



PennState
Dickinson Law

Center for Agricultural
and Shale Law

Navigating ADA Compliance for Agritourism Guests

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Today's Path

- The ADA in general
- Service Animals
- Physical Barriers
- Communication
- Digital Accessibility
- Farm Employment (briefly)
- Cost and Tax benefits

The ADA in General

The Americans With Disabilities Act



What is the ADA?

- “The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination against people with disabilities in everyday activities. The ADA prohibits discrimination on the basis of disability just as other civil rights laws prohibit discrimination on the basis of race, color, sex, national origin, age, and religion. The ADA guarantees that people with disabilities have the **same opportunities** as everyone else to enjoy employment opportunities, **purchase goods and services**, and participate in state and local government programs.”

<https://www.ada.gov/topics/intro-to-ada/#top>



How the ADA Applies to Agritourism

- The ADA is broken into five titles covering different areas.
 - **Title I:** Applies to employers with 15 or more employees. Concerns equal employment opportunities.
 - Enforced by the Equal Employment Opportunity Commission (EEOC)
 - **Title II:** Applies to state and local governments, their services, programs, and activities.
 - Enforced by the U.S. Department of Justice (DOJ).
 - **Title III:** Applies to businesses and nonprofits serving the public ("public accommodations") and commercial facilities. Concerns equal opportunity to access goods/services.
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Agritourism Businesses

- You-Pick operations
- Petting zoos
- Farm stands
- Wineries
- Farm-stays
- Pumpkin patches
- Greenhouses
- On-farm markets
- Christmas trees
- Goat yoga

***Open to the public =
Must comply with ADA***



Small Business Regulations

- PART 121—SMALL BUSINESS SIZE REGULATIONS
- <https://www.ecfr.gov/current/title-13/chapter-I/part-121>



General Requirement for Businesses

“Businesses must provide people with disabilities an equal opportunity to access the goods or services that they offer.”



Who the ADA Protects

- The ADA protects a person with a disability.
- A person with a disability is defined in three ways:
 - Having a physical or mental impairment that substantially limits one or more major life activities.
 - Having a history or record of such an impairment (like cancer in remission).
 - Being perceived by others as having such an impairment (like scars from a severe burn).
- You do not need to apply for ADA coverage; it is a law, not a benefit program

<https://www.ada.gov/topics/intro-to-ada/#top>



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Key Terms: “Substantially Limits”

- The term “substantially limits” is interpreted broadly.
- It is not meant to be a demanding standard.
- Example of **not** “substantially limiting”:
 - a mild allergy to pollen



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Key Terms: “Major Life Activities”

- “Major life activities are the kind of activities that you do every day, including your body’s own internal processes. There are many major life activities in addition to the examples listed here. Some examples include:
 - Actions like eating, sleeping, speaking, and breathing
 - Movements like walking, standing, lifting, and bending
 - Cognitive functions like thinking and concentrating
 - Sensory functions like seeing and hearing
 - Tasks like working, reading, learning, and communicating
 - The operation of major bodily functions like circulation, reproduction, and individual organs”



Examples of Disabilities Under the ADA

The ADA covers many other disabilities not listed here:

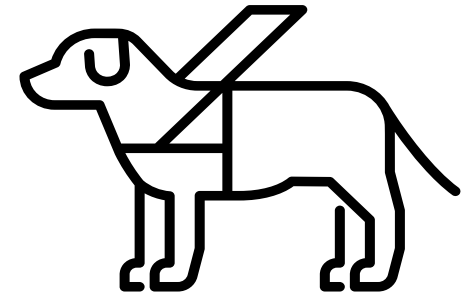
- Cancer
- Diabetes
- Post-traumatic stress disorder
- HIV
- Deafness or hearing loss
- Mobility disabilities such as those requiring the use of a wheelchair, walker, or cane
- Epilepsy
- Intellectual disabilities
- Major depressive disorder
- Traumatic brain injury
- Autism
- Cerebral palsy
- Blindness or low vision

Service Animals

Service Animals on the Farm

What is a Service Animal?

- Service Animal defined:
 - **“dogs that are individually trained to do work or perform tasks for people with disabilities”**
 - “The work or task a dog has been trained to provide must be directly related to the person’s disability.”
 - There are no dog breed restrictions
- Service animals are not considered pets by definition





Service Animal Tasks

- Examples:
 - guiding people who are blind
 - alerting people who are deaf
 - pulling a wheelchair
 - alerting and protecting a person who is having a seizure
 - reminding a person with mental illness to take prescribed medications
 - calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack



Service Animals vs. Emotional Support Animals

Service Animals

- Dogs that are individually trained to do work or perform tasks for people with disabilities

Emotional Support Animals

- Animals whose sole function is to provide comfort or emotional support



Service Animals vs. Emotional Support Animals

Service Animals

- Generally, businesses must allow service animals to accompany people with disabilities in all areas of a facility where the public is allowed to go

Emotional Support Animals

- Not protected by the ADA



Where Service Animals Are Allowed

- Businesses must generally allow service animals to accompany people with disabilities in all areas where members of the public are allowed to go
 - Brainstorming: How would you handle a service dog at a strawberry you-pick operation?



When can a service animal be prohibited?

- Service animals may be excluded by a business if the dog's presence would, "**fundamentally alter** the nature of the goods, services, programs, or activities provided to the public."
- Example: an operating room



Allergies and Fear of Dogs (Cynophobia)

- When a person with allergies/cynophobia and a service animal user must share space, both should be accommodated, if possible, by assigning different locations
- If there's a significant risk of allergic reaction, operators are responsible for accommodating both individuals

<https://www.ada.gov/resources/service-animals-2010-requirements/>



Food Service

- Establishments that sell or prepare food must generally allow service animals in public areas even if state or local health codes prohibit animals on the premises.



Charges & Fees

- People with service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals.
 - In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.
- If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by himself or his service animal.
- Staff are not required to provide care for or supervision of a service animal.



Service Animals Must be Under Control

- “A service animal must be under the control of its handler.”
- Service animals must be **harnessed, leashed, or tethered, unless the individual’s disability prevents using these devices or these devices interfere with the service animal’s safe, effective performance of tasks.**
 - “In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.”



No-Go Questions

- Staff **cannot ask** about the person's disability.
- Staff **cannot require** medical documentation.
- Staff **cannot require** a special identification card or training documentation for the dog.
- Staff **cannot ask** that the dog demonstrate its ability to perform the work or task.
- Staff are **prohibited from asking for proof** that the animal is certified, trained, or licensed



Service Dog Certification

- There are no specific training or certification requirements for service animals



How should I address individuals who bring dogs to my agritourism operation?

How should I address individuals who bring dogs to my agritourism operation?

- Step 1: Is there an obvious disability?
 - If the person with the dog is obviously disabled, then assume that the animal is a service animal
 - Examples of obvious disabilities:
 - A blind person with a seeing-eye dog
 - An animal assisting a person in a wheelchair. The animal might be trained to assist with pulling the wheelchair, retrieving items, or other tasks
 - If the person is obviously disabled, staff may not ask anything



How should I address individuals who bring dogs to my agritourism operation?

- Step 2: if the disability is not obvious, what can staff ask when trying to determine if they have a service animal versus a pet?
 1. **Is the dog a service animal required because of a disability?**
 2. **What work or task has the dog been trained to perform?**

How should I address individuals who bring dogs to my agritourism operation?

- Step 2: *continued...*
 - If the individual answers “no” or “nothing” to the questions, then the dog is not a service animal within the definition of the ADA.
 - If the animal is not a service animal, staff may tell them that your operation has a “No pet” policy and ask them to leave*
 - *Obviously, you can’t do this if you do not have a clear “no pet” policy
 - If the individual says that their animal is an emotional support animal (ESA), staff may tell them that there is a “No pet” policy, without exceptions for emotional support animals, and ask them to leave.



How should I address individuals who bring dogs to my agritourism operation?

- Step 2: *continued...*
 - If the individual confirms that the dog is a service animal, staff should permit them to enter





When Can a Service Animal be Removed?

- A person with a disability cannot be asked to remove their service animal from the premises unless specific conditions are met.
 - 1.The dog is out of control and the handler does not take effective action to control it**
 - 2.The dog is not housebroken**



What is “Out of Control”?

- There is no hard rule for determining whether a service animal is out of control. The determination will be based on the situation.
- Considerations:
 - Uncontrollable barking
 - Growling
 - Lunging
 - Biting
- If the service animal is provoked into its out-of-control behavior, it will not be considered out of control.



When Can a Service Animal be Removed?

- If the service animal is out of control, staff may ask the person to remove their service animal from the premises
- The person must be permitted to re-enter or obtain goods/services without the animal present

Miniature Horses

Reasonable modifications for
miniature horses



Miniature Horses

- “(i) A public accommodation shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.”

[https://www.ada.gov/law-and-regs/regulations/title-iii-regulations/#-36302-modifications-in-policies-practices-or-procedures~:text=\(i\)%20A%20public%20accommodation%20shall%20make,of%20the%20individual%20with%20a%20disability.](https://www.ada.gov/law-and-regs/regulations/title-iii-regulations/#-36302-modifications-in-policies-practices-or-procedures~:text=(i)%20A%20public%20accommodation%20shall%20make,of%20the%20individual%20with%20a%20disability.)





Miniature Horses

- “(i) A public accommodation shall make **reasonable modifications** in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.”

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Miniature Horses – Considerations

- “(A) The **type, size, and weight** of the miniature horse and whether the facility can accommodate these features;
- (B) Whether the handler has **sufficient control** of the miniature horse;
- (C) Whether the miniature horse is **housebroken**; and
- (D) Whether the miniature horse’s presence in a specific facility compromises **legitimate safety requirements** that are necessary for safe operation.

Physical Barriers

Structures and pathways



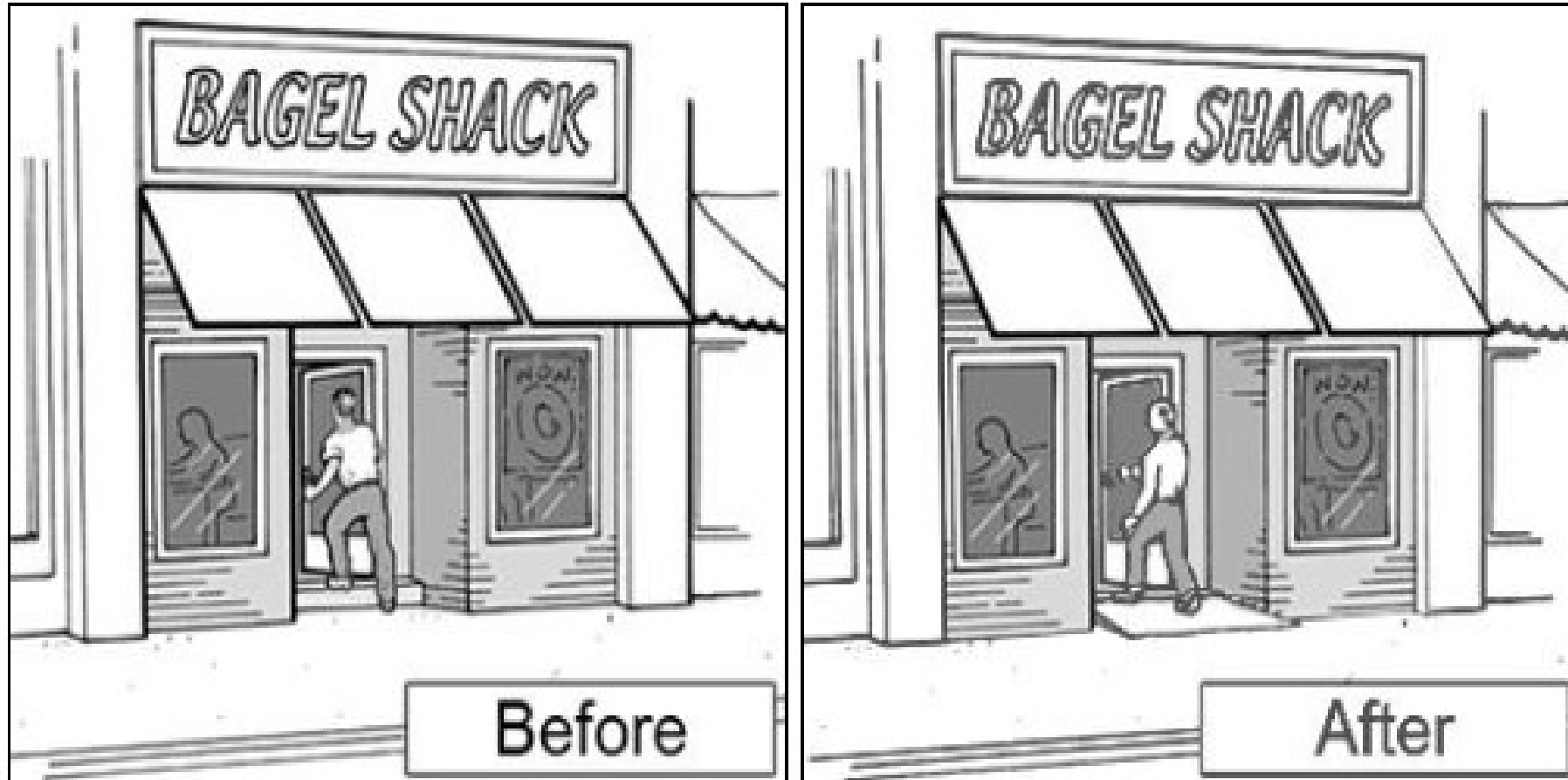
Readily Achievable Barrier Removal

- Small businesses must remove architectural barriers in existing facilities when it is “**readily achievable**” to do so.
- Readily achievable means “easily accomplishable without much difficulty or expense.”
- This standard is extremely subjective
 - Businesses with more resources are expected to remove more barriers than businesses with fewer resources



Examples: Readily Achievable Barrier Removal

- providing an accessible route from a parking lot to the business's entrance
- installing an entrance ramp
- widening a doorway
- installing accessible door hardware
- repositioning shelves
- moving tables, chairs, display racks, or other furniture.



Communication

Auditory & Visual Communication



Communication Requirements

- “It is a business’s responsibility to provide a sign language, oral interpreter, or VRI service unless doing so in a particular situation would result in an undue burden, which means significant difficulty or expense.
- A business’s overall resources determine (rather than a comparison to the fees paid by the customer needing the interpreter) what constitutes an undue burden.
- If a specific communications method would be an undue burden, a business **must provide an effective alternative** if there is one.

Auditory Considerations

- For guests who are deaf:
 - Put things in writing
 - Ex: If you provide workshops with verbal instructions, create a written handout
 - Have notebooks available or writing tech (like a tablet)
 - Use voice to text technology
- For guests who are mute:
 - Have notebooks or writing tech available



Visual Considerations

- For low-vision guests:
 - Print signs in large font
 - Have handouts available in large font (high contrast too!)
- For guest with blindness:
 - Have a staff person available to guide them and provide auditory narration
- For everyone:
 - Clear pathways

Digital Accessibility

Website and Social Media
Accessibility



Technology Standards in the U.S.

- 1998 Congress amends Rehabilitation Act of 1973
 - Federal agencies are required to make electronic & information technology accessible to people with disabilities
 - 29 U.S.C § 794d
 - **Section 508**
 - <https://www.section508.gov/manage/laws-and-policies/section-508-law/>
 - U.S. Access Board is responsible for accessibility standards



Technology Standards in the U.S.

- January 18, 2017
 - “the Access Board issued a final rule that updated accessibility requirements covered by Section 508 and refreshed guidelines for telecommunications equipment subject to Section 255 of the Communications Act”
 - The update corresponded to standards with the **World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG 2.0)**

<https://www.section508.gov/manage/laws-and-policies/>



ADA Requirements for Businesses

- “A website with inaccessible features can limit the ability of people with disabilities to access a public accommodation’s goods, services, and privileges available through that website—for example, a veterans’ service organization event registration form.
- **For these reasons, the Department has consistently taken the position that the ADA’s requirements apply to all the goods, services, privileges, or activities offered by public accommodations, including those offered on the web.”**

<https://www.ada.gov/resources/web-guidance/>



Web Content Accessibility Guidelines

- World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG 2.0)
- <https://www.w3.org/WAI/standards-guidelines/wcag/>



The screenshot shows a web browser displaying the W3C WAI website. The address bar shows the URL `w3.org/WAI/standards-guidelines/wcag/`. The page has a dark blue header with the W3C logo and the text "Web Accessibility Initiative WAI". Below the header is a navigation menu with categories: "Accessibility Fundamentals", "Planning & Policies", "Design & Develop", "Test & Evaluate", "Teach & Advocate", and "Standards/Guidelines". The breadcrumb trail reads "Home / Standards/Guidelines / Web Content - WCAG 2".

**Standards/
Guidelines**

- Web Content - WCAG 2
- How to Meet WCAG 2 (Quick Reference)
- At a Glance
- The Documents
- Applying to Non-Web ICT
- New in 2.2

WCAG 2 Overview

Summary

This page introduces the Web Content Accessibility Guidelines (WCAG) international standard, including WCAG 2.0, WCAG 2.1, and WCAG 2.2. WCAG documents explain how to make web content more accessible to people with disabilities.

A different page [introduces WCAG 3](#).

WCAG is not an introduction to accessibility. For introductions, see [Accessibility Fundamentals Overview](#).

Quick links to resources:

- [How to Meet WCAG 2 \(Quick Reference\)](#)



Web Content Accessibility Guidelines

- 4 Principles:
 - Perceivable
 - Operable
 - Understandable
 - Robust

<https://webaim.org/intro/>



Web Content Accessibility Guidelines

Guidance from the U.S. Department of Justice Civil Rights Division

- Color Contrast
- Text Cues
- Text alternatives (“alt text”)
- Video Captions
- Text size & Zoom capability
- Headings
- Keyboard & mouse navigation
- Online forms
- Reporting accessibility issues

<https://www.ada.gov/assets/pdfs/web-guidance.pdf>

Web Content Accessibility Guidelines

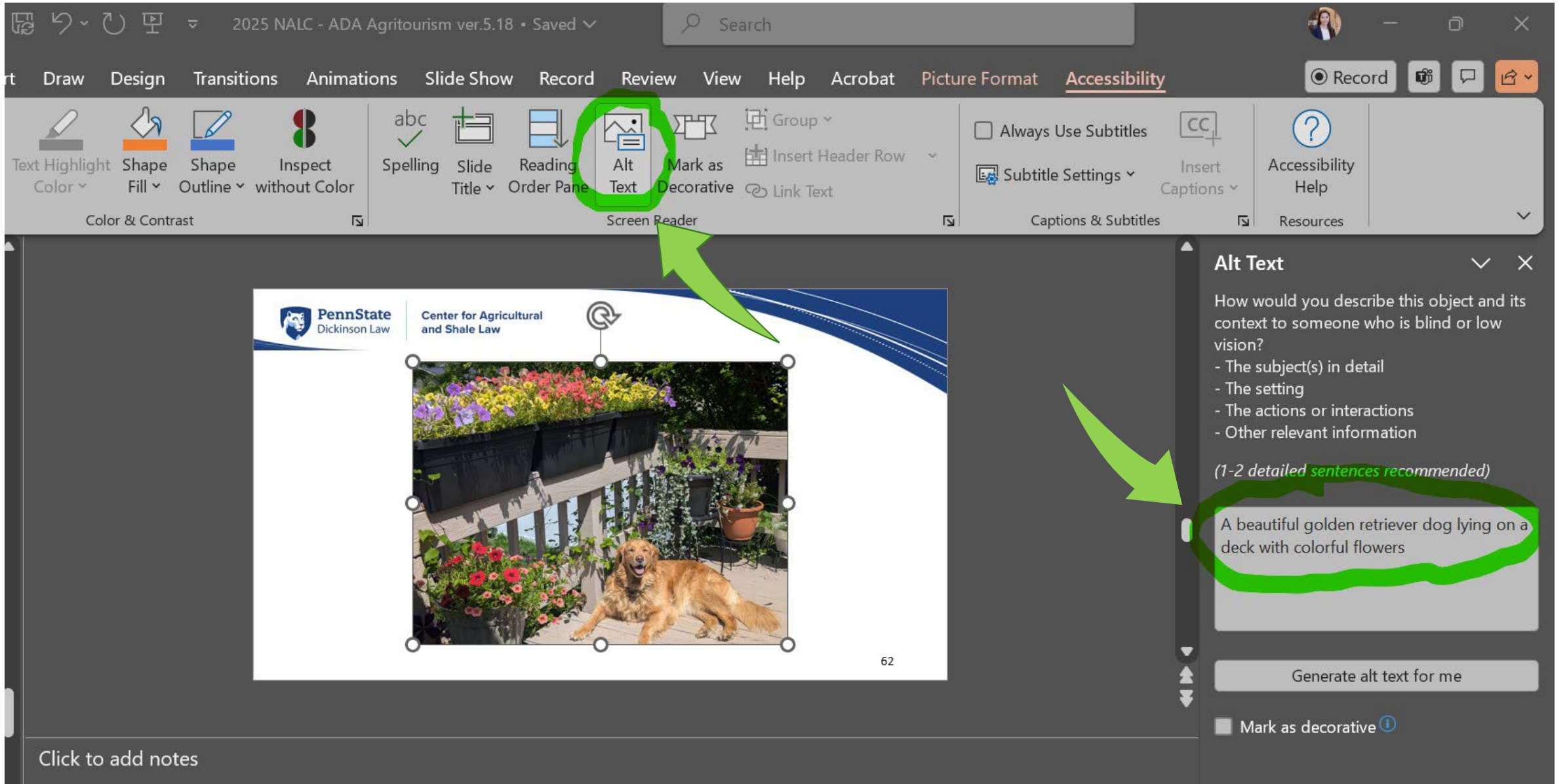
- **Color Contrast in text**
 - Make sure there's a distinct difference between the text & background to accommodate limited vision or color blindness
- **Text cues when using color in text**
 - Ex: Use the word “required” in addition to red text for required form fields
- **Text alternatives (“alt text”) in images**
 - Describe the image and the purpose of the image for people who use screen readers.

2025 NALC - ADA Agritourism ver.5.18 • Saved

Draw Design Transitions Animations Slide Show Record Review View Help Acrobat Picture Format Accessibility

Text Highlight Color Shape Fill Shape Outline Inspect without Color Spelling Slide Title Reading Order Pane Alt Text Mark as Decorative Link Text Group Insert Header Row Subtitle Settings Always Use Subtitles Insert Captions Accessibility Help

Color & Contrast Screen Reader Captions & Subtitles Resources



The screenshot shows a presentation slide with a photo of a golden retriever dog lying on a deck with colorful flowers. The slide includes logos for PennState Dickinson Law and the Center for Agricultural and Shale Law. The number 62 is visible in the bottom right corner of the slide. A green circle highlights the 'Alt Text' button in the 'Review' ribbon, with a green arrow pointing to the alt text panel on the right. The alt text panel contains the text: 'A beautiful golden retriever dog lying on a deck with colorful flowers'. A green circle highlights this text, and a green arrow points from the 'Alt Text' button to it. Below the alt text panel is a 'Generate alt text for me' button and a 'Mark as decorative' checkbox.

Alt Text

How would you describe this object and its context to someone who is blind or low vision?

- The subject(s) in detail
- The setting
- The actions or interactions
- Other relevant information

(1-2 detailed sentences recommended)

A beautiful golden retriever dog lying on a deck with colorful flowers

Generate alt text for me

Mark as decorative

Click to add notes



Web Content Accessibility Guidelines

- **Online forms**
 - Use labels & clear instructions. Forms should be accessible by keyboard. Labels should state what to do in each field.
- **Text size & zoom capacity**
 - Make sure your fonts are large and readable and that users can use the browser to zoom in
- **Video Captions**
 - Include captions on videos



- Record Alt+C
- Captions
- Polls/quizzes
- Whiteboard >
- Livestream >
- Start focus mode
- Reset to default
Drag to reorder toolbar

Jackie Schweichler

Audio Video Participants Chat React Share Host tools AI Companion Apps Breakout rooms Meeting info More End



Web Content Accessibility Guidelines

- **Headings**
 - Use headings to delineate different sections of your website and make sure that your website creator does so in a way that sections are navigated in order.
- **Keyboard & mouse navigation**
 - Users with disabilities should be able to access your website using their keyboard, rather than a mouse
- **Reporting accessibility issues**
 - Websites should contain reporting functionality for the public to report accessibility issues.



Check Your Digital Accessibility

- World Wide Web Consortium (W3C)
- **Web Accessibility Evaluation Tools List:**
 - <https://www.w3.org/WAI/test-evaluate/tools/list/>



Check Your Digital Accessibility - Examples

- WebAIM (Utah State University)
 - <https://webaim.org/articles/evaluationguide/>
- Accessibility Cloud
 - <https://www.accessibilitycloud.com/>
- AEL Accessibility Checker
 - <https://aeldata.com/accessibility-checker/>

Farm Employment

A Snapshot for Farm Employers



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Employment Under the ADA (briefly)

- “General requirement: Employers must provide people with disabilities an equal opportunity to benefit from the employment-related opportunities available to others. This includes things like recruitment, hiring, promotions, training, pay, and social activities.
- The ADA includes specific requirements for employers to ensure that people with disabilities have equal access to employment. Learn more about these requirements on the Equal Employment Opportunity Commission’s guidance for employers.”

The Cost of Compliance

Paying for ADA Updates & Tax Benefits



Tax Benefits – Disabled Access Credit

- **Disabled Access Credit (IRS section 44)**
- "non-refundable credit for small businesses that have expenses for providing access to persons with disabilities"
- Can be claimed each year that expenses are incurred
- Requirements
 - Business revenue less than \$1,000,000 **or**
 - Fewer than 30 full-time workers



Tax Benefits – Disabled Access Credit

- Covered Expenses:
 - readers for customers or employees with visual disabilities
 - sign language interpreters
 - purchase of adaptive equipment
 - production of accessible formats of printed materials (i.e., braille, large print, audio tape, computer diskette)
 - removal of architectural barriers in facilities or vehicles (alterations must comply with applicable accessibility standards)
 - fees for consulting services (under certain circumstances)



Tax Benefits – Disabled Access Credit

- Cannot be used for new construction
- "The amount of the tax credit is equal to 50% of the eligible access expenditures in a year, up to a maximum expenditure of \$10,250.
- There is no credit for the first \$250 of expenditures. The maximum tax credit, therefore, is \$5,000."



Tax Benefits – Barrier Removal Deduction

- **Barrier Removal Tax Deduction (IRS section 190)**
- Deduction can be taken by a business of any size
- Applies to the removal of architectural or transportation barriers
 - (renovations must comply with accessibility standards)
- Max deduction = \$15,000



Tax Benefits

- These benefits can be used together!
- Example:
 - Small business spends \$20,000 on qualified access adaptations
 - Can take a tax **credit** of \$5,000
 - Based on \$10,250 expenditures
 - Can take a **deduction** of \$15,000
 - (deduction is equal to the difference between the total expenditures and the amount of the credit claimed)



Work Opportunity Tax Credit

- Available for employers who hire individuals from groups who have faced consistent significant barriers to employment
- For employees who have worked 400 or more hours:
 - \$2,400 or 40% of up to \$6,000 in first year wages
 - For qualifying individuals
 - \$9,600 or 40% of up to \$24,000 of first year wages
 - For qualified veterans

<https://www.irs.gov/newsroom/tax-benefits-of-making-a-business-accessible-to-workers-and-customers-with-disabilities>

Dispute resolution

Avoiding accessibility disputes



USDA's Agricultural Mediation Programs

- Who can request mediation?
 - USDA-related issues:
 - Agricultural Loans
 - Wetlands determinations
 - Compliance with farm programs, including conservation programs
 - National organic program established under the Organic Foods Production Act of 1990
 - Agricultural Credit
 - Rural water loan programs
 - Grazing on National Forest System land
 - **Pesticides**
 - Non-USDA issues:
 - Lease issues; including land leases and equipment leases.
 - Family farm transition.
 - Farmer-neighbor disputes





USDA's Agricultural Mediation Programs

- Who conducts mediation?
 - Impartial 3rd party mediator
- If an agreement is not reached, the requestor may seek appeals or legal action
- **Coalition of Agricultural Mediation Programs**
 - <https://agriculturemediation.org/>



Pennsylvania Agricultural Mediation Program

Contact us:

Jackie Schweichler, Director

329 Innovation Blvd.

University Park, PA 16802

(814) 746-4619

AgMediation@PennStateLaw.psu.edu

Website: www.PAAgMediation.com

Wrap up

Final comments and review



Checklist for ADA Compliance

Walkways

- Can they be navigated by people using walkers and wheelchairs?

Doorways

- Are your doorways wide enough to accommodate wheelchairs?

Animals

- Are you prepared to accommodate service animals?

Bathrooms

- Are your bathrooms updated?

Website

- Did you (or your designer) follow best practices?

Signage and Audio

- Do you have accommodations for people with hearing or visual limitations?

Parking

- Do you have an ADA parking space?

Training

- Is your staff trained on this topic?



2022 U.S. Census

- The total U.S. civilian noninstitutionalized population with a disability in 2022:
 - **44.1 million or 13.4%**
- Total U.S. civilian employees ages 18 to 64 with a disability in 2022:
 - **9.8 million**

Promotional Opportunities

- Promote your business as accessible
 - Advertise accessibility features
- **Blue Trunk Foundation**
 - <https://www.bluetrunk.org/>
 - Business owners can list their business for free to show accessible features



**Blue Trunk
Foundation**

Travel for Everybody



Call ADA Directly with Questions

- **ADA Information Line**
 - Talk to us at 800-514-0301 | 1-833-610-1264 (TTY)
 - M, Tu, W, F: 9:30am - 12pm and 3pm - 5:30pm ET
 - Th: 2:30pm - 5:30pm ET
- **Community Outreach Coordinator**
 - Disability.Outreach@usdoj.gov

<https://www.ada.gov/>



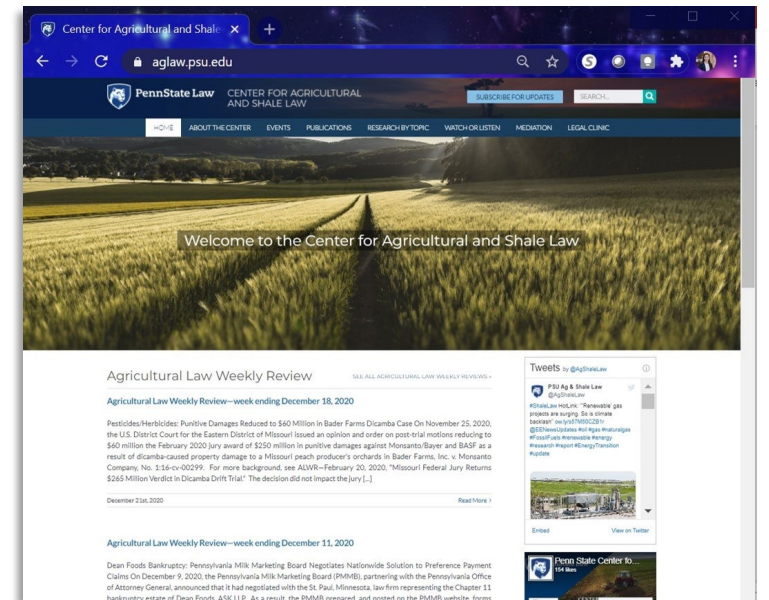
My Favorite Resources

- *ADA Update: A Primer for Small Business*
 - <https://www.ada.gov/resources/title-iii-primer/>
- *Agriculture and the ADA: Service Animals*, The National Agricultural Law Center
 - <https://nationalaglawcenter.org/wp-content/uploads/assets/articles/brownrumley-Service-animal-ada.pdf>

Center for Agricultural and Shale Law

<https://aglaw.psu.edu>

- Agricultural Law Weekly Review
- Shale Law Weekly Review
- Agricultural Law Virtual Resource Rooms
- Shale Law Virtual Resource Rooms
- Agricultural Law Tracker
- Shale Law Tracker
- Agricultural Law Podcast
- Social Media
 - Twitter, Facebook, LinkedIn
- Presentations
- PA Ag Mediation Program





PennState
Dickinson Law

**Center for Agricultural
and Shale Law**

Thank you!

Jackie Schweichler

Staff Attorney

Center for Agricultural and Shale Law

Penn State Dickinson Law

329 Innovation Boulevard, Suite 118

University Park, PA 16802

(814) 746-4619

jks251@psu.edu



Have an accessibility request
for any of these materials?
Email me at jks251@psu.edu
or call me at 814-865-4249.



Questions?