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Small Business and ADA Readily Achievable Requirements

All businesses are required to remove architectural barriers even if their building were constructed prior the passage of the Americans with Disabilities Act in 1990. This can be difficult for small businesses with limited budgets. However, existing buildings are not held to the same standard as buildings being constructed or renovated. Business owners in existing facilities that are not being renovated are only required to make changes that are “easily accomplishable without much difficulty or expense,” otherwise known as what is “readily achievable.”

Determining what is “readily achievable” is the responsibility of each business and varies from business to business. Obviously, what would be considered “much expense” is very different for a large chain of retail stores than for a small business. The phrase “without much difficulty or expense” is a broad statement and can be open to a lot of interpretation. How, then, should a business, especially a small business, determine what is considered “readily achievable” based upon their overall resources?

Factors to consider when making decisions about what is readily achievable (and not readily achievable)

Making decisions about barrier removal and whether it is readily achievable is done on a case-by-case basis. Factors to consider include:

1. The nature and cost of the barrier removal



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2. The overall financial resources of the site or sites involved, including:
 - a. The number of persons employed at the site;
 - b. The effect on expenses and resources;
 - c. Legitimate safety requirements necessary for safe operation, including crime prevention measures; and
 - d. Any other impact of the action on the operation of the site.
3. The geographic separateness and the administrative or fiscal relationship of the site or sites to any parent corporation or entity

Based upon these criteria, a business may decide a change would have a negative impact on operations and profits, and therefore, not be “readily achievable.”

Example:

A convenience store determines that it would be inexpensive to remove shelves to provide access to wheelchair users throughout the store. However, this change would result in a significant loss of selling space that would have an adverse effect on its business. In this case, the removal of the shelves is not readily achievable and, thus, is not required by the ADA.

Technical difficulty and readily achievable

Along with cost and business operation, the technical feasibility of barrier removal must be taken into consideration. It may be impossible to alter or expand a bathroom due to load bearing walls. A business with several front entrance steps that is close to a city street may not be able to provide an exterior ramp. When barrier removal is limited due to technical feasibility, the business should still consider if it is possible to make some type of change that will improve access, even if it falls short of meeting the 2010 ADA Standards for Accessible Design.

Example:

The 2010 ADA Standards for Accessible Design require accessible doorways to be at least 32 inches wide. A small business has an exterior door opening



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that is only 26 inches wide. They can widen the doorway to 30 inches, but widening the doorway to 32 inches will require extensive alteration of the building. In this case, widening the doorway to at least 30 inches will be viewed as working to meet their readily achievable obligations.

ADA Checklist for Existing Facilities: Identify barriers and develop a plan

Common sense dictates that before a business can determine its barrier removal responsibilities, it has to identify what is out of compliance. A good resource for this task is the **ADA Checklist for Existing Facilities** produced by the New England ADA Center (<http://www.adachecklist.org>). This document provides background information and several checklists that address different priorities, possible barriers, technical specifications, and possible solutions.

Once barriers have been identified using these checklists, a business should develop a plan to remove readily achievable barriers. Reaching full compliance for many businesses is ongoing and takes several years. The ADA recognizes that a number of small businesses will never have the resources to bring their building(s) into full compliance. However, these businesses should continue to do as much as they can to become more accessible, based upon changes in resources over time.

Developing a plan based on priorities

ADA guidance recommends businesses develop a long-term plan for bringing their facilities into compliance. Where should a business start when there are numerous changes that need to be made? Should the most expensive changes they can afford be made first? The easiest? The cheapest?

To help businesses develop a long-range plan maximizing the access they can provide for the amount they can pay, the ADA regulations list four priority areas for readily achievable barrier removal.

Priority 1: Getting through the Door

The first priority is to make sure individuals with disabilities can physically enter the facility as independently as possible. “Getting through the door” also means providing physical access to a facility from public sidewalks and/



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or public transportation. If the business offers parking to its customers, providing accessible parking is also part of “getting through the door.”

Note: Portable ramps are permitted when the installation of a permanent ramp is not readily achievable. In order to promote safety, a portable ramp should be properly secured; have railings; and a firm, stable, nonslip surface.

Priority 2: Access to the Goods and Services

Once inside, people with disabilities need access to the business’s services including access to the front desk or checkout, access through the aisles, and any retail displays.

Priority 3: Restrooms

The third priority is to provide accessible restrooms, if restrooms are provided to other customers and clients.

Priority 4: Remaining Barriers

Features such as drinking fountains and telephones available to the public should be made accessible.

Customizing the readily achievable plan

ADA regulations do not mandate following these priorities. In fact, the regulations acknowledge that business may “mix and match” to best meet their customers’ needs. For example, Business A may have very limited resources and can only create an accessible route inside the store and lower a counter that contains product samples. Although these changes fall into priority two and four, they are what is currently readily achievable and so should be the first actions taken. Businesses should not avoid putting off making **any** accessibility changes because they are unable to meet all of priority one, etc.

Common sense goes a long way in developing a business compliance plan. It does not make sense to spend all of your available barrier removal dollars on creating an accessible bathroom, when there is no accessible parking and customers cannot enter through the front door.

Examples of meeting your “access to goods and services” obligation when physical barrier removal is not readily achievable

A restaurant has several steps at the entrance and no accessible entry is possible. Providing home delivery or some alternative service may be required. In other cases, it may be possible to place an order by telephone or online and have a clerk bring the order to the customer outside the restaurant. If an alternative service is provided, it is important to publicize this so that customers know how goods and services are offered.

In a different restaurant, it is not readily achievable to make counters accessible by lowering heights or providing an accessible counter or bar area. If possible, the restaurant should provide service in another way. This may include assisting customers by moving items to an accessible counter or to their table in another area.

A local grocery store is unable to make a sales/service counter accessible by lowering it. An alternative is installing a folding shelf or serving customers at a nearby accessible counter or table. If these steps are not readily achievable, the store should provide a clipboard or lap desk for customers as an alternative.

In a different grocery store, moving merchandise to create accessible aisles and lowered shelves would result in significant loss of selling space. In this case, staff should be available for customers who need help reaching merchandise. For example, staff can bring merchandise to a wheelchair user.



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