

Public Accommodations Self-Advocacy Toolkit



*Celebrating
a Quarter Century
of Advancing Civil Rights*

PREPARED BY:

EQUAL RIGHTS CENTER

11 DUPONT CIRCLE NW, SUITE 450

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(202) 234-3062 (Voice)

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www.equalrightscenter.org

Introduction

When faced with discrimination it is often difficult to figure out what steps you must take to resolve the issue.

This toolkit is designed to help you address problems that you have encountered, or may encounter when attempting to access a place of public accommodation. The toolkit includes:

- Information about your legal rights;
- Templates for writing letters;
- How and where to file a complaint; and
- Additional resources that are designed specifically to help you fix this inequality that is all too common in our daily lives.

Title III of the Americans with Disabilities Act (“ADA”), ensures that people with disabilities are able to access the same places of public accommodation that are available to the rest of the public. “Places of public accommodation” include: hotels, movie theaters, convention centers, grocery stores, retail stores, banks, museums, zoos, schools, bowling alleys, and any other public place. As a person with a disability you have the right to access these places without facing discrimination.

If you have questions or believe you need help in dealing with a complaint, please contact us at:

Equal Rights Center
11 Dupont Circle NW, Suite 450
Washington, DC 20036
(202) 234-3062 (Voice)
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I. Where to start?

If you believe that you have been denied access to a place of public accommodation, the first thing for you to consider is your plan of action. You need to consider what steps you should take and in what order are you going to take them, so the inequity you are facing can most effectively be remedied. **Remember: whatever you decide to do, YOU MUST SAVE ALL DOCUMENTATION!***

8 Steps to Protect Your Rights

1. **Identify the accessibility problem** – Clearly identify what barrier(s) exists that prevents you from accessing the particular place. You can take pictures, make a written description, take measurements, etc. It is important to remember that whatever your method of documentation is, make sure that you are clear and specific. For example, if a doorway is hard to get through in your wheelchair, explain exactly what happens when you try to get through the doorway. Is the doorway too narrow? Is the door too heavy? Is there a sequence of doors that cannot be easily opened because the space between the two doors is too small?
- 
- A photograph showing a person in a wheelchair with a white dog standing next to them. The person is holding a white box. The dog is wearing a harness. They are standing on a paved surface next to a building. This image illustrates an accessibility issue, such as a narrow doorway or a heavy door, which is mentioned in the text as an example of a barrier that might prevent access to a place of public accommodation.
2. **Consider the solutions** – Think about what you need in order to make the location accessible: Does a ramp need to be installed? Does an automatic door need to be put in place? Do the sinks need to be lowered? Have specific details for your proposed solutions to speed up the process. When someone asks you: ‘What do you want me to do about it?’ have an answer for them.
 3. **Understand your legal rights** – See page 4.
 4. **Figure out who should receive your letter** – Many accessibility problems deal with a private business. You should start by talking to a customer service representative at the particular site if possible.

* See step #7 for a description on what is included by the term “documentation.”

This may be a cashier or a front desk receptionist. S/he may have a contact number or address for a manager in charge of such complaints. If not, then you should contact the senior manager at the company.

5. **Be persistent** – In your initial written contact, make sure that you include a date by which you expect a response (see sample letter #1 on page 6). If you do not hear back from the person whom you originally contacted, try sending him/her another, more sternly worded letter (see sample letter #2 on page 7). If he or she continues to refuse to speak to you, then you will eventually have to move on to legal action, but you should consider legal action only as a last resort.
6. **Be polite but firm – stay calm** – Although you may feel anger or frustration with people who are not being helpful, and in some cases being unhelpful, it is extremely important that you stay calm. If you give the offending party some reason to say that you are being unreasonable, they probably will, despite the fact that you are making a very reasonable request.
7. **Keep all documentation** – This really does mean ALL documentation however trivial it may seem at the time. If your complaint ends up requiring legal action, your lawyers will need as much information as you can give them, every piece of correspondence, business cards, tickets, receipts, records of phone conversations, names of people, etc. We suggest that you keep either a file or a small box in which you can store everything.
8. **Know when it is time to move on to legal remedies** – If you cannot reach a resolution with the people you have been communicating with, call the Equal Rights Center and we will listen to you, advise you, and help you file a formal legal complaint (see page 8). Just remember, you are never alone in your fight for equality.



II. Know Your Legal Rights

The Americans with Disabilities Act of 1990 (“ADA”) is a federal law that protects a person with a disability when confronted by discrimination. The ADA covers a variety of forms of discrimination, with Title III of the ADA specifically dealing with accessibility in places of public accommodation.

Who is Covered?

Title III covers all businesses and service providers that offer certain types of services, including:

- Restaurants
- Retail stores
- Hotels
- Movie theaters
- Private schools (but not religious schools)
- Convention centers
- Doctors’ offices
- Homeless shelters
- Transportation depots
- Zoos
- Funeral homes
- Day care centers
- Transportation services
- Recreation facilities: sport stadiums, fitness clubs, etc.
- Places where courses and examinations are provided

What is Required?

Equal Access to Services

Businesses and service providers cannot discriminate against you if you have a disability. Under the ADA, a business must provide you with services that are not any different from those they provide people without a disability. The only time that they can provide you with a different service is if it is necessary to alter the service in order to accommodate your disability, and then the altered service has to be equal to the original service that they offered and in the least separated environment possible.

Barriers to Access

The ADA also includes architectural standards for both new and altered buildings.* One type of discrimination is the failure to remove architectural barriers in existing facilities, and as a result, the ADA requires what is called a ‘good-faith compliance’ with the standards. If the removal of the barriers is ‘readily achievable’ then the law requires the accommodation to make the changes. Large corporations are going to be significantly more capable of altering their existing facilities than a small business would be.

* Requirements can be found online at <http://www.usdoj.gov/crt/ada/reg3a.html>.

III. How to Communicate Your Issue

The following template and sample letters will help you let service providers know about your issue at a place of public accommodation:

Letter Template

Your Name
Your Address
Your City, State Zip Code

Date

Name of Contact Person
Title, if available
Company Name
Street Address
City, State Zip Code

Dear (Contact Person):

On (date), I visited (name of place) at (location including address). Unfortunately, I was unable to access your facility because (name the barrier(s) you encountered and explain the situation in which you encountered them).

I believe that these problems need to be addressed in the following way:

(Explain what exactly needs to be done for them to remedy the situation.)

Thank you for your attention to this matter. I look forward to your prompt response by (2 weeks from the date you send the letter), and to improved access to your facility.

Sincerely,

Your Name

Sample Letter #1

John Doe
2333 Road Place, N.W.
Washington, D.C. 20006

January 30, 2009

Betty Smith
B. Smith Enterprises
1120 Avenue of the Americas
New York, N.Y. 10036

Dear Ms. Smith,

I am concerned about the lack of appropriate wheelchair accessibility at your restaurant at 5555 Connecticut Ave., N.W. in Washington, D.C. I write in the hope that this problem can be remedied soon.

I am a wheelchair user. On January 1, 2009, I went to your restaurant in Washington, D.C. for dinner. After placing my order, I went to the men's room to wash my hands. But when I entered the men's room, I discovered that the sink was inaccessible to me. Specifically, there was inadequate clearance under the sink for my knees and toes. Instead, there were wooden cabinets beneath the sink. As a result, I could not roll my wheelchair forward into a position close enough to reach the faucets.

I asked to speak to a manager. The hostess summoned a man whose name I believe is Brian. I showed Brian the problem, and he said he would note it in "the book."

I returned to the restaurant on January 15, 2009. Once again, after placing my order, I went to the men's room to wash my hands. The problem of nonexistent knee and toe clearance under the sink had not been corrected. The Americans with Disabilities Act ("ADA") requires knee and toe clearance under bathroom sinks to accommodate wheelchair users.

Will your restaurant provide knee and toe clearance under the bathroom sinks in the men's room (and in the women's room) in compliance with the ADA? If so, when?

Thank you for your attention to this matter. I look forward to your prompt response by February 15, 2009, and to improved access at your restaurant.

Very truly yours,

John Doe

Sample Letter #2

John Doe
2333 Road Place, N.W.
Washington, D.C. 20006
202-555-1234

February 28, 2009

Betty Smith
B. Smith Enterprises
1120 Avenue of the Americas
New York, N.Y. 10036

Dear Ms. Smith,

This follows up my letter to you on January 30, 2009, concerning the lack of appropriate wheelchair accessibility of the bathroom sink at your restaurant in Washington, D.C. A copy of that letter is attached. Almost four weeks have passed, but I have yet to receive the courtesy of an acknowledgment, much less a substantive reply.

I returned to your restaurant on February 20, 2009. Upon being seated at my table, I was approached by a manager named Edward Howard who said that the problem with the bathroom sink had been fixed. I placed my dinner order and then proceeded to the bathroom to wash my hands. Contrary to what Mr. Howard had told me, however, the problem had not been fixed. There was still cabinetry under both sinks that blocked wheelchair access.

It's obvious by now that whoever in your company has been delegated responsibility for ADA compliance is not doing the job properly. Ultimately, of course, the responsibility is yours.

So I reiterate the questions I posed in my previous letter: Will your restaurant provide access in the bathrooms in compliance with the ADA? If so, when?

Please respond in writing promptly by March 15, 2009. Thank you.

Sincerely,

John Doe

IV. What if they Ignore Me?

If writing letters to the business or organization simply does not work, then it is time for you to pursue legal remedies. You have two initial options. You can either file a private lawsuit directly or you can file a complaint with a governmental agency. Whichever option you choose, you may contact the Equal Rights Center for assistance at:

11 Dupont Circle N.W., Suite 450

Washington, D.C. 20036

(202) 234-3062 (Voice)

(202) 234-7590 (TTY)

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You may also fill out the ERC Complaint Form. The complaint form is located on the back of this toolkit or can be found on the ERC's Web site at www.equalrightscenter.org. If mailing or faxing the complaint form, please allow approximately two weeks for an ERC staff member to contact you after submitting your complaint.

If you wish to file with a government agency directly, then you should contact one of the agencies listed below.

U.S. Department of Justice

Complaints of discrimination at a place of public accommodation may be directed to the Department of Justice ("DOJ"). To initiate a complaint you should send a letter to the Department of Justice including the following information:

- Your full name, address, and telephone number;
- The name of the business, organization, or institution that you believe has discriminated against you;
- A description of the act or acts of discrimination, the date or dates of the discriminatory acts, and the name or names of the individuals who you believe discriminated; and
- Other information that you believe necessary to support your complaint.

Send copies of relevant documents. Do not send original documents. You should keep original documents for your own records. Sign and send the letter to:

U.S. Department of Justice
Civil Rights Division
Disability Rights - NYAVE
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
800-514-0301 (Voice), 800-514-0383 (TTY)

D.C. Office of Human Rights

If the discrimination took place in the District of Columbia, you may file a complaint with the D.C. Office of Human Rights (“DCOHR”). DCOHR requires that an intake questionnaire be completed and submitted to the office to begin the filing process. This questionnaire can be found at: <http://ohr.dc.gov/ohr/cwp/view,a,3,q,638025.asp>. An intake counselor will help you draft the complaint into the proper format.

You may contact DCOHR directly at:

D.C. Office of Human Rights
441 4th Street, N.W., Suite 570 North
Washington, D.C. 20001
202-727-4559 (Voice)
202-724-2050 (TTY)
www.ohr.dc.gov



V. Checklist

- ✓ **Identify the accessibility problem**
- ✓ **Consider the solutions**
- ✓ **Understand your legal rights**
- ✓ **Figure out who should receive your letter**
- ✓ **Be persistent with your letters**
- ✓ **Be polite but firm – stay calm**
- ✓ **Keep all documentation**
- ✓ **Know when it is time to move on to legal remedies**

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FOR OFFICE USE ONLY

Date Received:

Received By:

Program:

Assigned To:

ERC Initial Complaint Form

Name (or Anonymous)

Address

City

State

Zip

Home Phone

Cell

E-mail

Summary of Your Complaint:

(Please describe events and facts in chronological order. Include dates and names of persons. You may add additional pages.)

Please read before signing:

I certify that the above information is true.

I understand that the Equal Rights Center (ERC) is a private, not-for-profit organization that works to reduce discrimination in housing, employment, public accommodations, and government services by providing confidential and free-of-charge counseling, advocacy, and investigative services. The ERC does not provide legal services or legal advice. If the ERC determines that my complaint has merit, it may take independent action against a party, or refer me to counsel.

Name

Date _____