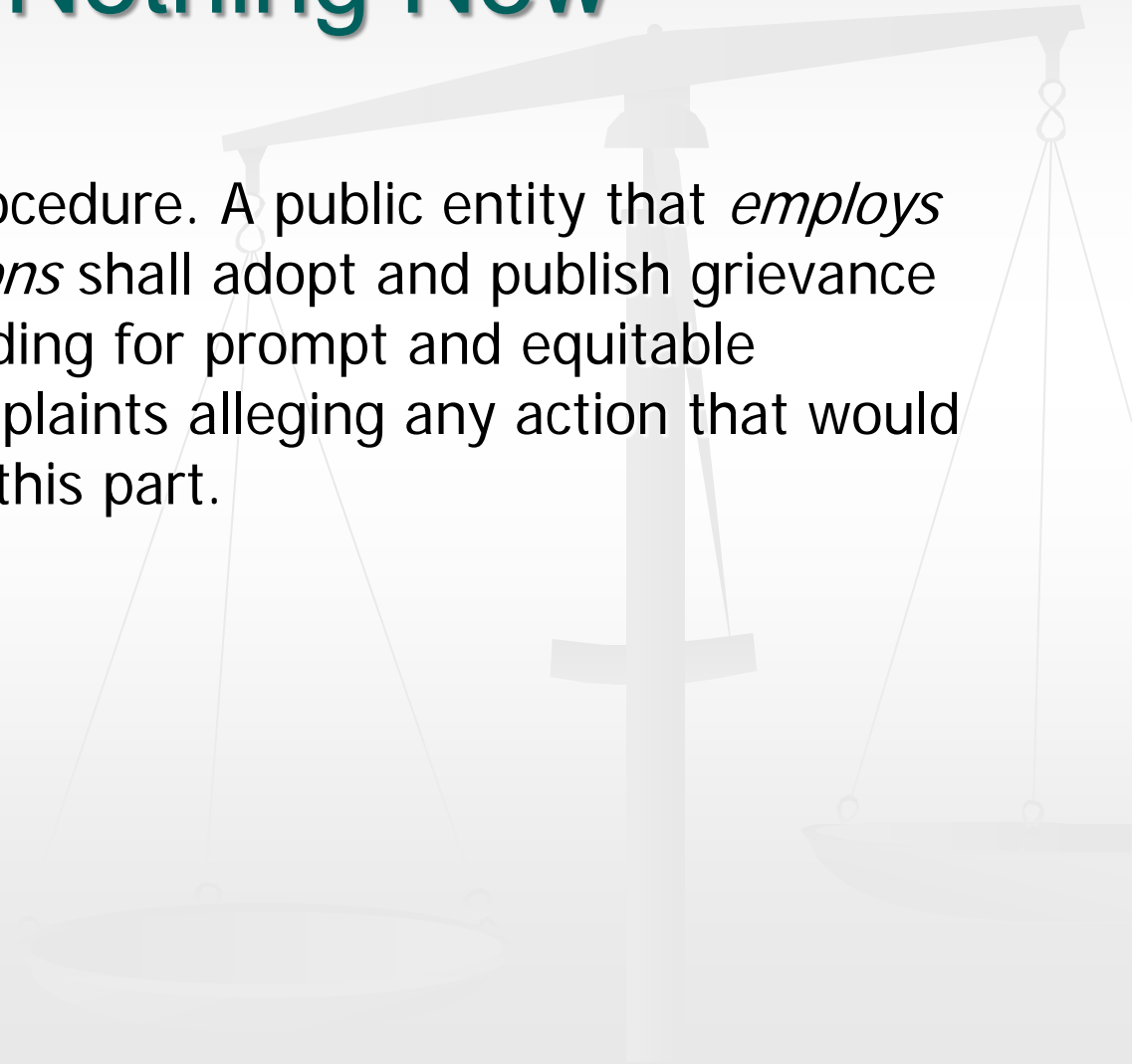
- The plan shall, at a minimum –
 - (i) **Identify** physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
 - (ii) **Describe** in detail the methods that will be used to make the facilities accessible;
 - (iii) **Specify** the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and
 - (iv) **Indicate** the official responsible for implementation of the plan. !!!!!!!!!

Administrative Requirements: Nothing New

- **{35.107 Designation of responsible employee and adoption of grievance procedures.**
 - 1. (a) Designation of responsible employee. A public entity that *employs 50 or more persons* shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part.
 - The public entity *shall make available* to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.

Administrative Requirements: Still Nothing New

- (b) Complaint procedure. A public entity that *employs 50 or more persons* shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.



How Do We Begin?

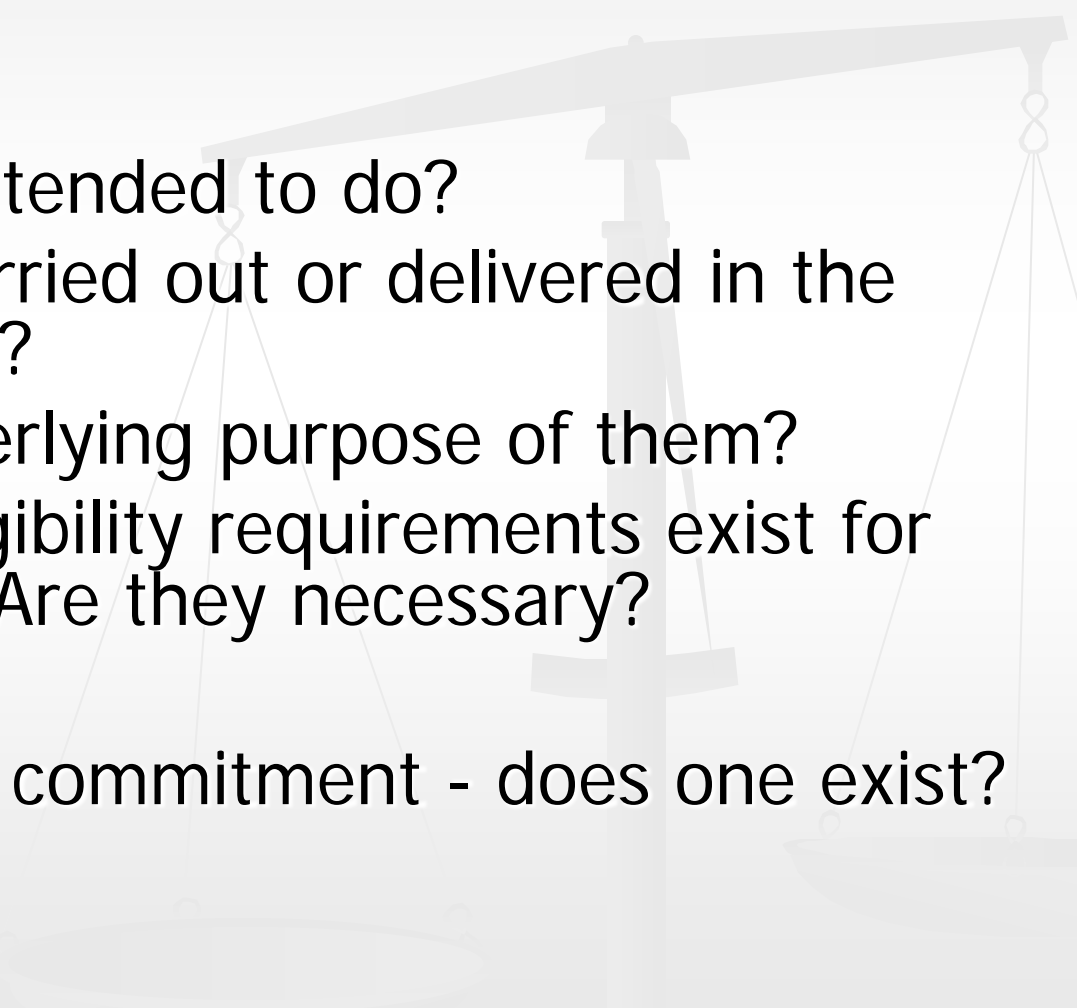
Gather People & Resources

- Identify and locate the people needed to make decisions. Facilities staff, department representatives, and management.
- Identify the people you can count on – allies who will support and help you.
- Identify people with disabilities in the community.

Make Some Initial Decisions

- What will we assess?
 - ❖ Each physical structure?
 - ❖ Each individual program?
 - ❖ A combination of both?
- Some programs, by their nature, may be best suited to one method over the other method.
- What works is what works – design an approach the best fits your own structure and needs.
- Don't forget what has already been done – build upon it.

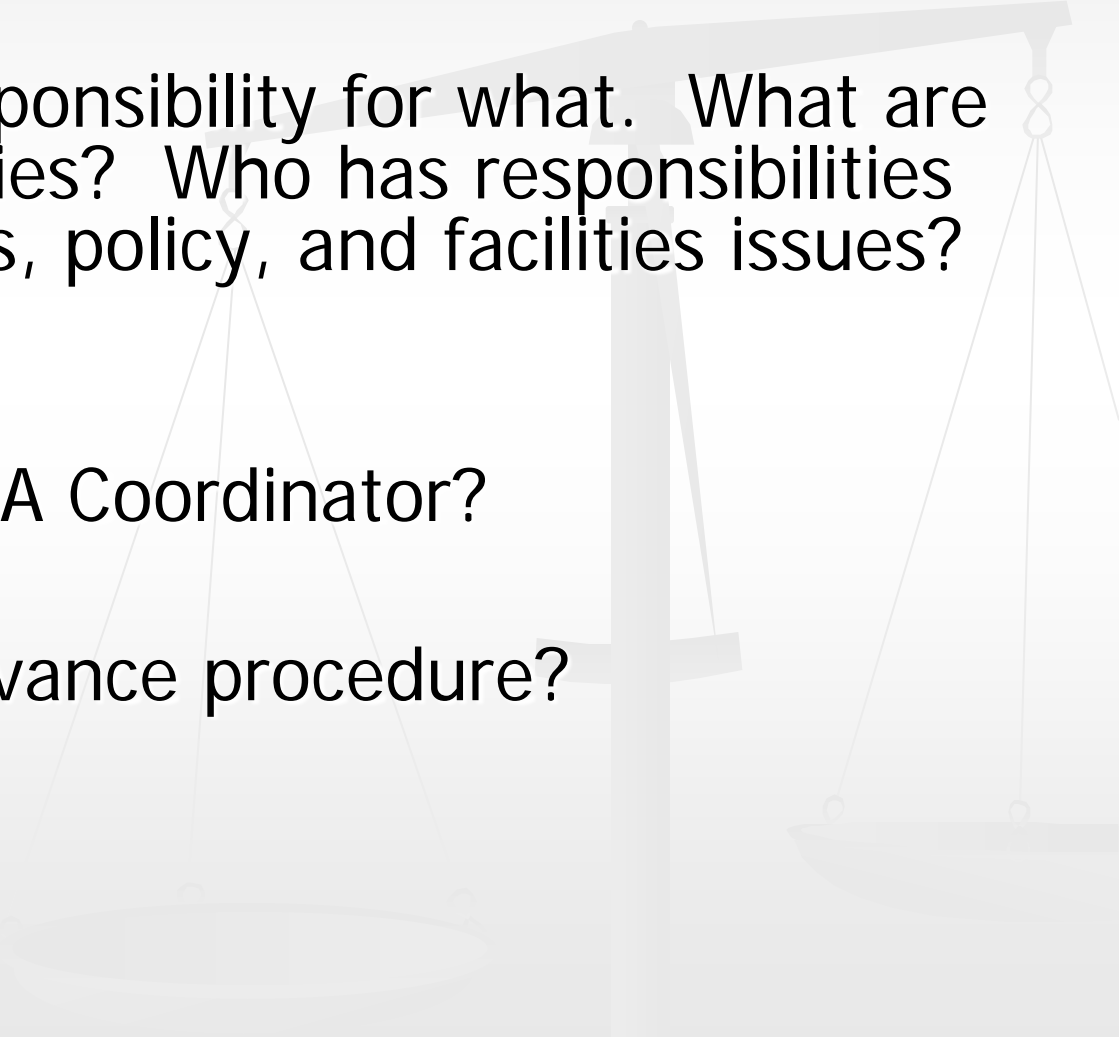
Questions to Ask (and Answer)

- Understand your agency's programs, activities and services:
 - What are they?
 - What are they intended to do?
 - Why are they carried out or delivered in the manner they are?
 - What is the underlying purpose of them?
 - What, if any, eligibility requirements exist for each program? Are they necessary?
 - Assess institutional commitment - does one exist? Can it be built?
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More Questions to Ask

- Review original (1990s) self-evaluation and transition plans. Do you know where they are - both in terms of physical location AND content?
- How current are the self-evaluation and transition plan?
- What has changed or no longer exists?
- What is new? What do we need to address now that we didn't before?

More Questions to Ask

- Know who has responsibility for what. What are YOUR responsibilities? Who has responsibilities for program access, policy, and facilities issues? EEO?
 - Do we have an ADA Coordinator?
 - Do we have a grievance procedure?
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Where Do I Go From Here?

- Understand the requirements of the ADA. Don't be afraid to ask and use resources. There are NO stupid questions.
- Never, ever be afraid to say "I don't know" to anyone. Always promise to get back to them.
- Set realistic, achievable timeframes for all your activities. Don't set yourself up for failure.

Where Do I Go From Here?

- Develop your own support network. Developing relationships is important:
 - ❖ With the people at this conference and in this room. Chances are they have experienced what you are dealing with and have some good suggestions. You don't have to feel alone.
 - ❖ Reach out and develop relationship with the disability community in your area. They can identify priorities, help to develop a realistic compliance plan, and provide other valuable input.
 - ❖ Contact and develop relationships with designated Federal agencies — they can be your friend.
 - ❖ Keep DOJ and the ADA Network on speed dial.

Resources

Regulations, appendices, standards are available at DOJ's ADA web site at www.ada.gov.

For answers to specific questions, DOJ toll-free confidential ADA information line:

800-514-0301 (Voice)

800-514-0383 (TTY)

ADA National Network of Centers:

800-949-4232 (Voice/TTY)

www.adata.org