



Public Facility Accommodations

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Background

Many people think that the Americans with Disabilities Act (ADA) primarily covers workplace accommodations. The only public accommodations they associate with ADA are handicapped parking spaces and Braille numbers on elevator buttons. In fact, the ADA's public facilities rules, as outlined in Title III of the act, are far more comprehensive than that. All sorts of buildings and businesses fall under Title III: restaurants, schools, office buildings, banks, doctors' offices, and movie theaters, to name a few. Accommodation can include anything from adjusting store shelves to constructing special ramps and entryways.

Some people mistakenly believe that ADA requires businesses to make all sorts of prohibitively expensive changes or else face stiff penalties. The truth is that ADA is designed to benefit the disabled, not to punish business owners. The key to understanding ADA is knowing what is and is not required, as well as what constitutes an acceptable accommodation.

Before ADA

In years past, "disability" was not something people dealt with publicly; it was understood that those who were blind, deaf, paralyzed, or otherwise "handicapped" would not participate in ordinary life activities, such as school or work.

Attitudes changed slowly but steadily, and by the twentieth century such notable people as Helen Keller and Franklin D. Roosevelt helped break down stereotypes about disabilities. Accommodating the disabled was another matter. Only important public figures such as Roosevelt (who could not stand or walk unaided after his 1921 bout with polio) could expect that structural accommodations would be made for them, and even then those accommodations were limited in scope. There were simply some places that the disabled could not visit freely.

Architectural Barriers Act

Although most people think that ADA was the first federal law regulating public facilities, in fact it was an earlier law that set the stage. The Architectural Barriers Act (ABA) was passed in 1968, and it mandated that any buildings designed, constructed, altered, or leased with federal funding had to be accessible to the disabled. This included post offices, national parks, some schools, some public housing, and mass transit

systems. Because it dealt only with federally funded structures, it was (and still is) less well known than ADA, but it was an important early step.

Rehabilitation Act of 1973

As important as ABA was, it was met with a certain degree of apathy that undermined its effectiveness. Congress, eager to improve ABA compliance and equally eager for the government to create new and more comprehensive design standards, passed the Rehabilitation Act in 1973. Perhaps the most important element of this law was Section 502, which established the Architectural and Transportation Barriers Compliance Board (later called simply the Access Board). Originally created to develop as well as enforce design requirements, its role later became more focused on ensuring compliance. Beginning in 1976, the Access Board started investigating ABA non-compliance complaints against a variety of public buildings. The law covers any facility that was designed, built, altered, or leased with federal funds after 1969.

Uniform Federal Accessibility Standard (UFAS)

The design requirements that are supposed to be followed under ABA are spelled out by the Uniform Federal Accessibility Standard (UFAS), which was first published in 1984. These guidelines served as a precursor of sorts to guidelines later introduced under ADA. Today, some government agencies require compliance with both the ADA guidelines and UFAS.

ADA and Title III

The Americans with Disabilities Act was signed into law on July 26, 1990. Title I of the law covers places of employment; Title II state and local governments. Title IV covers telecommunications for the deaf and hearing-impaired, and Title V covers miscellaneous items. The section of ADA that deals with public facilities, is Title III.

Public accommodations include any building or outdoor space through which any person can enter, with or without a fee. Essentially, that means all buildings except for "private" clubs (any club that requires members to vote to admit an individual) and religious facilities. Among the facilities covered as listed by ADA are the following:

- Lodgings (hotels, motels, inns)
- Establishments that serve food and drink (restaurants, bars, taverns)
- Establishments that offer entertainment (theaters, stadiums)
- Places where public gatherings may be held (auditoriums, convention halls)
- Sale or rental establishments (retail stores)
- Service establishments (medical offices, law offices, funeral parlors)
- Places of public display or collection (museums, galleries, public gardens)
- Social service centers (homeless shelters, day care centers)
- Recreation/exercise establishment (golf courses, gymnasiums)

It is important to understand not only which facilities are covered under ADA, but also who is considered disabled. Under ADA guidelines, anyone who possesses a physical or mental impairment that significantly limits at least one major life function—for example, the ability to feed oneself, the ability to walk, or the ability to breathe on one's own. Alcoholics and other substance abusers are also covered if they have been shown to have a history of such abuse.

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A public accommodation is expected to follow three basic guidelines under Title III of ADA. First, it cannot deny goods or services to a disabled person covered under the legislation. Second, it cannot satisfy its commitment to the legislation by offering benefits that are separate or unequal. Finally, it must offer all services in as integrated a setting as possible.

This kind of wording frightens some owners of public facilities. Retail store owners, for example, sometimes fear that Title III compliance means having to make expensive structural changes to their stores or keep people on staff to accommodate all possible disabilities. Would a small company have to install an elevator in its building? Does a restaurant have to make Braille menus and sign-language interpreters available?

In fact, ADA's Title III guidelines do offer a certain degree of leeway for facilities, but that leeway is dependent on a number of factors including cost and a facility's special needs.

Physical Accommodations

Under Title III, any new building first occupied after January 26, 1993 is required to meet full ADA standards (unless the building plans had been completed before January 26, 1992). The following are among the requirements that new buildings are expected to meet:

- Doorways must be wide enough to accommodate wheelchairs; doors must be easy to open
- Restrooms must be equipped with adequately wide stalls, grab bars, and sinks and towel dispensers easily accessible for someone in a wheelchair
- Pay phones must be provided at more than one height, and phones with amplifiers should also be available
- Adequate parking spaces should be set aside to accommodate disabled patrons
- Elevators must have Braille numbers and visual as well as audible operation signals
- Alarm systems must be audible and visible

Existing facilities that are being remodeled (and in some cases those that are not) must make sure that alterations are ADA-compliant, as long as such changes are deemed reasonable, or, in the words of the legislation, "readily achievable." An alteration is deemed readily achievable when it can be done relatively easily and without much expense. It might not be structurally or economically feasible for a public facility with no elevator to install one, for example, but it probably is feasible to install ramps, handrails, and grab bars. Shelving in stores, telephones mounted lower on the wall, soap dispensers in bathrooms, and brighter lights are all things that can be added with little difficulty or undue expense. In cases in which alterations are difficult or impossible, alternatives can be incorporated instead. Examples include providing taped lectures of inaccessible gallery exhibits or providing a water cooler or reachable paper cups instead of installing a new accessible drinking fountain

As for new buildings, the costs of incorporating ADA-compliant accessibility features has been estimated to be less than one percent of overall construction costs. Thus, it is unlikely that the owners of a building currently under construction would be able to make a case against accessibility. Nor should they want to; as more disabled people enter both the consumer market (as tourists, for example) and the workforce, it benefits building owners to make their structures ADA-compliant.

Auxiliary Accommodations

A special accommodation category exists for those with visual and hearing impairments. The "auxiliary accommodations" are designed to make it easier to communicate with people who have difficulty seeing or hearing. Among the accommodations ADA can recommend are the following:

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- Interpreters who speak sign language
- Special listening devices and headsets
- Texts in large print and Braille, or recorded on tape
- TDD/TTY text telephones for those with hearing impairments

As with physical alterations, auxiliary accommodations are not designed to create an undue burden on the building owner. Nor are they meant to alter the nature of goods or services offered by the public facility in question. For example, a museum whose art works are too delicate to be handled may implement a "no touch" policy, even though it means that certain blind people may not be able to enjoy the exhibit fully.

Stores are not required to have signs or price tags in Braille, nor do they need to have a sign language interpreter on staff. As long as an employee can read price tags and similar information to blind shoppers, and as long as store employees can communicate with deaf customers by writing out notes, there is no requirement for businesses to incur the expense of extra assistance.

Actually, many auxiliary accommodations can be made quite inexpensively. Most ordinary computer programs can be set to display and print in large type, for example. TDD/TTY telephone units equipped with printers cost about \$500, which most fair-sized businesses could afford with little difficulty.

Other Accommodations

There are a number of other accommodations that in general are cost-effective to implement. For example, restaurants that need to make more room for wheelchairs may be required to move their tables around; unless they had to remove a significant number of tables and thus lose business, this should not be a burden. (In fact, many restaurants add or remove tables for certain events as a matter of course.) Some stores may have to relocate display racks for the same reason. Outdoor cafes that crowd sidewalks may be required to reduce the number of tables or increase the space between them. Large plants, whether indoors or outdoors, may need to be moved to make room for disabled individuals.

Enforcing the Law

In the 25-year period from 1976 to 2001, the Access Board investigated more than 3,300 complaints against public facilities, including post offices, military facilities, veterans hospitals federal courthouses, and prisons. In general, the Board works with the facility to find ways to bring it into compliance. One example is the Holocaust Memorial Museum in Washington, D.C. A group of children with varying degrees of hearing impairment were touring the museum when the fire alarm went off. Because the students actually thought the alarms were part of the exhibit, and because they could not hear the evacuation notices, there was potential for serious consequences. A complaint was filed with the Access Board, which worked with the museum to install new alarms that offered a more distinct and distinguishable signal.

Another example is a homeless shelter in Phoenix, Arizona. Although rest rooms in the shelter had been renovated twice using federal funds, they were still not ADA compliant. The Access Board worked successfully with the shelter to address the issue and make the rest rooms compliant.

Those who feel that a public facility is in violation of Title III may file their complaints with the U.S. Department of Justice. In cases of repeat violations, the Department has authorization to bring lawsuits against offenders, although the more desired outcome would be correction of the problem with the help of groups such as the Access Board. The Department of Justice web site that handles ADA issues is <http://www.usdoj.gov/crt/ada/adahom1.htm>.

Additional Resources

The ADA: A Review of Best Practices Jones, Timothy L.,

American Management Association, Periodicals Division, 1993.

Equality of Opportunity: The Making of ADA. Young,

Jonathon M., National Council on Disability, 1997. Jordan I. Kosberg, ed., Wright-PSG, 1983.

The New ADA: Compliance and Costs. Kearney, Deborah

S., R.S. Means, 1992.

Organizations

Access Board

1331 F Street NW, Suite 1000

Washington, DC 20004 USA Phone: (202) 272-0080

Fax: (202) 272-0081

URL: <http://www.access-board.gov> Primary Contact: Pamela Y. Holmes, Chair

Council for Disability Rights

205 West Randolph Street, Suite 1645 Chicago, IL 60606 USA

Phone: (312) 444-9484

Fax: (312) 444-1977

URL: <http://www.disabilityrights.org> Primary Contact: Jo Holzer, Executive Director

U. S. Department of Justice, Civil Rights Division, Office of Disability Rights 950 Pennsylvania Avenue NW

Washington, DC 20530 USA Phone: (202) 307-2227

Fax: (202) 307-1198

URL: <http://www.usdoj.gov/crt/drs/drshome.htm> Primary Contact: John L. Wodatch, Chief

U. S. Equal Employment Opportunity Commission (EEOC) 1801 L Street NW

Washington, DC 20507 USA Phone: (202) 663-4900

Fax: (202) 663-4494 (TTY)

URL: <http://www.eeoc.gov>

Primary Contact: Cari M. Dominguez, Chair

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