Restaurants and bars across Pennsylvania are expanding their outdoor dining operations in response to federal and state guidance suggesting that outdoor operations are preferable to indoor ones for helping to limit exposure to, and slow the spread of, COVID-19. The expansion of outdoor dining into sidewalks, streets, parking lots, and other public spaces raises questions about legal requirements for access to public spaces, like sidewalks and parking, or services, like restaurant dining, for people with disabilities. This fact sheet addresses the rights of people with disabilities who are impacted by the expansion of outdoor dining.

**Are there any requirements about how and where restaurants or bars can provide outdoor dining for their customers during the pandemic?**


Under Governor Wolf’s guidance, restaurants and bars cannot simply decide to expand seating into sidewalks or parking lots. Instead, they must obtain permits from state and/or local authorities as required “to serve food and beverages outside of physical indoor service areas.” However, cities and municipalities across Pennsylvania have differing standards for expanding outdoor dining and bar services during the pandemic.
There have been instances in which restaurants’ and bars’ expansion of their outdoor services have impeded the ability of people with disabilities to easily navigate public spaces. Tables and chairs may block sidewalks so that individuals who use wheelchairs or other mobility aids cannot use them. Barriers erected to protect patrons of the restaurants and bars may require individuals who use mobility aids to cross the street or even be unable to travel down that street. Curb ramps and/or accessible parking spaces may be blocked as well.

**Does the Americans with Disabilities Act (ADA) protect me if expanded outdoor dining or bar services make it harder for me to access public spaces?**

In some ways, yes. The Americans with Disabilities Act ("ADA") prohibits discrimination on the basis of disability and, among other things, the ADA requires that public spaces generally be accessible to people with disabilities. This applies to services provided by state and local governments, like sidewalks and streets, and to services provided by places of "public accommodation," which include many privately-owned businesses that provide services to the public, such as restaurants and bars.

The ADA generally requires restaurants, bars and other places of public accommodation that are newly constructed or altered to be accessible to individuals with disabilities. This includes maintaining an accessible “path of travel” and providing a certain amount of accessible parking for individuals with a mobility impairment. Expansion onto a public sidewalk or into the street could be viewed as an alteration to the business under the ADA. Thus, to the extent that a restaurant’s or bar’s outdoor space encompasses sidewalks, streets and accessible parking spaces, they should at least maintain an accessible path of travel and ensure that required accessible parking remains available.

In addition, local governments have an obligation under the ADA to ensure that sidewalks are free of obstructions so they can be traveled by people using wheelchairs and other mobility aids. Some localities, like the Cities of Philadelphia and Pittsburgh, explicitly reference the ADA in their standards for expanding outdoor dining and bar services and prohibit expanded operations from obstructing public access to
spaces and services. Others do not specifically reference potential effects on ADA requirements like sidewalk width and eliminating barriers to access and, in some places, there is no guidance beyond what the CDC recommends and the Governor has ordered. It could raise an ADA issue if local governments allow businesses to block sidewalks.

For more information, please view our publications on rights of access, at https://www.disabilityrightspa.org/resources/#access-to-public-and-private-commercial-facilities.

What can I do if I think a local restaurant’s or bar’s outdoor seating violates my rights?

If you believe that a restaurant, bar, or local government has not complied with its obligations under the ADA, you can file a complaint with the United States Department of Justice (“DOJ”), Civil Rights Division. Information about filing a complaint with DOJ is available at 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).

Some localities have ADA coordinators, 311 hotlines and other similar telephone lines that you can call to report an issue of public access. An additional resource in Philadelphia is the Mayor’s Office for People with Disabilities, https://www.phila.gov/departments/mayors-office-for-people-with-disabilities/.

You could also consider filing a lawsuit to challenge the failure of a restaurant or bar to comply with Title III of the ADA, but you cannot recover money damages in such a lawsuit. Your local bar association can provide an attorney referral to evaluate your claim.

If you have questions about your individual situation, contact Disability Rights Pennsylvania by telephone at 800-692-7443 (voice) or 877-375-7139 (TDD), or email us at intake@disabilityrightspa.org.

The mission of Disability Rights Pennsylvania is to advance, protect, and advocate for the human, civil, and legal rights of Pennsylvanians with disabilities. Due to our limited resources, Disability Rights Pennsylvania cannot provide individual services to every person with advocacy and legal issues. Disability Rights Pennsylvania 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.
If you need more information or need help, please contact Disability Rights Pennsylvania (DRP) at 800-692-7443 (voice) or 877-375-7139 (TTY), or email us at intake@disabilityrightspa.org.

The mission of Disability Rights Pennsylvania is to advance, protect, and advocate for the human, civil, and legal rights of Pennsylvanians with disabilities. Due to our limited resources, Disability Rights Pennsylvania cannot provide individual services to every person with advocacy and legal issues. Disability Rights Pennsylvania 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 Disability Rights Pennsylvania 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 Disability Rights Pennsylvania at: 800-692-7443, Ext. 400; TTY: 877-375-7139; or intake@disabilityrightspa.org.