



To Whom it May Concern:

The National Association of the Deaf (“NAD”) seeks to ensure that all places of public accommodation such as private entities that are open to the public understand their legal obligations with respect to serving deaf or hard of hearing individuals. Title III of the Americans with Disabilities Act (“ADA”) has clear mandates prohibiting such entities from discriminating against an individual on the basis of disability in the full and equal enjoyment of the entity’s goods, services, facilities, privileges, advantages, or accommodations. *See* Americans with Disabilities, tit. 3, 42 U.S.C. §§ 12181-12189 (2020).

Title III of the ADA applies to all “place[s] of public accommodation” and “any person who owns, leases (or leases to), or operates a place of public accommodation.” 42 U.S.C. § 12182(a). Places of public accommodation include but are not limited to bars, restaurants, gyms, hotels, and sports venues. *See* 42 U.S.C. § 12181(7).

Title III of the ADA requires that covered entities provide access to aural information on televisions. Captions and subtitles ensure that such aural information is accessible to deaf or hard of hearing individuals. Places of public accommodations must, upon request, turn on the closed captioning on any television that is in use during regular hours in any public area. *See* 42 U.S.C. § 12132; 28 C.F.R. § 36.303(b)(1).

The Television Decoder Circuitry Act of 1990 (“TDCA”) requires that television receivers with picture screens 13 inches or larger contain built-in decoder circuitry designed to display closed captioned television transmissions. Television Decoder Circuitry Act, 47 U.S.C. § 303(b). In 2010, the Twenty-First Century Communications and Video Accessibility Act (“CVAA”) expanded this requirement to include all devices capable of receiving, playing back, and recording video, regardless of size. Twenty-First Century Communications and Video Accessibility Act, 47 U.S.C. §§ 615(c)-620 (2020). The equipment must also enable consumers to adjust closed captions in a variety of ways, including font, size, color, background, opacity, and edge attributes. *See id.*

The process for turning on the closed captioning can vary widely between different television makes and models. For example, some televisions can be activated with a simple press of the “CC” button on the remote. Other televisions require navigation of the settings menu, accessed by pressing the “Menu” button on the remote and selecting “Settings”, followed by “Closed Captions”. For detailed instructions on activating the closed captions on a particular make or model, please refer to the owner’s manual or search online for the operating instructions.



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Please note that many cities and states have enacted their own laws and ordinances requiring that captioning be activated on any television in public areas. *See e.g.*, Md. Code Ann., State Gov't § 20-306 (LexisNexis 2020); Ann Arbor, Mich., Ordinance 16-24 (Feb. 6, 2017); PORTLAND, OR., Ordinance 187454 (Nov. 18, 2015); Rochester, N.Y., city code § 63-3(A)(3) (2017); S.F. Mayor's Disability Council Resol. 2008-03 (May 16, 2008).

Thank you for your attention to this important matter.

Sincerely,

The National Association of the Deaf
Law and Advocacy Center

Relevant Sections of Title III of the Americans with Disabilities Act

§ 12181. DEFINITIONS.

As used in this subchapter:

(7) Public accommodation. The following private entities are considered public accommodations for purposes of this subchapter [42 U.S.C. §§ 12181-12189], if the operations of such entities affect commerce-

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

§ 12182. PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS.

(a) General rule. 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 person who owns, leases (or leases to), or operates a place of public accommodation.

(b) Construction.

(1) General prohibition.

(A) Activities.

(i) Denial of participation. It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) Participation in unequal benefit. It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) Separate benefit. It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) Individual or class of individuals. For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered place of public accommodation that enters into the contractual, licensing or other arrangement.

(B) Integrated settings. Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) Opportunity to participate. Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) Administrative methods. An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) Association. It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) Specific prohibitions.

(A) Discrimination. For purposes of subsection (a) of this section, discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as 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 entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and. . .

**Relevant Sections of the Implementing Regulations of
the Americans with Disabilities Act**

28 C.F.R. § 36.303. AUXILIARY AIDS AND SERVICES.

(b) Examples. The term "auxiliary aids and services" includes—

(1) Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing.