

## AMERICANS WITH DISABILITIES ACT (ADA) – TITLE III Public Accommodations

The Americans with Disabilities Act (ADA) provides equal opportunity for individuals with disabilities in many areas including public accommodations, employment, private transportation, services from state and local government, and telecommunications. This fact sheet is about ADA Title III which covers Public Accommodations and related areas.

### **What is Covered by Title III of the ADA?**

ADA Title III covers Public Accommodations; Ground Transportation Services; and Educational Testing Services

- Public accommodations: These are privately-operated places that are open to the public for business. ADA Title III public accommodations include:
  - ❑ Hotels/motels
  - ❑ Places serving food or drink (restaurants and bars)
  - ❑ Theaters and other places of entertainment
  - ❑ Auditoriums
  - ❑ Retail stores and shopping centers (grocery stores and hardware stores)
  - ❑ Service providers (hospitals and doctors' offices, dry cleaners, insurance agencies, lawyers' offices)
  - ❑ Public transportation stations (including airports and depots)
  - ❑ Museums/galleries
  - ❑ Recreational facilities (amusement parks)
  - ❑ Educational facilities (private schools or colleges)
  - ❑ Social services centers (day care for children or adults, food banks, homeless shelters)
  - ❑ Exercise and recreational facilities (gyms, bowling alley, and golf courses)

Note: Churches and facilities they directly operate (including schools/child development centers) are NOT covered under ADA public accommodations. Also private membership clubs and facilities are NOT covered. At this time, web-based lodging and activity services like Airbnb are not considered places of public accommodations; full ADA protections may not be available from their individual service providers.

You should check the organization's non-discrimination policies.

ADA Title III also applies to:

- Ground transportation: This includes taxis and buses operated by private companies (Greyhound or Megabus). At the current time, there are legal disputes whether ride-sharing companies like UBER are covered by the ADA.

- Educational and Professional Testing Services: This includes examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes. Examples are the ACT and SAT college tests, Law School Admission Test (LSAT), Graduate Record Examination (GRE) and professional testing like bar examinations for attorneys or US Medical Licensing Examination for medical doctors.

### **What is NOT covered by ADA Title III?**

Title III does not apply to employment discrimination. Employment is covered by ADA Title I. Also, state/local government programs and AMTRAK rail are covered by ADA Title II. Although airports are covered by ADA Title III, aircraft transportation is separately covered by the Air Carrier Access Act.

## **WHAT RIGHTS ARE PROTECTED BY ADA TITLE III?**

Below are some important rights that are covered by ADA Title III. Since it is not a complete list, please contact P&A or one of the resources attached for further questions.

### **Modifications in Policies and Procedures**

Public accommodations must make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities. An example of modifying a policy is allowing service animals in a place that would not normally allow pets. A public accommodation does not have to modify a policy if it would involve a fundamental alteration of its goods, services, or operations. That is when it would change the essential nature of the business. For example, a doctor who specializes exclusively in burn treatment may refer an individual with a disability to another doctor, if the individual is not seeking burn treatment. A burn specialist, however, could not refuse to provide burn treatment to an individual who has AIDS or is HIV positive. Also a clothing store would not be required to provide a personal assistant to help someone using a wheelchair try on clothes unless the store provided that service to all customers. A public accommodation may also deny a request if an individual poses a direct threat to the health or safety of others. The public accommodation must make an individualized decision and not rely on stereotypes.

### **Auxiliary Aids for Effective Communication**

A public accommodation must provide auxiliary aids and services when they are necessary to ensure effective communication with people who are deaf, blind or have similar disabilities.

Examples of auxiliary aids are qualified interpreters, television captioning, assistive listening headsets, and Braille materials. The public accommodation may not charge extra for providing auxiliary aids.

An auxiliary aid is not required if it would result in an undue burden to the public accommodation. Undue burden is evaluated by assessing various factors, including the nature and net cost of the accommodation, the overall financial resources of the facility or business, and the impact of the accommodation on the operation of the facility.

### **Removal of Architectural Barriers**

The ADA requires the removal of architectural barriers in facilities where “readily achievable.” Examples of barrier removal include the following:

- ❑ Installation of ramps
- ❑ Making curbs accessible on sidewalks/building entrances
- ❑ Rearranging furniture
- ❑ Widening doorways
- ❑ Installing grab bars in restrooms

“**Readily achievable**” means easy to accomplish and can be done without much difficulty or expense. Tax breaks are available to many businesses for ADA accommodations.

### **New Construction Must be Accessible**

New buildings that are designed and constructed to be first occupied by a public accommodation after January 26, 1993, are required to be accessible to people with disabilities. If a building has had a major alteration since then it must also be accessible. The current architectural standards for accessibility in new construction or alterations are in the 2010 ADA Standards for Accessible Design issued by the US Department of Justice. See the ADA website:

[www.ada.gov/2010ADASTandards\\_index.htm](http://www.ada.gov/2010ADASTandards_index.htm)

### **What Can I Do If Title III ADA Rights Have Been Violated?**

If you are being discriminated against by a public accommodation or a transportation or testing service have several options:

1. Contact the manager/owner: You may begin by contacting the manager/owner of the facility or company that you feel is discriminating against you. The best way to notify a business manager/owner is in writing. It is recommended that you keep a copy of the letter or email for your records so you will have proof of an initial complaint.
2. File Complaint with the Department of Justice: If you are unable to resolve your problem with a business manager/owner you have the right to file a formal complaint with the Department of Justice. There is no set time limit when to do this. But you should submit it as soon as you can.

3. File a lawsuit under Title III ADA: Federal courts will borrow the SC law that says you must file a law suit within three years from the time your rights were violated. If you are late, your case can be dismissed. Under the ADA, you can sue to make the other side change how they treated you. You cannot get money damages, but if you win the other side will be expected to pay your attorney fees.

### **Filing a Title III Complaint with the US Department of Justice**

The information at the end of this Fact Sheet about filing a Title III complaint was obtained from the US Department of Justice web site at: [www.ada.gov/filing\\_complaint.htm](http://www.ada.gov/filing_complaint.htm). It gives a detailed description how to file a Title III Complaint. Please note that the Department of Justice is not required to investigate all Title III complaints.

Since the Department of Justice does not investigate all Title III complaints, you may wish to request “mediation” of your complaint. The Department of Justice established the ADA Mediation Program through a private contract with the Key Bridge Foundation. In mediation, a neutral person meets with you and the public accommodation to help solve the problem. There is no charge for mediation. Mediation may involve a face-to-face meeting or a telephone conference. For further information on mediation, please see the ADA website at: [www.ada.gov/mediate.htm](http://www.ada.gov/mediate.htm).