

Who Must Comply With ADA Law?

This document is being presented to discuss the different types of facilities that would be required to comply with the revised ADA regulations published on September 15, 2010. Entities affected by the revised regulations generally fall under either Title II or Title III of the Act.

Title II outlines regulations for any public entity. A public entity is any activity, service, program or facility owned by any governmental agency. Title III regulates places of public accommodation, commercial facilities, and private companies that offer courses and examinations related to educational and occupational certification.

The ADA does not affect any type of residential dwelling, such as a private residence, an apartment complex, a condominium, or a home owner's association. However, if any of these residential facilities operate an element of public accommodation within their premises, these elements would be subject to ADA regulations.

Here are some examples of situations where a residential entity would fall under ADA regulations with respect to swimming pools:

1. A private residential apartment complex sells memberships to their swimming facilities. This situation would be considered providing a public accommodation.
2. A Home Owner's Association pool is used for swimming competitions that are open to competitors from outside the association. This situation would also be considered offering a public accommodation.
3. A condominium actively rents out their units when owners are absent, including advertising, taking reservations over the phone, and providing either meals or housekeeping services.

In this instance, the condominium would be considered a hotel.

4. A vacation timeshare that operates as a hotel. This facility would be considered a hotel.

Conversely, if any residential entity strictly limits use of their facilities to residents and their guests, they would not be subject to ADA regulations.

Although residential facilities are not required to comply with ADA regulations for swimming pools, they must comply with the Fair Housing Act. Under this legislation, a privately owned residential community must provide a barrier free pathway up to the edge of a pool. In addition, they cannot prevent a resident from using their own apparatus to gain access to the pool, providing it does not provide a hazard for other residents. In other words, if a resident has a portable pool lift and keeps it in storage when not in use, the facility cannot prevent that resident from using the lift to gain access to the pool.

Private clubs are also excluded from ADA regulations in some cases. Final determination would be based on the control of operations, membership requirements, and the amount of fees involved. Operations that have limited or no membership requirements and minimal dues charges do not fall under the private club exclusion. If a private club limits use of their facilities strictly to members and their guests, then the club would not be subject to ADA regulations. However, if that club hosts swimming competitions or any other type of activity that opens the pool to non-members, the club would be required to follow ADA regulations for their pool.

For further information on this or any other ADA issue, visit our website, www.poollifts.com

Resources:

Who is Affected by the ADA Law? Retrieved from http://nspf.org/Documents/ADA_Law_Info.pdf