

Know Your Rights

BARRIER REMOVAL IN PLACES OF PUBLIC ACCOMMODATION

This fact sheet is designed to help people with disabilities understand their legal rights when accessing places of public accommodation. It covers:

- (1) Barriers in Places of Public Accommodation
- (2) Requesting Removal of a Barrier
- (3) Legal Standards for Barrier Removal

YOU HAVE THE RIGHT NOT TO BE DISCRIMINATED AGAINST BY PUBLIC ENTITIES PROVIDING PUBLIC ACCOMMODATIONS.

Title III of the Americans with Disabilities Act (ADA),ⁱ requires places of public accommodation, such as hotels, restaurants, theaters, museums, retail stores, private schools, banks, and doctors' offices to provide goods and services to people with disabilities on an equal basis with the rest of the general public.

Owners of public accommodations built for first occupancy before January 26, 1992, have an ongoing obligation to remove architectural and communication barriers where necessary to ensure their facilities are readily accessible and usable by individuals with disabilities.

EXAMPLES: Inaccessible parking spaces and paths of travel, inaccessible entrances or restrooms, lack of appropriate signage and unusable drinking fountains.

For public accommodations built after January 26, 1993, there are much more stringent accessibility requirements but an individual should still follow the same request process indicated in this fact sheet. The architectural standards for accessibility in new construction are contained in the ADA Accessibility Guidelines ("ADAAG") issued by the Architectural and Transportation Barriers Compliance Board.ⁱⁱ

YOU HAVE THE RIGHT TO REQUEST THE REMOVAL OF BARRIERS IN PLACES OF PUBLIC ACCOMMODATIONS.

If a barrier is preventing you from enjoying a place of public accommodation, you may request the barrier be removed. Often, simple changes to a physical environment can effectively remove a barrier.

EXAMPLES: A parking space may be re-painted so there is a sufficient access aisle; a curb cut may be inserted into the sidewalk, or; a table may be replaced so that an individual has sufficient knee clearance.

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This publication is not intended to be legal advice or a substitute for professional services.

To Request a Barrier Removal: Put the request in writing, such as a letter, addressed to the owner or manager of the public accommodation (please see the DRLC sample letter for people with disabilities requesting a barrier removal). Be sure to name the building or area with the barrier, state where the barrier is, describe how the barrier denies your enjoyment of that building or area, and express your interest in continuing to use or be able to use the public accommodation.

REMEMBER: Keep copies of the letters you send as a record.

Legal Standard for Barrier Removal for Public Accommodations built before January 26, 1992:

The ADA requires the removal of physical barriers, such as stairs, if it is "readily achievable."ⁱⁱⁱ "Readily achievable" means "easily accomplishable and able to be carried out without much difficulty or expense."^{iv} It is also an ongoing obligation, which means if the business has resources later in the future it will have to remove barriers at that time.

In those cases where barrier removal is not "readily achievable," owners may undertake a modification to alleviate the problem, so long as it poses no health or safety risk.

EXAMPLES: Providing goods and services at the door, sidewalk, or curb; providing home delivery; retrieving merchandise from inaccessible shelves or racks; relocating activities to accessible locations; rather than provide a restaurant menu in Braille, which might be too costly, a restaurant employee may read the menu aloud to an individual who is blind.

REMEMBER: Extra charges may not be imposed on individuals with disabilities to cover the costs of measures used as alternatives to barrier removal. For example, a restaurant may not charge a wheelchair user an extra fee for home delivery when it is provided as the alternative to barrier removal.

REMEMBER: A modification is not required if it would "fundamentally alter" the goods, services, or operations of the public accommodation. In other words, would providing the modification change the nature of the services provided?

EXAMPLE: A fundamental alteration may be requesting the installation of an elevator to a historic museum which only has stairs and causing significant changes to the structure.

Legal Standard for Barrier Removal for Public Accommodations built after January 26, 1993:

Public accommodations must be completely compliant with the physical access laws in existence at the time of construction.^v While you may need to consult with an expert to know the exact requirements that were in existence at the time, in most instances there will be a greater expectation that the owner of the public accommodation remove the barrier for construction built after January 26, 1993.

Relevant laws: The Americans with Disabilities Act and The Architectural Barriers Act

For more information about barrier removal, contact:

- U.S. Dept. of Justice ADA Information Line: (800) 514-0301, (202) 514-0381, (800) 514 0383
- Architectural and Transportation Barriers Compliance Board: 1(800) USA-ABLE

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