

## What are the ADA requirements for businesses?

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The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination against individuals with disabilities and requires all public accommodations (businesses and non-profit organizations) to be accessible to individuals with disabilities.

## What are the ADA requirements for architectural access?

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New construction must fully comply with current ADA standards.

Alterations to places of public accommodation that were in existence prior to the passage of the ADA must comply to the maximum extent feasible with the ADA standards in place at the time of the alteration.

Places of public accommodation that have not been altered since the passage of the ADA must remove architectural barriers when it is “readily achievable” to do so. Readily achievable means “easily accomplishable without much difficulty or expense.”

## Who can help me understand how the ADA applies to my business?

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There are many online resources that provide information about the ADA. In addition, you may call the entities listed below to speak with someone about how the ADA applies to your specific circumstance.

- ◆ **Department of Justice Civil Rights Division**  
General information about the ADA  
[www.ada.gov](http://www.ada.gov)  
(800) 514-0301

ADA Update: A Primer for Small Business:  
[www.ada.gov/regs2010/smallbusiness/smallbusprimer2010.pdf](http://www.ada.gov/regs2010/smallbusiness/smallbusprimer2010.pdf)

- ◆ **United States Access Board**  
Information about the technical requirements of the ADA  
[www.access-board.gov](http://www.access-board.gov)  
(800) 872-2253

- ◆ **Pacific ADA Center**  
Information about the ADA and California accessibility requirements  
[www.adapacific.org](http://www.adapacific.org)  
(800) 949-4232

- ◆ **California Division of the State Architect Access Technical Assistance Help Line**  
(916) 445-5827

This brochure is solely informative and should not be treated as legal advice. Updated November 2019.

# Frequently Asked Questions for Business Owners

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## Americans with Disabilities Act (ADA)

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## My place of business is really old. Am I grandfathered In?

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There is no grandfather clause in the ADA. Existing facilities that have not been altered in any way since the passage of the ADA are still obligated to bring their facilities into compliance when it is “readily achievable” to do so.

## Do the ADA requirements for architectural access apply to historic buildings?

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The requirement to remove barriers when it is “readily achievable” to do so applies to qualified historic facilities to the extent that doing so does not threaten or destroy the historic significance of a facility.

When a historic facility is altered, the alteration must be done in compliance with current ADA standards to the maximum extent feasible without threatening or destroying the historic significance of the facility.

## What are the financial consequences of ADA noncompliance?

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The ADA is a civil rights law, so each barrier to access represents a civil rights violation. In California, the Unruh Civil Rights Act sets minimum monetary damages at \$4,000 and the Disabled Persons Act sets minimum monetary damages at \$1,000.

## What are the most common accessibility complaints?

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The California Commission on Disability Access maintains a current list of the top ten alleged construction-related ADA violations that is available at [www.cdda.ca.gov](http://www.cdda.ca.gov).

## Is the landlord or tenant responsible for ADA compliance?

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ADA compliance of facilities and common areas is a shared responsibility between the landlord and tenant.

In California, beginning July 1, 2013, all lease and rental agreements must stipulate whether the property was inspected by a CASp and, if so, whether or not the property is compliant with all applicable construction related accessibility standards.

## Is there any financial help for business accessibility?

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Yes, tax benefits and financial resources are available to assist businesses in complying with the ADA.

- ◆ Federal Disabled Access Credit – Up to \$5,000 credit for eligible access expenditures for small businesses.
- ◆ Federal Barrier Removal Tax Deduction – Up to \$15,000 per year for qualified expenses for businesses of any size.
- ◆ California Capital Access Program (CalCAP) ADA Financing Program – Assists small businesses with financing costs to comply.

## Who can assess my business for necessary ADA improvements?

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The State of California Certified Access Specialist (CASp) program is designed to meet the public’s need for experienced professionals who can determine if facilities are compliant under the ADA and California law.

With a CASp inspection, you will receive a review by a professional who knows which accessibility standards apply to your facility and an action plan for changes needed for your facility to become compliant.

For more information about the CASp Program visit [www.dgs.ca.gov/casp](http://www.dgs.ca.gov/casp).

## What legal benefits does a CASp inspection provide?

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Legal benefits available to businesses with a CASp inspection include:

- ◆ An early evaluation conference.
- ◆ A 90-day stay of court proceedings.
- ◆ Reduction of minimum statutory damages from \$4,000 to \$1,000 if construction-related accessibility violations are correct within 60 days.
- ◆ Additional benefits for qualified small businesses.

Businesses do not have to be fully compliant to receive these benefits, but the inspection must have occurred before a claim is filed. Making progress on correcting violations according to the schedule of improvements established after the inspection may reduce liability.