



Enforcing the ADA

A Status Report from the Department of Justice

(July-September 1999)

*This Status Report covers the ADA activities of the Department of Justice during the third quarter (July - September) of 1999. This report, previous status reports, and a wide range of other ADA information are available through the Department's ADA Home Page on the World Wide Web (see page 15). The symbol (**) indicates that the document is available on the ADA Home Page.*

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The Americans with Disabilities Act (ADA) is a comprehensive civil rights law for people with disabilities. The Department of Justice enforces the ADA's requirements in three areas -

Title I: Employment practices by units of State and local government

Title II: Programs, services, and activities of State and local government

Title III: Public accommodations and commercial facilities

I. Enforcement

Through lawsuits and both formal and informal settlement agreements, the Department has achieved greater access for individuals with disabilities in hundreds of cases. Under general rules governing lawsuits brought by the Federal Government, the Department of Justice may not file a lawsuit unless it has first unsuccessfully attempted to settle the dispute through negotiations.

A. Litigation

The Department may file lawsuits in Federal court to enforce the ADA and may obtain court orders including compensatory damages and back pay to remedy discrimination. Under title III the Department may also obtain civil penalties. As of September 29, 1999, the limit on possible penalties has been adjusted upward for inflation to \$55,000 for the first violation and \$110,000 for any subsequent violation.

1. Decisions

Circuits Split on Constitutionality of ADA Suits Against States -- Two more U.S. Courts of Appeals have upheld the ADA as appropriate legislation to enforce the equal protection

guarantees of the U.S. Constitution. The Second Circuit in Muller v. Costello, an employment suit alleging discrimination against a New York State prison, and the Tenth Circuit in Martin v. Kansas, an employment claim against a Kansas prison, ruled that it is constitutional for Congress to permit individuals to directly sue States for ADA violations under title I because the ADA is appropriately tailored to remedy and prevent discrimination against people with disabilities. On the other hand, the Eighth Circuit in Alsbrook v. City of Maumelle ruled that a title II suit against the Arkansas Commission on Law Enforcement Standards and Training was unconstitutional, because the ADA's protections go beyond the equal protection rights guaranteed by the U.S. Constitution. It also ruled for the same reason in DeBose v. Nebraska that a title I employment suit against Nebraska was unconstitutional. In all four of these cases the Department of Justice intervened to defend the constitutionality of the ADA. Seven of the eight circuits ruling on this issue so far have upheld the constitutionality of ADA suits against States. As urged by the Department, the U.S. District Court for the District of Connecticut also upheld the constitutionality of a title II suit against the Connecticut Department of Corrections in Hicks v. Armstrong.

Rehabilitation Center for Persons with Mental Disabilities May Challenge Town's Refusal to Let it Operate -- The U.S. District Court for the District of Maryland ruled in Pathways Psychosocial Support Center, Inc. v. Town of Leonardtown that an organization intending to operate a rehabilitation center for people with mental disabilities in downtown Leonardtown, Maryland, could challenge the town's opposition to its plans under the ADA. The Department of Justice filed an amicus brief in support of the Pathways Psychosocial Support Center, which was refused permission by the town to purchase a building and was later denied an occupancy permit by the town. The town asserted that the organization could not bring a lawsuit because it was not an individual with a disability. The district court, agreeing with the Department's brief, ruled that the organization was entitled to sue because it was allegedly injured as a result of its association with people with mental disabilities.

Litigation

Federal Court Rules that the ADA Covers Insurance Policies -- The U.S. District Court for the District of Columbia, ruling that the ADA prohibits discrimination in the terms and conditions of insurance policies, and not just physical access to facilities, allowed a suit challenging disability discrimination in landlord insurance to continue. The Department filed an amicus brief in Wai v. Allstate Insurance Co. in support of a landlord who wanted to rent a single-family house to an organization that would operate it as a group home for persons with mental retardation but who was refused standard landlord property and casualty insurance. She was told by the insurance companies that she must obtain more expensive commercial insurance for the house.

2. New lawsuits

The Department initiated or intervened in the following lawsuits.

Title II

New Interventions to Defend the Constitutionality of the ADA -- The Department sought to intervene in two additional district court cases, Campos v. San Francisco State University and Jeffreys v. New Jersey, where States are arguing that it is unconstitutional for Congress to permit ADA lawsuits directly against State governments. California and New Jersey assert that Congress lacks authority under the Fourteenth Amendment to subject them to lawsuits under the ADA, because the ADA's protections go beyond the equal protection rights guaranteed by the U.S. Constitution. The Department, however, believes that the ADA is constitutionally appropriate legislation to remedy the history of pervasive discrimination against people with disabilities.

3. Consent Decrees

Some litigation is resolved at the time the suit is filed or afterwards by means of a negotiated consent decree. Consent decrees are monitored and enforced by the Federal court in which they are entered.

Title III

Cunningham v. Goldberg -- The U.S. Attorney for the Western District of Tennessee resolved by consent decree a lawsuit in which it intervened to challenge architectural barriers at the Public Eye restaurant in Memphis, Tennessee. The consent decree requires the provision of an accessible entrance to the restaurant, the removal of a step barrier within the restaurant, and renovations to a restroom. It also requires the Public Eye to reposition a public telephone, make Brailled or recorded menus available to persons with impaired vision, and provide training to employees

on assisting patrons with disabilities. The owner also agreed to pay a civil penalty of \$1,000 to the United States. In addition, the parent company of the restaurant's owner agreed to restripe three accessible parking spaces adjacent to Public Eye to comply with the ADA Standards for Accessible Design and to make a \$5,000 contribution to a Memphis disability rights organization.

4. Amicus Briefs

The Department files briefs in selected ADA cases in which it is not a party in order to guide courts in interpreting the ADA.

Title II

Pathways Psychosocial Support Center, Inc. v. Town of Leonardtown -- see "Decisions," page 3.

Title III

Steger v. Franco, Inc. -- The Department filed an amicus brief in the U.S. Court of Appeals for the Eighth Circuit in support of plaintiffs' right to sue a commercial landlord for failing to remove architectural barriers in a Clayton, Missouri, building that houses health care providers and other places of public accommodation. The district court ruled that two of the plaintiff's lacked "standing" to bring the suit, because they had not yet visited the building when the lawsuit was filed. The Department's brief on appeal argues that the plaintiffs have standing if they can establish that they are likely to use the facility in the future and that the public accommodation contains barriers to accessibility that could limit their access. The brief asserts that in order to have standing, plaintiffs do not first need to try to use the facility, if they reasonably believe that it is not accessible. They only need to show that they are likely to use the facility if the ADA violations are corrected.

Botosan v. McNally Realty Inc. -- The ADA does not require a plaintiff to notify State agencies or follow any other administrative procedures before filing a lawsuit under title III, according to an amicus brief filed by the Department in the U.S. Court of Appeals for the Ninth Circuit. The plaintiff in Botosan is an individual with paraplegia who alleged that defendants violated the ADA by failing to provide accessible parking spaces at their real estate office in Imperial Beach, California.

Long v. Coast Resorts, Inc. -- The Department filed an amicus brief in the U.S. Court of Appeals for the Ninth Circuit in support of two individuals who use wheelchairs and a disability rights organization who are challenging inaccessible features of a newly constructed Las Vegas hotel and casino. Although the district court found that the bathroom doorways at the 800-room hotel and casino complex were too narrow, it refused

Litigation

to order any relief to correct the violation, because it thought the "minimal" inconvenience to people with disabilities was outweighed by the expense of widening the doorways. The Department argued in its brief on appeal that the inaccessible doorways would seriously impede access by persons with disabilities and that the ADA does not allow courts to ignore new construction violations. The Department also argued that the district court was mistaken in ruling that four slot change kiosks comply with the ADA. The brief emphasized that two of the kiosks do not have accessible service counters and that the work area in each kiosk has a four-inch elevation that prevents employees who use wheelchairs from approaching, entering, or exiting the area.

B. Formal Settlement Agreements

The Department sometimes resolves cases without filing a lawsuit by means of formal written settlement agreements.

Title I

Office of the City Clerk, Chicago, Illinois -- The Department filed a settlement agreement with the U.S. District Court for the Northern District of Illinois that resolves U.S. v. City of Chicago, a lawsuit alleging that the Office of the City Clerk violated title I when it withdrew a previously provided accommodation -- transfer to another division offering a more moderate work schedule -- for an employee diagnosed with major depression. Because the city determined that she was not an individual with a disability, it returned her to her original job in the Clerk's Office which required much overtime. She experienced another episode of depression, missed work, and was fired. She was reinstated into a position of comparable salary and with no required overtime through negotiations with the Department. Under the settlement agreement, the City will pay the complainant \$65,000 in back pay; pay the City's contribution to the retirement fund for the period from her termination to her reinstatement; restore her seniority; and purge her personnel file of all references to her termination, her depression, her refusal to work overtime, her request for a reasonable accommodation, her filing of a charge with the EEOC, and her involvement in the Department's investigation.

Title II

Barbour County, Alabama -- The Department reached an agreement with Barbour County, Alabama, resolving a complaint alleging that the jail discriminated against an inmate because of his mental illness. The county will ensure that inmates with mental illnesses will receive prescribed medication while incarcerated and appropriate monitoring by the designated health care provider

for the jail. In addition, the jail will train its staff on its ADA responsibilities and post notices informing individuals with disabilities how to receive assistance in gaining access to the jail's services, programs, and activities.

Beauregard Parish, Louisiana -- The Beauregard Parish Police Jury agreed to complete its self-evaluation and transition plan. These documents will address accessibility issues at a wide range of facilities including the parish jail, courthouse, civic center, public works building, and tourist center.

Beggs, Oklahoma -- The Department entered into an agreement with the City of Beggs, Oklahoma, to resolve a complaint alleging that the services, programs, and activities of the Beggs City Hall are inaccessible to people who use wheelchairs. The City of Beggs agreed to design and construct a new accessible facility that will house the services, programs, and activities of Beggs City Hall. The new facility will also serve as the location for a new fire station and a new police station. The city also agreed to continue to provide access to the programs, services, and activities of the city hall in the meantime by relocating them to accessible locations and to provide appropriate signage directing people to these locations.

Borough of Conway, Pennsylvania -- The Department entered into a settlement agreement with the Council for the Borough of Conway, Pennsylvania resolving a complaint alleging that the second floor meeting room where the Council's public meetings are held is not accessible to individuals with disabilities who are not able to climb stairs. The Borough Council agreed to adopt and publish a procedure for relocating all public meetings to an accessible location with reasonable notification (within a week before the meeting). It also will post a statement describing the procedures to follow for requesting reasonable modifications to its policies, practices, and procedures.

**** Toledo To Be More Accessible to People with Disabilities** -- The City of Toledo, Ohio, agreed to make significant changes to its policies and facilities to provide greater access for persons with disabilities. The agreement resolves allegations that Toledo violated title II by failing to take the steps necessary to ensure that its programs are accessible to persons with disabilities. The city agreed to --

- Modify its facilities to ensure that persons with disabilities have access to city programs, including the municipal courthouse, district and neighborhood police stations, a market-outlet complex, fire stations, parking garages, museums, community and social service centers, the health department, and other city administrative buildings. Modifications will include providing accessible parking and accessible restroom facilities, installing ramps, widening doors, providing accessible public telephones, and lowering information counters;
- Adopt policies and procedures to improve accessibility at city programs, which could include moving programs to an accessible location, if necessary;
- Take steps to ensure that effective communication is available to persons with disabilities, including those with hearing, speech, and vision impairments, at city activities such as court proceedings and public meetings;
- Submit a plan to the Department that will ensure that parks, pools, ice rinks, and arts programs will become more accessible to persons with disabilities by December 2000;
- Train employees on the city's responsibilities under the ADA; and,
- Publicize its new nondiscrimination policies on the city's web site and in a local newspaper.

Nineteenth Judicial Circuit, Lake County, Illinois -- The Department entered an agreement resolving a complaint alleging that an Illinois court had required a deaf probationer to pay the costs of sign language interpreter services at court-ordered counseling sessions. The court agreed to pay the complainant \$14,000 as reimbursement for the cost of sign language interpreters he provided at his own expense during his program. The court also adopted written policies and procedures requiring contractors to provide auxiliary aids and services

when necessary for effective communication with deaf or hard of hearing individuals. The court will assist contractors in paying for interpreter services and monitor the contractors' compliance with the auxiliary aids requirement.

St. John the Baptist Parish, Louisiana -- The St. John the Baptist Parish 9-1-1 Communication District agreed to upgrade its call taking consoles and to provide appropriate training to call takers in order to ensure effective direct access to TDD users.

Title III

*** American Association of State Social Work Boards; Assessment Systems, Inc., Culpeper, Virginia* -- Two national standardized testing agencies agreed to provide qualified readers for test takers with vision impairments. The American Association of State Social Work Boards and Assessment Systems, Inc., will also pay \$3,000 to a complainant who was not allowed to use his own reader for the social work license examination. Instead, he was allegedly required to use a college student who had been hired to work at the registration table and had never read for a person with a vision impairment. During the exam, the reader allegedly stumbled over technical terms and made mistakes in marking and recording the answers. Under the agreement, AASSWB and ASI will adopt written policies to ensure that readers are proficient in reading for people with vision impairments, that they are familiar with the examination, and that they work with the test-taker prior to the examination to allow the reader to adapt to the test-taker's style of receiving information. The agreement also makes clear that the testing entities may also simply choose to allow test-takers with vision impairments to supply their own reader.

Southeastern Conference, Birmingham, Alabama -- The Southeastern Conference (SEC), one of the nation's major collegiate athletic conferences, agreed to resolve a complaint filed by a high school swimmer with a learning disability who was prevented from enrolling at the University of Tennessee because of an SEC academic eligibility rule. In an earlier consent decree with the Department of Justice the NCAA agreed to modify many of its eligibility procedures so that the academic abilities of student-athletes with learning disabilities would be measured more accurately. The NCAA consent decree allows student-athletes with learning disabilities, who fail the rigid initial eligibility requirements, to be designated as "partial qualifiers" who are entitled to earn back a year of athletic eligibility, if they

can demonstrate academic success in the classroom by completing a certain number of courses with a permissible grade point average. Under the new rules, the NCAA considered the complainant a partial qualifier and offered him the opportunity to earn another year of competition if he succeeded in the class room. However, the SEC prohibits anyone who is not a full qualifier on the day he or she enrolls as a freshman from ever participating in athletics. In its agreement with the Department of Justice, the SEC agreed to exempt student-athletes with learning disabilities from its restrictive policy, bringing its rules into line with the new NCAA policies.

Bashas', Phoenix, Arizona -- The U.S. Attorney's Office for the District of Arizona resolved a complaint that the restrooms in a Phoenix grocery were inaccessible because they were up a flight of stairs. Bashas' agreed to construct an accessible restroom on the bottom floor of the store.

Penn Treaty Network America Insurance Company, Sarasota, Florida -- The Penn Treaty Network America Insurance Company entered an agreement with the Department resolving a complaint by a deaf individual who alleged that she was denied nursing home insurance solely because of her disability. The company agreed to reconsider her application for insurance and to develop a company policy for its employees and agents to ensure effective communication with customers with hearing impairments.

Adelante P.C., Chicago, Illinois -- Adelante P.C., a private social services agency, agreed to adopt written policies and procedures ensuring that deaf clients will receive sign language interpreter services without cost when participating in the agency's counseling programs. The agreement resolves a complaint in which Adelante required a deaf probationer to pay the costs of sign language interpreter services at court-ordered counseling sessions.

**** Greyhound to Improve Bus Service to Passengers with Disabilities** -- An agreement between the Department and Greyhound Lines Inc., will improve the availability and quality of accessible bus service for persons with disabilities. The agreement resolves a wide range of complaints including the denial of passage or boarding assistance to persons with mobility or vision impairments, injuries to passengers while being physically carried on and off buses, and verbal harassment. It requires Greyhound to pay more than \$17,500 in damages, which includes individual payments to 14 complainants ranging from \$500 to \$4,000. Current Department of Transportation (DOT) regulations permit carrying, but require Greyhound to provide lift-equipped bus service on 48 hours' notice beginning in October 2001. The agreement will minimize the need for carrying passengers with disabilities by phasing in accessible bus service in three stages, beginning two years before lift-equipped service is required by the DOT rules. Under the agreement, Greyhound will --

- (Through March 31, 2000 only) provide, with 48 hours' notice through its ADA Hotline, a lift-equipped bus or assistive device on scheduled departures to and from locations where these buses are operated (generally along major routes serving a large proportion of Greyhound passengers) or where assistive devices can be made available to passengers who request such accommodations;
- On 48 hours' notice, make reasonable efforts to provide an accessible bus between any of the approximately 2,600 points served by Greyhound; and,
- (Beginning no later than April 1, 2000) guarantee accessible buses between any points served by Greyhound, on 48 hours' notice, except in a limited set of "excusable circumstances" defined in the agreement.

The agreement also requires Greyhound to --

- Provide training to employees assisting any person with a disability;
- Establish an internal dispute resolution procedure for addressing complaints by persons with disabilities within 90 days;
- Inform individuals with disabilities of their rights under the ADA and the agreement;
- Convene a meeting of a specially created advisory committee of representatives from organizations advocating the rights of persons with disabilities to advise Greyhound on its training programs and policies by September 30, 1999; and,
- Continue systematically removing barriers to access in Greyhound facilities.

The Department of Justice has created a plain language guide for bus passengers -- available through the ADA Information Line, the ADA Home Page, and ADA Fax on Demand (document #3400) -- that explains the requirements of the Greyhound agreement and the DOT regulations.

**** MGM Grand Hotel, Casino, and Theme Park to Become Fully Accessible to People with Disabilities** -- People with disabilities will now be able to fully enjoy the entertainment and attractions at the MGM Grand Hotel, Casino and Theme Park in Las Vegas, Nevada, the world's largest hotel and casino complex, under an agreement reached with the Department of Justice. MGM Grand will --

- Increase the number of accessible guest rooms for individuals with disabilities by adding 36 rooms during the course of renovations, including rooms with roll-in showers, bringing the total number of fully accessible guest rooms to 112;
- Increase the number of accessible guest rooms for individuals with hearing impairments by adding 15 rooms with visual alarms during the course of renovations, bringing the total number of fully accessible rooms for individuals with hearing impairments to 46, and making available 15 additional kits containing visual notification devices, TDD's, and door knockers;
- Make restrooms throughout the facility fully accessible to persons with disabilities by adding stalls for people who use crutches or walkers, adding grab bars, and relocating doors;
- Ensure that the casinos are fully accessible to persons with disabilities by adding more lowered gaming tables and accessible service counters and improving access to the high roller gaming areas;
- Install visual alarms throughout the facility for individuals who are deaf or hard of hearing;
- Improve access in the Grand and Hollywood Theaters and in the MGM Grand Garden, which host major sporting events and concerts, by adding accessible wheelchair and companion seating locations, lowering ticket and box office counters, and providing assistive listening devices for people who are hard-of-hearing;
- Provide full access for people with disabilities at restaurants and retail establishments within the facility by adding handrails in entrances, lowering cashier counters, and providing accessible dressing rooms and adequate knee space in dining booths;
- Make pool and spa areas fully accessible to people with disabilities; and
- Pay \$165,000 in compensation to the three complainants.

Womacks Casino, Cripple Creek, Colorado -- Womacks Casino agreed to install a ramp to provide access to its new nickel gaming machines for individuals with mobility impairments.

Affordable Airport Shuttle, Gaithersburg, Maryland -- Affordable Airport Shuttle, a small company that provides service to all three Washington D.C. area airports with five inaccessible vans, agreed to contract with a transportation company to provide accessible van service to all patrons with mobility impairments requesting its services.

Nation's Capital Tours, L.L.C., Silver Spring, Maryland -- A Washington, D.C., area tour operator agreed to improve access to its sightseeing services by purchasing or leasing accessible vehicles or sharing accessible vehicles with other local sightseeing service providers. It also will not require an individual with a disability to be accompanied by an attendant.

French Lick Springs Resort, French Lick, Indiana -- The U.S. Attorney for the Southern District of Indiana reached an agreement with French Lick Springs Resort requiring the resort to install accessible telephones in the lobby, create or revise policies to ensure effective assistance is provided to guests with disabilities, train its employees, and make structural changes including modifying guest bathrooms, public elevators, and public restrooms. The resort also agreed to pay \$7,500 to the complainant and \$7,500 in civil penalties.

Headliner's Bar and Grill, Muncie, Indiana -- In an agreement with the U.S. Attorney for the Southern District of Indiana, Headliner's Bar & Grill agreed to install a ramp to the front entrance of the facility and install an accessible restroom. The owner of the building and the restaurant agreed to pay \$3,750 in damages to the complainant and \$3,750 in civil penalties.

Seminar Concepts, Hattiesburg, Mississippi -- Under an agreement with the U. S. Attorney's Office for the Southern District of Mississippi, Seminar Concepts, which offers continuing education courses in the field of physical and occupational therapy, will provide appropriate auxiliary aids and services to students who are deaf or hard of hearing. Seminar Concepts will consult with a student who requests an auxiliary aid and notify the student well in advance of the course as to what auxiliary aid it intends to provide. Seminar Concepts will train its staff on the ADA's auxiliary aids requirements and provide information on requesting auxiliary aids in its advertising and application materials.

C. Other Settlements

The Department resolves numerous cases without litigation or a formal settlement agreement. In some instances, the public accommodation, commercial facility, or State or local government promptly agrees to take the necessary actions to achieve compliance. In others, extensive negotiations are required. Following are some examples of what has been accomplished through informal settlements.

Title II

A Texas county will provide assistive listening devices at its courthouse for individuals with hearing impairments and include accessibility information on county documents such as jury summonses, traffic tickets, and tax assessments.

A northeastern State agreed to provide course materials for its State boating safety course in Braille and to administer a Brailled version of the exam for a boating safety certificate.

A county sheriff's department in a major Texas city developed a policy for identifying arrestees and inmates who are mentally ill and for providing them with appropriate accommodations.

A county court complex in Colorado agreed to provide van accessible parking in its two parking lots.

A Michigan district court adopted and implemented a policy to ensure effective communication.

A Montana city appointed an ADA coordinator and posted notices in all city facilities notifying the public of its policy to provide access to city programs, services, and activities.

A city in Indiana modified restrooms in its city/county building to make them accessible and installed TDD's on each floor of the building along with signage indicating the location of the TDD's.

A Pennsylvania city removed physical barriers inside its county courthouse and added four accessible parking spaces with appropriate signage and curb cuts to provide an accessible route to the entrance of the courthouse.

A Louisiana city agreed to improve accessibility in its civic center by modifying restrooms, public pay telephones, elevators, drinking fountains, and exterior access routes; installing signage, exterior ramps with handrails, an indoor ramp with modifications to its handrails, and wheelchair lifts; and providing accessible parking, accessible seating in the civic center auditorium, and an accessible ticket sales booth.

A county jail in Washington installed grab bars and handrails for the shower facilities in five percent of the cells, purchased portable shower chairs, installed grab bars and accessible sink and toilet units in five percent of the cells, and revised the jail's inmate handbook to include inmate grievance procedures and a description of welfare and medical services available for inmates.

A northern State department of corrections agreed to make the facility's library accessible to inmates

with vision impairments by providing appropriate auxiliary aids including a talking calculator, an illuminated magnifier, and a cassette player to be used for listening to recorded books in cells.

A northeastern State department of corrections agreed to make its daily graphic arts vocational classes and remedial reading and math classes accessible for inmates who are deaf or hard of hearing. The department also provided a qualified sign language interpreter for biweekly narcotics anonymous meetings, weekly religious services, and monthly mental health counseling sessions. It moved the TTD to an open room and permitted its use daily between the hours of 4 p.m. and 11 p.m., and agreed to provide a qualified sign language interpreter for the complainant's medical appointments.

A southern State correctional institution agreed to provide sign language interpreters, televisions with captioning, recorded books, and books in Braille as appropriate for inmates with hearing or vision impairments.

A southern State department of criminal justice agreed to make appropriate modifications in work assignments to accommodate inmates with disabilities.

Title III

A movie theater in Florida agreed to provide wheelchair seating areas with companion seating and add a unisex accessible restroom.

A major professional sports league agreed to changes in ticketing procedures in order to increase the likelihood that people with disabilities will be able to obtain tickets for accessible seats at its championship game.

A midwestern insurance company agreed to issue a health insurance policy for a child with pervasive developmental disorder.

U.S. Attorneys obtained informal settlements in the following cases --

Southern District of Mississippi

A Mississippi city agreed to provide direct TDD access to its 9-1-1 emergency response system. It will install additional equipment so that each answering position has TDD response capability; provide comprehensive training for each of its 9-1-1 call takers; implement a public education program to promote the use of 9-1-1 by individuals who use TDD's; and conduct semi-annual audits of the quality of service provided to TDD users.

A Mississippi air show agreed to provide accessible parking, including van accessible parking, accessible toilet stalls, and a sign language interpreter to interpret the entire narrated portion of the air show for one day of the three-day event. Training materials on the ADA will be provided to all volunteers who staff the event.

A Mississippi restaurant constructed a ramp and level threshold at the entrance to the front door, replaced round-knob hardware with new handles on the restroom doors, provided tactile signs for the restrooms, installed grab bars in the restrooms, and brought the existing accessible parking space into compliance.

II. Mediation

*** Under a contract with the Department of Justice, The Key Bridge Foundation is accepting referrals of complaints under titles II and III for mediation by professional mediators who have been trained in the legal requirements of the ADA. More than 450 professional mediators are available nationwide to mediate ADA cases. Over 75 percent of the cases in which mediation has been completed have been successfully resolved. Following are recent examples of results reached through mediation --*

- A group of wheelchair users complained that a South Dakota arena did not comply with the ADA. The management company agreed to provide additional integrated seating; make concession stands accessible; install signage for people with visual impairments; redesign the box office to include an accessible window; and include information about available accommodations in the advertisement materials for events. The management company also agreed to send a letter to all vendors in kiosks notifying them of their ADA obligations; implement an ADA training program for all employees; and institute new

policies and procedures to maximize the availability of companion seating.

- A person with a mobility disability complained that a restaurant tour conducted by a California civic association was inaccessible to persons with disabilities because the transportation provided did not include accessible vehicles. The association agreed to obtain accessible transportation for all future events.
- A person who is deaf complained that a New Hampshire police department would not provide a qualified sign language interpreter for an open house event advertised in the newspaper. The deputy chief of police agreed to provide qualified sign language interpreters for public meetings and to provide staff training on how to effectively communicate with people who are deaf, including how to obtain the services of a qualified sign language interpreter. The complainant agreed to assist the police department with the training.
- In New Mexico, a wheelchair user complained that a restaurant's accessible parking spaces were routinely blocked during business hours by delivery trucks. The manager of the restaurant apologized

and agreed to limit deliveries to non-business hours and to designate other accessible parking during that time.

- In Oregon, a person who uses a motorized scooter complained that there were no accessible restrooms, parking, or path of travel at an annual outdoor sporting event held at a farm. The owners of the farm agreed to provide accessible parking on a hard surface, an accessible path of travel, and accessible restrooms. They also agreed to make golf carts available for persons who may need them for mobility and to provide information in their brochures about how to request accommodations that may be needed by persons with disabilities.
- A wheelchair user complained that a Pennsylvania appliance store had no accessible parking. Although the store provided the appropriate number of spaces, there was no vertical signage identifying the spaces. The owner agreed to install signage and create an additional accessible parking space. The owner also agreed to install an additional accessible parking space at his hardware store.
- A wheelchair user complained that an Oregon theater did not have accessible restrooms. The owner agreed to renovate the restrooms to make them accessible.
- In Pennsylvania, a wheelchair user complained that a pizzeria did not have an accessible entrance. The owner agreed to install a permanent ramp to provide access to the entrance.
- The parents of a child with attention deficit hyperactivity disorder complained that a Nevada daycare center stopped providing services to their daughter because of her disability. The owner agreed to comply with the ADA and provide training for the staff. The owner also agreed to develop resources and expertise for resolving issues that may arise while providing services to a child with a disability.
- In Pennsylvania, a wheelchair user complained that a bar's entrance was inaccessible to persons using wheelchairs because the entry gate was too

narrow. The owner agreed to widen the gate to 36 inches and to install signage directing people with disabilities to the accessible entrance.

- In Montana, a wheelchair user complained that a restaurant could only be entered by means of a flight of stairs. The owner agreed to post a menu at the base of the stairs on the first floor of the building with directions to a nearby phone to be used for placing an order with the restaurant. The restaurant agreed to deliver meal orders to customers on the first floor and made arrangements with a coffee shop located on the first floor to provide seating for customers unable to climb stairs.
- A wheelchair user complained that a Pennsylvania doctor's office was not accessible. The parties agreed that because the cost of making the entrance accessible was prohibitive, it was not readily achievable to remove the barrier. The doctor agreed to tell the receptionist to inform potential patients that the office is inaccessible and to offer to schedule appointments at the doctor's nearby accessible office. The doctor agreed to pay for any additional transportation costs incurred by patients who needed to be seen at the accessible office.
- A person with a vision impairment complained that she was asked to leave an Oregon restaurant because she was accompanied by a service animal. The restaurant agreed to modify its no pets policy to admit service animals and to post a placard stating that it welcomes individuals with disabilities. The owners agreed to spend a day at guide dog school and to provide training on the ADA to all members of the staff. In addition, the respondent agreed to pay the complainant \$33,000.
- In Michigan, a person who works with people with various disabilities complained that public restrooms at a city sponsored event were not accessible. The city agreed to select a consultant to complete an evaluation of all city buildings and to develop a transition plan for implementing necessary changes. The city also agreed to build permanent accessible restroom facilities.

HHS Promotes Title II Compliance -- From time-to-time, Enforcing the ADA will feature the activities of the seven other Federal agencies designated to investigate ADA complaints against public entities. The Office for Civil Rights of the Department of Health and Human Services (OCR/HHS) investigates and attempts to resolve title II complaints against schools of medicine, dentistry, nursing, and other health-related schools; health care and social services providers and institutions, including grass roots and community services organizations and programs; and preschool and day care programs. Following are examples of recent settlement agreements --

Carlsbad, New Mexico -- OCR/HHS resolved a complaint against the Head Start Program of the Southeast New Mexico Community Action Corporation alleging that the program discriminates against developmentally delayed and other preschool students with disabilities by denying transportation services provided to other preschoolers. To resolve the complaint, the Head Start Program established a policy that requires the transportation of children with disabilities to and from programs, special clinics, or other service providers when such services cannot be obtained from other agencies.

Missouri -- OCR/HHS entered into a settlement agreement requiring the Missouri Department of Health to allow an individual with a learning disability applying for the job of emergency medical technician (EMT) to retake the EMT test with the assistance of a reader and to allow the applicant to take refresher courses at no cost to the applicant. The Missouri Department also agreed to validate its test as a test of reading ability or to use a nationally validated test from the National Registry of Emergency Medical Technicians.

Cincinnati, Ohio -- The Mount Airy Campus of the Franciscan Hospital agreed to take major steps to improve the accessibility of its services to persons who are deaf or hard of hearing. The agreement resolves a complaint alleging the hospital failed to provide a sign language interpreter where necessary for effective communication. The hospital agreed to amend its guidelines to require its ambulance service to notify the hospital when emergency patients need an interpreter; train new and current emergency room personnel to ensure interpreters are provided where necessary for effective communication; and maintain a log in the six months following the agreement identifying whether sign language interpreters were offered and provided to persons who are deaf or hard of hearing.

South Dakota -- The South Dakota State Board of Medical and Osteopathic Examiners has revised its licensing examination application to ensure that applicants with disabilities will not encounter delays when requesting testing accommodations. The agreement resolves a complaint alleging that the Board failed to provide the complainant with necessary testing accommodations. As a result, the complainant was required to take the exam at a later time, which may have jeopardized job offers. The Board agreed to revise its application to include information about how applicants with disabilities are to request testing accommodations.

More information about OCR/HHS activities may be found on the Internet at <http://ocr.hhs.gov/>.

III. Technical Assistance

The ADA requires the Department of Justice to provide technical assistance to entities and individuals with rights and responsibilities under the law. The Department encourages voluntary compliance by providing education and technical assistance to businesses, governments, and members of the general public through a variety of means. Our activities include providing direct technical assistance and guidance to the public through our ADA Information Line, ADA Home Page, and Fax on Demand, developing and disseminating technical assistance materials to the public, undertaking outreach initiatives, operating an ADA technical assistance grant program, and coordinating ADA technical assistance government-wide.

ADA Home Page

An ADA home page is operated by the Department on the Internet's World Wide Web (<http://www.usdoj.gov/crt/ada/adahom1.htm>). The home page provides information about:

- the toll-free ADA Information Line,
- the Department's ADA enforcement activities,
- the ADA technical assistance program,
- certification of State and local building codes,
- proposed changes in ADA regulations and requirements, and
- the ADA mediation program.

The home page also provides direct access to:

- ADA regulations and technical assistance materials (which may be viewed online or downloaded for later use),
- Freedom of Information Act (FOIA) ADA materials, and
- Links to the Department's press releases, ADA Bulletin Board, and Internet home pages of other Federal agencies that contain ADA information.

ADA Information Line

The Department of Justice operates a toll-free ADA Information Line to provide information and publications to the public about the requirements of the ADA. Automated service, which allows callers to listen to recorded information and to order publications, is available 24 hours a day, seven days a week. ADA specialists are available on Monday, Tuesday, Wednesday, and Friday from 10:00 a.m. until 6:00 p.m. and on Thursday from 1:00 p.m. until 6:00 p.m. (Eastern Time). Spanish language service is also available.

To obtain general ADA information, get answers to technical questions, order free ADA materials, or ask about filing a complaint, call:

800-514-0301 (voice)
800-514-0383 (TDD)

ADA Fax On Demand

The ADA Information Line Fax Delivery Service allows the public to obtain free ADA information by fax 24 hours a day, seven days a week. By calling the number above and following the

directions, callers can select from among 32 different ADA technical assistance publications and receive the information, usually within minutes, directly on their fax machines or computer fax/modems. A list of available documents and their code numbers may also be ordered through the ADA Information Line.

Publications and Documents

Copies of the Department’s ADA regulations and publications, including the Technical Assistance Manuals for titles II and III, and information about the Department’s technical assistance grant program can be obtained by calling the ADA Information Line, visiting the ADA Home Page on the World Wide Web, or writing to the address listed below. All materials are available in standard print as well as large print, Braille, audiotape, or computer disk for persons with disabilities.

Disability Rights Section
 Civil Rights Division
 U.S. Department of Justice
 P. O. Box 66738
 Washington, D.C. 20035-6738

Copies of the legal documents and settlement agreements mentioned in this publication can be obtained by writing to:

Freedom of Information/
 Privacy Act Branch
 Administrative Management Section
 Civil Rights Division
 U.S. Department of Justice
 P.O. Box 65310
 Washington, D.C. 20035-5310
 Fax: 202-514-6195

Currently, the FOI/PA Branch maintains approximately 10,000 pages of ADA material. The records are available at a cost of \$0.10 per page (first 100 pages free). Please make your requests as specific as possible in order to minimize your costs.

The FOI/PA Branch also provides access to ADA materials on the World Wide Web at <http://www.usdoj.gov/crt/foia/records.htm>. A link to search or visit this website is provided from the ADA Home Page.

IV. Other Sources of ADA Information

The *Equal Employment Opportunity Commission* offers technical assistance to the public concerning the employment provisions of title I of the ADA.

ADA documents
 800-669-3362 (voice)
 800-800-3302 (TDD)

ADA questions
 800-669-4000 (voice)
 800-669-6820 (TDD)

<http://www.eeoc.gov>

The *Federal Communications Commission* offers technical assistance to the public concerning the communication provisions of title IV of the ADA.

ADA documents
 202-314-3070 (voice)
 202-484-8831 (TDD)

ADA questions
 202-418-2498 (voice)
 202-418-0484 (TDD)

<http://www.fcc.gov/df>

The *U.S. Department of Transportation* through the *Federal Transit Administration* offers technical assistance concerning the transportation provisions of title II and title III of the ADA.

ADA Assistance Line for information, questions, or complaints
888-446-4511 (voice/relay)
202-366-2285 (voice)
202-366-0153 (TDD)

ADA legal questions
202-366-4011 (voice/relay)

<http://www.fta.dot.gov>

The *U.S. Architectural and Transportation Barriers Compliance Board*, or *Access Board*, offers technical assistance to the public on the ADA Accessibility Guidelines.

ADA documents and questions
800-872-2253 (voice)
800-993-2822 (TDD)

<http://www.access-board.gov>

The *Disability Rights Education and Defense Fund ADA Hotline* is funded by the Department of Justice to provide technical assistance to the public on all titles of the ADA.

ADA technical assistance
800-466-4232 (voice & TDD)

The *Disability and Business Technical Assistance Centers* are funded by the U.S. Department of Education through the National Institute on Disability and Rehabilitation Research (NIDRR) in ten regions of the country to provide resources and technical assistance on the ADA.

ADA technical assistance
800-949-4232 (voice & TDD)

<http://www.adata.org>

Project ACTION is funded by the U.S. Department of Transportation to provide ADA information and publications on making transportation accessible.

Information on accessible transportation
800-659-6428 (voice/relay)
202-347-3066 (voice)
202-347-7385 (TDD)

The *Job Accommodation Network (JAN)* is a free telephone consulting service funded by the President's Committee on Employment of People with Disabilities. It provides information and advice to employers and people with disabilities on reasonable accommodation in the workplace.

Information on workplace accommodation
800-526-7234 (voice & TDD)

<http://janweb.icdi.wvu.edu/english>

V. How to File Complaints

Title I

Complaints about violations of title I (employment) by units of State and local government or by private employers should be filed with the Equal Employment Opportunity Commission. Call 800-669-4000 (voice) or 800-669-6820 (TDD) to reach the field office in your area.

Titles II and III

Complaints about violations of title II by units of State and local government or violations of title III by public accommodations and commercial facilities should be filed with --

Disability Rights Section
Civil Rights Division
U.S. Department of Justice
Post Office Box 66738
Washington, D.C. 20035-6738