

The Department of Justice (DOJ) recently revised its regulations implementing the Americans with Disabilities Act (ADA). This revision clarifies some issues that have arisen over the past 20 years and contains some new requirements, including the 2010 Standards for Accessible Design. DOJ has published a document, *ADA Update: A Primer for Small Business*, which provides guidance to assist small business owners in understanding how the new regulations apply and how to comply with them. The Primer can be viewed by going to [www.ada.gov](http://www.ada.gov).

### *Public Accommodations*

Title III of the ADA, on “public accommodations,” applies to both the built environment and to policies and procedures that affect how a business provides goods and services to its customers. The Primer can help small businesses avoid the unintentional exclusion of people with disabilities, and it will also help them know when they need to remove barriers in their existing facilities.

Practically all types of businesses that serve the public are covered by the ADA, regardless of the size of the business or the age of its buildings. Covered businesses must make “reasonable modifications” to their business policies and procedures when necessary to serve customers with disabilities. They must also take steps to communicate effectively with customers with disabilities. It is a business’s responsibility to provide a sign language, oral interpreter, or video remote interpreting (VRI) service, unless doing so in a particular situation would result in significant difficulty or expense in light of the business’s overall resources. If a specific communication method would be an undue burden, a business must provide an effective alternative if there is one.

Businesses must allow people with disabilities to use mobility devices in all areas in which customers are allowed. Public accommodations must permit individuals who use these devices to enter their premises, unless the business can demonstrate that the particular type of device cannot be accommodated because of legitimate safety requirements that are based on actual risks, not stereotypes.

The ADA mandates that businesses remove architectural barriers in existing buildings and make sure that newly built or altered facilities are constructed to be accessible to individuals with disabilities. Commercial facilities such as office buildings, factories, warehouses, or other facilities that do not provide goods or services directly to the public are subject to the ADA’s requirements only for new construction and alterations.

Regarding the built environment, the ADA strikes a careful balance between increasing access for people with disabilities and recognizing the financial constraints many small businesses face. Flexible requirements allow businesses with limited financial resources to improve accessibility without excessive costs.

### *Updated Standards*

The ADA’s regulations and the ADA Standards for Accessible Design, originally published in 1991, set the standard for what makes a facility accessible. While the updated 2010 Standards keep many of the original provisions in the 1991 Standards, they do contain some significant

differences. The 2010 Standards are the key for determining whether a small business's facilities are accessible under the ADA, but they are used differently depending on whether the small business is altering an existing building, building a brand-new facility, or removing architectural barriers that have existed for years.

Since March 15, 2011, businesses have had to comply with the ADA's general nondiscrimination requirements, including the provisions related to policies and procedures and effective communication. The deadline for complying with the 2010 Standards, which detail the technical rules for building accessibility, is March 15, 2012. The delay was meant to give businesses enough time to plan for implementing the new requirements for facilities.