§ 12115
TITLE 42—THE PUBLIC HEALTH AND WELFARE
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CODIFICATION

AMENDMENTS
2009—Subsec. (a). Pub. L. 110–335 substituted “a qualified individual with a disability shall” for “the term ‘qualified individual with a disability’ shall”.

EFFECTIVE DATE OF 2008 AMENDMENT

EFFECTIVE DATE
Section effective 24 months after July 26, 1990, see section 108 of Pub. L. 101–336, set out as a note under section 12111 of this title.

§ 12115. Posting notices
Every employer, employment agency, labor organization, or joint labor-management committee covered under this subchapter shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this chapter, in the manner prescribed by section 2000e–10 of this title.


REFERENCES IN TEXT
This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter.

For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

EFFECTIVE DATE
Section effective 24 months after July 26, 1990, see section 108 of Pub. L. 101–336, set out as a note under section 12111 of this title.

§ 12116. Regulations
Not later than 1 year after July 26, 1990, the Commission shall issue regulations in an accessible format to carry out this subchapter in accordance with subchapter II of chapter 5 of title 5.


EFFECTIVE DATE
Section effective 24 months after July 26, 1990, see section 108 of Pub. L. 101–336, set out as a note under section 12111 of this title.

§ 12117. Enforcement
(a) Powers, remedies, and procedures
The powers, remedies, and procedures set forth in sections 2000e–4, 2000e–5, 2000e–6, 2000e–8, and 2000e–9 of this title shall be the powers, remedies, and procedures this subchapter provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this chapter, or regulations promulgated under section 12116 of this title, concerning employment.

(b) Coordination


REFERENCES IN TEXT
This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter.

For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.


EFFECTIVE DATE
Section effective 24 months after July 26, 1990, see section 108 of Pub. L. 101–336, set out as a note under section 12111 of this title.

SUBCHAPTER II—PUBLIC SERVICES

PART A—PROHIBITION AGAINST DISCRIMINATION AND OTHER GENERALLY APPLICABLE PROVISIONS

§ 12131. Definitions
As used in this subchapter:

(1) Public entity
The term “public entity” means—
(A) any State or local government;
(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 24102(4) of title 49).

(2) Qualified individual with a disability
The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of
architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.


REFERENCES IN TEXT
Section 24102 of title 49, referred to in par. (1)(C), was subsequently amended, and section 24102(4) no longer defines “commuter authority”. However, such term is defined elsewhere in that section.

CODIFICATION
In par. (1)(C), “section 24102(4) of title 49” substituted for “section 103(8) of the Rail Passenger Service Act” on authority of Pub. L. 100–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

EFFECTIVE DATE

“(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle [subtitle A (§§201–205) of title II of Pub. L. 101–336, enacting this part] shall become effective 18 months after the date of enactment of this Act [July 26, 1990].

“(b) EXCEPTION.—Section 209 (section 12134 of this title) shall become effective on the date of enactment of this Act.”

EX. ORD. NO. 13217, COMMUNITY-BASED ALTERNATIVES FOR INDIVIDUALS WITH DISABILITIES
Ex. Ord. No. 13217, June 18, 2001, 66 F.R. 33155, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to place qualified individuals with disabilities in community settings whenever appropriate, it is hereby ordered as follows:

SECTION 1. Policy. This order is issued consistent with the following findings and principles:

(a) The United States is committed to community-based alternatives for individuals with disabilities and recognizes that such services advance the best interests of Americans.

(b) The United States seeks to ensure that America’s community-based programs effectively foster independent participation in the community for Americans with disabilities.

(c) Unjustified isolation or segregation of qualified individuals with disabilities through institutionalization, in a form of disability-based discrimination prohibited by Title II of the Americans With Disabilities Act of 1990 (ADA), 42 U.S.C. 12131 [12131 et seq.], States must avoid disability-based discrimination unless doing so would fundamentally alter the nature of the service, program, or activity provided by the State.

(d) In Olmstead v. L.C., 527 U.S. 581 (1999) (the ‘Olmstead decision’), the Supreme Court construed Title II of the ADA [42 U.S.C. 12131 et seq.] to require States to place qualified individuals with mental disabilities in community settings, rather than in institutions, whenever treatment professionals determine that such placement is appropriate, the affected persons do not oppose such placement, and the State can reasonably accommodate the placement, taking into account the resources available to the State and the needs of others with disabilities.

(e) The Federal Government must assist States and localities to implement swiftly the Olmstead decision, so as to help ensure that all Americans have the opportunity to live close to their families and friends, to live more independently, to engage in productive employment, and to participate in community life.

SUC. 2. Swift Implementation of the Olmstead Decision: Agency Responsibilities. (a) The Attorney General, the Secretaries of Health and Human Services, Education, Labor, and Housing and Urban Development, and the Commissioner of the Social Security Administration shall work cooperatively to ensure that the Olmstead decision is implemented in a timely manner. Specifically, the designated agencies should work with States to help them assess their compliance with the Olmstead decision and the ADA [42 U.S.C. 12101 et seq.] in providing services to qualified individuals with disabilities in community-based settings, as long as such services are appropriate to the needs of those individuals. These agencies should provide technical guidance and work cooperatively with States to achieve the goals of Title II of the ADA [42 U.S.C. 12131 et seq.], particularly where States have chosen to develop comprehensive, effectively working plans to provide services to qualified individuals with disabilities in the most integrated settings. These agencies should report to the President, through the Secretary of Health and Human Services, with the results of their evaluation within 120 days.

(b) The Attorney General, the Secretaries of Health and Human Services, Education, Labor, and Housing and Urban Development, and the Commissioner of the Social Security Administration shall evaluate the policies, programs, statutes, and regulations of their respective agencies to determine whether any should be revised or modified to improve the availability of community-based services for qualified individuals with disabilities. The review shall focus on identifying affected populations, improving the flow of information about supports in the community, and removing barriers that impede opportunities for community placement. The review should ensure the involvement of consumers, advocacy organizations, providers, and relevant agency representatives. Each agency head should report to the President, through the Secretary of Health and Human Services, with the results of their evaluation within 120 days.

(c) The Attorney General and the Secretary of Health and Human Services shall fully enforce Title II of the ADA, including investigating and resolving complaints filed on behalf of individuals who allege that they have been the victims of unjustified institutionalization. Whenever possible, the Department of Justice and the Department of Health and Human Services should work cooperatively with States to resolve these complaints, and should use alternative dispute resolution to bring these complaints to a quick and constructive resolution.

(d) The agency actions directed by this order shall be done consistent with this Administration’s budget.

SUC. 3. Judicial Review. Nothing in this order shall affect any otherwise available judicial review of agency action. This order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE W. BUSH.

§ 12132. Discrimination

Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.