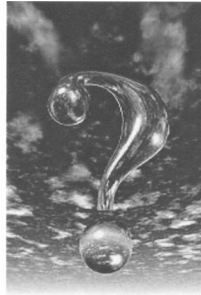


DOJ's "New" Regulation

- What's the latest?
- When will it affect us?
- How will it affect us?



1

What DOJ proposes to do

First major revisions to the original (and current) ADA regulations (1991/1994) for

- Title II (state and local governments) and
- Title III (private entities, testing entities, commercial facilities)

2

Past and present

- June 2008: DOJ published two proposed rules
- Fall 2008: DOJ drafted final rules
- January 2009: DOJ withdrew ADA rules
- As of June 9, 2010: Final draft regulations under OMB review



3

Predictions?



Final in 2010?

4

Highlights of proposal

- Would adopt new accessibility standards
 - 2004 ADA Accessibility Guidelines (ADAAG)
 - Issued by U.S. Access Board, as ADA accessibility standards
 - DOJ supplements them
- Would update/address/expand provisions on
 - service animals
 - use of Segways® and similar devices
 - ticketing policies for assembly areas
 - program accessibility
 - testing
 - effective communication

5

Service animals

Sections 35.104, 35.136, 36.104, 36.302 (c) (2) – (8)

Definition: an animal that does work or performs tasks for the benefit of an individual with a disability (including psychiatric, cognitive, mental)



M. COLLEEN MCDEVITT, Columbiainmissourian.com

6

...Service animals

- Tasks:
 - Assist during seizure
 - Retrieve medicine or other objects
 - Help individual with dissociative identity disorder to remain grounded



7

...Service animals

- Types: Dog or other common domestic animal (no wild or farm animals, no monkeys, no reptiles)



Jeff Riedel for The New York Times

8

...Service animals

- Emotional support or comfort: if this is the only function, not considered a service animal
- Other agencies may differ (employment, housing, Air Carrier Access Act, state/local)



Dilip Vishwanat/Getty Images, for The New York Times

9

Power-driven mobility devices

Sections 35.137, 36.104

- Issues
 - When they must be permitted
 - What inquiries can be made



10

...Power-driven mobility devices

- Follow “reasonable modification” framework
- Consider
 - Dimensions, etc. compared to wheelchairs
 - Risk to others
 - Risk to environment
 - Ability to stow when not in use
- Can ask if needed due to disability

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Effective communication

Sections 35.104, 35.160, 35.161, 36.104, 36.303

- Additions to examples of auxiliary aids and services
 - Exchange of written notes
 - Accessible electronic and information technology
 - Computer-aided transcription services

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...Effective communication

- Other examples of auxiliary aids and services
 - Brailled displays
 - Screen reader software
 - Video interpreting services (VIS)
 - Standards for performance



13

...Effective communication

- “Qualified reader” defined:
 - One who reads effectively, accurately, impartially
 - One who can use necessary vocabulary
- “Qualified interpreter” modified
 - Includes sign language, oral, and cued speech interpreters
 - Oral and cued speech interpreter defined

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...Effective communication

- Companions
 - Covered entities must communicate effectively with companions, as appropriate
 - Family members, friends, associates
- Can’t require person to bring own interpreter
- Can’t rely on companions to interpret except in emergency or by request

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...Effective communication



- Automated attendant systems, if provided, must provide effective communication



- Entity must answer TTY relay calls in same manner as it answers others

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Event ticketing policies

- Distribution outlets
- Clear seating charts
- Ticket transfers
- "Sell outs" and accessible seats
- Equivalent pricing and access limitations
- Verification
- Captioning at large venues



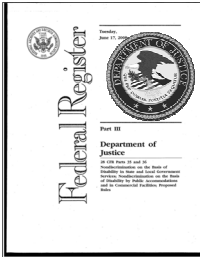
17

How to get a grip (on the rules)

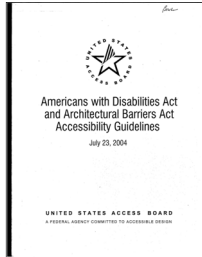
- The rules themselves (DOJ)
Proposed regulatory language: 12 pages (about half is about facilities)
- The preamble/explanation
 - Comes before each rule
 - 40 pages and 60 pages respectively
 - DOJ asked 111 specific questions for comment

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Two documents to know



DOJ's proposed ADA rules (titles II and III)



Access Board's 2004 accessibility guidelines (proposed standards)

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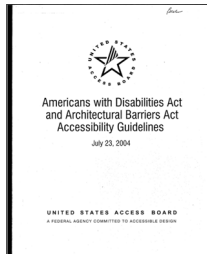
...How to get a grip (on the rules)

- The proposed standards (Access Board, i.e. 2004 ADAAG)
- These were not republished in June 2008
- See www.Access-Board.gov or link at www.ada.gov
- Read everything together

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New construction and alterations

- Meet new requirements starting six months after effective date (or within the six months, by choice)(section 36.406(a))
- Follow new Standards



HANDOUTS

- Chart: highlights of proposed (2008) regulations as to higher education
- Resources
- Acronyms
- Access Basics
- DOJ technical assistance materials

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