

Fundamental Alteration

Background

Under Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act (ADA) and Section 1557 of the Affordable Care Act (ACA), recipients must provide full and equal access to their programs and activities by people with disabilities through:

1. Reasonable modifications of policies, practices, and procedures;
2. Effective communication; and
3. Accessible facilities.

A recipient is exempt from this requirement if they can demonstrate that the modification would be a **fundamental alteration**. A fundamental alteration is a change that is so significant, it would alter the essential nature of the care or service being provided.

Purpose of Document

This document provides examples of what may be considered fundamental alterations, within and outside of healthcare settings, according to federal guidance and case law.

General Guidance

A requested modification **may** be a fundamental alteration in the following scenarios:

- The request changes the essential nature of the care or service being provided.
- The request significantly interferes with health or safety requirements.
- The request completely invalidates the objective of the service or program.

In determining whether a request is a fundamental alteration, a recipient:

- **Must** conduct an individualized assessment of the requested modification.
 - Factors to consider include the nature and cost of the action in relation to the size, resources, purpose, and structure of the entity.
- **Must** consider reasonable alternatives to provide access to people with disabilities, if unable to fulfill the original request.
- **Must** be determined on a case-by-case basis.
- **Cannot** merely rely upon tradition or existing rules (i.e., “this is how we have always done things”).

Examples of Fundamental Alterations

Topic	Information	Relevant Examples
Electronic Accessibility	Generally, adding electronic accessibility should not change the basic purpose or characteristics of a product in a fundamental way. A fundamental alteration of electronic equipment means a change in the purpose of the product or service, not merely a cosmetic or aesthetic change.	An organization intends to procure pocket-sized pagers for field staff to use. Adding a large display to a small pager may fundamentally alter the device by changing its size to such an extent that it no longer meets the purpose for which it was intended, that is to provide a communication device which fits in a pocket.

Topic	Information	Relevant Examples
Healthcare Specialties	A recipient may refer a patient with a disability to another healthcare entity if the patient is seeking services outside of the recipient’s area of specialization and the recipient would normally make a similar referral to a patient without a disability.	<ul style="list-style-type: none"> • A parent of a child with a disability requests an appointment with a primary care doctor the parent uses. However, this doctor specializes in care for older adults. Because the doctor is not a pediatrician, this could be a fundamental alteration of the services he provides and he can refer the child to a pediatrician. • An elderly patient with shortness of breath requests his long-time physician to now conduct home visits. This may pose a fundamental alteration of the physician’s services because she does not provide home-based care. She may refer the patient to another locally-based physician who specializes in providing in-home services and geriatric care.
Childcare centers	A center that provides group childcare may be asked to provide temporary one-on-one care in the case of emergencies. However, requesting a childcare center to provide ongoing one-on-one care for a child with a disability may fundamentally alter the nature of the service that the daycare center provides. ¹	A parent of a child with a traumatic brain injury and seizure disorder enlisted her child in a small group childcare center and requested a continuous need for one-on-one personal care. This request would fundamentally alter the nature of the service this childcare center provides because it does not provide one-on-one childcare on a regular basis to any child except to deal to urgent needs.
Providing Medical Equipment to Visitors	A recipient, such as a hospital, is required to provide eating, toileting, and dressing services to people with disabilities as they would provide them to people without disabilities. However, in cases of providing medical equipment to non-patients, this may result in a fundamental alteration of the hospital’s services.	<p>A hospital does not have to provide medical equipment, such as an oxygen tank, to a visitor or non-patient. This would fundamentally alter the hospital’s normal services which is to offer medical equipment exclusively to patients.</p> <ul style="list-style-type: none"> • This may be contrasted with a recipient’s obligation to provide auxiliary aids and services to communicate with a patient’s companion. If a patient’s companion is deaf or hard-of-hearing and requests a sign language interpreter to achieve effective communication, the recipient is obliged to provide this service.

¹ NOTE: Childcare centers must accommodate children with diabetes who require injectable insulin. The training for staff to monitor an insulin pump or give an injection takes less than two hours and the administration of insulin does not disrupt normal operations. Therefore, this request does not fundamentally alter the program.

Topic	Information	Relevant Examples
Alternative Formats	A recipient may be obliged, under certain circumstances, to provide materials in an alternative format (e.g., large print). However, there are situations where this may pose as a fundamental alteration of the services provide.	<ul style="list-style-type: none"> • A bookstore customarily carries only regular print versions of books. The ADA does not require the bookstore to expand its inventory to include large print books or books on audiotapes because it would pose as a fundamental alteration of the bookstore’s procedures. <ul style="list-style-type: none"> ○ However, the bookstore may be required to special order the large print or audio books if it regularly makes special orders for un-stocked goods and the accessible goods can be requested from its regular supplier. • A woman with low vision attends a presentation that requires dim lighting. Instead of turning on the lights which would fundamentally alter the nature of the presentation, the organization may provide the woman with a laptop to view the presentation and adjust the lighting of the screen.
Service animals	Generally, service animals may accompany their owners anywhere that patients, visitors, and members of the public are normally allowed to go, even within a facility that has a ban on pets. However, there are rare situations where this may pose a fundamental alteration.	A service dog may be denied entry into a facility if the animal’s presence or behavior creates a fundamental alteration in the nature of a facility’s services, such as operating rooms and burn units or other areas where the animal may compromise a sterile field environment.

Helpful Resources

- Department of Justice:
 - [Title II Technical Assistance Manual](#)
 - [Title III Technical Assistance Manual](#)
 - [Service Animal ADA Requirements](#)
- [U.S. Access Board](#)
- ADA National Network:
 - [Health Care and the ADA Fact Sheet](#)
- Relevant Court Cases:
 - [Southeastern Community College v. Davis](#), 442 U.S. 397 (1979).
 - [Roberts v. KinderCare Learning Centers, Inc.](#), 86 F.3d 844 (8th Cir. 1996).
 - [Dryer v. Flower Hospital](#), 383 F.Supp.2d 934 (N.D.Ohio 2005).