




CALIFORNIA CONSUMER TOOLKIT

*For the Restaurant
Industry*

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A woman with curly purple hair, wearing a white V-neck shirt and a necklace with a cross, is smiling and looking towards the right. She is sitting at a table with a glass of water and a straw in front of her. The background is slightly blurred, showing an indoor setting.

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MESSAGE FROM 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 become 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 visit our great state. It takes all of us from the governments, business and disability advocates communities to fully embrace this journey together for this vision to come into fruition.


Our heartfelt gratitude toward the Checklist Committee members, the Access Specialists, the Disability Advocates, and the supporting Community Leaders for the productive time, energy, and true dedication in putting this Toolkit together. We gratefully acknowledge without their complete support CCDA could not have produced this kind of consumer user-friendly results.

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 of the material. It is our sincere hope that we provide guidance to you the food service operators the knowledge, ideas, and inspiration in as much that disability access will simply be a part of your culture of doing business.

Highest Regards,

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Angela Jemmott, Executive Director
California Commission on Disability Access



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.

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CHALLENGES WITHIN OUR COMMUNITY

Government Code 14985.8 requires the California Commission on Disability Access (CCDA) to compile and report data on any 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 two example complaints received by CCDA .

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California Federal Court Complaint (2018)

In January 2018, plaintiff was allegedly denied equal access to a restaurant serving pizza due to access barriers within the parking lot, aisles, paths of travel, signage, doorway, and other services offered by the defendants to their patrons. The defendant was not aware of the CASp program, so an early evaluation was not performed to protect the business prior to litigation. 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 twelve 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 defendants were not aware of the CASp program, so an early evaluation was not performed to protect the business prior to litigation. 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.

These examples supported by CCDA data in the Top Ten Violation tables, illustrate common access barriers individuals with disabilities may encounter when visiting restaurants. The following section outlines laws that promote equal access and prevent discrimination against individuals with disabilities.

General Overview of Disability Access Laws

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 regards 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, modifications or alterations completed after 1992 must be fully compliant with the ADA. Existing facilities must be evaluated continuously to ensure readily achievable barrier removal is completed.

The ADA only allows the plaintiff to recover attorneys' fees and for injunctive relief, that is a court order requiring the place of public accommodation to fix all alleged disability access related issues.

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Unruh Civil Rights Act (1959)

The Unruh Civil Rights Act prevents business 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 1992, any violations related to the protected classes above also constituted a violation of the Unruh Civil Rights Act.

Unlike the ADA, the Unruh Civil Rights Act allows the plaintiff to claim damages up to \$4,000 for every violation instance.

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 public facilities.

The plaintiff may claim damages up to \$1,000 under the CDPA, but they cannot claim damages under both the Unruh Civil Rights Act and the CDPA.

California Building Code (California Building Standards Commission est. 1953)

The California Building Code (CBC) codifies the architectural requirements of the ADA and is revised every three years. In order to ensure your business is compliant with the ADA, it must also be compliant with the structural accessibility requirements of the CBC.

Construction-Related Accessibility Standards Compliance Act (CRASCA, Civil Code §55.51-55.545, also referred to as SB1608 (2009))

Created the CASp program and afforded certain protections in the California court system to any business owner that hires a CASp to perform an accessibility inspection. (Also SB 1608 established the California Commission on Disability Access, CCDA)

Your Access Rights

Defending Against a Title III Accessibility Claim

Plaintiffs are not required to notify you before filing an ADA complaint against your business. In some instances, the building owner, tenant, owner's or tenant's agents or employees, may receive a pre-ligation 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-ligation letter do not mean that you are required to pay any money unless and until a court finds you liable.

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SB 1186 (Chapter 383, Statutes of 2012) This law prohibits a pre-ligation letter from including a request or demand for money or an offer or agreement to accept money. The bill also would prohibit 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-ligation letter, and to submit copies of the pre-ligation 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-ligation, 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, reaching a settlement, and/or negotiating away some of the alleged violations.

Reducing Your Damages in State Courts

SB 269 (Chapter 13, Statutes of 2018) This law 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. This law also exempts a defendant from liability for minimum statutory damages with respect to a structure or area inspected by a certified access specialist for a period of 120 days if specified conditions are met.

The law requires a defendant who claims the benefit of this exemption to disclose the date and findings of any certified access specialist (CAsp) inspection to the plaintiff.

(See “Solutions” section for more information).

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Commercial Tenant(s)

If you are a commercial tenant, you may not be responsible for ensuring that some or all portions of the premises you lease for your business, including common areas such as parking lots, are accessible to the public because those areas may be the responsibility of your landlord.

AB 2093 (Chapter 379, Statutes of 2016) This law that 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 determined by a CASp to meet all applicable construction-related accessibility standards. It also requires a commercial property owner or lessor property owner or lessor to provide the lessee or tenant with a current disability access inspection certificate and inspection report or a copy of a CASp inspection report, as specified, if the premises have been issued an inspection report indicating that they meet applicable standards.

If the premises have not been issued a disability access inspection certificate, the law requires a statement on the lease form or rental agreement stating that, upon request of the lessee or tenant, the property owner may not prohibit a CASp inspection of the subject premises and that the parties must mutually agree on the arrangements for the time and manner of the inspection, the payment of the associated fee, and the cost of making repairs, as specified.

You may want to refer to your lease agreement and consult with an attorney or contact your landlord, to determine if your landlord is responsible for maintaining and improving some or all of the areas you lease. **(See “Buyer Beware” section for more information).**

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Top 10 Alleged Violation Tables

The Alleged Violations Overview tables are intended to provide a look at the top three types of alleged violations submitted to CCDA in 2017 overall and for the restaurant industry. As shown in the tables, parking related violations have occupied each top three spot in 2017.

As shown in the tables, parking related violations have occupied each top three spot in 2017.

Alleged parking violations may be the highest frequency due to the fact that often times customers cannot even access the interiors of business establishments because of an inaccessible parking lot. By remedying inaccessible features inside and outside your business establishment, it 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 to increase the number of individuals contributing to the local economy.

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

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2017 TOP 10 ALLEGED VIOLATIONS (OVERALL)

Rank #	Key Code	Violation Description	Total # of Violations	Percent of Total
1	11	Parking: parking lot does not contain the minimum number of accessible parking spaces.	1,792	17%
2	16	Accessible Route and Entry: curb ramps or entrance ramps are non-compliant or non-existent.	1,091	10%
3	12	Parking: the existing parking spaces are not compliant.	947	9%
4	15	Accessible Route and Entry: routes to and from the parking lot or public right-of-way are not accessible.	830	8%
5	14	Parking: van-accessible parking, van access aisles and/or loading zones are non-compliant or non-existent.	645	6%
6	26	Access within Public Facility: heights of surfaces such as counters, bars, and tables, for example, are non-compliant.	608	6%
7	13	Parking: signage in parking lot is non-compliant. For example, spaces need to be designated as reserved by a sign showing the symbol of accessibility.	504	5%
8	44	General Violations: accessible features are not maintained.	434	4%
9	18	Accessible Route and Entry: handles, pulls, latches, locks, or other operating devices are not accessible.	405	4%
10	20	Access within Public Facility: access aisles or path of travel within building are not accessible.	367	3%
		Total	7,623	72%

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

Rank #	Key Code	Violation Description	Total # of Violations	Percent of Total
1	26	Access within Public Facility: heights of surfaces such as counters, bars, and tables, for example, are non-compliant.	237	9%
2	16	Accessible Route and Entry: curb ramps or entrance ramps are non-compliant or non-existent.	197	8%
3	12	Parking: the existing parking spaces are not compliant.	192	8%
4	11	Parking: parking lot does not contain the minimum number of accessible parking spaces.	189	7%
5	8	Height and Clearance: height of top and bottom of counters/sinks are not accessible, plumbing insufficiently covered, coat racks too high, light switch too high.	140	5%
6	15	Accessible Route and Entry: routes to and from the parking lot or public right-of-way are not accessible.	137	5%
7	1	Bathrooms: entry doors are not accessible or not on an accessible route.	119	5%
8	44	General Violations: accessible features are not maintained.	114	4%
9	14	Parking: van-accessible parking, van access aisles and/or loading zones are non-compliant or non-existent.	113	4%
10	5	Bathrooms: lavatories and mirrors are not accessible.	110	4%
DRAFT Total			2,571	60%

SOLUTIONS FOR YOUR BUSINESS

Undertaking efforts to ensure that your business is accessible to individuals with disabilities will reduce the risk of your facility becoming the subject of a lawsuit or other enforcement action. Because defending an action can be potentially costly (even if you successfully defend the matter), proactively taking steps prior to becoming the target of litigation is important. This next section outlines some solutions and key areas of accessibility considerations.

What Is a CASp?

A Certified Access Specialist (CASp) is a person who has been voluntarily certified by the Division of the State Architect (DSA) to have the knowledge and experience to determine if buildings are compliant with state and federal construction-related accessibility standards. A CASp must pass a certifying exam and is required to renew their certification.

CASp Benefits

With a CASp inspection you receive several benefits:

- ▶ A report and action plan for increasing accessibility at your place of business
- ▶ The ability to ask for an early evaluation conference and possibly a stay in the court proceedings
- ▶ A certificate stating your facility is CASp inspected
- ▶ Have lower statutory damages to pay when violations are corrected within a certain amount of time
- ▶ Additional benefits for small business.

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A CASp Success Story

"5 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 who are or what businesses are the attendees 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 re-inspect 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. Best defense against a lawsuit is to be already compliant."

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Buyer Beware: BEFORE you lease, know these SIX

1. **Think Barrier Removal.** Are there any steps along the circulation path? Do the bathroom facilities seem too small to allow an individual using a wheelchair to negotiate? Do the counters seem to be too high? No matter how extensive the alteration, there is a high likelihood that some elements of the building, the space, or toilet facilities would be required to be upgraded to the current accessibility standards.
2. **Understand**, restaurants as places of eating and drinking establishments are places of public accommodation and are required by law to be made accessible to individuals with disabilities.
3. **Ask the landlord**, *"Is the building, the space, and the toilet facilities are disabled accessible (ADA) compliant?"*
4. **Consult** with a CAsP to evaluate the scope of accessibility upgrade to building elements.
5. **Budget** for the cost of accessibility upgrade to the building elements such as entrance, toilet facilities and parking spaces, and be prepared to spend 20 percent of the adjusted construction cost of your project on the upgrade.
6. **Myth**, this is: *"I have a small restaurant. (or) I don't have any money. I don't have to do anything."*

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Restaurant Areas of Accessibility At-a-Glance

RESTAURANTS

Accessible routes shall be provided to all functional areas of the restaurant including raised, sunken, and outdoor areas. 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 or drink is served at a counter, a lowered surface shall be provided with knee and toe clearance and the counter shall be wide enough to accommodate an adjacent companion seated shoulder to shoulder.
- ▶ Where food service lines are provided, they shall be accessible.
- ▶ Where self-serve condiments and other items are provided, they shall be within reach of wheelchair users.
- ▶ Waiting areas shall allow for a clear floor space where wheelchair user may wait.

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ACCESSIBLE PARKING

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

- ▶ 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 relatively flat and properly marked.
- ▶ All painted markings shall be maintained so as to be clearly visible.
- ▶ Signage shall be provided at accessible parking spaces.
- ▶ 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.
- ▶ Where electrical vehicle charging stations are provided, they shall include accessible charging stations and shall not be used for included in the accessible parking count.

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Restaurant Areas of Accessibility At-a-Glance contd.

ACCESSIBLE ROUTES

Accessible routes shall be easy to navigate by individuals with disabilities, including mobility, visual, and other impairments. 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:

- Walkways shall be wide enough for an individual in a wheelchair, be relatively flat, undamaged, slip resistant, and with joints of minimal size.
- Trees and bushes shall be kept trimmed so as not to overhang walkways.
- Signs and other items shall not overhang walkways.
- Vehicles shall be prevented from overhanging the minimum width required for a walkway.
- Ramps shall have handrails, guide rails, level landings, and with the least slope possible.
- Stairs shall have handrails and visual striping.
- Elevators should have visual and audible signals, raised controls with tactile characters and Braille, proper signage, sized to accommodate wheelchairs, and emergency communications.
- Directional signs may be required to provide indicate the locations of accessible routes and other elements and spaces.

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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 wide enough to accommodate a wheelchair passing through it.
- 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 provided 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.

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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 and wall signs 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 elongated type, 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 their reflection.

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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.
- ▶ Point of sale machines operated by the public shall be within reach and shall have display screens with sans serif text on a contrasting background. Where keypads are provided they shall be tactilely discernible.

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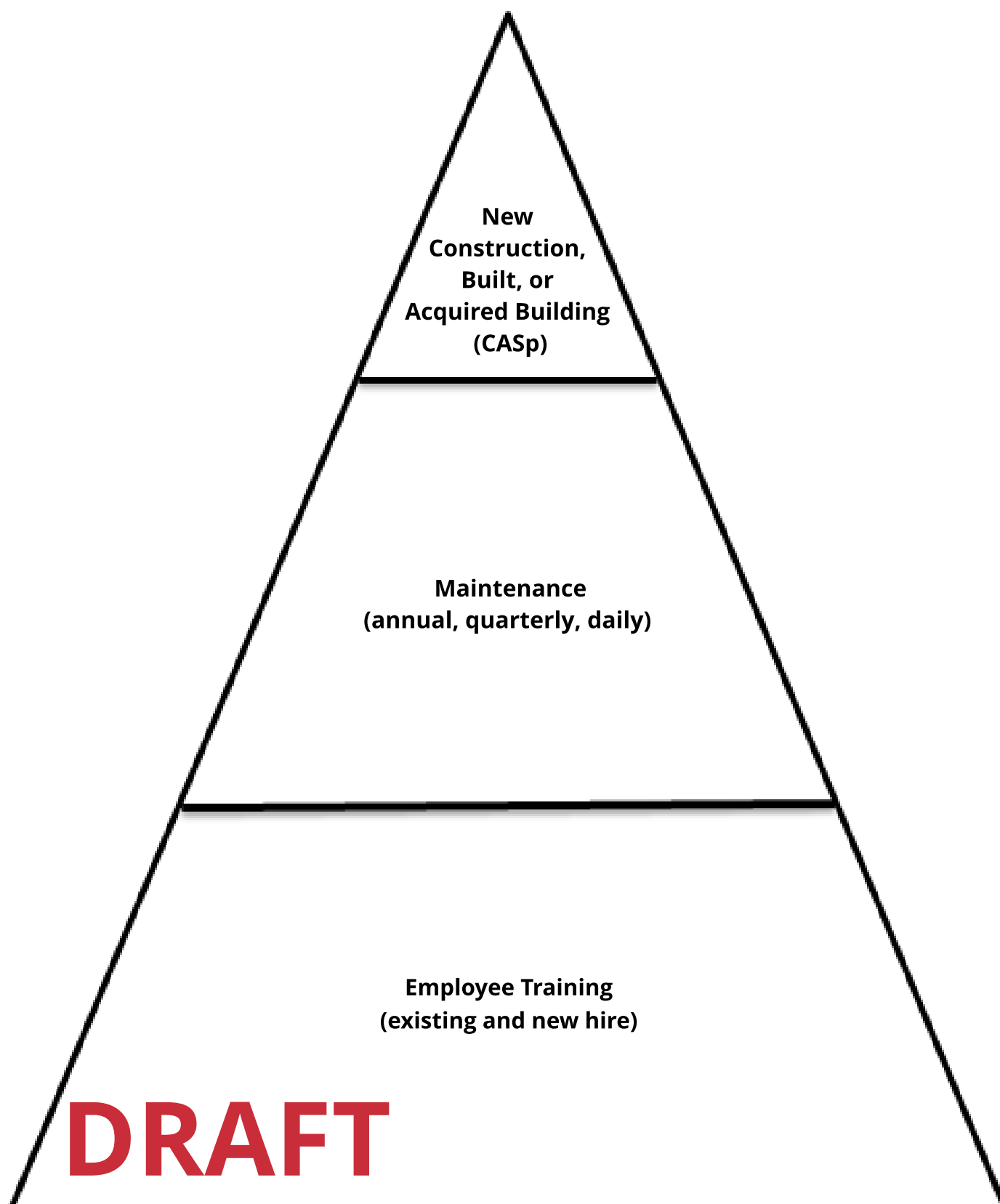
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PLACEHOLDER PAGE FOR DRAWINGS

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Restaurant Areas of Accessibility At-a-Glance Cont'd



HOW TO GET STARTED WITH YOUR ADA WORK

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

- ▶ Address readily-achievable barrier and hazard removal (e.g. parking lot maintenance, landscaping, removing tripping hazards, relocating items out of clear floor space)
- ▶ Get a CAsp Inspection
- ▶ Discuss inspection results with your CAsp
- ▶ Consider professional legal advice
- ▶ Discuss building permit requirements with your local building department
- ▶ Consider hiring an architect to provide drawings for corrective work
- ▶ Determine how much money your business can commit each year to corrective construction work
- ▶ Speak to a financial adviser for long-term business/financial planning
- ▶ Develop a specific 'Plan of Action' to provide full access to your building or business
- ▶ The next section provides access funding resources to assist in improving accessibility of your restaurant(s).

Access Funding

Disabled Access Credit

The Disabled Access Credit provides a non-refundable 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>

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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 the requirements of the federal Americans with Disabilities Act (ADA) of 1990. 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/cpcfa/calcap/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 non-profit 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

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VOICE OF THE CUSTOMER

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 people 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% of respondents ate out at least once a week. Unfortunately, 52% 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.

In California, individuals with disabilities comprise over 10% of the total population, and the counties with the highest disability population percentages are Lake (22.3%), Butte (18.4%), and Mendocino (17.3%) respectively (U.S. Census Bureau, American Community Survey, 2017).

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 paths of travel 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.

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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 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.

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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, staff both new and existing 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 non-verbal communications.

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.

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- ▶ 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

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REFERENCES & RESOURCES

Design and Evaluation Services

American Institute of Architects (AIA), <http://www.aiacc.org/about/local-chapters/>
Search for an architect in your area with knowledge of building codes and accessible design.

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.

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Education, Laws, and Regulation

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

Author of state accessibility standards for commercial construction, CASp program, list of CASps, technical assistance (note that code interpretations and enforcement for commercial buildings is delegated to the local building department)

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

Author of state accessibility standards for residential construction, technical assistance (note that code interpretations and enforcement for 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

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LOCAL CONTACT INFO

Please fill this page out with the phone numbers
and other important information
pertaining to disability access in your local
community

Local Building Inspector _____

Local Ordinances _____

Name of my CASp: _____

Contact info for my CASp: _____

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

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