

The Need for Auxiliary Aids at Events, Conferences or Meetings Held in Places of Public Accommodation

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Places of public accommodation are prohibited from discrimination based on disability. This federal mandate is found in Title III of the Americans with Disabilities Act (ADA), 42 U.S.C. 12181 et seq. (Title III). Companies or organizations which lease space in places of public accommodation for events, conferences, seminars or meetings must make sure those activities are accessible to persons with disabilities. In addition to physical access for persons with limited mobility, the ADA requires such organizations to provide auxiliary aids to enable persons who are deaf and hard-of-hearing to communicate effectively and to benefit from those meetings.

The U.S. Department of Justice has issued regulations explaining the requirements of that Act, 28 C.F.R. Part 36, and written an Analysis, 56 Fed. Reg. 35544 (July 26, 1991):

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any private entity who owns, leases (or leases to), or operates a place of public accommodation.

28 C.F.R. §36.201(a) (emphasis added).

Places of public accommodation include hotels, convention centers, stadiums and any other places of public gathering. 28 C.F.R. §36.104. If a private company or organization holds a conference or show or otherwise leases space at a place of public accommodation, it also incurs obligations under the ADA:

Public accommodation means a private entity that owns, leases [or leases to], or operates a place of public accommodation.

28 C.F.R. §36.104.

The ADA requires the provision of auxiliary aids and services, where necessary, by a public accommodation. The regulation states that a public accommodation "shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication" with individuals with disabilities. 28 C.F.R. 36.303(c). Furthermore, a public accommodation:

. . . shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and

services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, i.e., significant difficulty or expense.

28 C.F.R. §36.303(a).

The U.S. Department of Justice has defined the term "auxiliary aids" for deaf and hard of hearing individuals to include qualified interpreters, 28 C.F.R. 36.303(b)(1). The term "auxiliary aids" also includes amplification, assistive listening systems, oral interpreters, captioning, and other methods of making aurally delivered material available to persons who are deaf or hard-of-hearing. The regulation defines a qualified interpreter as:

. . . an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.

28 C.F.R. 36.104. However, the appropriate auxiliary aid will depend on the type of event and the needs of the participants with disabilities. The Justice Department urges consultation with persons with disabilities, to ascertain the appropriate auxiliary aids or services.

The place where the event is held, such as a conference center or hotel, also has its own obligations to the disabled community under the ADA. The regulation to the ADA explains that in some cases the respective allocation of obligations between the hotel and the tenant may be determined by contract:

Both the landlord who owns the building that houses a place of public accommodation and the tenant who owns or operates the place of public accommodation are public accommodations subject to the requirements of this part. As between the parties, allocation of responsibility for complying with the obligations of this part may be determined by lease or other contract.

28 C.F.R. §36.201(b).

However, the Analysis to the Title III regulation indicates that the company or professional organization holding a conference, the tenant, has the primary obligation to provide auxiliary aids such as interpreters at the conference:

. . . the landlord would generally be held responsible for making readily achievable changes and providing auxiliary aids in common areas and for modifying policies, practices, or procedures applicable to all tenants, and the tenant would generally be responsible for readily achievable changes, provision of auxiliary aids, and modification of policies within its own place of public accommodation.

Analysis to U.S. Department of Justice Regulation to Title III of the Americans with Disabilities Act, 56 Fed. Reg. 35544 (July 26, 1991), at 35555, 35556. For example, the hotel might assume responsibility for providing physical equipment such as a TDD telephone device or amplified telephones and amplification equipment for presentations, while the tenant sponsoring the conference or event might assume the responsibility for interpreter services.

It is not permissible to charge an additional fee or "surcharge" to disabled persons to cover the costs of auxiliary aids or barrier removal. 28 C.F.R. 301(c).

For more information, visit www.nad.org/confandmeetings.

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