Americans with Disabilities Act
Requirements in Public Accommodations
Fact Sheet

General

✓ Public accommodations such as restaurants, hotels, theaters, doctors' offices, pharmacies, retail stores, museums, libraries, parks, private schools, and day care centers, may not discriminate on the basis of disability. Private clubs and religious organizations are exempt.

✓ Reasonable changes in policies, practices, and procedures must be made to avoid discrimination.

Auxiliary Aids

✓ Auxiliary aids and services must be provided to individuals with vision or hearing impairments or other individuals with disabilities, unless an undue burden would result.

Physical Barriers

✓ Physical barriers in existing facilities must be removed, if removal is readily achievable. If not, alternative methods of providing the services must be offered, if they are readily achievable.

✓ All new construction in public accommodations, as well as in "commercial facilities" such as office buildings, must be accessible. Elevators are generally not required in buildings under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center, mall, or a professional office of a health care provider:

✓ Alterations must be accessible. When alterations to primary function areas are made, an accessible path of travel to the altered area (and the bathrooms, telephones, and drinking fountains serving that area) must be provided to the extent that the added accessibility costs are not disproportionate to the overall cost of the alterations. Elevators are required as described above.
Entities such as hotels that also offer transportation must generally provide equivalent transportation service to individuals with disabilities. New fixed-route vehicles capable of carrying more than 16 passengers must be accessible.

**Remedies**

Individuals may bring private lawsuits to obtain court orders to stop discrimination, but money damages cannot be awarded.

Individuals can also file complaints with the Attorney General who may file lawsuits to stop discrimination and obtain money damages and penalties.

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- Braille
- Large Print
- Audiotape
- Electronic file on computer disk and electronic bulletin board (202) 514-6193

**For more information on the ADA contact:**

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Coordination and Review Section  
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REG FACTS # 1

The Americans with Disabilities Act

ADA REGULATIONS

► The Department of Justice issued proposed regulations to implement the requirements for public accommodations and commercial facilities under title III of the ADA on February 22, 1991.

► The Architectural and Transportation Barriers Compliance Board, an independent Federal agency, issued proposed accessibility guidelines for new construction and alterations on January 22, 1991. These guidelines will be incorporated in the Department of Justice’s proposed title III rule for public accommodations and commercial facilities.

► The Department of Justice will soon issue proposed regulations to implement the requirements for State and local governments under title II of the ADA.

► The Equal Employment Opportunity Commission will issue regulations covering employment practices under title I of the ADA.

► The Department of Transportation issued regulations on October 4, 1990, to implement the accessibility requirements for newly purchased or leased vehicles under titles II and III of the ADA. Additional regulations implementing the ADA’s other transportation requirements will follow.

► The Federal Communications Commission issued proposed regulations on December 4, 1990, establishing standards under title IV of the ADA for telephone relay services for use by individuals with hearing or speech impairments.
REG FACTS # 2

Requirements for Public Accommodations Under the Americans with Disabilities Act.

WHO IS COVERED BY TITLE III OF THE ADA

➤ All private entities (except private clubs and religious organizations) operating public accommodations and commercial facilities are covered by the ADA and therefore by the title III regulation.

➤ Places of public accommodation include over 5 million private establishments, such as restaurants, hotels, theaters, convention centers, retail stores, shopping centers, dry cleaners, laundromats, pharmacies, doctors' offices, hospitals, museums, libraries, parks, zoos, amusement parks, private schools, day care centers, health spas, and bowling alleys.

➤ Public accommodations are subject to all of the provisions of the regulation, including the requirements for nondiscriminatory eligibility criteria; reasonable modifications in policies, practices, and procedures; auxiliary aids; removal of physical barriers in existing facilities; alternatives to barrier removal; and accessible new construction and alterations.

➤ In contrast, commercial facilities, such as office buildings, factories, and warehouses, are only subject to the requirements for new construction and alterations.

➤ State and local governments are not covered by this regulation, but will be covered by the soon-to-be-issued regulation under title II of the ADA.
REG FACTS # 3

Requirements for Public Accommodations Under the Americans with Disabilities Act.

NUMBER OF PLACES OF PUBLIC ACCOMMODATION

- There are over 3.8 million private enterprises in the United States operating over 5 million places of public accommodation.
  - Some examples of categories and numbers of places of public accommodation include --
    - Food stores -- 155,000
    - Restaurants -- 283,000
    - Auto dealers and service stations -- 166,000
    - Apparel and accessory stores -- 152,000
    - Furniture and home furnishings -- 139,000
    - General merchandise -- 50,000
    - Building materials and supplies -- 90,000
    - Other retail -- 369,000
    - Banks -- 66,000
    - Credit agencies -- 50,000
    - Real estate firms -- 223,000
    - Hotels and other lodging -- 53,000
    - Personal services -- 122,000
    - Business services -- 321,000
    - Automobile repair -- 118,000
    - Motion picture theaters -- 22,000
    - Places of amusement and recreation -- 50,000
    - Health services -- 119,000
    - Education -- 36,000
    - Social services -- 39,000
REG FACTS # 4

Requirements for Public Accommodations Under the Americans with Disabilities Act.

"INDIVIDUALS WITH DISABILITIES"

➤ The Americans with Disabilities Act provides comprehensive civil rights protections for "individuals with disabilities."

➤ An individual with a disability is a person who --

➤ Has a permanent or temporary physical or mental impairment that substantially limits one or more "major life activities," or

➤ Has a record of such an impairment, or

➤ Is regarded as having such an impairment.

➤ Examples of physical or mental impairments include, but are not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease, tuberculosis, drug addiction, and alcoholism. Homosexuality and bisexuality are not physical or mental impairments under the ADA.

➤ "Major life activities" include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

➤ Individuals who currently engage in the illegal use of drugs are not protected by the ADA when an action is taken on the basis of current illegal drug use.
REG FACTS # 5

Requirements for Public Accommodations Under the Americans with Disabilities Act.

ELIGIBILITY FOR GOODS AND SERVICES

► In providing goods and services, a public accommodation may not use eligibility requirements that exclude or segregate individuals with disabilities, unless the requirements are “necessary” for the operation of the public accommodation.

► For example, excluding individuals with cerebral palsy from a movie theater or restricting individuals with Down Syndrome to only certain areas of a restaurant would violate the proposed regulation.

► Requirements that tend to screen out individuals with disabilities, such as requiring a blind person to produce a driver’s license as the sole means of identification for cashing a check, are also prohibited.

► Safety requirements may be imposed only if they are necessary for the safe operation of a place of public accommodation. They must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities. For example, an amusement park may impose height requirements for certain rides when required for safety.

► Extra charges may not be imposed on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as removing barriers or providing sign language interpreters.
MODIFICATIONS IN POLICIES, PRACTICES, AND PROCEDURES

➢ A public accommodation must make reasonable modifications in its policies, practices, and procedures in order to accommodate individuals with disabilities.

➢ A modification is not required if it would “fundamentally alter” the goods, services, or operations of the public accommodation.

➢ For example, a department store may need to modify a policy of only permitting one person at a time in a dressing room if a mentally retarded individual needs and requests assistance in dressing from a companion.

➢ Modifications in existing practices must be made to permit the use of guide dogs and other service animals in areas open to the general public. Access may be restricted in other areas if necessary for safe operation.

➢ Specialists are not required to provide services outside of their legitimate areas of specialization. For example, a doctor who specializes exclusively in burn treatment may refer an individual with a disability, who is not seeking burn treatment, to another provider. A burn specialist, however, could not refuse to provide burn treatment to, for example, an individual with HIV disease.
AUXILIARY AIDS

➤ A public accommodation must provide auxiliary aids when they are necessary to ensure effective communication with individuals with hearing, vision, or speech impairments.

➤ "Auxiliary aids" include such services or devices as sign language interpreters, assistive listening headsets, television decoders, telecommunication devices for the deaf (TDD’s), readers, taped texts, brailled materials, and large print materials.

➤ The auxiliary aid requirement is flexible. For example, a brailled menu is not required if waiters are instructed to read the menu to blind customers.

➤ Devices or services of a personal nature, such as prescription eyeglasses, hearing aids, or assistance in eating, toileting, or dressing, are not required.

➤ Auxiliary aids that would result in an undue burden or in a fundamental alteration in the nature of the goods or services are not required by the proposed rule. However, a public accommodation must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or an undue burden.
REG FACTS # 8

Requirements for Public Accommodations Under the Americans with Disabilities Act.

EXISTING FACILITIES: REMOVAL OF BARRIERS

➢ Physical barriers to entering and using existing facilities must be removed when “readily achievable,” i.e., “easily accomplishable and able to be carried out without much difficulty or expense.” The rule does not require actions that would result in “significant loss of profit or significant loss of efficiency.”

➢ What is readily achievable will be determined on an individual basis in light of the resources available.

➢ Examples of barrier removal measures include --

➢ Installing ramps,

➢ Making curb cuts in sidewalks and entrances,

➢ Rearranging tables, chairs, vending machines, display racks, and other furniture,

➢ Widening doorways,

➢ Installing grab bars in toilet stalls, and

➢ Adding raised letters or braille to elevator control buttons.

➢ First priority must be given to measures that will enable individuals with disabilities to “get in the front door,” followed generally by measures to provide accessible restrooms and access to areas providing goods and services.
REG FACTS # 9

Requirements for Public Accommodations Under the Americans with Disabilities Act.

EXISTING FACILITIES: ALTERNATIVES TO BARRIER REMOVAL

➤ The ADA requires the removal of physical barriers, such as stairs, if it is “readily achievable” (i.e., “easily accomplishable and able to be carried out without much difficulty or expense”). However, if removal is not readily achievable, alternative steps must be taken to make goods and services accessible.

➤ Examples of alternative measures include --

➤ Providing goods and services at the door, sidewalk, or curb,

➤ Providing home delivery,

➤ Retrieving merchandise from inaccessible shelves or racks, and

➤ Relocating activities to accessible locations.

➤ Businesses are not required to adopt alternative measures that result in “significant loss of profit or significant loss of efficiency.”

➤ Extra charges may not be imposed on individuals with disabilities to cover the costs of measures used as alternatives to barrier removal. For example, a restaurant may not charge a wheelchair user extra for home delivery when it is provided as an alternative to barrier removal.
Reg Facts # 10

Requirements for Public Accommodations and Commercial Facilities Under the Americans with Disabilities Act.

Requirements for Alterations to Existing Facilities and for New Construction

- All alterations undertaken in places of public accommodation or commercial facilities must be accessible. For example, if during renovations a doorway is being relocated, the new doorway must be wide enough to meet the ADA standards for accessibility.

- All newly constructed places of public accommodation and commercial facilities must be accessible to individuals with disabilities.

- When alterations are made to a “primary function area,” such as the lobby or work areas of a bank, an accessible path of travel to the altered area must also be provided. The bathrooms, telephones, and drinking fountains serving that area must also be made accessible to the extent that the added accessibility costs are not disproportionate to the overall cost of the alterations.

- Elevators are not required in facilities under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center, mall, professional office of a health care provider, or station used for public transportation.

- The architectural standards for accessibility in new construction and alterations that will apply under the proposed regulation will be established in guidelines to be issued by the Architectural and Transportation Barriers Compliance Board, an independent Federal agency.
REG FACTS # 11

Requirements for Public Accommodations Under the Americans with Disabilities Act.

ENFORCEMENT OF THE ADA AND ITS REGULATIONS

➤ Private parties may bring lawsuits to obtain court orders to stop discrimination. No monetary damages will be available in such suits. A reasonable attorney’s fee, however, may be awarded.

➤ Individuals may also file complaints with the Attorney General, who is authorized to bring lawsuits in cases of general public importance or where a “pattern or practice” of discrimination is alleged.

➤ In suits brought by the Attorney General, monetary damages (not including punitive damages) and civil penalties may be awarded. Civil penalties may not exceed $50,000 for a first violation or $100,000 for any subsequent violation.
REG FACTS # 12

The Americans with Disabilities Act

OFFICE ON THE AMERICANS WITH DISABILITIES ACT

▸ The Office on the Americans with Disabilities Act, with John L. Wodatch as its director, will oversee the implementation of the Department's ADA responsibilities. The Office is located within the Coordination and Review Section of the Civil Rights Division.

▸ The Office will develop and implement regulations regarding the ADA's requirements for public accommodations under title III and State and local governments under title II.

▸ The Office will spearhead the Federal Government's technical assistance (i.e., information outreach) efforts under the ADA. The Office will coordinate the technical assistance activities of the other Federal agencies that have ADA compliance responsibilities, and will carry out the Department's technical assistance obligations for public accommodations and State and local governments.

▸ The Office will also --

▸ Design and implement a system for investigating ADA complaints,

▸ Determine if State and local accessibility codes meet ADA standards,

▸ Establish coordination procedures with the Equal Employment Opportunity Commission and the Department of Labor for handling employment complaints.

For more information contact:

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(202) 514-0301 (Voice) (202) 514-0381 (TDD)
Electronic Bulletin Board (202) 514-6193
REG FACTS # 13

The Americans with Disabilities Act

TECHNICAL ASSISTANCE

➢ The ADA requires that the Federal agencies responsible for issuing ADA regulations provide “technical assistance.”

➢ Technical assistance is the dissemination of information (either directly by the Department or through grants and contracts) to help individuals protected by the ADA and entities covered by the ADA in understanding their rights and responsibilities under the law.

➢ Methods of providing information include, for example, audio-visual materials, pamphlets, manuals, electronic bulletin boards, checklists, and training.

➢ The Department issued a proposed government-wide plan for the provision of technical assistance on December 5, 1990.

➢ The Department’s efforts to date have focused on raising public awareness of the ADA by providing --

➢ Fact sheets and pamphlets in accessible formats,

➢ Speakers for workshops, seminars, classes, and conferences,

➢ A special ADA information line, and

➢ Access to ADA documents through an electronic bulletin board for users of personal computers.

➢ The Department will provide a comprehensive program of technical assistance relating to public accommodations and State and local governments once final title II regulations are issued.