

ADVOCACY RESOURCE

ADA Protections for SUD Treatment Programs

Substance use disorder treatment programs and the people they serve are protected under federal and state law. When local governments create barriers, providers have rights. CAADPE is here to help you use them.

THE LAW

Who Is Protected Under the ADA?

Federal law is clear. Individuals with substance use disorders, including alcohol use disorder and opioid use disorder, are individuals with disabilities under the Americans with Disabilities Act, provided they are not currently engaging in the illegal use of drugs.

This means that any person in treatment or recovery from a SUD is protected from discrimination. And because SUD treatment programs necessarily serve people with disabilities, actions that single out, restrict, or burden those programs raise serious ADA concerns.

FOR PROVIDERS

Your facility serves people with disabilities. Local governments cannot single you out, impose discriminatory conditions, or use zoning and permitting to achieve what the law prohibits directly.

FOR LOCAL GOVERNMENTS

Counties and cities have ADA obligations. Actions taken by planning departments, behavioral health departments, and permitting offices are attributable to the local government for compliance purposes.

FOR COMMUNITIES

Community opposition, stigma, and speculative safety concerns are not valid legal justifications under the ADA. The law requires individualized, evidence-based assessments.

LEGAL FRAMEWORK

Six Key Legal Protections

1

SUD Diagnosis Equals Disability Protection

Drug addiction and alcoholism are physical or mental impairments under the ADA. The U.S. Department of Justice has expressly confirmed this and it is binding on all state and local governments.

2

Governments Cannot Discriminate Against Programs That Serve Protected Populations

Under Title II of the ADA, counties and cities may not use contracting, zoning, licensing, or funding mechanisms to achieve outcomes that would be unlawful if done directly.

3 Discriminatory Effects Are Actionable Without Proof of Intent

ADA liability does not require discriminatory intent. Facially neutral policies with a disparate impact on SUD programs may violate the ADA unless they are the least discriminatory means of achieving a legitimate government objective.

4 Local Agencies Are Responsible for Their Subordinates

ADA obligations extend to departments, agencies, contractors, licensors, and permitting authorities exercising delegated governmental functions. The local government cannot shift responsibility to a department or contractor.

5 California Law Adds Additional Protections

State nondiscrimination requirements applicable to alcohol and drug programs are aligned with, and in some respects broader than, federal ADA protections. Local governments face parallel federal and state exposure.

6 Stigma and Community Opposition Are Not Valid Justifications

The DOJ has repeatedly confirmed that generalized concerns about relapse, crime, or public safety do not constitute valid ADA justifications. Restrictions must be based on actual operational or safety concerns, not assumptions about the population served.

WHAT THE LAW PROHIBITS

What Local Governments Cannot Do

PROHIBITED ACTIONS UNDER THE ADA

- ✗ Treat SUD programs differently from other health or residential uses without a legitimate, non-pretexual justification
- ✗ Impose additional approval, spacing, or discretionary hurdles not imposed on comparable facilities
- ✗ Rely on generalized community concerns about relapse, crime, or public safety rather than evidence-based assessments
- ✗ Use zoning, licensing, or contracting to achieve outcomes that would be unlawful if done directly
- ✗ Deny permits or approvals based on the disability status of the population served
- ✗ Apply different standards to SUD treatment programs than to other healthcare or residential uses

WHAT LOCAL GOVERNMENTS MAY DO

- ✓ Impose conditions based on actual, documented operational or safety concerns
- ✓ Apply requirements that are consistent with those applied to comparable health or residential uses
- ✓ Conduct individualized, evidence-based assessments of specific program operations
- ✓ Engage collaboratively with providers on legitimate community concerns

TAKE ACTION

What To Do If Your Facility Faces Opposition

If you are facing NIMBY opposition, discriminatory zoning conditions, or barriers from a local government, here are your immediate steps.

1

Document Everything

Keep records of all communications, decisions, and conditions imposed by local government agencies. Note whether comparable non-SUD facilities face the same requirements.

2

Contact CAADPE

Reach out to our team. We can help you assess whether your situation involves an ADA violation, connect you with legal resources, and coordinate advocacy on your behalf.

3

Send the Legal Framework Letter

CAADPE has prepared a model letter to county counsel and city attorneys outlining the ADA protections that apply to your program. Download it below, customize it, and send it as a first step before escalating.

4

Consider Filing a Complaint

If the local government does not respond appropriately, you may file a complaint with the U.S. Department of Justice Civil Rights Division or the California Department of Fair Employment and Housing.

5

Connect With Legal Counsel

CAADPE can connect you with attorneys experienced in ADA and fair housing law as applied to SUD treatment programs. Early legal consultation can prevent costly delays.

CONTACT CAADPE

For assistance with ADA compliance questions, legal resources, or member advocacy support, reach out to our team directly.

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PRINTABLE FACT SHEET

Print or share with county counsel, city attorneys, planning departments, and community partners.

Know Your Rights: ADA Protections for Substance Use Disorder Treatment Programs

CAADPE · California Association of Alcohol and Drug Program Executives · caadpe.org

WHO IS PROTECTED

Individuals with substance use disorders are individuals with disabilities under the Americans with Disabilities Act (ADA), provided they are not currently engaging in the illegal use of drugs. This includes individuals in treatment or recovery from alcohol use disorder and opioid use disorder. SUD treatment programs that serve these individuals are therefore protected from discriminatory government action.

WHAT THE LAW PROHIBITS

- Treating SUD programs differently from comparable health or residential uses without a legitimate, non-pretextual justification
- Imposing additional approval, spacing, or discretionary conditions not applied to similar facilities
- Using zoning, licensing, or contracting mechanisms to achieve outcomes that would be unlawful if done directly
- Relying on community stigma or speculative safety concerns rather than evidence-based, individualized assessments

KEY LEGAL PRINCIPLES

- ADA liability does not require discriminatory intent. Policies with a discriminatory effect may violate the law.
- Local governments are responsible for the actions of their departments, contractors, and permitting authorities.
- California law independently prohibits discrimination in programs receiving public funding and in health services, providing parallel state exposure alongside federal ADA obligations.
- Community opposition, stigma, and speculative safety concerns are not valid legal justifications under the ADA. The U.S. Department of Justice has confirmed this repeatedly.

REQUESTED APPROACH FOR LOCAL GOVERNMENTS

- Evaluate programs based on objective operational criteria, not the disability status of individuals served
- Apply requirements consistent with those imposed on comparable healthcare or residential facilities
- Avoid policies that could be construed as excluding or burdening programs because they serve protected individuals

RESOURCES

- U.S. Department of Justice ADA Information Line: 1-800-514-0301
- DOJ ADA.gov: ada.gov
- Contact CAADPE: robb@caadpe.org | 916-628-7622

This fact sheet is provided by CAADPE as an educational resource. It does not constitute legal advice. Providers facing specific legal challenges should consult with qualified legal counsel. For assistance connecting with legal resources, contact CAADPE directly.