

CERTIFIED ACCESS SPECIALIST PROGRAM BEST PRACTICES MANUAL

STATE OF CALIFORNIA

DEPARTMENT OF GENERAL SERVICES

DIVISION OF THE STATE ARCHITECT



CERTIFIED ACCESS SPECIALIST PROGRAM BEST PRACTICES MANUAL

INTRODUCTION

This manual addresses best practices for the Certified Access Specialist (CASP). Requirements designated as stated in statute are required, and the CASp is advised to read the referenced statute in its entirety, beyond the minimum statutory information provided herein, to ensure that the CASp meets the full requirements of statute. Information provided by the Division of the State Architect (DSA) as best practices contained herein constitutes a guide and is not regulatory but is provided so that an element of consistency in the interpretation of statutes can be offered to all CASps. The information is derived from federal guidance and from the recommendation of those with extensive experience in providing accessibility-related services prior to the existence of the CASp Program. The CASp may elect to incorporate some or all of the best practices into his/her respective practice.

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Questions about examination and certification can be directed to the CASp Program Certification Line at (916) 322-1912.

Questions regarding the technical requirements of providing the services of a CASp should be directed to (916) 322-2490.

Questions regarding the accessibility provisions of Chapter 11B of the California Building Code should be directed to the DSA Technical Assistance Helpline at (916) 445-5827.

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I. INSPECTION REPORTS

INSPECTION REPORTS PROVIDED BY THE INDEPENDENT CASp

The minimum requirements of an inspection report are not specified by the CASp Program. There is implied, however, a minimum of two types of inspection reports a CASp can issue: an inspection report that is issued according to Civil Code sections 55.51-55.545 Construction-Related Accessibility Standards Compliance Act (CRASCA) and an inspection report that is not issued according to CRASCA.

Inspection Reports Issued According to CRASCA

An inspection to the applicable standards, with an inspection report that is issued according to CRASCA, offers legal benefits to a business/facility owner that hires a CASp and commits to achieving compliance according to an established schedule. CRASCA states specific content for the inspection report provided by a CASp if the report is a deliverable that provides "qualified defendant" status to a business/facility owner who hires a CASp for that purpose. Such requirements are stated in statute and in the *CASp Examination, Certification, and Practice Standards Handbook* under section VIII Professional Standards: CASp Inspection Reports Issued According to Civil Code section 55.53. A CASp may review section II Best Practices, included herein, for information that may be relevant to include in the report, beyond the minimum requirements as specified in CRASCA.

As stipulated in CRASCA, an inspection report issued according to Civil Code section 55.53 provides "qualified defendant" status only if the client has not yet been served a summons and complaint of a construction-related accessibility claim for the subject property requiring inspection. In addition, because the legal benefit offered by an inspection report issued according to CRASCA is established in California law, the "qualified defendant" status is recognized only in the California Court system and not in the United States Federal Court system.

Inspection Reports Not Issued According to CRASCA

If the CASp is providing services in which an inspection report is issued, but the owner does not desire to be offered the legal benefits under CRASCA, reporting requirements are not specified and the applicable content is determined by the CASp. A CASp may review section II Best Practices, included herein, for information that may be relevant to include in the report.

IMPARTIAL DETERMINATIONS

When providing an inspection of a facility and issuing an inspection report according to the requirements of CRASCA, it is recommended that a CASp be impartial. Facility inspections and inspection reports issued according to CRASCA are to the applicable standards. It is recommended that the CASp ask the owner about the construction history of the facility so that the applicable standards can be determined, in order to establish the basis of the inspection. If the applicable standards are unable to be determined, it is recommended that the CASp advise the owner that using current standards instead of the applicable standards may lead to additional improvements as a result of the more restrictive compliance requirements of current standards.

APPLICABLE DEFINITIONS

The following definitions are applicable to the requirements, as stipulated in CRASCA.

Inspected by a CASp means the site was inspected by a CASp and is pending a determination by the CASp that the site meets applicable construction-related accessibility standards. A site that received a determination of "CASp Determination Pending" before October 2012 means that the site was "inspected by a CASp."

Meets applicable standards means the site was inspected by a CASp and determined to meet all applicable construction-related accessibility standards. A site that received a determination of "CASp Inspected" before October 2012 means that the site "meets applicable standards."

Construction-related accessibility standard is a provision, standard, or regulation under state or federal law requiring compliance with standards for making new construction and existing facilities accessible to persons with disabilities, including but not limited to any provision standard or regulation set forth in the California Civil Code section sections 51–55, Health and Safety Code section 19955.5, the California Building Standards Code (Title 24 of the California Code of Regulations), and the federal Americans with Disabilities Act (ADA) of 1990 (Appendix A to Part 36 of Title 28 of the Code of Federal Regulations).

Readily achievable barrier removal is defined by the ADA (42 US Code §12181(9); 28 Code of Federal Regulations §36.104.2) as "easily accomplishable and able to be carried out without much difficulty or expense." For further information, please see page 14.

Qualified defendant is a defendant in an action that includes a construction-related accessibility claim that is asserted against a place of public accommodation that met the requirements of “meets applicable standards” or “inspected by a CASp” prior to the date the defendant was served with the summons and complaint in that action. To be a “qualified defendant,” the defendant is not required to have been the party who hired any CASp, so long as the basis of the alleged liability of the defendant is a construction-related accessibility claim. To determine whether a defendant is a “qualified defendant,” the court does not need to make a finding that the place of public accommodation complies with all applicable construction-related accessibility standards as a matter of law. The court need only determine that the place of public accommodation has a status of “meets applicable standards” or “inspected by a CASp,” which all facilities inspected according to CRASCA receive. Notwithstanding any other law, upon being served with a summons and complaint asserting a construction-related accessibility claim, a “qualified defendant” may request a court stay and early evaluation conference in the proceedings of that claim prior to, or simultaneous with, that defendant's responsive pleading or other initial appearance in the action that includes the claim.

CRASCA LEGAL BENEFITS

Civil Code section 55.54 offers a 90-day court stay and early evaluation conference to a business/facility owner who is a “qualified defendant.”

REDUCED LIABILITY FOR MINIMUM STATUTORY DAMAGES

Civil Code section 55.56 provides for a reduction in the amount of liability for statutory damages by the owner who holds an inspection report issued according to CRASCA. Statutory damages are reduced from \$4,000 minimum per occasion to a minimum of \$1,000 per occasion if the structure or area of the alleged violation was the subject of an inspection report indicating “CASp determination pending” or “Inspected by a CASp,” the business/facility owner agrees to correct the violation within 60 days of the claim, and the business/facility owner has either implemented reasonable measures to correct the alleged violation before the particular occasion on which the plaintiff was allegedly denied full and equal access, or the business/facility owner was in the process of correcting the alleged violation within a reasonable time and manner before the particular occasion on which the plaintiff was allegedly denied full and equal access.

PROTECTION FROM LIABILITY FOR MINIMUM STATUTORY DAMAGES

Civil Code section 55.56(g)(3)(A) states: A defendant shall not be liable for minimum statutory damages in a construction-related accessibility claim, with respect to a violation noted in a report by a CASp, for a period of 120 days following the date of the inspection if the defendant demonstrates compliance with each of the following:

1. The defendant is a business that, as of the date of inspection, has employed 50 or fewer employees on average over the past three years, or for the years it has been in existence if less than three years.
2. The structure or area of the alleged violation was the subject of an inspection report indicating "Inspected by a CASp."
3. The inspection predates the filing of the claim by, or receipt of a demand letter from, the plaintiff regarding the alleged violation of a construction-related accessibility standard, and the defendant was not on notice of the alleged violation prior to the CASp inspection.
4. The defendant has corrected, within 120 days of the date of the inspection, all construction-related violations in the structure or area inspected by the CASp that are noted in the CASp report that are the basis of the claim.

A defendant may claim the protection from liability for minimum statutory damages only once for each structure or area inspected by a CASp, unless the inspected structure or area has undergone modifications or alterations that affect the compliance with construction-related accessibility standards of those structures or areas after the date of the last inspection, and the defendant obtains an additional CASp inspection within 30 days of final approval by the building department or certificate of occupancy, as appropriate, regarding the modification or alterations.

If the defendant has failed to correct, within 120 days of the date of the inspection, all construction-related violations in the structure or area inspected by the CASp that are noted in the CASp report, the defendant shall not receive any protection from liability for minimum statutory damages unless a building permit is required for the repairs which cannot reasonably be completed by the defendant within 120 days and the defendant is in the process of correcting the violations noted in the CASp report, as evidenced by having, at least, an active building permit necessary for the repairs to correct the violation that was noted, but not corrected, in the CASp report, and all of the repairs are completed within 180 days of the date of the inspection.

CASP REQUIRED ACTIONS FOR OWNERS WHO OPT FOR 120-DAY COMPLIANCE

Civil Code section 55.53(a) (3-5) states:

The CASp shall provide, within 30 days of the date of the inspection of a business that, as of the date of inspection, has employed 50 or fewer employees on average over the past three years, or for the years it has been in existence if less than three years, a copy of the inspection report to the business, if the business owner has opted for the 120-day compliance schedule.

The CASp shall file with DSA a [Notice of Access Inspection and 120-Day Grace Period](#), within 10 days of inspecting a business, for the purpose of listing the notice on DSA's website. DSA has made the notice available on the CASp Program website. The notice is fillable online and may be submitted directly to the CASp Program at CASprogram@dgs.ca.gov.

The CASp shall post the same notice at the inspected site, in a conspicuous location within five feet of all public entrances to the building, on the date of the inspection and instruct the business to keep it in place until the earlier of either of the following:

- A. One hundred twenty days after the date of the inspection.
- or
- B. The date when all of the construction-related violations in the structure or area inspected by the CASp are corrected.

II. BEST PRACTICES

DSA provides the following as "best practices" for the inspection report.

PRE-INSPECTION INQUIRY

The basis of the inspection may be determined from the following information, if available. This list is not inclusive of items to be considered.

Information to request from the client:

- Contact information of client and relationship to owner.
- Type of property owner and type of client (whether public or private).
- Name and address of property.
- Age of the facility (year built).
- Description of the facility, including the nature of businesses in the facility.
- History of improvements.
- A description of the areas of the facility requested to be surveyed.
- Identification of public accommodation areas within area surveyed.

ADDITIONAL RECOMMENDATIONS FOR THE INSPECTION REPORT

The following information is recommended for inclusion in the inspection report with the intent that it provides clarity for the owner and specifies the information the CASp used to determine compliance with construction-related accessibility standards. The CASp should use appropriate judgment with regard to inclusion of this additional information. Depending on the specifics of the facility evaluated, this information is not inclusive of all additional information that may be included for the inspection report.

The minimum requirements for an inspection report issued according to CRASCA are stipulated in Civil Code section 55.53 and in the *CASp Examination, Certification, and Practice Standards Handbook* under section VIII Professional Standards. In addition, Senate Bill 269 (SB 269 [Chapter 13, Statutes of 2016]) amended CRASCA, and since May 10, 2016, requires the date of inspection to be included in all reports that receive a determination of "inspected by a CASp." Beyond the minimum requirements, the following is recommended information to include in an inspection report, if applicable and available:

- Date of evaluation.
- Date of inspection report.
- Client contact information and relationship to owner.
- An indication that the report is issued according to the requirements of CRASCA (if applicable).
- Type of property owner and type of client (whether public or private).
- Name and address of property.
- Age of property (year built).
- Description of the facility, including the nature of businesses in the facility.
- History of improvements.
- A list of the standards to which the facility was inspected and why they are applicable, or an indication that the inspection was to current standards and the reason for using current standards as the basis of inspection.
- An explanation of a determination of *readily achievable barrier removal* and how such a determination is made.
- A photo essay of noncompliant conditions.
- A record of noncompliant measurements taken on-site.
- CASp signature and CASp number.

ISSUANCE OF THE SCHEDULE OF IMPROVEMENTS

Civil Code section 55.53 requires a schedule of completion for each of the corrections with reasonable timeframes. While "reasonable" is not defined, "reasonableness" may take into consideration the costs incurred by the client to complete the work, which may include the involvement of design professionals, construction professionals, the permitting and inspection process, the ability to secure a loan from a financial institution, if the owner so desires, or the ability to schedule the work in consideration of the owner's budgetary constraints. Under CRASCA, the owner's commitment to achieving compliance is demonstrated by the owner's adherence to the correction schedule; therefore, a CASp should work with the owner to establish a reasonable schedule, and the owner must understand that he/she is still exposed to having a claim filed while violations are being corrected or on violations that remain uncorrected.

OWNERS WHO OPT FOR 120-DAY COMPLIANCE SCHEDULE

CRASCA inspection reports that have a determination of "inspected by a CASp" are required to have included with the report a reasonable schedule for improvements. For a business/facility owner who has opted for a 120-day compliance schedule, the improvement schedule is implied by statute to be 120 days. To meet the requirements in statute that a schedule be included with the report, the CASp Program recommends that

the CASp state in the report that the business/facility owner has opted for a compliance schedule of 120 days to take advantage of the grace period for liability from statutory damages, as provided in Civil Code section 55.56(g)(3)(A).

In addition, it is wise for the CASp to inform the owner that, if correction of the violations in the report are not completed within 120 days of the inspection, and if an active permit is not in place to that extends the grace period to 180 days from the inspection date, the owner may be eligible for a reduction in minimum statutory damages if the owner is able to demonstrate reasonable measures to correct violations are in place or violations are in the process of being corrected.

DISPLAY OF DISABILITY ACCESS INSPECTION CERTIFICATES

A disability access inspection certificate (DAIC) is issued to a business/facility owner with a report issued according to CRASCA. It is not required that the DAIC be posted on the premises; it is at the discretion of the business or facility owner. The CASp may recommend that the business have the DAIC available should an individual request proof of inspection and, according to CRASCA, advise that inspection reports remain confidential. It is recommended that a business and/or facility owner should not provide the inspection report as evidence of proof of inspection to anyone unless advised by legal counsel.

A business or facility owner that elects to post the DAIC at the premises may be advised by the CASp to post a color copy and retain the original in safekeeping. A numbered DAIC is linked to an inspection report issued according to CRASCA; therefore, if issuance of a replacement is necessary, its issuance may necessitate documentation on the DAIC record that it is issued as a replacement of an original certificate.

COMPLETION OF SERVICES

Upon completion of the inspection and along with the inspection report issued according to CRASCA, Civil Code section 55.53 requires the CASp to provide the business/facility owner with a DAIC purchased from DSA, and a Notice to Property Owner/Tenant regarding safekeeping of Inspection Reports. In addition, according to Civil Code section 55.53(e), the CASp shall record the number of the issued DAIC, the name and address of the recipient, and the determination of the CASp Inspection Report issued (either “meets applicable standards” or “inspected by a CASp”) in a record book.

The CASp is not required by CRASCA to provide a final inspection of the site after completion of improvements in order for the business and/or facility owner to receive or maintain "qualified defendant" status; however, if one is requested, it is recommended that it be specified in the scope of services in the Agreement, or as an amendment to the Agreement.

EXPEDITED REVIEW OF CONSTRUCTION DOCUMENTS SUBMITTED FOR PERMIT

According to Government Code section 65946, a jurisdictional agency is required to provide expedited review of the project application if the applicant demonstrates the following:

- Provides a disability access inspection certificate.
- Declares the project is for correction of violations addressed in a CRASCA report.
- A CASp has reviewed the project plans.

When providing inspections under CRASCA, the CASp is advised to inform the owner of this benefit, and that the CASp can provide the service of plan review and provide the owner with proof of plan review.

WORK ASSISTED BY OTHERS WHO ARE NOT CERTIFIED

In the course of an inspection of a facility, a CASp may utilize the assistance of others who are not certified. An inspection report issued according to the requirements of Civil Code section 55.53, however, requires the CASp to sign and date a statement with a determination based on the result of the inspection. DSA reminds the CASp that, according to CASp Program Regulations, the signature of the CASp on an inspection report or inspection record signifies that the CASp has been on the subject site as part of the scope of services and can confirm the information stipulated in the inspection report or inspection record.

III. CASp GUIDANCE

USE OF CBC TERMINOLOGY

The CASp is reminded that the following terminology is defined in California Building Code (CBC), Part 2, Chapter 2:

Technically Infeasible: An alteration of a building or a facility that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

Where the enforcing authority determines compliance with applicable requirements is technically infeasible, the alteration shall provide equivalent facilitation or comply with the requirements to the maximum extent feasible. The details of the finding that full compliance with the requirements is technically infeasible shall be recorded and entered into the files of the enforcing agency.

Unreasonable Hardship: When the enforcing agency finds that compliance with the building standard would make the specific work of the project affected by the building standard infeasible, based on an overall evaluation of the following factors:

- 1. The cost of providing access.*
- 2. The cost of all construction contemplated.*
- 3. The impact of proposed improvements on financial feasibility of the project.*
- 4. The nature of the accessibility which would be gained or lost.*
- 5. The nature of the use of the facility under construction and its availability to persons with disabilities.*

The details of any finding of unreasonable hardship shall be recorded and entered in the files of the enforcing agency.

While "technically infeasible" is also defined similarly within the context of the 2010 ADA Standards for Accessible Design (ADAS), it is recommended that the CASp advise the owner to seek confirmation of technical infeasibility by the jurisdictional agency in order to support such findings, which would lead to the determination that a correction of a violation is "not readily achievable."

USDOJ TECHNICAL GUIDANCE ON READILY ACHIEVABLE BARRIER REMOVAL

The ADA requires Title III entities (public accommodations and commercial facilities) built prior to January 26, 1992, to remove barriers if "readily achievable to do so." *Readily achievable barrier removal* is defined by the ADA as "easily accomplishable and able to be carried out without much difficulty or expense." *Readily achievable barrier removal* is not applicable to Title II facilities (state and local governments).

As provided by the ADA, determinations as to which barriers can be removed without much difficulty or expense must be made on a case-by-case basis. A determination of *readily achievable barrier removal* is made with a comprehensive understanding of the factors to be considered. In determining whether an action is readily achievable, factors to be considered, per 42 U.S.Code section 12181(9)(A) - (D), and 28 Code of Federal Regulations section 36.104, include the following:

- (1) *The nature and cost of the action needed under this part;*
- (2) *The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;*
- (3) *The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;*
- (4) *If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and*
- (5) *If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.*

The ADA contains a list of 21 examples of modifications that may be readily achievable:

1. Installing ramps;
2. Making curb cuts in sidewalks and entrances;
3. Repositioning shelves;
4. Rearranging tables, chairs, vending machines, display racks, and other furniture;
5. Repositioning telephones;
6. Adding raised markings on elevator control buttons;
7. Installing flashing alarm lights;
8. Widening doors;
9. Installing offset hinges to widen doorways;

10. Eliminating a turnstile or providing an alternative accessible path;
11. Installing accessible door hardware;
12. Installing grab bars in toilet stalls;
13. Rearranging toilet partitions to increase maneuvering space;
14. Insulating lavatory pipes under sinks to prevent burns;
15. Installing a raised toilet seat;
16. Installing a full-length bathroom mirror;
17. Repositioning the paper towel dispenser in a bathroom;
18. Creating designated accessible parking spaces;
19. Installing an accessible paper cup dispenser at an existing inaccessible water fountain;
20. Removing high pile, low density carpeting; or
21. Installing vehicle hand controls.

Additionally, *readily achievable barrier removal* applies to facilities in compliance with the 1991 Standards with regard to those elements in the 2010 ADA Standards that were not previously addressed in the 1991 ADA Accessibility Guidelines (1991 ADAAG).

Civil Code section 55.53 does not require the CASp to make a determination of *readily achievable barrier removal*; the statute only requires the CASp to clearly indicate whether the CASp has made such a determination in the inspection report. If the CASp does not have a comprehensive understanding of the factors to be considered as they relate to the client, then the CASp may advise the client about the factors to be considered, how a determination is made, and place the responsibility of determination on the client.

AVAILABILITY OF TAX INCENTIVES FOR ACCESS IMPROVEMENTS

A CASp may inform the client of tax incentives available to businesses to help cover the cost of making access improvements. Information is provided in a brochure available at the ADA.gov website accessed by the following link: [Federal Tax Incentives](#).

FINANCING AVAILABLE FOR SMALL BUSINESSES UNDER THE CALCAP/ADA FINANCING PROGRAM

A CASp may inform an owner of the availability of financing for improvements under the California Capital Access Program Americans with Disabilities Act (CalCAP/ADA) Financing Program. Assembly Bill 1230 (AB 1230 [Chapter 787, Statutes of 2015]) appropriated \$10 million to the California Pollution Control Financing Authority (CPCFA) to establish the CalCAP ADA Financing Program. The purpose of the Program is to assist California small businesses with financing the costs to alter or retrofit existing small business facilities to comply with the requirements of the federal ADA of 1990.

The CalCAP/ADA Financing Program encourages banks and other financial institutions to make loans to small businesses. CalCAP/ADA provides participating lenders with loan loss reserve protection of up to 100 percent coverage on certain loan defaults. By participating in CalCAP ADA, lenders have available to them a proven credit enhancement to meet the financing needs of California's small businesses.

Businesses eligible for loans under the CalCAP/ADA Finance Program must meet all of the following criteria:

1. Have 30 or fewer full time equivalent employees OR a total annual gross income from all sources of less than five million dollars (\$5,000,000).
2. Their facility is 10,000 or fewer square feet.
3. Their facility does not provide overnight accommodations.
4. Their facility is not a massage parlor, hot tub facility, racetrack, facility primarily used for gambling or to facilitate gambling, liquor store, bar, a store or other facility whose principal business is the sale of firearms, a store or other facility whose principal business is the manufacture or sale of tobacco or tobacco products, escort service, nudist camp, adult entertainment (including strip clubs, adult book stores, and businesses whose principal business is the sale of pornography), gun club, shooting range or gallery.

To be eligible, a business/facility owner must obtain a CRASCA report. CASp services can be included in the costs covered by the loan.

More information on CalCAP/ADA is available located at:
<https://www.treasurer.ca.gov/cpcfa/calcap/ada/index.asp>

IV. CASp RESOURCES

HISTORY OF DISABILITY RIGHTS IN CALIFORNIA

1959 - Unruh Civil Rights Act – *Civil Code section 51 and 52*

Prohibits businesses from discriminating against individuals.

Allows for monetary statutory damages of a minimum \$4000 damages per offense plus attorney's fees for prevailing plaintiff.

1968 - Disabled Persons Act (DPA) – *Civil Code section 54*

Protects right of equal access to public accommodations.

1968 - Access required for Public Buildings – *Government Code section 4450*

Used ASA 1961 as accessibility standards.

1970 - Access required for Privately-Owned Public Accommodations –

Health and Safety Code section 19955

Used ASA 1961 as accessibility standards.

1982 - Requirements for Accessibility first codified in the California Building Code

1982 Uniform Building Code with California Amendments.

1992 - Amendments to the DPA – *Civil Code section 54(c)*

States that a violation of the ADA is a violation of the DPA and the Unruh Act.

CALIFORNIA LAWS RELATING TO DISABILITY ACCESS

Including the above statutes, all text of California Law can be accessed online at leginfo.legislature.ca.gov. This list is not intended to be inclusive.

Access to assembly areas by individuals with disabilities

Health and Safety Code section 19952–19954.5

Access to public accommodations by individuals with disabilities

Health and Safety Code section 19955–19959.5

Requirements for accessibility in the California Building Code

Government Code section 4450–4461

California Commission on Disability Access

Government Code section 14985–14985.11

Covered Multifamily Dwellings

Government Code section 12955.1–12955.1.1

Construction-Related Accessibility Standards Compliance Act

Civil Code section 55.51–55.545

Statutory Damages in Construction-Related Accessibility Standards Claims

Civil Code section 55.55–55.57

Disclosure of CASp Inspection and Determination in Lease Agreements

Civil Code section 1938

Requirements for Plaintiff's Complaint of Alleged Access Barrier

Civil Code section 55.31(a)

Restroom Requirements for Permanent Food Facilities

Health and Safety Code section 114276

Statutes for Senior Housing Facilities

Civil Code section 51.2

Expedite Review of Project Application

Government Code section 65946

Requirements for Local Agency on ADA Materials

Government Code section 65941.6

CALIFORNIA LEGISLATION

The following is a list of resources to aid the CASp in understanding California law with regard to claims of noncompliance to construction-related accessibility standards and access for individuals with disabilities to public accommodations.

SB 262 (Chapter 872, Statutes of 2003)

SB 262 established the CASp Program. SB 262 was passed by the California Legislature and approved by the Governor on October 12, 2003.

The chaptered text of the bill with details of California law as established and as amended can be accessed at the following link: [SB 262](#).

SB 1608 (Chapter 549, Statutes of 2008)

SB 1608 was passed by the California Legislature and approved by the Governor on September 28, 2008. SB 1608 established CRASCA (Civil Code § 55.51–55.545) and established the CCDA. In addition, SB 1608 includes the following provisions:

- Reduced statutory damages from \$4,000 per violation to \$4,000 per occasion.
- Offers legal benefit of "qualified defendant" status to business/facility owners with a CASp Inspection Report issued according to CRASCA.
- Places requirements for continuing education in disability access for architects.
- Provides for DSA to submit the CBC for certification by the U.S. Department of Justice.
- Places requirements for continuing education in disability access for inspectors, plans examiners, and building officials.
- Requires attorneys to include a written advisory with demand letters.

The chaptered text of the bill with details of California law as established and as amended, can be accessed at the following link: [SB 1608](#).

SB 1186 (Chapter 383, Statutes of 2012)

SB 1186 was passed by the California Legislature and approved by the Governor on September 19, 2012. SB 1186 includes the following provisions and amendments to existing law:

- Reduces statutory damages of business/facility owners with a CASp Inspection Report issued according to CRASCA from \$4,000 per occasion to \$1,000 per occasion.
- Reduces statutory damages of business/facility owners with a CASp Inspection Report issued according to CRASCA from \$4,000 per occasion to \$1,000 per occasion.
- Provides for discipline of an attorney in violation of Civil Code section 55.3.
- Establishes requirements for demand letters alleging a construction-related accessibility claim.
- Requires attorneys to send copies of demand letters to the California State Bar and the CCDA.
- Redefines terminology in the Construction Related Accessibility Standards Compliance Act (Civil Code § 55.51–55.545).
- Places limits on statutory damages for holders of inspection reports issued according to CRASCA, for small businesses, and for construction approved through the authority having jurisdiction.

- Requires disclosure of CASp Inspection Reports in lease agreements for commercial properties.
- Stipulates requirements for a plaintiff's complaint of an alleged accessibility barrier.
- Places limits on fees for specific licensed disciplines when applying for eligibility for the CASp Examination.
- Establishes a \$1 Business License Fee to provide outreach and educational resources regarding disability access, and to provide continuing education for and increase the number of CASp.
- Establishes reporting requirements for the CCDA.

The chaptered text of the bill with details of California law as established and as amended can be accessed at the following link: [SB 1186](#).

SB 269 (Chapter 13, Statutes of 2016)

SB 269 was passed by the California Legislature and approved by the Governor on May 10, 2016. SB 269 includes the following provisions and amendments to existing law:

- For claims filed on and after its effective date, establishes a rebuttable presumption, for the purpose of an award of minimum statutory damages, that certain technical violations do not cause a plaintiff to experience difficulty, discomfort, or embarrassment, if specified conditions are met.
- Exempts a defendant from liability for minimum statutory damages with respect to a structure or area inspected by a CASp for a period of 120 days if specified conditions are met. The bill would require a defendant who claims the benefit of this exemption to disclose the date and findings of any CASp inspection to the plaintiff.
- Requires DSA to publish, and regularly update, easily accessible lists of businesses that file prescribed notices of inspection, and businesses which have been inspected by a CASp (inspections under CRASCA) on or after January 1, 2017, including the date of the inspection.
- Requires DSA to develop a process by which a small business may notify DSA that a structure or area has had a CASp inspection and to develop a form for businesses to notify the public that the business has obtained a CASp inspection.

- Requires applicants for CASp certification or renewal to additionally provide to DSA the name of the city, county, or city and county in which the applicant intends to provide or has provided services (inspections of existing privately-owned businesses under CRASCA), and requires DSA to post that information on its website.
- Requires CCDA to provide a link on its website to the website of DSA's CASp certification program, and to make the commission's educational materials and information available to other state agencies and local building departments.
- Requires local agencies to develop and provide to applicants materials relating to the requirements of the federal ADA of 1990, or to instead provide similar materials developed by CCDA. The bill would require a local agency to notify an applicant that approval of a permit does not signify that the applicant has complied with that act.
- Requires local agencies to expedite review of projects for which the applicant provides a copy of a disability access certificate, demonstrates that the project is necessary to address an alleged violation of a construction-related access standard or a violation noted in a CASp report, and, if project plans are necessary for approval, has had a CASp review the project plans for compliance with all applicable construction-related accessibility standards.

The chaptered text of the bill with details of California law as established and as amended can be accessed at the following link: [SB 269](#).