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Disclaimer

Information, materials, and/or technical assistance are intended solely as informal guidance and are neither a determination of your legal rights or responsibilities under the ADA, nor binding on any agency with enforcement responsibility under the ADA.

The Rocky Mountain ADA Center, operated by the University of Northern Colorado, is funded under a grant from the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR grant number 90DPAD0014) to provide technical assistance, training, and materials to Colorado, Utah, Montana, North Dakota, South Dakota, and Wyoming on the Americans with Disabilities Act.
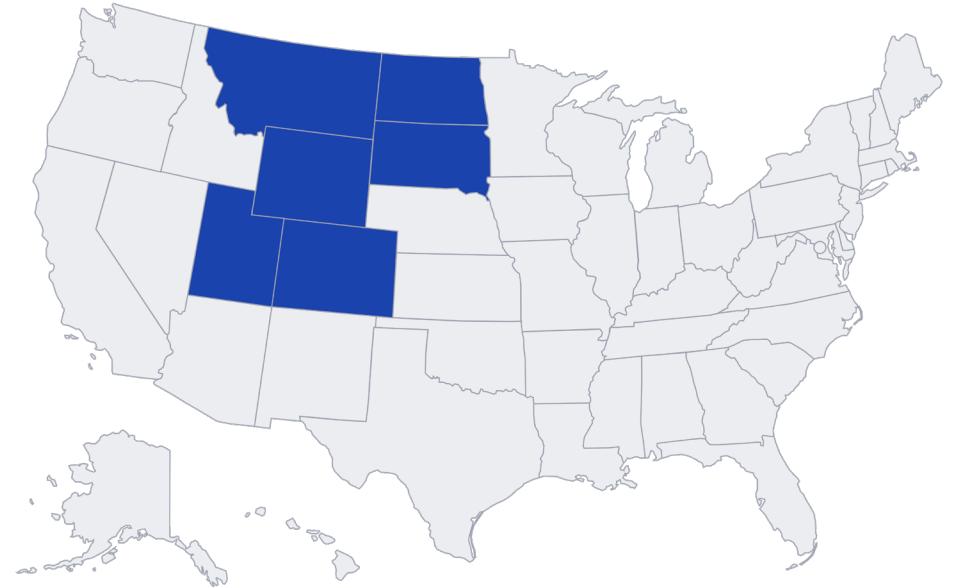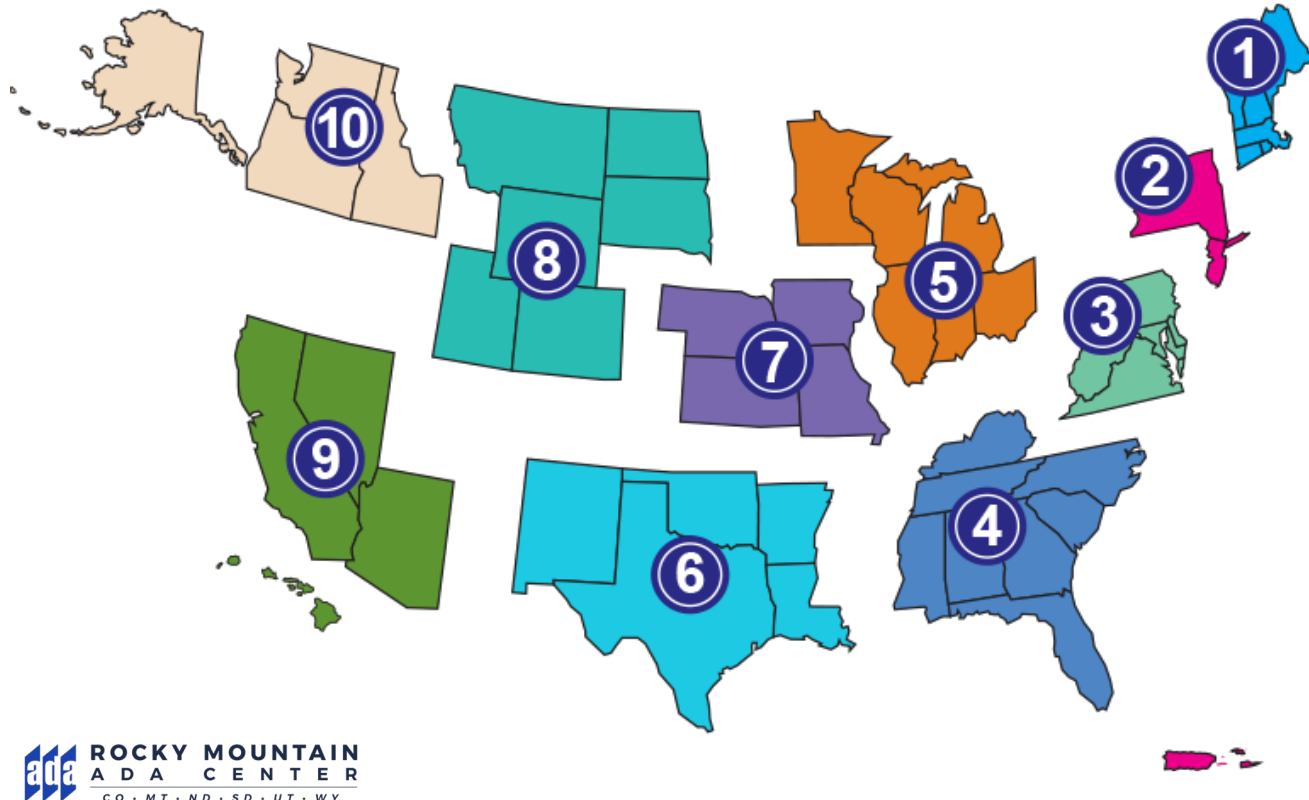
Learning Objectives

- Discuss the **prevalence of disability and why access matters**

- Overview the history and purpose of the **Americans with Disabilities Act**

- Discuss the basic **legal obligations for covered entities** under the ADA

- Discuss **best practices for disability inclusion** in arts organizations

Americans with Disabilities Act (ADA)

Civil Rights Law = Legal guarantee of equal opportunity in areas of public life for individuals with disabilities

- Signed into law on July 26, 1990

- Prohibits discrimination

- Descriptive rather than prescriptive

- Case-by-case

July 26, 1990 – President George H. W. Bush signing the Americans with Disabilities Act on the South Lawn of the White House. Pictured (left to right): Evan Kemp, Reverend Harold Wilke, President Bush, Sandra Parrino, Justin Dart

The Americans with Disabilities Act of 1990

Titles of the ADA

1.
Title I
Employment

2.
Title II
State & Local Governments

3.
Title III
Private Entities
Both For-Profit and Nonprofit

4.
Title IV
Telecommunications

5.
Title V
Miscellaneous

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Who has rights under the ADA?

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ADA Definition of Disability

A physical or mental impairment that substantially limits one or more major life activities. The ADA also prohibits discrimination against:

- Those with a record of such an impairment

- Those regarded as having such an impairment

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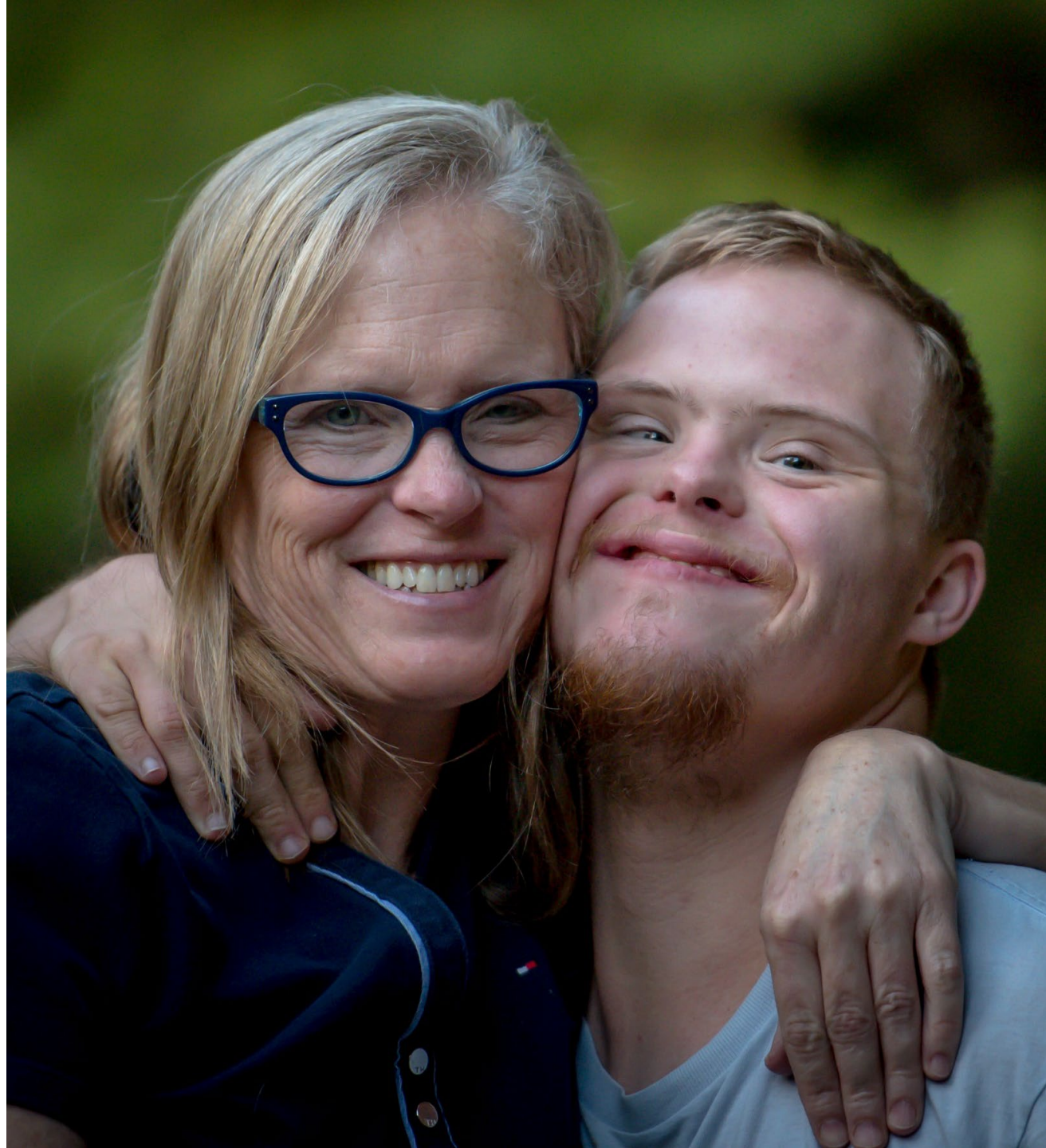
Major Life Activity

Something that **most people** in the general population can perform with **little or no difficulty**

- Assessment based on impact of the condition on an individual's life; subjective

- Can limit only one activity

Self Care	Performing Manual Tasks	Seeing	Hearing
Eating	Sleeping	Walking	Standing
Lifting	Bending	Speaking	Breathing
Learning	Reading	Thinking	Working

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Additional Protections: Exercising Rights

The ADA provides protection from discrimination, coercion, or retaliation for exercising rights under the ADA
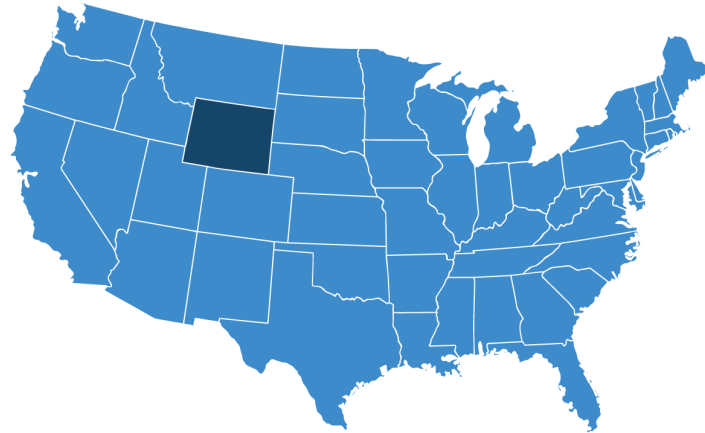
Additional Protections: Association

The ADA includes protections that prohibit discrimination against a person, whether or not they have a disability, because of their **known relationship or association with a person with a known disability**
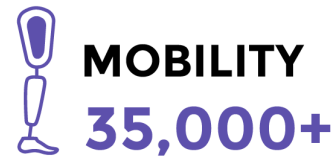

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WYOMING DISABILITY FACTS

74,000+
Wyomingites have disabilities,

or 13%
of the population.

COGNITIVE
25,000+
Number of people with cognitive/learning disabilities.

MOBILITY
35,000+
Number of people with physical disabilities.

VISION
12,000+
Number of people with visual disabilities.

AUDITORY
28,000+
Number of people with hearing disabilities.

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Disability as an Identity

Can acquire this identity today

Largest minority group in the country and world

Reported disability numbers are likely lower than reality (identity conflicts, underdiagnosed, fear of stigma)

Disabilities can be viewed as the product of an inaccessible world, not individuals' limitations

Disability knowledge and etiquette are forms of attitudinal barrier removal

Who has responsibilities under the ADA?

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Title I of the ADA

Title I applies to all private **employers with 15 or more employees and state/local governments**

Prohibits discrimination against qualified individuals with disabilities in **employment**

Applies to **recruiting, hiring, promotion, training, pay, benefits,** and other aspects of employment

Enforced by the **Equal Employment Opportunity Commission** (EEOC)

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Title I
Qualified Individual

- Title I of the ADA prohibits employment discrimination against **qualified individuals** with disabilities

- Two key factors to determine "qualified":

  1. Does the individual meet the **necessary prerequisites**? (Education, work experience, training, skills, licenses, certificates, etc.)

  2. Can the individual perform the **essential job functions** with or without **reasonable accommodations**?

- Employer would not need to provide an accommodation to someone who is otherwise unqualified for a position. Qualifications must be based on fact, not speculation.

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Title I
Reasonable Accommodations

- Under the ADA, qualified employers must provide reasonable accommodations to the **known** physical or mental limitations of a qualified applicant or employee with a disability

- **Reasonable accommodation:** Modification or adjustment to a job, an employment practice, or the work environment that makes it possible for an individual with a disability to enjoy an equal employment opportunity

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Reasonable Accommodations: Basics

Employee responsibilities:

1. Request/disclose
2. Provide documentation (if needed)
3. Participate in the interactive process

Employer Responsibilities

1. Verify need
2. Maintain confidentiality
3. Participate in the process in good faith

Exception: Undue hardship

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Title II of the ADA

Title II applies to **all state and local governments**, their departments, and their agencies (aka public entities)

Prohibits discrimination against qualified individuals with disabilities in all **programs, activities, and services** of public entities

Establishes standards for the **operation of public transit systems**, including commuter and intercity rail (e.g., Amtrak)

Enforced by the **U.S. Department of Justice** (DOJ)

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Title III of the ADA

Title III applies to **all places of public accommodation** (hotels, restaurants, bars, theaters, grocery stores, banks, etc.)

Prohibits discrimination against qualified individuals with disabilities in all **goods and services** of places of public accommodation

A public accommodation can be broadly defined as **most businesses or buildings** that offer certain goods or services to the general public , both **for-profit and nonprofit**

Enforced by the **U.S. Department of Justice** (DOJ)

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Title II and Title III
General Responsibilities

- Provide individuals with disabilities the same opportunities as provided to all other individuals

- Special programs are permissible when necessary but cannot be used to exclude people from regular programs

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Title II and Title III
General Responsibilities Continued

- Covered entities may not impose eligibility criteria that either **screen out** or **tend to screen out** persons with disabilities, unless it can show that such requirements are **necessary**

- Entities may not make **unnecessary inquiries** into the existence of a disability

- Although compliance may result in some additional cost, entities **may not place a surcharge** only on individuals with disabilities or groups of individuals with disabilities to cover these expenses

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Title II and Title III
Reasonable Modifications

- A change in a policy, practice, or procedure that is done to offer equal access and equal opportunity for a person with a disability

Examples of Reasonable Modifications

- Permitting a service animal to go where the public may go in a building, even though animals are not generally allowed

- Accepting proof of identification outside of a driver's license

- Modifying a "no outside food or drink" policy

**Exception: Fundamental alteration**

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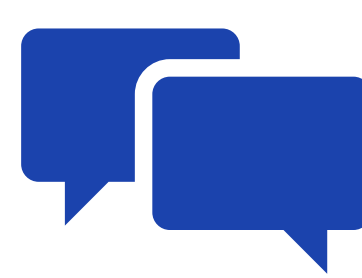CO · MT · ND · SD · UT · WY

Title II and Title III
Effective Communication

- Many disabilities affect hearing, seeing, speaking, reading, writing, and generally communicating

- Information must be as clear and understandable to people with disabilities as it is for people without disabilities

**Exceptions: Fundamental alteration or undue burden**
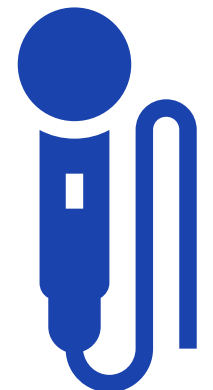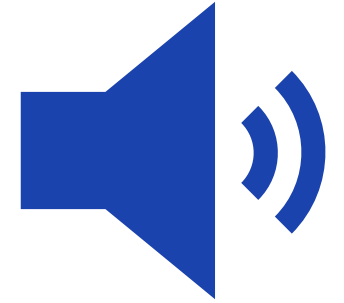
What are the standards and requirements of physical accessibility under the ADA?

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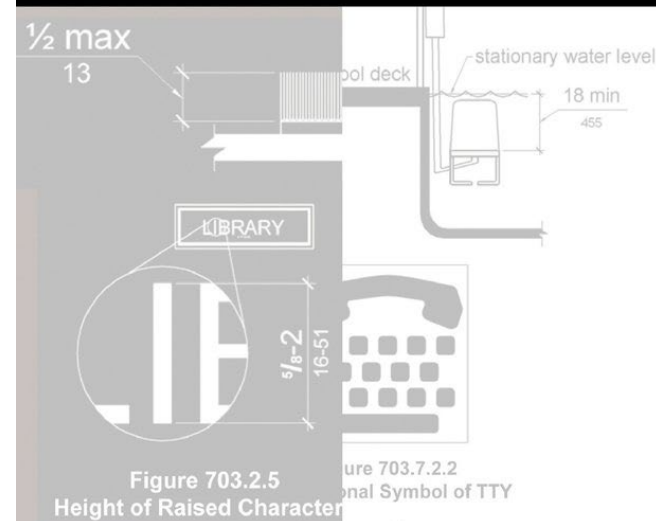CO · MT · ND · SD · UT · WY

Title II and Title III

2010 ADA Standards for Accessible Design

- Published on September 15, 2010 by the DOJ

- Set the **minimum requirements** for qualifying facilities to be readily accessible to and usable by individuals with disabilities

- The Standards do not serve as building code, but rather as physical representation of civil rights
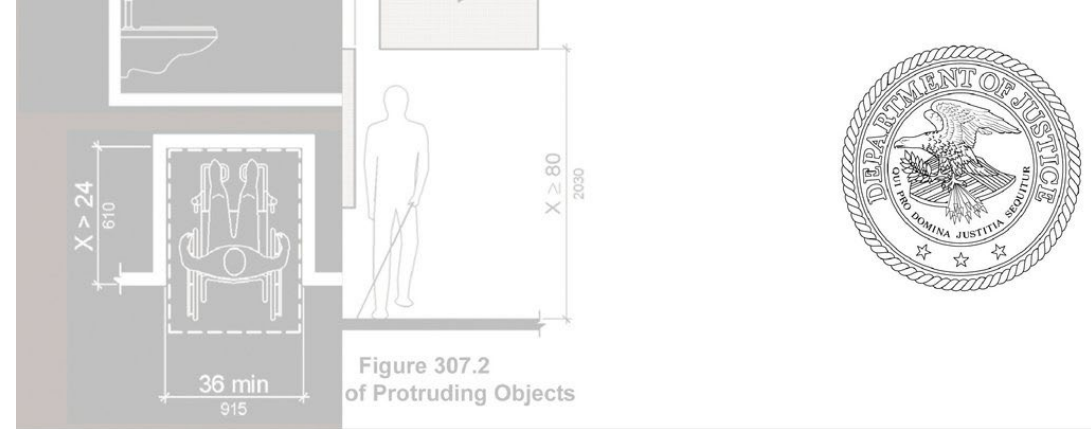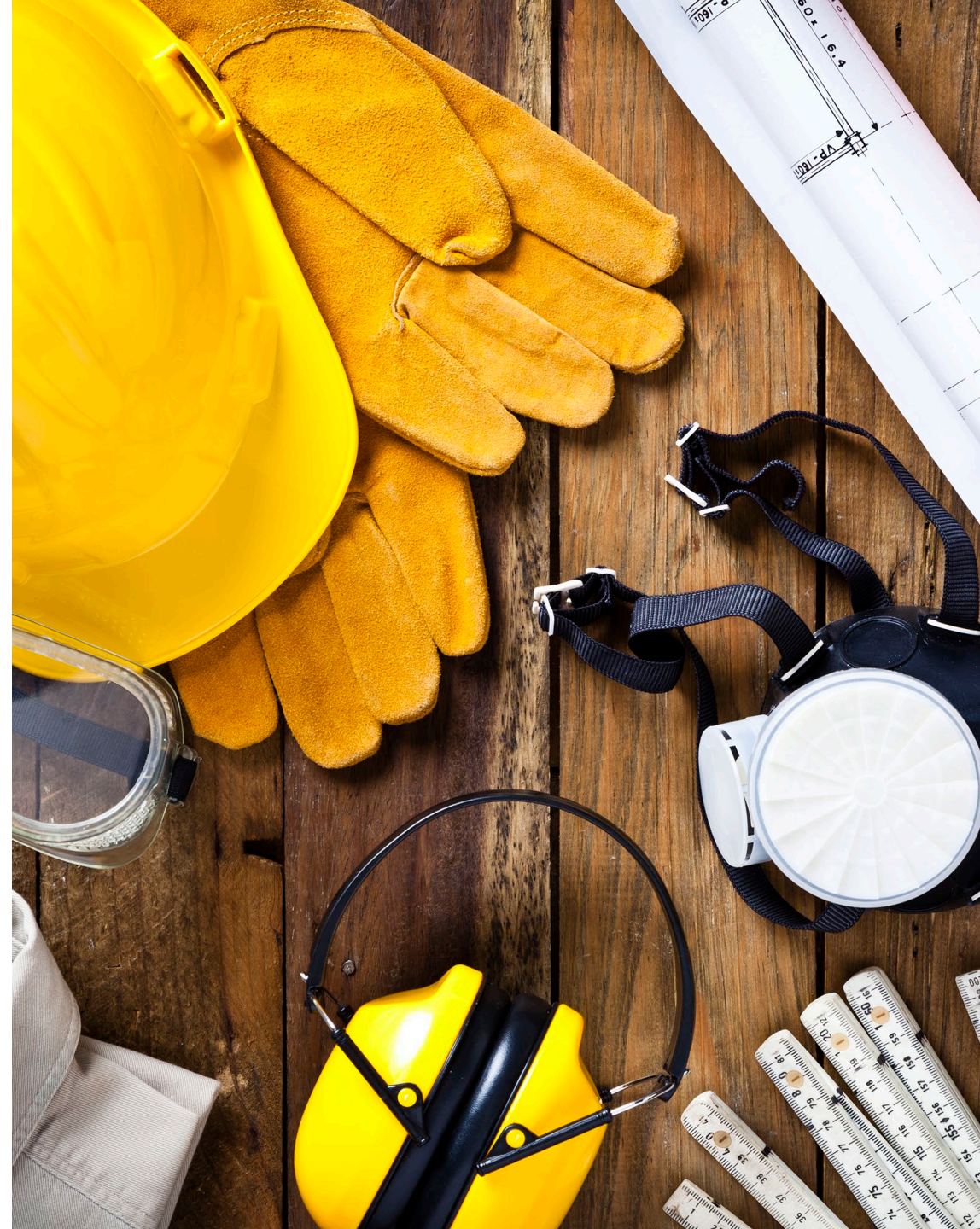
Title II and Title III

When do the Standards apply?

1. New construction

  • Must comply with the 2010 Standards

2. Alterations of existing facilities

  • Must comply with the 2010 Standards to the maximum extent technically feasible

3. Existing facilities (not being altered)

  • Program access (Title II)
  • Readily achievable barrier removal (Title III)

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Title II
Program Access

- Title II responsibility

- Programs, services, and activities, when **viewed in their entirety**, are accessible to people with disabilities

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Title III
Readily Achievable Barrier Removal

- Title III responsibility

- Existing public accommodations are required to remove barriers only when it is "readily achievable" to do so

- "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense

Barrier Solution:

Portable Ramps

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Where to find the Standards and learn more

- [U.S. Access Board — ADA Accessibility Standards](#)

  - [U.S. Access Board — Guide to the ADA Accessibility Standards](#)

- [ADA.gov — ADA Standards for Accessible Design](#)

- [ADA Checklist for Existing Facilities](#)

- Online course: [2010 ADA Standards](#)

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How can we be more inclusive?

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Accessibility Audits and Improvements

Evaluate existing programs and facilities for the following barriers:

Sensory

- Are there alternatives for people with different sensory experiences?

Mobility

- Can people get to, get in, and get around out facilities? Can we serve them effectively?

Communication

- Do people know how to request assistance? Do we have clear policies and commitments?

Knowledge

- Do staff, volunteers, and board members have enough training on what's required and how to effectively serve people with disabilities?

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Accessibility Audits and Improvements

Develop a framework for prioritizing barrier removal.

ADA guidelines recommend addressing barriers in the following order:

- Priority 1: Accessible entrance into the facility

- Priority 2: Access to goods and services

- Priority 3: Access to restrooms

- Priorty 4: Any other measures necessary

Smaller organizations with limited resources may consider:

- Priority 1: What is your community already asking you to address?

- Priority 2: Who have you been trying to engage, and what barriers do they face?

- Priority 3: What other strategies can you readily achieve without major resources?

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Ticketing and Seating

Ask:

Are there queues available for people who may not be able to stand in long lines? Are these queues clearly marked?

Are bar/concession services accessible to someone in a wheelchair or someone of short stature?

Are floor surfaces firm, stable, and slip resistant?

Could a wheelchair/mobility aid user easily move about the facility?

Are there any protruding objects that could be a hazard to someone who is blind or has low vision?

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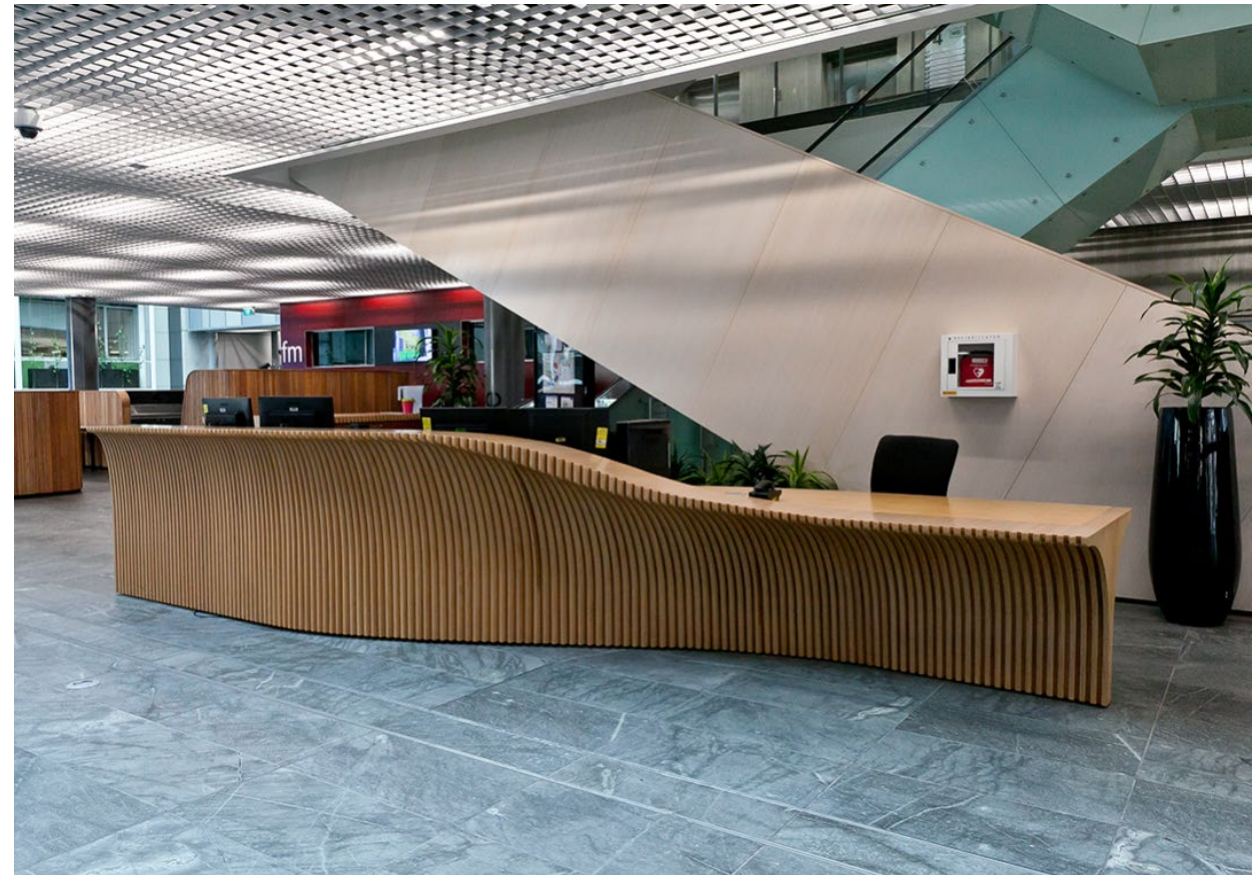
Ticketing and Seating

Ask:

Are accessible seats ADA compliant or better? (Standards sections 221 and 802)

Do accessible seats have clear sightlines?

Are accessible seats easily approachable?

Are accessible seats integrated?

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Policies and Commitments

- Nondiscrimination Policy

- Access Policy

- Grievance Procedure

- Designated ADA/Accessibility Coordinator

- Mission/Vision Statement

- Mandate compliance for grantees and contractors

- Budget for accessibility

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Best Practices
Effective Communication

Effective Communication

Effective Communication

Exhibit Labels

- San serif

- High contrast

- Non-glare

- Solid background

- Font size

- Avoid ALL CAPS

- Avoid script & italic

- Lighting

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Effective Communication

Exhibit Label Content

- Avoid complex technical language or jargon

- Use active voice

- Limit sentence length (15 to 25 words)

- Short line length for easy reading (45-50 characters)

- Limit sentence or paragraph to one idea

- Accessible at multiple intellectual levels

- Through more than one sensory channel

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Best Practices
Effective Communication

- Captions

- Amplification/microphones for talks and tours

- Assistive Listening Systems

- Communication Access Real-Time Translation (CART)

- Sign Language Interpreter

- Readers

- Audio & Video Description

- Live Description Services

This painting, Untitled, is an oil on linen work from 1997

Best Practices
Special Programs

- Self-guided tours

- Audio tours

- Cell phone tours

- Orientation video

- Social narratives

- Sensory maps

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Participants in a Mind's Eye program for the *Hilma af Kint: Paintings for the Future* exhibition. Photo: Filip Wolak

Best Practices
Special Programs

Social Narrative Example

We are going to the Solomon R. Guggenheim Museum. While we are there, we will see many different kinds of art.

When I first arrive at the museum, I may notice that the building looks different from the other buildings on the street. It is white and round!

Photo: David Heald

I will arrive at the museum's main entrance located on 5th avenue between 88th and 89th streets. Sometimes there is a line and I may need to wait a few minutes.

Photo: Jen Yee

While I am in the museum, I will be sure to follow these rules to keep the art safe:

- I will not touch the art, walls, or glass display cases.
- I will not eat or drink inside the museum.
- I will keep my hands down and my body safe.
- I will stay with my group.
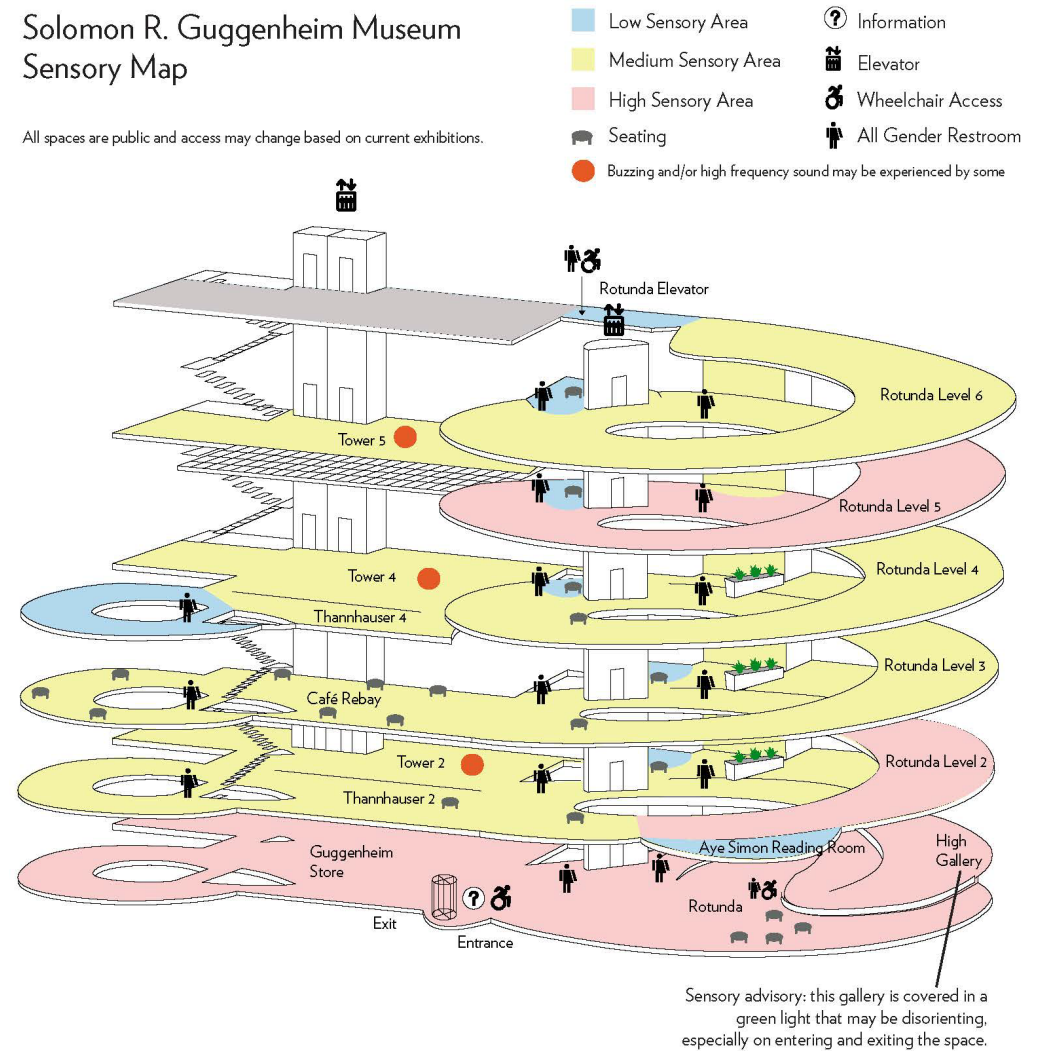- I will walk slowly and speak in a quiet voice.

Photo: Scott Rudd

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Best Practices
Special Programs

Sensory Map Example

Solomon R. Guggenheim Museum
Sensory Map

All spaces are public and access may change based on current exhibitions.

Legend:
- Low Sensory Area
- Medium Sensory Area
- High Sensory Area
- Seating
- Buzzing and/or high frequency sound may be experienced by some
- Information
- Elevator
- Wheelchair Access
- All Gender Restroom

Labels on map:
- Rotunda Elevator
- Rotunda Level 6
- Tower 5
- Rotunda Level 5
- Tower 4
- Rotunda Level 4
- Thannhauser 4
- Rotunda Level 3
- Café Rebay
- Tower 2
- Rotunda Level 2
- Thannhauser 2
- Guggenheim Store
- Aye Simon Reading Room
- High Gallery
- Exit
- Entrance
- Rotunda

Sensory advisory: this gallery is covered in a green light that may be disorienting, especially on entering and exiting the space.

High sensory areas (pink) are often more crowded, and may have a mix of multimedia exhibits and loud noises.

Medium sensory areas (yellow), are often less crowded, and have lower noise levels. These spaces may have some multimedia exhibits.

Low sensory areas (blue) are usually the quietest and the least crowded. These areas have no multimedia exhibits, may have seating and natural light, and can be a good space to take a break.

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Best Practices
Special Programs

Sensory Room/Quiet Space

- A place to decompress during sensory overload

- Multiple choices for sitting

- Different tactile/sensory objects

- Dim lighting

- Posted courtesy rules

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Sensory Room

Please enjoy this Sensory Room.
This Room provides a safe and calming environment to
help guests that might be feeling overwhelmed or
overstimulated.
Only enter with permission or Lanyard
Please respect the materials. If you destroy something
you may not be allowed back.
Each guest is permitted in the room for 15 minutes
unless permission is otherwise given.

www.kulturecity.org
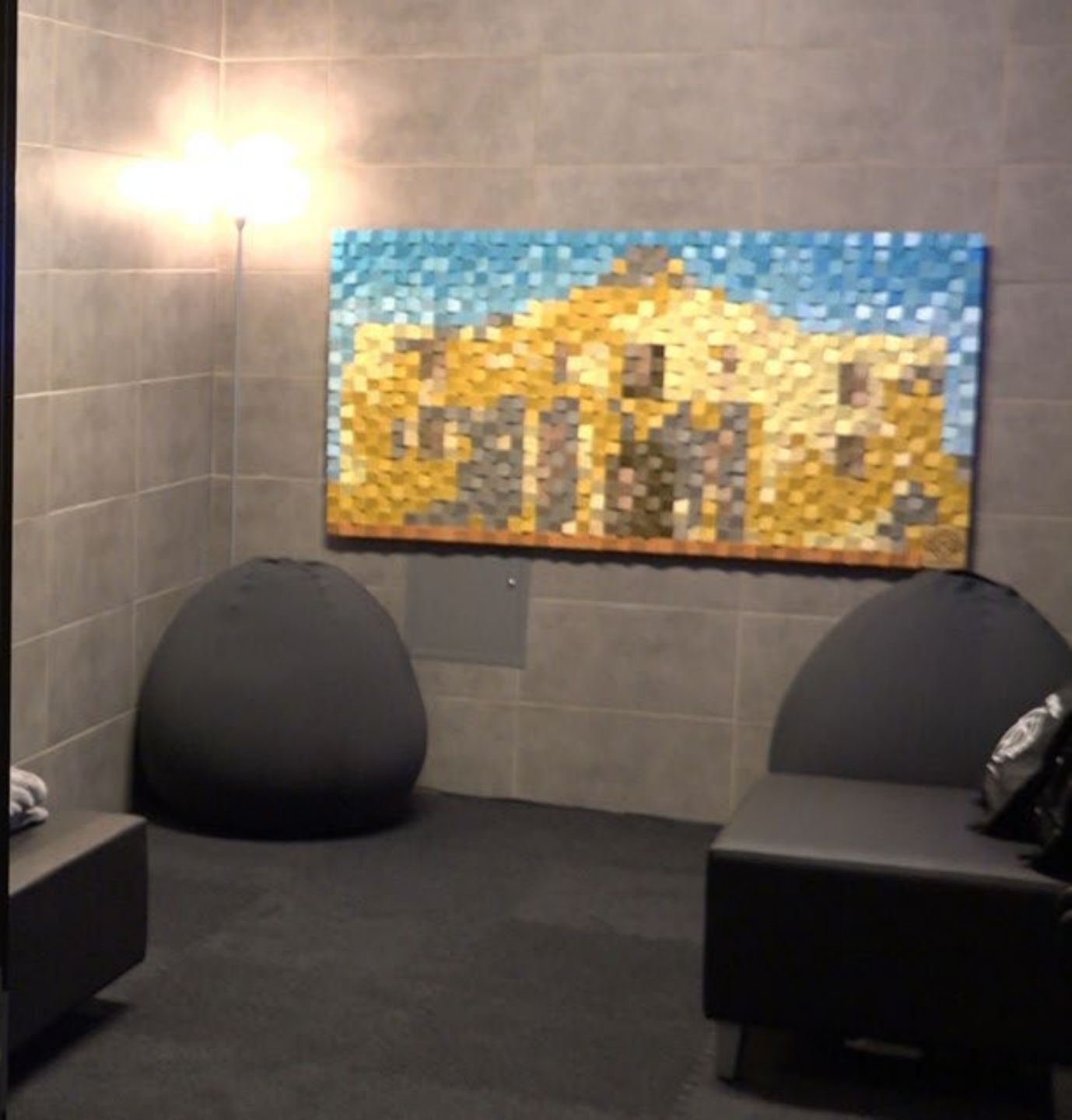
Best Practices
Special Programs

Tactile Maps/Models

- Size

- Texture

- Placement

- Material

- Detail

- Durability

Sacramento History Museum
Sacramento, CA

Best Practices
Special Programs

Tactile Art

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Source: https://www.3dphotoworks.com/

Endicott College
Beverly, MA

Best Practices
Special Programs

Interactive Kiosks

Staff Training and Awareness

- ADA Rights and Responsibilities

- Disability Etiquette

- Using Assistive Devices and Technology

- Service Animals

- Internal Accessibility Policies

- Disability Employee Resource Group (ERG)

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Representation

- Engage disabled artists and performers

- Integrate people with disabilities as creators and consumers of culture

- Employ people with disabilities at all levels of the organization

Dance Detour, Chicago, IL: Alana Yvonne Wallace, Maria Lainer and Heather Baumgarner
Photo by William Frederling

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Community Outreach and Engagement

Access Advisory Committee

Partnerships

- Disability organizations

- Parents of disabled children

- Schools and government offices

Emulate the successful practices of others

Network within the industry

Make commitment to inclusion externally visible

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Best Practices
Feedback and Continuous Improvement

- Encourage feedback from disabled patrons and artists

- Provide multiple opportunities to share feedback in a variety of methods

- Review accessibility efforts at regular intervals

- Incorporate feedback, fresh ideas, new technologies, and innovations

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Remember...

- Embracing accessibility in arts and cultural organizations is not just a legal obligation, but an ethical imperative, ensuring that all individuals, regardless of their abilities, can **partake in the transformative power of the arts**.

- Creating inclusive experiences for patrons with disabilities enhances the cultural richness of your organization, fostering a diverse and engaged audience that **enriches the overall artistic dialogue** and community impact.

- Prioritizing accessibility can **position your arts organization as a leader** in the industry, attracting new audiences, patrons, and sponsors who recognize and value your commitment to equitable participation in the arts.

- By removing barriers and catering to diverse audiences, cultural organizations not only celebrate the **universality of artistic expression** but also contribute to a more inclusive and vibrant society, driving positive change through the arts.

Resources

- [Design-for-Accessibility.pdf (arts.gov)](#)
- [Creating an Accessibility Plan for Your Arts Organization - Arts Midwest](#)
- [ACCESSIBILITY INFORMATION (arts.gov)](#)
- [Accessibility | National Endowment for the Arts](#)
- [Access Smithsonian | Access Smithsonian (si.edu)](#)
- [Claude Monet. Water Lilies. 1914-26 | MoMA](#)

We're here to help.

Emily Shuman

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RockyMountainADA.org

719-433-7637

9:00 a.m. – 4:00 p.m. MT
Monday – Friday