



ADA Coordinators' Academy

Session III

Beyond the Front Door...

Evaluating our Policies and Procedures

**Presented by the San Francisco
Mayor's Office on Disability**

Today's Learning Objectives:

- ☐ Understand the principle of “reasonable modifications” to City policies and procedures.
- ☐ Learn how to properly evaluate such requests from the public.



Facilities, programs services and activities shall be **accessible to** and **usable by** people with disabilities.

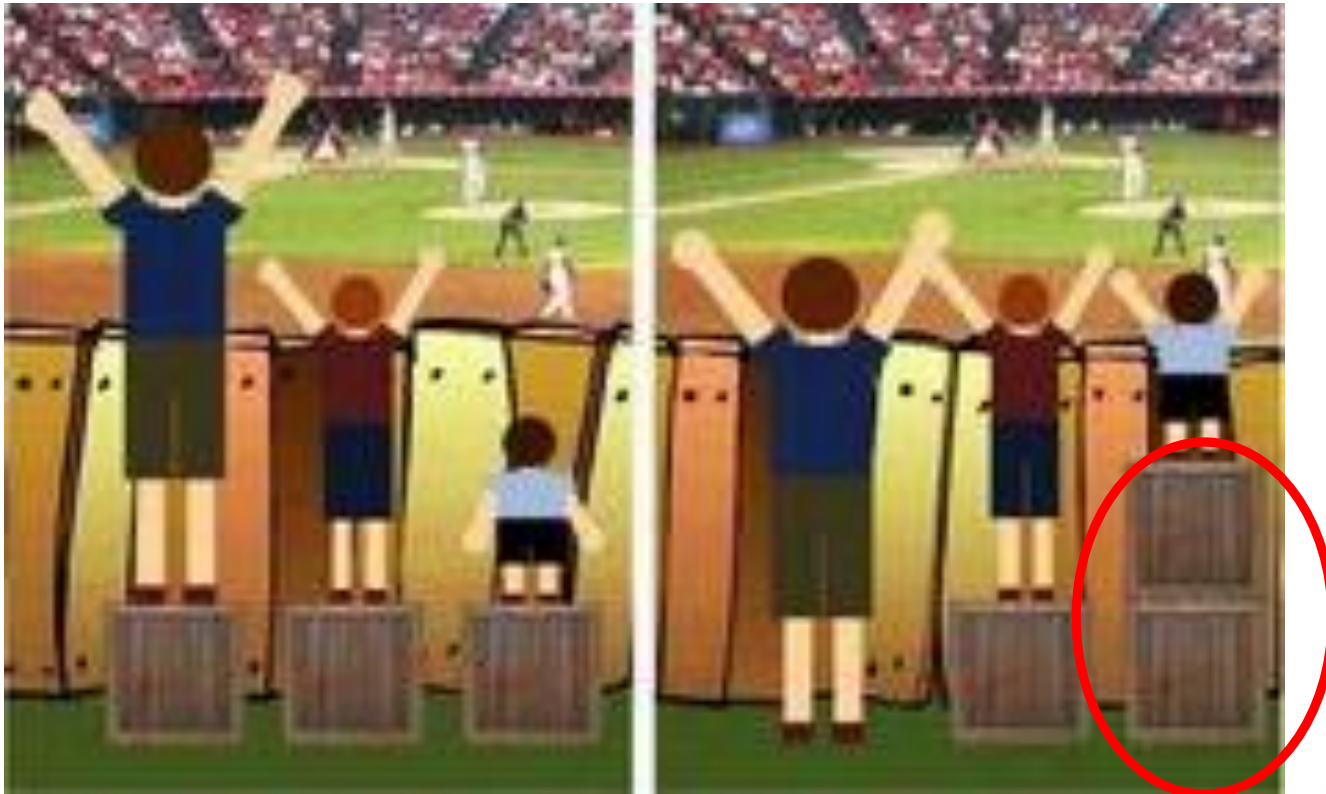
- This statement describes the ADA's affirmative obligations to combat a long history of exclusion and discrimination.
- ***Accessible*** refers to buildings and features that have specific minimum standards such as ramps, public transit vehicles, etc.
- ***Usable*** refers to reasonable policy modifications, and changes in procedures that can be made to level the playing field for people with disabilities.

What are Reasonable Modifications?

Reasonable Modification to Policies, Practices and Procedures:

- We have the obligation to modify our policies, practices and procedures when needed to provide a PWD an equal opportunity to participate and access services.
- It does not mean preferential treatment.
- It should be provided easily and with no burden to the PWD.
- Proof of disability or documentation requirements are very limited.

Same versus “Equal”



Examples of RMs can include:

- Exceptions to the “no pet” rule to allow individuals with service and support animals.
- Allowing an exception to the City’s zoning setback rule to allow an individual to install a wheelchair ramp in front of their house.
- Allowing additional time for public comment to someone with a speech disability.
- Assisting someone with a cognitive disability in understanding and filling out a form to receive services.
- Arranging an intake interview by appointment instead of waiting in line for someone with an anxiety disorder.

When can a request for a Reasonable Modification be denied?

If the public entity can demonstrate that the modification would:

1. **fundamentally alter** the nature, service, program, or activity.
2. result in a **financial or administrative burden**.
3. result in a **direct threat** to self or others.

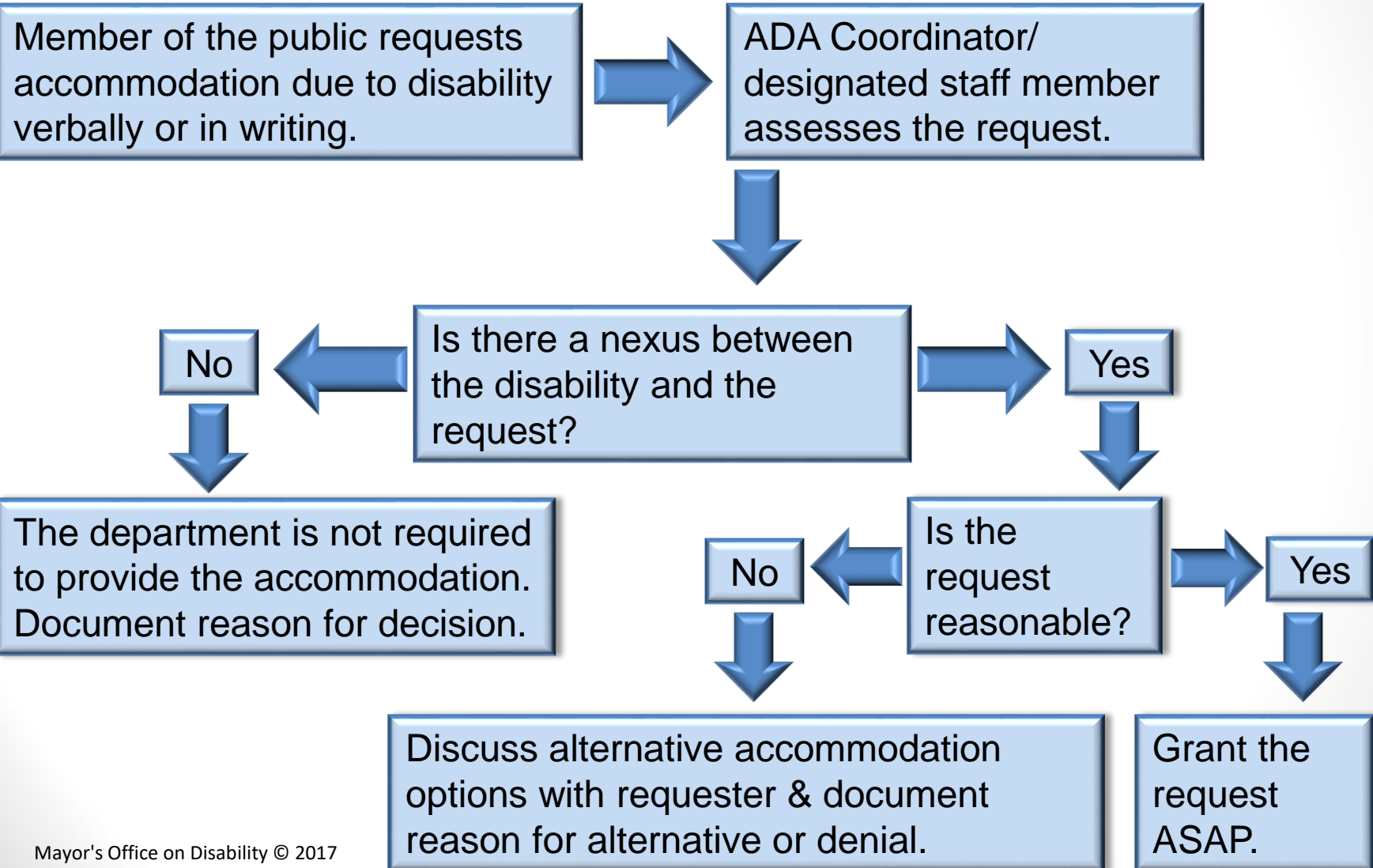
- Disability access, physical or programmatic, **DOES NOT** trump health and safety considerations!

- *The threat assessment, however, must be based on research and documented fact, not assumptions.*

Examples of Fundamental Alterations

- A patron at a City cultural center requests that a wheelchair be purchased by the facility and reserved for his personal use.
- A patron at a City funded facility requests that the restrooms have a higher quality toilet paper due to the patron's sensitivities and her need to use the restroom more frequently due to her disability.
- A RPD participant attending an aromatherapy candle making class requires that only unscented, specific wax quality materials are used.
- A group van paratransit user requires that only a specific route is taken to her destination to avoid going up and down hills.

RM Requests Flowchart



5 minute Stretch Break!



Service Animals Under the ADA

- DOJ's revised ADA regulations define "service animal" as any **dog** that is **individually trained to do work or perform tasks** for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.
- In some cases, where reasonable, miniature horses might be allowed.



Service Animal Inquiries

- Service animals are not required to have specific harnesses, vests or identification tags.
- The ADA allows only limited inquiries about service animals even if their function is not obvious:
 1. Is the dog a service animal required because of a disability?
 2. What task has the dog been trained to perform?
- You cannot ask about the person's disability.
- You cannot ask the person to have their service animal demonstrate a task.



ADA Service Animal Rules

- **A service animal can be removed if:**
 1. The animal **is out of control** and the handler does not take effective action to control it.
 2. The animal **is not housebroken**.
 3. The animal **poses a direct threat** to the health or safety of others.
- Places that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.
- Staff can not refuse service to people using service animals due to allergies and fear of dogs.
- People with disabilities who use service animals cannot be isolated from others or treated less favorably than others.
- Staff are not required to provide care or food for a service animal.

Support Animals – **NOT** Covered under the ADA

- A support animal does not perform a disability specific task but its mere presence offers an individual with a disability emotional support.
- It primarily provides assistance for people with psychological disabilities such as depression, anxiety or agoraphobia.
- A support dog is different than a Psychiatric Service Dog, it has not been specifically trained.
- Support animals can be other species (i.e. cats, birds, reptiles, etc.).



Support Animals – **Are Covered** under the FHAA, FEHA and Section 504 of the Rehabilitation Act

- The term used is assistance animal.
 - Includes both animals that are trained to perform a specific task for a person with a disability **AND** animals that provide emotional support or are therapy animals.
- The species of the animal is not limited to dogs.



Service and Support Animals in CCSF

- Individuals with disabilities that use service AND / OR support animals are allowed equal access to all City sponsored programs, facilities, services, and activities.
- Service and Support Animals must adhere to behavioral guidelines.
- Cannot be more restrictive than what is outlined under State and Federal law but can provide greater access.

**Service and Support Animals Welcome**

Your Animal Must:

- • BE under your control AND on a short leash or in a carrier
- • BE house-trained
- • NOT be disruptive or aggressive
- • NOT be on furniture
- • NOT be fed or watered indoors

You Are Responsible for Your Animal's Behavior!

Extra Time?



Lilian Stuart contacts the Clerk of the Board of Supervisors to request that she receives extra time to speak during public comment at the next Board of Supervisors' meeting. Ms. Stuart explains that she has a speech impairment and stutters when she speaks in public which makes it difficult for her to relay what she wants to say in a timely manner. She requests 6 minutes instead of the 3 minutes allocated for public comment.

- How would you begin to analyze this request?
- Does this request raise any concerns?
- What about documentation?
- Should the request be granted; why or why not?
- Are there other alternatives to the requested accommodation?

Permission to record?

Marco DuPont who is hard of hearing and a client at a City funded shelter, contacts the ADA Coordinator to request that he be provided a recording device and be granted permission to record his conversations with staff and other shelter clients. He says that due to his disability, he has difficulty hearing in noisy settings and needs the device to playback conversations so he can verify what was said in the conversation.

- Does this request raise any concerns?
- What about documentation?
- Should the request be granted; why or why not?
- Are there other alternatives to the requested accommodation?



To Plant a Tree...

David Jackson is doing a major renovation to the front of his house, costing hundreds of thousands of dollars. As part of a City Code, he is required to plant trees in front of his sidewalk or to pay a fee that amounts to approximately \$1,700. He requests a reasonable modification to be exempted from planting the trees **AND** waive the fee due to a respiratory disability.

- Given everything you've learned so far, how would you respond to Mr. Jackson's request?
- What questions will you ask?
- What about documentation?
- What other options might you be able to offer?



What about the Dog?



Martha Jones comes into your office to apply for a program. You have a strict no pets policy in your building but you notice that Ms. Jones has a small Chihuahua named Chi-Chi accompanying her. Ms. Jones doesn't look like she has a disability and needs the dog either.

Ms. Jones has a carrier with her but she decides to let the Chihuahua off leash in your office. The Chihuahua sniffs around the office and knocks over a small trash can. The dog then approaches your co-worker Cindy who is allergic to dogs. You see that Cindy looks unhappy about the dog's presence.

- How would you respond?
- What would be your next steps?
- What type of documentation can you ask for Ms. Jones to provide to verify her need for the animal?
- Can you ask for the animal to be removed if a staff member has allergies?

See you in 10 minutes!



Other Power-Driven Mobility Devices Under the ADA

- Any mobility device powered by batteries, fuel, or other engines that is used by individuals with mobility disabilities for the purpose of locomotion, whether or not it was designed primarily for use by individuals with mobility disabilities.
- May be used for some additional benefit or sense of privacy they provide.
- Are subject to additional inquiries and assessments.
- Examples include Segways, golf carts, etc.



Reasonable Modification or Fundamental Alteration?

- In determining so, we consider:
 1. The type, size, weight, dimensions & speed of the device.
 2. The facility's volume of pedestrian traffic
 - (which may vary at different times of the day, week, month, or year).
 3. The facility's design and operational characteristics
 - (e.g., whether its service, program, or activity is conducted indoors; its square footage; the density and placement of stationary devices; and the availability of storage for the device, if requested by the user).

Continued...Reasonable Modification or Fundamental Alteration?

- In determining so, we also consider:
 4. Whether legitimate safety requirements can be established
 - to permit the safe operation of the OPDMD in the facility.
 5. Whether its use creates a substantial risk of serious harm
 - to the environment or natural or cultural resources.
 6. If it poses a conflict with Federal land management laws & regulations.

Inquiry About Disability

- **Cannot ask** a person using a wheelchair or other power-driven mobility device questions about the nature and extent of his/her disability.
- **Can ask** for credible *assurance* that the mobility device is required because of a disability.



Credible Assurance

- Can be requested only for those who use other power-driven mobility devices NOT wheelchairs and the following are acceptable types:
 1. A valid, State-issued, disability parking placard or card
 2. Other State-issued proof of a mobility disability, OR
 3. Simply a verbal statement, not contradicted by observable fact, that the other power-driven mobility device is being used for a mobility disability.

Developing a Segway Policy



Guest speaker:
Leah Van der Mei
Director, Guest Operations/
ADA Coordinator
California Academy of Sciences

Thank You!

For more questions & information contact:

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Coming Up ...

Session IV

Effective Communication: A Toolkit for Communicating with People with Hearing and Visual Disabilities

Tuesday, April 18, 2017

9:00 a.m. – 12:00 p.m.

1155 Market Street., 10th Fl.

LightHouse Meeting Room