



COMPARATIVE STUDY ON ACCESSIBILITY ACROSS THE UNITED STATES

EXECUTIVE SUMMARY BY **HOLLY MCCAULEY, NIA HAMMETT & HARSHIL SHAH** | AUGUST 2020

Legislation such as the Americans with Disabilities Act (ADA), mandated that public facilities and services be fully accessible to persons with disabilities (PWDs). The accessibility requirements of many states and local building codes are based on the ADA. The Department of Justice published revised regulations for Titles II and III of the ADA on September 15, 2010. These regulations revised the enforceable accessibility standards called the 2010 ADA Standards for Accessible Design. The 2010 Standards set minimum requirements for newly designed and constructed or altered state and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by PWDs. However, there are still unique requirements and codes for different local areas. These differences in codes can negatively impact general accessibility because one area may have superior requirements than other areas.

The aim of this study was to identify states that are superior to other states in the regards of providing accessibility to those who are specially abled. This research helped find how different states and regions in the U.S. (Eastern, Central, and Western) implemented the ADA and accessibility laws and compared how effective these state laws are. This information can be used to find out which amendments and states/regions are more accessible.

In order to collect data, the study developed an internal set of metrics. The study then utilized these metrics to analyze accessibility amendments, lawsuits, and audits across the 50 states. The internal set of metrics analyzing lawsuits and accessibility standards, respectively, had different set components such as identifying the defendant and plaintiff to stating the outcome of the lawsuit. Following that data collection, we expanded upon our research by including data on accessibility auditing standards, and what that process currently entails in all available states.

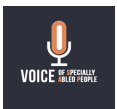
Across the United States there are statewide accessibility amendments that were implemented in many states. These amendments usually added extra regulations for the specific state in addition to the ADA. Many of these amendments pertained to employment, housing codes, building accessibility, and inaccessibility at the workplace. Analyzing amendments helped provide an understanding of which states had more accessibility laws to determine the impact of these laws in the states and how effective they were.



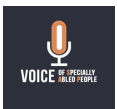
In the eastern region, the lawsuits filed in the eight states that had already expanded their building codes tended to be related to newer trends in ADA litigation like the inaccessibility of websites for hearing or vision impaired visitors, while those states who merely enforced the ADA dealt with a large number of lawsuits regarding public goods and services being inaccessible to the public, specifically to those with non-physical disabilities. For example, out of five lawsuits filed by a person with a developmental or mental illness, four were filed in states that did not expand upon the ADA requirements (Table 4). Two case studies, in Florida and New Hampshire, illustrate this point. New Hampshire, a state whose main accessibility code implements the 2015 ADA Building Code, filed twice as many Title II lawsuits than the other states in the region. Consequently, New Hampshire was one of the biggest contributors of Title II lawsuits in the US. Meanwhile, Florida, a state that expanded on the ADA requirements in their 2012 Building Code, had the second highest number of Title III lawsuits in 2018 after California, with a slightly lower than average number of Title II litigation when compared to the other states. While the exact number of cases is not readily available, states with similar legislation in place as Florida or New Hampshire tended to follow the same trends. This trend remained true for a majority of the 17 states in this region, regardless of the state's ruling political party, as New York and Florida experienced similar trends in their litigation.

Despite the assumption that all regions would differ greatly, the western region was the most disparate, with the central and eastern United States seeing similar trends in both lawsuit and amendment data. The central and eastern US, for example, both saw a large amount of states passing legislation regarding building codes, with a divide between those states that implemented the minimum requirements and those that expanded upon them. Perhaps as a result, a minority of the lawsuits in those regions pertained to the inaccessibility of public spaces, while the western US saw a higher number of accessibility lawsuits. Additionally, the western United States saw a correlation between the outcome of a lawsuit, and whether it was filed against a private or public entity. The central and east regions, in contrast, did not see a correlation between the two, nor did they contain a lot of lawsuits filed against private entities to begin with.

As a result, this study recommends a couple of different courses of action based on region. For the eastern and central states, the best action would be for states with a large number of Title II ADA complaints to pass legislation that would expand upon the current ADA requirements to include specific language pertaining to persons with mental and developmental disabilities, as well as general language that allows for a broader interpretation of the word "disability." In the western region, new changes in amendments need to be added that address the lack of accountability for businesses when they do not follow guidelines in regards to accessibility. Furthermore, the fines for disregarding the guidelines in the amendments should be hefty to deter businesses from not following guidelines. To build upon that, it is recommended that not only entities who



disregard amendments are fined but also adopt a set of policies that follow the ADA or go above it. It is advised that states become more proactive when it comes to addressing accessibility in their states. Instead of lawsuits being a catalyst for change, more amendments should be implemented to decrease the amount of lawsuits that occur. Also, a combination of hefty fines and internal policy changes that can help decrease the amount of accessibility lawsuits that occur throughout all states.



ABOUT THE AUTHORS

Holly McCauley is a student at the University of Southern California majoring in English Literature on the pre-law track with a minor in Legal Studies. Previously, she was on the first e-board for USC's Student Assembly for Accessibility, where she got to work on advocacy programming on campus, and she is also a member of the Society of Women in the Law. Outside of school, she loves playing tennis and getting to hangout around Los Angeles!

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ACKNOWLEDGEMENTS

We thank Manushri Desai and Anusha Singh, VOSAP Research Internship coordinators, for their continuous support and guidance throughout the course of the research project. We thank Pranav Desai, founder of VOSAP, for his expertise in the disability sector and invaluable insights for our work.

WHY THIS MATTERS TO VOSAP

VOSAP recognizes the importance of understanding the implementation of auditing and measuring accessibility of physical spaces for SAP's. This analysis is important, especially at a state level, to increase mobility and inclusivity of SAP's. Furthermore, VOSAP strongly believes that this research can demonstrate the need for legal action for PWD's at the state level to drive tangible action.

ABOUT VOICE OF SPECIALLY ABLED PEOPLE INC.

The Voice of Specially Abled People (VOSAP) is a global advocacy organization built on the principles of Empowerment of Specially Abled People. In Special Consultative Status with UN ECOSOC, VOSAP is working to create an Inclusive and Accessible world by accelerating implementation of UN Sustainable Development Goals (SDGs) and goals of UN CRPD (Convention on the Rights of Persons with Disabilities) treaty. The organization has created the VOSAP Mobile App through which volunteers can take a pledge to volunteer and rate the accessibility of public places, creating a crowdsourcing platform to aggregate demand for accessibility.

