

that this approach will provide more flexibility in determining the appropriate agency for investigation of complaints involving those components of State and local governments not specifically addressed by the listings in paragraph (b). As provided in §§ 35.170 and 35.171, complaints filed with the Department of Justice will be referred to the appropriate agency.

Several commenters proposed a stronger role for the Department of Justice, especially with respect to the receipt and assignment of complaints, and the overall monitoring of the effectiveness of the enforcement activities of Federal agencies. As discussed above, §§ 35.170 and 35.171 have been revised to provide for referral of complaints by the Department of Justice to appropriate enforcement agencies. Also, language has been added to § 35.190(a) of the final regulation stating that the Assistant Attorney General shall provide policy guidance and interpretations to designated agencies to ensure the consistent and effective implementation of this part.

PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN COMMERCIAL FACILITIES

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APPENDIX A TO PART 36—STANDARDS FOR ACCESSIBLE DESIGN

APPENDIX B TO PART 36—PREAMBLE TO REGULATION ON NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN COMMERCIAL FACILITIES (PUBLISHED JULY 26, 1991)

AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510; 42 U.S.C. 12188(b); Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321.

SOURCE: Order No. 1513-91, 56 FR 35592, July 26, 1991, unless otherwise noted.

Subpart A—General

§ 36.101 Purpose.

The purpose of this part is to implement title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181), which prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with the accessibility standards established by this part.

§ 36.102 Application.

- (a) *General.* This part applies to any—
- (1) Public accommodation;
 - (2) Commercial facility; or
 - (3) Private entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes.
- (b) *Public accommodations.* (1) The requirements of this part applicable to public accommodations are set forth in subparts B, C, and D of this part.
- (2) The requirements of subparts B and C of this part obligate a public accommodation only with respect to the operations of a place of public accommodation.
- (3) The requirements of subpart D of this part obligate a public accommodation only with respect to—
- (i) A facility used as, or designed or constructed for use as, a place of public accommodation; or
 - (ii) A facility used as, or designed and constructed for use as, a commercial facility.
- (c) *Commercial facilities.* The requirements of this part applicable to commercial facilities are set forth in subpart D of this part.
- (d) *Examinations and courses.* The requirements of this part applicable to private entities that offer examinations or courses as specified in paragraph (a) of this section are set forth in § 36.309.
- (e) *Exemptions and exclusions.* This part does not apply to any private club (except to the extent that the facilities of the private club are made available to customers or patrons of a place of

public accommodation), or to any religious entity or public entity.

§ 36.103 Relationship to other laws.

(a) *Rule of interpretation.* Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 791) or the regulations issued by Federal agencies pursuant to that title.

(b) *Section 504.* This part does not affect the obligations of a recipient of Federal financial assistance to comply with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations issued by Federal agencies implementing section 504.

(c) *Other laws.* This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws, or State or local laws (including State common law) that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

§ 36.104 Definitions.

For purposes of this part, the term—

Act means the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611).

Commerce means travel, trade, traffic, commerce, transportation, or communication—

- (1) Among the several States;
- (2) Between any foreign country or any territory or possession and any State; or
- (3) Between points in the same State but through another State or foreign country.

Commercial facilities means facilities—

- (1) Whose operations will affect commerce;
- (2) That are intended for nonresidential use by a private entity; and
- (3) That are not—

- (i) Facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968, as amended (42 U.S.C. 3601-3631);

- (ii) Aircraft; or

- (iii) Railroad locomotives, railroad freight cars, railroad cabooses, commuter or intercity passenger rail cars