



## 2010 Revised Regulations of the Americans with Disabilities Act Titles II and III

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### INTRODUCTION

On September 15, 2010, the [United States Department of Justice](#) (DOJ) published revised Americans with Disabilities Act (ADA) regulations in the [Federal Register](#) that update and amend some of the provisions in the original 1991 ADA regulations. These changes include revised accessibility standards, called the [2010 Standards for Accessible Design](#) (2010 Standards), which establish minimum criteria for accessibility in design and construction.

This tipsheet highlights some of the revisions that have a specific effect on cultural venues, such as theaters or museums. It is not intended to be comprehensive. To view the revised regulations in their entirety with guidance, please see these two definitive resources:

- U.S. Department of Justice at [www.ada.gov/regs2010/ADAregs2010.htm](http://www.ada.gov/regs2010/ADAregs2010.htm)
- U.S. Access Board at [www.access-board.gov/ada-aba/ada-standards-doj.cfm](http://www.access-board.gov/ada-aba/ada-standards-doj.cfm)

The material contained herein was drawn from or excerpted from both of these resources.

### WHO IS IMPACTED BY THE NEW REGULATIONS?

The revised regulations apply to the following entities, which have until March 15, 2011, to comply:

- **State and Local Governments** (ADA Title II, [28 CFR, Part 35](#))  
This includes any non-federal department, agency, district, or instrumentality of a State or local government. For example: State arts commissions and councils, city-owned or -operated cultural centers, recreational venues and parks, libraries, state colleges, and universities.

- **Places of Public Accommodation** (ADA Title III, [28 CFR, Part 36](#))  
This includes any facility operated by a private, non-governmental entity and open to the public. For example: Theaters, museums, concert halls, arts and performing arts centers, stadiums, private colleges and universities, lecture halls, galleries, parks, zoos, other places of exhibition or entertainment, and assembly areas.

## WHAT HAS CHANGED THE MOST?

At least two areas in the revised regulations merit attention from cultural arts administrators:

### 1) Policies, Procedures, and Practices

- i) Service animals
- ii) Mobility devices
- iii) Ticketing

### 2) Physical Access and Barrier Removal

- i) 2010 Standards
- ii) Safe Harbor
- iii) Reduction of Elements

## POLICIES, PROCEDURES AND PRACTICES

### DEFINITION: Service Animal

A “service animal” is now defined as any **dog**\* individually trained to do work or perform tasks benefitting an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

\* There is a limited exception for miniature horses.

### FIND IT IN THE REGULATIONS

State and Local Governments: [§35.104 definition](#) and [§35.136 service animals](#)

Places of Public Accommodation: [§36.104 definition](#) and [§36.302 \(c\) service animals](#)

## DEFINITION: Mobility Devices

The definition of mobility devices has expanded to include not only traditional devices, such as wheelchairs and scooters, but any power-driven mobility devices used by a person with a mobility disability including, but not limited to, Segways. All such devices must be permitted in any area that pedestrians use unless it would result in a fundamental alteration, is a direct threat, or creates a safety hazard.

### FIND IT IN THE REGULATIONS

State and Local Governments: : [§35.104 definition](#) and [§35.137 mobility devices](#)

Places of Public Accommodation: [§36.104 definition](#) and [§36.311 mobility devices](#)

## TICKETING

The revised regulations include a new eight-part section devoted exclusively to the regulation of ticketing for wheelchair spaces and companion seats. The highlights of the new ticketing regulations include, but are not limited to, the following requirements:

- 1) Tickets for accessible seating must be available for purchase during the same times and in the same ways as the purchase of other tickets;
- 2) Accessible seating must be identified to the same level of specificity as other seats on maps, seating charts, and brochures, and, if asked, the location of all available accessible seating must be identified;
- 3) Tickets for accessible seating must be available at all price levels;
- 4) A wheelchair user may purchase up to three companion seats that are contiguous and in the same row so long as such seats are available and all patrons may purchase that number of seats;
- 5) Accessible seating may only be released when all other tickets are sold out or all other tickets in a specific price range or area are sold out;
- 6) Individuals with disabilities must be able to transfer their tickets to others under the same terms and conditions as other ticket holders;

- 7) Venues must honor tickets in non-accessible locations held by a wheelchair user purchased on the secondary market (i.e. tickets that are re-sold by the original purchaser) so long as comparable seats are available at the time the ticket is presented; and
- 8) Venues may not ask for proof of disability or ask what the individual's specific disability is, but may ask if the individual is purchasing tickets for someone with a mobility disability. The venue may investigate if it has reason to believe fraud has been committed.

## FIND IT IN THE REGULATIONS

State and Local Governments: [§35.138 ticketing](#)

Places of Public Accommodation: [§36.302 \(f\) ticketing](#)

## PHYSICAL ACCESS AND BARRIER REMOVAL

### 2010 STANDARDS FOR ACCESSIBLE DESIGN

The [2010 ADA Standards for Accessible Design](#) (2010 Standards) were published in the Federal Register on September 15, 2010, and will become mandatory after 18 months.

In the period between September 15, 2010, and March 15, 2012:

- Places of public accommodation may choose between compliance with the 1991 ADA Standards or the 2010 Standards.
- State and local governments may choose between compliance with the 1991 ADA Standards, the Uniform Federal Accessibility Standards (UFAS), or the 2010 Standards.

On and after March 15, 2012, the standards mentioned above will be replaced by the 2010 Standards, which become mandatory and enforceable, and must be applied to all new construction, renovations, modifications, alternations, and barrier removal.

### EXAMPLE

A non-profit theater is planning two major renovations. The first renovation is currently in the design phase, is scheduled to start construction April 2011, and will be completed in April 2012. The theater is not going to start the design process on the second renovation until June 2012 for completion in June 2013. The theater can use either the 1991 Standards or the 2010 Standards on the first renovation but can only use the 2010 Standards on the second renovation.

## STANDARDS SPECIFIC TO ASSEMBLY AREAS

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Assembly areas include spaces such as classrooms, lecture halls, meeting rooms, movie theaters, auditoriums, theaters, concert halls, performing arts centers, amphitheaters, arenas, and stadiums.

Most of these changes can be found in sections [221](#) and [802](#) of the [2010 Standards](#). The following are some of the relevant standards for arts and cultural organizations:

**Dimensions:** A **single wheelchair space** must be **36 inches** wide, while **two wheelchair spaces adjacent** to one another need only be **33 inches** wide each.

**Path of Travel:** Wheelchair spaces **must be on an accessible route** but may not overlap another wheelchair space or the circulation path.

- *Note:* This means that access to a wheelchair space cannot be through another wheelchair space, nor can the wheelchair space stick out into the aisle.

**Dispersion of Wheelchair Spaces:**

- Wheelchair spaces must be **dispersed vertically, horizontally, to all levels, and around the performance area**, if seating encircles the stage.
- Wheelchair spaces **must provide** spectators with **choices of seating** locations and **viewing angles** that are substantially **equivalent to, or better** than, seating for other spectators.
- In stadium-style **movie theaters**, wheelchair spaces must be **located within the rear 60% of the seats** in the auditorium.
- Wheelchair spaces generally should not be on temporary or movable platforms.

**Box Seats:** Wheelchair spaces must be provided and located in **not fewer than 20%** of all boxes.

**Lawn Seating:** There must be a wheelchair-accessible path of travel to lawn seating and any exterior overflow seating.

**Companion Seats:** At least **one companion seat** (fixed or movable, adjacent, and on the same level) must be provided for each wheelchair space, and be **equivalent in size, quality, and comfort** to other seats in the area.

**Designated Aisle Seats:** Designated aisle seats are those seats with folding or retractable armrests. Five percent of all aisle seats must be a designated aisle seat, identified as a designated aisle seat, and located close to accessible routes.

**Number of Wheelchair Spaces Required:** Use the following table to calculate how many wheelchair spaces must be provided:

<b>2010 ADA Standards</b> <b>Number of Wheelchair Spaces in Assembly Areas</b>	
<b>CAPACITY OF SEATING (i.e. # of seats)</b>	<b>MINIMUM # OF REQUIRED WHEELCHAIR SPACES</b>
4 to 25	1
26 to 50	2
51 to 150	4
151 to 300	5
301 to 500	6
501 to 5,000	6, plus 1 for each 150, or fraction thereof, between 501 through 5000
5,001 and over	36, plus 1 for each 200, or fraction thereof, over 5000

## NEW REQUIREMENTS FOR ASSISTIVE LISTENING SYSTEMS (ALS)

You can find most of these changes in sections [219](#) and [706](#) of the [2010 Standards](#).

**Requirements:** ALSs are required **where audible communication is integral** to the use of the space, but are not required where audio amplification is not provided.

**Hearing Aid Compatibility: 25% of the receivers** must be hearing aid compatible, which means that the ALS receiver must be usable with an induction neckloop that interfaces with the telecoil in an individual's personal hearing aid or cochlear implant.

### Technical Requirements

- Receivers must have a 1/8 inch (3.5 mm) standard monojack.
- ALSs must be capable of providing sound pressure levels of 110 dB minimum and 118 dB maximum with a dynamic volume control range of 50 dB; the signal-to-noise ratio for internally generated noise must be 18 dB minimum; and the peak clipping must not exceed 18 dB of clipping relative to the peaks of speech.

**Number of Receivers Required:** Use the following table to calculate how many receivers must be provided:

<b>2010 ADA Standards</b> Receivers for Assistive Listening		
<b>CAPACITY OF SEATING IN ASSEMBLY AREA</b>	<b>MINIMUM # OF REQUIRED RECEIVERS</b>	<b>MINIMUM # OF RECEIVERS REQUIRED TO BE HEARING- AID COMPATIBLE</b>
50 or less	2	2
51 to 200	2, plus 1 per 25 seats over 50 seats or fraction thereof	2
201 to 500	2, plus 1 per 25 seats over 50 seats or fraction thereof	1 per 4 receivers or fraction thereof
501 to 1,000	20, plus 1 per 33 seats over 500 seats or fraction thereof	1 per 4 receivers or fraction thereof
1,001 to 2,000	35, plus 1 per 50 seats over 1000 seats or fraction thereof	1 per 4 receivers or fraction thereof
2,001 and over	55, plus 1 per 100 seats over 2000 seats or fraction thereof	1 per 4 receivers or fraction thereof

## EXAMPLE

Theater A has a maximum seating capacity of 2225. Per the previous chart, they are required to have 55 receivers (the minimum) plus 1 per 100 seats over 2000 seats or fraction thereof (the additional receivers).

Calculate the additional receivers using the chart above. Always round up.

1. Calculate additional seats:  $2225 \text{ (total seats)} - 2000 = 225$
2. Divide by 100:  $225/100 = 2.25$
3. Round up: 3
4. Add the number of additional receivers to the minimum number required:  
 $55+3= 58$  receivers

Calculate the number of hearing-aid compatible receivers. (1 out of 4, or 25%). Always round up.

1. Take the number of required receivers calculated above: 58
2. Divide by 4:  $58/4 = 14.5$ .
3. Round up: 15 receivers.

Theater A is required to have 58 receivers, 15 of which must be hearing-aid compatible.

## FIND IT IN THE REGULATIONS

State and Local Governments: [Title II regulations at 28 CFR 35.151 and the 2004 ADAAG at 36 CFR part 1191, appendices B and D](#)

Places of Public Accommodation: [Title III regulations at 28 CFR part 36, subpart D; and the 2004 ADAAG at 36 CFR part 1191, appendices B and D](#)

## SAFE HARBOR

The 2010 regulations have incorporated an element-by-element “safe harbor” which exempts elements (which can be anything from a door knob to an entire room) that are currently in compliance with the 1991 ADA Standards from compliance or any immediate retrofit obligations under the 2010 Standards until the facility engages in a renovation, modification, alteration, or barrier removal. If an element never complied with the 1991 ADA Standards then there is no safe harbor for that element. Additionally, there is no safe harbor for elements not covered in the 1991 Standards including, but not limited to, swimming pools, amusement rides, play areas, and recreational boating facilities.



## EXAMPLE

In 2005 a museum renovated restrooms and installed paper towel dispensers at 54 inches from the floor in order to be in compliance with the 1991 ADA Standards. The 2010 Standards require paper towel dispensers to be a maximum of 48 inches from the floor. Are they out of compliance?

No. Because the installed dispensers were in compliance with the 1991 ADA Standards, they are in a safe harbor under the new 2010 Standards. The museum will not need to re-install the paper towel dispensers in order to comply with the lower reach range in the 2010 standards until they renovate, alter, or modify the restroom.

## FIND IT IN THE REGULATIONS

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State and Local Governments: [§35.150 \(b\)\(2\)\(i\) safe harbor](#)

Places of Public Accommodation: [§36.304 \(d\)\(2\)\(i\) safe harbor](#)

## REDUCTION OF ACCESSIBLE ELEMENTS

In the past, regulations stipulated that once a level of accessibility had been achieved, the entity was required to keep that level of accessibility. However, the revised regulations have added an exception that allows for the reduction of accessible elements in a facility from the number required in the 1991 ADA Standards to those in the 2010 Standards. This exception is limited to physical elements in a facility covered by the 2010 Standards.

## EXAMPLE

Under the 1991 ADA Standards, a theater with 5,000 seats was required to have 51 wheelchair accessible locations. Under the 2010 Standards, the requirements have been lowered such that the same theater would now only be required to have 36 wheelchair accessible locations. The exception in the 2010 Standards would allow the theater to reduce the number of wheelchair accessible locations from 51 to 36.

## FIND IT IN THE REGULATIONS

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State and Local Governments: [§35.133 \(c\) maintenance of accessible features](#)

Places of Public Accommodation: [§36.211 \(c\) maintenance of accessible features](#)

## MORE INFORMATION

The revised regulations are relatively new so there are few resources available at this time. You can find the regulations and other useful guidance at:

### U.S. Department of Justice (DOJ)

The DOJ maintains a site that contains numerous useful resources, publications, links, and technical assistance on compliance with the Americans with Disabilities Act.

**General:** [www.ada.gov](http://www.ada.gov)

**Revised Regulations:** [www.ada.gov/regs2010/ADAregs2010.htm](http://www.ada.gov/regs2010/ADAregs2010.htm)

**2010 Standards:** [www.ada.gov/2010ADASTandards\\_index.htm](http://www.ada.gov/2010ADASTandards_index.htm)

**Technical Assistance:** (800) 514-0301 (voice) or (800) 514-0383 (TTY)

### U.S. Access Board

The Access Board has posted the 2010 ADA Standards as well as all previous accessibility design standards along with guidance, explanations, and technical assistance.

**General:** [www.access-board.gov](http://www.access-board.gov)

**2010 Standards and Guidelines:**

[www.access-board.gov/ada/index.htm](http://www.access-board.gov/ada/index.htm)

**Technical Assistance:** (800) 872-2253 (voice), (800) 993-2822 (TTY)

### ADA National Network

This network is made up of 10 regional Disability Business and Technical Assistance Centers (DBTAC). They provide technical assistance and training in their regions.

**General:** [www.adata.org/Static/Home.aspx](http://www.adata.org/Static/Home.aspx)

**Technical Assistance:** (800) 949-4232 (Voice/TTY)

*This Tipsheet was developed by the Accessibility Offices at the John F. Kennedy Center for the Performing Arts and the National Endowment for the Arts.*

*DISCLAIMER: This document is not intended as a comprehensive analysis of the revised regulations nor does it address obligations of federal agencies or federal facilities. Information contained herein is for general guidance and is not intended to be a rendering of legal advice, opinion, or services.*