

Legal Applications of Title III

About this module

Goal: To increase participants' understanding of the responsibilities of Title III entities under the ADA

Format: PowerPoint Presentation

Time: 20 minutes

Potential audience: Employers/business owners, educators, general audiences

Materials needed: PPT slides and facilitator's guide

Facilitator's Notes for this Module

This module focuses on responsibilities of Title III entities under the ADA.



Trainer's Name
Trainer's Title

Phone
Email/Website



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Facilitators Notes (Slide 1)

Add your name and contact information here.

This module focuses on understanding how the ADA applies to places of public accommodation.



Disclaimer

Information, materials, and/or technical assistance are intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the ADA, nor binding on any agency with enforcement responsibility under the ADA.

The Northeast ADA Center is authorized by the National Institute on Disability and Rehabilitation Research (NIDRR) to provide information, materials, and technical assistance to individuals and entities that are covered by the ADA. The contents of this document were developed under a grant from the Department of Education, NIDRR grant number H133 A110020. However, those contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the Federal Government.



Facilitator's Notes (Slide 2)

Change this slide to reflect your regional information.

Trainers, be sure to advise participants that this training is not intended as legal advice.



Things to Remember

- Businesses/public accommodations have a responsibility to ensure their buildings and goods are accessible (physically, programmatically, technologically, etc.)
- People with different disabilities have different needs to consider when designing your facilities, providing your services, and selling your goods



Facilitators Notes (Slide 3)

The goal of Title III of the ADA is to make sure that all of your current and potential customers can access to goods and services you provide. It is important to remember that accessibility is not just a physical access issue – it's not just about getting into and around a building – it is also important to consider people with hearing, vision, and speech disabilities, learning disabilities, and psychiatric disabilities. Provide people with options for accessing your business or service and make sure that each option is as accessible as possible to people with different types of abilities. This is known as universal design and it means that your goods and services will be accessible to most people. Remind your staff that they may still need to provide additional assistance to some customers who are unable to access the available options.



Americans with Disabilities Act of 1990

- Title I — Employment
- Title II — State and Local Government
- **Title III — Places of Public Accommodation**
- Title IV — Telecommunications
- Title V — Miscellaneous



Facilitators Notes (Slide 4)

The ADA was signed in 1990 and was a landmark happening because it took the premise of 504 and applied it to all public and private entities, and included areas such as transportation, telecommunications, employment, etc. Title III Places of Public Accommodation is bolded because that is the title that is most applicable to this audience and the focus of this module.



Who is covered by Title III of the ADA?

- Public accommodations
- Commercial facilities
- Private entities that offer examinations and courses related to educational and occupational certification



Facilitators Notes (Slide 5)

Public accommodations include private entities that own, operate, lease or lease to places of public accommodation. Places of public accommodation include over five million private establishments, such as restaurants, hotels, theaters, convention centers, retail stores, shopping centers, dry cleaners, laundromats, pharmacies, doctors' offices, hospitals, museums, libraries, parks, zoos, amusement parks, private schools, day care centers, health spas, and bowling alleys. Title III also covers private entities primarily engaged in transporting people. Commercial facilities are nonresidential facilities, including office buildings, factories, and warehouses, whose operations affect commerce.

Entities controlled by religious organizations, including places of worship, are not covered. Private clubs are not covered, except to the extent that the facilities of the private club are made available to customers or patrons of a place of public accommodation.

State and local governments are not covered by the Title III, but rather by Title II of the ADA; *public* libraries, etc. would be covered under Title II.



What is a Public Accommodation? Places of...

1. Lodging
2. Dining
3. Exhibition or entertainment
4. Public Gathering
5. Sales or Rental
6. Service Delivery
7. Public transportation
8. Public display or collection
9. Recreation
10. Education
11. Private Social Services
12. Exercise or recreation



Facilitators Notes (Slide 6)

This slide provides some additional information about how the Department of Justice determines which entities are title III entities. **They are facilities whose operations affect commerce and fall within at least one of 12 categories:**

- Places that offer lodging such as inns, hotels, motels. Exception: owner-occupied renting fewer than six rooms
- Places that offer food and drink to the public such as restaurants and bars
- Places that offer exhibition or entertainment such as cinemas, theaters, concert halls and stadiums
- Places for public gathering such as auditoriums, convention centers, and lecture halls
- Places that sell or rent merchandise such as bakeries, grocery stores, hardware stores and shopping centers.
- Service oriented establishments such as laundromats, banks, salons, travel services, funeral parlors, gas stations, offices of accountants or lawyers, pharmacies, insurance offices, professional offices of health care providers, hospitals
- Public Transportation Terminals, Depots, Stations with the exception of those relating to air transportation
- Places that offer items for public display or collection such as museums, libraries, galleries
- Recreation facilities such as parks, zoos and amusement parks
- Educational institutions such as nursery schools, private elementary/ secondary schools, colleges/universities



- Social Services organizations such as day cares, senior citizen centers, homeless shelters, food banks, or adoption agencies
- Exercise facilities such as gymnasiums, health spas, bowling alleys, or golf courses.

These 12 categories represent an exhaustive list of the types of public accommodation. However, please note that the examples provided under each of the 12 categories of public accommodations are only illustrations..

There are some exceptions to coverage under Title III that have to do with facilities covered by the Fair Housing Act, private clubs, and religious organizations– if a participant has questions about exceptions, ask them to call the ADA National Network at 800.949.4232

In Public Accommodations, both Landlords and Tenants are Subject to Title III



**The Extent of
Responsibility for Particular
Obligations May be
Determined by Contract or
Lease**

Facilitators Notes (Slide 7)

Many places of public accommodation lease the space in which they operate. It is important to remember that both the landlord and the tenant are public accommodations and have full responsibility for complying with all ADA Title III requirements applicable to that place of public accommodation. The Title III regulation permits the landlord and the tenant to spell out in the lease, who will be responsible complying with particular provisions of the regulation. However, any allocation made in a lease or other contract is only effective for identifying responsibility between the parties, and both landlord and tenant could still be sued if they do not meet all provisions of the ADA relating to that place of public accommodation. So if your tenant failed to comply with Title III even where outlined in the lease, you as a landlord could still be sued for failure to comply.

What is a Commercial Facility?

- A private business that is *not* open to the general public (e.g. factories, warehouses)
 - Commercial facilities are subject to new construction and alterations requirements, but no other requirements under Title III



Facilitators Notes (Slide 8)

Commercial facilities are private businesses where employees typically go to work but that are not open to customers or the general public. Commercial facilities do not include residential facilities such as apartment houses. Commercial facilities are not obligated to remove barriers in existing buildings that are not undergoing any alterations, nor are they subject to the operational requirements that apply to places of public accommodation. We are going to go into greater detail about public accommodations later, but it's important to know that Title III applies to commercial facilities in this limited way.



POP Quiz!



Which of the following would be covered entities under Title III?



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9



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Facilitators Notes (Slide 9)

For this activity, go through each entity listed on the next slide one by one and have participants share out loud whether they think it is a Title III entity or not. Tell them the answers (which are found in the Facilitator's Notes section of the Facilitator's Guide and in the Notes section of the next slide).



- Car dealership
- Private dentist office
- Take-out only eatery
- Sauna room at gym
- Church picnic at local park
- University library
- Hair salon located in private home
- NY Yankee baseball game
- Bed and breakfast
- Mom and pop bakery
- Apartment complex swimming pool
- Country club



Facilitators Notes (Slide 10)

Car dealership: YES

Private dentist office: YES

Take-out eatery: YES

Sauna at gym: YES

Church picnic at local park: NO

University library: YES if private school, NO if public - then Title II covers it

Hair salon: YES, any area used by the private business must be accessible (entry, bathroom, etc.) even though it is in a private home.

Baseball game: YES

Bed & breakfast: DEPENDS- if 6 or more rooms then YES (or fewer than 6 rooms but *not owner-occupied*)

Bakery: YES

Swimming pool: DEPENDS — if it is for apartment tenants and their guests only then NO, if it's open to general public then YES

Country club: NO (assuming it meets criteria as bona fine private club)...UNLESS they rent their space to a place of public accommodation



The Relationship between Title II & Title III

- As a general rule, private entities are covered by Title III while public entities are covered by Title II
- There may be some overlap resulting in activities that are covered by both
 - Publicly owned building that leases space to places of public accommodation



Facilitators Notes (Slide 11)

Here are some examples:

- A city owns an office building occupied by its Department of Human Resources. The first floor is leased as commercial space to a restaurant, a newsstand, and a travel agency. The City, as a public entity, is subject to Title II in its role as landlord of the office building. It cannot be subject to Title III, even though its tenants are public places that are covered by Title III.
- A State department of parks provides a restaurant in one of its State parks. The restaurant is operated by a private corporation under a concession agreement. As a public accommodation, the private corporation is subject to title III of the ADA. The State department of parks, a public entity, is subject to title II. The parks department is obligated to ensure by contract that the restaurant will be operated in a manner that enables the parks department to meet its title II obligations, even though the restaurant is not directly subject to title II.
- A private, nonprofit corporation operates a number of group homes under contract with a State agency for the benefit of individuals with mental disabilities. These particular homes provide a significant enough level of social services to be considered places of public accommodation under title III. The State agency must ensure that its contracts are carried out in accordance with title II, and the private entity must ensure that the homes comply with title III.



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12



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Facilitators Notes (Slide 12)

National Network: Please insert your centers contact information into this slide.

Conclude by reminding participants that the training materials were produced by the Northeast ADA Center in collaboration with the ADA National Network. Remind them of the free and confidential technical assistance and other services available from your local ADA Center and from the ADA Centers throughout the country. Mention the ADA TA line at 800-949-4232.

