

## HOW THE NEW AMERICANS WITH DISABILITIES ACT (ADA) REGULATIONS AFFECT HOTELS -- ARE YOU IN COMPLIANCE?

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*More than 50 million Americans have disabilities, and each is a potential hotel guest. Compliance with the Americans with Disabilities Act (ADA) is not only smart business, but if a hotel owner or operator fails to comply with the ADA, the resulting fines and litigation costs can be financially devastating.*

The US Department of Justice has revised the regulations implementing the Americans with Disabilities Act (ADA) for the first time in nearly 20 years. Certain of these revisions took effect on March 15, 2011. The changes to the law are complex and far-reaching. According to one disability group, the revisions affect more than seven million "places of public accommodation". The 1991 ADA Standards contained approximately 1000 technical requirements. The 2010 Standards add approximately another 1,000 technical requirements. Local building codes often add hundreds of additional requirements. Hotel owners and operators need to understand how these new laws affect their operations and how they may result in required structural and other modifications to "places of lodging."

The revisions to the ADA Regulations included some broad changes to the following topics: the definitions of "Disability" and "Place of Lodging", Reservation Policies, Standards for Accessible Design, Service Animals, Mobility Devices, Communications with Customers, and Safe Harbor Provisions relating to "readily achievable barrier removal." This article includes a discussion of only the changes to Reservation Policies. Subsequent articles will cover the other topics, which are also important.\*

The Reservation System Requirements in Section 36.302(e) of the ADA Regulations have been significantly expanded. A modification of reservation policies was not originally part of the Notice of Proposed Rule Making; however, the

Department of Justice has received so many complaints concerning failed reservations, that the DOJ felt it necessary to include the changes to the law. Most of the complaints involve individuals who have reserved accessible hotel room only to find upon check-in that the room they reserved was either not available or not accessible.

The changes to the reservation policies will go into effect on March 15, 2012 to allow properties time to comply with the new requirements.

With certain exceptions, a "Places of Lodging" must now: A. modify its practices to ensure that individuals with disabilities can make reservations *during the same hours and in the same manner* as individuals without disabilities (note the use of the word "same", not "substantially similar", as requested by some hotel industry lobbyists"); B. identify and describe accessible features and inaccessible features in the hotel and guest rooms in enough detail to allow an individual with disabilities to assess whether a hotel meets his or her needs; C. ensure that accessible guest rooms are *held* for use by individuals with disabilities until *all other guest rooms of that type have been rented*; D. reserve, upon request, accessible guest rooms or specific types of guest rooms and ensure that the reserved rooms are *blocked and removed* from all reservations systems; and E. guarantee that a specific accessible guest room, once reserved, is held for the reserving customer. While there are limited obligations that apply to third-party reservation operators who do not own and operate the places of lodging; the amended Regulations require places of lodging that use third-party reservations services make reasonable efforts to make accessible rooms available through at least some of these services and they must provide these third-party services with

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information concerning the accessible features of the hotel and the accessible rooms.

The new reservation requirements will require that hotels and other hotel-like facilities properly train their staff and implement significant changes in reservation policies. For example, the reservations staff must be able to identify which specific features are included in a hotel's accessible guest rooms; an accessible bathroom may meet accessibility requirements with either a bathtub or a roll-in shower, but the specific feature may make a difference to a particular disabled person so it must be identified.

The Hotel lawyers of JMBM's Global Hospitality Group® offer training and revisions to policy manuals to comply with these requirements. Each lodging property and each ADA claim is unique. If you would like to request an ADA survey of your property, if you are dealing with a disability-related claim relating to your property, or you would like to discuss any of the issues raised in this article, please contact the author for a more thorough discussion.



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*\* These articles are not intended to serve as a complete discussion of the applicable ADA revisions. This information may not be relied upon as legal advice, which can only be given by a lawyer based upon your specific situation.*