

# A the ALERT



The Legal Aid Society  
of Cleveland  
Since 1905

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## ADA – Request “Reasonable Modification” of a State or Local Government Program

The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities. It also requires that people with disabilities have equal access to state and local government programs and services. When necessary, state and local governments must make “reasonable modifications” to programs and services to make them accessible for people with disabilities.<sup>1</sup>

### Examples of Reasonable Modifications:

- Applications for public housing often require completing multiple forms. Under the ADA, the public housing authority must provide additional assistance to applicants with intellectual disabilities as they complete the forms. If a person with low vision cannot read the forms, the public housing authority may print their forms in a larger font or read them out loud to the person.
- Public libraries are required to allow a person who uses a service animal to bring their animal into the building even if it has a ‘no pets’ policy.
- A public pool may have to make an exception to its no food policy so that a person with diabetes, who needs to eat frequently, can bring in food.

### How Do I Ask For a “Reasonable Modification” If I Need One?

To receive a reasonable modification from a state or local government program, you must ask for it. If your need is obvious, your request should be simple. For example, if you are blind and you need help locating materials in a library, ask the librarian for help and they should help you.

But if your need is less obvious, you may have to take additional steps. Here are some tips on how to request a reasonable modification:

- **Make the request in writing, date it, and keep a copy.** The government program or service may have special forms that you can use to do this, but a form is not required. If you make your request orally, follow it up with a letter and keep a copy. Your request usually should go to a person called the “ADA Coordinator.”
- **Your request can come from someone else,** like a family member or service provider.
- **You may need to get verification of your disability.** The ADA allows the agency to ask you for **limited** medical information to support your request. For example, if you have a learning disability and need help filing for state benefits, you may need to provide a simple letter from your healthcare provider along with your written request for a reasonable modification.
- **Does the agency have to provide the modification you ask for?** No – the agency only must provide modifications that are “reasonable and effective” and give **meaningful access** to the program or service.

### What Do I do if my Request for a Reasonable Modification is Denied?

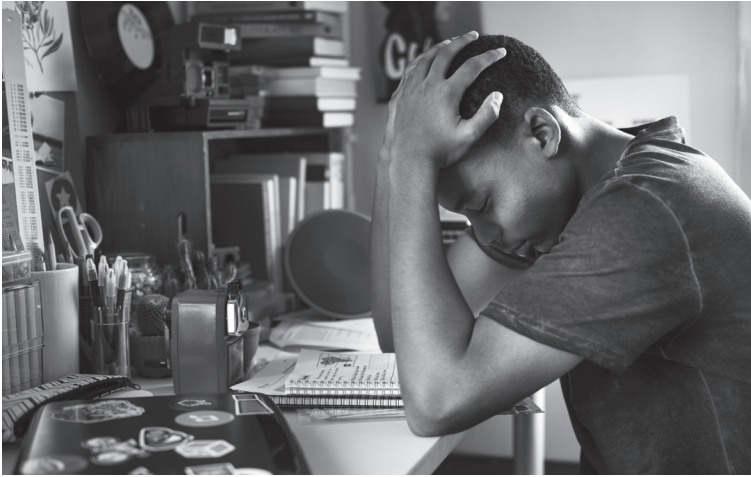
If your request for modification is denied, you can appeal the denial by following the government office’s internal procedures. You can also file a complaint with the U.S. Department of Justice at [https://www.ada.gov/filing\\_complaint.htm](https://www.ada.gov/filing_complaint.htm). You must file the complaint within 180 days of the discrimination.

More information regarding the ADA can be found at [www.ada.gov](http://www.ada.gov).

<sup>1</sup> The ADA is divided into three sections: Title I – Employment; Title II – State and Local Government; Title III – Public Accommodations and Commercial Facilities. Title II of the ADA uses the term “reasonable modification”, which is similar to the term “reasonable accommodation” used in other areas of the ADA.

# Special Education: Least Restrictive Environment (LRE)

By Jessica Baaklini



Students with disabilities, who receive special education services through an Individualized Education Program (IEP), have the right to learn in their least restrictive environment (LRE). This means that students with disabilities are entitled to attend school with their nondisabled peers as much as possible.

When a student is eligible for special education services, the school district develops an IEP. The IEP explains the student's goals, the school's services, and the placement or setting where the child will receive those

services. The IEP team works together to decide on the best school setting or "placement" to meet the student's needs. The team includes the student's parent or guardian, members of the school staff, and other people with special knowledge about the student.

There are many different school settings inside and outside of the school district where students with disabilities can receive a free, appropriate public education. Under the law, this is called a continuum of placements. Some possible placements include a general education setting with intervention specialist (special education teacher) support, a resource room or special education classroom, or a specialized private facility. Students may also receive a combination of these settings. They can spend some time in the special education classroom and some time in the general education classroom. And students can change placements at different times depending on their unique needs.

Parents and guardians are a very important part of the IEP team. IEPs are reviewed at least once a year, but parents or guardians can request an IEP meeting at anytime. If a parent or guardian has concerns about whether their student is learning in the right placement, they can ask the school district for an IEP meeting to discuss different options for the student.

For more information about your child's rights in school please visit The Ohio Department of Education's website at <http://education.ohio.gov/> or The Legal Aid Society of Cleveland's website at <https://laslev.org/>.

## Are You Eligible for a Medicaid Waiver?

By Davida Dodson

You may qualify for home-based care paid for by Medicaid. Medicaid is a federal and state program that pays for healthcare for people with limited income or resources. "Medicaid Waivers" give states more flexibility when it comes to providing services to individuals or families who might not qualify for coverage under the traditional Medicaid rules. Through Medicaid Waiver programs, each state can accomplish goals that are important to its residents, such as expanding Medicaid coverage, reducing costs, or improving care to vulnerable groups like elderly people or pregnant women.

One interesting program is the Home and Community-Based Services Waiver Program ("HCBS program"). In many cases, people with disabilities are more comfortable receiving care in their own home instead of in a nursing home or group home. The HCBS program helps people with disabilities or chronic conditions receive long-term care services in their home so they don't have to move. HCBS services can include home health aides, chore and homemaking services, counseling services, transportation to non medical appointments, and assistance with skill development.

Providing long term care for a person with a disability or a chronic condition can be expensive and time consuming for family members. The

HCBS program helps family members because it can cover the kind of care family members would normally be expected to provide themselves. The HCBS program also covers "respite services" so family members can take a temporary break from care giving. Specific HCBS services will be different depending on your state, but every state has some version of the HCBS program. HCBS programs are not entitlement programs, so there may be a waiting list to be accepted into the program.

There are many benefits to the HCBS program. It keeps people in their own home, in their own community, and near family. This type of care can sometimes improve a person's mental health and/or shorten recovery time after injury or surgery.

If you are interested in HCBS or other Medicaid Waiver programs, first apply for Medicaid to see if you qualify. Generally, a person must show that if they don't receive the services they are asking for, they would have to move to a nursing home or other institution. Examples of people who may qualify include elderly people, people with developmental disabilities, and people who are medically fragile. More information about the HCBS program can be found at <https://medicaid.ohio.gov/FOR-OHIOANS/Programs/HCBS-Services>.

# Aging and the ADA

By Karla Perry



The aging community does not always realize how important the Americans With Disabilities Act of 1990 (ADA) is for older adults. Older adults are probably the largest single group to benefit from the ADA. According to a U.S. Census Bureau report for the period 2008-2012, nearly 40 percent of people age 65 and older had at least one disability.<sup>1</sup> The census survey also found that about 10 million people, or two-thirds (66.5 percent) of the total older population with a disability, reported having serious difficulty walking or climbing stairs.

their community, or go to work. As people get older, many start to have issues with hearing, seeing, or getting around. Others experience serious problems like hypertension, diabetes, arthritis, and memory loss. The ADA helps people continue living independently for as long as possible.

Although people often don't think of age as part of disability, according to the ADA, having a "physical or mental impairment that substantially limits a major life activity" means a person has a disability. "Under the ADA, it isn't the cause of the disability that matters, but what it means in everyday life".<sup>2</sup>

The Administration on Community Living works to implement the principle that "people with disabilities and older adults should be able to live where they choose, with the people they choose and fully participate in their community." The ADA provides the legal authority for this work to ensure inclusive, community-based services for older adults

People can develop disabilities under the definition in the ADA when age-related changes make it more difficult to get around at home, be in

<sup>1</sup> <https://www.census.gov/newsroom/press-releases/2014/cb14-218.html>.

<sup>2</sup> <https://adata.org/factsheet/aging-and-ada>

# ABLE Saving and/or Investment Accounts

By Bridget Sciscento

## What is an "ABLE" account?

Congress passed the Achieving a Better Life Experience (ABLE) Act in 2014. The new law allowed 42 states, including Ohio, to create special savings and investment accounts for individuals with disabilities. In Ohio, these special accounts are called STABLE Accounts.

STABLE Accounts offer the opportunity to save money and build wealth. They do not affect eligibility for needs-based public benefits programs like SSI, Medicaid, and SNAP. Anyone can contribute money to a STABLE account. The maximum total amount that can be deposited each year is \$15,000.

If you decide to invest, you can choose among several options. If you use the money you make from investments on qualified expenses, then the investment money you earned is tax-free. If you do not want to invest, you can use the STABLE account as a savings account.

## Who is eligible for a STABLE account?

The basic requirements to open a STABLE Account in Ohio are:

- You must have developed disabilities before age 26, and
- Have at least \$50.00 to put in the account

Disability status may be shown with either SSI or SSDI benefit statements, or a certification letter from your doctor.

Even if you're not eligible now, proposed changes to the law may make you eligible in the future. For example, a bill before Congress would raise the age before which you must have developed your disability from 26 to 46.<sup>1</sup> This bill would drastically increase the number of Americans eligible.

Visit [www.stableaccount.com](http://www.stableaccount.com) and click "Eligibility Quiz" to find out if you or a loved one qualifies to start saving with STABLE.

## What are the benefits of a STABLE account?

You can easily use your STABLE account to pay for certain programs and items. You can use the money in your account to fund education, transportation, basic living expenses, job training, legal fees, assistive technology, and more!

### How does a person sign up?

Go to [www.stableaccount.com](http://www.stableaccount.com) to get started!

If you have questions, you can:

- visit [www.stableaccount.com/faq](http://www.stableaccount.com/faq) or
- visit [www.ablenrc.org](http://www.ablenrc.org), or
- contact 800-439-1653.

<sup>1</sup> <https://www.congress.gov/bill/116th-congress/senate-bill/651?q=%7B%22search%22%3A%5B%22ABLE+Age%22%5D%7D&r=1&s=3>

# People with Substance Use Disorders May be Protected from Discrimination under the Americans with Disabilities Act

By Michael S. Russell

The Americans with Disabilities Act (“ADA”) gives limited protections to workers with substance use disorders involving drugs and alcohol.

The ADA protects people with disabilities from discrimination in employment, government services, and public places. If a substance use disorder like opioid addiction limits a major life activity, it may be a disability covered by the ADA.

An alcoholic or recovering drug user may be entitled to a reasonable accommodation from their employer based on their substance use disorder. Reasonable accommodations are changes at work that allow a person with a disability to do their job. Reasonable accommodations for people with substance use disorders may include an alternative work schedule to allow for AA meetings, or a leave of absence so an employee can receive addiction treatment. Workers who need reasonable accommodations to do their job must ask their employer for them. The Act does not protect a worker whose substance use disorder poses a direct threat to the health or safety of others.

But there are big differences in how the ADA treats substance use disorders compared to other disabilities. One important difference is that the ADA allows employers to discipline workers for job performance or behavior problems caused by their substance use disorder (for example, intoxication, tardiness or missed work). Employers can also prohibit workers from using alcohol or drugs on the job and can test workers for illegal drug use and fire them based on positive results.



The ADA also treats people who use illegal drugs differently than people who use alcohol. The Act only protects former drug users, not people who “currently” use. It is different for alcohol users. The ADA may protect alcoholics even if they currently use alcohol.

A worker who believes their employer is discriminating against them because of their substance use disorder should file a complaint with the Equal Employment Opportunity Commission. More information about how to file a discrimination complaint is available at <https://www.eeoc.gov/employees/charge.cfm>.

## Olmstead v. LC: Right to Inclusion for People with Disabilities

By Karla Perry

This year marks the 20th anniversary of the U.S. Supreme Court’s decision in *Olmstead v. L.C.* on June 22, 1999. The Court found that segregation of people with disabilities is unlawful discrimination under the Americans with Disabilities Act (ADA). This case is as important for disability rights as *Brown v. Board of Education* is for civil rights.

The ADA was passed after disability rights advocates raised awareness of the injustice and prejudice facing people with disabilities. The law sought to change how the public viewed disability and to demand the full rights of citizenship. Since 1990, the law has improved access to businesses, public spaces, transportation, communication, and employment. It has protected people with disabilities from discrimination.

The *Olmstead* decision required states to ensure that people with disabilities could receive services in the setting most appropriate to their needs. Prior to *Olmstead*, people with disabilities could be excluded from services or limited to institutional settings. This case created community inclusion and integration for people with disabilities.

The ADA and *Olmstead* decision paved the way for numerous changes to benefit people with disabilities. These cases have focused on a wide variety of populations, a variety of service systems, and communities across the United States. All these settlements uphold and advance the rights of people with disabilities to live where and with whom they want.



The Legal Aid Society  
of Cleveland  
Since 1915

Volunteer Lawyers Program  
[vlp]

} **free**  
LEGAL ADVICE

2020 Brief Advice and Referral Clinics  
Civil Matters Only (*Not Criminal*)

*Legal Aid provides services in the areas of consumer rights, disability, domestic violence, education, employment, family law, health, housing, foreclosure, immigration, public benefits, utilities, and tax.*

First-come, first-served. Bring important papers with you!  
Questions? Call 216.687.1900 or visit [www.lasclev.org](http://www.lasclev.org) for updated clinic listing.

**WEDNESDAY, JANUARY 8, 2:00 P.M. – 3:30 P.M.**

Catholic Charities Ashtabula, 4200 Park Avenue – Third Floor, Ashtabula Call 440-992-2121 for an appointment

**TUESDAY, JANUARY 14, 2:00 P.M. – 3:30 P.M.**

Oberlin Depot – Oberlin Community Services, 240 South Main Street, Oberlin Call 440-774-6579 for an appointment

**SATURDAY, JANUARY 25, 10:00 A.M. – 11:00 A.M.**

Cleveland Public Library – Carnegie West Branch, 1900 Fulton Road

**SATURDAY, FEBRUARY 1, 9:00 A.M. – 11:00 A.M. Naturalization Clinic**

The Legal Aid Society of Cleveland, 1223 West Sixth Street Call 888-817-3777 for an appointment

**WEDNESDAY, FEBRUARY 5, 2:30 P.M. – 4:00 P.M. U.S. Veterans Only**

VA Community Referral and Resource Center, 7000 Euclid Avenue Call 216-391-0264 for an appointment

**SATURDAY, FEBRUARY 8, 10:00 A.M. – 11:00 A.M.**

Cleveland Public Library – Woodland Branch, 5806 Woodland Avenue

**TUESDAY, FEBRUARY 11, 2:00 P.M. – 3:30 P.M.**

Oberlin Depot – Oberlin Community Services, 240 South Main Street, Oberlin Call 440-774-6579 for an appointment

**WEDNESDAY, FEBRUARY 12, 2:00 P.M. – 3:30 P.M.**

Catholic Charities Ashtabula, 4200 Park Avenue – Third Floor, Ashtabula Call 440-992-2121 for an appointment

**TUESDAY, FEBRUARY 25, 2:00 P.M. – 3:30 P.M.** El Centro, 2800 Pearl Avenue, Lorain

**WEDNESDAY, MARCH 4, 2:30 P.M. – 4:00 P.M. U.S. Veterans Only**

VA Community Referral and Resource Center, 7000 Euclid Avenue Call 216-391-0264 for an appointment

**TUESDAY, MARCH 10, 2:00 P.M. – 3:30 P.M.**

Oberlin Depot – Oberlin Community Services, 240 South Main Street, Oberlin Call 440-774-6579 for an appointment

**WEDNESDAY, MARCH 11, 2:00 P.M. – 3:30 P.M.**

Catholic Charities Ashtabula, 4200 Park Avenue – Third Floor, Ashtabula Call 440-992-2121 for an appointment

**SATURDAY, MARCH 14, 10:00 A.M. – 11:00 A.M.**

Cleveland Public Library – Rockport Branch, 4421 West 140th Street

**SATURDAY, APRIL 4, 10:00 A.M. – 11:00 A.M.**

Cleveland Public Library – Memorial-Nottingham Branch, 17109 Lakeshore Boulevard

\*Attorneys available for brief advice and referral only. Clinic attorneys do NOT represent you. If you need legal representation you may be referred to The Legal Aid Society of Cleveland or another service provider.



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*Since 1905*

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RETURN SERVICE REQUESTED

Legal Aid has improved its intake system to better serve the Northeast Ohio community.  
Please share this information with your constituents:

**If you need legal assistance,  
you can contact Legal Aid any weekday for help.**

New intakes are processed via phone:  
888-817-3777 (toll-free)

Monday, Wednesday, Friday: 9 a.m. – 4 p.m.

Tuesday, Thursday: 9 a.m. – 2 p.m.

If you prefer an in-person intake application, those are handled:

Tuesday, Thursday: 9 a.m. – 1 p.m.

at any of our four Northeast Ohio offices (Cleveland, Elyria, Jefferson & Painesville).

**Visit [www.lasclev.org](http://www.lasclev.org) for more information!**



***This newsletter is meant to give you general information and not to give you specific legal advice. This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation or if you have questions.***

*If you have a communications limitation, contact us through the Ohio Relay Service. Interpretation services are available so that everyone can communicate with us in their dominant and/or preferable language.*

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