

# Five Steps for Business Accessibility

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Businesses have the power to protect themselves against accessibility lawsuits through proactive accessibility compliance. Consider proactive accessibility compliance like liability insurance – it may cost a little out front, but can save money in the long run and prevent a business from shutting the doors permanently.

Businesses that start with these five steps will be on their way toward preventing costly lawsuits and welcoming a wider customer base in their door.

## 1. Get a Certified Access Specialist (CASp) Inspection

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A crucial first step is to get a Certified Access Specialist (CASp) inspection.

A CASp is a professional who has been certified by the State of California to have specialized knowledge of construction-related accessibility standards. The CASp can inspect a business site for compliance issues, provide an inspection report, and issue a Disability Access Inspection Certificate. That certificate will state if the business “Meets Applicable Standards” (No accessibility corrections necessary) or “Inspected by a CASp” (accessibility corrections need to be made).

This CASp inspection provides legal benefits that may reduce a business’ financial liability in a lawsuit filed in state court. It also becomes the basis for showing that the business is proactive and taking positive steps toward accessibility compliance.

The average cost for a small business CASp inspection is less than \$2,000. This is small price in comparison to a settlement. In the Central Valley, settlements can cost between \$15,000 and \$20,000 – not including any construction costs that might be mandated in the settlement! The expense of the CASp inspection is also eligible for IRS credits, deductions, and some loan types.

Businesses in the City of Fresno may be able to get a free CASp inspection. Visit [www.fresno.gov/AccessibleFresno](http://www.fresno.gov/AccessibleFresno) for eligibility criteria.

## 2. Include Accessibility in the Business Plan

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Every business plan should include accessibility. Use the CASp inspection report to establish a reasonable compliance schedule which can be written directly into the business plan. If the business is sued, this compliance schedule in the business plan provides a greater level of defensibility.

Determine how much will be spent on compliance each year and put that budget into the business plan. This amount will be different from business to business based on annual profits. The plan should outline readily achievable steps, such as replacing doorknobs and signage as well as include a savings plan for larger accessibility improvements, such as parking lot restriping or restroom renovations.

When planning for accessibility improvements, start from the outside and work inward. People with disabilities need to be able to park and get in the door in order to spend

money with the business. Additionally, the top access violations reported in lawsuits relate to parking lots, pathways, and entryways. Learn the top 10 ADA violations at [www.cdda.ca.gov](http://www.cdda.ca.gov).

Plan to use IRS credits and deductions for access improvements. These credits and deductions are available every calendar year, so it may be helpful to phase large projects into two-years to maximize deductions.

### **3. Check Lease Agreements**

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Check the terms of the lease agreement for the business property to see if a CASp inspection was done and who is responsible for access improvements. The property owner may not prohibit a CASp inspection of the premises.

The landlord is not required to do a CASp inspection, however they must state on lease agreement whether or not the property has been inspected by a CASp. If a CASp inspection has been performed, the report must be provided to tenant prior to execution of agreement for the leased space and for the common areas. Lease agreement should state clearly the property owner's and tenant's responsibility for correcting accessibility violations and cost of making repairs.

Businesses can also conduct a public records search to determine if the leased property is a subject of current or past access-related litigation. If the property has had unresolved past litigation, the new tenant is an easy target for another lawsuit from the same plaintiff.

### **4. Create an Accessibility Maintenance Program and File**

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Document all compliance efforts with dates, photos, and receipts, including construction project, maintenance, and training. This will lend support to the business' defense if there is a lawsuit and provides backup information for any IRS credits and deductions utilized.

Create a maintenance schedule for accessibility that includes checking that pathways remain clear, door pressures are not too heavy, and other quick fixes. Document when each task is completed and file with the accessibility plan.

Training is an important part of effective customer services. Train employees on disability etiquette, customer service, service animals, and accessibility. Include this training in new employee onboarding as well as annual refresher training and keep a list of employees who attended.

### **5. Utilize Tax Benefits and Financial Resources**

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Track all accessibility costs annually for the use of tax credits and deductions.

Eligible businesses can recoup accessibility improvement costs up to \$10,000 using the Disabled Access Credit and up to \$15,000 using the Architectural Barrier Removal Tax Deduction. Both the credit and deduction can be used in the same tax year if the expenses meet the requirements. Phase large projects into two-years to maximize the

credit and deduction. Learn more about the credit and deduction at <https://www.irs.gov/businesses>

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 the requirements of the ADA. Businesses may receive more favorable loan terms from a lender if the loan is enrolled in the CalCAP/ADA Financing Program. Learn more about this loan at <http://treasurer.ca.gov/cpcf/calcap/ada>

Remember, accessibility is just one of the costs of doing business, not an added expense. By taking these five steps a business owner reduces their risk of costly accessibility settlements. To learn more visit [www.fresno.gov/AccessibleFresno](http://www.fresno.gov/AccessibleFresno)

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