

# Disability Laws

This module provides a broad overview of seven major laws designed to ensure that people with disabilities have equal access to the goods, services and opportunities offered to the general public. Having a basic understanding of civil rights laws relevant to people with disabilities can help service providers improve their ability to refer to appropriate resources should clients reveal that they have been victims of discrimination due to a disability.<sup>1</sup> An increased awareness of these laws can lead agencies to voluntarily comply with disability laws and, subsequently, improve access to their own services for persons with disabilities.

## Key Points

- The **Americans with Disabilities Act (ADA)** prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation and telecommunication.<sup>2</sup> *Title I* addresses employment discrimination. *Title II* requires that state and local governments give people with disabilities an equal opportunity to benefit from their programs, services and activities. *Title III* mandates public entities to comply with basic nondiscrimination requirements prohibiting exclusion, segregation and unequal treatment of people with disabilities, as well as with requirements related to architectural standards for new and modified buildings. *Title IV* requires telephone companies to establish telecommunications relay services and requires closed captioning of federally funded public service announcements. *Title V* addresses miscellaneous items.
- The **Fair Housing Act (FHA)** prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status and national origin. West Virginia also has a Fair Housing Act that has nine protected classes, adding blindness and ancestry to the seven protected classes in the federal legislation. The West Virginia Human Rights Commission lists 10 protected classes, adding age.
- The **Air Carrier Access Act (ACAA)** seeks to minimize problems that travelers with disabilities face as they try to access public domestic or foreign air carriers.
- The **Civil Rights of Institutionalized Persons Act (CRIPA)** authorizes the U.S. Attorney General to investigate conditions of confinement at state and local government institutions. Its purpose is to uncover and correct problems that can negatively impact the health and safety of people living in these institutions.
- The **Rehabilitation Act** prohibits discrimination on the basis of disability in programs conducted by federal agencies and those receiving federal financial assistance, as well as in federal employment and in employment practices of federal contractors.
- The **Architectural Barriers Act (ABA)** states that buildings and facilities that are designed, constructed or altered with federal funds, or leased by a federal agency, must comply with the federal standards for physical accessibility.
- The **Individuals with Disabilities Education Act (IDEA)** requires public schools to make available to all eligible children with disabilities a free and appropriate public education in the least restrictive environment and specific to their individual needs.<sup>3</sup>

## **C1. Disability Laws**

### **Purpose**

This module provides a broad overview of major laws designed to ensure that people with disabilities have equal access to the goods, services and opportunities offered to the general public. The information in this module is intended to provide guidance, not advice, on basic rights and obligations under federal disability laws and provide you with resources where you can learn more. It does not cover every law that may have protections for individuals with disabilities.

Consider the following scenarios and questions:

- 1. A nursing home patient seeks your assistance, saying she and several other residents were repeatedly sexually abused by staff, but no facility administrators will respond. What civil rights disability law can help remedy this problem and what federal entity can be contacted?*
- 2. You have a client who is blind and has a service animal. She is seeking safe housing in a new apartment complex that does not allow pets. What law addresses her related legal rights? What resources are available to help her with this problem?*
- 3. A client who uses a wheelchair is seeking services from your agency, but your offices are located on an inaccessible second floor. What law details your agency's legal obligation to this client?*
- 4. If a woman who uses a wheelchair applies for a job with your agency and your offices are located on an inaccessible second floor, what is your agency's legal obligation?*
- 5. A client with HIV/AIDS tells you that she has a job interview scheduled. Although she appears healthy, she is concerned that if the employing agency learns of her medical condition, it will not hire her. Can the agency ask prospective staff if they have a disability?*
- 6. A client who is receiving support services through your agency shares her worry about securing developmentally appropriate K-12 education for her child who has Down syndrome. She fears the mainstream public school program will not meet her child's special needs, but she does not have the money for a private school. What law might ensure her child specialized services through public schools?*

These scenarios and questions illustrate why it is important for service providers to have a basic understanding of civil rights laws relevant to people with disabilities. Not only can this awareness help service providers make appropriate referrals to outside resources should clients reveal that they have been victims of discrimination due to a disability, it can lead agencies to voluntarily comply with those laws and, subsequently, improve access to services for persons with disabilities. (As you read this module, find the answers to the above questions. Compare your answers with those provided on pages C1.9–C1.10 of this module.)

### **Objective**

Those who complete this module will be able to:

- Discuss major laws that promote equal access to goods, services and opportunities for people with disabilities.

## CORE KNOWLEDGE

### What civil rights disability laws does this module discuss?

The seven key laws discussed in this module include: The Americans with Disabilities Act, the Fair Housing Act, the Air Carrier Access Act, the Civil Rights of Institutionalized Persons Act, the Rehabilitation Act, the Architectural Barriers Act, and the Individuals with Disabilities Education Act.

**FYI**—This module presents a considerable amount of information. It is intended to be a point of reference for service providers to quickly locate information on disability laws. Given the complexity of these laws, an effort has been made to provide simple summaries of their main features and related resources.

**FYI**—Much of the information in this module is drawn from *A Guide to Disability Rights Law* (U.S. Department of Justice, Civil Rights Division, Disability Rights Section, 2005), <http://www.ada.gov/cguide.htm>. Also see J. Brennan, *The Disability Law Handbook* (DBTAC Southwest ADA Center, 2009), through <http://dlrp.org/html/publications/> and *Federal Laws Prohibiting Job Discrimination: Questions and Answers* (U.S. Equal Employment Opportunity Commission, 1998), <http://www.eeoc.gov/facts/qanda.html>. These resources may be useful if questions arise about disability laws that are beyond the scope of this module.

### What is the Americans with Disabilities Act?

The Americans with Disabilities Act (ADA) of 1990 is a comprehensive civil rights law that prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation and telecommunication.<sup>4</sup> An individual with a disability is defined by the ADA as “a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment,<sup>5</sup> or a person who is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered.”<sup>6</sup> A major life activity is one the average person can perform with little or no difficulty such as breathing, walking, talking, hearing, seeing, working and self care.<sup>7</sup> The ADA is divided into five sections or “titles” with each covering a different area. Titles I through IV are particularly applicable to local service providers/agencies. (Some ADA requirements are discussed in *Tools to Increase Access. Physical Accessibility Checklist for Existing Facilities.*)

### 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. To be qualified, a person with a disability must have the skills, experience and education the job requires of all applicants.
- Prohibits discrimination in recruitment, hiring, promotions, training, pay, social activities and other privileges of employment; restricts interview questions related to a person’s disability before a job offer is made; and requires employers to provide accommodations for employees who have disabilities unless doing so would cause an undue hardship for the employer.<sup>8</sup> (See *Disabilities 101. Accommodating People with Disabilities.*)

**Related resources:**<sup>9</sup>

- Charges of employment discrimination on the basis of disability may be filed at any U.S. Equal Employment Opportunity Commission (EEOC) field office. To find the EEOC field office in your geographic area, contact: 800-669-4000 (voice), 800-669-6820 (TTY) or go to the EEOC website at <http://www.eeoc.gov/>. In West Virginia, the Human Rights Commission is the entity that hears employment discrimination cases. They can be contacted at 304-558-2626 (voice) or 888-676-5546 (voice). Also see <http://www.wvf.state.wv.us/wvhrc/>.
- For more information on Title I, contact the appropriate EEOC field office in your geographic area. Publications and information on EEOC-enforced laws may be obtained by calling 800-669-3362 (voice) or 800-800-3302 (TTY).
- For more information on how to accommodate a specific individual with a disability, contact the Job Accommodation Network at 800-526-7234 (voice/TTY). Also see <http://askjan.org>.

**Title II: State and Local Government-Funded Programs and Services**

(including public transportation and non-profit service providers)

- Requires that state and local governments give people with disabilities an equal opportunity to benefit from their programs, services and activities (e.g., public education, employment, transportation, recreation, health care, social services, courts, voting and town meetings).<sup>10</sup>
  - o Those covered under Title II are required to follow specific architectural standards in new construction and when doing alterations to their existing buildings. Government entities must make sure that people with disabilities are not excluded from government services, programs or activities just because buildings built before the ADA are not accessible. If the building is not accessible, the services they offer must be (e.g., by offering the same programs and services at an alternate location that is accessible).<sup>11</sup>
  - o Accessibility is not limited to access for those who use a wheelchair or otherwise have difficulty with mobility. It includes access to effective communication for those who are deaf or hard of hearing, are blind or have low vision, and/or have speech difficulties.
  - o Public agencies are not required to take actions that would result in undue financial and administrative burdens.<sup>11</sup> 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 services, programs or activities being provided.<sup>12</sup>
- Requires public transportation services, such as city buses, rail transit and subways, to be accessible to people with disabilities. They must comply with accessibility standards in newly purchased vehicles and provide paratransit services where they operate fixed route bus or rail systems (unless it would result in an undue burden).<sup>13</sup> Paratransit services supplement public transit fixed route systems by providing door-to-door transportation for persons with disabilities who can't use a fixed route service.<sup>14</sup>

**Related resources:**<sup>15</sup>

- Complaints related to Title II violations may be filed with the U.S. Department of Justice within 180 days of the date of discrimination. Contact the U.S. Department of Justice, Civil

Rights Division, Disability Rights Section—NYAV, 800-514-0301 (voice) or 800-514-0383 (TTY). Also see <http://www.justice.gov/crt/>.

- Questions and complaints about public transportation should be directed to the Office of Civil Rights, Federal Transit Administration U.S. Department of Transportation, 888-446-4511 (voice/TTY). Also see [www.fta.dot.gov/ada](http://www.fta.dot.gov/ada).

### **Title III: Public Accommodations**

- Covers businesses and nonprofit service providers that are public accommodations. Public accommodations are defined as private entities that own, lease, lease to or operate facilities 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. Transportation services provided by private entities are also considered public accommodations.
- Mandates that public accommodations comply with basic nondiscrimination requirements that prohibit exclusion, segregation and unequal treatment of people with disabilities, and has requirements related to architectural standards for new and modified buildings. For information on these requirements, go to [www.ada.gov](http://www.ada.gov).<sup>16</sup>

#### **Related resource:**<sup>17</sup>

- For more information on Title III, contact the U.S. Department of Justice, Civil Rights Division, Disability Rights Section-NYAV, 800-514-0301 (voice) or 800-514-0383 (TTY). Also see <http://www.justice.gov/crt/>.

### **Title IV: Telecommunications**

- Requires telephone companies to establish telecommunications relay services, 24 hours a day, seven days a week to allow callers with hearing and speech disabilities to communicate with each other through a third party communications assistant.<sup>18</sup> (See *Disabilities 101. Accommodating Persons with Disabilities*.)
- Requires closed captioning of federally funded public service announcements.

#### **Related resource:**<sup>19</sup>

- For more information on Title IV, contact the Federal Communications Commission, 888-225-5322 (voice) or 888-835-5322 (TTY). Also see [www.fcc.gov/cgb/dro](http://www.fcc.gov/cgb/dro).

### **Title V: Miscellaneous Items**

- Clarifies that states and the U.S. Congress are covered by all provisions of the ADA.
- Provides for recovery of legal fees for successful proceedings pursuant to the ADA.

- Establishes a mechanism for technical assistance, along with instructions to many federal agencies required to implement/enforce the ADA.<sup>20</sup>

### **What is the Fair Housing Act?<sup>21</sup>**

The Fair Housing Act (FHA), as amended in 1988 (first passed in 1968), prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status and national origin. It is unlawful to discriminate in selling or renting housing or to deny a dwelling to a buyer or renter because of a disability. The FHA also addresses issues such as financing, zoning, new construction design and advertising. West Virginia passed a Fair Housing Act in 1992 and amended it in 2006.<sup>22</sup>

The chart below describes in brief the Federal FHA and West Virginia's Fair Housing Act and related resources.

#### **Federal FHA:**

- Applies to housing owned/financed by the federal government or housing projects having loans insured by the federal government that include four or more multifamily units with an elevator (if no elevator exists, all ground floor units of four or more).
- Requires owners of housing facilities to make reasonable exceptions in their policies to afford people with disabilities equal housing opportunities. For example, if the housing project has a no pet policy, the landlord would have to modify this policy if the tenant is a person who is blind and uses a service animal.
- Requires landlords of existing facilities to allow tenants with disabilities to make reasonable access-related modifications to their private living space, as well as common use spaces in older buildings. It does not require landlords to pay for changes requested by a person with a disability.
- Requires standards for new multifamily housing in buildings that are ready for first occupancy after March 13, 1991 and have an elevator and four or more units: public and common areas must be accessible to persons with disabilities; doors and hallways must be wide enough for wheelchairs. All units must have an accessible route into and through the unit; accessible light switches, electrical outlets, thermostats and other environmental controls; reinforced bathroom walls to allow later installation of grab bars; and kitchens and bathrooms that can be used by people in wheelchairs. If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units. See [www.hud.gov/offices/fheo/FHLaws/yourrights.cfm](http://www.hud.gov/offices/fheo/FHLaws/yourrights.cfm) for more information.

#### **West Virginia's Fair Housing Act:**

- States have the right to make their laws stricter than federal regulations, but they must, at least, offer the same protections as the Federal FHA.
- West Virginia has nine protected classes, adding blindness and ancestry to the seven protected classes within the federal legislation. The West Virginia Human Rights Commission lists 10 protected classes, adding age.

- The authority and responsibility for administering the WV Fair Housing Act is with the WV Human Rights Commission, which is required by law to investigate fair housing complaints and enforce the fair housing laws of the state.

### **Related resources:**

- There are several ways to file a fair housing complaint. Use the form available through the U.S. Department of Housing and Urban Development's (HUD) website at [www.hud.gov/complaints/housediscrim.cfm](http://www.hud.gov/complaints/housediscrim.cfm); call HUD at 800-669-9777; or print a form, complete and mail it to the Office of Fair Housing and Equal Opportunity, HUD, Room 5204, 451 Seventh St. SW, Washington, DC 20410. In West Virginia, call the WV Human Rights Commission in Charleston at 304-558-2616 or 888-676-5546. The Fair Housing Initiatives Program (FHIP) at the Northern West Virginia Center for Independent Living can also be contacted at 304-296-6091. For more information on requirements, technical guidance questions and answers, go to [www.FairHousingFIRST.org](http://www.FairHousingFIRST.org) or call 888-341-7781 (voice/TTY).

### **What is the Air Carrier Access Act?**

Congress passed the Air Carrier Access Act (ACAA) in 1986. In 1990, the U.S. Department of Transportation implemented provisions of the ACAA by publishing regulations to minimize problems that travelers with disabilities face as they try to access public domestic or foreign air carriers.<sup>23</sup> Requirements address an array of issues, including boarding assistance and certain accessibility features in newly built aircraft and new or altered airport facilities.<sup>24</sup> ACAA prohibits discrimination due to disability, except if the individual would endanger the health or safety of other passengers. Other exceptions exist for planes with fewer than 30 seats where available boarding chairs cannot be used in the limited space of a smaller plane. This act also covers individuals with a temporary disability (e.g., a broken leg).<sup>25</sup>

### **ACAA related resources:**

- If you want to file a complaint related to access to air travel, you have two resources. Each airline is required to have a Complaints Resolution Official available to resolve disagreements between passengers and the airline. If that avenue is not effective, complaints can be filed with the Aviation Consumer Protection Division, U.S. Department of Transportation, 800-778-4838 (voice) or 800-455-9880 (TTY) or through <http://airconsumer.ost.dot.gov>.<sup>26</sup>

### **What is the Civil Rights of Institutionalized Persons Act?**

The Civil Rights of Institutionalized Persons Act (CRIPA) authorizes the U.S. Attorney General to investigate conditions of confinement at state and local government institutions such as prisons, jails, detention centers, juvenile correctional facilities, publically-operated nursing homes and institutions for individuals who have psychiatric or developmental disabilities. It does not apply to private facilities. Its purpose is to uncover and correct serious problems that put the health and safety of people in these institutions in danger. The Attorney General does not have authority under this act to investigate isolated incidents or to represent individual institutionalized persons. However, the Attorney General may initiate civil law suits where there is reasonable cause to believe that conditions are so "egregious or flagrant," that they are subjecting residents to "grievous harm" and that they are part of a "pattern or practice" of

resistance to residents' full enjoyment of constitutional or federal rights, including Title II of the ADA and section 504 of the Rehabilitation Act (see below).<sup>27</sup>

**CRIPA related resource:**<sup>28</sup>

- For more information, or to bring a related issue to the attention of the Attorney General, contact the U.S. Department of Justice, Civil Rights Division, 877-218-5228 (voice/TTY) or through [www.usdoj.gov/crt/split](http://www.usdoj.gov/crt/split).

**What is The Rehabilitation Act of 1973?**

The Rehabilitation Act of 1973, often called the Rehab Act,<sup>29</sup> prohibits discrimination on the basis of disability in programs conducted by federal agencies, programs receiving federal financial assistance, in federal employment and in the employment practices of federal contractors. Standards for determining employment discrimination under this act are the same as those in the ADA, Title I.<sup>30</sup>

*Section 501* of the Rehab Act focuses on affirmative action and nondiscrimination in employment by federal agencies. *Section 503* requires affirmative action by federal government contractors and subcontractors. *Section 504* requires that no qualified individual with a disability “shall be excluded from, denied the benefits of, or be subjected to discrimination under” any programs or activity that either receives federal financial assistance or is conducted by any executive agency or the United States Postal Service.<sup>31</sup>

The Rehab Act covers nearly all government entities, colleges, universities and trade schools, along with many private schools, day care centers and most health care facilities. Each federal agency has its own regulations that apply to its programs, including providing reasonable accommodations for employees with disabilities, program accessibility, effective communication and accessibility requirements for new construction and alterations.<sup>32</sup>

*Section 508* of the Rehab Act has accessibility requirements for electronic and information technology used by the federal government. This section requires federal government websites to be usable by people who are blind or have low vision and/or who are deaf or hard of hearing. These sites can be operated in a variety of ways and do not rely on a single sense or ability of the user.<sup>33</sup>

(Some Rehabilitation Act requirements are discussed in *Tools to Increase Access. Physical Accessibility Checklist for Existing Facilities*.)

**Rehabilitation Act related resources:**<sup>34</sup>

- Section 501: See resources under the ADA, Title I.
- Section 503: Contact the Office of Federal Contract Compliance Programs, U.S. Department of Labor, 202-693-0106 (voice/TTY) or through [www.dol.gov/ofccp/](http://www.dol.gov/ofccp/).
- Section 504: Contact the U.S. Department of Justice, Civil Rights Division, Disability Rights Section—NYAV, 800-514-0301 (voice) or 800-514-0383 (TTY) or through [www.ada.gov](http://www.ada.gov).
- Section 508: Contact the U.S. General Services Administration, Office of Government Wide Policy, IT Accessibility and Workforce Division (ITAW), 202-501-4906 (voice/TTY) or [www.gsa.gov/section508](http://www.gsa.gov/section508).



## What is the Architectural Barriers Act?

The Architectural Barriers Act (ABA) of 1968 states that buildings and facilities that are designed, constructed or altered with federal funds, or leased by a federal agency, must comply with the federal standards for physical accessibility. ABA requirements are limited to architectural standards in new and altered buildings and in newly leased facilities. It does not cover the activities conducted in these buildings.<sup>35</sup>

### ABA related resource:<sup>36</sup>

- For more information or to file a complaint, contact the U.S. Architectural and Transportation Barriers Compliance Board, 800-872-2253 (voice) or 800-993-2822 (TTY) or [www.access-board.gov](http://www.access-board.gov).

## What is the Individuals with Disabilities Education Act?

The Individuals with Disabilities Education Act (IDEA), first enacted in 1990,<sup>37</sup> requires public schools to make available to all eligible children with disabilities<sup>38</sup> a free and appropriate public education in the least restrictive environment and specific to their individual needs.<sup>39</sup>

IDEA requires schools to develop an individualized education program (IEP) that reflects the individual needs of these eligible children. This plan must be developed by a team of knowledgeable persons and must be reviewed annually. Not all children with disabilities are eligible for IEP services. The child must, by reason of the disability, need special education and related services in order to receive services under IDEA. Related services include any specialized transportation, assistive technology, speech therapy, counseling and occupational/physical therapy services needed in order to receive and benefit from a public education. If parents disagree with the proposed IEP, they can request a due process hearing and review by an independent hearing officer.<sup>40</sup>

### IDEA related resources:<sup>41</sup>

- For more information, contact the Office of Special Education and Rehabilitative Services, U.S. Department of Education, 202-245-7468 (voice/TTY) or [www.ed.gov/about/offices/list/osers/osep](http://www.ed.gov/about/offices/list/osers/osep).
- Your local school district likely has a special education program which offers information about IEPs and related services available in its schools.

## Questions to consider:

1. What does your agency have to do to make your services accessible to clients as per the requirements of civil rights disability laws (particularly the ADA, Title II and Section 504 of the Rehabilitation Act)?
2. What has your experience been in interacting with clients with disabilities who indicated they have been discriminated against in some way due to a disability (or you suspect were discriminated against even if they don't disclose discrimination)?
3. Were you able to help these clients understand that they may have been discriminated against and identify and connect them with resources to help them address the discrimination? If yes, what are examples? If not, why? What were the challenges?

**Return to page C1.2 of this module to the six scenarios. The following are the answers to the questions posed in those scenarios.**

1. If the nursing home is a public facility or provides services on behalf of the state or local government, its residents are protected through the *Civil Rights of Institutionalized Persons Act (CRIPA)*. The Attorney General does not investigate individual cases, but will **follow up with “flagrant conditions” that cause “grievous harm” to residents**. Contact the U.S. Department of Justice, Civil Rights Division.
2. The federal *Fair Housing Act (FHA)* requires owners of housing facilities owned/financed/insured by the federal government to **make reasonable exceptions in their policies to afford people with disabilities equal housing opportunities**. *The West Virginia FHA* has similar stipulations. The Department of Housing and Urban Development (HUD) is a federal resource. The WV Human Rights Commission and the Fair Housing Initiatives Program (FHIP), a program of the Northern West Virginia Center for Independent Living, are two West Virginia resources.
3. For agencies that are state/local government funded, *Title II of the Americans with Disabilities Act (ADA)* requires that **if the building is not accessible, the services your agency offers must be**. So, for example, your agency could offer the person services at an alternate accessible location (services that are equivalent to those offered at the main location in terms of quality and provided in a comparable safe, welcoming and supportive environment). If your agency receives federal financial assistance, *Section 504 of the Rehabilitation Act* would also apply, requiring that no qualified individual with a disability be excluded from or denied the benefits offered by your agency.
4. According to *Title I of the ADA*, **your agency’s legal obligation to this person would depend on if she is the most qualified applicant for the job and whether your agency could make reasonable accommodations without undue hardship**. For example, could this person fulfill the job duties at another office location that is accessible? Would the cost of renting/using this accessible location cause undue hardship for the agency? **Whether your agency employs more than 15 staff members would also influence its obligation**. If your program receives federal funds, the *Rehabilitation Act, Section 504*, could also be applied in this situation.
5. According to *Title I of the ADA*, “an employer may not make a pre-employment inquiry on an application form or in an interview as to whether, or to what extent, an individual has a disability. The employer may ask a job applicant whether he or she can perform particular job functions. If the applicant has a disability *known* to the employer, the employer may ask how he or she can perform job functions that the employer considers difficult or impossible to perform because of the disability, and whether an accommodation would be needed. A job offer may be conditioned on the results of a medical examination, provided that the examination is required for all entering employees in the same job category regardless of disability, and that the information obtained is handled according to confidentiality requirements specified in the Act. After an employee enters on duty, all medical examinations and inquiries must be job related and necessary for conducting the employer's business.”<sup>42</sup>
6. Through the *Individuals with Disabilities Education Act (IDEA)*, the child would likely be

**eligible for free public education specific to her needs** and provided in the least restrictive environment. To ensure the appropriateness of the education provided, schools are required to develop an individualized education program (IEP) for each student.

These questions can be considered by individual readers and/or discussed among agency employees and with representatives from partnering agencies.

### **Test Your Knowledge**

*Refer to the pages in this module as indicated to find the answer to each question.*

*You are not expected to have memorized the information about disability laws, but rather to be able to locate reference information (e.g., when a client thinks she has been discriminated against by her employer due to a disability) and then be able to review the law with others (e.g., clients and other staff).*

1. The Americans with Disabilities Act (ADA) prohibits discrimination on what basis? See *page C1.3*.
2. The ADA, Title I: Employment, applies to employers with how many employees? What does it require of these employers? What persons with disabilities qualify under Title I? See *page C1.3*.
3. What does the ADA, Title II, require of state and local government funded agencies regarding the programs, services and activities they offer? What does it require related to architectural standards? What does it require related to public transportation services? See *page C1.4*.
4. How does the ADA, Title III, define public accommodations? What does Title III prohibit in public accommodations? See *page C1.5*.
5. What does the ADA, Title IV, require of telephone companies? What does it require related to federally funded public service announcements? See *page C1.5*.
6. The federal Fair Housing Act (FHA) prohibits housing discrimination on the basis of what seven protected classes? What does it require of owners/landlords? What protected classes does the West Virginia Fair Housing Act include, in addition to those covered by the federal FHA? See *page C1.6*.
7. What problems does the Air Carrier Access Act (ACAA) seek to address for persons with disabilities? See *page C1.7*.
8. What does the Civil Rights of Institutionalized Persons Act (CRIPA) authorize the U.S. Attorney General to do and what is its purpose? See *page C1.7*.
9. What types of discrimination does the Rehabilitation Act prohibit? What do Sections 501, 503, 504 and 508 of this act respectively address? See *page C1.8*.
10. What does the Architectural Barriers Act (ABA) require related to federally funded or leased buildings and facilities? See *page C1.9*.
11. What does the Individuals with Disabilities Education Act (IDEA) require of public schools, up through grade 12? See *page C1.9*.

## West Virginia S.A.F.E. Training and Collaboration Toolkit—Serving Sexual Violence Victims with Disabilities

Project partners welcome the non-commercial use of this module to increase knowledge about serving sexual violence victims with disabilities in any community, and adaptation for use in other states and communities as needed, without the need for permission. We do request that any material used from this module be credited to the West Virginia Sexual Assault Free Environment (WV S.A.F.E.) project, a partnership of the West Virginia Foundation for Rape Information and Services, the Northern West Virginia Center for Independent Living and the West Virginia Department of Health and Human Resources (2010). Questions about the project should be directed to the West Virginia Foundation for Rape Information and Services at [www.fris.org](http://www.fris.org).

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<sup>1</sup>Partnering agencies refer to the persons they serve as “clients,” “consumers” and “victims.” For convenience, the term “clients” is primarily used in this module.

<sup>2</sup>U.S. Department of Justice, Civil Rights Division, Disability Rights Section, *A guide to disability rights law* (2005, updated 2006), <http://www.ada.gov/cguide.htm>. This and other online documents referenced in this module were available at the links provided at the time the module was written. It is suggested you check the sites for any updates or changes. If you experience difficulty accessing the documents via the links, another option for locating documents is doing a web search using titles.

<sup>3</sup>U.S. Department of Justice.

<sup>4</sup>U.S. Department of Justice.

<sup>5</sup>Having a “record of” refers to having a history of being a person with a disability or being misdiagnosed or misclassified as having a disability when the person does not. As cited in J. Brennan, *The disability law handbook* (DBTAC Southwest ADA Center, 2009), through <http://dlrp.org/html/publications/>.

<sup>6</sup>U.S. Department of Justice.

<sup>7</sup>Brennan.

<sup>8</sup>U.S. Department of Justice. Undue hardship means “an action that requires significant difficulty or expense when considered in relation to factors such as a business’s size, financial resources, and the nature and structure of its operations.”

<sup>9</sup>U.S. Department of Justice, except for the West Virginia specific information.

<sup>10</sup>U.S. Department of Justice.

<sup>11</sup>U.S. Department of Justice (bullet).

<sup>12</sup>U.S. Department of Justice (bullet).

<sup>13</sup>U.S. Department of Justice (first two sentences in bullet).

<sup>14</sup>Drawn from Brennan.

<sup>15</sup>U.S. Department of Justice (bullets).

<sup>16</sup>U.S. Department of Justice (bullets).

<sup>17</sup>U.S. Department of Justice (bullet).

<sup>18</sup>U.S. Department of Justice (bullet).

<sup>19</sup>U.S. Department of Justice (bullet).

<sup>20</sup>Bullets drawn from Work World—Empowerment through Decision Support Technology, *Americans with Disabilities Act*, [http://www.workworld.org/wwwwebhelp/americans\\_with\\_disabilities\\_act\\_ada\\_.htm](http://www.workworld.org/wwwwebhelp/americans_with_disabilities_act_ada_.htm).

<sup>21</sup>Section drawn from U.S. Department of Justice, except for West Virginia specific information.

<sup>22</sup>See *WV State Code, Chapter 5, article 11-A (WVC§5-11A)* through <http://www.legis.state.wv.us/WVCODE/code.cfm>.

<sup>23</sup>Brennan (first two sentences of paragraph).

<sup>24</sup>U.S. Department of Justice.

<sup>25</sup>J. Brennan (last three sentences of paragraph).

<sup>26</sup>U.S. Department of Justice.

<sup>27</sup>U.S. Department of Justice (paragraph).

<sup>28</sup>U.S. Department of Justice.

<sup>29</sup>J. Brennan.

<sup>30</sup>U.S. Department of Justice.

<sup>31</sup>U.S. Department of Justice.

<sup>32</sup>Drawn from J. Brennan.

<sup>33</sup>Drawn from J. Brennan.

<sup>34</sup>J. Brennan and U.S. Department of Justice (bullets).

<sup>35</sup>J. Brennan (paragraph).

<sup>36</sup>J. Brennan (bullet).

<sup>37</sup>National Resource Center on AD/HD, IDEA, <http://www.help4adhd.org/education/rights/idea>.

<sup>38</sup>Infants and toddlers with disabilities (birth-2) and their families receive early intervention services under IDEA Part C. Children and youth (ages 3-21) receive special education and related services under IDEA Part B. As cited in U.S. Department of Education, *Building the legacy of IDEA 2004*, <http://idea.ed.gov/>.

<sup>39</sup>National Resource Center on AD/HD.

<sup>40</sup>U.S. Department of Justice (paragraph).

<sup>41</sup>U.S. Department of Justice (bullet).

<sup>42</sup>Equal Employment Opportunity Commission, *ADA: Questions and Answers*, <http://www.eeoc.gov/facts/adaqa1.html>.