

**From:** [Janis Kent](#)  
**To:** [Day, Kevin@DGS](#); [Driever, Eric@DGS](#); [Davis, Michelle@DGS](#)  
**Cc:** [Clair, Ida@DGS](#)  
**Subject:** CAC Committee - proposed changes  
**Date:** Monday, May 25, 2026 4:42:57 PM

---

**CAUTION:** This email originated from a NON-State email address. Do not click links or open attachments unless you are certain of the sender's authenticity.

Kevin-

I have a concern/question based on our last CAC meeting which I have put some thought into and would like to share for your consideration.

A number of items were proposed to be changed in 11B for 'public housing' to align with the federal Civil Restoration Act of 1987. We are modifying a large part of 11B-233 (as well as portions of 11B-809?) to follow suit with that.

My concern is that there are portions of the ADA that reference residential dwelling units that need to comply with ADA but that do not necessarily have any public funds nor public programs which would then necessitate complying with Section 504 and HUD's Deeming Notice. For instance;

**233.2 Residential Dwelling Units Provided by Entities Subject to HUD Section 504**  
**233.3 Residential Dwelling Units Provided by Entities Not Subject to HUD Section 504**

ADA 233.3 Has scoping for dwelling units provided by entities not Subject to HUD Section 504. This would mean projects that do not receive any public funds nor have any public programs, and therefor would not trigger HUD's Section 504 Deeming Notice per the Restoration Act. They would need to just comply with section 233.3. This would be under **§ 36.406 Standards for new construction and alterations**. In other words, places of public accommodation. I do not recall during our last meeting if there were any exceptions for the proposed changes made to 11B-233 similarly to maintain what ADA has between 233.2 and 233.3 and I think this errs on the side of being too arduous for non-public types of residential that still need to comply with ADA. For example.

1. Social Service Center Establishments with residential facilities

**(d) Social service center establishments.** *Group homes, halfway houses, shelters, or similar social service center establishments that provide either temporary sleeping accommodations or residential dwelling units that are subject to this part shall comply with the provisions of the 2010 Standards applicable to residential facilities, including, but not limited to, the provisions in sections 233 and 809 (pp. 91 and 212)...*

There are a number of privately owned group homes, halfway houses, shelters, and even senior citizen housing with services that all have living quarters. All of these would need to comply with ADA 233.3 which means that they need to be accessible with mobility and communication feature units, etc, but are not required to go to the extreme of HUD 504 requirements. Many not-for-profits and religious institutions provide these types of facilities. While religious facilities are exempt under the ADA, the exemption is for places of worship, not homes/shelters/etc that anyone can use. They should be accessible under the ADA but

there is no requirement to be accessible under Section 504 if it is privately funded.

## 2. Places of Lodging

*(c) **Places of lodging.** Places of lodging subject to this part shall comply with the provisions of the 2010 Standards applicable to transient lodging, including, but not limited to, the requirements for transient lodging guest rooms in sections 224 and 806 of the 2010 Standards (pp. 82 and 210).*

*(3) **Facilities with residential units and transient lodging units.** Residential dwelling units that are designed and constructed for residential use exclusively are not subject to the transient lodging standards.*

This portion of the ADA is interesting in that they are not pointing to what the residential units in transient lodging need to comply with - is it 233 or is it just FHA. Perhaps we should provide some clarification on this. And if it is to comply with 233, I would say it is 233.3 - because there typically are no public funds/programs in places of lodging (hotels/motels/inns) with the exception of student housing.

## 3. Housing at a Place of Education

*(e) **Housing at a place of education.** Housing at a place of education that is subject to this part shall comply with the provisions of the 2010 Standards applicable to transient lodging, including, but not limited to, the requirements for transient lodging guest rooms in sections 224 and 806 (pp. 82 and 210), subject to the following exceptions. For the purposes of the application of this section, the term "sleeping room" is intended to be used interchangeably with the term "guest room" as it is used in the transient lodging standards...*

*(3) **Apartments or townhouse facilities that are provided by or on behalf of a place of education, which are leased on a year-round basis exclusively to graduate students or faculty and do not contain any public use or common use areas available for educational programming, are not subject to the transient lodging standards and shall comply with the requirements for residential facilities in sections 233 and 809 of the 2010 Standards (pp. 91 and 212)...***

I know we had discussed some of this before. But I have come across this here in the LA area where there are private apartment buildings near a school but not-a-part of the educational system - ie no funds, no programs, no land use from the schools - they are totally private, with their market geared towards students. We could build these under 11A but since they are advertising and have amenities specifically for students, I have interpreted this as being housing at a place of education. Notice this is under CFR Part 36, TIII, which is a *place of public accommodation*, as well as having this listed under CFR Part 35, TII. You may have a privately funded school with no public funds as well, but has dormitories (ie expensive private boarding schools).

Also the housing that is leased on a year-round basis to graduate students and faculty, etc, also has to comply with residential. So with this, the question becomes is this privately funded (233.3) or is it part of the place of education which may very well have public funds/programs, hence 233.2.

## 4. Small towns with no federal or state programs

And one last thing, while many small towns may indeed not get public or federal

funds, they may have some city housing programs which would be under 233.3 which would not trigger HUD's Deeming or Section 504

This, in my and other expert's opinions, is why DOJ had divided up section 233 into 2 portions - 233.2 and 233.3. Section 233.2 is where there is any public programs where the city/county/state received federal funds (which triggers Section 504 under the Civil Restoration Act). The other building types that do not receive public funds/programs would be under 233.3 where DOJ still wants the higher standard of access that ADA affords over and above FHA, but not to the complexity and arduous requirements of Section 504 which are not even a part of these building types/uses.

I know I am asking the state authority to do more work, but I think this is very important. I do not think we want to rewrite the intent that DOJ has in the ADA, so either we need to make exceptions OR we may need to have 11B-233 in two parts like the ADA has and perhaps with clarifications of when to use what.

Please feel free to reach out to me if you have any questions. BUT, I have taken a couple hours out of my holiday to write this up for consideration because I do think it is important.

**Janis Kent** FAIA, CASp, Architect

Certified Access Specialist

**Stepping Thru Accessibility**

phone — 562-426-9363

web site — [www.SteppingThruAccessibility.com](http://www.SteppingThruAccessibility.com)

email — [janisk@SteppingThruAccessibility.com](mailto:janisk@SteppingThruAccessibility.com)

*The new expanded edition of ADA in Details is now out in both print & ebook!*