

**NEW RULES FOR LODGING RESERVATIONS UNDER 2010 ADA TITLE III  
REGULATIONS TAKE EFFECT MARCH 15, 2012**

**April 22, 2011**

The new Americans with Disabilities Act (ADA) Title III regulations (the “2010 Regulations”) impose new obligations on owners and operators of hotels, motels, and other places of lodging<sup>1</sup> such as rental units in timeshares, vacation communities, and condo-hotels (hereinafter referred to as “places of lodging”) regarding reservations policies, practices, and procedures. See 28 C.F.R. Section 36.302(e). Effective March 15, 2012, an owner, lessor, lessee, or operator (hereinafter referred to as “owner and operator”) of a place of lodging must, with respect to reservations “made by telephone, in-person, or through a third party”:<sup>2</sup>

- (i) Modify its policies, practices, or procedures to ensure that individuals with disabilities can make reservations for accessible guest rooms during the same hours and in the same manner as individuals who do not need accessible rooms;
- (ii) Identify and describe accessible features of the place of lodging and guest rooms offered through its reservations system in enough detail to reasonably permit individuals with disabilities to assess independently whether a given place of lodging or guest room meets his/her accessibility needs;
- (iii) Ensure that accessible guest rooms are held for use by individuals with disabilities until all other guest rooms of that type have been rented and the accessible room requested is the only remaining room of that type;

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<sup>1</sup> “Place of lodging” is defined as:

- (i) An inn, hotel, or motel; or
- (ii) A facility that –
  - (A) Provides guest rooms for sleeping for stays that primarily are short-term in nature (generally 30 days or less) where the occupant does not have the right to return to a specific room or unit after the conclusion of his or her stay; and
  - (B) Provides guest rooms under conditions and with amenities similar to a hotel, motel, or inn, including the following –
    - (1) On- or off-site management and reservations service;
    - (2) Rooms available on a walk-up or call-in basis;
    - (3) Availability of housekeeping or linen service; and
    - (4) Acceptance of reservations for a guest room type without guaranteeing a particular unit or room until check-in, and without a prior lease or security deposit.

See 28 C.F.R. Section 36.104.

<sup>2</sup> Although reservations made using websites are not specifically mentioned in the new regulations, the DOJ has stated informally that the omission of websites was inadvertent, and that it will issue a corrected regulation that expressly includes reservations made via website.

- (iv) Reserve, upon request, accessible guest rooms or specific types of guest rooms and ensure that the guest rooms requested are blocked and removed from all reservations systems; and
- (v) Guarantee that the specific accessible guest room reserved through its reservations system is held for the reserving guest, regardless of whether a specific room is held in response to reservations made by others.

Requirements (iii) through (v) above do not apply to reservations for individual guest rooms or units not owned or substantially controlled by the owner or operator of the place of lodging.

The foregoing requirements are discussed in more detail below.

**1. ENSURE THAT INDIVIDUALS WITH DISABILITIES CAN RESERVE ACCESSIBLE GUEST ROOMS DURING THE SAME HOURS AND IN THE SAME MANNER AS OTHER INDIVIDUALS WHO DO NOT NEED ACCESSIBLE GUEST ROOMS.**

Under the 2010 Regulations, individuals with disabilities must be able to reserve (via telephone, the web, in-person, or through a third party) accessible guest rooms with the same efficiency, immediacy, and convenience as guests who do not need accessible guest rooms. This means that a place of lodging cannot require a guest with a disability to take more steps to reserve an accessible room than are required to reserve a non-accessible room. For example, a person reserving an accessible room cannot be required, as part of the reservations process, to wait for confirmation that the place of lodging has an accessible room if a person reserving a non-accessible room is not required to do the same. However, if an owner's or operator's current policy is such that no reservation is final until the place of lodging contacts each guest, such a policy is permissible under the new rules as long as it applies equally to reservations for non-accessible rooms.

**2. IDENTIFY AND DESCRIBE THE ACCESSIBLE AND NON-ACCESSIBLE FEATURES OF THE PLACE OF LODGING AND GUEST ROOMS IN ENOUGH DETAIL TO ALLOW AN INDIVIDUAL WITH A DISABILITY TO INDEPENDENTLY ASSESS WHETHER THE PLACE OF LODGING OR GUEST ROOMS OFFERED THROUGH THE RESERVATIONS SYSTEM MEET HIS/HER ACCESSIBILITY NEEDS.**

Because the needs of individuals with disabilities and/or their travel companions are unique and varied, the presence or absence of a particular accessible feature may be the difference between a place of lodging or guest room that is usable by an individual with a disability and a place of lodging or guest room that is not. To that end, the 2010 Regulations require that places of lodging include descriptive information about accessible and non-accessible features of a facility and guest rooms to enable individuals with disabilities to determine whether a given facility meets their needs.

Because levels of accessibility will vary by the facility (depending on when a place of lodging was originally constructed and/or renovated), the 2010 Regulations do not specify a list

of features or information that must be included about each accessible guest room or facility. However, the Guidance to the 2010 Regulations includes a discussion of features and information that, at a minimum, should always be included. They are as follows:

For each accessible room:

- the accessible room type (*e.g.*, deluxe executive suite, deluxe king, etc.);
- the number and size of beds (*e.g.*, two queen beds);
- communications features (*e.g.*, visual alarms and visual notification devices); and
- the type of accessible bathing facility (*e.g.*, bathtub with grab bars, transfer shower, or roll-in shower).

For the place of lodging:

- information about the facility's accessible entrance(s) (*e.g.*, location);
- information about the existence and location of a wheelchair accessible route connecting accessible parking spaces to the facility's front entrance and to key areas of the facility such as the registration desk, the concierge desk, accessible guest rooms, the business center, restaurants, bars, exercise rooms, swimming pool and/or spa, and meeting rooms; and
- other information about "important features" of the facility that do not comply with the current scoping and technical standards for accessible facilities that were adopted in 1991. The examples provided in the Guidance are:
  - doorways to and within accessible guest rooms that are too narrow; and
  - non-accessible check-in counters (if this is the case, the facility should provide information about how or where guests with disabilities can check-in).

Additional "important features" could also include other amenities such as parking facilities, recreational facilities (spa, pool, sports courts, gym), the business center, food and beverage venues, and meeting rooms.

Although not specified in the 2010 Regulations, it is a good practice to inform guests with disabilities of whether any complimentary transportation provided by the facility is accessible, and whether there are any procedures that a guest should follow to request accessible transportation.

Each place of lodging should also ensure that it has employees (both onsite and at a reservations center, if applicable) who are available to provide additional information (such as the specific layout of an accessible room and bathroom, grab bar locations, and other amenities such as a bathtub bench) to individuals with disabilities.

**3. ENSURE THAT ACCESSIBLE GUEST ROOMS ARE HELD FOR USE BY GUESTS WITH DISABILITIES UNTIL ALL OTHER GUEST ROOMS OF THE SAME TYPE HAVE BEEN RENTED.**

The 2010 Regulations require places of lodging to hold accessible rooms for use by individuals with disabilities until all other guest rooms of that type have been rented and the accessible room requested is the only remaining room of that type. For example, if there are 25 deluxe king rooms and two of these rooms are accessible, the reservations system/facility is required to rent all 23 non-accessible deluxe king rooms before it is permitted to rent these two accessible rooms to individuals without disabilities. If a one-of-a-kind room is accessible, that room is available to the first party to request it. Thus, places of lodging are not required to forego renting a room that actually has been requested in favor of the possibility that an individual with a disability may want to reserve it at a later date.

**4. ENSURE THAT REQUESTED ACCESSIBLE GUEST ROOMS OR SPECIFIC TYPES OF ROOMS ARE BLOCKED AND REMOVED FROM ALL RESERVATIONS SYSTEMS.**

The 2010 Regulations require places of lodging to reserve, upon request, accessible guest rooms or specific types of guest rooms and ensure that the guest rooms requested are blocked and removed from all reservations systems (to eliminate double-booking that can arise when rooms are made available to be reserved through more than one reservations service). If a facility typically requires a payment or deposit from its guests in order to reserve a room, it may require the same payment or deposit from an individual with a disability before it reserves an accessible room and removes it from the reservations systems.

**5. GUARANTEE THAT A SPECIFIC ACCESSIBLE GUEST ROOM RESERVED THROUGH THE RESERVATIONS SYSTEM IS HELD FOR THE RESERVING GUEST.**

When a place of lodging guarantees reservations, it must provide the same guarantee for accessible guest rooms as it makes for other rooms, and apply that guarantee to the *specific room* reserved and blocked. This is required even if the facility's standard guarantee policy only guarantees that a room of a specific type will be available at the guaranteed price.

**6. THIRD-PARTY RESERVATIONS SERVICES**

The Guidance to the 2010 Regulations states that third-party reservations services are not liable for non-compliance with these reservations rules, but owners and operators of places of lodging are responsible for ensuring that reservations made through these third-party services comply with the five requirements discussed above. With regard to the first requirement (that the process for booking an accessible room is the same as the process for booking a non-accessible room), the Guidance states:

Hotels and organizations commenting on their behalf also requested that the language be changed to eliminate any liability for reservations made through third parties, arguing that they are unable to control the actions of unrelated parties. The rule, both as proposed and as adopted, *requires*

*covered public accommodations to ensure that reservations made on their behalf by third parties are made in a manner that results in parity between those who need accessible rooms and those who do not.*

Hotels and other places of lodging that use third-party reservations services must make reasonable efforts to make accessible rooms available through at least some of these services and must provide these third-party services with information concerning the accessible features of the hotel and the accessible rooms. To the extent a hotel or other place of lodging makes available such rooms and information to a third-party reservation provider, but the third party fails to provide the information or rooms to people with disabilities in accordance with this section, the hotel or other place of lodging will not be responsible.

(Emphasis added).

What steps are required to “ensure” that reservations made by third-party services are made “in a manner that results in parity between those who need accessible rooms and those who do not” remain to be seen. That said, owners and operators should discuss with their third-party reservations services how they intend to comply with the foregoing requirements. In addition, the Guidance states that “some” accessible rooms must be made available to these services, and accessibility information about these rooms and the facility must be provided to the third-party reservations service. The Guidance also suggests that once an accessible room has been booked through a third-party reservations service, the facility must make sure that the reservation is handled in a manner that complies with the five requirements. Thus, owners, operators, and the companies that handle their reservations should review not only how they handle reservations from third-party services, but also how those third-party services handle reservations for accessible guest rooms.

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Implementation of these new reservations rules will require a thorough review of existing reservations practices, enhancements to reservations systems (in terms of information and software), and training of employees who handle guest room reservations. Owners and operators of places of lodging should carefully review the 2010 Regulations and Guidance which can be found at [http://www.ada.gov/regs2010/titleIII\\_2010/titleIII\\_2010\\_regulations.htm#a302](http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm#a302) and [http://www.ada.gov/regs2010/titleIII\\_2010/titleIII\\_2010\\_regulations.htm#a2010guidance](http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm#a2010guidance), respectively.