

The ADA



**What Teens
Should Know
About the
Americans
with
Disabilities
Act**

& Me

The ADA and Me

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INTRODUCTION TO THE ADA

Welcome to the ADA and Me, a booklet for teens with disabilities about the Americans with Disabilities Act (ADA). We hope to answer your questions about the ADA and maybe cause you to come up with a few questions of your own. Although this booklet probably seems pretty long, it is just an introduction to the ADA. The purpose is to give you a basic idea of your legal rights as a person with a disability under the ADA. We tried to use as little 'lawyer-speak' as possible, but we didn't 'dumb it down.' While there are some details that aren't included, what is here is accurate. You can get lots more information about the ADA from the resources listed in the back of the booklet. Take a deep breath, jump in and have fun!

Why do I need to know about the ADA?

There are lots of very good reasons for you to take some time to learn a little about the ADA. We'll look at just a few of them here. First of all, you will have no way of knowing if your rights as a person with a disability have been violated if you don't know what they are to begin with. You become a much more powerful advocate for yourself when you are asking someone to give you what you *know* are your legal rights than you are when you are asking someone to do something for you because it would be a nice thing to do. Knowing what your rights are and are not gives your credibility. Second, if people are aware that you understand your rights, they are much more likely to abide by the law. You will be taken more seriously as an advocate if you can demonstrate that you know what your rights *are and are not* under the ADA.

And third, it is important to know what your rights are in case Congress or the courts try to take them away. When our rights as people with disabilities are threatened, as they are being more and more, we need articulate young people with disabilities to let lawmakers know that they will not tolerate our rights being chipped away. You might be called upon to be one of those people. (You didn't know that you were being recruited, did you?)

The ADA seems complicated. Am I ever going to be able to understand it?

Don't panic! The more relaxed you are when you read this, the better you will understand it. The ADA is complicated, but not as much as it seems at first. With a little patience, you can understand the parts of the ADA that you are interested in. It is ok to be interested in a small part of the ADA or in the whole thing or somewhere in the middle. There are lots of resources and people out there who can help you learn more if you want. Just hang in there and stick to it. Learning as much about the ADA as you can is worth it.

Is the ADA that important? Has it really changed the world in a meaningful way?

Imagine a world where there is no accessible parking. Imagine a world where there are no wheelchair accessible rest rooms . . . anywhere. Imagine a world where a school system can deny a student the right to go to school just because she has a disability. Your parents and other old people, like the author, remember times when all of this was true. What caused the change? Passage of federal and state disability rights laws, including the

ADA. Many of us feel that the ADA hasn't been followed closely enough, but few of us can deny the major changes that it has made.

What is the ADA?

The ADA is a federal law that protects the rights of people with disabilities. It stops cities, towns, state agencies, most schools and many businesses and employers from discriminating against people with disabilities. It requires that new buildings are accessible to people with disabilities and sometimes requires that changes be made in old buildings to make them more accessible. It requires that sign language interpreters be provided at certain public events and that materials be available in Braille and large print under certain circumstances. Most important, it requires that people with disabilities be given an equal opportunity to participate in many aspects of community life.

How old is the ADA?

The ADA was signed into law by President George Herbert Walker Bush on July 26, 1990. Before that, it passed both the Senate and the House with lots of support from both Democrats and Republicans. Over 10,000 people, many of whom had disabilities, witnessed the signing, which was reported to be the largest public bill signing in history. Think about what it must have been like to witness the signing of the most powerful piece of disability rights legislation ever to have been enacted in the history of the planet. Many disability rights activists from Connecticut were there.

HOW IS THE ADA ORGANIZED?

The ADA is divided into five sections, called titles. Each title describes who has obligations to people with disabilities. (An obligation is something that an organization, like an employer or a city or a school, has to do or else they are breaking the law.) Then it goes on to explain what those obligations are.

The Five Titles of the ADA are:

Title I: Employment

This Title states which employers are covered under the ADA and what these employers must do to protect the rights of individuals with disabilities.

Title II: State and Local Government Entities

Title II applies to cities, towns, state agencies, public schools, state colleges and other government organizations. Title II describes what these organizations are required to do under the ADA.

Title III: Public Accommodations

This title applies to businesses that are *places where people go*. It includes movie theatres, stores, the mall, restaurants, doctor's offices, banks, day care centers, private schools and many other places of business.

Title IV: Telecommunications

Title IV established a free 24-hour per day national relay services system. It allows people who are deaf or who have speech disabilities to call others or to be called without special equipment. Its use is unlimited. So, you can call 35 of your closest friends and tell them the same stupid joke or share an important piece of gossip anytime, day or night,

Title V: Miscellaneous

This title contains what are called miscellaneous provisions. These are parts of the law that didn't easily fit into any other place. It also repeats certain aspects of the law for emphasis. You don't need to spend a lot of time studying this title.

WHO IS PROTECTED UNDER THE ADA?

There are three groups of people protected under the ADA. They are:

- people with a physical or mental impairment who are substantially limited in a major life activity,
- people with a record of being limited in a major life activity
- people regarded as being substantially limited in a major life activity.

Let's look at these one by one.

People Substantially Limited in a Major Life Activity

What does it mean to be substantially limited in a major life activity?

First, let's explore what is meant by a major life activity. By major life activity, the ADA means things like:

- hearing
- seeing
- walking
- learning
- caring for oneself
- learning
- breathing, etc.

Next, let's ask: 'What does the ADA mean by 'substantially limited? Under the ADA, 'substantially limited' means 'limited compared to the general population.' If someone tires after walking 30 feet, he is going to be considered substantially limited in the major life activity of walking under the ADA. However, if that person tires after walking two miles, he is not substantially limited in the major life activity of walking. This is because a large segment of the population would tire after walking two miles.

Unlike special education law, the ADA doesn't give a list of disabilities that are covered. Instead, for each condition you must ask: 'Is this person substantially limited in a major

life activity?' If the answer is 'yes', the person is covered. If the answer is 'no,' the person is not covered.

People with a Record of Having a Disability

Congress wanted to protect people who had a disability in the past but no longer do, or people who perhaps never had a disability, but were wrongly thought to have one. Examples of people with a record of having a disability include people who once had cancer but don't anymore and people who have been in psychiatric institutions but no longer have a psychiatric disability.

People Regarded as Having a Disability

This is the most interesting group of people covered under the ADA. It includes people who do not have a major disability but who are treated as having one.

EXAMPLES

- Joanne is refused a table at the front of a restaurant because of scarring on her face from a burn. She is not substantially limited in a major life activity, but is still being discriminated against because of her condition.
- Paul is missing part of a finger and is turned down from a secretarial job even though he did well on a typing test. He is not substantially limited in a major life activity, but is being treated as if he is and is being discriminated against because of it.
- Linda is not hired for a job because the employer believes that she has AIDS. She does not. She is being discriminated against for a condition she doesn't have.

Congress wanted all of these people to be protected under the ADA even though they are not substantially limited in a major life activity. Get it?

Are people who are overweight protected under the ADA?

No, but they may be protected under the ADA if the weight issue is accompanied by a health condition that substantially limits them in a major life activity.

Are people with HIV/AIDS protected under the ADA?

Yes.

Is there anyone else who is protected under the ADA?

Yes, actually there is. People who are associates of people with disabilities may be discriminated against under the ADA. This means that if a non-disabled person goes somewhere with you and you are denied access, the non-disabled person may also file a compliant because, as an associate of someone with a disability, he has been discriminated against, as well.

WHAT DOES THE ADA DO?

Do I get cash benefits under the ADA?

No. The ADA is civil rights law. It provides no financial benefits. It makes sure that people with disabilities are given an equal opportunity to participate in a wide variety of aspects of our society. There are programs unrelated to the ADA that do provide cash benefits. For example, some people will qualify for social security. Other people might qualify for equipment and/or money from the Bureau of Rehabilitation Services (BRS) to further their education and career.

Do I get special treatment as a person with a disability under the ADA?

No. The goal of the ADA is to treat everyone equally. Sometimes, in order to treat everyone equally, you have to do things differently to meet an individual's needs. For example, if the goal is to get into a school building, a person without a disability might do so by climbing stairs, while a person who uses a wheelchair will need a ramp. Both people get to the same place, but by using different means. In order to get to the same place, they need to be treated differently. Another example: If the goal is to find out how much two people know about a subject, a person without a disability might be given a timed test and a person with a learning disability that affects her ability to complete tests quickly might be given additional time to take the same test. In the end, the test giver finds out how much each person knows about the subject. These types of different treatment to reach the same goal may be required under the ADA. While the ADA might require modifications or accommodations, it only does so to *create a level playing field*. Although modifications might have to be provided to a person with a disability, in the end, the modifications only get them to the same starting place as a person without a disability. In other words, sometimes, in order to be fair, you can't treat everyone the same.

SCHOOLS AND THE ADA

See also www.pacer.org/pride/504.htm (PACER Minneapolis, Minnesota)

Does the ADA apply to my school?

It depends. If you go to a public school, the answer is 'yes'. In that case, your school has obligations under Title II of the ADA. If you go to a private non-religious school, which is covered under Title III, the answer is 'yes' again, but the protections aren't as broad. If you go to a religious school, the answer is 'no' because Title III of the ADA does not apply to religious organizations. (This applies to religious schools, religious day care centers, religious hospitals and any other religious organizations, in addition to actual houses of worship.)

What obligations does my school have if I go to public school?

Public schools have obligations to you, as a person with a disability, under the ADA, Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act (IDEA). Public schools must provide students with disabilities a Free and Appropriate Public Education under IDEA. This is referred to as FAPE. If a school does

not provide the program changes and education in the least restrictive environment, as required under IDEA, the school is considered to be not only in violation of IDEA, but also of the ADA. Changes required to provide FAPE range from curriculum modification to providing interpreters to making materials available in large print to making structural changes that will make the school more accessible.

Under the ADA, school districts not only have obligations to students with disabilities, but also to employees, parents and members of the public with disabilities. (For example, a parent with a disability should be able to meet with her child's teacher.) But a school's strongest obligations are to its students.

What obligations does my school have if I go to private school?

Non-religious private schools are covered under Title III of the ADA. Like public schools, they have obligations to employees (if there are 15 or more of them), members of the public and students with disabilities. A key difference between private and public schools is that private schools are not covered by IDEA and so do not have to provide a free and appropriate education to students with disabilities, like public schools do. This means that they don't have to provide the same range of support services and make the same modifications as do public schools.

Are colleges and universities covered under the ADA?

Yes, non-religious colleges are covered under either Title II or Title III of the ADA. They are covered under Title II if they are state colleges or under Title III if they are private colleges. Remember: Religious organizations are exempt under Title III of the ADA.

What kinds of obligations do colleges have under the ADA?

Colleges have the same obligations as any other organizations do under Titles I, II and III of the ADA. These obligations extend not only to students with disabilities, but to employees and members of the public, as well. Also, colleges that receive federal money (which is almost all of them) have obligations under Section 504 of the Rehabilitation Act. These obligations are nearly identical to those under Title II.

Examples of things that colleges may have to do under the ADA and Section 504

- Complete the five action steps described on page 17. (Note: This requirement only applies to state colleges.)
- Provide access to all programs, services and activities.
- Ensure that individuals with disabilities have an equal opportunity to participate in and benefit from all programs, services and activities.

Do colleges have special obligations to students with disabilities under the ADA?

Yes. Colleges must provide communication aids and services for students with sensory and speech disabilities, as well as make modifications to policies for students with disabilities. A modification to a policy is basically a change to a rule. In addition, colleges have the obligation to make sure that students can get into any building where a program they are participating in is being held. (This kind of accessibility includes

signage for people who have visual impairments and visual fire alarms for people who are deaf.)

What are some examples of communication aids and services that I might have the right to receive?

- Sign language interpreters
- TTYs (telecommunication devices for people who are deaf or have speech disabilities)
- Computer Assisted Real Time Transcription (CART)
- Note takers
- Readers
- Brailled material
- Large print material
- Material on audiocassette
- Material on disk
- Adapted computer equipment

What are some examples of policy modifications that I might get?

Depending on your limitations, you might have the right to:

- Extra time on tests
- Tests administered in a distraction free environment
- Written outlines of class lectures
- The option of taping lectures or using a note taker
- The ability to substitute one required class for another

Do I have to provide proof of my disability in order to get an accommodation?

Yes, you must provide written documentation of your disability if it is one that is not visible. If you have a psychiatric disability, learning disability, epilepsy or any other disability that is not obvious, you must provide a statement from a professional who is familiar with you. The statement should be recent, that is, within the last three years. If documentation is not recent, the college may require you to pay for the cost of an evaluation. Generally, it is a good idea to get this taken care of in your last year of high school.

Do I have to tell my college that I have a disability?

No, you don't. You only have to tell them if you need accommodations.

When should I tell my college about my disability if I need accommodations?

It is your job to tell the school about your disability and need for accommodation. The school has no obligation to provide accommodations if it doesn't know about the need to begin with. Talk to them about your disability as soon as possible. This way they can make necessary arrangements. Most schools have an Office of Disabled Student Services that will help you out.

Once I tell the college that I have a disability and have provided them with documentation of it, do I automatically get all of the same accommodations that I had in high school?

No. Accommodations, such as extended time on tests, are something that you negotiate with the college. You don't get them automatically. Colleges often approach tests and assignments differently than high schools do. For instance, a professor might give three hours for an exam that she anticipates most students will finish in one hour. In a case like this, you may not be given extended time because it is built in already.

ENFORCING THE ADA

What can I do if I think that an organization isn't doing what's required under the ADA?

You have a few options. Let's look at your options under Title II (state government; cities, towns, public schools, state colleges, etc.). First, you may file an internal grievance. This is the quickest and least confrontational choice. Also, you don't need a lawyer. Second, you can file an administrative complaint with the Department of Justice (DOJ) or, if you are an employee, with the Equal Employment Opportunity Commission (EEOC). The Department of Justice must investigate all Title II complaints that come before it. This take more time than a grievance procedure, but you still don't need a lawyer. The forms are relatively easy to fill out. The third option is filing a lawsuit. This is the most drastic option in that it is the most time consuming and expensive.

Title III does not require that its covered organizations provide a grievance procedure. You do, however, have the option of filing a complaint with DOJ or EEOC. (But unlike with Title II complaints, which *must* be investigated, these agencies are not required to investigate every Title III complaint.) Finally, you have the option of filing a lawsuit.

Private colleges are required to have an internal grievance procedure under Section 504 of the Rehabilitation Act if they receive federal funds. This grievance procedure is nearly identical to that required of state colleges under the ADA.

HOW CAN I LEARN MORE ABOUT THE ADA?

Check out some of the resources listed in the back of this booklet.

A QUICK SUMMARY OF YOUR RIGHTS UNDER TITLES I, II AND III OF THE ADA

TITLE I: EMPLOYMENT

Employers with 15 or more employees can't discriminate against qualified employees and job applicants with disabilities. This means a few things. First, an employer can't refuse to hire or fire someone just because he has a disability. Are they required to hire an applicant *because* she has a disability? No. Given two equally qualified candidates, one with and one without a disability, they can hire the one that they like best, as long as the

decision has nothing to do with the person's disability. There is no requirement that employers recruit people with disabilities or hire a certain number of them. There are no quotas under the ADA.

What does it mean to be a QUALIFIED applicant or employee with a disability?

It means that you have the skills, knowledge, education and experience to do the job. It also means that you can do what are called the essential functions of the job with or without reasonable accommodation. We'll talk about reasonable accommodation in a minute. If you can't do the major functions of the job, then you are not qualified. Therefore, the employer doesn't have to hire you or can fire you.

Non-discrimination also means that employers must give employees with disabilities the same opportunities that they offer non-disabled employees. Employees with disabilities must have the same benefits and privileges as do others. This applies to opportunities for promotion, training, and benefits.

EXAMPLES

- An employer can't tell a deaf employee that she can't go to a training seminar because she needs a sign language interpreter.
- An employer can't refuse to consider a person with a disability for a promotion just because of her learning disability.
- An employer can't have the holiday party in a place that isn't wheelchair accessible when there are employees who use wheelchairs on staff.

Reasonable Accommodation

Non-discrimination may mean providing applicants and employees with something called 'reasonable accommodation.' A reasonable accommodation is a change in the way a job is done or the circumstances under which it is done. An employer does not have to provide a reasonable accommodation if it costs too much money or is too complicated. Under the law, this is called an undue hardship. Whether or not a reasonable accommodation imposes an undue hardship depends on how much money and resources an employer has. A small employer may be required to pay very little for reasonable accommodations, whereas a larger employer may be required to pay more.

EXAMPLES OF REASONABLE ACCOMMODATION UNDER TITLE I

- Allowing someone with an energy disability to work flexible hours
- Making a rest room accessible to an employee with a disability
- Providing a reader for a blind employee
- Allowing an employee with a learning disability for whom concentration is difficult to work in a more quiet part of the office

Some basic principles of Title I of the ADA are:

1. People with disabilities don't get paid for time that they don't work; they must make up the time or not get paid for it.

2. People with disabilities are held to the same performance standards as everyone else.

If a person has to leave the office early once a week for therapy, he must either make up that time or not get paid for it. If a person with a disability doesn't produce the required number of items in a factory, then she can be disciplined or fired just as anyone else would be. Under the ADA, people with disabilities can and should be disciplined and fired just like anyone else. Once again, the ADA is trying to create a level playing field and not give people with disabilities special treatment.

Another important obligation of employers under the ADA is confidentiality. This means that an employer can not ask any questions about an applicant's disability or health until *after* the employer has made a serious job offer. Even then, employers can only ask health/disability questions that are related to the job or necessary for business. Once a person is hired, his medical records, which include insurance information, must be kept in a separate place from regular personnel records. Only certain employees are allowed access to this information.

TITLE II: STATE AND LOCAL GOVERNMENT ORGANIZATIONS

Title II covers state and local government organizations. This includes cities, towns, counties, state agencies, public schools and state colleges. Under Title II, qualified people with disabilities are protected from discrimination by state and local government organizations.

Who is a qualified person with a disability under Title II?

Anyone who meets the basic requirements for the program is a qualified person with a disability. Anyone who does not meet the basic requirements is *not* a qualified person with a disability. For example, if town X says that a person who is not from town X may not participate in a town run day camp, then a disabled person from town Y is not qualified because she does not live in town X.

What does it mean to discriminate?

Discrimination under Title II basically means the failure to give people with disabilities rights that are equal to everyone else's. The important principles are:

- integration
- full participation and
- equal opportunity.

Next we'll look at some things that cities, towns, schools districts, etc. must do and not do to follow these principles and meet their ADA requirements. Keep in mind that organizations don't have to do *everything* that a person with a disability might want or need. If the request costs too much or is too complicated, an organization can say that the request presents an 'undue burden' and that they just can't provide it. Title II

organizations, however, are expected to go very far in providing people with disabilities with what they need.

Integration:

People with disabilities are integrated when they can join in and do things with everyone else. Title II organizations must provide programs and services in the most integrated setting appropriate to the needs of the person with a disability. People with disabilities should not be separated from non-disabled people. This doesn't stop cities and towns from operating a separate swimming class for kids with disabilities. It does stop them from saying that kids with disabilities can only participate in separate programs.

Surcharges:

A surcharge is an extra cost passed on to the participant in a program or activity. Title II organizations can't charge people with disabilities extra money for aids or modifications. They can't say "Yes, you can come to the school play but you have to pay for the sign language interpreter."

Eligibility Criteria:

Eligibility criteria are rules that separate who can and can't participate in a program or activity. Title II organizations can't have eligibility criteria that screen out people with disabilities unless the criteria are necessary for important safety reasons.

EXAMPLES

- A program *can't require* a driver's license as ID for someone who does not drive because of a visual disability. It *can require* another kind of state issued photo ID.
- A city can't require that people be able to walk to take a boating course. But it *can*, for safety reasons, *require* that all participants be able to swim.

Reasonable Changes to Policy and Procedure

Organizations covered under Title II are required to make reasonable changes to policies and procedures when doing so is necessary to provide equal opportunity. Such changes are called 'reasonable modifications.'

EXAMPLES OF REASONABLE MODIFICATIONS:

- allowing a service animal into a facility where animals are not normally permitted
- providing a person who uses crutches a chair while waiting in line
- assisting an individual with a cognitive disability in filling out a form.

None of these things are normally done, but each is a reasonable modification of an existing way of doing things. It is required that Title II organizations modify policies, practices and procedures unless doing so 'fundamentally' changes the nature of the program.

What is an example of a policy modification that would produce a 'fundamental alteration' of a program or activity? Let's say that a person with a service dog wants to

visit every section of a public zoo. One of the sections has animals that would become dangerously upset at the presence of the dog. In such a situation, the person could be asked not to visit that particular portion of the zoo with the dog.

Effective Communication

Under Title II, covered organizations must make sure that communication with people with speech, hearing and visual disabilities is as effective as it is with others. "As effective" means that the communication is complete enough to be understood. Sometimes, in order to make communication equally effective, communication aids and services must be provided.

EXAMPLES OF COMMUNICATION AIDS AND SERVICES:

- sign language interpreters
- readers,
- assistive listening systems
- Computer Assisted Real Time Transcription (CART) providers
- materials in alternative format, such as Braille, large print, audiocassette and disk.

As is the case with policy modifications, communication aids and services must be provided at no cost to the individual with a disability. Aids and services must be provided unless doing so costs too much, is too complicated or fundamentally changes the nature of the program. Title II organizations must give what is called 'primary consideration' to the request from the person with a disability. That means they have to consider giving the person exactly what she asked for first. But they don't have to give you exactly what you requested if they can come up with an aid or service that is equally effective. Remember that a Title II organization, like a school, does not get away easily with claiming that an aid or service is too expensive.

What kind of effective communication request would result in a 'fundamental alteration?' Let's say a deaf person requests a sign language interpreter at a planetarium show. A planetarium show must be conducted in total darkness and a sign language interpreter must be located in light in order to be seen by the deaf person. In this case, the request would 'fundamentally alter' the program and the planetarium would need to consult with the deaf person to explore other options.

Program and Facility Accessibility

Under Title II of the ADA, buildings constructed prior to 1993 must be accessible to and usable by individuals with disabilities. ALL new state, city, town, public school and public college buildings with multiple stories must have elevators.

Does every building or every part of every building have to be accessible in pre-1993 buildings?

No. Buildings that existed before 1993 (pre-1977 if the organization gets federal money) are not necessarily required to be accessible. The law says that, in existing buildings, all *programs* must be accessible to people with disabilities. This is called the 'program access' requirement of Title II.

WAYS OF MAKING PROGRAMS ACCESSIBLE

- structural changes
- moving programs to an accessible location
- providing home visits
- using assistants/equipment

The last two ways must be done cautiously, though. For example, it wouldn't be ok for an adult ed program to provide a person with tutoring at home if the class is located in an inaccessible place. Why? Because interacting with classmates is an important part of taking a class. (As many of us have learned, separate is never equal.) On the other hand, if a person needs to pay a tax bill but can't get into the tax office because it is inaccessible, it would be ok for a tax official to come to the house and pick up the payment. Why? Because interaction with people is not an important part of paying a bill.

Five Action Steps Required Under Title II

There are five action steps that every organization covered under Title II has to do. Someday, if you believe that your rights have been violated under Title II and you want to take action, you might want to begin by checking out if the organization has taken the following steps:

1. **Appoint an ADA Coordinator.** An ADA Coordinator is someone whose job it is to make sure that the Title II organization meets its obligations to people with disabilities under the ADA. It may be all or just a part of her job depending on the size and resources of the organization. It is the ADA Coordinator's job to make sure that the organization completes the five action steps and receives and responds to complaints. Ideally, the ADA Coordinator will work with a team of individuals and not try to do this job alone.
2. **Post Notice.** This notice assures the public that the organization complies with its obligations. This is a statement that says that the organization meets its ADA obligations and includes the name, phone number and business address of the ADA Coordinator. The notice should be available in alternative format, such as Braille, large print and audiocassette, for people with visual disabilities or for people who do not read print because of their disability.
3. **Adopt a Grievance Procedure.** A grievance procedure tells people how to complain if they think that the Title II organization has violated the ADA. It tells you who to send the complaint to, where to send it, what information it should have in it and when it should be sent by.
4. **Conduct a Self-Evaluation.** A Self-Evaluation identifies instances where the organization does not meet its ADA obligations and suggest ways of correcting the problems. When doing a Self-Evaluation, the organization must look at four areas. They are: employment, non-discrimination in general operations, effective communication and program/facility accessibility.
5. **Develop a Transition Plan.** A Transition Plan contains a list of structural barriers the organization has decided must be removed, a schedule by which barrier removal will be completed and the name of an individual who will oversee barrier

removal. A structural barrier is a part of a building that makes access impossible. Sometimes the whole building is inaccessible.

TITLE III: PUBLIC ACCOMMODATIONS (CERTAIN BUSINESSES)

Title III is the part of the ADA that covers many places of business, including retail stores, theatres, museums, non-religious private schools, daycare centers, doctor's offices, and health care facilities.

What are the differences between Title II and Title III? There are 2 basic differences. First, Title III does not include the 5 action steps that we find in Title II. Second, Title III is not quite as strict as Title II. The degree of obligation a Title III business has depends on how big it is and on how rich it is. A little store will have fewer obligations than a large company. Generally, Title III organizations have the same types of equal opportunity obligations as Title II organizations, but they might not have to do as much or spend as much money to meet them. Like a Title II organization, a Title III organization must provide integration, must avoid unfair criteria, and must make reasonable modifications to policies. It just doesn't have to expend as much effort or cost. (Go back to pages 14-16 for a fuller discussion of these requirements.) A Title III organization will use the same words – Undue Burden – when saying that something is too expensive or complicated to do. They will also use the same words – Fundamental Alteration – when saying that a service or a modification would change a program or activity so much that it shouldn't be done.

Effective Communication

As in Title II, Title III organizations have a duty to provide communication aids and services at no cost to people with speech, hearing and visual disabilities. Again, they must do this up to the point that it costs too much, is too complicated or changes the program in a fundamental way. The requirement is less strict for a Title III organization than for a Title II organization.

Building and Facilities

This is where the big difference between Title II organizations and Title III organizations comes in. As in Title II, all buildings constructed after 1993 must be accessible (although there are some circumstances in Title III where elevators are not required). However, for existing buildings (buildings constructed before 1993), there is no program access obligation. Instead, Title III organizations are only required to remove structural barriers when doing so is 'readily achievable.' 'Readily achievable' means that barrier removal would be easily done without much difficulty or expense. The law doesn't say how much money a business has to spend to meet its obligation. Instead, the overall resources of a business will be considered. So, a small business will have a much lower level of obligation than a large one.

RESOURCES

Here are a couple of resources that can give you information on the ADA.

ADA Coalition of Connecticut (ADACC)

60 B Weston St. Hartford, CT 06120

Voice: 860-297-4383 - TDD: 860-566-2102

ADACOalition@sbcglobal.net

www.adacc.net/news.htm

The ADACC website has lots of good information and links to other sources.

Parent Advocacy Coalition for Educational Rights (PACER)

8161 Normandale Blvd., Minneapolis, Minnesota 55437

Voice: 952-838-9000 - TDD: 952-838-0190

pacer@pacer.org

www.pacer.org/publications/publications.htm