

# ADA TITLE III

## Compliance Best Practices

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Title III guarantees disabled individuals the “full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of any place of public accommodation.”

- **Places of public accommodation** include private and public schools; inns, hotels, motels, and other places of lodging; restaurants, bars; theaters, stadiums, convention centers; bakeries; most retailers; parks, museums; hospitals; and many more.
- **Owners, operators, lessees and lessors** are responsible for ensuring compliance with the ADA. Parties can allocate financial responsibility but not liability.
- **Title III Requirements/Prohibitions:**
  - Must provide auxiliary aids and services to extent necessary to achieve effective communication, unless they would **fundamentally alter** the nature of the public accommodation’s services or pose an undue burden.
  - Must remove architectural barriers to access, where such removal is “readily achievable.” Different standards for altered/renovated and new structures.
  - Must modify policies, practices, and procedures unless the modifications required would **fundamentally alter** the nature of the goods or services.
  - May not use eligibility criteria which screen out, or **tend to** screen out, the disabled unless the criteria are **necessary** to (1) provide goods or services or (2) safety.
- **ADA Facility Requirements** (state law may have different requirements):
  - There are almost a thousand regulations. In other words, it is easy to establish a violation.
    - Target Areas/Most Common Violations: Accessible Parking and Access Aisles; Access to Entrance; Restrooms; Sales and Service Counters; ATM’s; and Seating.
- **Website Accessibility:**
  - Increasingly, plaintiffs’ lawyers are claiming that publicly available websites are inaccessible to users with disabilities, thereby disadvantaging individuals with disabilities in a modern society that is largely driven by an electronic marketplace. Many people with disabilities use “assistive technology” to enable them to use computers and access the internet.
  - For example, individuals who are blind or have low vision may use screen readers – devices that speak the text on a monitor – to assist them in accessing a website’s content. However, such users cannot fully access a site unless it is designed to work with the screen-reading software. Another example of an accessibility barrier that needs to be addressed is ensuring your individual website pages are coded so that users can navigate by means of a keyboard or single-switch access device alone, without need of a mouse. Users who cannot use a mouse with precision could find your website un navigable without this design. Websites that do not accommodate assistive technology can create unnecessary barriers for users with disabilities, and help fuel website accessibility claims.

- **Service Animals:**
  - Include only dogs individually trained to do work or perform tasks for the benefit of an individual with a disability. No other animals – except trained miniature horses – are permitted. Emotional support dogs are NOT recognized as service animals. Psychiatric service dogs ARE recognized.
  - May ask: 1) if the animal is required due to a disability; and 2) what task/work the animal is trained to do. May not require: 1) proof of service animal certification/licensing; 2) medical documentation; 3) ask the dog to demonstrate its ability to perform the task/work identified.
  - May ask that the service animal be removed when the animal is a direct threat, out of control or not housebroken, or if the presence of the animal would fundamentally alter the program or service provided (e.g. a barking dog in a library). Allergies and fear of dogs are not valid reasons for removal.
  
- **When you get back to the office:**
  - Survey existing facilities – get input from experienced architect;
  - Train personnel in dealing with and assisting disabled patrons;
  - Review and update policies to ensure compliance with the regulations;
  - Assess the accessibility of your website from the perspective of the user;
  - Engage the services of a website accessibility expert to ensure that your website has the appropriate features.

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