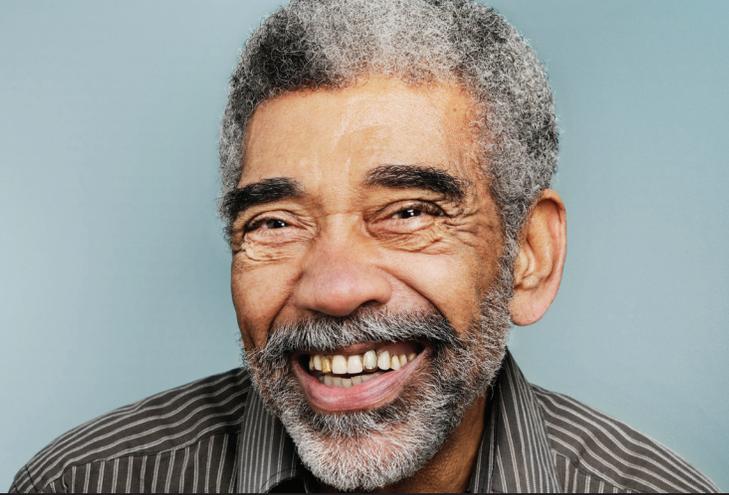


# DISABILITY & AGING RIGHTS



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## DISCRIMINATION

# Legal Rights of People with Disabilities to Access Private Businesses

People with disabilities, including older Americans with physical, cognitive, sensory and mental impairments, have legal rights with respect to accessing public accommodations, which are private businesses that are open to the public. Title III of the Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities by public accommodations. This fact sheet will review your rights to access public businesses

### What is a public accommodation?

To be covered as a public accommodation, entities must fall within one of the following 12 categories:

- 1. Places of lodging:** For example, inns, hotels and motels (except for owner-occupied establishments renting fewer than six rooms).
- 2. Establishments serving food or drink:** For example, restaurants and bars.
- 3. Places of exhibition or entertainment:** For example, movie theaters, live performance theaters, concert halls and stadiums.
- 4. Places of public gathering:** For example, auditoriums, convention centers and lecture halls.
- 5. Sales or rental establishments:** For example, bakeries, grocery stores, hardware stores and shopping centers.
- 6. Service establishments:** For example, coin-operated laundries, dry-cleaners, banks, barber shops, beauty shops, travel services, shoe repair services, funeral parlors, gas stations, offices of accountants or lawyers, pharmacies, insurance offices, professional offices of health care providers and hospitals.
- 7. Public transportation terminals, depots or stations:** Not including facilities relating to air transportation.
- 8. Places of public display or collection:** For example, museums, libraries and galleries.
- 9. Places of recreation:** For example, parks, zoos and amusement parks.

**10. Places of education:** For example, nursery schools, elementary, secondary, undergraduate or postgraduate private schools.

**11. Social service center establishments:** For example, day care centers, senior citizen centers, homeless shelters, food banks and adoption agencies.

**12. Places of exercise or recreation:** For example, gymnasiums, health spas, bowling alleys and golf courses.

### What are the legal requirements public accommodations have to follow under the ADA?

Public accommodations have to follow a number of requirements under the ADA. Among the requirements, public accommodations must:

- Provide goods and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.
- Eliminate unnecessary eligibility standards or rules that deny people with disabilities an equal opportunity to enjoy the goods and services of the public accommodation.
- Make reasonable modifications in policies, practices and procedures that deny equal access to people with disabilities, unless a fundamental alteration would result in the nature of the goods and services provided.
- Furnish auxiliary aids when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.
- Remove architectural and structural communication barriers in facilities where readily achievable.
- Provide readily achievable alternative measures when removal of barriers is not readily achievable.



- Provide equivalent transportation services and purchase accessible vehicles in certain circumstances.
- Maintain accessible features of facilities and equipment.
- Design and construct new facilities and, when undertaking alterations, alter existing facilities in accordance with the Americans with Disabilities Act Accessibility Guidelines.

## What are the accessibility requirements for public accommodations?

The requirements vary depending on when the public accommodation was constructed:

### New construction

All newly constructed public accommodations must be accessible to people with disabilities to the extent that it is not structurally impracticable. The new construction requirements apply to any building occupied after January 26, 1993, for which the last application for a building permit or permit extension is certified as complete after January 26, 1992. Full compliance will be considered “structurally impracticable” only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features (e.g., marshland that requires construction on stilts).

### Existing facilities

The ADA requires the removal of physical barriers, such as stairs, if it is readily achievable. However, if removal is not readily achievable, other steps must be taken to make goods and services accessible. Examples of other measures include:

- Providing goods and services at the door, sidewalk or curb

- Providing home delivery
- Retrieving merchandise from inaccessible shelves or racks
- Moving activities to accessible locations

Extra charges may not be imposed on people with disabilities to cover the costs of measures used as alternatives to barrier removal.

### Alteration of existing facilities

Alterations after January 26, 1992, to existing places of public accommodation must be accessible to the maximum extent feasible. An alteration is a change that affects usability of a facility. For example, if during remodeling, renovation or restoration, a doorway is being moved, the new doorway must be wide enough to meet the requirements of the ADA Accessibility Guidelines. When alterations are made to a “primary function area,” such as the lobby of a bank, a path of travel to the altered area – and the bathrooms, telephones and drinking fountains serving that area – must be made accessible as long as the added accessibility costs are not disproportionate to the overall cost of the original alteration.

## Do both a landlord who leases space in a building to a tenant, and the tenant who operates a place of public accommodation, have responsibilities under the ADA?

Both the landlord and the tenant must comply with all ADA Title III requirements applicable to that place of public accommodation.

### Are religious entities covered by Title III of the ADA?

No. Religious entities are exempt. A religious entity, however, would be subject to the employment obligations of the ADA (Title I) if it has 15 or more employees.

### Are private clubs covered by Title III of the ADA?

No. Courts have been inclined to find private club status in cases where:

- Members exercise a high degree of control over club operations
- The membership selection process is highly selective
- Substantial membership fees are charged
- The entity is operated as a nonprofit
- The club was not founded specifically to avoid compliance with federal civil rights laws

Private clubs lose their exemption when nonmembers use them as places of public accommodation.

### How can you enforce your ADA rights if you've been discriminated against by a public accommodation?

In Illinois, you can enforce your rights under Title III by filing a lawsuit within two years of the alleged discrimination. You can also file complaints with the Department of Justice or with the federal agency that covers a particular issue. For example, if you were treated badly by a private university because of your disability, you can file a complaint with the Department of Justice or with the Office of Civil Rights at the Department of Education. However, if you file with a federal agency, the time to file in court is still two years from the date of the alleged discrimination. The deadline for filing in court does not change just because you filed a complaint with a federal agency. ■

### For more information:

Visit the U.S. Department of Justice ADA website at [www.ada.gov](http://www.ada.gov) for more information about your rights and the responsibilities of public accommodations under Title III of the ADA.



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