

# Americans with Disabilities Act - Title III

## Private Club Exemptions



Title III of the Americans with Disabilities Act (ADA) exempts private clubs and religious organizations from the majority of its requirements.

### Private Club Defined

Title III of the ADA defines the term **private club** as a private club or establishment exempted from coverage under Title II of the Civil Rights Act of 1964 (which prohibits discrimination on the basis of race, color, national origin, etc.). Title II of the Civil Rights Act exempts “any private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of [a place of public accommodation as defined in Title III of the ADA].” The rule, therefore, is that any entity that would be exempt under Title II of the 1964 Civil Rights Act would also be exempt under Title III of the ADA. Likewise, an entity that would fail the test of a private club under Title II of the 1964 Civil Rights Act would also fail the test under Title III of the ADA.



Court decisions under other civil rights legislation indicate that the burden of proof will always be on the party claiming the exemption to establish the facts showing that it is a private club. Under Title II of the Civil Rights Act, the courts have generally held that an entity is truly a private club based upon a number of factors. The U.S. Equal Employment Opportunity Commission and the U.S. Department of Justice have applied the same factors under Title III of the ADA. These factors include:

- Whether members exercise a high degree of control over club operations,
- Whether the membership selection process is highly selective,
- Whether substantial membership fees are charged,
- Whether the entity is operated on a non-profit basis,
- Whether the club was founded specifically to avoid compliance with federal civil rights laws,
- Whether the entity strictly observes organizational formalities (e.g., bylaws, meetings, and membership cards),



- Whether the entity has a legitimate purpose, and
- Whether non-members may use the club.

## Private Clubs Open to the Public

Facilities of a private club lose their exemption to the extent that the facilities of the private club are available to customers or patrons of a place of public accommodation.

For example, a private country club, as defined under Title III, rents space to a private day care center that is also open to the children of non-members. Although the private club would maintain its exemption for its other operations, it would have Title III obligations with respect to the operations of the day care center.

## ADA Title I Exemption

Title I of the ADA, that cover employers with fifteen (15) or more employees, exempts private clubs from its employment practices requirements.

## ADA Information

Call the DOJ Toll-Free ADA Information Line for answers to general and technical questions about the ADA and to order technical assistance materials: 800-514-0301 (voice) 800-514-0383 (TTY). Visit the DOJ ADA web site to see the Title III regulations and related guidance at [ada.gov](http://ada.gov).



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