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## Religious Entities Under the Americans with Disabilities Act

The purpose of this document is to explain when and how the Americans with Disabilities Act (ADA) applies to religious entities.

### Religious Entities

Religious entities include places of worship, such as mosques, synagogues, and churches. Additionally, other places or programs controlled by religious entities (such as schools, hospitals, day care centers, adoption agencies, thrift shops, shelters, and food banks), are also considered religious entities.

### Title III of the ADA: Public Accommodations

#### What does Title III of the ADA cover?

Title III covers private businesses that own, lease, lease to, or operate any of twelve types of “places of public accommodation.” Examples include hotels, restaurants, theaters, shopping centers, banks, museums, zoos, day care centers, private schools, and health spas. Title III also covers private businesses that offer classes or tests related to applications, licensing, certification, or credentialing for secondary or post-secondary education, professional, or trade purposes. Examples include the GED, SAT, GRE, LSAT, and MCAT tests, as well as classes designed to prepare students to take these examinations.

Title III addresses disability-based discrimination, including ensuring access to goods and services, making reasonable policy modifications, and communicating effectively with individuals who have vision, hearing, or speech disabilities.



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### **Are religious entities covered by Title III of the ADA?**

No, religious entities are completely exempt from Title III of the ADA. All of their facilities, programs, and activities, whether they are religious or secular in nature, are exempt.

### **Are religious entities' programs covered by Title III if they are open to the general public?**

No. For example, if a religious entity controls a school that is open to both members and non-members of the religious entity, the school is still considered a religious entity and is exempt from Title III. Likewise, if a religious entity holds an event, such as a festival or performance, which is open to the general public, it is exempt.

### **What if a non-religious agency or business operates in space rented from a religious entity?**

The religious entity's exemption does not extend to a non-religious tenant. For example, if a private business rents space in a religious entity's building and operates a day care center that is open to the general public, the day care center will be covered by Title III and subject to all its requirements. The religious entity, however, remains exempt even though it "leases to" a covered business.

Similarly, if a state or local government offers a program or activity at a religious entity's facility, like a polling place located at a church, the religious entity is exempt. The state or local government, under Title II, is responsible for compliance with the ADA in relation to that program or activity.

### **What's in a name?**

It's important to note that the names of organizations or facilities do not necessarily mean they are religious entities.

- There are many businesses with religious-sounding names that are not controlled by, or associated with, religious entities. Some of these places were founded by religious entities, but are no longer controlled or operated



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by them; private businesses have taken over and simply kept the traditional names.

- Some businesses, like an independent book store that specializes in religious literature, choose religious-sounding names to indicate the nature of the business.
- Still other religious-sounding business names are simply based on geographic locations with names based on biblical or other religious references, from St. Augustine to Zion National Park.

Whether the ADA applies to an organization does not depend on its name, but rather on how it operates and by whom it is controlled.

### **Title I of the ADA: Employment**

If a religious entity has at least 15 employees, it is covered as an employer by Title I of the ADA and may not discriminate against qualified applicants and employees with disabilities.

However, a religious entity may give preference to individuals of its own religion and may require that all applicants and employees follow the entity's religious rules.

Additionally, members of the clergy and other employees who perform essentially religious duties, such as conducting religious ritual, worship, or instruction, are generally excluded from the protections of the ADA and other employment discrimination laws. This “ministerial exception” is based on the First Amendment to the Constitution, which limits government interference with the free exercise of religion, and is well established by the courts. The exception only applies to employees who perform ministerial functions, however. Employees such as custodians, accountants, or food service workers, who have no ministerial role or duties, would generally be protected under the ADA.

### **Other Laws**

#### **Federal funding and the Rehabilitation Act**

Section 504 of the Rehabilitation Act applies to any agency, organization, or business that receives federal funding. The provisions of Section 504 are



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essentially the same as those of the ADA, so federal funding recipients, even if they are exempt from the ADA, are subject to the full range of requirements that address disability-based discrimination. Such organizations must ensure access to goods and services, make reasonable policy modifications, and communicate effectively with individuals who have vision, hearing, or speech disabilities.

### **Facility access and building codes**

State and local building codes usually apply to all types of buildings, including many types not covered by the ADA. Building codes typically include accessibility requirements, which are often similar to those found in the ADA Standards for Accessible Design, but are not necessarily exactly the same. Some state or local building codes have accessibility requirements that are greater or more specific than those found in the ADA.

The application of building codes is commonly triggered by new construction and certain types of alterations. Some code requirements may be triggered by other activities, such as changing the use of a building from one type to another (for example, converting an old factory into a place of religious worship).

It is important for those undertaking construction, alterations, or facility management to check into all requirements that may apply to their activities, including state and local codes, licensing requirements, or other federal laws. Where laws or codes overlap, the most stringent provisions – those that are the strictest or require the greatest level of access – must be applied.

Content was developed by the ADA National Network and is based on professional consensus of ADA experts.



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