

# Club Director

WINTER 2023

PERSPECTIVES FOR LEADING PRIVATE CLUBS

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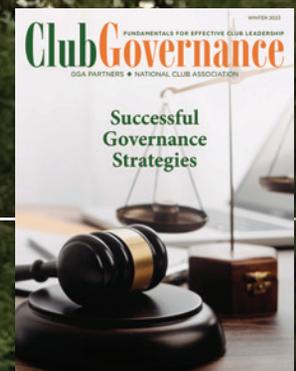


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A full-page photograph of a golfer in mid-swing on a golf course. The golfer is wearing a grey polo shirt, khaki pants, a black cap, and white gloves. The background shows a green field, trees, and a blue sky with light clouds. The title text is overlaid on the image.

# What is ACCESSIBLE GOLF?

A Private Club Primer on  
Access and Inclusion

By Dave Barton, PGA and Jan Bel Jan, ASGCA

Imagine Cheryl's surprise when she invited her best friend Emily from college to visit and play golf at a prestigious private club she joined. Upon arrival at the course, the friends realized some unanticipated challenges while trying to access areas of the golf club and the golf course.

Emily entered the Army after college and while bravely serving in the Middle East, was paralyzed from the waist down due to an improvised explosive device. She uses a wheelchair to get around. Emily was a standout athlete in a range of sports growing up, through high school and into college. She had never played golf until years after her military career ended, when fellow veterans steered her toward a program designed to help veterans learn the game.

Depression and a feeling of isolation set in soon after her injury. Even though she was surrounded by family and friends, Emily became more and more withdrawn from society. This is not uncommon under these circumstances. Fortunately, Emily's friends introduced her to the veteran's golf program and convinced her to try it. This program was designed to teach golf, but as importantly, provide physical and emotional therapeutic value proven to ward off and manage depression, post-traumatic stress disorder (PTSD) and suicidal thoughts experienced by wounded veterans.

Emily has been playing golf for eight years now, is happy at home and at work, has a great family, and oh by the way, carries a USGA Handicap of 7.6 while using a single rider golf cart. The time on the golf course with her husband and children goes way beyond quality time. Single rider golf carts, such as the SoloRider and the ParaGolfer, are adaptive golf vehicles specifically designed to maneuver around the golf course, into and out of most hazards, with wheel bases and size that, despite what many believe, do not damage the greens or the course when used properly. Emily's single rider cart not only carries her golf bag, but also lifts her from a seated position, supports her in a standing position, and allows her to have a free swing at the golf ball.

Emily is included in regular golf games at a local publicly available golf course in her hometown and she enjoys a brief stop at the 19th hole after the round. If you ask her what she thinks about her time on the course and her inclusion into the social fabric of the game, she will tell you, "Golf saved my life."

She can now go almost everywhere on the golf course a walking golfer can go. Almost.

It's easy for Emily to get around on the course she plays because it is a public golf course, so it falls under the statutory requirements to provide "access" to the facility and the golf course under the Americans with Disabilities Act (ADA), now in its 33rd year. In this example, the golf course Emily normally plays is in compliance with the ADA. However, many public golf courses are still working toward ADA compliance; the laws are clear as to how public courses must comply. The application of the ADA may be different on the private side.

Indeed, when it comes to the ADA and accessibility, not all private clubs are alike: Many will fall under the requirements of the ADA based on where and how often non-members are permitted to use the club for reasons that would be considered public access to the facility or a specific part of the facility.

Where does a golf club find the answers for what they may or may not have to do regarding "access" and the ADA? Where can they start if they just want to be more accessible for players? It is best to start with a clear understanding of the requirements relative to the type of golf facility we are talking about: private or public.

### Access and Inclusion

Before we go into laws, let's clarify what "access" and "inclusion" mean.

*Access/accessibility*, from a golf club perspective, relates to the architectural design and physical layout of a golf facility's building structures (clubhouse, on-course facilities, etc.) along with the golf course itself and the potential of people with disabilities to freely, and without restrictions

or impediments (barriers), navigate and use the facilities. The better the access, the more welcoming the environment.

*Inclusion* is a byproduct of access and a welcoming environment. It occurs when golfers with disabilities not only have access to activities in which non-disabled individuals may easily participate and are invited to do so. They are welcomed as any other individual would be to the positive social experiences with friends and family that the game of golf so beneficially provides.

It is illegal to discriminate against a person with a disability. Beyond that, many golf course owners and operators have recognized that golfers with disabilities represent a growing market. Additionally, as the population continues to age, today's avid golfers and private club members may become golfers with disabilities who desire to keep playing the game they love.

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## A club may lose its exemption on a temporary basis; for example, if an organization holds a charitable fundraiser that opens its facility and sells foods and beverages to the general public for one evening every five years, it may only be subject to Title III for the purposes of that specific event.

### Now, the Law: The Americans with Disabilities Act (ADA)

*The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990, by President George H.W. Bush. The ADA is one of America's most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life—to enjoy employment opportunities, to purchase goods and services, and to participate in State and local government programs and services. Modeled after the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, or national origin—and Section 504 of the Rehabilitation Act of 1973—the ADA is an 'equal opportunity' law for people with disabilities.<sup>1</sup>*

Outlined within the ADA are specific compliance differences between private and public properties. Title III of the ADA requires public accommodations, including golf courses, to provide goods and services to people with disabilities on an equal basis with the general public. In addition, Title II of the ADA requires public entities, such as states and local governments, to make golf courses and other facilities accessible to, and usable by people with disabilities.<sup>2</sup>

Sounds like an issue for public golf courses, right? Not necessarily if a private club meets the standard of a “public accommodation” through usage patterns and practices that seem to exceed or deviate from the member-only standard.

Per the ADA,<sup>3</sup> “The broad range of Title III obligations relating to ‘places of public accommodation’ must be met by entities that the Department of Justice regulation labels as ‘public accommodations.’

In order to be considered a public accommodation with Title III obligations, an entity must be private and it must own, lease, lease to, or operate a place of public accommodation defined as a facility whose operations, affect commerce and fall within at least one of the following 12 categories:

1. Places of lodging (e.g., inns, hotels, motels) (except for owner-occupied establishments renting fewer than six rooms).
2. Establishments serving food or drink (e.g., restaurants and bars).
3. Places of exhibition or entertainment (e.g., motion picture houses, theaters, concert halls, stadiums).
4. Places of public gathering (e.g., auditoriums, convention centers, lecture halls).
5. Sales or rental establishments (e.g., bakeries, grocery stores, hardware stores, shopping centers).
6. Service establishments (e.g., laundromats, dry cleaners, banks, barber shops, beauty shops, travel services, shoe repair services, funeral parlors, gas stations, offices of accountants or lawyers, pharmacies, insurance offices, professional offices of health care providers, hospitals).
7. Public transportation terminals, depots, or stations (not including facilities relating to air transportation).
8. Places of public display or collection (e.g., museums, libraries, galleries).
9. Places of recreation (e.g., parks, zoos, amusement parks).
10. Places of education (e.g., nursery schools, elementary, secondary, undergraduate, or postgraduate private schools).
11. Social service center establishments (e.g., day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies).
12. Places of exercise or recreation (e.g., gymnasiums, health spas, bowling alleys, golf courses).”

Items 1, 2 and 12 above are brought to your attention as the above criteria simply tells us a private golf club (the buildings and the golf course) could be labeled as a public accommodation. When does that occur? Per ADA Great Lakes,<sup>4</sup> “. . . one of 10 regional centers within the ADA National Network<sup>5</sup> funded by the National Institute on Disability, Independent Living, Rehabilitation and Research (NIDILRR), a division of the Administration for the Community Living (ACL), and the Department of Health and Human Services (HHS):

### When is a Private Club Covered under Title III?

Many organizations that meet the criteria of a private membership club may hold events that are open to the general public. Clubs may hold such events to promote their views, raise funds for a charitable cause or recruit potential members.

A club may lose its exemption on a temporary basis; for example, if an organization holds a charitable fundraiser that opens its facility and sells foods and beverages to the general public for one evening every five years, it may only be subject

to Title III for the purposes of that specific event. The nature and frequency of such activities, however, may affect the organization's status as a private club. The Department of Justice provides this example: If a fraternity hosts one event a year that is open to the public, a temporary ramp may be sufficient to make the area accessible. But if the fraternity hosts several such events during a year, it may be obligated to construct a permanent ramp.

### What if a Private Club Rents Space to a Public Accommodation?

The private club would lose its exemption but only in relation to the place of public accommodation. For example, if the club rents space to a private day care center that is open to the general public, the club would be covered by Title III as the daycare center's landlord. The club's obligations might include things like improving structural access in existing spaces used by the day care center.

Additional laws and governance that could apply to private clubs include (quoted from the ADA National Network):<sup>6</sup>

- **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 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 private membership club's meeting space). It is important for those undertaking construction, alterations, or facility management to check into all requirements that may apply to their



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The National Alliance for Accessible Golf encourages all golf establishments to review operations and, regardless of potential ADA exemption status, consider some small steps to facilitate access for those who may show up at your club one day. The National Club Association's "Truly Private Club Status & Tax-Exempt Status" is a valuable tool to learn the do's and don'ts of private status and how to ensure your club has ADA compliance.

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.”

As a private club, understanding if you do or do not meet the standard as a “public accommodation” would establish, what, when and if any actions would need to be taken related to the buildings and golf course, or courses, that are part of the private club. Those requirements are:<sup>7</sup>

- “New golf course facilities must be accessible in accordance with the ADA. The ADA also requires removal of architectural barriers in existing facilities when ‘readily achievable’ which will be explained below. For courses owned or operated by a state or local government, access must be provided when doing so is necessary to make the ‘program’ of golf accessible.
- A privately owned golf course, whether for profit or nonprofit, that is open to the public, is subject to Title III of the Americans with Disabilities Act. The Title III requirements for existing courses are that courses shall make changes to the course or a facility when to do so is ‘readily achievable.’”
- Readily achievable applies to the removal of barriers<sup>8</sup> that would prevent public access by individuals with disabilities.

Additionally, per the ADA,<sup>9</sup> “Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable factors to be considered include:

1. The nature and cost of the action needed under this part.
2. The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety

requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site.

3. The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity.
4. If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities.
5. If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.”

## Requirements or Recommendations?

Where does a private club start? How do you budget for this? It first comes down to one question: Is the club exempt or not?

To answer this, a club should evaluate the extent and manner to which it functions as a public-serving entity. Does it cross a line—bright or not-so-bright—that leaves it potentially non-exempt from ADA compliance? Are events rare, isolated instances, or do they occur with regularity, year-round, such as hosting a lot of golf tournaments/fundraisers where the public may play, or renting space on a regular basis for banquets, weddings or events? A member of a private club bringing a guest to play golf is not an action that qualifies a course as a public accommodation. A better question to ask may be, if the guest is disabled, will access to the club facilities and golf course ensure the member and the guest have a mutually beneficial and positive experience?

The outcome of the above analysis will drive requirements versus recommendations along with associated costs and timelines related to efforts by the club to move toward a more accessible and inclusive environment.

The benefits of accessibility and inclusion are well known:

- Members age and require accommodations to continue to play the game they have loved for so many years.
- Accidents unfortunately happen, whether those involved are young or old.
- The membership quite possibly has friends or associates who require accommodations due to a disability.
- The club may want to seek a new revenue line via public rental of space or the golf course for events, fundraisers, etc.
- The public relations benefits of being accessible and inclusive are a given, even if that’s a simple matter of supporting a public organization’s efforts on a small scale.

Private clubs and memberships vary demographically and financially, but disabilities have no prejudices regarding whom they choose. All demographics qualify and no person can avoid what a disability may mean for how they live their life.

## Taking First Steps

A great place to start is with the following two resources. Both documents have distilled the ADA into easily interpretable points further elucidated by illustrations and explanations:

- “ADA Checklist for Existing Facilities—Golf Courses”<sup>10</sup> developed by the Institute for Human Centered Design and the ADA National Network.
- “Accessible Golf Courses—A Summary of Accessible Guidelines.”<sup>11</sup>

Here are a few ADA compliance points provided from the checklist mentioned above:

- Is there an accessible route to the entrance of the golf facility?
- If there are two teeing grounds for a hole:
  - Can a golf cart enter and exit the forward teeing ground, unless it is not possible due to terrain?
  - If a golf car cannot enter and exit the forward teeing ground, can it enter and exit the other teeing ground?
- If a curb or other barrier on the golf cart passage prevents golf cars from entering a fairway, is there an opening at least 60 inches wide at intervals no more than 75 yards apart for golf cart passages?
- If a golf cart passage is provided instead of an accessible route, is the clear width of the passage at least 48 inches?

## Private clubs and memberships vary demographically and financially, but disabilities have no prejudices regarding whom they choose.

Golf has proven therapeutic benefits to individuals with a range of disabilities, notwithstanding the potential economic benefits of encouraging and welcoming a large population to the sport. Per a 2018 NGF study:

- Approximately 14 million individuals with disabilities are interested in golf.
- 6 million report they had played in the past but no longer do.

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- More than 600,000 golfers with disabilities are currently engaged in golf.

As a closing question, if an individual who is interested in membership at your golf club requires a wheelchair and plays golf with a single rider golf cart are you able to invite this individual to join the club and enjoy all the club has to offer? [CD](#)

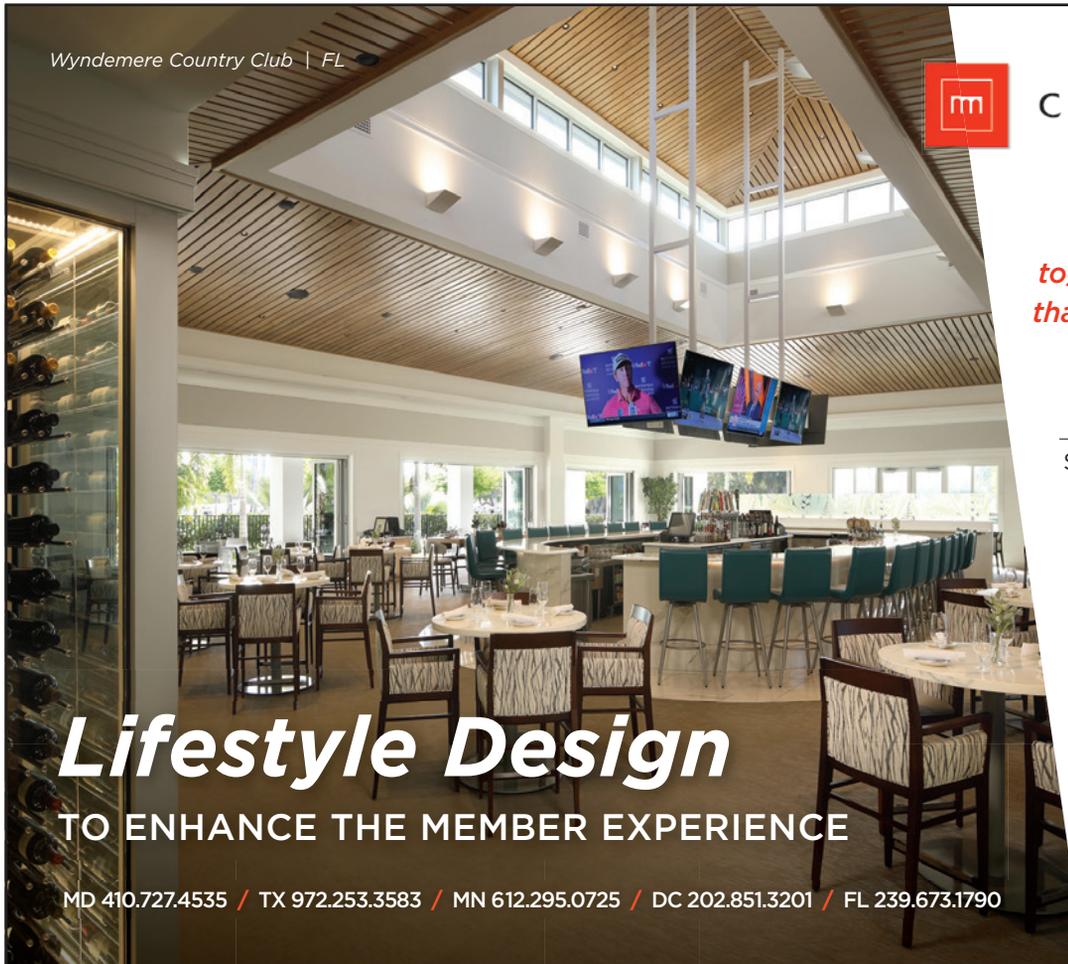
**Dave Barton**, PGA is the Executive Director of the National Alliance for Accessible Golf. Prior to, he was Editor, Golf Business Magazine and Sr. Director of Membership and Education for the National Golf Course Owners Association after operating and managing golf clubs in Northern Virginia and Pennsylvania with Raspberry Golf Management following his 22-year Navy career. He can be reached at [davebarton@accessgolf.org](mailto:davebarton@accessgolf.org).

**Jan Bel** served as president (2019–2020) of the American Society of Golf Course Architects (ASGCA); she was elected to the Society in 1990. She represents the ASGCA as a board member of the National Alliance for Accessible Golf and Women in the Golf Industry.

## Endnotes

- [https://www.ada.gov/ada\\_intro.htm](https://www.ada.gov/ada_intro.htm)
- <https://www.accessgolf.org/naag/assets/File/public/resources/2014allianceowneroperatortoolkit.pdf>
- <https://www.ada.gov/taman3.html>
- <https://adagreatlakes.org/businessToolkit/?section=2&id=1>
- <https://adata.org/>
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- <https://www.accessgolf.org/naag/assets/File/public/resources/2014allianceowneroperatortoolkit.pdf>
- <https://www.ada.gov/reachingout/t3regl4.html>
- <https://www.ada.gov/reachingout/factors.html>
- <https://www.adachecklist.org/doc/rec/golf/golf.pdf>
- <https://www.access-board.gov/ada/#ada-1006>

**DISCLAIMER:** This article is in no way intended, nor does it qualify as legal advice from the National Alliance for Accessible Golf. The material provided within related to the ADA was sourced from numerous ADA government sources and supporting agencies as referenced.



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