**Americans with Disabilities Act**

ADA Title III Technical Assistance Manual

Covering Public Accommodations and Commercial Facilities

**Please Note: I have selected portions of the technical assistance manual that address Public Accommodations and the removal of barriers. For a complete technical assistance manual please link to:** [**http://www.ada.gov/taman3.html**](http://www.ada.gov/taman3.html)

**III-1.2000 Public accommodations.** The broad range of title III obligations relating to "places of public accommodation" must be met by entities that the Department of Justice regulation labels as "public accommodations. " In order to be considered a public accommodation with title III obligations, an entity must be private and it must --

Own;

Lease;

Lease to; or

Operate

a place of public accommodation.

What is a place of public accommodation? A place of public accommodation is a facility whose operations --

Affect commerce; and

Fall within at least one of the following 12 categories:

1. Places of lodging (e.g. , inns, hotels, motels) (except for owner-occupied establishments renting fewer than six rooms);
2. Establishments serving food or drink (e.g. , restaurants and bars);
3. Places of exhibition or entertainment (e.g. , motion picture houses, theaters, concert halls, stadiums);
4. Places of public gathering (e.g. , auditoriums, convention centers, lecture halls);
5. Sales or rental establishments (e.g. , bakeries, grocery stores, hardware stores, shopping centers);
6. Service establishments (e.g. , laundromats, 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, hospitals);
7. Public transportation terminals, depots, or stations (not including facilities relating to air transportation);
8. Places of public display or collection (e.g. , museums, libraries, galleries);
9. Places of recreation (e.g. , parks, zoos, amusement parks);
10. Places of education (e.g. , nursery schools, elementary, secondary, undergraduate, or postgraduate private schools);
11. Social service center establishments (e.g. , day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies); and
12. Places of exercise or recreation (e.g. , gymnasiums, health spas, bowling alleys, golf courses).

Can a facility be considered a place of public accommodation if it does not fall under one of these 12 categories? No, the 12 categories are an exhaustive list. However, within each category the examples given are just illustrations. For example, the category "sales or rental establishments" would include many facilities other than those specifically listed, such as video stores, carpet showrooms, and athletic equipment stores.

# ****III-4.4000 Removal of barriers****

**III-4.4100 General.** Public accommodations must remove architectural barriers and communication barriers that are structural in nature in existing facilities, when it is readily achievable to do so.

What is an architectural barrier? Architectural barriers are physical elements of a facility that impede access by people with disabilities. These barriers include more than obvious impediments such as steps and curbs that prevent access by people who use wheelchairs.

In many facilities, telephones, drinking fountains, mirrors, and paper towel dispensers are mounted at a height that makes them inaccessible to people using wheelchairs. Conventional doorknobs and operating controls may impede access by people who have limited manual dexterity. Deep pile carpeting on floors and unpaved exterior ground surfaces often are a barrier to access by people who use wheelchairs and people who use other mobility aids, such as crutches. Impediments caused by the location of temporary or movable structures, such as furniture, equipment, and display racks, are also considered architectural barriers.

What is a communication barrier that is structural in nature? Communication barriers that are "structural in nature" are barriers that are an integral part of the physical structure of a facility. Examples include conventional signage, which generally is inaccessible to people who have vision impairments, and audible alarm systems, which are inaccessible to people with hearing impairments. Structural communication barriers also include the use of physical partitions that hamper the passage of sound waves between employees and customers, and the absence of adequate sound buffers in noisy areas that would reduce the extraneous noise that interferes with communication with people who have limited hearing.

How does the communication barrier removal requirement relate to the obligation to provide auxiliary aids? Communications devices, such as TDD's, telephone handset amplifiers, assistive listening devices, and digital check-out displays, are not an integral part of the physical structure of the building and, therefore, are considered auxiliary aids under the Department's title III regulation. The failure to provide auxiliary aids is not a communication barrier that is structural in nature. The obligation to remove structural communications barriers is independent of any obligation to provide auxiliary aids and services.

What is a "facility"? The term "facility" includes all or any part of a building, structure, equipment, vehicle, site (including roads, walks, passageways, and parking lots), or other real or personal property. Both permanent and temporary facilities are subject to the barrier removal requirements.

**III-4.4200 Readily achievable barrier removal.** Public accommodations are required to remove barriers only when it is "readily achievable" to do so. "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense.

How does the "readily achievable" standard relate to other standards in the ADA? The ADA establishes different standards for existing facilities and new construction. In existing facilities, where retrofitting may be expensive, the requirement to provide access is less stringent than it is in new construction and alterations, where accessibility can be incorporated in the initial stages of design and construction without a significant increase in cost.

This standard also requires a lesser degree of effort on the part of a public accommodation than the "undue burden" limitation on the auxiliary aids requirements of the ADA. In that sense, it can be characterized as a lower standard. The readily achievable standard is also less demanding than the "undue hardship" standard in title I, which limits the obligation to make reasonable accommodation in employment.

How does a public accommodation determine when barrier removal is readily achievable? Determining if barrier removal is readily achievable is necessarily a case-by-case judgment. Factors to consider include:

1. The nature and cost of the action;
2. The overall financial resources of the site or sites involved; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements necessary for safe operation, including crime prevention measures; or any other impact of the action on the operation of the site;
3. The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;
4. If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and
5. If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

If the public accommodation is a facility that is owned or operated by a parent entity that conducts operations at many different sites, the public accommodation must consider the resources of both the local facility and the parent entity to determine if removal of a particular barrier is "readily achievable. " The administrative and fiscal relationship between the local facility and the parent entity must also be considered in evaluating what resources are available for any particular act of barrier removal.

What barriers will it be "readily achievable" to remove? There is no definitive answer to this question because determinations as to which barriers can be removed without much difficulty or expense must be made on a case-by-case basis.

The Department's regulation contains a list of 21 examples of modifications that may be readily achievable:

1. Installing ramps;
2. Making curb cuts in sidewalks and entrances;
3. Repositioning shelves;
4. Rearranging tables, chairs, vending machines, display racks, and other furniture;
5. Repositioning telephones;
6. Adding raised markings on elevator control buttons;
7. Installing flashing alarm lights;
8. Widening doors;
9. Installing offset hinges to widen doorways;
10. Eliminating a turnstile or providing an alternative accessible path;
11. Installing accessible door hardware;
12. Installing grab bars in toilet stalls;
13. Rearranging toilet partitions to increase maneuvering space;
14. Insulating lavatory pipes under sinks to prevent burns;
15. Installing a raised toilet seat;
16. Installing a full-length bathroom mirror;
17. Repositioning the paper towel dispenser in a bathroom;
18. Creating designated accessible parking spaces;
19. Installing an accessible paper cup dispenser at an existing inaccessible water fountain;
20. Removing high pile, low density carpeting; or
21. Installing vehicle hand controls.

Businesses such as restaurants may need to rearrange tables and department stores may need to adjust their layout of racks and shelves in order to permit wheelchair access, but they are not required to do so if it would result in a significant loss of selling or serving space.

The list is intended to be illustrative. Each of these modifications will be readily achievable in many instances, but not in all. Whether or not any of these measures is readily achievable is to be determined on a case-by-case basis in light of the particular circumstances presented and the factors discussed above.

Are public accommodations required to retrofit existing buildings by adding elevators? A public accommodation generally would not be required to remove a barrier to physical access posed by a flight of steps, if removal would require extensive ramping or an elevator. The readily achievable standard does not require barrier removal that requires extensive restructuring or burdensome expense. Thus, where it is not readily achievable to do, the ADA would not require a public accommodation to provide access to an area reachable only by a flight of stairs.

Does a public accommodation have an obligation to search for accessible space? A public accommodation is not required to lease space that is accessible. However, upon leasing, the barrier removal requirements for existing facilities apply. In addition, any alterations to the space must meet the accessibility requirements for alterations.

Does the ADA require barrier removal in historic buildings? Yes, if it is readily achievable. However, the ADA takes into account the national interest in preserving significant historic structures. Barrier removal would not be considered "readily achievable" if it would threaten or destroy the historic significance of a building or facility that is eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470, et seq.), or is designated as historic under State or local law.

ILLUSTRATION 1: The installation of a platform lift in an historic facility that is preserved because of its unique place in American architecture, or because it is one of few surviving examples of the architecture of a particular period, would not be readily achievable, if the installation of the lift would threaten or destroy architecturally significant elements of the building.

ILLUSTRATION 2: The installation of a ramp or lift in a facility that has historic significance because of events that have occurred there, rather than because of unique architectural characteristics, may be readily achievable, if it does not threaten or destroy the historic significance of the building and is within appropriate cost constraints.

Does the ADA permit a public accommodation to consider the effect of a modification on the operation of its business? Yes. The ADA permits consideration of factors other than the initial cost of the physical removal of a barrier.

ILLUSTRATION 1: CDE convenience store determines that it would be inexpensive to remove shelves to provide access to wheelchair users throughout the store. However, this change would result in a significant loss of selling space that would have an adverse effect on its business. In this case, the removal of the shelves is not readily achievable and, thus, is not required by the ADA.

ILLUSTRATION 2: BCD Hardware Store provides three parking spaces for its customers. BCD determines that it would be inexpensive to restripe the parking lot to create an accessible space and reserve it for use by persons with disabilities. However, this change would reduce the available parking for individuals who do not have disabilities. The loss of parking (not just the cost of the paint for restriping) can be considered in determining whether the action is readily achievable.

**III-4.4300 Standards to apply.** Measures taken to remove barriers should comply with the ADA Accessibility Guidelines (ADAAG) contained in the appendix to the Department's rule. Barrier removal in existing facilities does not, however, trigger the accessible path of travel requirement (see III-6.2000). Deviations from ADAAG are acceptable only when full compliance with those requirements is not readily achievable. In such cases, barrier removal measures may be taken that do not fully comply with the standards, so long as the measures do not pose a significant risk to the health or safety of individuals with disabilities or others.

ILLUSTRATION: As a first step toward removing architectural barriers, the owner of a small shop decides to widen the shop's 26-inch wide front door. However, because of space constraints, he is unable to widen the door to the full 32-inch clearance required for alterations under ADAAG. Because full compliance with ADAAG is not readily achievable, the shop owner need not widen the door the full 32 inches but, rather, may widen the door to only 30 inches. The 30-inch door clearance does not pose a significant risk to health or safety.

Are portable ramps permitted? Yes, but only when the installation of a permanent ramp is not readily achievable. In order to promote safety, a portable ramp should have railings and a firm, stable, nonslip surface. It should also be properly secured.

**III-4.4400 Continuing obligation.** The obligation to engage in readily achievable barrier removal is a continuing one. Over time, barrier removal that initially was not readily achievable may later be required because of changed circumstances.

If the obligation is continuing, are there any limits on what must be done? The obligation is continuing, but not unlimited. The obligation to remove barriers will never exceed the level of access required under the alterations standard (or the new construction standard if ADAAG does not provide specific standards for alterations).

ILLUSTRATION 1: A 100-room hotel is removing barriers in guest accommodations. If the hotel were newly constructed, it would be required to provide five fully accessible rooms (including one with a roll-in shower) and four rooms that are equipped with visual alarms and notification devices and telephones equipped with amplification devices. A hotel that is being altered is required to provide a number of accessible rooms in the area being altered that is proportionate to the number it would be required to provide in new construction.

A hotel that is engaged in barrier removal should meet this alterations standard, if it is readily achievable to do so. It is not required to exceed this level of access. Even if it is readily achievable to make more rooms accessible than would be required under the ADAAG alterations standards, once the hotel provides this level of access, it has no obligation to remove barriers in additional guest rooms.

ILLUSTRATION 2: A grocery store that has more than 5000 square feet of selling space and now has six inaccessible check-out aisles is assessing its obligations under the barrier removal requirement. ADAAG does not contain specific provisions applicable to the alteration of check-out aisles, but, in new construction, two of the six check-out aisles would be required to be accessible. The store is never required to provide more than two accessible check-out aisles, even if it would be readily achievable to do so.

ILLUSTRATION 3: An office building that houses places of public accommodation is removing barriers in common areas. If the building were newly constructed, the building would be required to contain areas of rescue assistance. However, the ADAAG alterations standard explicitly specifies that areas of rescue assistance are not required in buildings that are being altered. Because barrier removal is not required to exceed the alterations standard, the building owner need not establish areas of rescue assistance.

**III-4.4500 Priorities for barrier removal.** The Department's regulation recommends priorities for removing barriers in existing facilities. Because the resources available for barrier removal may not be adequate to remove all existing barriers at any given time, the regulation suggests a way to determine which barriers should be mitigated or eliminated first. The purpose of these priorities is to facilitate long-term business planning and to maximize the degree of effective access that will result from any given level of expenditure. These priorities are not mandatory. Public accommodations are free to exercise discretion in determining the most effective "mix" of barrier removal measures to undertake in their facilities.

The regulation suggests that a public accommodation's first priority should be to enable individuals with disabilities to physically enter its facility. This priority on "getting through the door" recognizes that providing physical access to a facility from public sidewalks, public transportation, or parking is generally preferable to any alternative arrangements in terms of both business efficiency and the dignity of individuals with disabilities.

The next priority is for measures that provide access to those areas of a place of public accommodation where goods and services are made available to the public. For example, in a hardware store, to the extent that it is readily achievable to do so, individuals with disabilities should be given access not only to assistance at the front desk, but also access, like that available to other customers, to the retail display areas of the store.

The third priority should be providing access to restrooms, if restrooms are provided for use by customers or clients.

The fourth priority is to remove any remaining barriers to using the public accommodation's facility by, for example, lowering telephones.

Must barriers be removed in areas used only by employees? No. The "readily achievable" obligation to remove barriers in existing facilities does not extend to areas of a facility that are used exclusively by employees as work areas.

How can a public accommodation decide what needs to be done? One effective approach is to conduct a "self-evaluation" of the facility to identify existing barriers. The Department's regulation does not require public accommodations to conduct a self-evaluation. However, public accommodations are urged to establish procedures for an ongoing assessment of their compliance with the ADA's barrier removal requirements. This process should include consultation with individuals with disabilities or organizations representing them. A serious effort at self-assessment and consultation can diminish the threat of litigation and save resources by identifying the most efficient means of providing required access.

If a public accommodation determines that its facilities have barriers that should be removed, but it is not readily achievable to undertake all of the modifications now, what should it do? The Department recommends that a public accommodation develop an implementation plan designed to achieve compliance with the ADA's barrier removal requirements. Such a plan, if appropriately designed and diligently executed, could serve as evidence of a good faith effort to comply with the ADA's barrier removal requirements.

In developing an implementation plan for readily achievable barrier removal, a public accommodation should consult with local organizations representing persons with disabilities to solicit their suggestions for cost-effective means of making individual places of public accommodation accessible. These organizations may provide useful guidance to public accommodations in identifying the most significant barriers to remove, and the most efficient means of removing them.

If readily achievable modifications are being made in a single facility that has more than one restroom for each sex, should the public accommodation focus its resources on making one restroom for each sex fully accessible or should the public accommodation make some changes (e.g. , lowering towel dispensers or installing grab bars) in each restroom? This is a decision best made on a case-by-case basis after considering the specific barriers that need to be removed in that facility, and whether it is readily achievable to remove these barriers. It is likely that if it is readily achievable to make one restroom fully accessible, that option would be preferred by the clients or customers of the facility.

**III-4.4600 Seating in assembly areas.** Public accommodations are required to remove barriers to physical access in assembly areas such as theaters, lecture halls, and conference rooms with fixed seating.

If it is readily achievable to do so, public accommodations that operate places of assembly must locate seating for individuals who use wheelchairs so that it --

1. Is dispersed throughout the seating area;
2. Provides lines of sight and choices of admission prices comparable to those offered to the general public;
3. Adjoins an accessible route for emergency egress; and
4. Permits people who use wheelchairs to sit with their friends or family.

If it is not readily achievable for auditoriums or theaters to remove seats to allow individuals who use wheelchairs to sit next to accompanying family members or friends, the public accommodation may meet its obligation by providing portable chairs or other means to allow the accompanying individuals to sit with the persons who use wheelchairs. Portable chairs or other means must be provided only when it is readily achievable to do so.

How many seating locations for persons who use wheelchairs must be provided? Under the general principles applicable to barrier removal in existing facilities, a public accommodation is never required to provide greater access than it would be required to provide under the alterations provisions of the ADAAG.

Must the seating locations be dispersed? The ADA accessibility standard for alterations requires wheelchair seating to be dispersed (i.e. , provided in more than one location) only in assembly areas with fixed seating for more than 300 people. Because the requirements for making existing facilities accessible never exceed the ADAAG standard for alterations, public accommodations engaged in barrier removal are not required to disperse wheelchair seating in assembly areas with 300 or fewer seats, or in any case where it is technically infeasible.

Must a public accommodation permit a person who uses a wheelchair to leave his or her wheelchair and view the performance or program from a stationary seat? Yes. And in order to facilitate seating of wheelchair users who wish to transfer to existing seating when fixed seating is provided, a public accommodation must provide, to the extent readily achievable, a reasonable number of seats with removable aisle-side armrests. Many persons who use wheelchairs are able to transfer to fixed seating with this relatively minor modification. This solution avoids the potential safety hazard created by the use of portable chairs, and it also fosters integration. In situations when a person who uses a wheelchair transfers to existing seating, the public accommodation may provide assistance in handling the wheelchair of the patron with the disability.

May a public accommodation charge a wheelchair user a higher fee to compensate for the extra space required to accommodate a wheelchair or for storing or retrieving a wheelchair? No. People with disabilities may not be subjected to additional charges related to their use of a wheelchair. In fact, to the extent readily achievable, wheelchair seating should provide a choice of admission prices and lines of sight comparable to those for members of the general public.

**III-4.4700 Transportation barriers.** Public accommodations that provide transportation to their clients or customers must remove barriers to the extent that it is readily achievable to do so. Public accommodations that provide transportation service must also comply with the applicable portions of the ADA regulation issued by the Department of Transportation (56 Fed. Reg. 45,884 (September 6, 1991) to be codified at 49 CFR Part 37)).

What kinds of transportation systems are covered by the Department of Justice's title III rule? The Department of Justice's rule covers any fixed route or demand responsive transportation system operated by a public accommodation that is not primarily engaged in the business of transporting people. Examples include airport shuttle services operated by hotels, customer bus or van services operated by shopping centers, transportation systems at colleges and universities, and transport systems in places of recreation, such as those at stadiums, zoos, and amusement parks. If a public accommodation is primarily engaged in the business of transporting people, its activities are not covered under the Department of Justice's title III regulation. Rather, its activities are subject to the Department of Transportation's ADA regulation.

What requirements apply to the acquisition of new vehicles? Requirements for the acquisition of new vehicles are found in the Department of Transportation regulation and vary depending on both the capacity of the vehicle and its intended use, as follows:

1) Fixed route system: Vehicle capacity over 16. Any vehicle with a capacity over 16 that is purchased or leased for a fixed route system must be "readily accessible to and usable by individuals with disabilities, including those who use wheelchairs. "

2) Fixed route system: Vehicle capacity of 16 or less. Vehicles of this description must meet the same "readily accessible and usable" standard described in (1) above, unless they are part of a system that already meets the "equivalent service" standard.

3) Demand responsive system: Vehicle capacity over 16. These vehicles must meet the "readily accessible and usable" standard, unless they are part of a system that already meets the "equivalent service" standard.

4) Demand responsive system: Vehicle capacity of 16 or less. Vehicles of this description are not subject to any requirements for purchase of accessible vehicles. However, "equivalent service" must be provided.

What is "equivalent service"? A system is deemed to provide equivalent service if, when the system is viewed in its entirety, the service provided to individuals with disabilities, including those who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals. The Department of Transportation regulation lists eight service characteristics that must be equivalent. These include schedules/response time, fares, and places and times of service availability.

Is it necessary to install a lift in an existing vehicle? No. The ADA states that the installation of hydraulic lifts in existing vehicles is not required.

Are employee transportation systems covered? Transportation services provided only to employees of a place of public accommodation are not subject to the Department's title III regulation but are covered by the regulation issued by the Equal Employment Opportunity Commission to implement title I of the ADA. However, if employees and customers or clients are served by the same transportation system, the provisions of the title III regulation will also apply.

# ****III-4.5000 Alternatives to barrier removal****

**III-4.5100 General.** When a public accommodation can demonstrate that the removal of barriers is not readily achievable, the public accommodation must make its goods and services available through alternative methods, if such methods are readily achievable.

ILLUSTRATION 1: A retail store determines that it is not readily achievable to rearrange display racks to make every aisle accessible. However, the store is still required to make the goods and services that are located along inaccessible aisles available to individuals with disabilities through alternative methods. For example, the store could instruct a clerk to retrieve inaccessible merchandise, if it is readily achievable to do so.

ILLUSTRATION 2: A pharmacy that is located in a building that can be entered only by means of a long flight of stairs determines that it is not readily achievable to provide a ramp to that entrance; therefore, it is not required to provide access to its facility. However, the pharmacy is still required to provide access to its services, if any readily achievable alternative method of delivery is available. Therefore, the pharmacy must consider options, such as delivering goods to customers at curbside or at their homes.

ILLUSTRATION 3: A self-service gas station determines that it is not readily achievable to redesign gas pumps to enable people with disabilities to use them; therefore, the gas station is not required to make physical modifications to the gas pumps. However, the gas station is required to provide its services to individuals with disabilities through any readily achievable alternative method, such as providing refueling service upon request to an individual with a disability.

ILLUSTRATION 4: A restaurant determines that it is not readily achievable to remove physical barriers to access in a specific area of the restaurant. The restaurant must offer the same menu in an accessible area of the restaurant, unless it would not be readily achievable to do so.

How can a public accommodation determine if an alternative to barrier removal is readily achievable? The factors to consider in determining if an alternative is readily achievable are the same as those that are considered in determining if barrier removal is readily achievable (see III-4.4200).

If a public accommodation provides its services through alternative measures, such as home delivery, may it charge its customers for this special service? No. When goods or services are provided to an individual with a disability through alternative methods because the public accommodation's facility is inaccessible, the public accommodation may not place a surcharge on the individual with a disability for the costs associated with the alternative method.

ILLUSTRATION 1: A gas station that chooses to provide refueling service to individuals with disabilities at a self-service island, rather than removing the barriers that preclude that individual from refueling his or her own vehicle, must provide the refueling service at the self-service price.

ILLUSTRATION 2: An inaccessible pharmacy that provides home delivery to individuals with disabilities, rather than removing the barriers that prevent those individuals from being served in the pharmacy, must provide the home delivery at no charge to the customer. However, a pharmacy that normally offers home delivery as an option to its customers and charges a fee for that service, may continue to charge a delivery fee to customers with disabilities, if the pharmacy provides at least one "no-cost" alternative, such as delivering its products to a customer at curbside.

May a public accommodation consider security issues when it is determining if an alternative is readily achievable? Yes. Security is a factor that may be considered when a public accommodation is determining if an alternative method of delivering its goods or services is readily achievable.

ILLUSTRATION 1: A service station is not required to provide refueling service to individuals with disabilities at any time when it is operating exclusively on a remote control basis with a single cashier.

ILLUSTRATION 2: A cashier working in a security booth in a convenience store when there are no other employees on duty is not required to leave his or her post to retrieve items for individuals with disabilities.