

Accessibility Legal Requirements for Buildings

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Issue

Provide an overview of federal and state laws governing the accessibility of buildings to people with disabilities.

Summary

Anti-discrimination laws on building access for people with disabilities are largely driven by the federal government, primarily through the Americans with Disabilities Act of 1990 (ADA) and the Rehabilitation Act of 1973. The ADA and Rehabilitation Act generally affect buildings that are (1) controlled by certain public entities (e.g., state or local governments), (2) controlled by private entities conducting businesses that are open to the general public, or (3) involved in programs financed or conducted by the federal government. These laws generally establish architectural standards for affected buildings and require controlling entities to make reasonable modifications for certain people with disabilities.

Many other federal and state laws also affect building access, including the federal and state fair housing laws (i.e., the federal Fair Housing Act (FHA) and its Connecticut-state equivalent, the Discriminatory Housing Practices Act (DHPA)) and the Connecticut State Building Code. The fair housing laws affect people with disabilities by (1) setting certain design and construction accessibility requirements and (2) permitting reasonable modifications to the property and requests for reasonable accommodations in a housing provider's rules, policies, practices, and services. Under state law, the State Building Code must substantially comply with the ADA and FHA.

Several federal and state agencies have published summaries and guidance on these laws, including the U.S. Department of Justice (DOJ) and U.S. Department of Housing and Urban Development (HUD) (see *Additional Resources* below).

The ADA and Rehabilitation Act

The ADA ([42 U.S.C. § 12101 et seq.](#)) protects certain rights of people with disabilities and prohibits specific disability-related discrimination in a variety of ways. Congress has amended it several times since originally enacting it in 1990 and there have been numerous regulations adopted and revised to implement the act. It consists of five Titles, including Titles II ([42 U.S.C. § 12131 et seq.](#)) and III ([42 U.S.C. § 12181 et seq.](#)), which may impact buildings open to the public.

Title II generally applies to “public entities” (e.g., a state or local government) and their programs, services, and activities ([42 U.S.C. §§ 12131](#) and [12132](#)). Title III generally applies to “public accommodations,” which are defined as private entities that own, lease, lease to, or operate a facility whose operations affect any one of 12 categories of commerce including public gathering places (e.g., auditoriums and lecture halls) and exercise or recreation places (e.g., gyms and golf courses) ([42 U.S.C. § 12181\(7\)](#); [28 C.F.R. § 36.104](#)). Among other requirements, affected entities must generally comply with architectural standards for certain new or altered buildings (see, e.g., [28 C.F.R. §§ 35.150](#), [35.151](#), [36.401](#), and [36.402](#)) and make reasonable modifications to their policies, practices, and procedures (see, e.g., [28 C.F.R. §§ 35.130](#) and [36.302](#)).

The Rehabilitation Act ([29 U.S.C. § 701 et seq.](#)) prohibits certain forms of discrimination based on disability in programs financed or conducted by the federal government ([29 U.S.C. § 794](#)). Each federal agency has related regulations that apply to its programs and to entities that receive financial aid from an agency with requirements that include accessible new construction and alterations (see, e.g., [49 C.F.R. § 27.3](#)) and making reasonable accommodations in policies, practices, and procedures (see, e.g., [49 C.F.R. § 27.7](#)).

Fair Housing Laws

Both the FHA ([42 U.S.C. §§ 3601–3619](#)) and the DHPA ([CGS § 46a-64c](#)) ban certain forms of disability discrimination that relate to the construction and use of certain housing. These laws generally apply to most multi-family housing with some exceptions (see [42 U.S.C. §§ 3603\(b\)](#), [3604\(f\)](#), & [3607](#); [CGS § 46a-64c\(b\)](#)). They protect people with disabilities who are seeking, buying, or renting a subject property and anyone associated with them who may have a disability ([42 U.S.C. § 3604\(f\)\(1\)](#); [CGS § 46a-64c\(a\)\(6\)\(A\)](#)).

Under the FHA, housing in a building containing four or more dwelling units built for first occupancy after March 13, 1991, must meet certain accessibility requirements that cover [seven basic components](#) (e.g., doors must be wide enough to allow passage by someone in a wheelchair) ([42 U.S.C. § 3604\(f\)\(3\)\(C\)](#)). These requirements apply to (1) all dwelling units in buildings with four or more dwelling units if the buildings have an elevator and (2) all ground floor dwelling units in other buildings containing four or more dwelling units without an elevator ([42 U.S.C. § 3604\(f\)\(7\)](#)). Under the DHPA, it is a discriminatory housing practice to fail to meet the accessibility requirements in the FHA or the State Building Code, whichever requires greater accommodation, in regard to the design and construction of dwelling units meeting these size and first occupancy specifications ([CGS § 46a-64c\(a\)\(6\)\(C\)\(iii\)](#)).

The fair housing laws also generally prohibit a refusal to permit reasonable modifications of existing premises occupied or to be occupied by a person with a disability if the modifications may be necessary to afford him or her full enjoyment of the premises and he or she pays for them ([42 U.S.C. § 3604\(f\)\(3\)\(A\)](#); [CGS § 46a-64c\(a\)\(6\)\(C\)\(i\)](#)). Reasonable modifications may include, for example, installing grab bars in a bathroom ([24 C.F.R. § 100.203\(c\)](#)).

Additionally, the fair housing laws generally require housing providers to make reasonable accommodations in their rules, policies, practices, or services that are necessary for people with disabilities to have an equal opportunity to use and enjoy the property ([42 U.S.C. § 3604\(f\)\(3\)\(B\)](#); [CGS § 46a-64c\(a\)\(6\)\(C\)\(ii\)](#)). For example, as a reasonable accommodation, a housing provider may assign a parking space that is closer to a unit for someone with a mobility impairment ([24 C.F.R. § 100.204\(b\)](#)).

State Building Code

The [State Building Code](#) generally regulates the design, construction, use, and alteration of buildings in Connecticut ([CGS § 29-252](#)). It is the building code for all state agencies and all municipalities ([CGS §§ 29-252a](#) and [-253](#)). The modern version of the Code was introduced in 1971 and it has been amended or superseded many times since then (see the State Building Inspector's [historical table](#)). The current 2022 version of the Code generally adopts several model codes, including the 2021 International Building Code, with amendments. New construction must follow the requirements in effect when applying for a building permit and generally must follow those requirements for the life of that construction (i.e., the current Code applies to applications that were submitted on or after October 1, 2022). In other words, older constructions generally do not have to follow all of the rules in the current 2022 version of the Code (see, e.g., [Code § 102.6 \(as amended\)](#)).

Connecticut's statutory requirements ensuring building accessibility for people with disabilities are generally set out in [CGS § 29-269\(a\)](#), which requires that the Code be in substantial compliance with the ADA and FHA. The Code's accessibility requirements, however, are subject to other provisions that exempt certain buildings or allow for variation. For example, they do not apply to detached single-family houses or duplexes ([CGS § 29-274\(a\)](#) and [Code § 101.2 \(as amended\)](#)). Additionally, the State Building Inspector may approve variations and exemptions from any of the Code's accessibility requirements ([CGS § 29-269\(b\)](#) and [Code § 104.10.2 \(as amended\)](#)).

Additional Resources

The following provide helpful guidance on federal disability law:

- [DOJ Guide to Disability Rights Laws](#)
- [DOJ ADA Standards for Accessible Design Webpage](#)
- [DOJ-HUD Joint Statement on FHA Accessibility Requirements](#)
- [DOJ-HUD Joint Statement on FHA Reasonable Modifications](#)
- [DOJ-HUD Joint Statement on FHA Reasonable Accommodations](#)
- [HUD Webpage on Federal Disability Laws](#)
- [CT Judicial Branch ADA Guidance Pamphlet](#)
- [CT Judicial Branch ADA Resources](#)

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