



The Protection & Advocacy System for South Carolina

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FACT SHEET

AMERICANS WITH DISABILITIES ACT (ADA) – TITLE III Public Accommodations

The Americans with Disabilities Act (ADA) provides equal opportunity for individuals with disabilities in many areas including public accommodations, employment, private transportation, services from state and local government, and telecommunications. This fact sheet is about ADA Title III which covers Public Accommodations and related areas.

What is Covered by Title III of the ADA?

ADA Title III covers Public Accommodations; Ground Transportation Services; and Educational Testing Services

- Public accommodations: These are privately-operated places that are open to the public for business. ADA Title III public accommodations include:
 - ❑ Hotels/motels
 - ❑ Places serving food or drink (restaurants and bars)
 - ❑ Theaters and other places of entertainment
 - ❑ Auditoriums
 - ❑ Retail stores and shopping centers (grocery stores and hardware stores)
 - ❑ Service providers (hospitals and doctors' offices, dry cleaners, insurance agencies, lawyers' offices)
 - ❑ Public transportation stations (including airports and depots)
 - ❑ Museums/galleries
 - ❑ Recreational facilities (amusement parks)
 - ❑ Educational facilities (private schools or colleges)
 - ❑ Social services centers (day care for children or adults, food banks, homeless shelters)
 - ❑ Exercise and recreational facilities (gyms, bowling alley, and golf courses)

Note: Churches and facilities they directly operate (including schools/child development centers) are NOT covered under ADA public accommodations. Also private membership clubs and facilities are NOT covered. At this time, web-based lodging

and activity services like Airbnb are not considered places of public accommodations; full ADA protections may not be available from their individual service providers. You should check the organization's non-discrimination policies.

If you have a question whether a facility is a public accommodation covered by ADA Title III, contact P&A or one of the resources listed on the attached resource list.

ADA Title III also applies to:

- Ground transportation: This includes taxis and buses operated by private companies (Greyhound or Megabus). At the current time, there are legal disputes whether ride-sharing companies like UBER are covered by the ADA.
- Educational and Professional Testing Services: This includes examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes. Examples are the ACT and SAT college tests, Law School Admission Test (LSAT), Graduate Record Examination (GRE) and professional testing like bar examinations for attorneys or US Medical Licensing Examination for medical doctors.

What is NOT covered by ADA Title III?

Title III does not apply to employment discrimination. Employment is covered by ADA Title I. Also, state/local government programs and AMTRAK rail are covered by ADA Title II. Although airports are covered by ADA Title III, aircraft transportation is separately covered by the Air Carrier Access Act. If your problem involves these areas, please see other P&A fact sheets at <http://www.pandasc.org/resources/americans-with-disabilities-act-ada>.

WHAT RIGHTS ARE PROTECTED BY ADA TITLE III?

Below are some important rights that are covered by ADA Title III. Since it is not a complete list, please contact P&A or one of the resources attached for further questions.

Modifications in Policies and Procedures

Public accommodations must make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities. An example of modifying a policy is allowing service animals in a place that would not normally allow pets. A public accommodation does not have to modify a policy if it would involve a fundamental alteration of its goods, services, or operations. That is when it would change the essential nature of the business. For example, a doctor who specializes exclusively in burn treatment may refer an individual with a disability to another doctor, if the individual is not seeking burn treatment. A burn specialist, however, could not refuse to provide burn treatment to an individual who has AIDS or is HIV positive. Also a clothing store would not be required to provide a personal assistant to help someone using a wheelchair try on clothes unless the store provided that service to all customers. A public accommodation may also deny a request if an individual poses a direct threat to the health or safety of others. The public accommodation must make an individualized decision and not rely on stereotypes.

Auxiliary Aids for Effective Communication

A public accommodation must provide auxiliary aids and services when they are necessary to ensure effective communication with people who are deaf, blind or have similar disabilities. Examples of auxiliary aids are qualified interpreters, television captioning, assistive listening headsets, and Braille materials. The public accommodation may not charge extra for providing auxiliary aids.

An auxiliary aid is not required if it would result in an undue burden to the public accommodation. Undue burden is evaluated by assessing various factors, including the nature and net cost of the accommodation, the overall financial resources of the facility or business, and the impact of the accommodation on the operation of the facility.

Removal of Architectural Barriers

The ADA requires the removal of architectural barriers in facilities where "readily achievable." Examples of barrier removal include the following:

- ❑ Installation of ramps
- ❑ Making curbs accessible on sidewalks/building entrances
- ❑ Rearranging furniture
- ❑ Widening doorways
- ❑ Installing grab bars in restrooms

"**Readily achievable**" means easy to accomplish and can be done without much difficulty or expense. Tax breaks are available to many businesses for ADA accommodations.

New Construction Must be Accessible

New buildings that are designed and constructed to be first occupied by a public accommodation after January 26, 1993, are required to be accessible to people with disabilities. If a building has had a major alteration since then it must also be accessible. The current architectural standards for accessibility in new construction or alterations are in the 2010 ADA Standards for Accessible Design issued by the US Department of Justice. See the ADA website: www.ada.gov/2010ADASTandards_index.htm

What Can I Do If Title III ADA Rights Have Been Violated?

If you are being discriminated against by a public accommodation or a transportation or testing service have several options:

1. Contact the manager/owner: You may begin by contacting the manager/owner of the facility or company that you feel is discriminating against you. The best way to notify a business manager/owner is in writing. It is recommended that you keep a copy of the letter or email for your records so you will have proof of an initial complaint.
2. File Complaint with the Department of Justice: If you are unable to resolve your problem with a business manager/owner you have the right to file a formal complaint with the Department of Justice. There is no set time limit when to do this. But you should submit it as soon as you can. At the end of this fact sheet is information how to file a complaint.

3. File a lawsuit under Title III ADA: Federal courts will borrow the SC law that says you must file a law suit within three years from the time your rights were violated. If you are late, your case can be dismissed. Under the ADA, you can sue to make the other side change how they treated you. You cannot get money damages, but if you win the other side will be expected to pay your attorney fees.

Filing a Title III Complaint with the US Department of Justice

The information at the end of this Fact Sheet about filing a Title III complaint was obtained from the US Department of Justice web site at: www.ada.gov/filing_complaint.htm. It gives a detailed description how to file a Title III Complaint. Please note that the Department of Justice is not required to investigate all Title III complaints.

Since the Department of Justice does not investigate all Title III complaints, you may wish to request "mediation" of your complaint. The Department of Justice established the ADA Mediation Program through a private contract with the Key Bridge Foundation. In mediation, a neutral person meets with you and the public accommodation to help solve the problem. There is no charge for mediation. Mediation may involve a face-to-face meeting or a telephone conference. For further information on mediation, please see the ADA website at: www.ada.gov/mediate.htm.

This publication provides legal information, but is not intended to be legal advice. The information was based on the law at the time it was written. As the law may change, please contact P&A for updates.

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If you need additional information about
the Americans with Disabilities Act, contact:

ADA RESOURCES

ADA INFORMATION LINE

<http://www.ada.gov/infoline.htm>

<http://www.ada.gov/>

800 - 514 - 0301 (voice) 800 - 514 - 0383 (TTY)

at

US DEPARTMENT OF JUSTICE

950 Pennsylvania Avenue, NW

Civil Rights Division

Disability Rights Section - NYA

Washington, D.C. 20530

OR

SOUTHEAST ADA CENTER

1419 Mayson Street NE

Atlanta, GA 30324

1-800-949-4232 (voice/TTY) 404-541-9001 (voice/TTY)

404-541-9002 (fax)

www.adasoutheast.org

ADAsoutheast@law.syr.edu

OR

DISABILITY RIGHTS EDUCATION & DEFENSE FUND (DREDF)

3075 Adeline Street, Suite 210

Berkeley, CA 94703

510-644-2555 (voice) 510-841-8645 (fax/TTY)

www.dredf.org

info@dref.org

OR

US ACCESS BOARD (ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD)

1331 F Street NW, Suite 1000

Washington, DC 2004-1111

1-800- 872-2253 (voice) 1-800-993-2822 (TTY)

www.access-board.gov

How to File an ADA Complaint with the U.S. Department of Justice

You can file an Americans with Disabilities Act complaint alleging disability discrimination against a State or local government or a public accommodation (including, for example, a restaurant, doctor's office, retail store, hotel, etc.) online, by mail, or fax.

To file an ADA complaint electronically:

[Online Complaint Form \(en Español\)](#)

Instructions for submitting attachments are on the form.

To file an ADA complaint by mail:

US Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section – 1425 NYAV
Washington, D.C. 20530

To file an ADA complaint by fax: (202) 307-1197

Please keep a copy of your complaint and the original documents for your own records.

1. How can I file an ADA complaint with the Department of Justice?
2. What information should my ADA complaint include?
3. What accommodations may I request if I cannot prepare my own ADA complaint because of my disability?
4. What happens after my complaint is received?
5. How can I find out the status of my complaint?
6. What happens if my complaint is referred for possible mediation?
7. What happens if my complaint is opened for investigation?
8. How will the information in my complaint be used?

1. How can I file an ADA complaint with the Department of Justice?

If you believe that you or another person has been discriminated against by an entity covered by the ADA, you may file a complaint with the Disability Rights Section (DRS) in the Department of Justice. You may submit your complaint online or by mail or fax. (Letters and packages sent to the DRS by U.S. Mail are delayed for security screening.) All new complaints are subject to processing and review.

2. What information should my ADA complaint include?

Provide the following information:

- A. Your full name, address, the telephone numbers where we can reach you during the day and evening, and the name of the party discriminated against (if known);
- B. The name and address of the business, organization, institution, or person that you believe has committed the discrimination;
- C. A brief description of the acts of discrimination, the dates they occurred, and the names of individuals involved;
- D. Other information you believe necessary to support your complaint, including copies (not originals) of relevant documents; and
- E. Information about how to communicate with you effectively. Please let us know if you want written communications in a specific format (e.g., large print, Braille, electronic documents) or require communications by video phone or TTY.

You may use **the ADA online complaint form** for any ADA complaint, **but you are not required to do so.**

3. What accommodations may I request if I cannot prepare my own ADA complaint because of my disability?

If you are unable to write because of your disability and are unable to submit a complaint online, by mail, or fax, the Department can assist you by scribing your complaint by phone or, for individuals who communicate by American Sign Language, by videophone.

Contact the ADA Information Line at 1-800-514-0301 (voice) or 1-800-514-0383 (TTY) to schedule an appointment. Please be advised that it may take two weeks or more for Department staff to contact you.

4. What happens after my complaint is received?

After the complaint is received and reviewed, we will inform you of our action, which may include:

- A. Contacting you for additional information or copies of relevant documents;
- B. Referring your complaint for possible resolution through the ADA Mediation Program;
- C. Referring your complaint to the United States Attorney's Office in your area for investigation;
- D. Referring your complaint to another federal agency with responsibility for the types of issues you have raised.
- E. Investigating your complaint; or
- F. Considering your complaint for possible litigation by the Department of Justice.

We cannot investigate or litigate every complaint. If we are unable to take any action on your complaint, we will send you a letter telling you this.

5. How can I find out the status of my complaint?

We review each complaint carefully. Because we receive a large volume of ADA complaints from people throughout the United States, our review can take up to three months. If you have not heard from us by the end of this three-month period, you can find out the status of your complaint by calling the ADA Information Line at 1-800-514-0301 (voice) or 1-800-514-0383 (TTY). A member of our staff will contact you to tell you if your complaint has been received and if it is still under consideration for possible action.

6. What happens if my complaint is referred for possible mediation?

The ADA Mediation Program is an important part of ADA compliance. Using professional ADA-trained mediators throughout the United States, mediation is a confidential, voluntary way to resolve ADA complaints fairly and quickly. Types of complaints most appropriate for this program include barrier removal, program accessibility, effective communication, and modification of policies, practices, and procedures. If we determine that your complaint is appropriate for mediation, we will contact you and the entity you complained about to find out if you are both willing to participate in mediation.

7. What happens if my complaint is opened for investigation?

If your complaint is opened for investigation, an investigator or attorney will be assigned and will contact you to obtain additional information.

During the investigation, the attorney or investigator will not necessarily make a determination about whether or not an ADA violation has occurred. If he or she believes there is a pattern or practice of discrimination or the complaint raises an issue of general public importance, DRS may attempt to negotiate a formal settlement of the matter, or may file a lawsuit in federal court on behalf of the United States. We do not act as an attorney for, or representative of, *the complainant*.

8. How will the information in my complaint be used?

The personal information will be used primarily for the Department of Justice's authorized civil rights compliance and enforcement activities. DRS will not disclose your name or other identifying information about you unless it is necessary for enforcement activities against an entity alleged to have violated federal law, or unless such information is required to be disclosed under the Freedom of Information Act, 5 U.S.C. § 552, or disclosure is allowed through the publication of a routine use in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a. To further the Department's enforcement activities, information DRS has about you may be given to: appropriate Federal, State, or local agencies; Members of Congress or staff; volunteer student workers within the Department of Justice so that they may perform their duties; the news media when release is made consistent with the Freedom of Information Act and 28 C.F.R. § 40.2; and the National Archives and Records Administration and General Services Administration to perform records management inspection functions in accordance with their legal responsibilities.

Providing DRS with the requested information is voluntary except that failure to provide such information may result in DRS being unable to process your complaint.

For other questions, call the ADA Information Line at 1-800-514-0301 (voice) or 1-800-514-0383. ADA Specialists are available to answer questions on Monday, Tuesday, Wednesday, and Friday from 9:30 a.m. to 5:30 p.m. (Eastern Time). On Thursday, the Information Line is staffed from 12:30 p.m. to 5:30 p.m. (Eastern Time).