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## **COMMUNITY INTEGRATION:** Personal Assistants and the Americans with Disabilities Act (ADA)

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### **What is a Personal Assistant?**

Some people with disabilities have personal assistants who support and help them with activities such as eating, using the bathroom, supervision, communication, or getting from place to place. A personal assistant may be called different names, such as a personal care assistant or attendant (PCA), a support staff or worker, a caregiver, a provider, an aide, or another name.

Personal assistants can be critical in helping people with disabilities spend time in public places in their community. This document addresses some common questions that you may have if you bring your personal assistant with you to businesses that are open to the public in your community (“businesses”).

### **What is The Americans with Disabilities Act (ADA)?**

The Americans with Disabilities Act (ADA) is a civil rights law. It prohibits discrimination against people with disabilities. It says that people with disabilities have the same rights and opportunities as others without disabilities when they visit public places. This includes restaurants, movie theaters, gyms, museums, amusement parks, zoos, concert halls, grocery stores, and other places. There are exceptions for some private clubs and religious organizations.

It is against the law for someone to say that you cannot visit a public place just because you have a disability. This is discrimination. People with disabilities have the same rights as others to spend their time in and enjoy public places.

Many businesses have routine policies, practices, and procedures that make it difficult or impossible for a person with a disability to fully enjoy or participate in an activity. In these cases, the ADA requires businesses to make “reasonable modifications” to their usual ways of doing things when necessary to accommodate people who have disabilities. Even if a business is trying to treat everyone equally, it may be required to treat a person with a disability differently, so the person with a disability can have the same access as others without disabilities. Any modification must be “reasonable” and cannot be too costly or too much of a burden to the business.

## **If a business has an admission fee, do I have to pay the fee for myself and a separate fee for my personal assistant?**

If you have a disability and cannot fully access a business or participate in its activities without the help of a personal assistant, the business may be required to waive the personal assistant's admission fee as a reasonable modification of its policies or procedures. Requiring you or your personal assistant to pay a separate fee for his or her admission could be illegal. A personal assistant is with you to support you, usually not for his or her own enjoyment, so this person is not personally benefiting in the same way others are.

**Example 1:** A person with a disability may need a personal assistant to supervise or assist him when he goes to a fitness center. The person with a disability would need to pay any membership fee for himself. However, the person should be allowed to bring his personal assistant with him without having to pay an additional membership fee for the assistant, as long as the assistant does not use the equipment and services of the fitness center for his own personal benefit.

**Example 2:** A person with a disability may need a personal assistant to supervise or assist her when she attends a conference. If the conference has a fee for meals, and the personal assistant plans to eat the meals, the business can probably charge a fee for the personal assistant's meals. This is an example of a personal assistant getting a personal benefit. However, the business may still be required to waive other conference fees charged to the personal assistant.

## **How do I ask the business to waive the admission fee for my personal assistant?**

If you need your personal assistant to be with you because of your disability in order to fully access the business and participate in its activities, you can ask the business to waive the admission fee for your personal assistant as a reasonable modification of its policies and procedures. You should explain why your personal assistant is needed because of your disability, and what work or tasks your assistant will perform to allow you to have equal access to the business or participate in its activities.

## **If I need personal assistance but don't have an assistant, is a business required to provide me one?**

Businesses are generally not required to provide people with disabilities with services of a personal nature, such as assistance in eating, toileting, or dressing. This means that they would generally not be required to hire additional staff or provide constant one-to-one supervision for a person with a disability.

However, there are exceptions:

- If the business normally provides such assistance to others, then it would likely also need to be provided to you if you need it because of your disability. For example, a doctor's office normally provides basic assistance in helping people undress and dress for medical exams. They would be required to provide this assistance to people with disabilities.

- If the service you need could be provided by reasonably modifying the business' usual way of doing things, then the business may need to provide it to you. For example, child care centers may be required to monitor blood glucose levels of a child with diabetes or help children with mobility impairments take on and off foot braces.
- If a program or business is physically inaccessible, the business may need to provide personal assistance such as curbside service.

Businesses are also required to ensure effective communication with people with disabilities, which sometimes includes providing a sign language interpreter. This type of assistance is called an auxiliary aid or service and is different than the personal assistance services described above.

### **Can a business charge me a fee if it provides me with a personal assistant?**

If the service is required by the ADA, then the business cannot charge you. If the business goes beyond what it is required to do by law, then it could charge you a fee.

### **More Information**

If you have questions about your rights, you can call Disability Rights Ohio (DRO) at 800-282-9181 and press 2 for the Intake Department. DRO can give you information about your rights and help answer your questions.