

Accessibility GUIDEBOOK

for SKI AREAS
Operating on Public Lands



United States
Department of
Agriculture

Forest
Service

Intermountain
Region

Ogden, Utah



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Accessibility Guidebook

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Accessibility

GUIDEBOOK

for Ski Areas Operating on Public Lands

PREFACE

This information was compiled by Beneficial Designs, Inc., with help from the USDA Forest Service, Wilderness Inquiry, adaptive sports equipment manufacturers, chair lift manufacturers, ski area operators, skiers with disabilities, and adaptive sports program directors.

Ski areas operating under special-use authorization from the USDA Forest Service are required to comply with both the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973. The ADA applies because ski areas are a “public accommodation” entity as defined in this law. Section 504 applies because ski areas operate under special-use authorizations granted by a Federal agency, the USDA Forest Service. By signing



the special-use authorization, the ski area provider agrees to abide by all civil rights laws, regulations, and policies of the Federal Government.

Under the requirements of 7 CFR 15e (Code of Federal Regulations), each ski area provider must determine the accessibility of the programs and facilities offered and develop a written transition plan. This transition plan will outline how and when the necessary changes to provide accessibility will be implemented. Whatever is provided to the average skier needs to also be provided to the adaptive skier. This document provides information about program accessibility for ski areas.

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Acknowledgments - Much of the philosophical framework for this guidebook was developed by Greg Lais and Wilderness Inquiry as published in the document “Universal Access: Guidelines for Outfitters Operating on Public Lands” (Wilderness Inquiry, Inc., 1995). We appreciate their willingness to share the information with a wider audience.

We would also like to graciously thank Peter Axelson and Beneficial Designs, Inc., for their extensive work on this project.

Written comment is appreciated and solicited. Comments can be submitted to: Accessibility Program Manager, USDA Forest Service, Recreation Program, 201 14th Street SW, Washington, DC 20250.

INTRODUCTION

The Americans with Disabilities Act (ADA) has touched many lives, inspiring hope among many and anxiety among some. The goal of this guidebook is to provide you with a positive, practical approach to serving a group of people who wish to experience America's Great Outdoors.

An underlying assumption of this guidebook is that most of you would not be in the business if you didn't enjoy sharing the outdoors with people. All ski area providers prefer to serve customers who have a positive attitude—those who appreciate the beauty and challenge of winter recreation.

You know how critical it is for your employees to have a positive attitude about guiding and leading people on outdoor adventures. Bad attitudes are a major source of complaints. You will not be surprised to learn that people with disabilities, like other customers, are going to respond first and foremost to what they perceive your attitude is toward them. We hope this guidebook will help to inspire and maintain positive attitudes.

What This Guidebook Is...

This guidebook is intended to provide you and other winter outdoor recreation service providers with a framework to better serve old and new clientele. This framework should

be thought of as a new approach to customer service, an approach that seeks to provide the right fit between your customers and the services you provide.

The primary focus of this guidebook is access to programs and activities—not architectural accessibility. Access to programs and activities is sometimes referred to simply as “program access” and includes all activities provided by ski areas.

This guidebook will provide guidelines and suggestions about how to comply with the ADA and Section 504 of the Rehabilitation Act. Practical tips on how to accommodate various provisions of those accessibility laws will be provided. However, this guidebook does not take a “compliance driven” approach. Instead, we are concerned with providing you with suggestions to enable you to provide high-quality services for the broadest range of people.

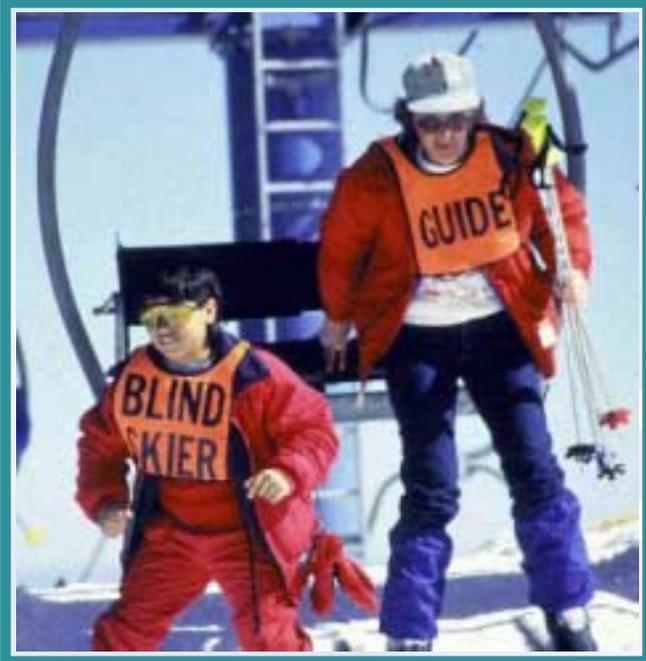
General Information

You probably know someone with a disability. It could be a family member, a friend, or an acquaintance. It could be you. Unlike other “minority” designations, a disability can, and eventually will, include all of us since our abilities change over time. As you prepare to better serve people with disabilities, remember that you are, in effect, preparing to serve every one of your current customers as they move on into different stages of their lives.

In 2000, there were 52 million people with a disability living in the United States. When you consider that most people recreate with family and friends, as much as 50 percent of the U.S. population will benefit from accessible programs and services. One thing is certain—with advances in medical technology and the aging of “baby boomers,” the percentage of the U.S. population living with a disability will increase significantly over the next 25 years.

Much is made about the differences between people with disabilities and people without disabilities. Certainly, there can be differences. However, the differences imposed by disability are not usually what a nondisabled person thinks they are. People without disabilities tend to





think of the loss of function—the inability to walk, see, or hear. In most instances, they do not understand that the biggest challenge people with disabilities face are their perceived change in social status.

Over and over again people with disabilities state that they can learn to accept and accommodate the physical limitations imposed by their disability. The hardest part is accepting the changes in the way they are treated by nondisabled people. Friends who once went fishing with them, no longer do so. Strangers may avoid eye contact or gush with well meaning but misplaced sympathy at their loss.

Language

Much discussion has gone into the proper terminology to be used when referring to people with disabilities. Two terms most commonly used to describe a person who has a limitation are “handicapped” and “disabled.”

A disability is a medically definable condition that causes a limitation. A handicap is a barrier. The barrier may be environmental—such as stairs which handicap a person using a wheelchair—or it may be a negative attitude, either of the person who has the disability or of the person who does not.

The correct term to use is “disability,” a “person with a disability.” The term “handicapped” is offensive to many people.

Since language forms the basis by which we perceive and communicate, you must be careful of the words you use in written and spoken communication. Do not use negative words like “cripple,” “invalid,” or “lame.” These words suggest images that evoke pity, guilt, or lack of ability.

Never forget that people with disabilities are people, not their disabilities. Always refer to the person before referring to a disability. For example, speak about a person who uses a wheelchair rather than “the wheelchair.” Refer to “people with disabilities,” instead of “disabled people.” Avoid words such as “normal” or “able-bodied.”

If you follow these suggestions, the semantics of disability need not be a minefield. The basic rule is to treat everyone with respect—the way that you will wish to be treated when you have a disability.

Legal Definition of Disability

The accessibility laws use a definition that focuses on functional issues. It defines people with disabilities as those with one or more of the following:

- ❖ A physical or mental impairment that substantially limits one or more of the major life activities of such individual,
- ❖ A record of such impairment, or
- ❖ Being regarded as having such an impairment.

Major life activities include working, walking, talking, seeing, hearing, and independently caring for oneself (that is, eating, dressing, or personal hygiene).

Architectural Access vs. Program Access

When most people think about a person with a disability, they think of a person who uses a wheelchair—even though these people make up less than 3 percent of the total number of people with disabilities. Just as people who use wheelchairs represent a very small percentage of people with disabilities, wheelchair ramps represent a very small percentage of what needs to be done to provide access.

A major tenet of accessibility laws is that access goes well beyond physical structures. Access needs to include the programs and services provided by an agency, company, or organization. While access to physical facilities represents a major leap forward, the need to provide access to programs and services is a more profound

change—and more confusing.

Program access means that a person with a disability receives the same benefits from a program or service as anyone else. This is true whether the program or service is eating in a restaurant, visiting an historical site, or skiing. Perhaps the easiest way to think of program access is to think of the services that a ski area provides (for example, taking lessons, storing skis, racing, or viewing scenery from the chairlift) and ensure that they are available to all participants.

A Final Suggestion

As a ski area operator, you are urged to go beyond the basic information in this book and expand your working knowledge of disability issues by actively seeking information directly from people with disabilities and by talking to people who are knowledgeable about the subject.



RELEVANT LAWS AND LEGAL CONSIDERATIONS

Rehabilitation Act of 1973

Significant legislation includes the Architectural Barriers Act of 1968 and the Rehabilitation Act of 1973, amended in 1978. Section 504 of the Rehabilitation Act states:

“No otherwise qualified individual with a disability in the United States shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive Agency.” (U.S. Code 1978).

Section 504 of the Rehabilitation Act, as amended, requires Federal agencies to provide accessible programs and facilities. It also requires the agencies to ensure that all programs and facilities operated on Federally managed land be accessible, whether they are conducted by the Federal agency or by a private entity, such as a ski area operating under a special-use authorization, commercial-use license, concessions contract, or other form of permit. Private organizations receiving any form of Federal assistance, such as a youth camp receiving Federal support, are subject to the provisions of Section 504.

Implementation of Section 504 has been slow. Under the precepts of Section 504, all Federal agencies subject to the law must develop and implement accessibility regulations for the Federally assisted or conducted programs they work with. The Federal agencies are working to make the programs and services they operate accessible. They are also working with permit holders to ensure that the permit holders are complying with the requirements for accessibility.

From a technical point of view, there are many similarities between the accessibility standards used for Section 504 compliance and the accessibility standards used for ADA compliance. Section 504 standards are called the Uniform Federal Accessibility Standards or “UFAS.” ADA standards are called the Americans with Disabilities Act

Accessibility Guidelines or “ADAAG.” Privately owned businesses are required to use ADAAG or their local State code with equal or greater requirements in construction and renovation. Also, note that these standards are in the process of being combined and, in the near future, only one set of standards will exist.

Ski areas operating under special-use authorization from a Federal agency are required to meet the higher level of the two accessibility standards (ADAAG and UFAS). ADAAG is the higher standard in all cases EXCEPT for elevators. If a multistory facility is being constructed, an elevator is required under UFAS, even though that elevator might not be required under ADAAG.

The Americans with Disabilities Act of 1990

The ADA was modeled on Section 504 of the Rehabilitation Act. The ADA applies to State and local government services, public accommodations, public transportation, and commercial establishments.

To understand the ADA, it is important to remember several key points. First, the ADA is essentially civil rights legislation, in that it is designed to protect the rights of people with disabilities in employment, transportation, public accommodation, and access to public services.

An underlying concept of the ADA is the notion that decisions for employment and program participation should not be based on stereotypes. Service providers cannot base their decisions simply on the fact that an individual carries the label of a disability. Instead, they must look to what that individual can do. If the individual can perform the basic functions of an activity, he or she must be permitted to participate.

Secondly, like Section 504 of the Rehabilitation Act, the ADA covers both physical access and access to programs and services. In other words, not only must buildings be accessible, but the activities that take place within and outside those buildings must also be accessible.

Third, the full implications of many areas affected by the ADA have yet to be determined. This includes outdoor recreation. The Federal entity charged with determining standards for accessibility, the Access Board, is working to establish standards on outdoor recreation, including snow facilities.

The ADA is divided into five titles, each concerning a different aspect of the law. These titles are—

- ❖ **Title I, Employment:** Title I prohibits discrimination against any qualified individual with a disability with regard to job application procedures, hiring, advancement, job training, and other terms of employment. For more information regarding employment contact the Equal Employment Opportunity Commission at <http://www.eeoc.gov> or 800-669-4000 (Voice) or 800-663-6820 (TTY).
- ❖ **Title II, Public Services:** Title II requires that State and local governments, or agencies providing services on behalf of State or local governments, provide access to all of their programs, services, benefits, and activities.
- ❖ **Title III, Public Accommodations:** Title III is the area of the ADA that affects most ski areas. Private businesses that own, operate, lease, or sublease places of public accommodation are included under Title III. Public accommodations are, generally, any place that provides goods or services to the general public, such as hotels, golf courses, and ski areas. Nonprofit organizations are generally included under this title of the ADA.

Title III requires the removal of architectural barriers in existing facilities where such removal is readily achievable (see the glossary at the end of this publication). When removal of barriers is not readily achievable, alternative services must be provided. Under Title III, new facilities or altered facilities must comply with the ADAAG.

Private clubs and religious organizations are not covered by Title III; however, an organized camp authorized under a special-use authorization and operated by a private club or religious organization would be affected by the provisions of Section 504 because its programs are dependent on the use of Federal lands.

- ❖ **Title IV, Telecommunications:** Title IV requires that phone companies provide telecommunications relay services for people who have hearing or speech impairments.
- ❖ **Title V, Miscellaneous:** Title V provides miscellaneous instructions to Federal agencies that enforce the law.

Summary of Accessibility Laws

Both Section 504 and the ADA state that organizations may not prohibit an individual with a disability from participation in or the benefits of programs, services, and activities on the basis of disability. What is important is that services provided by ski areas on public lands for the general public are covered by the ADA and Section 504. Therefore, ski area operators must understand what is required of them, and work toward providing it.

Why We Cannot Give Precise Answers to Some Questions

Many business owners want hard and fast rules on how to implement the ADA, and they are frustrated when they get the answer “it depends.” However, with laws as broad-ranging as the ADA, it takes time for standards to evolve, especially when those standards involve broad concepts such as programs and services. The ultimate legal impact of the ADA will be determined as cases come to trial and are ruled on by the court system.

Legal Considerations

Ski area managers may perceive a potential for conflict between accessibility needs and safety concerns. However, many of these anticipated conflicts are misperceptions, based on stereotypes and misinformation about access measures. There is no obligation to compromise skier safety to provide for accessibility.

Civil Penalties for Violating the ADA

Civil penalties for violating the ADA vary somewhat according to the different sections of the law:

- ❖ **Title I, Employment:** This section has the most severe penalties for violation. Since this is not the emphasis of this guidebook, we will not go into detail, but you may be liable for compensatory and punitive damages. Do not discriminate against people with disabilities in your employment practices!
- ❖ **Title II, Public Services:** The penalty for publicly

funded businesses is injunctive relief—which means they will have to “right the wrong.” In some instances, a plaintiff may be able to get punitive damages if it was a serious violation.

- ❖ **Title III, Public Accommodations:** This is the section that will affect most ski areas. The primary penalty here is injunctive relief—“righting the wrong.” In other words, if an individual with a disability sues and wins, the ski area may have to provide the service he or she is asking for. However, if the nature of the violation is very serious and of public interest, the U.S. Department of Justice may level a \$50,000 fine for the first offense and a \$100,000 fine for the second offense.

Title III of the ADA does not allow a private individual bringing a lawsuit to receive general, compensatory damages, including damages for pain and suffering, or punitive damages. However, the ADA does not prevent an individual from suing under State law for emotional distress or other monetary damages. Therefore, your State human rights laws are much more likely to have an impact on you in the event of a lawsuit.

Product Liability

Although there are few black-and-white rules, generally speaking, safety equipment or safety features should never be disabled or modified. If you are unsure about a modification, don't do it. Beware of modifications that inhibit escape from a ski lift, increase the risk of entanglement, or provide a false sense of control or security.

Tort Liability (Negligence)

As a ski area provider, you may be found liable if you fail to meet a duty of due care. The following should be considered:

- ❖ Was there an assumption of risk? (for example, was the injured person aware of the risk and voluntarily assumed it?)
- ❖ What are the legal duties and protections of immunities under the laws of the State where you are located?

Because of the differences in local laws, legal climate, and facts and circumstances, you should consult with your own legal counsel on matters of potential liability.

Risks to Employees

The ADA says that legitimate safety requirements necessary for safe operation may be imposed, but that these requirements must be based on actual risks and not on speculation or stereotypes about people with disabilities.



You'll want to make your employees aware of risky situations and have them seek assistance from management if they have questions. Here are some situations that would pose a risk to employees:

- ❖ Persons who require assistance transferring from a wheelchair into equipment, whose weight exceeds the safe lifting capacity of available employees.
- ❖ Persons with easily communicable diseases such as measles or chicken pox. Persons with AIDS or other blood-borne pathogens are not included in this definition. The reason is that these conditions are not easily transferred from one individual to another.

Managing Liability

Liability exposure is a fact of life for ski areas. In all cases, it is important to adhere to what lawyers call the “standard of care” regarding liability. In other words, the accepted industry practice and what a reasonable person would expect in the situation. Defining these terms is beyond the scope of this guidebook; however, it is suggested that you—

1. Conduct thorough employee training. Trained instructors and employees are your best safety policy. They should receive the proper training on how to safely accommodate everyone, including people with disabilities.
2. Review your general policies to ensure that they meet or exceed the standards for your field. A number of outdoor organizations have produced safety standards for specific activities. The most used set of standards was developed by the Asso-

ciation for Experiential Education (AEE) of Boulder, Colorado. You can contact the AEE at <http://www.aee.org> or 303-440-8844. *Accepted Peer Practices in Adventure Education*, published by AEE, has been followed by a number of outdoor adventure agencies to set their own standards and procedures.

In 1990, AEE published *Safety Practices in Adventure Programming*, by Priest and Dixon. The contents are a comprehensive discussion of safety and leadership responsibilities, as well as specific safety measures for most outdoor recreation adventure activities (for example, camping, bicycle touring, rock climbing, caving, skiing, kayaking, canoeing, and sailing).



GUIDELINES FOR COMPLYING WITH THE ADA AND SECTION 504

Developing Nondiscriminatory Essential Eligibility Criteria

Most ski areas offer equipment rental, ski instruction, and racing programs. The purpose of essential eligibility criteria is to establish whether or not an individual can participate in an activity based on his or her ability to perform the basic functions of the activity. In order to participate in an activity, all individuals must be able to meet the nondiscriminatory essential eligibility criteria established by your ski area.

The information provided in the remainder of this section is paraphrased from “Universal Access: Guidelines for Outfitters Operating on Public Lands,” by Greg Lais of Wilderness Inquiry in 1995.

In reality, the concept of essential eligibility is something most ski instruction programs already do—follow guidelines for successful customer participation. The problem is that the guidelines many ski instruction programs follow are in the heads of the ski area providers and ski instructors, instead of written down. As a result, two mistakes are likely to be made in applying these concepts to customers who may have a disability:

- ❖ **Subjectivity:** The guidelines used are often subjective. Some ski area providers pass their teaching traditions through the oral method and do not have these criteria written down. This could spell trouble if you’re ever challenged on whether you apply the criteria equally to everyone. You need to document your eligibility criteria carefully!
- ❖ **Stereotyping:** Many ski area providers are forced to make quick assessments of a customer’s abilities without any real knowledge of what the customer is capable of. Like many others, ski area providers may develop stereotypes about people with disabilities. When these stereotypes shape an employee’s



decision process, the chances of unfair discrimination increase.

The purpose of developing eligibility criteria is to give employees and customers the information they need to make an accurate, objective assessment when deciding if their abilities are appropriate for an activity. This means that employees must articulate criteria for participation that are based on functional components and applied equally to everyone. Instead of disqualifying a person from a ski lesson simply because he or she uses a wheelchair, the instructor must apply the criteria for participation in the activity.

The model suggested here is similar to the job description required by employers. Employers must identify the essential and nonessential functions of a job, and then determine whether the individual can perform those essential functions. Following this logic, it is suggested that you identify the basic eligibility criteria of the experience you are providing and then determine whether the individual can safely perform those functions.

In determining whether a person can successfully participate in your services, you must base your decision on what an individual can do—not on a stereotype. If they can perform the basic functions of an activity, they can participate. Therefore, employees and customers must understand the eligibility criteria.

Steps to Developing Nondiscriminatory Essential Eligibility Criteria

Developing guidelines based on what you want your customers to be able to do should be an easy process. You probably already have guidelines—you just need to write them down. Think of this as an exercise in writing down common sense and you are well on the way to success! Follow the steps outlined below:

1. Think in terms of physical and cognitive abilities necessary for participation in your programs and activities. What does it take to use downhill skis, ride a snowboard, or use a monoski? Do you have to be smart? Do you have to be strong? Do you have to understand directions? Does it require an understanding of highly technical factors?
2. Break the activity into the basic stages of participation (for example, putting on equipment, using equipment, and returning equipment to the rental area). In effect, you need to separate the program into the discrete activities or variables that make up the program.
3. Consider the abilities necessary to remain safe. What are the most likely causes of death or injury and what does someone need to do to avoid them?
4. Prioritize the stages described in #2 into the critical abilities necessary for safety. For example, in the case of riding a bike, the ability to balance, steer, and stop the bike is a higher safety priority than the ability to shift gears or read a map.
5. Consider basic rules or etiquette that the participant must follow. These include issues such as yielding to other skiers or waiting for the rest of the group to catch up.
6. Determine if the guidelines may be satisfactorily met with the help of a companion. An individual may not be able to perform a function independently, but he or she might easily do it with the help of a friend, family member, employee, or attendant.
7. Edit for simplicity. Avoid confusing personal or general standards of success for a certain activity. Stick to the basic physical or cognitive abilities necessary to participate—the fewer the better.



Example: A resort may have the following essential eligibility criteria for canoe rental:

- ❖ The ability to enter and exit the canoe independently or with the assistance of a companion.
- ❖ At least one person in the canoe must have the ability to move it through the water in a stable manner and return it back to the rental area.
- ❖ In the event of a capsizing, the canoeists must have the ability to get out from under the watercraft, independently or with the help of a companion, and the ability to right oneself and remain face-up in the water with the aid of a lifejacket.

Example: Essential eligibility criteria that are necessary for controlled and safe skiing might include:

- ❖ The ability to properly put on and take off the skiing equipment, independently or with the assistance of a companion.
- ❖ The ability to load, ride, and unload the lifts safely, either independently or with the assistance of a companion.
- ❖ The ability to ski on appropriate trails and areas, to

control skiing speed, and to return to the base area, either independently or with the assistance of a companion.

- ❖ If a person falls down while skiing, he or she must have the ability to get off of the ski trail, independently or with the help of a companion, and the ability to get into the position necessary to continue skiing, independently or with the help of a companion.
- ❖ The ability to follow the Skier Responsibility Code.

Essential eligibility criteria focus on ability, rather than disability. Referring to an activity in terms of who can participate, rather than in terms of who can't, counteracts the tendency to stereotype what a person with a disability can do.

Information on pages 9-11 was taken from the Universal Accessibility Guidelines for Outfitters Operating on Public Lands.

Providing the Nondiscriminatory Essential Eligibility Criteria

You'll need to inform your customers of the criteria once you have developed them. You can do this by providing the criteria to all customers on your website and brochures and posting them at your facility.

Equal Opportunity in the Most Integrated Setting: The accessibility laws state that programs shall be provided in the most integrated setting possible. The most integrated setting is the one that enables interaction among people with and without disabilities as much as possible.

Separate programs specifically for people with disabilities are only acceptable when necessary to provide equally effective benefits and services. People with disabilities who meet the essential eligibility criteria may not be denied the right to participate in any activity, even if there is a separate program available. Programs are not required to guarantee successful participation, but they must offer equal opportunity for participation.

SKIER RESPONSIBILITY CODE

The Skier Responsibility Code applies to all skiers, with and without disabilities, as follows:

- Always stay in control.
- People ahead of you have the right-of-way.
- Stop in a safe place for you and others.
- Whenever starting downhill or merging, look uphill and yield.
- Use devices to help prevent runaway equipment.
- Observe signs and warnings and keep off closed trails.
- Know how to use the lifts safely.

– Courtesy of the National Ski Areas Association

Providing for “Adaptive Skiers”

Skiing is an adaptive sport—boards, with bindings for special boots, often with poles for balance—skiers require specialized equipment to participate in this sport. All skiers use adaptive equipment in order to negotiate from the top of the ski hill to the bottom.

Skiers with disabilities also require specialized equipment. Although the equipment might appear different from what you are used to, it serves the same purpose. Monoskis, biskis, outriggers, and sleds are just some types of adaptive equipment. A personal assistant may be required (and thus, part of the equipment) for a person with a cognitive disability such as mental retardation.

For the purposes of this guidebook we will refer to the equipment used by people with disabilities as “adaptive equipment” and skiers with disabilities as “adaptive skiers.”

Personal Assistants

Adaptive skiers may use a guide, personal assistant, or interpreter in order to ski safely, negotiate the lifts, or meet other conditions of the Skier Code. Guides, personal assistants, and interpreters are considered part of that skier's equipment, should not be charged for a separate lift ticket (when skiing with the person with a disability), and must be allowed wherever the adaptive skier is allowed.

We encourage you to provide personal assistants that can be hired, at a reasonable cost, by adaptive skiers with advanced notice.

Rental of Standardized Adaptive Equipment

If you have a ski rental program, standardized adaptive equipment should be available for rent with advance notice at a reasonable cost. Advance notice might be on the order of 2 to 5 days. Standardized adaptive equipment would include such things as mono skis, sit or bi skis, outriggers, ski tip stabilizers, and blind bibs.

Suggested Ways of Providing Standardized Adaptive Rental Equipment

- Ski shops at the host area can own and rent the adaptive equipment.
- An adaptive program at the host ski area can own and rent the adaptive equipment.
- An adaptive program at a nearby ski area can be contracted to provide adaptive equipment at the host ski area.
- An adaptive equipment manufacturer can rent or lease equipment to the host ski area with advance notice.

Standardized Rental Equipment Insurance Issues: It has been reported that some insurance carriers require instruction with adaptive equipment rentals. This is discrimination. You can require instruction with adaptive equipment rentals only if you require instruction with all rental equipment.

Competency Requirements

You cannot require a competency exam for adaptive skiers either skiing or riding the lift, unless all skiers are required to take the same competency exam. There are areas, such as terrain parks, where skiers are tested for skills before entering. This is acceptable if all skiers are tested.

Lift Safety

You cannot require adaptive skiers to fasten themselves to the lift when skiing independently. A skier may request to be fastened to the chair for personal safety.

Because the instructor is often assuming more responsibility for the skier in a lesson situation, ski school instruction policies with regard to adaptive skiers can vary. Therefore, the instructor's method for ensuring that the adaptive skier can load, ride, and unload the lift safely might be to use a tether line or safety retention strap.

Instruction

If you have a ski instruction program, instruction should be available at all levels for adaptive skiers (that meet the essential eligibility criteria established by your ski area). A specific adaptive program is not required. Advance notice can be required for all levels of adaptive instruction (2 to 5 days is recommended).

Professional Ski Instructors of America (PSIA) Certified instructors can take a 1- to 2-day PSIA Adaptive Clinic in a specific discipline to obtain the skills needed to provide instruction to adaptive skiers.

Instruction for Visually Impaired Skiers: The instructor is ideally the guide for the visually impaired skier. If visually impaired skiers bring their own guide at their own expense, there should be no lesson or lift charges for the guide.

Instruction for Hearing-Impaired Skiers: Ideally, the instructor should be the interpreter for the hearing-impaired adaptive skier. The ski area may be asked to provide an interpreter for instruction and that cost would be covered by the ski area. If hearing-impaired skiers bring their own interpreter at their own expense, there should be no lesson or lift charges for the interpreter.

Instruction for Sit-, Mono-, and Biskiers: Ideally, the instructor generally provides personal assistance needed by the adaptive skier. If mobility-impaired skiers bring a personal assistant at their own expense, there should be no lesson or lift charges for the assistant.

Lesson Rates: An adaptive skier should be able to request and pay for a lesson at a group rate, even if the ski area chooses to provide a private lesson. For example, a beginning monoskier might fundamentally alter the structure of a group lesson. It would be advantageous for the ski area to offer private instruction for the monoskier at a group rate until the monoskier can be integrated into a group lesson.

Discounts

Some ski area providers offer discounts to skiers with disabilities. Even if a discount is offered, the adaptive skier's guide, personal assistant, or interpreter should not be charged for a separate lift ticket when skiing with the adaptive skier.

Proof of Disability

A “disabled” parking placard, a driver’s license noting restrictions, or a Golden Access Passport (issued by Federal land management agencies for accessing national fee areas) are forms of identification that are often used to identify a person with a disability. You are encouraged to approach proof of disability with sensitivity toward your customers.

As with other aspects of providing for accessibility, employee training is crucial. If you choose to require proof of disability, ensure that all employees are familiar with whatever process you put in place. For example, post information about discounts offered and proof of disability at each ticket window, on your website, and in your printed brochures.

Related Accommodations

Ski Storage: If provided, secured ski storage should be available for adaptive skiers to store their adaptive equipment or wheelchairs while they

are skiing. The charge for storage of adaptive equipment or wheelchairs should be the same as for other ski storage.

Day Care: Children with disabilities must be accepted unless they would fundamentally alter the nature of the program. The document entitled “Child Care Centers and the ADA” is available from the Department of Justice on their website at <http://www.usdoj.gov> or by calling 800-514-0301 (Voice) or 800-514-0383 (TTY).

Food Services: All food service provided at the ski area



must be accessible to people with disabilities. The ADAAG provides specific information about accessibility in restaurants and cafeterias. Restaurants are not required to provide for special diets.

Transportation: If provided, transportation must be accessible as outlined in Title III of the ADA. Information about public transportation for people with disabilities can be obtained from the Federal Transit Administration on their website at <http://www.fta.dot.gov> or by calling 888-446-4511 (Voice) or 800-877-8339 (TTY).

Lodging Accommodations: If provided, lodging must be accessible. Information about complying with accessibility laws as they relate to lodging can be obtained from the U.S. Department of Justice on their website at <http://www.usdoj.gov> or by calling 800-514-0301 (Voice) or 800-514-0383 (TTY).

Strategies for Accessible Ski Areas

Because of the number of disabling conditions with a medical diagnosis—including Spina bifida, Friedrichs Ataxia, and Multiple Sclerosis (MS)—determining accessibility needs can be confusing. Despite the differences in diagnosis and accessibility needs, the common thread in providing accessibility is that many people with these conditions have successfully participated in adaptive skiing programs.

Use of Functional Approach

People are easily bewildered by the names and number of all the disabling conditions that exist. Since there are thousands of disabling conditions listed in medical texts, this is no surprise. Fortunately, there is an easier, more effective approach to the issue than memorizing all the conditions that affect the human body. You should adopt a learning approach that considers both functional issues as well as specific disabling conditions.

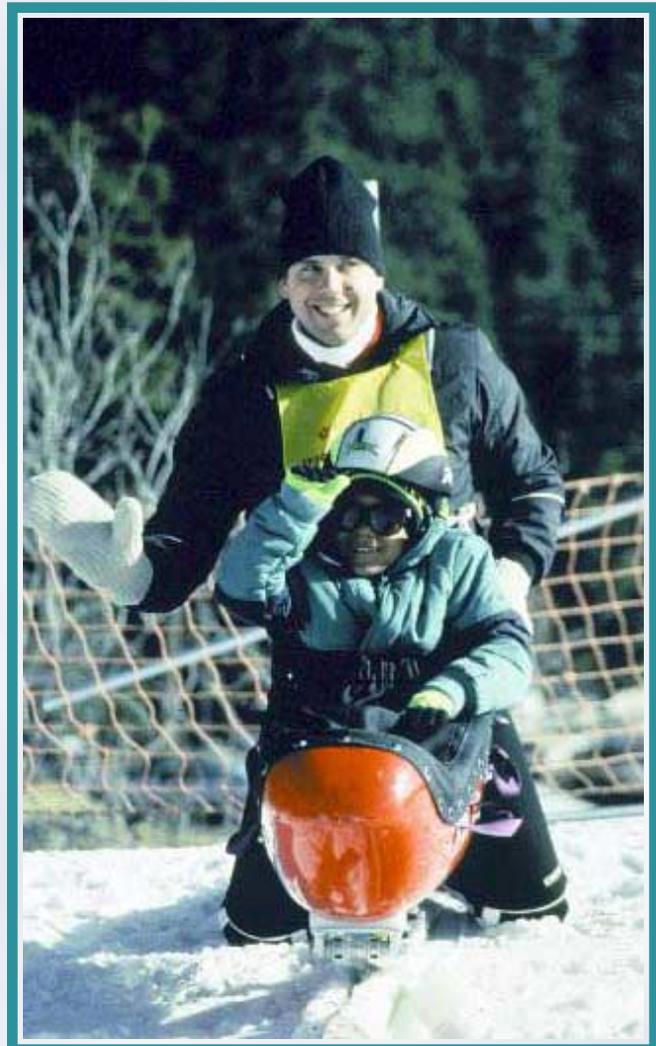
The functional approach is based on what people can actually do. This method helps to simplify the process of accommodation because it promotes a “common sense” approach that most people can easily understand. Functional issues include things like being able to walk, talk, and get dressed independently.

The simplified nature of the functional approach does have

significant limitations. Because it is generalized, the functional approach does not always capture circumstances that may be specific to a particular condition. Therefore, you should also become more familiar with specific disability conditions that could have a significant impact on the safety and quality of the service you are providing.

For example, two individuals who use wheelchairs may appear to have very similar functional capabilities. However, one person uses the chair because of a spinal cord injury, while the other one uses the chair because of MS. A spinal cord injury is a static injury, while MS is a progressive disease process.

People with MS can be susceptible to fatigue and exhaustion due to heat. Weather conditions can exacerbate their disease. Persons with spinal cord injuries—especially those with high-level injuries—face different problems from heat. In some cases a spinal cord injury inhibits the body’s



ability to sweat, greatly increasing the possibility of heat stroke. You will be better able to safely meet customer expectations if you know the different ramifications of these two conditions.

Learning about disabling conditions may seem like a daunting task, but it need not be. You can increase your knowledge by—

- ❖ Talking with customers about their specific situation in the context of the activities they are about to participate in. Most will be eager to share the relevant information.
- ❖ Developing contacts with resource people who can answer specific questions and provide training. Examples include your local Center for Independent Living (CIL) or State Council on Disability.

Develop Your Accessibility Strategy

1. Develop and Implement Nondiscriminatory Essential Eligibility Criteria (see page 9).

2. **Use Proper Language in Brochures.** Basic guidelines for proper language can be found on page 3.

3. **Purchase a TTY (Text Telephone).** For communicating by phone with people who are deaf or nonvoice, a TTY is a simple, low-cost telecommunications device that allows you to type messages back and forth. Provide TTY operation training to all employees who work with the public by telephone. Advertise that you have a TTY in your brochure, website, and anywhere you list your voice telephone number. Information about TTY's can be obtained from your local CIL.

4. **Make Your Brochures and Literature Available to People With Visual Impairments and Blindness.** There are four basic ways to make your literature more available to persons who have some level of blindness. They include:

- ❖ **Large print.** With the technology of today, it is easy to increase the size of print to make it more readable.
- ❖ **Audio cassette.** People who are totally blind may need an audiocassette of your literature. There are professional services that do this, but it can also be done in-house with a tape machine and a tone

indexing microphone.

- ❖ **Converting your literature to Braille.** In most large communities, there are services that will convert your brochures to Braille. Some services do it for profit, and others do it as nonprofit. Costs vary accordingly. Contact the CIL that is closest to you to find out what services are available in your area. To find the CIL that is closest to you, contact the National Council on Independent Living at <http://www.ncil.org> or 703-525-3406 (Voice) or 703-525-4153 (TTY).

- ❖ **Personal reader.** Inevitably, there is some information people will need that is not in user-friendly form. In these cases, you can offer to read it to the person directly.

5. **Remove Architectural Barriers in Existing Facilities.** Plan for accessibility when building new facilities or renovating existing facilities. Contact an architect who is familiar with the ADAAG .

6. **Know Your Resources.** Knowing who to turn to for more assistance is critical! If you're not sure where to start, consider the CIL closest to you. You could also try your State's office or council on disability and disability issues. These contacts can tell you where to look for a broad range of issues, including architects, sign language interpreters, accessibility consultants, and Braille and audio cassette services.

7. **Include Disability Awareness in Your Employee Training.** There are many issues your employees should be aware of when assisting people with disabilities. A brief list includes:

- ❖ Disability awareness
- ❖ Social integration
- ❖ Proper language
- ❖ Principles of adaptation
- ❖ Functional issues
- ❖ Disability-specific issues

8. **Outreach Through New Advertising Channels.** There are several magazines in the United States focusing on people with disabilities. There are also hundreds of trade shows, newsletters, and websites that can provide advertising opportunities.

9. **Develop Community Contacts for Cooperative Marketing and Outreach.** No matter where you are

located, there are individuals and organizations that are willing to work with you to provide services for people with disabilities. Consider approaching the following types of organizations:

- ❖ **Centers for Independent Living:** As a national network of independent organizations, the CIL's work to promote independence among people with disabilities. This network is active in every State, and they should be able to answer your questions or steer you in the right direction. To locate the nearest CIL in your area contact the National Council on Independent Living at <http://www.ncil.org> or 703-525-3406 (Voice), 703-525-4153 (TTY).
- ❖ **Disability advocacy organizations:** All significant disabilities have one or more advocacy groups associated with them. This includes organizations such as the National Head Injury Association, the Federation of the Blind, and the Multiple Sclerosis Society. In many cases, these organizations have State and local affiliate groups. These can be an excellent source of information, networking, and employee training.
- ❖ **Disabled veterans organizations:** These include Paralyzed Veterans of America (PVA), Disabled American Veterans (DAV), as well as the Veterans Administration (VA).
- ❖ **Residential facilities:** There are a wide variety of residential facilities for people with severe disabilities and for those who are undergoing some form of rehabilitation. These range from group homes serving persons with mental retardation, to large public institutions, to private hospitals. The staff and residents of these facilities can serve as invaluable partners in developing and providing integrated services.
- ❖ **Health care professionals:** Most health care professionals involved with rehabilitation recognize the importance of social integration. Some are outdoor recreation enthusiasts. The following may be especially helpful:
 - Physical medicine and rehabilitation physicians

- Physical therapists
- Occupational therapists
- Recreation therapists

Market Your Services

Marketing your programs to better serve people with disabilities is a challenging undertaking, but it can be rewarding. Instead of marketing to people with disabilities, try taking the more universal approach and marketing your services to what we might call “nontraditional” customers. People with disabilities come under this category, as do people who are elderly, families with small children, and many others.

- 1. Know Your Customers.** Most ski area providers know how well their services meet the needs of their traditional customers. You may not, however, know how your facilities and services will meet the needs of a customer with a disability. In addition to reading this guidebook, we recommend that you—
 - ❖ Remember that people with disabilities, like every other customer, respond to your attitude. You are likely to win their business if you are friendly, open, and willing to look into new and unusual situations.
 - ❖ Invite people with various disabilities to visit your facilities and sample your services. Their feedback can help you identify what you need to do.
 - ❖ Visit other adaptive ski programs and accessible facilities that currently serve people with disabilities.
 - ❖ Avoid sweeping generalities about accessibility unless you are absolutely certain they are true. People with disabilities who travel are frequently told something is accessible when it is not.
 - ❖ Consult with architectural and program accessibility design professionals for recommendations on how to improve service.
- 2. Plan Your Message.** Your message should inform people with disabilities that you are interested in serving them, but avoid confusing or discouraging customers who do not have disabilities. Unfortunately, the first goal is easier to accomplish than the second goal. It is important that you understand why.

As with everyone else, people with disabilities are subject

to many stereotypes. A nondisabled skier planning to take a lesson may believe that they will not learn as much if an adaptive skier is in the class.

Therefore, in planning your message it is critical that you convey to all customers that the inclusion of people with disabilities does not diminish the very things they are there for going for—fun and adventure. In short, we recommend that people with disabilities be portrayed as people with the same interests and needs as anyone else. Including photographs of people with disabilities fully participating in something that’s fun and adventurous can do this. You can also do this by stating that your programs are open to people with disabilities, but in a subtle manner. Advertising a skiing program “for the disabled” will attract only a small proportion of people with disabilities and very few persons without disabilities. But, a skiing instruction program offered for people with a range of ability levels could be attractive to many participants.



state that your facilities are totally accessible if they are not. Don’t say you know when you don’t.

3. Know What To Avoid. Sometimes it is just as important to know what to avoid as it is to know what to do. In all cases avoid—

- ❖ **Bad language.** Most people today recognize the need to avoid terms that patronize women, people of color, and other minority groups. The same is true for people with disabilities. Brochure copy that reads “Introducing tours for the able and the handicapped” is just as inappropriate as copy that reads “Introducing tours for housewives.”
- ❖ **Patronizing approaches.** Any references to people with disabilities as less fortunate, less capable, or more special should be avoided.
- ❖ **Promises that cannot be delivered.** Undeliverable promises are bad in any business. Do not



FREQUENTLY ASKED QUESTIONS

1. What do I have to do to reduce the risk of lawsuit?

There is no foolproof way to avoid a lawsuit. However, if you make a good faith effort, we believe the odds of being successfully sued are reduced.

The bottom line in avoiding an accessibility-related lawsuit is to not deny services or accommodations to anyone solely because he or she has a disability. You may decide that you cannot safely and effectively serve someone, but this decision must be based on an objective process that is equally applied to everyone. Also, you may have to change a policy, modify a practice, or provide an accommodation if these changes are deemed reasonable.

Most importantly, you should realize that people with disabilities are, above all else, people. If you or your employees are hostile, unwilling to listen, and prone to react based on stereotypes, you are much more likely to be sued than if you look to accommodating people with disabilities with dignity and respect. As a business, your attitude toward your customers is perhaps the most important determinant in their evaluation of your services.

2. What am I required to do under the ADA and Section 504?

Determine the accessibility of your ski area's facilities and services. Can a person with a mobility, hearing, or visual impairment or learning disability use the facilities and services offered by your business? For any facility or service not now accessible, develop plans as to how and when the changes will be made to make them accessible for all people. These are your transition plans. The Forest Service will review your transition plans, make recommendations, and provide final approval. The more developed and extensive your program is, and the more resources you have at your disposal, the more you will be expected to provide a higher degree of accommodation to different segments of the population. The transition plans will become part of your special-use authorization file and will be reviewed when your permit is reviewed.

3. Do I have to let people with disabilities ski?

Yes. An underlying concept of accessibility law is that decisions about participation are not to be based on stereotypes. You cannot refuse to allow a person to ski or participate in lessons simply because that person has a disability.

The only time you can refuse to allow a person to participate is if that person does not meet the essential eligibility criteria for that activity.

4. What are essential eligibility criteria?

Essential eligibility criteria are a listing of the basic functions required to participate in an activity. It is recommended each area develop nondiscriminatory essential eligibility criteria and apply them to ALL participants. Instructions for developing essential eligibility criteria are provided in this publication.

5. Does inclusion of people with disabilities affect liability insurance coverage?

There are two issues here—coverage and premium. Carefully review your policies to confirm limits and exceptions to coverage.

On the question of premiums, your insurance company can charge for service and coverage as it chooses. However, you can ask to see the actuarial tables—the factual information used to support the insurance companies increased premium—to determine if the insurance company is basing its decision on fact or on assumption.

6. What's the balance between personal responsibility and ski area responsibility?

Unfortunately, there is a widespread assumption that people with disabilities are unable to take responsibility for themselves. People with disabilities can and will take the same responsibility for their needs as do nondisabled customers. With a few exceptions, there is no correlation between disability and attitudes toward responsibility.

7. Is there really a market for this?

Yes. In 2000, there were 52 million people with significant disabilities. The number of people surviving serious injury continues to increase with advances in medicine. Each year nearly 3 million new people suffer an injury that substantially reduces their mobility. Additionally, as life expectancy increases, the number of individuals with reduced physical abilities will continue to increase.

People with disabilities recreate with their families and friends. They will go to places that provide good accessibility, so all can participate.

In addition, our population is aging. Any improvements to accessibility will also benefit this segment of society.

8. Do I have to remodel or build new facilities to meet accessibility requirements?

Yes, if you haven't already and your facilities are not accessible. According to the law, all places of public accommodation and commercial facilities must be accessible to and usable by people with disabilities. New construction and alterations to existing structures must comply with the ADAAG.

Accessibility laws require that public accommodations remove architectural barriers in existing facilities where readily achievable. Readily achievable is defined as easy to accomplish, without much difficulty or expense. The basic facility requirements are accessible parking, restrooms, drinking water, and telephones. Be aware, though, that the overall financial resources of the site are considered in determining whether an action is readily achievable.

9. How do the new ANSI (American National Standards Institute) standards address accessibility issues in passenger ropeways?

ANSI B77.1 (1999) contains new requirements that relate to accessibility:

- ❖ In cabins for trams and gondolas (new construction), the minimum opening width shall be 32 inches; the

horizontal gap shall not be greater than 1 inch, and the height of cabin floor and platform shall be within +/- 1/2 inch or have other provision for independent loading (X.1.4.4.2).

- ❖ Loading areas for chair lifts must have at least one point of access with a minimum clearance width of 36 inches to accommodate skiers using adaptive equipment (X.1.1.9.1).
- ❖ A sign stating the seat height, +/- 2 inches, must be posted at each chair lift used for skiing operations (X.3.1.1.2).
- ❖ Each lift must have an evacuation plan that includes methods of evacuation to be used for incapacitated passengers, common adaptive equipment, and nonambulatory passengers (X.3.2.5.7).
- ❖ All passengers using lifts shall be presumed to have sufficient physical dexterity or personal assistance to negotiate and be safely evacuated from the lift (X.3.6.1).

10. Our ski area offers lessons. Do I also have to offer adaptive ski lessons?

Yes, you must be prepared to provide services to anyone who meets the essential eligibility criteria developed by your ski area. For information about existing adaptive ski programs contact the National Ski Areas Association at <http://www.nsaa.org> or call 303-987-1111. Certification in adaptive instruction for your instructors is available through the Professional Ski Instructors of America (PSIA). Contact PSIA at <http://www.psia.org> or 303-987-9390.

Remember that each person is affected differently by his or her disability. Problems with accessibility often are more a matter of attitudes and beliefs among employees than of actual physical problems with the facility. These personnel may believe that integrated programs are too difficult to conduct because of the physical limitations of a site and their uncertainty of how to handle the challenges presented by persons with physical disabilities. They may also believe that participation of people with disabilities may dilute or compromise the experience for other participants.

Most often, programs serving people with disabilities fail because of a problem many ski areas face in seasonal operations—rapid employee turnover. All the training and facility modifications will be wasted if the employees are

not enthusiastic or interested in serving people with disabilities. Some practical methods of improving employee attitudes and minimizing the problem of rapid employee turnover are:

- ❖ Evaluate the interest of employees and select one interested person who is likely to remain employed with you to act as coordinator of these new efforts. Provide that individual with the initial training to integrate people with disabilities and then get that person to train and assist other employees.
- ❖ Involve employees in planning and setting up outreach plans and making accessibility improvements at facilities.
- ❖ Revise job descriptions to include working with nontraditional customers.
- ❖ Form a network with agencies that serve people with disabilities.

11. What do my employees need to know?

All employees should know enough about people with disabilities to make informed decisions about how to best serve your customers. Educating employees about people with disabilities can eliminate many negative stereotypes and perceptions. Appropriate disability awareness training should be made available to all employees as part of the orientation process. Many local disability advocacy groups will provide this training to your employees for a small fee.

12. What can I do to get started?

A small investment in equipment, facilities, and training can greatly benefit your business.

- ❖ Develop or review registration procedures that allow you to learn more about all of your customers up front, without invading their privacy.
- ❖ Develop a catalog of your services and facilities so you can give everyone, including people with disabilities, accurate information as they decide whether to take advantage of your services. Provide this information in printed brochures and on your web page.
- ❖ Provide disability awareness and customer service training for all employees.

- ❖ Purchase a TTY for communicating by phone with people who are deaf or nonvoice. Provide TTY operation training to all employees who work with the public by telephone. Advertise that you have a TTY in your brochure, website, and anywhere you list your voice telephone number. This will send an important message that you are open to serving “nontraditional” users.

Perhaps the biggest single thing you can do is to make sure you and your employees have a positive attitude toward serving people with disabilities. Instead of looking at accessibility laws as simply more Government requirements, look at it as a persuasive argument to get you moving in the direction the market is moving anyway.

13. Where can I get more information about accessibility laws?

For more information on the ADA contact the ADA Hotline at the U.S. Department of Justice at <http://www.usdoj.gov/crt/ada> or by calling 800-514-0301 (voice) or 800-514-0383 (TTY). Your Forest Service permit administrator can put you in contact with the local Forest Service Civil Rights Office for more information about Section 504.

Also, be sure to contact your tax professional to get information about tax credits and deductions available to businesses making changes in order to comply with the ADA.

14. How can the Forest Service help me?

The Forest Service has accessibility specialists who can provide information in response to accessibility questions. Contact your Forest Service permit administrator.

RESOURCES

Listed below are resources for information and publications that you may find useful in your efforts to serve people with disabilities, as well as to enhance overall customer service.

U.S. Department of Justice (<http://www.usdoj.gov>): For technical assistance on the ADA provisions that apply to businesses, call the ADA Information Line—800-514-0301 (Voice) or 800-514-0383 (TTY).

Architectural and Transportation Barriers Compliance Board, also known as the **Access Board** (<http://www.access-board.gov>): For technical assistance on ADAAG, call 800-872-2253 (Voice) or 800-993-2822 (TTY).

Internal Revenue Service (<http://www.irs.gov>): For information about tax credits and deductions that can assist businesses in complying with the ADA, call 800-829-1040 (Voice) or 800-829-4059 (TTY).

National Council on Independent Living (<http://www.ncil.org>): For information about this membership organization of independent living centers, call 703-525-3406 (Voice) or 703-525-4153 (TTY).

Federal Transit Administration (<http://www.fta.dot.gov>): For questions about public transportation for people with disabilities, call the ADA Assistance Line—888-446-4511 (Voice) or 800-877-8339 (TTY).



GLOSSARY

ADA—The Americans with Disabilities Act of 1990 prohibits discrimination on the basis of disability. The ADA applies to State and local government services, public accommodations, public transportation, and commercial establishments.

ADAAG—The Americans with Disabilities Act Accessibility Guidelines provide standards for accessible design. New construction and alterations are subject to these standards.

Adaptive Equipment—For the purposes of this guidebook, “adaptive equipment” is equipment used by people with disabilities to participate in skiing.

Nondiscriminatory Essential Eligibility Criteria—Nondiscriminatory essential eligibility criteria are a listing of the basic functions required to participate in an activity. The ADA states that public accommodations cannot impose or apply eligibility criteria that screen out or tend to screen out individuals with disabilities (paraphrased from ADA 28 CFR, Ch. 1 §36.301).

PSIA—Professional Ski Instructors of America. Contact PSIA at <http://www.psia.org> or 303-987-9390.

Readily Achievable—Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include the nature and cost of the action needed and the overall financial resources of the site or sites involved (paraphrased from ADA 28 CFR, Ch. 1 §36.401).

Section 504—Part of the Rehabilitation Act of 1973. Legislation that requires Federal agencies to provide accessible programs and facilities.

TTY (text telephone)—A device for communicating with people who are deaf or nonvoice by typing messages back and forth.

Undue Burden—Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include the nature and cost of the action needed and the overall financial resources of the site or sites involved (paraphrased from ADA 28 CFR, Ch. 1 §36.401).

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