



# **Title III ADA Accommodations & Customer Service**

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# What does Title III of the ADA Require?

- **Equal access to goods and services**
- **Duty to provide auxiliary aids and services to ensure “effective communication” unless undue burden/ fundamental alteration**
- **Public accommodation generally gets to choose which auxiliary aid or service to provide, provided communication is “effective” and privacy and independence are assured**
- **Regulations do not specifically mention websites/mobile apps but definition of “auxiliary aids and services” was amended in 2010 to include “accessible electronic information technology”**

# Leading Practices for Customer Service

1. **Adopt Operational policies and procedures**
2. **Establish what “Effective Communication” means**
3. **Make “Reasonable Modifications” when necessary**
4. **Ensure employees are trained adequately**
5. **Have a robust control framework**



# 1. Adopt Operational Policies and Procedures

Having operational policies and procedures are beneficial in the following ways:

- Communicates what the business determines as the relevant obligations to ADA
- Outlines key roles and responsibilities
  - Accountable department owners
  - Lines of Defense
- Defines how 'Effective Communication' is interpreted
- Describes what employee guidance must be incorporated
- Specifies how the business will ensure Quality Assurance



## 2. Establish what 'Effective Communication' means

**Covered entities must provide aids and services when needed to communicate effectively with people who have communication disabilities.**

- Auxiliary aids and services include Large Print, Braille, Audio CD, Sign Language Interpreter, Acceptance of Relay Calls, exchange of written notes, accessible statements & documents



**The key to deciding what aid or service is needed to communicate effectively is to consider the nature, length, complexity, and context of the communication as well as the person's normal method(s) of communication.**

**Visit [www.ada.gov/effective-comm.htm](http://www.ada.gov/effective-comm.htm) for more information**

### 3. Make 'Reasonable Modifications' when necessary

A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

- Include allowing service animals and mobility devices in facilities
- Providing special assistance or waiving certain requirements
- Keeping accessible areas open



Visit [www.ada.gov/reachingout/t3regl1.html](http://www.ada.gov/reachingout/t3regl1.html) for more information

## 4. Ensure employees are trained adequately

**Employee education and awareness regarding how the ADA applies to their day-to-day job is a critical component of a successful program**

- Include general awareness and job-specific training on a periodic basis
  - Education should be available to all customer facing employees
  - Ensure job aids and escalation procedures are readily available
  - Provide 'Do's' and 'Don'ts' for common situations and etiquette:
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- Don't require proof of disability
  - Don't apologize or express pity
  - Don't assume all blind people know Braille
  - Do treat customers who mention disability as you would treat any customer
  - Do speak to relay operators as if you are talking directly to the customer





# 5. Have a robust control framework

## Businesses should identify, assess, manage and control ADA risks

- Ensure there are controls in place to monitor risks
  - Mystery shopping, sampling of specific cases, quality of alternate format, etc.
  - Take vendors or 3<sup>rd</sup> parties into account
- Have a reporting process in place to identify trends or potential issues
  - Volumes of large print, Braille, complaints and escalations
- Ensure other corporate initiatives take ADA risks into account
  - Determine if capabilities will impact customers with disabilities or the process for providing accommodations





# High Priority for Businesses - Digital Accessibility

- **Brick and mortar businesses are relying more on digital services**
- **Trend is to direct customers to the web**
- **Examples of EIT provided by businesses:**
  - Websites
  - Mobile applications
  - Kiosks
- **No *legal* technical standard that applies to public accommodations**
- **Section 508: Legal standard for federal agency websites for many years but outdated**
- **Web Content Accessibility Guidelines (WCAG) 2.0 AA (not yet a legal standard but de facto standard)**



# What features do people with disabilities need to access a website?

- **Blind:** Screen reader compatibility; keyboard-only access; audio descriptions
- **Low Vision:** Color contrast; text resizing
- **Deaf or Hard of Hearing:** Captions for audio content
- **Manual dexterity challenges:** Keyboard-only access; ability to slow down or turn off time outs
- **Epilepsy:** No flashing content
- **Color Blind:** Color not used to convey information



# What features do people with disabilities need to access a mobile application?

- Android and iOS devices have built in screen readers (Talkback & Voiceover) and accessibility features;
- Mobile app must work with Talk Back and Voiceover
- Same/similar issues as website
- WCAG 2.0 AA also used as standard for mobile app



# Leading Practices for Accessibility

- **Adopt accessibility policy and standards**
- **Have accessibility webpage with information on accessibility and process for reporting website access problems/getting help**
- **Appoint person(s) to oversee accessibility issues, review new technology, etc.**
- **Require accessibility in vendor contracts**
- **Direct departments to create implementation plan**
  - Identify EIT in use and assess accessibility
  - Develop plan for providing access to inaccessible EIT
  - Develop interim accessibility plan



**Even with all these practices in place, complicated scenarios still arise . . .**



# Scenario #1: eAuction eCommerce Company

- **eAuction is an online eCommerce company that exclusively sells products online. eAuction has gone to great strides to ensure their website and mobile applications meet Web Accessibility guidelines to ensure equal and effective communications with all customers. Ms. Bigley called the billing department requesting information about coffee makers eAuction sells and requested they print out options to mail for the customer to select and buy over the phone. She stated that she is elderly and does not use a computer because she is disabled. eAuction does not have the system capability or staff to handle these type of requests. How should eAuction respond?**
- **Should eAuction be obligated to provide a reasonable modification to procedure or is this a fundamental alteration of the eAuction business?**
- **How should eAuction respond to Ms. Bigley's request?**

## Scenario #2: MSW Pharmacy

- **MSW Pharmacy is a small establishment in a historic town. MSW Pharmacy does not have an automated door and will occasionally receive complaints from customers with physical disabilities regarding the inaccessibility of the pharmacy. The owner of the pharmacy has researched automated door costs and since the building is so old, the cost is over \$50,000 which far exceeds his annual renovation budget.**
- **Is MSW Pharmacy required to install an automated door?**
- **What are some options for the owner of MSW Pharmacy to consider?**



## Scenario #3: ABC Bank

- **ABC Bank escalated a situation to their ADA coordinator regarding an unruly customer that frequently visits the branch. While the customer is in line, he tends to blurt out obscenities, makes inappropriate comments to other customers in line and makes violent physical gestures. On several occasions, other customers have expressed fear and discomfort during their visit. When a branch manager approached the customer requesting that he leave, the customer explained that he has PTSD (Post traumatic Stress Disorder) and that he is unable to control his actions.**
- **How should ABC bank proceed with handling this customer?**
- **What are options that were considered?**
- **If you were the ADA coordinator of ABC Bank, what final decision would you communicate to the Branch manager?**

## Scenario #4: Baby Care Preschool

- **Baby Care Preschool is a private daycare program that offers full day childcare with snacks and meals for infants, toddlers and preschoolers. BabyCare has a dedicated cook that prepares two snacks and a hot lunch for the students. A preschool student who has been with BabyCare for several months was recently diagnosed with Celiac disease requiring a strict gluten free diet. BabyCare already had a policy that food was not permitted to be brought in under any circumstance. This was a risk to those students enrolled with peanut allergies. Within the class of 8, there were 2 students that had severe peanut allergies.**
- **Is BabyCare required to accommodate the student recently diagnosed with Celiac disease?**
- **What are some options to consider for BabyCare?**

## **Scenario #5: ILTV Cable Company**

**Ms. Johnson is a customer of ILTV Cable Company and calls every month to pay her monthly cable bill. Although there are options to pay her monthly bills online or through the mail, Ms. Johnson prefers to provide an agent with her payment information over the phone. Ms. Johnson recently notified an agent that she has a hearing impairment and can only understand male agents with a low tone voice. She requested to always be connected to agents with this criteria when she calls in. ILTV is a Nationwide Cable company with several call centers. The phone system does not allow customers to always reach the same agent or identify agents based on gender or tone of voice.**

- Is Ms. Johnson's request to always speak to a male agent with a low tone voice reasonable?**
- What would you do if you were the agent that received Ms. Johnson's request?**
- If you were the ADA coordinator of ILTV Cable Company, what kind of actions would you take after learning of this customer request?**

# Scenarios from the Audience

- **What were some interesting cases that happened in your organization?**
- **What were the different solutions discussed or policies modified as a result?**