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## **ACCESS TO PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES**

In Title III of the Americans with Disabilities Act (ADA), Congress recognized that architectural barriers are a form of discrimination that perpetuates the isolation of people with disabilities. This fact sheet provides a brief overview of the ADA's physical accessibility requirements with which public accommodations and commercial facilities must comply.

### **What Are Public Accommodations and Commercial Facilities?**

Public accommodations are privately-owned places of business that provide services to the public, such as hotels, restaurants, theaters, retail stores, banks, professional offices, gyms, day care centers, and private schools and colleges. Commercial facilities are facilities that affect commerce but are not open to the public, such as office buildings or factories. Religious organizations and private clubs are exempt from the requirements of Title III of the ADA.

## **What Are the Accessibility Requirements of Title III of the ADA?**

Newer Buildings – The ADA requires that public accommodations and commercial facilities designed for first occupancy on or after January 26, 1993 must be fully accessible to individuals with disabilities unless it is structurally impracticable to do so due to the unique characteristics of the terrain. A newer building, though, only has to install an elevator if: (1) it has a minimum of three stories or 3,000 square feet per story; or (2) it is a shopping center, professional offices for health care providers, or transportation terminal or depot.

Remodeled Buildings – A public accommodation or commercial facility must assure that any part of its facility altered after January 26, 1992 is made accessible to individuals with disabilities, unless doing so is virtually impossible. Alterations that trigger the accessibility requirements include remodeling, renovation, or reconstruction, but not normal maintenance, painting, or re-roofing. If the altered part of the facility affects or could affect the usability of or access to an area that contains a primary function (such as a dining room in a restaurant), the facility must also provide an accessible path of travel that connects the altered area with the exterior approach. The

facility, though, need not spend more than 20% of the cost of alterations to the primary function area on accessibility alterations to the path of travel.

Existing Public Accommodations – Public accommodations existing as of January 26, 1992 had (and continue to have) a duty to remove architectural barriers to the extent that doing so is "readily achievable." The first priority is to assure access to the accommodation from the sidewalks or parking area (e.g., ramps, accessible parking, widening entrance). The second priority is access to the goods or services (e.g., interior ramps, re-arranging racks). The third priority is access to restrooms. The fourth priority is removal of any other barriers. Removal of barriers is "readily achievable" if it can be accomplished without much difficulty or expense, looking at various factors, including cost of barrier removal, the financial resources of the public accommodation, and safety concerns.

Existing Commercial Facilities – Commercial facilities built before January 26, 1993 have no obligation to remove architectural barriers under Title III of the ADA unless and until they are remodeled. However, such existing commercial facilities may have an obligation to remove architectural barriers

to accommodate the needs of employees with disabilities under Title I of the ADA (which governs employment discrimination).

### **What Standards Govern Accessibility under the ADA?**

The standards for accessibility (such as the width of parking spaces, store aisles, and doors; restroom accessibility features; and slope of ramps) are governed by the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

### **Who Can You Contact to File a Complaint?**

If you believe that a public accommodation or commercial facility has not complied with its obligations under the ADA, you may file a complaint with the United States Department of Justice (DOJ), Civil Rights Division, 950 Pennsylvania Avenue, N.W., Disability Rights Section - NYAV, Washington, D.C. 20530. Information about filing a complaint with DOJ is available on its website at [www.usdoj.gov/crt/ada/t3compfm.htm](http://www.usdoj.gov/crt/ada/t3compfm.htm), or you can call DOJ's ADA Information Hotline at 800-514-0301 (voice) or 800-514-0383 (TDD).

Alternatively, you may file a lawsuit to challenge the failure of a public accommodation or commercial facility to comply with Title III of the ADA, but you cannot recover money damages in such a lawsuit.

## **Contact Information**

If you need more information or need help, please contact the intake unit of the Disability Rights Network of Pennsylvania (DRN) at 800-692-7443 (voice) or 877-375-7139 (TDD). The email address is: [intake@drnpa.org](mailto:intake@drnpa.org).

The mission of the Disability Rights Network is to advance, protect, and advocate for the human, civil, and legal rights of Pennsylvanians with disabilities. Due to our limited resources, the Disability Rights Network cannot provide individual services to every person with advocacy and legal issues. The Disability Rights Network prioritizes cases that have the potential to result in widespread, systemic changes to benefit persons with disabilities. While we cannot provide assistance to everyone, we do seek to provide every individual with information and referral options.

**IMPORTANT: This publication is for general informational purposes only. This publication is not intended, nor should be construed, to create an attorney-client relationship between the Disability Rights Network and any person. Nothing in this publication should be considered to be legal advice.**

**PLEASE NOTE: For information in alternative formats or a language other than English, contact the Disability Rights Network at 800-692-7443 Ext. 400, TDD: 877-375-7139, or [drnpa-hbg@drnpa.org](mailto:drnpa-hbg@drnpa.org).**

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