

Americans with Disabilities Act - Title III

Requirements for Public Accommodations

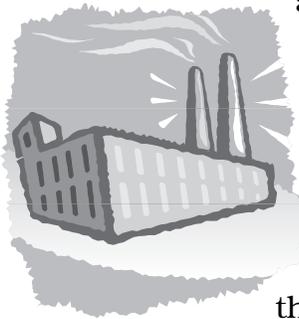
An Overview



Covered Entities

Title III of the Americans with Disabilities Act of 1990 (P.L. 101-336) applies to **covered entities**. Covered entities are privately-owned **places of public accommodation** and **commercial facilities**.

Places of public accommodation include 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.



Commercial facilities include nonresidential facilities such as office buildings, factories, and warehouses, whose operations affect commerce.

Title III extends to all public accommodations and commercial facilities whether or not they receive Federal funds. Title III does not cover entities controlled by religious organizations, including places of worship. Title III does not cover private clubs, except to the extent that a private club makes its facilities available to customers or patrons of a place of public accommodation.

General Requirements

Public accommodations must provide goods and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.

Public accommodations must eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy their goods and services.

Public accommodations must make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration would result in the nature of the goods and services provided.



Public accommodations must furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result in the nature of the goods and services provided.

Public accommodations must provide equivalent transportation services and purchase accessible vehicles in certain circumstances.

Disability Defined

Title III defines **disability** as a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.

The phrase **physical or mental impairment** includes, but is 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.

Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Title III does not protect individuals with disabilities who currently engage in the illegal use of drugs if a covered entity takes action on the basis of the current illegal use of drugs.

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.

Title III prohibits 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.

Safety requirements may be imposed only if they are necessary for the safe operation of a place of public accommodation. A covered entity must base such requirements on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

A covered entity may not impose surcharges (additional charges) on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as removing barriers or providing qualified interpreters.



Modifications in Policies, Practices, and Procedures



A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations. In general, a covered entity would have to modify a “no pets” policy to permit the use of guide dogs and other service animals.

Auxiliary Aids

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

Auxiliary aids and services include qualified interpreters, assistive listening headsets, television captioning and decoders, teletypewriters (TTYs), videotext displays, qualified readers, taped texts, audio recordings, Braille materials, and large print materials. A public accommodation may not charge an individual with a disability for the use of an auxiliary aid.

If provision of a particular auxiliary aid or service by a public accommodation would result in a fundamental alteration in the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or in an undue burden, i.e., significant difficulty or expense, the public accommodation must provide an alternative auxiliary aid or service, if one exists, that would not result in an alteration or such burden but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the goods, services, facilities, privileges, advantages, or accommodations offered by the public accommodation.



New Construction and Alterations

Title III requires newly constructed places of public accommodation and commercial facilities to be accessible to individuals with disabilities, to the extent that it is not structurally impracticable.

Title III requires alterations of existing places of public accommodations and commercial facilities to be accessible to individuals with disabilities, unless it is technically infeasible.





Removal of Barriers

Title III requires the removal of physical barriers to public accommodations (but not commercial facilities) when it is **readily achievable** to do so. Readily achievable means easily accomplishable and carried out without much difficulty or expense. What is readily achievable is determined on a case-by-case basis in light of the resources available.

Enforcement

A qualified individual with a disability may file a lawsuit to enforce his or her rights under Title III. A court may award reasonable attorney's fees. Individuals may also file complaints with appropriate administrative agencies.

Filing a Complaint

A qualified individual with a disability may file a complaint against a private entity for violating any of the nondiscrimination provisions of Title III. The DOJ will accept complaints at the address below.

Disability Rights Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66738
Washington, D.C. 20035-6738



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.



DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Blvd., Room 101 • Honolulu, HI 96814
Oahu: (808) 586-8121 (Voice/TTY), (808) 586-8129 (Fax)

Call toll free from:

Maui: 984-2400, ext. 6-8121# (Voice)

Molokai & Lanai: 1(800) 468-4644,
ext. 6-8121# (Voice)

Kauai: 274-3141, ext. 6-8121# (Voice)

Big Island: 974-4000,
ext. 6-8121# (Voice)

E-mail: dcab@doh.hawaii.gov • Web Site: www.hawaii.gov/health/dcab/

