



Webinar: Managing Risk and Other Legal Requirements for Businesses Under ADA Title III

Will begin at 2:00 PM Eastern Time

- Audio and visuals are provided through the online webinar platform
- Access to presentation handouts was included in the email reminder you received for this session
- This session will be open-captioned





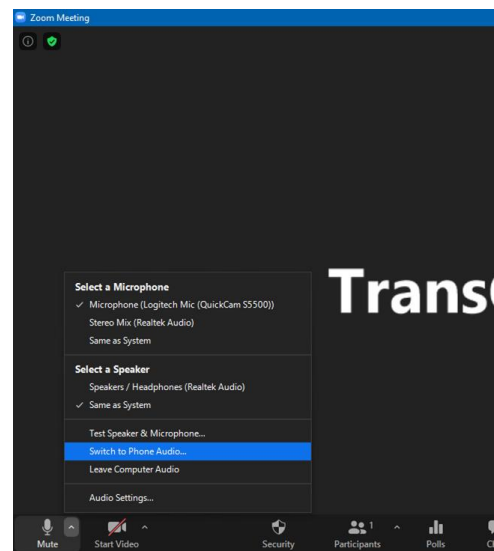
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Audio

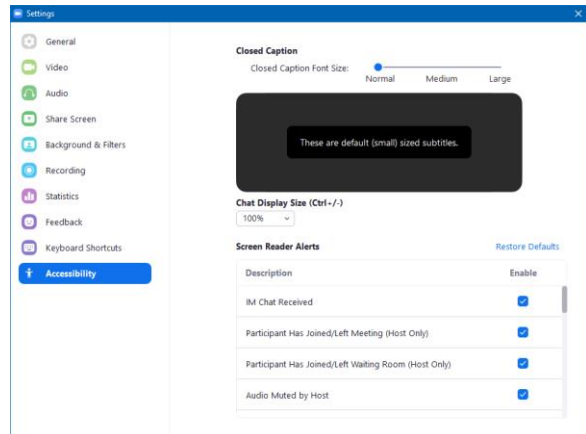
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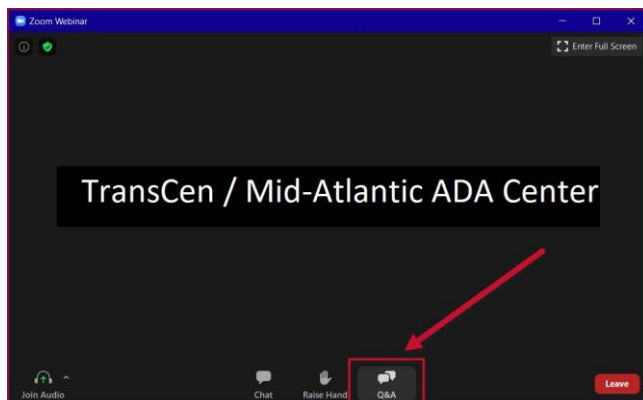
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Captions

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- You can change the size of the caption display in the “Accessibility” tab under “Settings”



Questions and Comments



- Select the Q&A icon
- Send your question to adatrainig@transcen.org

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Archive

- This webinar is being recorded
You will receive an email at a later date
with information on how to access the
archive



Certificates of Attendance

- Only those who purchased certificates when registering for the session are eligible to receive one
- Certificates are available only for attending the live session; attendance will be verified
- The code to submit for a certificate will be announced later in the session

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Presentation Accessibility

For the benefit of participants who are not able to see the presentation slides on the webinar platform, speakers will

- Announce slide numbers
- Describe images that are meaningful to the content of the session

About Your Hosts...

TransCen, Inc.

- Improving the lives of people with disabilities through meaningful work and community inclusion

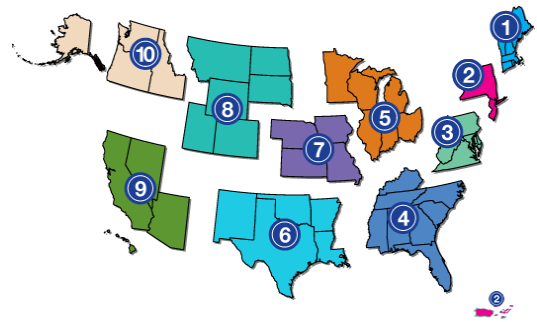
Mid-Atlantic ADA Center, a project of TransCen, Inc.



- Funded by National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), Administration for Community Living, U.S. Department of Health and Human Services

ADA National Network

- Ten regional centers provide guidance, training, and materials on the ADA
 - **1-800-949-4232**
 - ADAta.org



Mid-Atlantic  Center

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Webinar: Managing Risk and Other Legal Requirements for Businesses Under ADA Title III





Managing Risk within ADA Programs

OAA - Office of Accessibility and Accommodations
and Capital One Legal



Welcome



Carlos Lugo
Capital One ADA Legal



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Carin Coates
ADA Process Owner



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Overview

Overview

ADA risk accountability

Process tools

Scenarios



ADA Risk Accountability

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Who Is Accountable for Managing ADA Risk?



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Managing Risk with ADA is Critical to Companies

What is the definition
of ADA Risk?

What is Title I ADA?

What is Title III
ADA Risk?

Common examples
of ADA Risk

Not so Common
Examples of ADA Risk

EVERYONE IS ACCOUNTABLE FOR ADA RISK!!!



Settlement Agreement Between the Department of Justice (DOJ) and a Financial Institution Regarding ADA Title III Violations

- The DOJ initiated their investigation after receiving multiple complaints that the Financial Institution was not accepting Relay Calls. The complainants alleged the Financial Institution had violated Title III of the ADA when it refused to accept some calls made using relay services and instead referred such callers to telephone numbers with dedicated teletypewriter / telecommunications devices ("TTY / TDD") services.
- The DOJ and the Financial Institution entered into a Settlement Agreement to resolve the complaints and the findings that resulted after the DOJ investigation.
- *Impact* : Significant internal policy changes, having to add a sticker to the associates computers that reads *"To assist our customers who are deaf, hard of hearing, or have speech disabilities, we accept relay calls."*

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Process Tools

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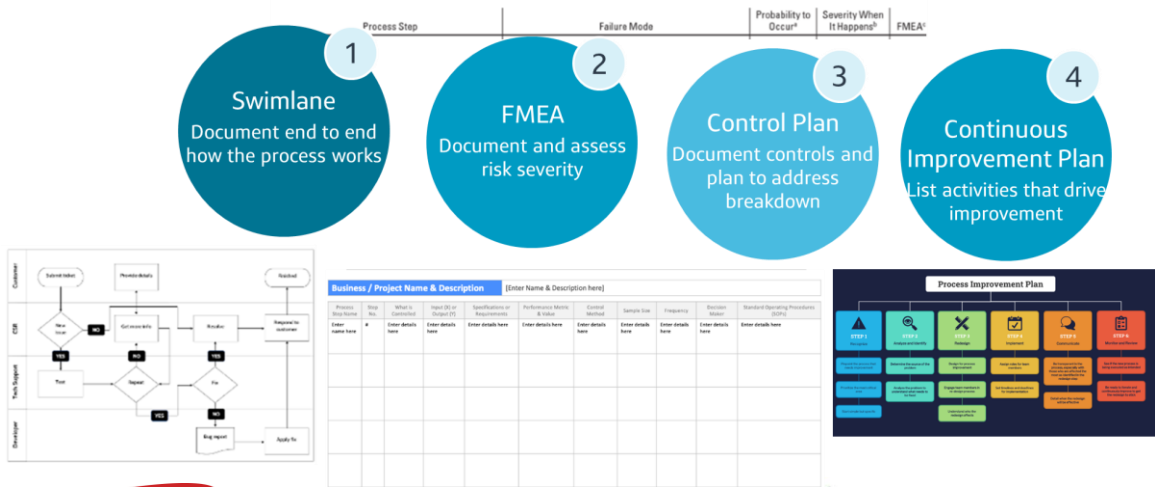
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Common Process Tools for Managing Risks Include:

| Process Tools | How They Help |
|------------------------------|---|
| Swimlane | Visual representation for how process works |
| Failure Mode/Risk Assessment | Risk identification and assessment |
| Control Plan | Controls to prevent or identify breakdowns Plan on how to solve breakdowns |
| Continuous Improvement Plan | Activities to improve a process |



Common Process Tools in Action eLarge Print Document



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Best Practices for Consistently Executing Process Activities



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Scenarios



Opening a Bank Branch

Potential Risks

- Building not ADA compliant
- Furniture layout not ADA compliant
- ATM missing Braille instructions
- Branch associates not trained on the ADA

Swimlane to document process



FMEA to document risks

Potential Mitigation

- Consult with ADA specialized architect
- Consult with ADA specialized designer
- Contact ATM manufacturer
- Regular ADA training for associates

Control Plan to identify and solve process breakdowns
Process Improvement Plan to implement improvements

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Settlement Agreement Between the Department of Justice (DOJ) and Holiday Inn Express Hotels and Suites (Hotel)

- This matter was initiated by a complaint filed at the DOJ. The complainant's spouse, who has multiple sclerosis, is substantially limited in the major life activity of walking and uses a wheelchair. They planned to spend the Thanksgiving holiday with family, they called the hotel and made reservations. Hotel staff represented that it had two accessible rooms with roll-in showers and they reserved both: one for them and one for their parents.
- However, upon arrival at the hotel neither room had a roll-in shower. Their parents decided to stay despite the inadequate accommodations. They had to find another hotel with an accessible shower that would accommodate the wheelchair. They spent the Thanksgiving holiday at another hotel some distance from their parents and family. They experienced emotional distress because of the hotel's failure to comply with Title III of the ADA and the 2010 Standards for Accessible Design.



Settlement Agreement Between the Department of Justice (DOJ) and Holiday Inn Express Hotels and Suites (Hotel), 2

- *Impact* : The hotel added 2 King Accessible Suites to their roster, they retained the services of an Independent Licensed Architect (ILA). The hotel staff had to undergo ADA training, the hotel had to submit regular reports to the DOJ which included the ILA's reports and they also had to pay \$10,000 to each of the affected parties (the complainant and their spouse).



Opening a Credit Card Account

Potential Risks

- Consumer needs accessible paper application
- Consumer can't mail application
- Consumer doesn't have digital device

Swimlane to document process



FMEA to document risks

Potential Mitigation

- Provide application in large print or Braille
- Process to accept application via phone or digital
- Access to non digital application

Control Plan to identify and solve process breakdowns
Process Improvement Plan to implement improvements

Settlement Agreement Between the Department of Justice (DOJ) and Uber Technologies, Inc.

- The DOJ alleges that Uber violated the ADA's statutory and regulatory provisions by charging a wait time fee on rides where a rider with a disability needed more than two minutes to board an Uber vehicle because of disability. The DOJ alleges that Uber's actions amount to a pattern or practice of discrimination and that the discrimination against a person or group of persons raises an issue of general public importance.
- Private entities must make reasonable modifications to policies, practices, and procedures when such modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities. 42 U.S.C. § 12184(b)(2)(A); 49 C.F.R. § 37.5(f).
- *Impact* : Uber has to maintain a Waiver Program, under which individuals with active rider accounts on the Uber app can self-certify that they, or someone with whom they travel frequently, have a disability within the meaning of the ADA, and that the disability impacts the individual's or their companion's ability to board a vehicle at the start of a trip before a wait time fee starts accruing, and so obtain a prospective waiver of all future wait time fees for the account.

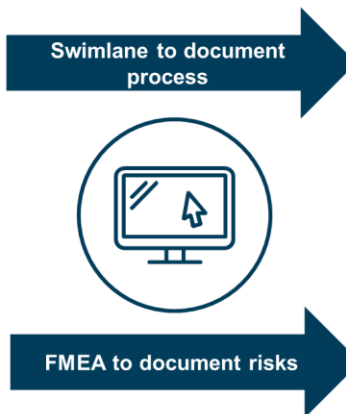
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Launching Company Website

Potential Risks

- Inaccessible web design
- Tools to test web accessibility



Potential Mitigation

- Train design and tech teams on accessibility
- Hire company to regularly test accessibility

Settlement Agreement Between the Department of Justice (DOJ) and HY-VEE, Inc.

- The DOJ initiated a compliance review under Title III of the ADA to determine whether individuals with disabilities have full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations offered by Hy-Vee through its Vaccine Registration Portal. The DOJ determined that Hy-Vee's Vaccine Registration Portal was not accessible to some individuals with disabilities, including those who use screen reader software and those who have difficulty using a mouse to navigate the website, in violation of the ADA.
- *Impact* : HY-VEE within ten (10) days of the effective date of the agreement had to resolve any issues that would prevent equal access (major barriers) and within ninety (90) days of the effective date (conformance date) their websites had to conform with the Web Content Accessibility Guidelines 2.1, Level AA, published by the World Wide Web Consortium, (WCAG 2.1 AA).

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Hiring New Frontline Agents

Potential Risks

- Doesn't know what ADA is
- Scared to handle relay call
- Afraid of dogs

Swimlane to document process



FMEA to document risks

Potential Mitigation

- Train and test new hire ADA knowledge
- Role play relay calls
- Create agent plan when service dogs are in the building

Control Plan to identify and solve process breakdowns
Process Improvement Plan to implement improvements

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Consent Decree Between the Department of Justice (DOJ) and Barnet Dulaney Perkins Eye Center, PC, and Medical Management Resources Group, L.L.C., d/b/a American Vision Partners Holdings, L.L.C.

- The DOJ received complaints that Defendants discriminate against individuals with disabilities who, because of disability, need assistance transferring to and from wheelchairs for surgery. That the Defendants deny such individuals medical services or require them to pay for private medical transport to not only assist with transferring them to and from surgical tables but also to transport them to and from facilities on gurneys or stretchers.
- *Impact* : Nondiscrimination obligation, do not deny services, and modify their policies and procedures to reflect this. They have to cover the costs of the third party services and provide adequate accommodations.

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Certificates of Attendance: CODE

- If you paid for a certificate of participation, check the reminder email you received about this session for instructions
- Please email the code above to ADAtraining@transcen.org by **5 PM E.T. on March 27, 2023**
- Certificates are emailed 1 – 2 weeks after the session



Thank You for Joining Us!

Mid-Atlantic ADA Center

Toll-free: **800-949-4232** (DE, DC, MD, PA, VA, WV)

Local: **301-217-0124**

ADAinfo@transcen.org

ADAinfo.org

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