



# **7 Essential Functions of the ADA Coordinator Role**

## **Presenters**

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# Hello & Welcome!

- Introductions
  - Bree & Enjie
- Overview of our time together and documents
- Dive into the ADA fun!



# Heart of the Work

Establishing a floor to meet civil rights obligations.

Strive to foster inclusion and representation of disability and accessibility throughout university systems.

*Now to review a key definition as we set the stage:*

# Accessible

- “Means a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use.”
  - 2012 University of Montana OCR Case

# Opening questions to ponder...

- Why does your role of ADA coordinator and/or Director exist on campus?
- What are your main hopes for your campus community relative to your role?
- What is your accountability to the campus community?
- What is your purpose when working with disabled students, employees, patients, visitors?



# #1 Understand & Apply: Legal and Regulations Basics & Social Justice Models/Influences

Section 504 of the Rehabilitation Act of 1973

American with Disabilities Act of 1990

ADA as Amended in 2008

ADA 2010 Architectural standards

Web Content Accessibility Guidelines (WCAG)

The Fair Housing Act

Section 1557 of the Affordable Care Act (ACA)

Disability Identity

Models of Disability

# Section 504 of the Rehabilitation Act of 1973\*

The first disability civil rights law to be enacted in the United States and set the stage for enactment of the Americans with Disabilities Act 17 years later.

- “No otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...”
- Defined disability
  - an impairment that substantially limits one or more major life activities
  - a record of such an impairment,
  - or being regarded as having such an impairment.
- Requires that individuals with disabilities have access to reasonable accommodations
- *\*Turns 50 in September 2023*
  - *Who here started an office for students with the passing of 504?*

# American with Disabilities Act of 1990

- Is a civil rights law that prohibits discrimination based on disability that was built upon Section 504 framework and regulations:
  - *Key difference: States that federal funding can be taken away/lost*
- Has 5 Titles, higher education institution's only navigate 1-3
  - I: Employment
  - II: Public Entities
  - III: Public Accommodations



# ADA as Amended in 2008

- The definition of disability should be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of the ADA and generally shall not require extensive analysis
  - Expanded the definition of "major life activities" & included major bodily functions;
  - Redefined who is "regarded as" having a disability;
  - Modified the regulatory definition of "substantially limits";
  - Specified that "disability" includes any impairment that is episodic or in remission if it would substantially limit a major life activity when active;

# ADA 2010 Architectural Standards

- The 2010 Standards set minimum requirements, both scoping and technical, 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 individuals with disabilities.
  - “*Program accessibility*” can occur if programs and services, when viewed in their entirety, are accessible to persons with a disability. Requirements can be met through remediation or accommodations.

# Content Accessibility Guidelines (WCAG) \*

- Defines how to make Web content more accessible to people with disabilities. Accessibility involves a wide range of disabilities, including visual, auditory, physical, speech, cognitive, language, learning, and neurological disabilities.
  - The guidelines are organized under 4 principles: perceivable, operable, understandable, and robust.
- *\*DOJ May 2023 proposed rule making*

# The Fair Housing Act

- Protects people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities. Additional protections apply to federally-assisted housing.
  - *Campus housing falls under this, in addition to it being a program/service/activity that an institution delivers under Section 504/ADA.*

## Section 1557 of the Affordable Care Act (ACA)

- Prohibits discrimination based on race, color, national origin, sex, age or disability in certain health programs and activities.
  - *This can be for campus clinics and not just hospitals or larger medicine facilities located at your institution*
- OCR Health & Human Services enforces Section 504 & ADA regulations in connection to Section 1557

# State, City and/or County regulations

- Some states have specific anti discrimination laws or regulations that guide this work further than federal. Be informed of your state, county or city laws or regulations that intersect with your campus locations and/or jurisdictions.
  - WA
  - CA
  - Others...

# Disability Identity

- AHEAD Statement on Language:
  - There are **two** prevalent ways that we identify with disability in language: person-first and identity-first.
  - Both options have implications for how we think about disability. These language choices underscore the differences between impairment and disability.
    - “**Impairment**” is the term used by disability studies scholars to refer to a physiological difference in one’s body or brain.
    - **Disability** is a lived experience with far-reaching political, social, and economic implications.

# Social Construct

- Disability as diversity
- Celebrates disability as a part of a person's identity
- Focus on environment and barrier removal
- Empower the person with a disability to be successful
- Design spaces, technology, and activities to be inclusive for full participation



# Diversity, Equity, Inclusion

- Disability is key aspect of diversity
- Accommodations provide equitable access
- Accessibility promotes inclusion and sense of belonging

# Social Model Aspects

- **Now with a Reframed Perspective:**
  - *The loss or limitation of opportunities to take part in society on an equal level with others due to social and environmental barriers.*

# Ideal outcome

- **Social Justice and Civil Rights work in tandem:**
  - Integration is routine and normal
  - Inclusiveness is just a normal way of doing things
  - Intuitive Inclusiveness
  - We are all actively, intentionally and intuitively involved in creating an inclusive environment.



# #2 Plan & Coordinate Overall Compliance

ADA Coordinator Role

Policy and Procedure Development and Monitoring

Collaborate with Campus Partners

Proactive Planning

Structure to Engage Leadership

Establish Requirements of Access to Programs & Activities



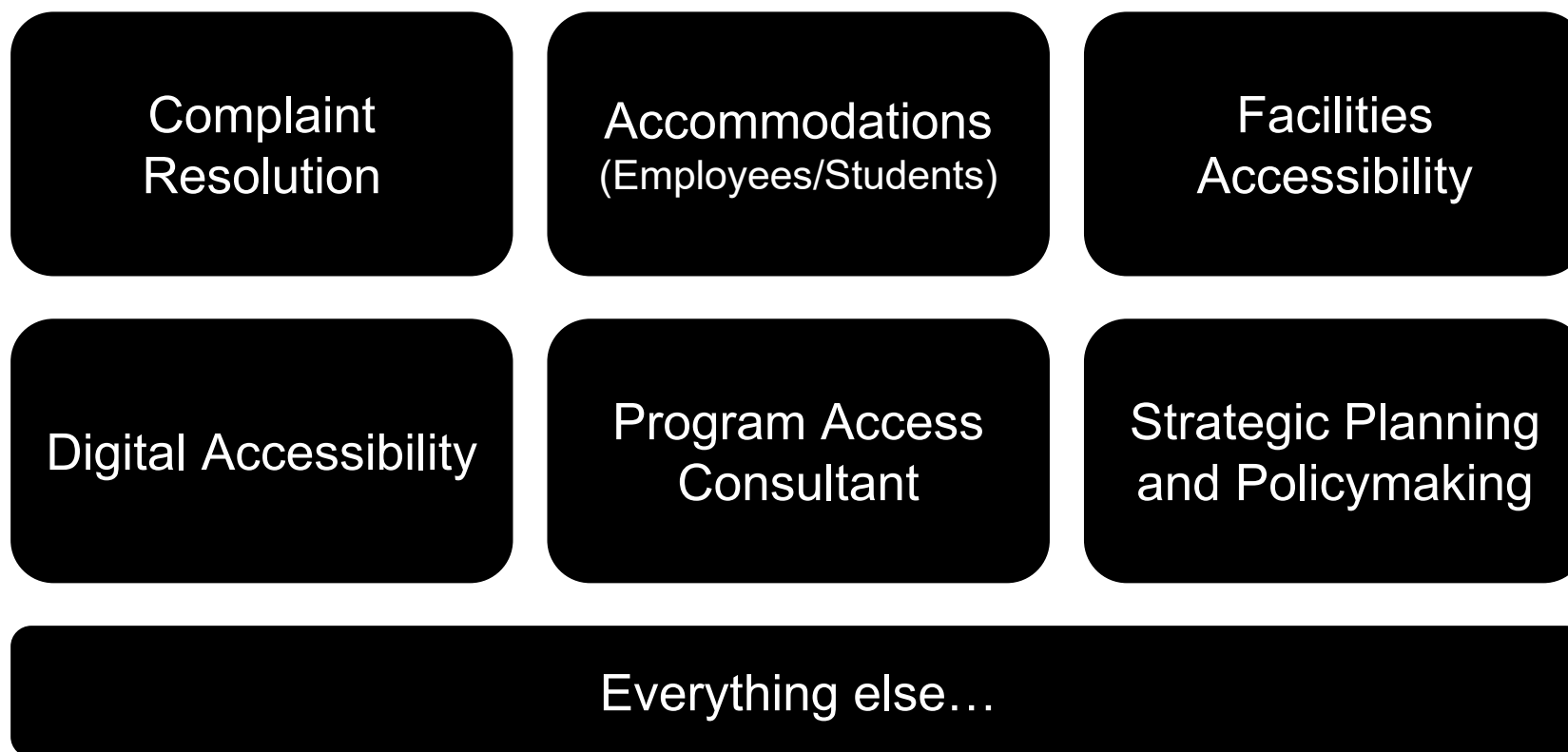
# Coordinator or Compliance Tourturst?



# The ADA Coordinator role

- Administrative requirements outlined in 504/ADA
  - Self Evaluation
  - Notice
  - Nondiscrimination
  - Accommodation
  - Facilities
  - Compliance Officer
  - Grievances

# Buckets of ADA work



# Engage & Coordinate

- Policy and procedure development and monitoring
  - Governance Structure
  - Access to Programs & Services
  - Effective Grievance and Interactive Process & Procedures
  - Communication Access
  - Accommodations Systems for Employees and Students
  - Physical Access
  - Information and Technology Accessibility



# Policies & Procedures, *what are they?*

- **Polices**

- Guidelines and rules to follow
  - The what? and why?
- Achieve goals of the institution, such as compliance

- **Procedures**

- Details of how to achieve policy
- Step by step instructions
- Who is responsible for which steps



# Collaborate & Consult

- Serving on University committees
- Establishing regular connections with service providers/operations
- Creating or supporting pathways to connect with campus members who identify as disabled

# Proactive Planning

- Monitoring trends in the field
- Work to reduce attitudinal barriers through education and fostering sense of belonging
- Foster environments of inclusion and support disability being embedded in DEI initiatives at the university

# Structure to Engage University Leadership

- Establish commitment and message for the institution
- System to address compliance risk/issues
- Encourage accessibility collaboration across divisions (i.e. limit silos)
- Gain support for proactive work beyond compliance
  - Align to university values and/or DEI work

# Establishing Requirements of Access

- Provide a notice of non discrimination and statements of how to request access/accommodations
- Provide clear information and guidance on what is “access” as well as a “program” or “service”
- Coordinate/facilitate/advise on the process for barrier removal in: physical space, technology, event programming, and communication access
- Resource for compliance components



# #3 Establish & Oversee: Effective Interactive Processes for Reasonable Accommodations

Individualized Assessments  
Ways to Accommodate  
When Requests are not Reasonable  
Keys to the Decision  
Fundamental Alteration  
Undue Hardship

# Accommodations

- Individualized changes provided reactively upon request to ensure access for an individual with a disability to fully participate. Accommodations include appropriate academic adjustments, auxiliary aids/services, modifications to policies/procedures, and reasonable workplace accommodation

# Effective Interactive Process

- **Individualized assessment on a case-by-case basis**
  - Nexus between impairment or medical condition and the need for accommodations
  - Exercise professional judgment based on narrative, observations, and documentation when applicable
  - Distinction between accommodation, preference, and resource
  - Academic versus experiential learning



# Effective Interactive Process, cont'd

- **Ways to accommodate**
  - Provision of or access to auxiliary aids or services
  - Removing or reducing barriers
  - Alternative or equally effective accommodations
  - Alteration to policies/procedures
- **Request not reasonable when**
  - Nexus does not exist
  - Administrative or financial undue hardship
  - Fundamental Alteration to essential functions
  - Direct threat health or safety
- **Keys to the decision**
  - Does the individual have a disability?
  - Is there a disability-related access barrier present?
  - What accommodations are necessary, reasonable, and/or appropriate for the specific environment/scenario/barrier?

# Fundamental Alteration

- A change that is so significant or substantial that it alters the essential nature of the position, course, program, service or activity.
  - The determination of substantial limitation must be made on a case-by-case basis. Section 504 requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

# Undue Hardship

- An accommodation or action requiring significant difficulty or expense when considered in light of factors such as the University's size, financial resources, and the nature and structure of its operation.
  - Undue Hardship also refers to an accommodation that is unduly extensive, substantial, or disruptive, or one that would fundamentally alter the nature of the position.



# #4 Support Grievance Processes

Understand Regulatory Engagement  
Ensure Good Processes & Follow Them  
Establish Clear Roles



# Understand Regulatory Engagement

- Office of Civil Rights - Education or Health & Human Services
- Department of Justice
- Volunteer Resolution Agreements vs Settlement Agreements
- Additional State avenues- i.e. Human Rights Commission
- Private Litigation

# Ensure Good Processes & Follow Them

- Roles of expertise to get all relevant information to determine reasonableness
- What is an access/accommodation vs an academic concern
- Review administrative burden with departments
- Legal support on otherwise qualified and direct threat

# Establish Clear Roles & Responsibilities

- ADA Coordinator should remain out of the day to day of accommodation decisions
- Clearly communicate how students and faculty can appeal an accommodation decision
- Ensure some “cover” for the ADA Coordinator –build in a role to review your decisions with you before coming to a final decision
- Know when to refer if you cannot be objective, or if the complaint is about you



# #5 Awareness & Oversight: Responsibilities in the Built Environments

University Responsibilities

ADA Transition Plan

ADA 2010 Standards

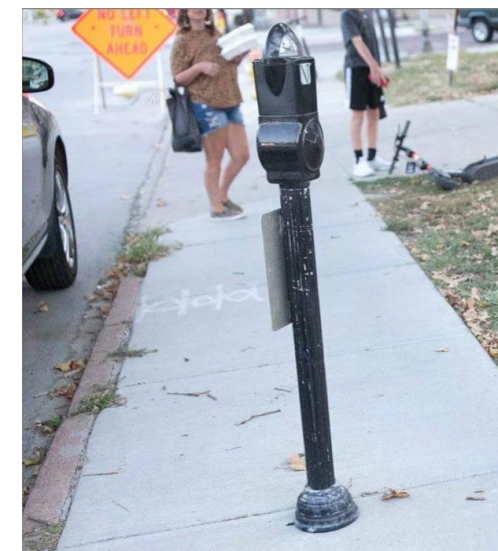
Responsible Parties

Processing Barrier Reports

Tips from the Field

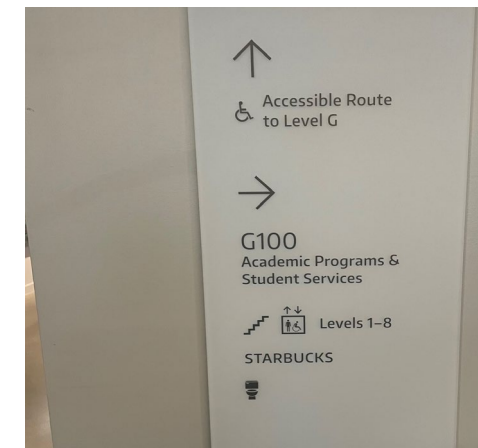


# Avoid Access Fails





# Seek Inclusion Successes



# Program Accessibility

- A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.
  - ADA Title II Regulations Subpart D

# University Responsibilities

- Provide individuals with disabilities equal access to programs, services and/or activities.
  - *Program Accessibility* definition
- Have an ADA Transition Plan and/or
- Systems to effectively design, reduce and/or remediate barriers
  - Design, construct and maintain to the standards
- Partner with roles and units with responsibilities across the university

# ADA Transition Plan

- Self-assessment that includes a review of levels of program access impacts in the delivery of programs, services and activities offered across the built environment.
- A review of relevant policies and procedures of nondiscrimination, accommodations, and remediation/removal of barriers.
- Build an implementation plan post the outcome of the self-assessment and recommendations noted in a Transition Plan.
  - Update policies, procedures, systems as relevant
  - Determination a cadence of reporting back to campus



# ADA 2010 Standards

- Building codes that cover interior and exterior building requirements
- Physical/Environmental Access Components
  - Parking
  - Paths of travel
  - Transportation
  - Entrances/exits
  - Doors
  - Restrooms
  - Pay structure for seating
  - Furniture and equipment
  - Emergency preparedness
- Ratios for: accessible rooms in housing, housing rooms with communications devices, and parking stalls (healthcare and regular)
- Range of public space types: libraries, hospitals, sports venues, recreation facilities, golf ranges, sports fields, waterfront docks, art galleries, museums, etc.



# Responsible Parties

- Coordination of barrier reporting and removal process
  - Consultation process for complex situations
- Funding models for barrier removal
- Operational ownership of systems
  - Design & Construction
  - Maintenance & Construction
  - Real Estate contracts
    - University owned vs leased spaces
  - Transportation Services
  - Auxiliary Units spaces: Athletics, Housing, etc.

# Processing Barrier Reports

- Inspect facilities for ADA compliance
- Verify the barrier is present and determine next steps
- Establish time frame to remediate and/or accommodate
- Engage in remediation and establish interim plan if relevant for individual impacted
- Document process to include reported barriers and removals





# 2 Tips From the Field

- Work on your systems from design, to construction and transition to ongoing maintenance
  - Accessibility review expectations built into work with architects & construction firms
  - Establish specific ADA QC protocols to use on critical projects impacting access
- Ensure accessibility is built into your facilities design guide



# #6 Awareness & Oversight: Responsibilities of Public Access

Communication Access  
Events

# Communication Access

- **Purpose:**
  - Ensure that the person with a vision, hearing, or speech disability can:
    - **Communicate** with,
    - **Receive** information from, and
    - **Convey** information to, the covered entity.
  - Covered entities must provide auxiliary aids and services when needed to communicate effectively with people who have communication disabilities.
    - The key to communicating effectively is to consider the nature, length, complexity, and context of the communication and the person's normal method(s) of communication.
- **Auxiliary Aids**
  - Qualified Interpreter, reader, scribe. etc.
  - Real time captioning
  - Video relay or remote service

# Public Event Access

- **Design to access and inclusion proactively**
  - Create guidelines to be used throughout the institution
  - Encourage flexibility of engagement with activities
  - Invite feedback to inform access measures
- **Practices to consider**
  - Centralized campus accessibility information for high venues
  - Find ways to have this message come through DEI work and/or a centralized office that manages event protocols.
  - Determine who will receive accommodation request and how they will be processed
  - Provide notification of accessibility features built into event



# #6 Awareness & Oversight: Responsibilities across Digital Environments

Requirements of Digital Access

Digital Accessibility Guidance

Digital Accessibility Components

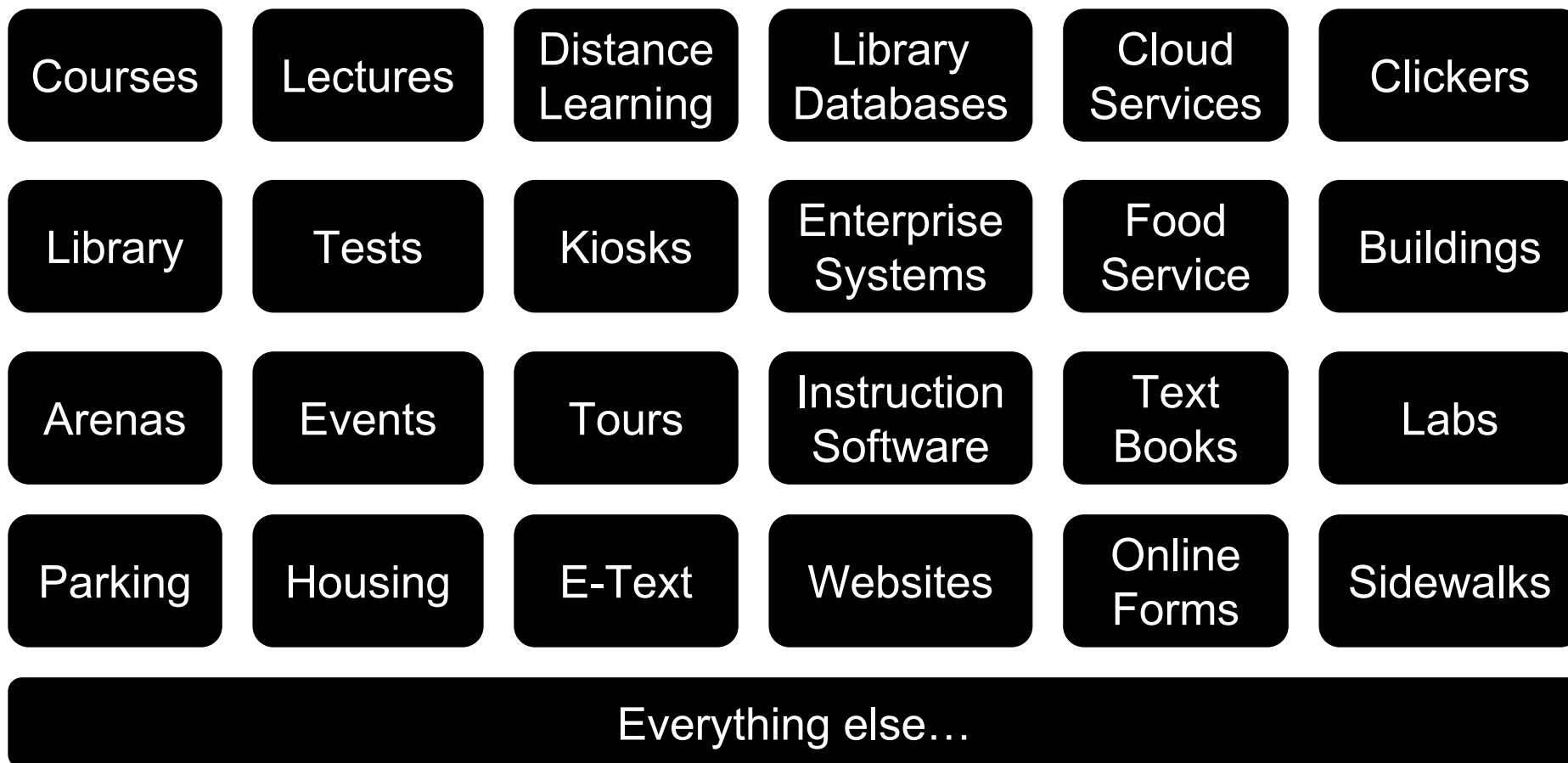
Key Institutional Units

Digital Accessibility Process

# Digital Access Requirements

- Includes information technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term electronic and information technology includes, but is not limited to:
  - the internet and intranet websites,
  - content delivered in digital form,
  - electronic books and electronic book reading systems,
  - search engines and databases,
  - learning management systems,
  - classroom technology and multimedia

# In Short it Touches Everything





# Digital Accessibility Guidance

- Web Content Accessibility Guidelines
- Rehabilitation Act 508 Refresh
- Voluntary Product Accessibility Template
- Institution conducting accessibility assessments
- Using accessibility checker tools





# Digital Accessibility Components

- Information
- Technology
- Assistive/Adaptive Technology
- Accessible document formats and captioned media
- Forms



# Key Institutional Units

- IT Services
- Web
- Marketing and Communications
- Libraries
- Instructional Design and course Materials
- Purchasing

# Digital Accessibility Process

- Identify who will lead which components
- Develop a digital accessibility policy
- Develop supporting procedures (RFPs, contracts, exceptions if product is not accessible, accommodations plan)
- Draft and implement strategic plan

# Questions & Wrap up

Thoughts or questions?

Reminders:

- Complete evaluations for AHEAD
- Use reference documents for additional details & links