ADA Title III

What the ADA requires of businesses and nonprofits open to the public, from barrier removal to websites

Who this is for: Owners, operators, managers and counsel of businesses and nonprofits that serve the public, such as stores, restaurants, hotels, health care offices, private schools, camps, gyms, theaters and social service centers, along with the landlords that lease them space and organizations that give licensing or credentialing exams.

Not covered here: Employment (ADA Title I), state and local government programs (ADA Title II), the separate duties that come with federal money (Section 504), and the activities of religious organizations, which Title III exempts.

Current as of November 17, 2026. Federal law. Each section ends with the sources it rests on.

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In brief

- Title III covers private businesses and nonprofits that own, lease, lease to or operate a place of public accommodation in any of twelve categories, from hotels and restaurants to day care centers and gyms. There's no size threshold.
- Religious organizations, entities they control, and private clubs are exempt. Commercial facilities such as offices and warehouses are covered only for new construction and alterations.
- The duties: equal opportunity, reasonable modifications to policies, effective communication through auxiliary aids and services, removal of barriers in existing buildings where it's readily achievable, and full accessibility in new construction and alterations.
- There's no Title III regulation for websites. The Justice Department's position is that Title III applies to the goods and services a business offers online, courts have divided on how far that reaches, and a 2010 rulemaking on the question was withdrawn in 2017.

- Title III has no general requirement to name a coordinator, adopt a grievance procedure, post a notice or conduct a self-evaluation. That doesn't make those records worthless.
- Private plaintiffs can get injunctions and attorney's fees. The Justice Department can also seek money damages for the people harmed and civil penalties of up to $118,225 for a first violation.

What the law says

Title III's general rule: "No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation."

Source: 42 U.S.C. 12182(a); 28 CFR 36.201(a)

The Justice Department's regulation at 28 CFR Part 36 applies to public accommodations, to commercial facilities, and to private entities that offer examinations or courses related to applications, licensing, certification or credentialing for education, professional or trade purposes.

Source: 28 CFR 36.102(a)

Who is covered

The twelve categories

A place of public accommodation is a facility operated by a private entity, whose operations affect commerce, that falls within at least one of these categories:

1. Places of lodging, except a building with five or fewer rooms for rent that the owner lives in
2. Restaurants, bars and other establishments serving food or drink
3. Theaters, concert halls, stadiums and other places of exhibition or entertainment
4. Auditoriums, convention centers, lecture halls and other places of public gathering
5. Stores, shopping centers and other sales or rental establishments
6. Service establishments, including banks, laundromats, travel services, gas stations, offices of accountants and lawyers, pharmacies, insurance offices, offices of health care providers and hospitals
7. Terminals, depots and other stations used for specified public transportation
8. Museums, libraries, galleries and other places of public display or collection
9. Parks, zoos, amusement parks and other places of recreation
10. Private schools at every level, and other places of education
11. Day care centers, senior centers, homeless shelters, food banks, adoption agencies and other social service center establishments
12. Gyms, health spas, bowling alleys, golf courses and other places of exercise or recreation

Source: 42 U.S.C. 12181(7); 28 CFR 36.104, "Place of public accommodation"

The rule draws no line between businesses and nonprofits. A private entity is any person or entity other than a public entity, so a nonprofit food bank and a for-profit gym are covered the same way.

Source: 28 CFR 36.104, "Private entity"

Landlords and tenants

Both the landlord that owns the building and the tenant that operates the business are public accommodations with the full set of duties. A lease can allocate responsibility between them, but it doesn't change what the public is owed.

Source: 28 CFR 36.201(b)

Home-based businesses

When a public accommodation operates in a private residence, the part used only as a residence isn't covered. The part used for the business, including the front walk, the entry, the hallways and any restroom customers or clients use, is.

Source: 28 CFR 36.207

Who is exempt

Title III doesn't apply to religious organizations or "entities controlled by religious organizations, including places of worship," or to private clubs exempt under the Civil Rights Act of 1964 (except where a club's facilities are made available to customers of a public accommodation). Public entities are covered by Title II instead.

Source: 42 U.S.C. 12187; 28 CFR 36.102(e)

> **The rented-space test.** A private program that rents space in a house of worship, and isn't controlled by the congregation, is covered by Title III even though its landlord is exempt. The exemption follows control, not the building.

Source: 42 U.S.C. 12187; ada.gov, Commonly Asked Questions about Child Care Centers and the ADA, Q2

Commercial facilities

Facilities intended for nonresidential use by a private entity whose operations affect commerce, such as offices, factories and warehouses, are commercial facilities. Their only Title III duties are in new construction and alterations.

Source: 28 CFR 36.104, "Commercial facilities"; 28 CFR 36.102(c)

The general requirements

A public accommodation can't deny a person the chance to take part, offer an unequal opportunity, or provide a separate benefit unless separation is necessary to give the person something as effective as what others get, whether it acts directly or through contracts and other arrangements. It must offer its goods and services in the most integrated setting appropriate, and it can't make people with disabilities accept a separate program when they want the regular one.

Source: 28 CFR 36.202, 36.203

Several narrower rules come up often:

- **Insurance.** A business can't refuse to serve someone because its insurer conditions coverage or rates on the absence of people with disabilities.
- **Direct threat.** Excluding someone as a threat to others requires an individualized assessment based on current medical knowledge or the best objective evidence.
- **Association.** People can't be excluded because of a disability of someone they're associated with.
- **Maintenance.** Accessible features must be kept in working order, apart from isolated or temporary interruptions for repairs.
- **Retaliation.** No retaliation or coercion against people who use or support these rights.

Source: 28 CFR 36.212(c), 36.208, 36.205, 36.211, 36.206

Policies, practices and procedures

Eligibility criteria and surcharges

A business can't use eligibility criteria that screen out people with disabilities unless the criteria are necessary to provide what it offers. Safety requirements must rest on actual risks, not speculation or stereotypes. And it can't charge a person with a disability for the cost of measures the law requires, such as an interpreter, barrier removal or a policy change.

Source: 28 CFR 36.301(a)-(c)

Reasonable modifications

A public accommodation must make reasonable modifications in policies, practices and procedures when they're necessary to give people with disabilities access, unless it can show the modification would fundamentally alter what it offers. A specialist may refer a person elsewhere for services outside its specialty if it would make the same referral for anyone else.

Source: 28 CFR 36.302(a)-(b)

Service animals

A service animal is a dog individually trained to do work or perform tasks for a person with a disability. A "no pets" policy has to yield. When it isn't obvious what the dog does, staff may ask two questions: whether the dog is required because of a disability, and what work or task it's trained to perform. They can't ask about the person's disability or require proof of certification or training. Service animals may go wherever customers are allowed, with no surcharge, though a business can charge for damage if it normally charges everyone for damage. A dog that's out of control or not housebroken can be excluded. Miniature horses get a parallel reasonable-modification rule.

Source: 28 CFR 36.104, "Service animal"; 28 CFR 36.302(c)(1)-(9)

Mobility devices

Wheelchairs and manually powered aids such as walkers, crutches and canes must be allowed in any area open to pedestrians. Other power-driven devices, such as a Segway, must be allowed as a reasonable modification unless the business can show the class of device can't be operated under legitimate safety requirements. Staff can't ask about the nature or extent of a disability, and they must accept a valid state disability placard, or a verbal representation not contradicted by what they can observe, as a credible assurance the device is needed.

Source: 28 CFR 36.311

Hotels, tickets and exams

Places of lodging must let people reserve accessible rooms during the same hours and in the same way others reserve rooms, describe accessible features in enough detail for a person to judge independently whether a room meets their needs, and hold accessible rooms until all other rooms of that type are rented. Ticket sellers have specific rules for selling accessible seating, and a business may not require proof of disability, such as a doctor's note, before selling tickets for accessible seating. Testing organizations must keep any documentation request reasonable and limited to the need, respond in a timely manner, and give considerable weight to past accommodations, including those under an IEP or a Section 504 plan.

Source: 28 CFR 36.302(e)(1)(i)-(iii), (f)(8); 28 CFR 36.309(b)(1)

What isn't required

A business doesn't have to provide personal devices such as wheelchairs, prescription eyeglasses or hearing aids, or personal services such as help with eating, toileting or dressing. It doesn't have to stock accessible or special goods, though it must special-order them on request if it special-orders other goods and can get them from its usual suppliers.

Source: 28 CFR 36.306, 36.307

Effective communication

A public accommodation must furnish appropriate auxiliary aids and services where necessary to communicate effectively with people with disabilities, including companions. The examples run from qualified interpreters, real-time captioning and assistive listening systems to Braille, large print, screen reader software and accessible electronic and information technology. The choice depends on how the person communicates and on the nature, length, complexity and context of the communication.

Source: 28 CFR 36.303(b)-(c)

> **Who decides.** A business should talk with the person whenever possible about what aid works, but "the ultimate decision" rests with the business, as long as the method results in effective communication. Title II is stricter: a public entity must give primary consideration to the person's request, and so must a recipient of HHS funds under the HHS Section 504 rule (45 CFR 84.77(b)(2)).

Source: 28 CFR 36.303(c)(1)(ii); 28 CFR 35.160(b)(2)

A business can't require a person to bring their own interpreter. It can rely on an accompanying adult only in an emergency with no interpreter available, or when the person asks, the adult agrees and it's appropriate, and on a minor child only in an emergency. Automated phone systems must work with TTYs and relay services. When a particular aid would fundamentally alter the service or impose an undue burden, meaning significant difficulty or expense, the business must provide an alternative aid if one exists. Movie theaters have specific captioning and audio description requirements, including a duty to say in showtime listings which showings have them.

Source: 28 CFR 36.303(c)(2)-(4), (d), (g), (h)

Existing buildings: readily achievable barrier removal

In existing facilities, a public accommodation must remove architectural barriers, and structural communication barriers, where removal is "readily achievable": easily accomplishable and able to be carried out without much difficulty or expense. The factors include the cost, the site's resources and staff, and the resources of any parent company. The Justice Department describes barrier removal as an ongoing obligation, so a list isn't finished once it's written.

Source: 28 CFR 36.304(a); 28 CFR 36.104, "Readily achievable"; ada.gov, Child Care Centers and the ADA, Q22

The rule gives 21 examples, including installing ramps, making curb cuts, rearranging furniture, widening doors, installing offset hinges, adding grab bars, insulating pipes under sinks and creating accessible parking. It urges this order of priorities:

1. Access from public sidewalks, parking and public transportation into the place
2. Access to the areas where goods and services are offered
3. Access to restrooms
4. Any other measures needed for access to the goods and services

Source: 28 CFR 36.304(b)-(c)

Barrier removal follows the alteration standards for the element being changed. Elements that complied with the 1991 Standards, and haven't been altered on or after March 15, 2012, don't have to be modified to meet the 2010 Standards. Where removal isn't readily achievable, the business must offer its goods and services through readily achievable alternatives, such as curbside service, retrieving items from inaccessible shelves, or moving an activity to an accessible location.

Source: 28 CFR 36.304(d); 28 CFR 36.305

> **No grandfather clause.** An old building isn't exempt. The safe harbor covers only elements that already met the 1991 Standards. Everything else stays on the readily achievable list, and a written barrier-removal plan, revisited as finances change, is the record that shows the duty is being met.

New construction and alterations

Facilities designed and constructed for first occupancy after January 26, 1993 must be readily accessible. Construction and alterations must follow the 2010 ADA Standards where the last building permit application was certified complete (or, where no permit is required, physical construction began) on or after March 15, 2012. Full compliance is excused only where it's structurally impracticable because of unique terrain.

Source: 28 CFR 36.401(a), (c); 28 CFR 36.406(a)(3)

Elevators aren't required in a building that's less than three stories or has less than 3,000 square feet per story, except in shopping centers, offices of health care providers, public transportation stations and airport passenger terminals. When an alteration affects an area containing a primary function, the path of travel to it, with the restrooms, phones and drinking fountains that serve it, must be made accessible unless the cost exceeds 20 percent of the cost of the alteration to the primary function area.

Source: 28 CFR 36.401(d); 28 CFR 36.403(f)

Websites and apps

There's no Title III regulation with a technical standard for websites. The Justice Department's position, set out on its web accessibility page (March 18, 2022), is that its "longstanding interpretation of the general nondiscrimination and effective communication provisions applies to web accessibility," that businesses have flexibility in how they comply, and that WCAG and the Section 508 Standards provide helpful technical direction. The same page cautions that a "clean" report from an automated checker doesn't necessarily mean everything is accessible. Like other agency explanations on ADA.gov, it states that it has no legally binding effect.

Source: ada.gov, web accessibility page (Mar. 18, 2022); ada.gov disclaimer citing Justice Manual 1-19.000

The Justice Department opened a rulemaking on web accessibility for public accommodations in 2010 and withdrew it on December 26, 2017. Without a rule, federal courts have divided over whether, and when, a website is covered. The Congressional Research Service has described three lines of cases: courts applying Title III to nonphysical spaces, courts limiting it to physical places, and courts covering websites that have a connection to a physical location.

Source: 82 FR 60932 (Dec. 26, 2017), RIN 1190-AA61; Congressional Research Service, LSB10844 (Oct. 20, 2022)

> **How to read the risk.** A business with physical locations has the clearest exposure for the website and app that sell or book what those locations offer. Testing by hand against WCAG 2.1 Level AA, the standard the federal rules for governments and health care use, gives a defensible measure. Overlays and automated scans don't substitute for it.

No paperwork mandate, but keep the record

Part 36 has no general requirement to designate a coordinator, adopt a grievance procedure, post a notice of rights or conduct a self-evaluation. The public-facing duties it does impose are narrow: reservation information for places of lodging, and notice of captioned and described showings for movie theaters.

Source: 28 CFR Part 36 (regulatory text of sections 36.101-36.607 searched in full); 28 CFR 36.302(e)(1)(ii), 36.303(g)(8)

That's a reason to keep a record, not a reason to skip one. When a demand letter arrives, the business that can show a barrier-removal plan, its service animal and mobility device policies, how it handles requests for aids and modifications, and test results for its website is answering from documents instead of memory.

How it's enforced

Private lawsuits

A person who is being discriminated against, or has reasonable grounds to believe they're about to be in new construction or alterations, can sue for preventive relief, including an injunction. Where barrier removal or new construction is at issue, the order includes altering the facilities. No one has to make a futile gesture: a person who knows the business doesn't intend to comply needn't go there first. Courts can award the prevailing party, other than the United States, a reasonable attorney's fee. Private plaintiffs can't recover money damages under Title III, though state laws may provide them.

Source: 42 U.S.C. 12188(a); 28 CFR 36.501, 36.505; Congressional Research Service, LSB11110 (Jan. 24, 2024)

Justice Department enforcement

The Attorney General investigates complaints, conducts compliance reviews, and can sue where there's a pattern or practice of discrimination or an issue of general public importance. In those suits a court may award equitable relief, money damages to the people harmed when the Attorney General asks, and civil penalties to vindicate the public interest, giving consideration to a business's good-faith efforts. Punitive damages aren't available.

Source: 28 CFR 36.502-36.504

Civil penalty, violations after Nov. 2, 2015, assessed after July 3, 2025	Maximum
First violation	$118,225
Subsequent violation	$236,451

Source: 28 CFR 36.504(a)(3); 28 CFR 85.5, Table 1

Tax incentives

Two federal tax provisions offset the cost of compliance.

- **Disabled access credit (Internal Revenue Code section 44).** An eligible small business, one with gross receipts of $1,000,000 or less in the preceding tax year or, if that test doesn't apply, no more than 30 full-time employees, can claim a credit of 50 percent of eligible access expenditures above $250 and up to $10,250, a maximum of $5,000 a year. Eligible expenditures include removing barriers, interpreters, readers and accessible formats, and acquiring or modifying equipment. Costs of new construction don't qualify.

- **Barrier removal deduction (section 190).** Any business can elect to deduct qualified architectural and transportation barrier removal expenses, up to $15,000 a year.

Source: 26 U.S.C. 44(a)-(c); 26 U.S.C. 190(a), (c)

A working checklist

1. Confirm which of your locations and activities are places of public accommodation, and who controls each one if a religious organization is involved.
2. Walk your facilities in the priority order of 36.304(c) and write a barrier-removal plan with dates, revisited each budget year.
3. Adopt written service animal and mobility device policies that match 36.302(c) and 36.311, and train the front desk on the two questions.
4. Set up how staff arrange interpreters, captioning and accessible formats, and who decides when a request is hard.
5. Test your website, booking path and app by hand against WCAG 2.1 Level AA, and keep the results and a remediation plan.
6. Check every lease for how barrier removal is allocated, and claim the tax credit or deduction where it applies.

Common questions

We're a small business. Are we covered?

Yes. Title III has no size threshold. Your size matters to what's "readily achievable" and what's an "undue burden," because both turn on cost and resources.

Source: 28 CFR 36.104, "Readily achievable," "Undue burden"

We're a nonprofit. Are we exempt?

Only if you're a religious organization or controlled by one, or a private club. A nonprofit that runs a school, food bank, shelter, gym or social service center operates a place of public accommodation.

Source: 42 U.S.C. 12187; 28 CFR 36.104

Does Title III require our website to meet WCAG?

No regulation says so. The Justice Department's position is that Title III applies to web content, courts are divided on how far that reaches, and WCAG 2.1 Level AA is the practical measure to test against.

Source: ada.gov, web accessibility page (Mar. 18, 2022); CRS LSB10844 (Oct. 20, 2022)

Can we ask for proof that a dog is a service animal?

No. You can ask whether the dog is required because of a disability and what task it's trained to perform, and only when that isn't obvious. You can't require certification, training records or a description of the disability.

Source: 28 CFR 36.302(c)(6)

Do we have to provide the interpreter the customer asks for?

You have to provide an aid that results in effective communication. Talk with the person first; the final choice is yours if what you choose works for that communication.

Source: 28 CFR 36.303(c)(1)(ii)

Our building is old. Is it grandfathered?

No. Barrier removal applies to existing buildings wherever it's readily achievable. Only elements that already met the 1991 Standards, and haven't been altered since March 15, 2012, are covered by the safe harbor.

Source: 28 CFR 36.304(a), (d)(2)

Primary sources

- 42 U.S.C. 12181-12189, ADA Title III (U.S. Code, govinfo)
- 28 CFR Part 36, the Title III regulation
- 28 CFR 85.5, current civil penalty amounts
- ADA.gov, web accessibility page (March 18, 2022)
- Notice withdrawing the web rulemakings, 82 FR 60932
- Congressional Research Service, ADA applicability to websites (LSB10844)
- 26 U.S.C. 44, disabled access credit
- 26 U.S.C. 190, barrier removal deduction

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