

CALIFORNIA CONSUMER TOOLKIT

*For the Restaurant
Industry*

California Commission on Disability Access

Issued November 2018 - DRAFT EDITION



CCDA

California Commission on Disability Access



CALIFORNIA DEPARTMENT OF
GENERAL SERVICES

400 R Street, Suite 310, Sacramento, CA 95811 | (916) 319-9974 | ccda@dgs.ca.gov

A young woman with purple hair, wearing a white lace-trimmed t-shirt and a necklace with a cross, is smiling warmly at someone off-camera. She is sitting at a table with a glass of water in front of her. The background is slightly blurred, showing what appears to be a dining area.

LEGAL DISCLAIMER: This publication is being distributed by the California Commission on Disability Access (CCDA) with the understanding that CCDA is not engaged in rendering legal, architectural, engineering, or other professional service. This publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and are not a substitute for the reader's seeking legal counsel or other expert advice. For more information, please contact CCDA at: (916) 319-9974 or CCDA@dgs.ca.gov.

TABLE OF CONTENTS

Message from the Executive Director

How to Use This Toolkit

Glance at the Legal Landscape

- ▶ Disability Access Case Studies
- ▶ Americans with Disabilities Act
- ▶ Your Access Rights
- ▶ BEFORE You Lease or Purchase, KNOW these SIX

Top 10 Alleged Violation Statistics

- ▶ 2017 Top 10 Alleged Violations (Overall)
- ▶ 2017 Top 10 Alleged Violations (Establishments Serving Food or Drink)

Solutions for Your Business

- ▶ How to Get Started on Your Accessibility Work
- ▶ Access Funding
- ▶ Hire a Certified Access Specialist (CASp)
- ▶ Benefits of Hiring a Certified Access Specialist (CASp)

Making Your Operations Accessible to Guests with Disabilities

- ▶ Operations Frequency Pyramid and General Information
- ▶ Parking
- ▶ Routes
- ▶ Entrances and Doors
- ▶ Restrooms
- ▶ Sales and Service Counters

Voices of the Customers

- ▶ Disability Etiquette
- ▶ Training for New and Existing Staff

References and Resources

Local Contact Info

Contributors



How To Use This Toolkit: This toolkit is intended to provide a general overview of disability access laws, how to ensure your business is disability access compliant, and other generally useful information regarding disability access. At the end of the toolkit, there is a page for you to fill out disability access resources from your local community.

MESSAGE FROM THE EXECUTIVE DIRECTOR

On behalf of the California Commission on Disability Access (CCDA), thank you for taking this step in the educational journey of discovering what it takes to obtain and maintain access for all. We sincerely believe it is possible that California can lead the nation in providing places of public accommodation for all who desire to work, play and live in our great state. For this vision to come to fruition, government, business and the disability community must fully embrace this journey together.

We would like to express our heartfelt gratitude toward the Checklist Committee members, the access specialists, the disability advocates, and the supporting community leaders for their productive time, energy, and true dedication in putting this toolkit together. We gratefully acknowledge that without their complete support CCDA could not have produced this consumer-friendly toolkit.

The Checklist Committee is open to your thoughtful review of the information provided in this toolkit and will happily address any questions or suggestions you may have. It is our sincere hope that we provide to you – the food service operators – the guidance, knowledge, ideas and inspiration so that disability access will simply be a part of your business culture.

Highest regards,



Angela Jemmott, Executive Director

California Commission on Disability Access

GLANCE AT THE LEGAL LANDSCAPE

The California Commission on Disability Access (CCDA) receives thousands of complaints against state businesses. Since 2013, CCDA has received, reviewed, and reported on over 16,000 complaints (CCDA 2017 Annual Report). The number of alleged violations continues to grow, and this growing number of complaints received annually by CCDA is reflective of the current challenges within the community and the need for information to empower businesses in achieving greater disability access compliance. Government Code 14985.8 requires CCDA to compile and report data on any pre-litigation letter (i.e., demand letter), state, or federal complaint alleging construction-related physical access violations. CCDA also tabulates and reports this data annually in a report to the Legislature. Below are three disability access case studies received by CCDA in recent years to demonstrate barriers encountered by individuals with disabilities when visiting places serving food and drinks.

Disability Access Case Studies

California Federal Court Complaint (2018)

In January 2018, plaintiff was allegedly denied equal access to a restaurant serving pizza due to access barriers of accessible parking, aisles, accessible routes, signs and doors. The plaintiff and defendants agreed to terms of settlement in April 2018. The defendants agreed to bring the business facility into compliance according to ADA standards within 12 months of the executed legal agreement.

California State Court Complaint (2017)

In March 2017, plaintiff was denied allegedly equal access to a restaurant serving Chinese food due to access barriers within the bathrooms. The plaintiff and defendants agreed to terms of settlement in February 2018. Specifically, the defendants will provide an accessible bathroom and remedy all alleged violations in the complaint.

California Pre-litigation Letter (2017)

In October 2017, a franchised coffee shop with various locations received a letter detailing alleged barriers encountered by two individuals with disabilities during multiple visits in March 2017 within accessible routes, signs and seating. In June 2018, it was reported to CCDA both parties are working toward a mutually beneficial settlement, including compliance without a lawsuit being filed.

These examples, supported by CCDA data in the Top Ten Alleged Violations section, illustrate common access barriers individuals with disabilities may encounter when visiting restaurants. The following section outlines the Americans with Disabilities Act, which requires equal access and prevents discrimination against individuals with disabilities.

The Americans with Disabilities Act of 1990

The Americans with Disabilities Act (ADA) is a **civil rights law** that prohibits discrimination on the basis of disability. The ADA covers all types of disabilities, whether they are permanent or temporary, physical or mental, visible or undetectable.

There are five titles of the ADA, and the one most important to owners of establishments serving food or drink is Title III— Public Accommodations and Services Operated by Private Entities.

Title III prohibits discrimination based on disability with regard to the full and equal enjoyment of services, goods or facilities in any place of public accommodation by the person who owns, leases or operates the location. Public accommodations include dining and drinking locations such as restaurants, bars and cafes.

All new construction after 1993 must be compliant to applicable accessibility standards, and facilities built prior to 1992 must remove barriers that are readily achievable without much difficulty or expense. A property owner who has determined that removing a barrier was not readily achievable at the time of evaluation must establish a plan to address the barrier in the future. Until the barrier is corrected, the business owner must determine a method to offer their goods and services by alternate means.

The ADA only allows the plaintiff to recover attorneys' fees and injunctive relief, which is a court order requiring the place of public accommodation to fix all alleged disability access-related issues. (See "References and Resources" section for more information on California civil rights laws.)

General Overview of California Disability Access Compliance

The **Construction-Related Accessibility Standards Compliance Act** (CRASCA, Civil Code §55.51-55.545, also referred to as SB 1608 [2008]), affords legal protections in the California court system to any business owner that hires a CASp to perform an accessibility inspection and report. SB 1608 also established the California Commission on Disability Access.

California Building Standards Commission and Title 24

The California Building Standards Commission was established in 1953 (Chapter 1500, Statutes of 1953) and is charged with the approval, adoption, codification and publication of the California Building Standards Code, Title 24 of the California Code of Regulations.

The Division of the State Architect (DSA) is authorized to develop and propose accessibility standards within the California Building Standards Code, which are often more stringent than federal accessibility standards. Your place of business must comply with the applicable California accessibility regulations in effect at the time of construction or most recent alteration of your facility. Please consult with a licensed architect, Certified Access Specialist, and your local building official for application, interpretation and enforcement of these codes.

Your Legal Rights

Defending Against an Accessibility Claim

Plaintiffs are not required to notify you before filing an ADA complaint against your business. In some instances, the building owner, tenant, or owner's or tenant's agents or employees may receive a pre-litigation letter alleging the business is in violation of one or more construction-related accessibility standards. Nevertheless, it is important to note, the allegations made in a court complaint or pre-litigation letter do not mean that **you are required to pay any money unless and until a court finds you liable.**

SB 1186 (Chapter 383, Statutes of 2012)

This law prohibits a pre-litigation letter from including a request or demand for money or an offer or agreement to accept money. It also prohibits an attorney, or other person acting at the direction of an attorney, from issuing a demand for money to a building owner or tenant, or an agent or employee of a building owner or tenant, on the basis of one or more construction-related accessibility violations, as specified. The law requires an attorney to include his or her State Bar license number in a pre-litigation letter, and to submit copies of the pre-litigation letter to the California Commission on Disability Access and to the State Bar.

You have the right to seek assistance or advice about these documents, and once you receive a complaint or pre-litigation, contact an attorney experienced with disability access claims. An attorney can help you determine the appropriate action for your business, including but not limited to: defending against the complaint and/or reaching a settlement. It is best practice to correct alleged violations whether or not they are part of a settlement to prevent future litigation.

Reducing Your Damages in State Courts

SB 269 (Chapter 13, Statutes of 2016) establishes a rebuttal presumption, for the purpose of an award of minimum statutory damages, that certain technical violations do not cause a plaintiff to experience difficulty, discomfort or embarrassment, if specified conditions are met.

In addition, this bill enacted a law that exempts a defendant from liability for minimum statutory damages with respect to a structure or area inspected by a Certified Access Specialist (CASp) for a period of 120 days if specified conditions are met. A defendant who claims the benefit of this exemption is required to disclose the date and findings of any CASp inspection to the plaintiff.

(See “Solutions” section for more information on the benefits of a CASp inspection.)

Tenants

An accessibility claim may be filed against both the tenant and the landlord, and both have responsibility for ensuring that areas of public accommodation, including common areas such as parking lots, are accessible.

AB 2093 (Chapter 379, Statutes of 2016) requires a commercial property owner or lessor to state on every lease form or rental agreement executed on or after January 1, 2017 to state whether the property has been inspected by a CASp. This law also provides more information as to the tenant's right to review the CASp report, the right to hire a CASp if the owner has not had an inspection, and the presumption that the landlord assumes responsibility for compliance unless otherwise outlined in the lease.

AB 1148 (Chapter 87, Statutes of 2017) defined 'commercial property' for the purposes of that provision as property that is offered for rent or lease to persons operating, or intending to operate, a place of public accommodation, as specified, or a facility to which the general public is invited at those premises.

You may want to refer to your lease agreement addressing accessibility violations and contact your landlord to determine if your lease addresses who is responsible for maintaining and improving some or all of the areas you lease.



EQUAL JUSTICE UNDER LAW



BEFORE You Lease or Purchase, Know These SIX

1. **Think Barrier Removal.** Are there any steps between where patrons arrive (parking and sidewalk), to your facility entrance, or through your facility to dining areas, self-service areas and restrooms? Do the bathroom facilities seem too small to allow an individual using a wheelchair to negotiate? Do the counters seem to be too high? You may be required to perform accessibility improvements.
2. **Understand** that eating and drinking establishments, including restaurants and bars, are subject to Title III of the ADA and are required by law to be made accessible to individuals with disabilities.
3. **Ask the landlord,** *"Has an accessibility inspection by a CASp been performed on the premises and do you have a CASp report?"*
4. **Consult** with a CASp to identify violations and discuss what is needed to achieve compliance.
5. **Budget** for the cost of accessibility improvements to the building elements such as entrance, toilet facilities, and parking spaces.
6. **Myths:** *"I have a small restaurant; I don't have any money. I don't have to do anything" or "My facility is grandfathered."* Older facilities built prior to the passage of the ADA are addressed differently than facilities built after the ADA was enacted. You will need to consult with a professional to help you navigate the complex world of accessibility and assist you in addressing accessibility issues. It is advisable to consult with a CASp or licensed design professional.

Top 10 Alleged Violation Statistics

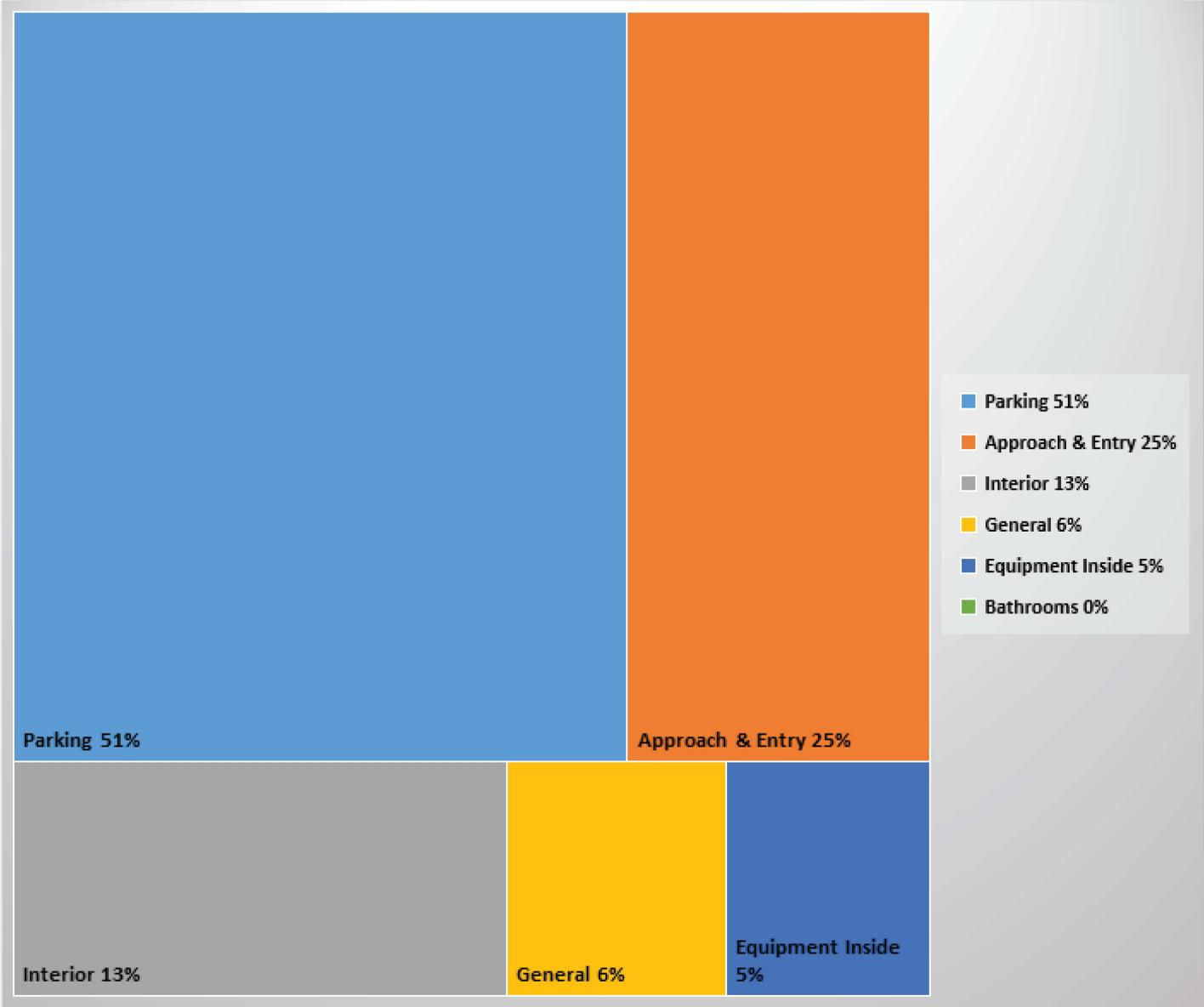
The Alleged Violations charts are intended to provide a look at the top three types of alleged violations submitted to CCDA in 2017 for overall businesses and specifically for the restaurant industry.

As shown in the charts on pages 15 and 16, parking-related violations have occupied each of the top spots in 2017 regardless of industry.

Alleged parking violations may have the highest frequency due to the fact that oftentimes customers cannot even access the interiors of business establishments because no accessible parking spaces are provided, or if they are, they are not compliant. By remedying inaccessible features inside and outside your business establishment, you will increase the likelihood of an individual with a disability visiting your establishment and spending their dollars there. This is a win-win for both the business and the customer.

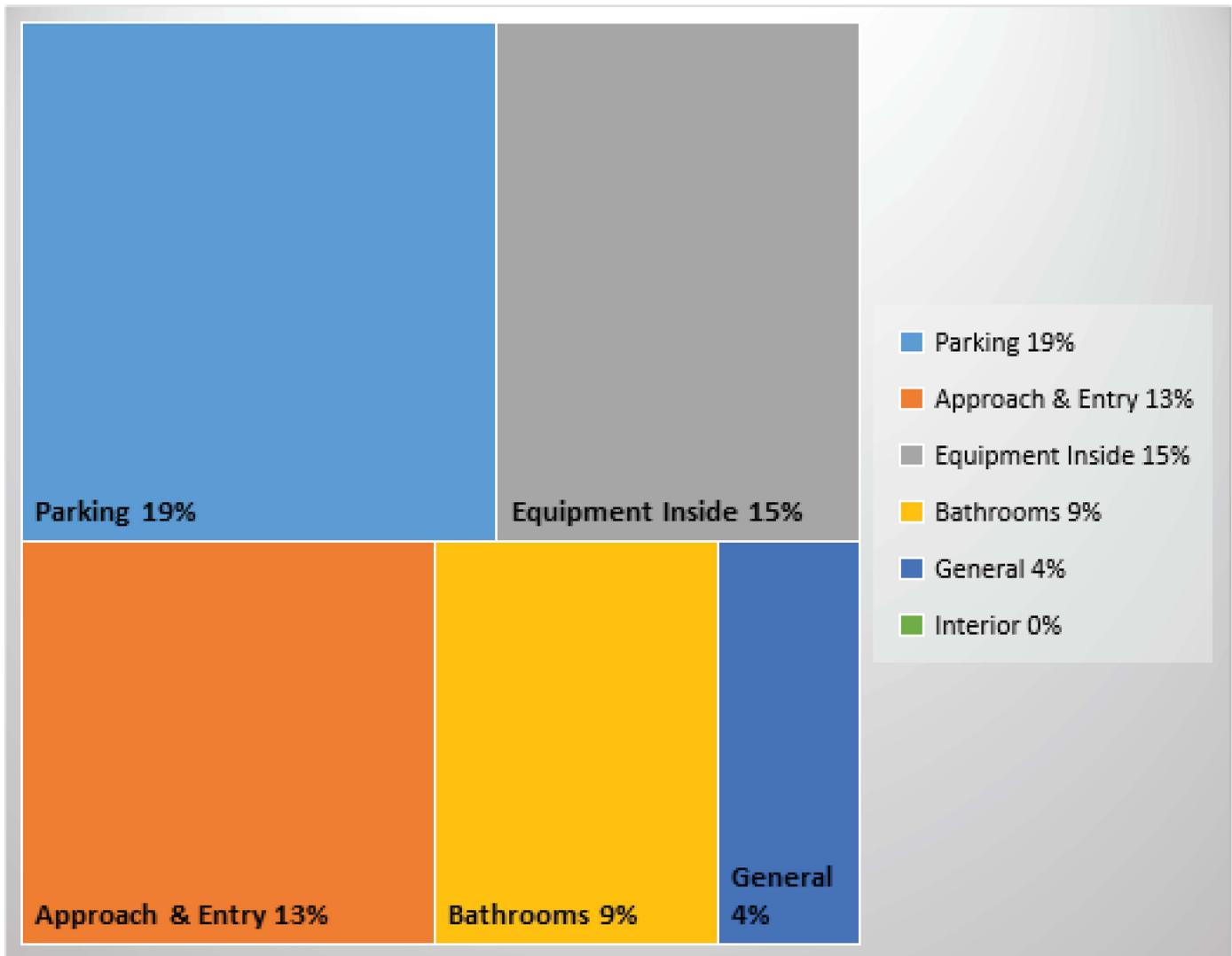
Remember, a parking lot is often the first impression of the accessibility of your business, so a person who encounters inaccessible parking might infer that the interior is inaccessible as well.

2017 TOP 10 ALLEGED VIOLATIONS (OVERALL BUSINESS)



Visual representation of 2017 Top 10 Alleged Violations against all businesses. Of the 7,623 top 10 violations received, 51 percent were for parking, 25 percent were for approach & entry, 13 percent for interior, 6 percent general, and 5 percent for equipment inside.

2017 TOP 10 ALLEGED VIOLATIONS (ESTABLISHMENTS SERVING FOOD OR DRINK)



Visual representation of 2017 Top 10 Alleged Violations against establishments serving food or drink. Of the 2,571 top 10 violations received, 19 percent were for parking, 15 percent for equipment inside, 13 percent for approach & entry, 9 percent for bathrooms, and 4 percent general.

SOLUTIONS FOR YOUR BUSINESS

How to Get Started with Your Accessibility Work

The suggested list below will assist you in getting started on your accessibility work and improvements. This list is **not exhaustive**, rather it is a starting point to move your business closer toward compliance.

1. Address easy compliance issues such as maintaining walks clear of plant growth from adjacent landscape areas, removing tripping hazards such as unsecured mats, and relocating items adjacent to walkways.
2. Get a CASp inspection.
3. Discuss inspection results with your CASp.
4. With the assistance of your CASp, establish a "Plan of Action" which includes a budget and schedule to address compliance issues.
5. Hire a licensed design professional, such as an architect, to provide drawings for corrective work.
6. Discuss building permit requirements with your local building department.
7. Speak to a financial adviser for long-term business/financial planning to budget for necessary accessibility improvements.

Access Funding

Disabled Access Credit

The Disabled Access Credit provides a nonrefundable tax credit for small businesses that incur expenditures for the purpose of providing access to individuals with disabilities. An eligible small business is one that earned \$1 million or less or had no more than 30 full-time employees in the previous year. Businesses may take the credit each year they incur access expenditures, up to \$10,000 each year.

<https://www.irs.gov/businesses>

Architectural Barrier Removal Tax Deduction

The Architectural Barrier Removal Tax Deduction encourages businesses of any size to remove architectural and transportation barriers to the mobility of individuals with disabilities and the elderly. Businesses may claim a deduction of up to \$15,000 a year for qualified expenses. Businesses may use the Disabled Tax Credit and the architectural/transportation tax deduction together in the same tax year, if the expenses meet the requirements of both sections.

<https://www.irs.gov/businesses>

CALCAP/ADA

The California Capital Access Program (CalCAP) Americans with Disabilities Act (CalCAP/ADA) Financing Program assists small businesses with financing the costs to alter or retrofit existing small business facilities to comply with ADA requirements. Loans may be used for physically altering or retrofitting existing small business facilities of less than 10,000 square feet, if the costs are necessary and allocable for compliance with the ADA.

<http://treasurer.ca.gov/cpcf/cap/ada>

Access + Capital

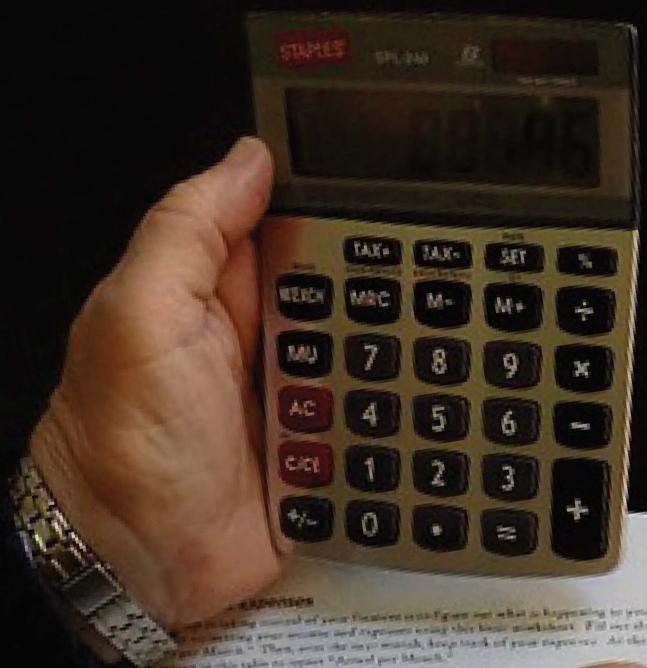
Access Plus Capital (formerly Fresno CDFI) participates in the CalCAP/ADA financing program. Access Plus Capital provides financing, training, and asset development services for low- and moderate-income entrepreneurs.

<http://www.accesspluscapital.com/>

Opportunity Fund

Opportunity Fund is a nonprofit microfinance organization that helps small business owners gain access to responsible and transparent capital by providing easy-to-get, fast and affordable loans. Opportunity Fund is non-FICO based and lends from \$2,600 to \$250,000.

www.opportunityfund.org



...keeping control of your finances is all about what is happening to your money. Begin by comparing your income and expenses using this basic worksheet. Fill out the first column in Step 1, "Listing Expenses." Then, over the next month, keep track of your expenses. At the end of the month, use this table to report "Actual per Month."

Step 1: Listing Expenses

Income

Expenses

Bank or Mortgage Payment

Utilities (rent, electricity, water)

Telephone and/or cell phone

Government

Transportation

Tuition or other education fees

Insurance (car, health, home)

Credit card, Program Fees, Other Activities

Child support and/or Alimony

Personal and Household Items

Snacks/Meals eaten out

Clothes

Charitable donations

Credit cards and other loans

Entertainment

Internet, cable, TV

Bank Fees

Vacation/Travel

Other

Other

Total Monthly Expenses

Step 2: Listing Income

Salaries

After tax wages

After tax wages from others in household

Tips or bonuses

Child support

Alimony

Public assistance

Food stamps

Social Security or SSI

Interest on a savings account

Tax refunds

Other

Other

Total Monthly Income

Step 3: Comparing Income and Expenses

Your total monthly income

Your total monthly expenses

Subtract expenses from income and list amount

If you're anxious to get started, you can place bank statements, bills, and your check register over the next month, write down everything

Day	Time	Purchase

A CASp Success Story

"Five years [ago], I was giving a seminar on accessibility and CASp organized by a merchant association in the city of Martinez. I typically do not ask what businesses the attendees represent, since usually people are worried about exposing their business, but a person who attended the seminar asked if I was giving other seminars soon and I said 'Yes, I have another one, one week from now.' That person turned out to be a CEO of a real estate holding company who owns around 40 buildings in the East Bay. He requested all his top employees and his sister (partner) to attend the second seminar and they did.

After a while, they approached me and asked me to create a CASp report for each one of their buildings, starting with their home office. They often called me to follow up on their progress or to peer review the drawings of a new remodel within their properties.

The CEO also asked me to travel to Arizona to inspect his 12 shopping centers he owns over there. I explained to him that CASp is only a California thing; he said that he liked the process and he wanted to make sure all his buildings are compliant regardless of [where] the lawsuits are happening. I did travel to Arizona and inspected his centers and issued reports based on federal ADA and Arizona accessibility law.

Currently, they are asking me to go back and reinspect the 40 buildings to make sure the contractors did a good job and that they are good accessibility-wise.

This client has not been sued for accessibility even though his area was hit hard by plaintiffs. The best defense against a lawsuit is to be already compliant."



HIRE A CASp

Undertaking efforts to ensure your business is accessible to individuals with disabilities will reduce the risk of your facility becoming the subject of a lawsuit. Because defending an action can be potentially costly (even if you successfully defend the matter), proactively taking steps prior to being subject to litigation is important.

What is a CASp?

A Certified Access Specialist (CASp) is a person who is voluntarily certified by the Division of the State Architect (DSA) to have the specialized knowledge and expertise of state and federal construction-related accessibility standards. A CASp must pass a certification exam and is required to renew his or her certification every three years.

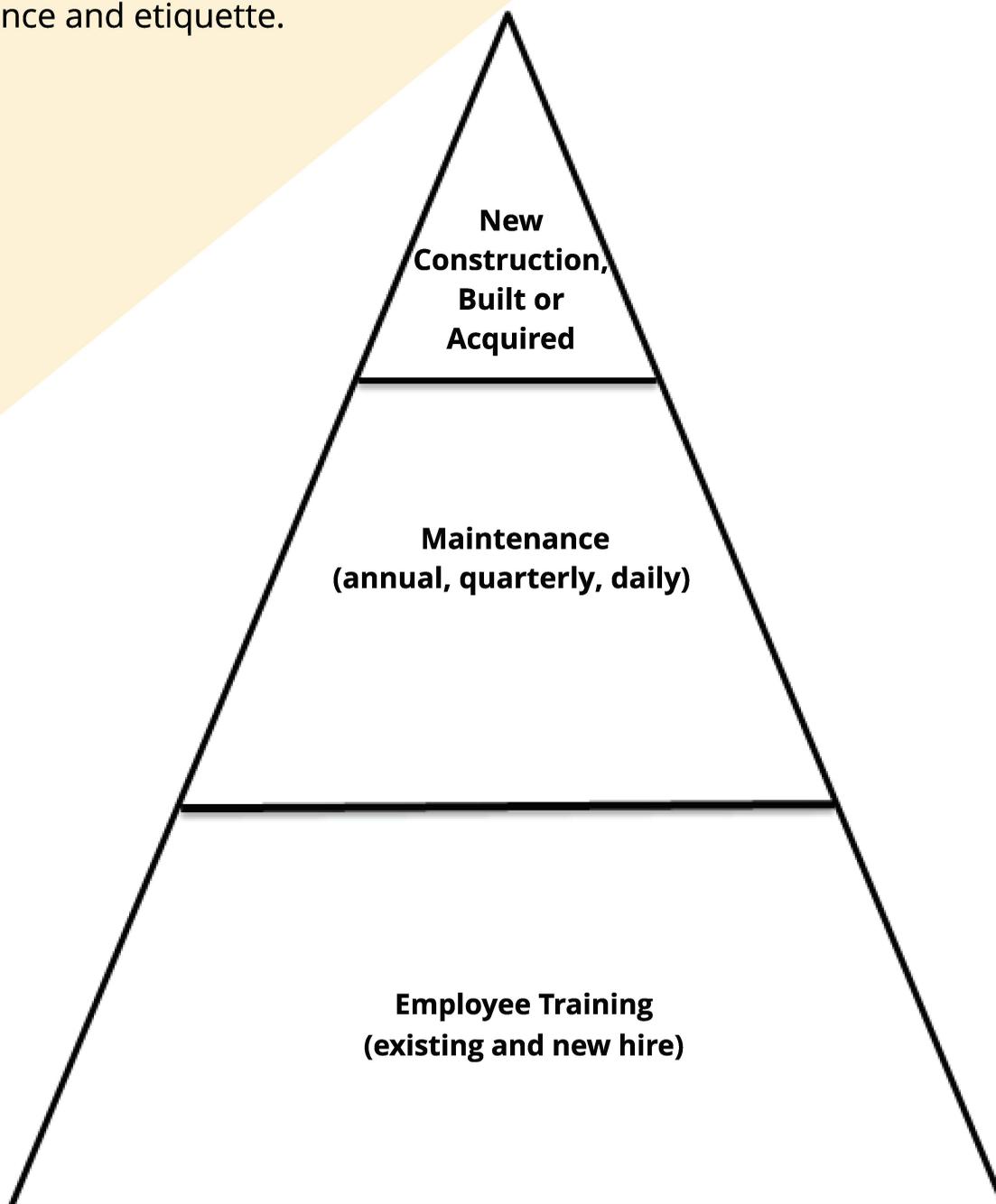
Benefits of Hiring a CASp

With a CASp inspection you receive:

- ▶ A report from the CASp, who will assist you with an action plan for increasing accessibility at your place of business. CASp reports are statutorily mandated to remain confidential.
- ▶ The right to ask for an early evaluation conference and 90-day stay, which is granted so that the early evaluation conference can be held.
- ▶ A certificate of inspection that can be displayed at the facility.
- ▶ Eligibility for lower statutory damages to pay when violations are corrected within a certain amount of time.
- ▶ Additional legal benefits for small business with less than 50 employees.

Restaurant Operations Frequency Pyramid

This pyramid demonstrates the frequency with which a restaurant would perform certain operational tasks. For example, it is least likely for you to construct, build or acquire a building on a frequent basis. Rather, you are more likely to need to maintain your existing building for disability access compliance and even more likely to need to train existing employees and new hires on disability access laws, compliance and etiquette.





Making Your Operations Accessible to Guests with Disabilities

The following section outlines what are referred to as key areas of accessibility for consideration.

This list is provided for you to generally assess the existing conditions of your property to determine if you have one or more items that may need attention; it is **not to be used as a checklist** from which you should base the status of your compliance.

The requirements on this page and the next few pages do not have sufficient technical detail to evaluate and establish compliance with the applicable standards, which is based on the year of construction of your facility and any subsequent improvements. A CASp will be able to assist you regarding the specifics of your property, and to determine the improvements necessary for your facility.

RESTAURANTS IN GENERAL

Accessible routes shall be provided to all functional areas of the restaurant including raised, sunken and outdoor areas.

Making Your Operations Accessible to Guests with Disabilities

Access shall be provided to sales and service counters, restrooms, food service lines, and dining areas. Items to consider include, but are not limited to:

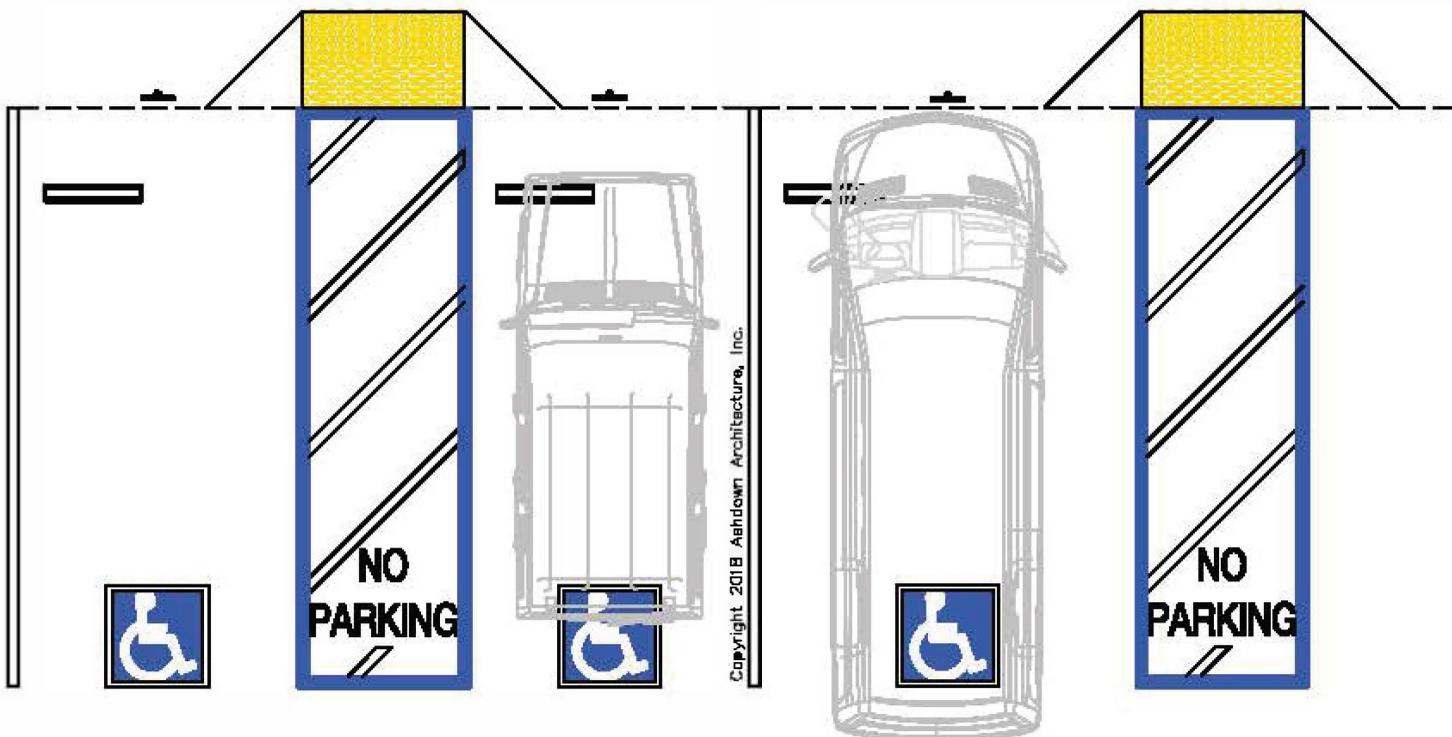
- ▶ An accessible route through the restaurant should allow for enough space between dining chairs when they are in use.
- ▶ Dining surfaces for wheelchair users shall provide a choice of seating locations allowing the same experiences as other diners.
- ▶ Dining surfaces shall be positioned for forward approach and shall allow for toe and knee clearance so that wheelchair users may pull up and under the table. Table legs and bases shall not encroach into these clearances.
- ▶ Where food service lines are provided, they shall be accessible.
- ▶ Where self-service condiments and other items are provided, they shall be within reach of wheelchair users.
- ▶ Waiting areas shall allow for a clear floor space where a wheelchair user may wait.



ACCESSIBLE PARKING

Where parking spaces are provided, accessible parking spaces shall be provided. Items to consider include, but are not limited to:

- ▶ Where parking spaces are provided onsite, accessible parking spaces shall be located closest to the entry.
- ▶ Where multiple entries occur, accessible parking spaces shall be dispersed. The minimum number of both standard and van-accessible parking spaces shall be provided.
- ▶ Accessible parking spaces shall have adjacent access aisles that connect to an accessible route.
- ▶ Accessible parking spaces shall be located so as to prevent passing behind parked vehicles other than their own.
- ▶ Accessible parking spaces and access aisles shall be level and properly marked.
- ▶ All painted markings shall be maintained so as to be clearly visible.
- ▶ Required parking signs shall be provided at accessible parking spaces.
- ▶ "Unauthorized Parking" warning signs shall be placed at the entries to the site or adjacent to all accessible parking spaces.
- ▶ Where loading zones, including valet areas, are provided, at least one shall be accessible with an access aisle.
- ▶ Detectable warnings shall be provided, if a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings or other elements between the pedestrian and vehicular areas.



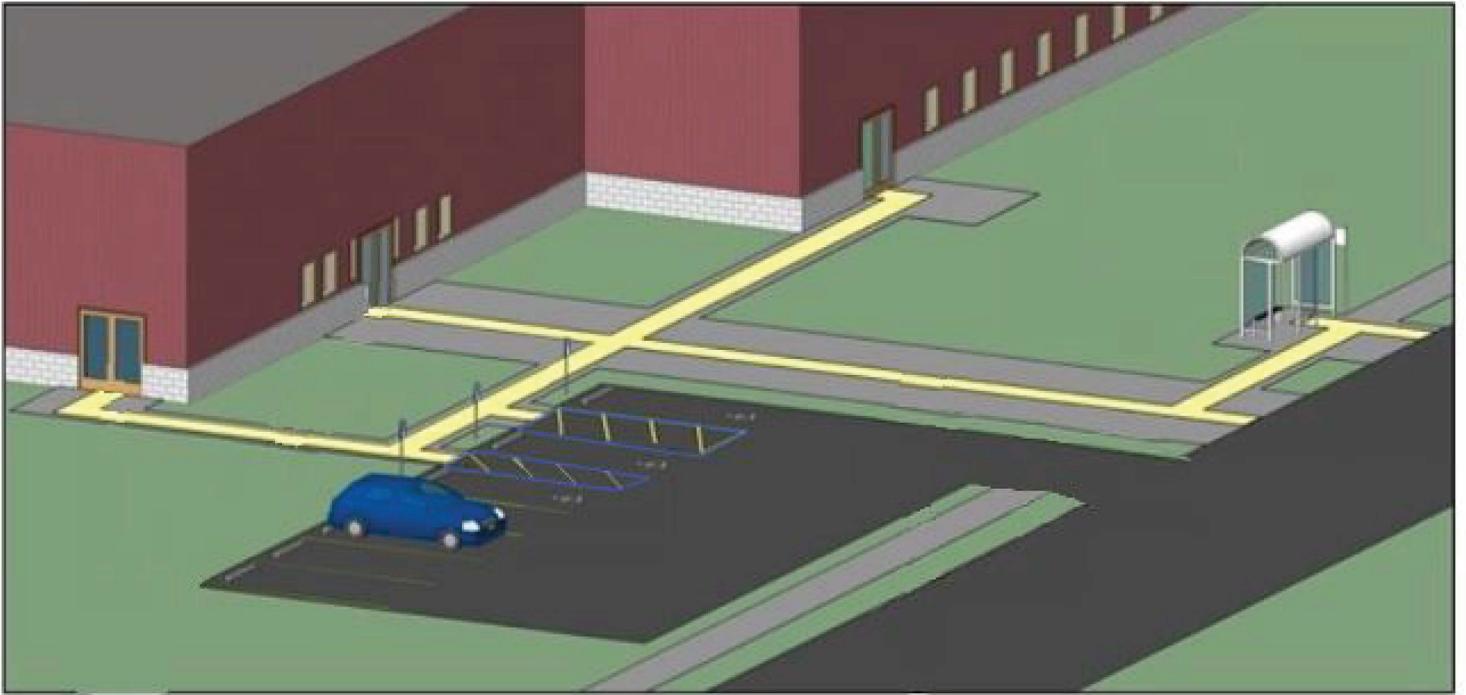
UNAUTHORIZED VEHICLES
 PARKED IN DESIGNATED
 ACCESSIBLE SPACES NOT
 DISPLAYING DISTINGUISHING
 PLACARDS OR SPECIAL
 LICENSE PLATES ISSUED FOR
 PERSONS WITH DISABILITIES
 WILL BE TOWED AWAY AT
 OWNER'S EXPENSE. TOWED
 VEHICLES MAY BE RECLAIMED
 AT
 (Insert Address)
 OR BY TELEPHONING
 (Insert Tel. #)


 PARKING
 ONLY
 VAN
 ACCESSIBLE
 MINIMUM
 FINE \$250

ACCESSIBLE ROUTES

An accessible route is designed so that it can be used by individuals with mobility disabilities. Exterior accessible routes shall be provided within the site from accessible parking spaces, accessible loading zones, public streets and sidewalks, public transportation stops, and between buildings on the same site to the accessible entrances that they serve. Both exterior and interior accessible routes shall connect accessible elements and spaces within the site and building, as well as to each floor level. Items to consider include, but are not limited to:

- Walk shall be wide enough for an individual in a wheelchair and shall be level, undamaged, slip-resistant, and with joints of minimal size.
- Trees and bushes shall be kept trimmed so as not to overhang walk.
- Signs and other items shall not overhang lower than 80" above walks.
- Vehicles shall be prevented from encroaching into minimum width required for a walks.
- Ramps shall have handrails, guide rails, level landings, and shall have the least slope possible.
- Stairs shall have handrails and visual striping.
- Elevators shall be sized to accommodate wheelchairs, and shall have visual and audible signals, emergency communication systems and car control buttons that are raised and identified with tactile characters and Braille.
- Directional signs may be required to indicate the locations of accessible routes and other elements and spaces.



ACCESSIBLE ENTRANCES AND DOORS

At least one accessible entrance shall be provided to all buildings, facilities and tenant spaces. Accessible doors and gates shall be provided to accessible entrances, rooms and spaces, both interior and exterior. Items to consider include, but are not limited to:

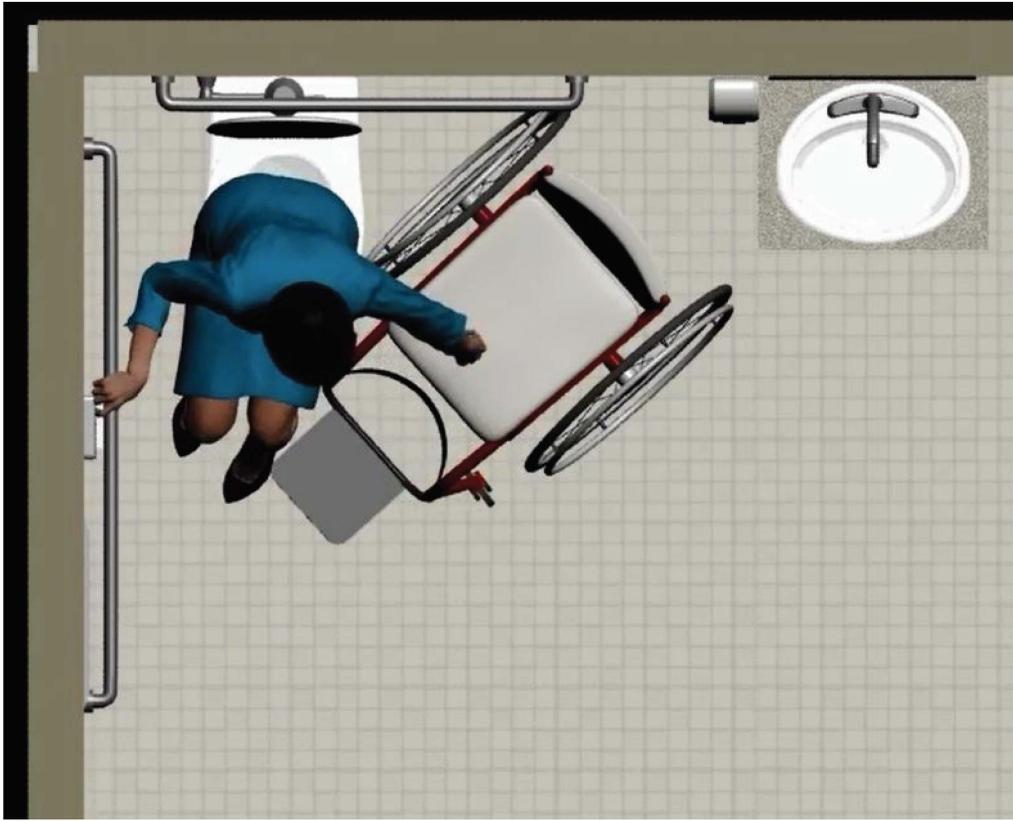
- ▶ Doors shall be a minimum of 32" clear.
- ▶ Door shall have level landings with maneuvering spaces on either side of the door.
- ▶ Door thresholds shall be easy to wheel over, no steps shall be provided.
- ▶ Doors shall be easy to push to a fully open position.
- ▶ Door closers shall be adjusted to close slowly so as not to hit an individual passing through it.
- ▶ Door hardware shall be operable with one hand with little effort.
- ▶ The bottom of the door shall be smooth to allow a wheelchair footrest to push against the door to open it.
- ▶ If glazing is present in the door or adjacent to it, the glazing shall be low enough so that an individual in a wheelchair can see through it.
- ▶ Doors shall be swinging or sliding. Revolving doors, gates and turnstiles shall not be part of an accessible route.



ACCESSIBLE RESTROOMS

Where restrooms are available for use by the public, at least one accessible restroom shall be provided. Where restrooms are provided for both sexes, accessible restrooms shall be provided for each sex. Accessible restrooms shall be located on an accessible route. Items to consider include, but are not limited to:

- ▶ Restroom doors shall be accessible.
- ▶ Doors to accessible stalls shall have self-closers, sliding or flip-over type locks, and loop handles.
- ▶ Door symbols shall identify restrooms.
- ▶ A space for a wheelchair to turn around shall be provided within the room.
- ▶ Accessories shall be located so that an individual in a wheelchair may reach them.
- ▶ Grab bars shall be provided in accessible and ambulatory stalls.
- ▶ Accessible toilets shall be accessible height, with flush valve on wide side of toilet.
- ▶ Accessible lavatories shall allow toe and knee clearance for wheelchair access. All piping and abrasive items below shall be shielded.
- ▶ Freestanding trash cans and other items shall not be placed in the clearances required for fixtures and doors.
- ▶ Baby changing stations shall not be located within accessible stalls.
- ▶ Mirrors shall be low enough so an individual in a wheelchair is able to see his or her reflection.



SALES AND SERVICE COUNTERS

Where provided, at least one sales and/or service counter shall be accessible. Where sales and service counters are dispersed, accessible counters shall be provided. Items to consider include, but are not limited to:

- ▶ A section of the counter shall be lowered to allow for wheelchair access.
- ▶ The top of the counter shall be free of all items to allow for an individual in a wheelchair to use the counter top.
- ▶ A space shall be provided adjacent to the counter where a wheelchair can pull up to the counter.
- ▶ If the counter is to be approached from the front, toe and knee clearance below the counter shall be provided for wheelchair access.
- ▶ All point of sale machines shall have display screens with sans serif text on a contrasting background. Keypads shall be tactilely discernible where provided. At accessible check-out aisles and sales counters, point of sale machines shall be provided within reach ranges.





VOICES OF THE CUSTOMERS

Individuals with disabilities represent a large consumer market for high-quality services and products. The U.S. Office of Disability Employment Policy (ODEP) noted that individuals with disabilities are the third largest market segment in the United States (ODEP, 2012). This market size more than doubles when considering family members, caregivers, and others who assist and support individuals with disabilities. The 2015 Open Doors Organization Market Study survey found more than 50 percent of respondents ate out at least once a week. Unfortunately, 52 percent also reported that they encountered barriers in restaurants, most commonly lack of space between tables, steps, difficult entry doors and dining rooms that were too noisy.

Individuals with disabilities are members of the community, fellow business owners, neighbors, family members, friends, and a significant part of your customer base. This section outlines some areas of consideration to make your business more disability-friendly and accessible to the whole community.

Disability Etiquette

Physical/Mobility

Customers with physical or mobility-related disabilities benefit from clear accessible routes on the exterior and interior. Tables, chairs, and other furniture should be arranged to provide clear and wide aisle space. Counter tops and service areas should allow for access with a mobility device, including access for individuals who may be of short stature. Mobility devices should not be moved or separated from the individual. Individuals with physical or mobility disabilities may also request assistance with carrying food or drinks to their table or booth.

Visual

Customers with visual disabilities benefit from menus in alternative formats, such as electronic, large-print or Braille. Ensure printed menus have appropriate color contrast. Staff may be asked to read the menu options for a customer with a visual disability. When delivering food and drinks, staff should inform the customer where each item is being placed on the table to assist the individual with orienting themselves to their meal. For example, “I am setting your drink to the right and the plate of food in front of you with the steak facing closest to your shirt.” If the customer is accompanied by a service animal, the animal should be allowed inside of the business and not separated from its owner **(See “Service Animal” section for more information)**.

Hearing

Customers who are deaf or hard of hearing may want to write down their order(s). It is good practice to accept the mode of communication the customer offers and provide an option for customers to submit orders in writing. Restaurant staff can engage deaf and hard of hearing customers by making gestures to communicate or writing notes. When adults are present, it is best practice to communicate with the adult(s) and not ask children to facilitate communication.

Intellectual or Cognitive

Accepting written orders can also be beneficial to customers with intellectual or cognitive disabilities. Picture menus are also helpful for customers who have difficulty reading or writing. Some restaurant environments can be overstimulating to the senses and staff may need to reserve quiet spaces for customers who need them. However, these spaces should not inadvertently segregate customers from other diners or the dining experience. Providing timers or another mechanism to determine when food will arrive can help alleviate customer anxiety. When counting back change, staff should count change slowly and may be asked to repeat the count.

Training for New and Existing Staff

Sensitivity toward individuals with disabilities is not only in the spirit of the ADA, it makes good business sense. To help ensure inclusive dining environments, both new and existing staff should be training regularly on disability access and etiquette. Staff should be mindful of customers with disabilities and avoid creating additional access barriers, such as placing items on counter tops designed for disability access or requiring individuals with disabilities to make reservations prior to arriving at the restaurant. A positive, customer-focused attitude can go a long way in making the dining experience enjoyable for everyone. In general:

- ▶ Ask before you help.
- ▶ Be sensitive about physical contact, moving or touching an individual's device and/or service animal.
- ▶ Speak directly to the individual, not to their companion, aide, interpreter or child.
- ▶ Avoid making assumptions.
- ▶ Respond graciously to requests.
- ▶ Be mindful of verbal and nonverbal communications.
- ▶ If your restaurant has meeting rooms, know where assistive listening devices are located, how they work, and whether they need to be regularly charged.

Service Animals

Under Title III of the ADA, food and drink serving establishments must allow customers with a service animal to enter the restaurant even if there is a no-pet policy.

The ADA was amended in 2011 to define a service animal as a dog, and in certain situations a miniature horse may be used as a substitute for a dog.

You may ask if the animal is a service animal and what kind of services the animal provides. You may not ask the customer about their disability, require proof of certification for the animal, restrict the customer to a certain area of the establishment, or charge extra fee(s) for the service animal. The revised Title III regulations clarify certain requirements for accommodation of a service animal:

- ▶ A service animal can be excluded or removed from a facility if it is not housebroken, or if it is out of control and the handler does not take effective action to control it. A food service establishment must still permit the individual with a disability to be served and enjoy the amenities offered without having the animal on the premises.

- ▶ A service animal must have a harness or leash, unless the handler is unable to use the leash or harness due to his/her disability, or it would interfere with the animal's ability to perform work or tasks.
- ▶ A facility is not required to care for or supervise the service animal. Service animals must be permitted in all areas where customers or patrons are allowed to go.



No Animals Allowed

In a Food Facility

Except Service Animals
(CA Health and Safety Code 114259.5)



Fraudulently misrepresenting service animals is a misdemeanor
California Penal Code 365.7(a)

Animals in Food Facility Signage



REFERENCES & RESOURCES

Design and Evaluation Services

American Institute of Architects (AIA),

<http://www.aia.org/about/local-chapters/> Find information about local chapter members and events.

Certified Access Specialist Institute (CASI), www.casinstitute.org Search for a CASp in your area to evaluate your business/property (employing a CASp may provide you with certain legal protections).

Code Interpretation, Code Enforcement, Permitting

Contact your local city building department, or county building department if located in the unincorporated county (building code interpretation and enforcement is the responsibility of the local building department in most cases).

Legal Resources and Advocacy

California Business Properties Association, <http://cbpa.com/>

Membership-based organization that advocates on behalf of businesses and commercial property owners.

State Bar of California: www.calbar.gov Search for legal representation.

California Restaurant Association, www.calrest.org

Membership-based organization for restaurant industry.

California Unruh Civil Rights Act (1959)

The California Unruh Civil Rights Act prevents places of public accommodation from discriminating on the basis of sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language or immigration status.

After the ADA was passed in 1990, any violations related to the protected classes above also constituted a violation of the California Unruh Civil Rights Act and California Disabled Persons Act. Unlike the ADA, the California Unruh Civil Rights Act allows the plaintiff to claim damages.

California Disabled Persons Act (1968)

The California Disabled Persons Act (CDPA) states that individuals with disabilities have the same rights as the general public to places of public accommodation.

The plaintiff may claim damages under the CDPA, but they cannot claim damages under both the Unruh Civil Rights Act and the CDPA.

Education, Laws, and Regulation

California Division of the State Architect, www.dgs.gov/dsa

Responsible for regulatory development and technical assistance of state accessibility standards for places of public accommodation, public buildings, public housing and commercial buildings. They are also responsible for the CASp program (note that code interpretations and enforcement are delegated to the local building department).

California Dept. of Housing and Community Development, www.hcd.ca.gov

Responsible for regulatory development and technical assistance of state accessibility standards for privately owned multifamily residential construction (note that code interpretations and enforcement for multifamily residential buildings is delegated to the local building department).

Corada, www.corada.com

Comprehensive online resource for the ADA (note that CA accessibility regulations are stricter than federal regulations).

U.S. Access Board, <https://www.access-board.gov/>

Federal guidelines and standards, training, technical assistance (note that CA accessibility regulations are stricter than federal regulations).

U.S. Department of Justice, www.ada.gov

Federal laws and regulations, standards for accessible design, technical assistance (note that CA accessibility regulations are stricter than federal regulations).

U.S. Small Business Administration, <https://www.sba.gov/>

Independent agency of the federal government to aid, counsel, assist and protect the interests of small business concerns.



LOCAL CONTACT INFO

Please complete this page with the phone numbers and other important information pertaining to disability access resources in your local community.

Local building inspector: _____

Name of my CASp: _____

Contact info for my CASp: _____

Notes

Areas and date(s) of past building improvements/renovations:

Year building was constructed: _____

Local ordinances: _____

CONTRIBUTORS

CCDA Checklist Committee Members

Brian Holloway, Commissioner, Chair of CCDA Checklist Committee

Scott Lillibridge, Commissioner, Vice Chair of CCDA Checklist Committee

Taylor Collison, California Hotel & Lodging Association

Brandon Estes, California Building Standards Commission

Erika Frank, CalChamber

Richard Halloran, CASp, Retired Senior Building Inspector and Manager, City and County of San Francisco

Gary Layman, California Building Officials, City of Oroville

Mehdi Shadyab, P.E., CASp, City of San Diego

Irene Walela, Department of Rehabilitation

William "Bill" Zellmer AIA, CASp, Sutter Health

Technical Subject Matter Experts

Bassam Altwal, CASp, CalAccessibility

Terry McLean, Architect, CASp, TJ McLean Associates, Inc.

Ike Nnaji, CASp, Disability Access Specialists, Inc.

Voices of the Customers

Michelle Bronson, Deaf and Hard of Hearing Service Center

Tiffany Allen Potter, CCDA Commissioner

Sarah Harris, Resources for Independence Central Valley

Bill Hyatt, Central Valley Regional Center

Darlene McPhaul-Smith, Xperience of Service

Voices of the Customers (continued)

Shannon M. Mulhall, City of Fresno

Norman Norwood Jr., City of Fresno Disability Advisory Commission

Frances Reyes-Acosta, Resources for Independence Central Valley

Shelly Schmidt, Vocation Plus Connections, Inc.

Sue York, Xperience of Service

Rosemary Wanis, California State University Fresno

CCDA Staff

Angela G. Jemmott, Executive Director

LaCandice M. Ochoa, Operations Manager

Taylor St. Mary, Marketing and Outreach Analyst

Dave Chung, Data and Research Analyst

Models

Edward Ly, Department of Rehabilitation

Liz Pazdral, California State Independent Living Council

Kendra Ward, CCDA Volunteer

*Technical review provided by the Division of the State Architect.
Photos taken by Department of General Services Office of Public Affairs
on location in Sacramento, CA. Stock photos used with permission.
Illustrations used with permission from U.S. Access Board and Chris
Downey of Architecture for the Blind.*



by:
**The California Commission on
Disability Access**