

ADA

The Americans with Disabilities Act

A PROPERTY MANAGER'S GUIDE





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Intro

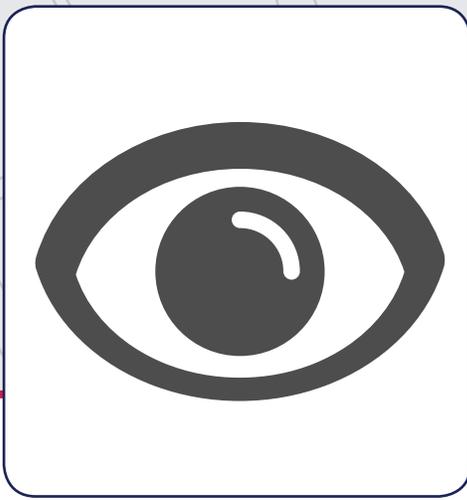
Introduced in 1990, the Americans with Disabilities Act (ADA) was created with the purpose to ensure civil rights to those with disabilities including accessibility to the workplace, local and state government services, public areas and commercial facilities. We're sure you know that as someone in the property management industry, the ADA directly affects you, and you are responsible for making sure that your property is compliant.

First, we'll start with a big clarification that you may not know of. In most cases, as property manager, you will actually deal with a subset of ADA- The ADA Accessibility Guidelines, a document that strictly focuses on requirements regarding accessibility to buildings and facilities by those with disabilities, regulated and enforced by the U.S. Department of Justice and U.S. Department of Treasury under ADA Titles II and III.

Now, we understand why this may seem like a burden, but when you look at the big picture, you should appreciate the regulations for what they accomplish. Goals of every property manager no doubtedly include providing ease of access for ALL who occupy their properties and creating a pleasant and enjoyable environment for those occupants. When you look at it that way, ADA Accessibility Guidelines that property managers must adhere to are just that: guidelines that help to accomplish the above goals.

WHAT WE AREN'T GOING TO DO: List every single requirement of the ADA that you must follow. Of course, this is something that you should be aware of, but there are already places to access these requirements. We don't want to be putting the same information that is already out there just to put it out there (However, we will, of course, provide access to sites who do so).

WHAT WE WILL DO: Break things down for you. Answer common questions property managers have regarding the subject. Provide further resources that allow you to get the help you need. Overall, the goal of this guide is to make ADA/ ADAAG compliance easier to manage and simpler to follow. **READ ON TO LEARN MORE.** ▶



Who is Protected by the ADA?

This information can be especially important for employers that must actively identify and accommodate employees with disabilities. While knowing exactly who is protected under the American Disabilities Act won't affect you quite as directly, it is still important for you to know in order to get a good idea of who you are providing accommodations for, and it can help you in the process of identifying potential barriers to their accessibility. As defined by the Department of Justice's technical assistance manuals (found at www.ADA.gov), those protected under ADA are as follows:

✓ **An individual that has a “physical or mental impairment that substantially limits one or more major life activity.” This can include:**

- ✓ Ability to care for oneself
- ✓ Breathing
- ✓ Hearing
- ✓ Reasoning
- ✓ Talking
- ✓ Bodily functions
 - ✓ Cell growth
 - ✓ Immune system
 - ✓ Nervous system
 - ✓ Respiratory system

People that do not suffer from a disability but are regarded as they do are also protected under this category. For this instance, [Paralyzed Veterans of America](#) offers the example of someone who is refused entry to a public area because they are believed to be HIV-positive.

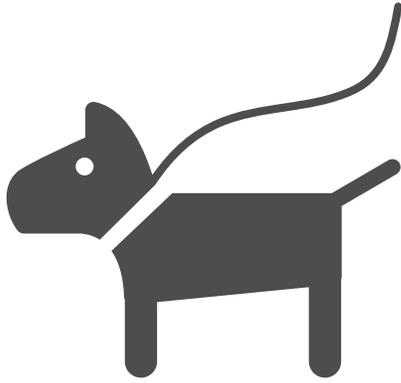
✓ **Those considered to have a disability, although their life activities are not considerably stunted (ie: someone with a facial deformation, someone with sufficiently controlled diabetes)**

✓ **Those with a past impairment that stunted their life activities though now reprieved, such as someone in remission after cancer treatment**

✓ **Those with no disabilities of their own but are associated with someone who does**

As someone responsible for aspects of a property meeting ADA regulations, your primary focus will be the first category listed, but it you must not rule out other categories when assessing property accessibility.

Which part of ADA regulations do I fall under?



We mentioned in the introduction that the American Disabilities Act concerns itself with accessibility to the workplace, local and state government services, public areas and commercial facilities. These different areas of ADA fall under different titles, as follows:

In addition to Titles I through III, the ADA provides Title IV concerning telecommunications relay services and Title V concerning additional directions to Federal agencies enforcing the law.

TITLE I

- ✓ Workplace Access

TITLE II

- ✓ Local and State Government Services Access

TITLE III

- ✓ Places of Public Accommodation Access
- ✓ Commercial Facilities Access

Exemptions:

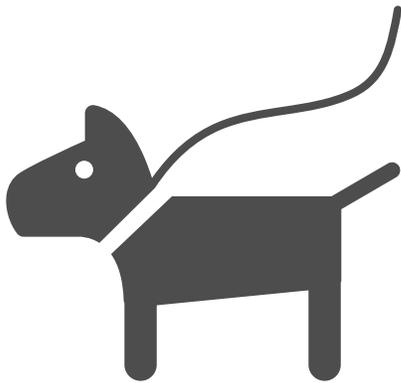
- ✓ Private clubs
- ✓ Religious bodies

Regulations enforcing ADA and accessibility exist within different departments among these Titles. As property managers, you will primarily be focused on **Titles II and III**. Within these Titles, regulations including ADA Accessibility Guidelines (ADAAG) regarding amendments and construction to buildings are released by both the Department of Transportation (DOT) and the Department of Justice (DOJ). Regulations issued by these Departments are enforced nationwide by the departments themselves as well as the courts.

It is especially important to pay attention to these regulations, as they clarify the types of properties for which ADA standards apply. These standards will also lay out any exemptions/exceptions, such as the [elevator exception](#) that states if a property has less than three stories or less than 3000 feet per story, installation of an elevator is not required.

Which part of ADA regulations do I fall under?

continued



WHAT IS CONSIDERED “PUBLIC ACCOMMODATION?”

Public accommodation encompasses a range of facilities either leased to or from, managed or owned including properties of:

- ✓ Department stores and shopping centers
- ✓ Hospitals
- ✓ Hotels
- ✓ Libraries
- ✓ Office spaces
- ✓ Parks
- ✓ Pharmacies
- ✓ Private schools/daycare centers

WHERE DOES HOUSING FALL?

- ✓ Housing built or altered by local or state governments require accessibility under ADA’s **TITLE II**.
- ✓ Short-term or transitory housing (i.e. hotels, dormitories) require accessibility under ADA’s **TITLE III**.
- ✓ Residential units, such as apartments, typically only require accessibility in areas of public accommodation within, including places such as lobbies, leasing offices and public pools, under **TITLE III**.

Be careful! This doesn’t necessarily mean you are off the hook. Housing discrimination is protected by the Fair Housing Act or Section 504 of the Rehabilitation Act.



What is Accessibility?

Accessibility for those with disabilities is the main goal of the Americans with Disabilities Act, but what exactly does that mean, and how can you achieve it? Accessibility is essentially exactly what it sounds like- it means that those with disabilities have the ability to enter and exit a property, freely move within the property and use the property for its purpose in its entirety. A property can achieve accessibility by the incorporation of multiple building aspects, such as entryways, passageways, ramps and more in order to ensure that disabled persons are able to utilize it just as everyone else can.

IS ACCESSIBILITY THE SAME CONCEPT AS “UNIVERSAL DESIGN?”

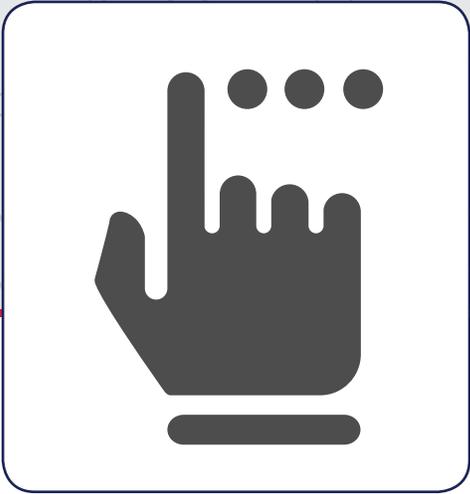
No. Whereas the concept of “universal design” views building design on a comprehensive level that accounts for aspects such as age, gender, condition, etc. with a focus on the changes in humans throughout their entire life. In contrast, the concept of “accessibility” has a distinct focus on meeting the requisites for those with needs and situations that differ from the general public.

SHOULD EVERY SINGLE ASPECT AND ELEMENT OF MY PROPERTY OFFER COMPLETE ACCESSIBILITY FOR THOSE WITH DISABILITIES?

No. For instance, if you have multiple rooms, stations or facets within your facility that serve the same purpose, you will need to ensure that a certain percentage of these aspects are accessible in an evenly dispersed manner, but not every single one has to be so. Additionally, if alterations to provide accessibility are not “readily achievable” for you during a certain period of time, you are not penalized for lack of accessibility during that period of time. We will go into further detail on both of these subjects later on in this guide.



What is considered “Readily Achievable?”



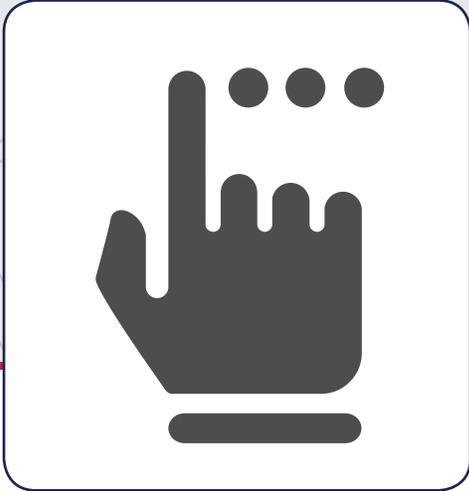
The term “readily achievable” is, unfortunately, an ambiguous one. What is considered readily achievable is determined by a reasonableness test and can vary greatly from property to property based on its management’s size and resources. The scope, cost and outcome of the alteration are also considered in assessing what is readily achievable. Holistically, readily achievable is meant to mean alterations that can be made to a property that are **“EASILY ACCOMPLISHED WITHOUT MUCH DIFFICULTY OR EXPENSE.”**

In order to determine what is readily achievable for you, first conduct an assessment of your property in order to find any limits to accessibility that currently exist. Once this is done, determine and document what each alteration will cost and prioritize them based on this and their urgency. Include a timeline of when you hope to achieve each alteration by. This should be a continuous evaluation process in order to account for changes in the environment, provisions to the Act, new challenges presented, etc. By actively seeking out these alterations and prioritizing them by their importance, cost and feasibility of what you can manage as a property, you are much more likely to prove something is or is not readily achievable, as you can show that the limitation is something that you have already identified and have a plan to alter when circumstances allow.



What is considered “Readily Achievable?”

continued



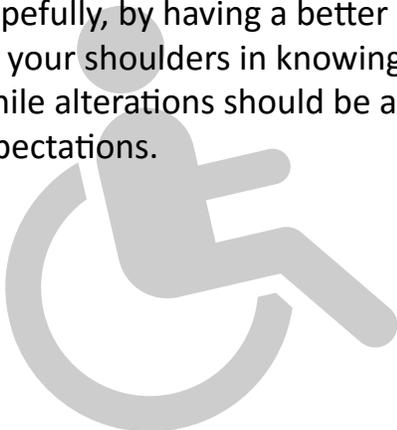
WHAT ARE ALTERATIONS THAT WOULD TYPICALLY BE READILY ACHIEVABLE ON MOST PROPERTIES?

Many times, in order to meet ADA requirements, it only takes a minor modification. Examples of some readily achievable property minor modifications are as follows:

- ✓ **INSTALLATION OF GRAB BARS DURING A CUSTOMARY WALL ENFORCEMENT**
- ✓ **LOWERING OF THE PROPERTY'S PHONES**
- ✓ **RAMPING OF A SMALL NUMBER OF STEPS**

In many instances, if a modification is not readily achievable, the substitute actions to accommodate the ADA will fall under the responsibility of your business tenant. You will need to make them aware of these shortcomings.

Hopefully, by having a better understanding of this term, a little bit of weight has been lifted off your shoulders in knowing that you are not expected to make drastic changes overnight. While alterations should be a priority, the clause of ready achievability eliminates unrealistic expectations.





Can I Get Financial Help with ADA?

Continuing along last section's path, there is some additional solace for those worried about the expenses associated with ADA compliance. There are two federal tax incentives available for business that perform modifications for the purpose of increased accessibility.

INTERNAL REVENUE CODE, SECTION 44

This option is one available to those classified as small businesses, so in many situations, this one may not be applicable to someone in a property management position, but we feel it necessary to include in order to be all-inclusive.

ELIGIBILITY: Small businesses- those that have either:

- ✓ Revenues of \$1,000,000 or less
- ✓ 30 or fewer full-time employees during the previous tax year

CREDIT GRANTED: A tax credit at 50% of the cost of adjustments made to comply with ADA during one year with a minimum expenditure of \$250 and maximum expenditure of \$10,250.



Can I Get Financial Help with ADA?

continued



INTERNAL REVENUE CODE, SECTION 190

ELIGIBILITY: This tax deduction is available for businesses of any size.

CREDIT GRANTED: An expense deduction of up to \$15,000 for expenses regarding removing limitations to accessibility, including accessibility barriers involved with:

- ✓ Doors
- ✓ Parking spaces
- ✓ Restrooms
- ✓ Stairsteps
- ✓ Transportation vehicles

For more information on these tax deductions, see The Department of Justice's Tax Incentive Packet for Businesses [here](#).



How Much of My Property Must Be Accessible?



We have mentioned that you are not required to make your property 100% accessible under ADA regulations, but we're sure simply knowing just that still leaves you with too little clarity for comfort. In this section, we will present some specific percentages and guidelines for particular types of areas/properties as outlined by the [ADAAG Manual](#).

WORKPLACE BUILDINGS

If you manage an office building, you are likely aware that not all of your property falls under ADA's scrutiny. In determining which areas of an office building must comply to ADA, you must assess which areas of the building should be considered public access or common use sections as opposed to those which are considered workplace areas (those only used by the building tenant's employees). Because under Title I ADA states that accessibility for employees is an alteration to be taken only when the need presents itself, accessibility is not required within areas classified as work areas.

Areas that can be considered employee-use only include:

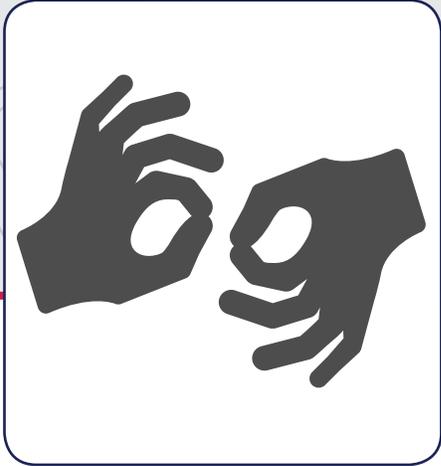
- ✓ **Administrative/ business offices**
- ✓ **Areas behind receptionist counters**
- ✓ **Laboratories**
- ✓ **Research facilities**
- ✓ **Supply rooms**



As mentioned, the space within workplace areas is not required to meet ADA standards. However, they must allow for approach, entry and exit, meaning that someone in a wheelchair can enter and exit the space.

How Much of My Property Must Be Accessible?

continued



WORKPLACE BUILDINGS CONT.

Areas within workplace buildings that are utilized with intentions outside of job-related actions should be classified as public access areas and therefore should comply with ADA regulations. This includes areas such as:

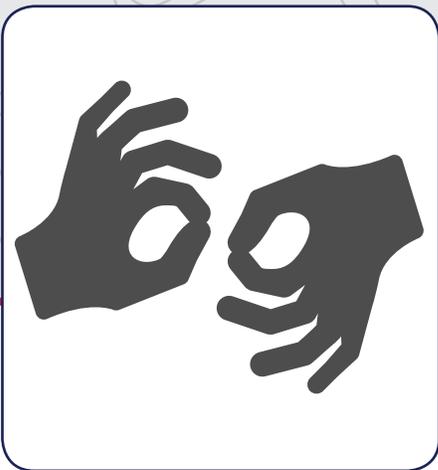
- ✓ **Breakrooms**
- ✓ **Locker rooms**
- ✓ **Lounges**
- ✓ **Parking areas**
- ✓ **Restrooms**

It is important to note that workplace areas that are intended for public visitors, such as healthcare patient rooms, should be treated as public access areas and therefore comply with ADA regulations.



How Much of My Property Must Be Accessible?

continued



DINING AREAS

Cafeterias and restaurants are classified as dining areas. Here is what you need to know regarding specific assets within these areas and the percentage that must be accessible:

- ✓ **At least 5% of built-in/fixed tables must be accessible by aisle (required clear width: at least 36 inches)**
- ✓ **A “portion” of counters/bars that serve drinks/food must be accessible. If this is not possible, building tenants should be made aware that the counter/bar’s service must be provided to accessible tables in the vicinity**
- ✓ **All raised and/or sunken areas must have an accessible route**
- ✓ **Outdoor seating areas must have at least one accessible route**

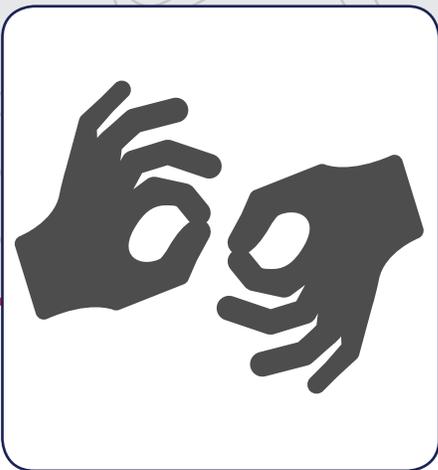
MEDICAL CARE FACILITIES

Here are some of the key percentage of accessibility requirements medical care facilities must follow:

- ✓ **General purpose health care facilities: At least 10% of patient bedrooms and in-room bathrooms should be fully accessible**
- ✓ **Long term care: 50% of patient bedrooms and in-room bathrooms should be fully accessible**
- ✓ **Patient bedroom accessibility should be evenly dispersed throughout different types of rooms (ie private vs. semi-private)**

How Much of My Property Must Be Accessible?

continued



TRANSIENT LODGING

Previously mentioned briefly, transient lodging includes dormitories, halfway houses, homeless shelters, hotels, motels, resorts, etc. Here is what you need to know:

- ✓ All doors and doorways must comply with ADA 4.13 (even those to rooms not fully accessible)
- ✓ The percentage of rooms that must be accessible varies depending on the property's total number of rooms (accessible tub/shower- does not have to be roll-in).
- ✓ A certain number of rooms with roll-in/transfer showers (based on property's total number of rooms) must be present in all transient lodging properties with over 50 rooms and can be added to the total of number of accessible rooms
- ✓ All rooms that provide accessibility for those with limited mobility must include visual appliances for those with hearing disabilities as well as a few additional rooms that must provide visual appliances for the hearing impaired based on the property's total number of rooms

See Table on the next page.



How Much of My Property Must Be Accessible?

continued



TRANSIENT LODGING CONT.

Bullet points on the previous page have you confused? Here is an example laid out by the ADAAG Manual:

IE: A transient lodging facility with 100 guest rooms must have at least 5 accessible rooms, 1 of which provides a combination roll-in/ transfer shower. These rooms must also provide visual appliances for people with hearing impairments. In addition, at least 4 rooms must be equipped with visual appliances for people with hearing impairments; these rooms are not required to be wheelchair accessible. See below:

FACILITY TOTAL	VISUAL APPLIANCES ONLY TOTAL	MOBILITY ACCES +VISUAL APPLIANCES TOTAL <i>(Portion of total with roll-in showers)</i>
1-25*	1	1
26-50	2	2
51-75	3	4 (1)
76-100	4	5 (1)
101-150	5	7 (2)
151-200	6	8 (2)
201-300	7	10 (3)
301-400	8	12 (4)
401-500	9	14 (5**)
501-1000	2% OF TOTAL	2% OF TOTAL (**)
OVER 1000	***	*** (**)

* Exempt: Facilities with 5 or less rooms for rent also used by the proprietor as a residence but that do not serve as a homeless shelter, halfway house, transient group home, or other social service establishment.

** 4+1 for each 100 over 400

*** 20+1 for each 100 over 1000

[Source](#)

How Much of My Property Must Be Accessible?

continued



TRANSIENT LODGING CONT.

- ✓ Accessible rooms must be fairly dispersed based on size
- ✓ Within each accessible room, the following is expected:
 - ✓ At least one bathroom and sleeping area, and, if applicable, balcony, carport, garage, parking space and terrace must be accessible
 - ✓ Any dining areas and living areas must be accessible
 - ✓ At least one built-in/fixed storage device must be accessible as defined by ADA 4.25
 - ✓ All controls must fall in line with ADA 4.27
 - ✓ At least 50% of kitchen cabinet and refrigerator space need to be within the reaching ranges covered in ADA 4.2.5/4.2.6

For more information regarding how much of your property must be accessible, see The Access Board's [ADAAG Manual](#).

Am I Solely Responsible?



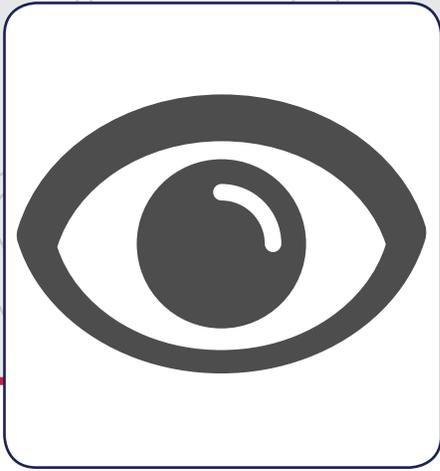
If you fall under the commercial property management category (Title III), in short, the answer here is no. Phew! Legal obligation falls both on the commercial landlord as well as the business tenant. Who is responsible for what is something that should be agreed upon within the lease.

Typically, responsibility is split up with design, construction and alterations/modifications falling under the landlord/property manager's responsibility, while "auxiliary aids and services" is overseen by the business tenant. These aids and services can include items such as:

- ✓ **ASSISTIVE LISTENING DEVICES**
- ✓ **COMPUTER-AIDED SERVICES**
- ✓ **INTERPRETERS**
- ✓ **WRITTEN MATERIALS**

Additionally, fixtures that are not permanently placed as well as any additional services required for accessibility typically fall under the business tenant's responsibilities. It is important to keep in mind that even though the business tenant IS partially responsible for ADA compliance, they may not always be aware of this or hold up their end of the bargain. Since both of you are held legally responsible to end-patrons/employees, it is very important that you communicate what they need to be doing on their end as well as any shortcomings or plans of future alterations/modifications on your end in order for you both to be fully covered.





Who Can I Reach Out To?

Should you have questions/concerns or need guidance regarding ADA compliance, you can find clarification and help with one of the following, depending on your needs:

THE ACCESS BOARD

For further guidance on or additional copies of ADAAG and UFAS

Phone: 800-972-2253, **TTY:** 800-993-2822

<http://www.access-board.gov>

INTERNAL REVENUE SERVICE

Provides codes with tax deductions and credits regarding ADA compliance.

Phone: 800-829-3676, **TTY:** 800-829-4059

<https://www.irs.gov/>

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Regulates and enforces ADA's Title I (covering employment)

Phone: 800-669-400, **TTY:** 292-366-0153

<https://www.eeoc.gov/>

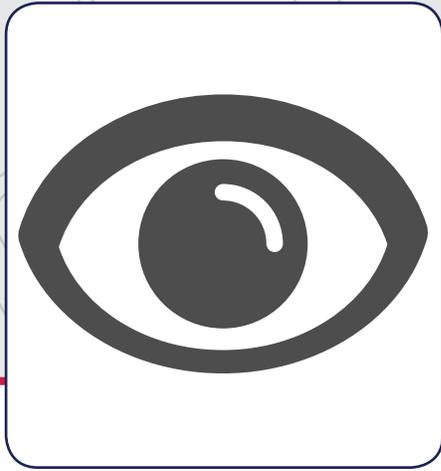
U.S. DEPARTMENT OF JUSTICE

For technical assistance regarding ADA Titles II and III.

Regulates and enforces ADA's Titles II and III (covering local/state governments and the private sector).

Phone: 800-514-0301, **TTY:** 800-514-0383

<https://www.justice.gov/>



Who Can I Reach Out To?

continued

U.S. DEPARTMENT OF TRANSPORTATION

Regulates and enforces transportation requirements under ADA Titles II and III (covering local/state governments and the private sector).

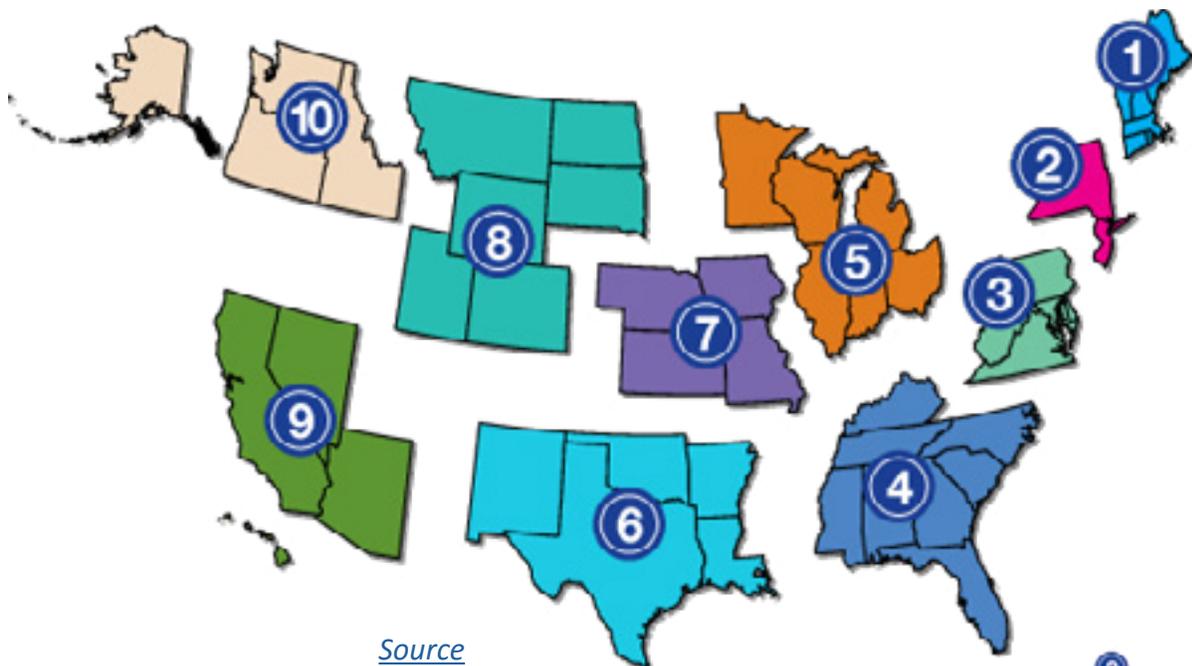
Phone: 888-446-4511, TTY: 292-366-0153

<https://www.transportation.gov/>

THE ADA NATIONAL NETWORK

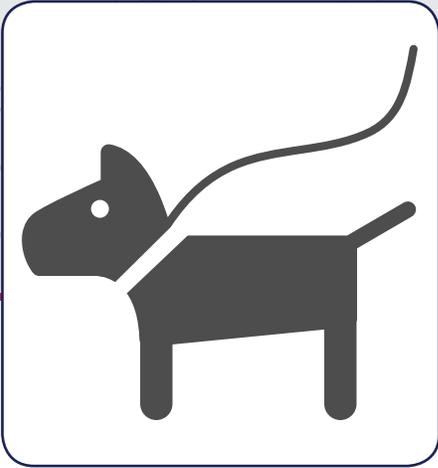
For further ADA information on a local basis, including information available from most of the previously listed agencies. Ten regional centers dispersed throughout the country established via a federal grant.

See [here](#) for your regional ADA Center's telephone and website information.



Source

How Can I Be Sure That I'm Fully Compliant?



This answer is simple- you need to know the regulations applicable to you! As promised, here are some links for reference:

CURRENT ADA REGULATIONS

[Title II- State and Local Governments](#)

[Title III- Public Accommodations and Commercial Facilities](#)

[ADA Amendments Act Final Rule](#)

[ADA Accessibility Guidelines](#)



Seem like a lot? This site has checklists both in full and sectioned out for you to reference and fill out:

[ADA Checklist For Existing Facilities](#)



Conclusion: How Does Kings III Fit In?



When it comes to regulations to comply to, The Americans with Disabilities Act is an especially important one, as are any regulations that center around the fair and equal treatment of human beings. Hopefully through this guide, you were able to the ADA's importance and find the clarification that you need to successfully comply to its regulations.

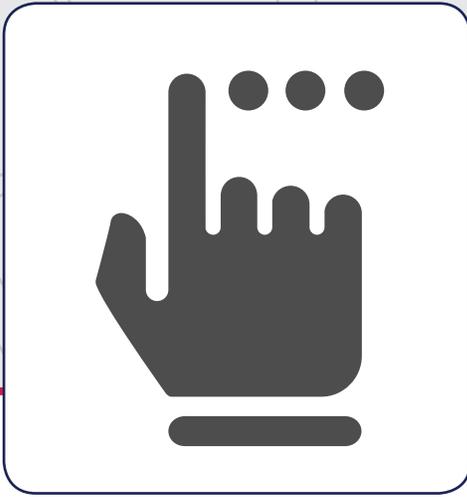
At this point, you're probably wondering how does Kings III fit in? Why would we create a whole guide centered around ADA? The answer is simple: at the end of the day, Kings III values people, and therefore, we value the civil rights of ALL people, including those with disabilities. This is why we go out of our way to make sure that all Kings III Equipment is [designed to meet all requirements of ADA](#). In addition to that, we will customize any of our equipment so that it complies with local and state requirements.

MORE ABOUT US

Kings III Emergency Communications is a family-owned company whose business is all about delivering peace of mind to our customers by helping them reduce their exposure to risk. Our turnkey emergency communication services are utilized in elevators, parking garages, stairwells, pools, campuses and more. At the core of our service is our very own state-of-the-art Emergency Dispatch Center (EDC), available with highly-trained operators 24/7/365. Our package is full-service: including equipment, installation, maintenance, monitoring and dispatch services bundled in a convenient and hassle-free solution for our clients. See the Kings III difference [here](#).

WANT ADA COMPLIANT EMERGENCY EQUIPMENT AND SERVICE?

Fill out [this form](#) and your local Kings III Business Development Manager will contact you shortly.



Additional Kings III Resources

- ✓ [ELEVATOR COMMUNICATION CODE COMPLIANCE](#)
- ✓ [ELEVATOR MODERNIZATION](#)
- ✓ [POOL MAINTENANCE AND SAFETY](#)
- ✓ [ENERGY EFFICIENCY FOR COMMERCIAL BUILDINGS](#)
- ✓ [THE ABC'S OF PROPERTY MANAGEMENT PT. 1](#)
- ✓ [THE ABC'S OF PROPERTY MANAGEMENT PT. 2](#)
- ✓ [BUILDING YOUR EMERGENCY ACTION PLAN](#)

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