

OUTDOOR DINING OPTIONS MAY PRESENT CHALLENGES FOR ADA COMPLIANCE

Insights
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Most hoteliers and restaurateurs are familiar with the Americans with Disabilities Act's (ADA) requirements on providing access to patrons with disabilities. From braille menus to wheelchair accessible restrooms, the presence of service animals and more, hospitality companies work hard to maintain compliance with their obligations as a public accommodation. Title III of the ADA requires that places of public accommodation such as hotels, retail stores and restaurants are accessible to guests with disabilities, including removing all "physical barriers" to disabled individuals whenever it is "readily achievable" to do so. Whether or not an unlawful physical barrier is determined to exist is governed by Title III's interpretive regulations. The federal Access Board also periodically updates its compliance guidelines, and all public accommodations (businesses and non-profits alike) are expected to review and ensure their facilities are compliant. The accessibility guidelines include precise requirements for disabled parking, wheelchair ramps, doorway width, parking lots, entrances, elevators, pathways, seating, bathrooms, and more. State and local regulations may be more specific.

As more businesses turn to outdoor dining options due to COVID-19 indoor restrictions, accessibility compliance for disabled patrons can become challenging. Patrons in wheelchairs using other assistive devices and those with vision impairments face some of the most common barriers that come with outdoor seating options. These include crowded sidewalks, cracked or sloped pavement, and obstacles such as scooters and bicycles.

What Should You Do?

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As businesses expand outdoor dining space, you must be mindful that you are not creating barriers for disabled patrons. Be cautious not to block curb cuts and accessible parking spots. Examine whether adjustments should be made to the entrance and eating spaces, such as providing ramps to be level with the seating areas, proper spacing between tables for wheelchair accessibility, and limiting congestion from sandwich boards and signs.

You should also consult both the ADA's public accommodation guidelines and all applicable state, county, or city guidelines. To be safe, consult with legal counsel or an accessibility consultant to identify the existence of any barriers to access. Involving an attorney early on may help keep the audit results confidential.

Outdoor dining has become so popular amongst restaurateurs and patrons, that there's little doubt the option will likely remain past the pandemic. As you expand or consider the outdoor dining options, remember to consider and account for your disabled patrons as well.

As new developments occur in the Hospitality Industry, we will continue to assess and provide necessary updates. Please ensure you are [subscribed to Fisher Phillips' Insight system](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, the author of this Insight, or any member of our [Hospitality Industry Group](#).