

When Do Private Clubs Need to Follow ADA

The NH Governors Commission on Disability would like to alert those private clubs in existence that once they open themselves up for public use they begin to have obligations under the Americans with Disabilities Act Title III as a public accommodation. Below are excerpts taken from the Americans Disabilities Act Title III Technical assistance manual found here: <http://www.ada.gov/taman3.html>

III-1.6000 Private clubs. The obligations of title III do not apply to any "private club." An entity is a private club for purposes of the ADA if it is a private club under title II of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin by public accommodations.

Courts have been most inclined to find private club status in cases where --

- 1) Members exercise a high degree of control over club operations.
- 2) The membership selection process is highly selective.
- 3) Substantial membership fees are charged.
- 4) The entity is operated on a nonprofit basis.
- 5) The club was not founded specifically to avoid compliance with Federal civil rights laws.

Facilities of a private club lose their exemption to the extent that they are made available for use by nonmembers as places of public accommodation.

ILLUSTRATION: A private country club that would be considered a "private club" for ADA purposes rents space to a private day care center that is also open to the children of nonmembers. Although the private club would maintain its exemption for its other operations, it would have title III obligations with respect to the operation of the day care center.

The club if opened to the public is then determined to be a public accommodation. A public accommodation shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, *i.e.*, easily accomplishable and able to be carried out without much difficulty or expense.

Examples of steps to remove barriers include, but are not limited to, the following actions –

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| (1) Installing ramps; | (12) Installing grab bars in toilet stalls; |
| (2) Making curb cuts in sidewalks and entrances; | (13) Rearranging toilet partitions to increase maneuvering space; |
| (3) Repositioning shelves; | (14) Insulating lavatory pipes under sinks to prevent burns; |
| (4) Rearranging tables, chairs, vending machines, display racks, and other furniture; | (15) Installing a raised toilet seat; |
| (5) Repositioning telephones; | (16) Installing a full-length bathroom mirror; |
| (6) Adding raised markings on elevator control buttons; | (17) Repositioning the paper towel dispenser in a bathroom; |
| (7) Installing flashing alarm lights; | (18) Creating designated accessible parking spaces; |
| (8) Widening doors; | (19) Installing an accessible paper cup dispenser at an existing inaccessible water fountain; |
| (9) Installing offset hinges to widen doorways; | (20) Removing high pile, low density carpeting; or |
| (10) Eliminating a turnstile or providing an alternative accessible path; | (21) Installing vehicle hand controls |
| (11) Installing accessible door hardware; | |

Once determined to truly be a public accommodation, the club is urged to take measures to comply with the barrier removal requirements with the following order of priorities.

First, they should take measures to provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.

Second, they should take measures to provide access to those areas of a place of public accommodation where goods and services are made available to the public. These measures include, for example, adjusting the layout of display racks, rearranging tables, providing Brailled and raised character signage, widening doors, providing visual alarms, and installing ramps.

Third, they should take measures to provide access to restroom facilities. These measures include, for example, removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.

Fourth, they should take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

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