



ADA Title III Website Reservations Requirements for Lodging Facilities

By: Minh N. Vu, Esq.
Seyfarth Shaw LLP
Washington, D.C.
(202) 828-5337
mvu@seyfarth.com

Statutory Overview

- ADA Title III prohibits discrimination against individuals with disabilities by places of lodging.
- ADA Title III requires that places of lodging:
 - have accessible facilities;
 - **make reasonable modifications to their policies, practices, and procedures; and**
 - provide auxiliary aids and services at no additional charge, including those necessary to ensure effective communication with individuals with disabilities.
 - Maintain the accessible features of the facility
 - Provide accessible transportation (if they provide transportation)
- Obligations generally cover owners, operators, and lessors of places of lodging.

Non-Compliance Risks

- Department of Justice (DOJ) Enforcement
 - Federal lawsuit following investigation.
 - Scope of action: single facility or an entity's entire portfolio or system.
 - Types of relief:
 - 1.injunctive relief;
 - 2.damages for aggrieved persons; and
 - 3.civil penalty of up to \$75,000 for the first violation and \$150,000 for each subsequent violation.

Non-Compliance Risks

- Federal Lawsuits by Private Plaintiffs
 - Plaintiffs can proceed directly to federal court.
 - Scope: Cases can involve one or more facilities.
 - Class actions are an option under the right circumstances.
 - Types of relief:
 1. injunctive relief; and
 2. attorneys' fees.
 - No monetary damages.
 - State law claims may be added that do provide for monetary damages.

Non-Compliance Risks

- 2018-2019: Many lawsuits filed alleging a failure to comply with ADA reservations requirements (about missing accessibility content)
 - Typically filed by plaintiffs with mobility disabilities
 - New plaintiffs are blind
- Different from the thousands of suits about website accessibility where a blind plaintiff is claiming they can't use the website at all with his or her assistive technology.

RESERVATIONS REQUIREMENTS EFFECTIVE MARCH 15, 2012

Reservations

- Making Reservations (28 CFR Section 36.302(e))
 - A place of lodging must:
 - ensure that individuals with disabilities can reserve accessible guest rooms during the same hours and in the same manner as other individuals.
 - identify and describe accessible features of the property and its guest rooms to allow an individual with a disability to make an independent assessment of whether the property and/or guest rooms meet his/her accessibility needs.
 - ensure accessible guest rooms are held until all other guest rooms of the same type have been rented.
 - ensure the accessible guest room reserved is blocked and removed from all reservations systems.
 - guarantee the specific accessible room is held for the reserving guest.

Note: The last 3 requirements do not apply to reservations for individual guest rooms or units not owned or substantially controlled by the entity that owns, leases, or operates the overall facility.

Reservations – Other Requirements

Ensure that individuals with disabilities can reserve accessible guest rooms during the same hours and in the same manner as other individuals.

All accessible guestrooms (barring unique circumstances) must be shown and reservable on the website.

Ensure accessible guest rooms are held until all other guest rooms of the same type have been rented.

- Not an issue on the website because people self-select the rooms they need so we can assume they need the accessible room if they chose it.
- Phone reservations and hotel front desk staff must not sell the accessible version of a room within a room type (i.e., corner king) until it is the last one of its type left.

Ensure the accessible guest room reserved is blocked and removed from all reservations systems.

- Once a reservation is made, the system has to take the accessible room out of the inventory available to be sold.

Guarantee the specific accessible room is held for the reserving guest.

- Guest must get the accessible room that he or she reserved upon check in; reservation must be guaranteed even if the normal practice is to not guarantee.

Reservations – Identification of Accessible Features

- **Accessible Rooms**

- There are three types of accessible rooms:

- **Mobility Accessible**

- Toilet with grab bars
 - Accessible sink/vanity
 - Accessible desk
 - Doors that open to 32" clear
 - Space at door from the pull side
 - More spacious bathroom
 - Accessible bathing fixture (i.e., roll-in shower, accessible tub, transfer shower)
 - 36" wide route to all parts of room
 - 36" wide path to both sides of bed (in rooms with one bed); 36" wide path down middle of bed (in rooms with 2 beds)
 - Thermostat, switches, controls, drapery rods, and closet rods at 48" above the floor
 - Controls and hardware that do not require tight grasping or twisting

- **Hearing Accessible**

- Visual fire alarms
 - Flashing light for incoming phone calls
 - Outlet within 4 ft. of a phone
 - Visual notification for door knock or door bell

- **Mobility/Hearing Accessible** (combine features above)

Reservations – Identification of Accessible Features

- **Accessible Rooms Names/Descriptions Must Include the Following:**
 - Room type (*e.g.* the “Wow Suite”)
 - Number and size of beds (*e.g.* 1 king, 2 Queen)
 - Whether it’s mobility accessible, hearing accessible, or mobility/hearing accessible
 - If mobility accessible, the type of accessible bathing fixture: Roll-in shower, transfer shower, or accessible tub
 - If hearing accessible, communications features in the rooms (visual fire alarm, strobe for door bell/door knock, phone light).

Reservations – Identification of Accessible Features

- **Examples of Possible Accessible Room Name Variations for a King Deluxe:**
 - Mobility/Hearing Accessible King Deluxe, Roll-in Shower
 - Mobility/Hearing Accessible King Deluxe, Tub
 - Mobility/Hearing Accessible King Deluxe, Transfer Shower

 - Mobility Accessible King Deluxe, Roll-in Shower
 - Mobility Accessible King Deluxe, Tub
 - Mobility Accessible King Deluxe, Transfer Shower

 - Hearing Accessible King Deluxe

Reservations – Identification of Accessible Features

- **Accessibility information about Hotel**

- Accessible entrances, routes, and paths of travel to essential services and rooms.
- Information about hotel features that may provide limited accessibility.
- Areas of hotel providing essential services (e.g., parking, registration, fitness center, restaurants, conference facilities, restrooms, spa, etc.)
- Additional accessibility information (e.g. closed captioning on TVs, accessible transportation, swimming pool, TTY availability).

Reservations – Identification of Accessible Features

- **Recommended Location for Accessibility Information**
 - Common area accessibility information
 - Under hotel amenities section
 - Someplace prominent
 - Accessible guest room information
 - In Search Results when guest is searching for rooms
 - Under the static “Rooms” tab, where all the accessible room types are listed along with an explanation of what mobility, hearing, and mobility/hearing accessible rooms typically have.

Presenter



Minh N. Vu, Esq.
Seyfarth Shaw LLP
Washington, D.C.
(202) 828-5337
mvu@seyfarth.com