



The Architectural Barriers Act (ABA) Complaint Investigation Process and Corrective Action Plan Procedure

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Presenter



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Agenda

- ❖ **Background on the ABA**
- ❖ **Complaint Investigation Process**
- ❖ **Corrective Action Plan Procedure**
- ❖ **Questions**

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Background on the ABA

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The Architectural Barriers Act of 1968 (ABA)

Requires that certain buildings and facilities be accessible to persons with disabilities – specifically buildings and facilities:

- 1) Intended for use by the public **or** that may result in the employment or residence therein of individuals with physical disabilities;
- 2) Which were:
 - (a) **constructed or altered** by or on behalf of the United States,
 - (b) **leased**, in whole or in part by the United States, or
 - (c) **financed** in whole or in part by a grant or loan made by the United States**after August 12, 1968 (date of ABA enactment).**

(the ABA also applies to stations and facilities of Washington’s Metrorail System)

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Architectural Barriers Act (ABA) vs. Americans with Disabilities Act (ADA)

- ADA covers
 - Employment by private and state and local governments with 15 or more employees;
 - Nondiscrimination in programs and activities of state and local governments;
 - Nondiscrimination by private entities that are places of public accommodation.
- 2010 Standards for Accessible Design apply to facilities subject to the ADA.

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ABA-Covered Facilities

While Federal facilities built before 1968 are generally not covered, **alterations** and **leases** undertaken after 1968 may trigger ABA coverage.

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ABA-Covered Facilities (cont.)

Examples:

- Federal office buildings
- United States Post Offices
- HUD multi-family residential units
- Federal prisons and courthouses
- Social Security Administration offices
- National Parks, Monuments, Forests
- DoD Facilities
- State or local transit facilities built with Federal funds

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Section 502 of the Rehabilitation Act of 1973

Authorizes the Access Board to ensure that buildings under its jurisdiction are in compliance with the ABA by:

1. Establishing and maintaining minimum guidelines for standards issued by GSA, DoD, HUD and USPS; and
2. Enforcing those standards.

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ABA Accessibility Guidelines and Standards

The Access Board issued the Architectural Barriers Act Accessibility Guidelines (ABAAG) (36 CFR Part 1191, Appendices C and D) on June 23, 2004.

- Adopted by the General Services Administration (GSA) effective 5/8/2006.
- Adopted by the U.S. Postal Service (USPS) effective 10/1/2005.
- Adopted by the Department of Defense (DoD) 10/31/2008.
- The Department of Housing and Urban Development (HUD) still uses the Uniform Federal Accessibility Standards (UFAS), which it adopted in October 1984.
 - (Note: HUD has indicated in its fall regulatory agenda for 2021 that it intends to [update its standards under the ABA](#))

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Organization of the ABA Standards

ABA Chapter 1:

Application and Administration

ABA Chapter 2:

Scoping Requirements

These section numbers

Preceded with “F”

Architectural Barriers Act (ABA) Standards (2015)

Note: This edition includes new provisions for outdoor developed areas and emergency transportable housing.

Adopted by the:
Department of Defense (2008)
General Services Administration (2005)
U.S. Postal Service (2005)



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Organization of the ABA Standards (cont.)

Technical Requirements:

Chapter 3: Building Blocks

Chapter 4: Accessible Routes

Chapter 5: General Site and Building Elements

Chapter 6: Plumbing Elements and Facilities

Chapter 7: Communication Elements and Features

Chapter 8: Special Rooms, Spaces, and Elements

Chapter 9: Built-in Elements

Chapter 10: Recreation Facilities

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Most Common Barriers to Accessibility



Accessible Parking

Common violations include lack of access aisles (as shown in above photo), lack of signage, and improper dimensions.



Accessible Routes

Common violations include non-compliant entrance ramps (as shown in above photo), lack of curb ramps, and improper changes in level.

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Most Common Barriers to Accessibility (cont.)



Toilet Rooms

Common violations include lack of grab bars (as shown in above photo), insufficient maneuvering clearance, and dispensers outside permitted reach range.



Entrances

Common violations include lack of accessible ramps (as shown in above photo), insufficient maneuvering clearances, and doors that are too narrow.

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Elements Covered

Standards apply to fixed or built-in elements



Coverage extends only to fixed/ built-in portion (e.g., cabinet hardware)

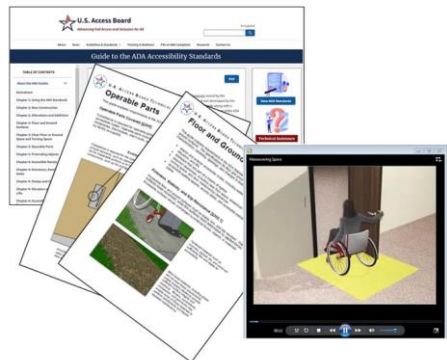
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Technical Assistance, Guides, and Animations



enforce@access-board.gov
ta@access-board.gov



www.access-board.gov/aba/guides/

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Sections 501 and 504

- Section 501 covers employment practices of federal agencies. Obligation to make reasonable accommodation might require measures beyond accessibility required under ABA or Section 504 to provide accessibility for particular employees with disabilities (e.g., adding an accessible parking space if more than the required number are needed).
- Federal facilities not subject to the ABA (e.g., because they were built or altered prior to 1968) may still have to provide some level of access. This is called “program accessibility” and may require, for example, that services provided at one facility be moved to another facility nearby, or provided in a different part of the same building.

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Complaint Investigation Process

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Access Board's ABA Compliance and Enforcement Regulations

- **Complaints should be resolved “informally and expeditiously.”**
- **“Amicable resolution is encouraged.”**
- **Board seeks agency cooperation in obtaining compliance**
- **Board provides assistance and guidance to help agencies voluntarily and promptly remediate accessibility barriers.**

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Informal Complaint Resolution Process

- **Board notifies agencies of the complaint allegations.**
- **Agencies complete a questionnaire with information about the building or facility.**
- **Board conducts its investigation (discussed in greater detail below).**
- **During the Board's investigation, agencies must submit documents, photographs, architectural drawings, and any other pertinent information.**
- **Board has broad authority to “survey and investigate buildings, monitor compliance programs, furnish technical assistance, and obtain assurances, certifications, and plans of action as may be necessary to ensure compliance.”**

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Formal Complaint Resolution Process

- Citations
- Remedy may include suspension or withholding of funds and/or specific corrective action.
- Court Proceedings
- Board has almost never had to invoke these procedures due to strong agency cooperation.

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ABA Complaints

Must include:

- the name and address of the facility;
- complaint allegations (a brief description of the access problems or barriers); and
- if available, additional information about the facility, such as when it was built or known sources of Federal funding; photographs are helpful but not necessary.

Can be filed:

- by anyone (with or without a disability)
- anonymously
- using the Board's Online ABA Complaint Form (www.access-board.gov), by e-mail to enforce@access-board.gov, or by mail or fax.

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How are ABA Complaints Handled?

- Step 1. Conduct a Preliminary Analysis**
- Step 2. Open an Investigation**
- Step 3. Determine Jurisdiction**
- Step 4. Determine Standard and Violation**
- Step 5. Corrective Action**

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Step 1. Conduct a Preliminary Analysis

Staff first determine whether the complaint presents allegations of accessibility barriers.

- **If no**, staff inform the complainant accordingly, and, if appropriate, advise the complainant of another accessibility law that may apply and provide appropriate referral information.
- **If yes**, staff open an investigation (Step 2).

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Step 2. Open an Investigation

- Notify the appropriate agency with a letter of inquiry
- Obtain jurisdictional and other information about the facility.
- Send the complainant an acknowledgement letter.

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Step 3. Determine Jurisdiction

Staff **determine whether the facility or element is covered by the ABA.**

1. Facility is intended for use by the public, or may result in the employment or residence therein of individuals with physical disabilities;
2. Facility was either:
 - (a) constructed or altered by or on behalf of the United States;
 - (b) leased, in whole or in part by the United States; or
 - (c) financed in whole or in part by a grant or loan made by the United States**after the effective date of the ABA (August 12, 1968).**

* If one or more of these is not met, case is closed but referral information may be provided and agency may still choose to take voluntary corrective action.

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Step 4. Determine Standard and Violation

If jurisdiction is established, staff then:

- Determine the applicable Federal accessibility standard;
- **Determine if the allegations amount to a violation of the applicable standard.**

If not, a referral may be made and/or the agency may voluntarily choose to address the issue.

If a violation exists, go on to Step 5 (Corrective Action).

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Step 5: Corrective Action

Corrective Action Plan **Procedure**

(discussed below)

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Notify Agency that Corrective Action is Required

- Specify the ABA violation(s)
- Specify what corrective action(s) is/are necessary
- Remind agencies of Board's technical assistance

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Agency Submits Corrective Action Plan

- In writing
- Details the precise work that will be executed
- Includes design drawings
- **MUST** also include timeframe for completion

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Access Board Reviews and Accepts Corrective Action Plan

- Board reviews the overall plan (including timeframes)
- Board reviews design drawings
- Board addresses any agency questions or potential sources of confusion
- Board notifies agency that it accepts the plan

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Access Board Monitors Corrective Action

- Agencies must provide regular updates on ongoing projects
- If issues arise, agencies must inform the Board and, if necessary, receive technical assistance
- Agencies must do everything possible to complete projects on time
- If timeframes slip, the Board can request agency leadership's involvement to expedite completion

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Agency Submits Evidence that Corrective Action is Complete

- Agencies submit written assurances that the plan has been completed
- Agencies submit photographs, architectural drawings, or other documentation to prove project completion

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Access Board Evaluates the Completed Corrective Action

- Board reviews submitted information and documentation
- Board accepts that corrective action has been completed, or identifies any remaining deficiencies/violations and requires that they be resolved

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Access Board Notifies the Complainant

- Once work is completed and the Board concludes that all violations have been resolved, the complaint closure process begins
- Board notifies complainant that work has been completed and gives complainant 15 days to provide any information indicating that work was not completed (or not completed adequately)

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Access Board Closes the Complaint

- Following the 15 days, and if complainant submits no information indicating that work was not performed or not performed adequately, Board closes the complaint
- Board notifies agencies in writing of complaint closure
- Board issues a yearly news release detailing all complaints that were closed following the completion of corrective action

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Questions

**You may type and submit questions in the Q&A Area
(questions submitted in the Chat will not be considered)**

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U.S. Access Board

Telephone: (800) 872-2253 (voice)

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Continuing Education



AIA Provider Number: I017

AICP Provider Name: Great Lakes ADA Center

Course Title: The Architectural Barriers Act (ABA) Compliant Investigation Process and Corrective Action Plan Procedure

Course Number: GL20220106

Date: January 6, 2022

Credits earned on completion of this course will be reported to **AIA CES** for AIA members. Certificates of Completion are available upon request.

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Questions will be addressed at the conclusion of this presentation.

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Thank you for participating in today's webinar



Accessible Signage

Next scheduled session: February 3, 2022

www.AccessibilityOnline.org

877-232-1990 (V/TTY)

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