



Enforcing the ADA:

A Status Report from the Department of Justice

January - March 2003

This Status Report covers the ADA activities of the Department of Justice during the first quarter (January - March) of 2003. 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 14). 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 thousands 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 of up to \$55,000 for the first violation and \$110,000 for any subsequent violation.

1. Decisions

Appeals Court Rules Government Title I Suit Not Barred by Sovereign Immunity; Upholds Title I Constitutionality -- The U.S. Court of Appeals for the Fifth Circuit ruled in U. S. v. Mississippi Department of

Public Safety that the Department of Justice can continue its suit alleging that Mississippi violated title I by refusing to accommodate a cadet with diabetes at its training academy for new State troopers and by dismissing him from the academy because of his disability. The district court ruled that the case was barred by sovereign immunity because the Federal Government was acting on behalf of an individual and therefore the government was subject to the same limitations that the individual would have in suing a State agency. The Fifth Circuit on appeal reversed the district court, ruling that States have no immunity from lawsuits filed by the Federal Government and that the government in this case is not acting as a representative of the charging party but rather on behalf of the broader public interest in ensuring compliance with title I of the ADA by public employers. The court of appeals also ruled that title I was a valid exercise of Congress' constitutional power under the Commerce Clause. The case will now continue in the U.S. District Court for the Southern District of Mississippi.

Fifth Circuit Dismisses Louisiana Title II School Suit -- The U.S. Court of Appeals for the Fifth Circuit dismissed Pace v. Bogalusa

District Court Says Accessible Seating Must Be in Stadium Section of New Movie Theaters

-- The U.S. District Court for the District of Massachusetts decided in U.S. v Hoyts Cinemas Corp. and National Amusements, Inc. that the ADA Standards for Accessible Design require that wheelchair accessible seating be located within the stadium section of stadium-style movie theaters newly constructed by the Hoyts and National Amusements chains. At most of the defendants' theaters the wheelchair seating spaces are located on the sloped floor in the front few rows of the theater immediately in front of the screen, while nearly all of the other patrons are seated in the stadium seats on tiered risers that give them an unobstructed view of the screen with far better sight lines. The U.S. Attorney's Office for the District of Massachusetts filed suit alleging that this seating arrangement violated the ADA. The court noted that movie theater customers tend to sit in the middle to back part of the theater and found that the traditional sloped-floor section of the defendants' theaters is markedly inferior. The court held that accessible seating must be both an "integral part" of the auditorium and offer comparable lines of sight. It rejected the theater chains' arguments that a comparable line of sight is merely an unobstructed view and that the integral seating requirement only means that accessible seating can be placed anywhere in the theater where there is general public seating. The court ruled, however, that it would only be fair to apply its ruling to theaters constructed or refurbished on or after December 18, 2000, the date upon which the lawsuit was begun. The defendants have filed a notice of appeal in the U.S. Court of Appeals for the First Circuit.

County School Board, a suit brought by a student who is a wheelchair user with both physical and learning disabilities and who complained of the lack of accessible facilities at his Louisiana high school. The district court ruled that, despite the access problems at the high school, the school system had not violated the Individuals with Disabilities Education Act (IDEA) because it provided a meaningful educational benefit to the plaintiff and did not deny him a free appropriate public education. The district court decided that its dismissal of the IDEA claim prevented the plaintiff from making a separate ADA claim because the ADA claim was based on the same facts. The Department's amicus brief on appeal argued that the ADA and IDEA claims were distinct and that a ruling on whether educational services are adequate under the IDEA should not bar a claim that a school failed to comply with the ADA's architectural requirements for alterations when it made

physical changes in the facility to accommodate the student. The Department also intervened to defend the constitutionality of the ADA's abrogation of sovereign immunity for title II claims. The Fifth Circuit ruled that the title II claim against the school district was indistinguishable from the IDEA claim and therefore should be dismissed and that the title II claim against the State was barred by sovereign immunity.

Federal Court Finds Widespread New Construction Violations in Movie Theater Chain

-- The U.S. District Court for the Central District of California ruled in U.S. v AMC Entertainment, Inc. that AMC Entertainment engaged in a pattern or practice of failing to design and construct its stadium-style movie theaters in compliance with the ADA Standards for Accessible Design. Violations at 12 theaters surveyed by the Department include insufficient maneuvering

space at doors; insufficient numbers of assistive listening devices; improperly placed or absent visual fire alarms; protruding objects; excessive cross slopes at designated accessible parking spaces; improper or absent signage; auditorium violations, including hundreds of interior ramp slopes that are too steep; and inaccessible toilet rooms. The court has asked the parties to negotiate a plan for remedying these violations and surveying over 70 other theaters. This ruling is in addition to an earlier decision in this case finding that AMC had violated the ADA's requirement for comparable lines of sight by not placing accessible seating in the stadium portion of its newly constructed stadium-style theaters. The line of sight ruling is now on appeal to the U.S. Court of Appeals for the Ninth Circuit.

2. New Lawsuits

The Department initiated or intervened in the following lawsuits.

Title II

U. S. v. Massachusetts -- The Department filed a lawsuit in the U.S. District Court for the District of Massachusetts alleging that the State of Massachusetts and Bristol County, Massachusetts, violated the ADA by failing to make the services, programs, and activities of the county's trial courts and registries of deeds accessible to individuals with mobility impairments. The lack of physical accessibility -- courtrooms and offices are located up flights of stairs in buildings without ramps or elevators -- allegedly prevents the two lawyers with disabilities identified in the complaint and other lawyers, parties, witnesses, jurors, spectators and citizens with disabilities from gaining access to the services of five courthouses and three registries of deeds offices. Neither the State nor the county has undertaken structural changes that would allow physical access or provided services in alternative accessible ways. The

complaint seeks an order requiring appropriate structural changes, modifications in policies and procedures, and damages.

Meyers v. Texas -- The Department intervened in this suit in the U.S. Court of Appeals for the Fifth Circuit to defend the constitutionality of title II of the ADA. Plaintiffs sued the State of Texas, challenging the State's five-dollar fee for parking placards as a violation of title II and the title II regulation that prohibits placement of surcharges on measures required by the ADA. In the court of appeals, the State argued that the Eleventh Amendment barred plaintiffs' suit and that the regulation and title II were unconstitutional as held by the district court. The Department argued that the plaintiffs' suit against State officials in their official capacities for prospective relief should be allowed to continue under the doctrine of *Ex parte Young* even if a suit against the State itself is barred by sovereign immunity. The Department also argued that the State's challenges to the validity of the surcharge regulation and to the constitutionality of title II should not be decided until the district court determines whether the placard fee violates the surcharge prohibition. If the court does address these issues, the brief argued that the surcharge regulation is a reasonable interpretation of title II and that title II itself is valid legislation under the Fourteenth Amendment and the Commerce Clause.

Title III

U.S. v. The Bette Bus Shuttle, Inc. -- The U.S. Attorney's Office for the Western District of Tennessee filed a lawsuit against The Bette Bus Shuttle, Inc., a private provider of fixed route transportation between Memphis, Tennessee, and the airport at Little Rock, Arkansas. The U.S. Attorney had received a complaint alleging that Bette Bus does not provide wheelchair-accessible vans and that Bette Bus staff refused to allow the complainant to take her wheelchair with her

on its inaccessible vans. The complainant, who has fibromyalgia and nerve damage and uses a wheelchair for full mobility, was required to travel without her wheelchair, severely limiting her ability to leave her hotel room. The Bette Bus owner acknowledged that the company had purchased at least six 15-passenger vans since 1990, none of which are lift-equipped, and that the company had never provided service to people with disabilities because it thought it was too expensive and would require medical personnel on board. The U.S. Attorney's complaint seeks declaratory and injunctive relief, compensatory damages, and a civil penalty.

U.S. v. Century Management, LLC -- The U.S. Attorney's Office for the Western District of Tennessee filed suit against Fred Tillman and Century Management, LLC, the owner and operator, respectively, of approximately 50 McDonald's restaurants in the Memphis area. The suit was in response to a complaint filed with the U.S. Attorney by a woman with a mobility impairment who allegedly injured herself because there were no stalls with grab bars in a restroom at one of the restaurants. After finding barriers to access at that restaurant, the U.S. Attorney expanded the investigation to include all McDonald's restaurants owned and operated by the defendants and found many barriers to access at those facilities -- including a lack of proper curb ramps, accessible entrances, and accessible restrooms. The complaint seeks injunctive relief throughout Tillman's and Century Management's chain of McDonald's restaurants, compensatory damages for the complainant, and civil penalties.

Bourdon v. Croft -- The Department filed a motion to intervene in the United States District Court for the District of Arizona in a case alleging that Dr. Scott T. Croft and Arizona Bone & Joint Specialists, Ltd., a sports medicine practice with offices in

Phoenix and Scottsdale, Arizona, refused to provide the plaintiff with medical services, including orthopedic surgery, because he identified himself as being HIV positive. The Department's intervention complaint alleges that this refusal to provide treatment because of the plaintiff's HIV disease violated title III of the ADA. The complaint seeks an order requiring the defendants to make reasonable modifications in their policies, practices, and procedures to ensure that persons with HIV disease will not be discriminated against on the basis of disability and to pay compensatory damages and civil penalties.

3. 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 I

Clackamas Gastroenterology Associates, P.C. v. Wells -- The Solicitor General filed an amicus brief in the Supreme Court on the issue of whether physicians who are shareholder directors of a medical practice that is incorporated as a professional corporation are to be counted as "employees" under title I. In this particular case, if the four physicians are counted as employees, the medical practice would meet the 15-employee threshold for coverage, but if they are not, the practice would not be covered by title I. The U.S. Court of Appeals for the Ninth Circuit ruled that, because the practice was incorporated, the physicians should be considered as employees of the corporation. The Department's brief in the Supreme Court argued that, even if the medical practice is incorporated, the physicians should not be considered employees of the corporation if they act independently and participate in managing the business. The brief asks the court to send the case back to the Ninth Circuit for a decision under this standard.

B. Formal Settlement Agreements

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

Title II

Auglaize County, Ohio -- The Department reached an agreement with the Auglaize County Sheriff's Office resolving a complaint by a deaf individual that while in jail he was unable to participate in adult education and other courses due to the sheriff's office refusal to provide him with a qualified sign language interpreter. The office agreed to provide qualified sign language interpreters and other appropriate auxiliary aids and services when needed for effective communication.

Tompkins County, New York -- The Department entered into a settlement agreement resolving a complaint alleging a lack of accessible parking at county facilities. The agreement requires Tompkins County to provide designated accessible parking spaces at a wide range of facilities, including the airport and solid waste, human services, and public safety offices. The county also agreed to establish procedures for maintaining the designated accessible spaces, including an annual inspection plan for pavement, markings, and signage, as well as a maintenance and repair schedule.

District of Columbia Department of Corrections -- The Department entered an agreement with the District of Columbia Department of Corrections resolving a complaint that two deaf inmates were denied auxiliary aids necessary for effective communication during their stay in a halfway house. The Department of Corrections

agreed to establish policies for providing appropriate auxiliary aids and services, including qualified interpreters, hearing aid batteries, telephones with amplified handsets, closed captioning for televisions, and visual and tactile alarms. It also agreed to provide notice to inmates of the availability of these services, to train staff in carrying out the auxiliary aids policy, and to terminate contracts with entities that violate the policy in providing services to inmates.

****Cheatham County Jail, Ashland City, Tennessee** -- The Department signed an agreement with the Cheatham County Jail resolving a complaint filed by a person who uses a wheelchair who alleged that the jail was not accessible to people with mobility impairments. The agreement requires Cheatham County to provide accessible parking, handrails for the entrance ramp, accessible public toilet rooms, an accessible drinking fountain, a designated accessible inmate cell and shower, inmate telephones mounted at an accessible height, and audible emergency warning systems in holding cells or areas. The settlement also requires Cheatham County to provide a text telephone for inmates who are deaf or hard of hearing or who have a speech impairment.

Lucas County, Ohio -- An individual with a mobility impairment complained that various Lucas County facilities, including two courthouses and a senior center, were inaccessible. The county agreed to ensure program accessibility by providing accessible parking, entrances, doors, paths of travel, signage, service counters, elevators and call boxes, drinking fountains, public toilet rooms, public telephones, and visual and audible emergency warning systems. The county also agreed to provide a number of designated accessible courtrooms in the courthouses.

Title III

****Oceanview Motel, Wildwood Crest, New Jersey --** The Department entered into a settlement agreement with the owners and operators of Oceanview Motel resolving a complaint by a wheelchair user alleging numerous barriers to access. The motel agreed to make five guest rooms fully accessible to people with mobility impairments and to people who are deaf or hard of hearing; provide accessible equipment and dispensers in the public laundry room; and modify stairs, ramps, and parking to comply with the ADA Standards for Accessible Design. Additionally, the motel will place a TTY at the front desk; purchase at least three sets of visual alarms, notification devices, and TTY's for guest rooms; and provide staff ADA training.

****Cypress Gardens Theme Park, Inc., Winter Haven, Florida --** The Department reached an agreement with the Cypress Gardens Theme Park resolving a complaint alleging a failure to provide auxiliary aids and services to guests who are deaf or hard of hearing. Cypress Gardens is a theme park for the viewing of gardens, butterflies, birds, and wildlife. It also offers boat rides and live entertainment. Cypress Gardens has agreed to purchase assistive listening systems (six transmitters and 24 headsets) to be available at all shows and to make qualified sign language interpreters available free of charge upon request. In addition, the complainants will receive 40 annual passes with a total value of approximately \$3,000.

****Kingston Ramada Inn, Kingston, New York; Ramada Inn Philadelphia International Airport, Essington, Pennsylvania; Ramada Inn and Suites, South El Monte, California --**The Department reached agreements with three independently owned Ramada Inn hotels in which the separate owners agreed to take steps

to improve accessibility to guests who are deaf or hard of hearing. Each hotel agreed to maintain a TTY at the front desk; to purchase a specified number of additional guest room communication kits, including a TTY, a portable visual alarm for emergencies, and a visual notification device; and to purchase additional equipment as appropriate to meet monitored demand. The owners also agreed to train their employees on the requirements of the ADA and how to assist customers in using hotel accessibility features.

****Resort Express, Inc., Park City, Utah --** The Department concluded an agreement with Resort Express, Inc., a private company that provides a demand responsive transportation service to and from the Salt Lake City airport, resolving a complaint filed by a wheelchair user who was allegedly charged a fare for a trip in an accessible vehicle higher than the fare charged to other passengers. The company agreed to provide accessible service to customers with disabilities at no extra charge. It also agreed to maintain in good working order at least one accessible van and to pay \$2,000 in compensatory damages to the complainant and \$1,500 in civil penalties to the United States.

Dr. Mina Mostofi, Woodbridge, Virginia -- The Department entered into a settlement agreement with a Woodbridge, Virginia, dentist resolving a complaint of HIV discrimination. The dentist allegedly informed a patient, who self-identified as being HIV-positive, that she could treat her at the end of the day only. The dentist agreed to cease this practice and to treat patients with HIV in the same manner, and at the same times, as patients without HIV. She also agreed to pay the complainant \$500.

Acumen Telecom, Joliet, Illinois -- The U.S. Attorney's Office for the Northern District of Illinois resolved a complaint regarding Acumen Telecom, a cellular phone store, by

an individual with a disability who uses a service animal. The complaint alleged that an employee of the store refused to do business with the complainant because he was accompanied by a service dog, and that the employee pushed him out of the store and told him, "We don't do business with your kind." The owner agreed to adopt and implement a nondiscrimination policy regarding individuals with disabilities who use service animals, post the policy in large print in a prominent location in the facility, and pay \$500 to an organization that trains service animals.

Dr. Dipankar Mukherjee, Annandale, Virginia -- The Department signed an agreement with Dr. Dipankar Mukherjee resolving a complaint alleging that he denied treatment to a deaf individual who requested a sign language interpreter. Under the settlement, Dr. Mukherjee agreed to adopt a written policy on effective communication with individuals with disabilities, to inform and train his employees on their obligation under the ADA to provide necessary auxiliary aids and services, and to pay the complainant \$1,000.

****Carson Long Military Institute, New Bloomfield, Pennsylvania** -- The Department entered into a settlement agreement with Carson Long Military Institute, a private military high school for boys, resolving a complaint alleging that the school forced a student to withdraw because of his severe food allergies and asthma. The school agreed to establish a set of policies requiring an individualized assessment of student requests for accommodations, permitting self-medication by students with disabilities when appropriate, and providing for the emergency treatment of students with life threatening allergies severe enough to require medical intervention, including a policy for self-administering epinephrine through the use of the EpiPen or other comparable devices. The school also agreed

to establish a training program for its staff on the ADA and the procedures to be followed in the event that a student with severe allergies requires emergency treatment. In addition, Carson Long agreed to pay \$5,000 in damages to the complainant.

Dr. Alfredo Corpas, Homestead Towns Square Dentistry, Homestead, Florida -- The Department reached an agreement with a South Florida dentist resolving a complaint alleging that he denied dental services to a patient who is HIV positive. The dentist agreed to provide sensitivity training to his staff, publicize the availability of services to patients who are HIV positive, and post notices concerning his office's desire to treat all patients in a nondiscriminatory manner.

Harbor Insurance Company, Tulsa, Oklahoma -- The Department entered a settlement agreement with Harbor Insurance Company to resolve a complaint by two deaf licensed drivers alleging that the company required them to submit medical certifications that they can drive safely before considering them for insurance. The company agreed to remove this condition and to invite the complainants to reapply for insurance.

Walden University, Minneapolis, Minnesota -- The Department entered into an agreement with Walden University resolving a complaint filed by a doctoral student who has a vision impairment resulting from a brain injury and who alleged that the university failed to accommodate her disability by providing course materials on a computer disk. The settlement requires Walden University to establish a policy ensuring effective communication with individuals who have hearing, vision, or speech impairments and to provide appropriate auxiliary aids and services. The settlement also requires the university to publish the policy annually in its student handbook and university catalog and to provide ADA training to all of its employees.

Mezona Orthopedic Professional Association, Inc., Phoenix, Arizona -- The U.S. Attorney's Office for the District of Arizona entered into a settlement agreement resolving a complaint against Mezona Orthopedic Professional Association, Inc. The complainant, who is deaf, alleged that Mezona refused to provide sign language interpreters for several medical office visits. On one occasion, the complainant's daughter missed work to accompany her mother to Mezona so that she could interpret for her. To settle the complaint, Mezona agreed to provide auxiliary aids and services, including qualified sign language interpreters, where necessary to ensure effective communication at no cost to the patient; provide a detailed written explanation if Mezona staff members determine either that an interpreter is not necessary to ensure effective communication or that providing one would pose an undue burden; post a sign giving notice that auxiliary aids and services are available; train its employees on the requirements of the ADA; and pay the complainant and her daughter \$500 each in damages and a civil penalty of \$1,000 to the United States.

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

Two individuals who are deaf complained that a county probate and juvenile court in Ohio did not provide a qualified sign language

interpreter. The court modified its policies to provide qualified sign language interpreters when needed for effective communication. The court also provided training to its employees, appointed an ADA coordinator, published a notice in the local newspaper regarding the newly adopted policy, and reimbursed the complainants for the cost of their interpreters.

An individual who is deaf complained that a Texas county sheriff's department failed to use a sign language interpreter to communicate with her when questioning her juvenile son. The sheriff's department adopted and implemented a policy on effective communication with people who are deaf or hard-of-hearing, including procedures for on-call sign language interpreter services, and provided a TTY at its headquarters.

An individual who uses a wheelchair complained that an Indiana city hall was not accessible because the chair lift was too small to accommodate the complainant's wheelchair. The city agreed to move public meetings and programs to an alternative, accessible location when necessary to provide program accessibility for people with disabilities.

An individual who is hard-of-hearing complained that she had been unable to participate meaningfully in a court proceeding because no assistive listening device was available for her use. The court reaffirmed its commitment to provide appropriate auxiliary aids and services and to notify the public about how to request those aids and services by posting this information in conspicuous places, printing an ADA notice on all informational publications, and providing information on its website.

A deaf individual complained that he was unable to participate in a hearing in a Mississippi municipal court because the court failed to provide a sign language interpreter. The court contracted with a qualified sign language interpreter, adopted a policy for effective communication with persons with disabilities, and held ADA training for all professional employees.

An individual who is deaf complained that a South Carolina county failed to ensure effective communication for TTY users when calling 9-1-1.

The county implemented a training program for its employees, a specific routing system for incoming TTY calls, and periodic testing of the TTY portion of the 9-1-1 emergency services system.

**Other
Settlements**

An individual with mobility impairments alleged that an Illinois convenience store clerk refused to help him purchase a newspaper by retrieving one from a stack of papers piled on the floor. The store adopted a policy requiring employees to leave the counter with the cash register locked to provide assistance to people with disabilities.

A married couple, neither of whom had a driver's license because of their disabilities, complained that they were required to sign a "waiver of liability" before a Mississippi car dealership would allow them to purchase a vehicle. The dealership agreed to modify its policy to allow a person without a driver's license to purchase a vehicle without signing a waiver.

Title III

An individual who uses a wheelchair complained that a medical testing facility in Stillwater, Oklahoma, did not provide sufficient accessible parking. The facility agreed to add an additional accessible parking space and access aisles to the existing accessible parking.

An individual who is deaf complained that a law firm in Richmond, Virginia, refused to provide a sign language interpreter for an initial legal consultation. The law firm agreed to adopt a written policy regarding effective communication for persons with disabilities, registered with a company to receive sign language and other interpreting services, identified an attorney employee to answer questions about the policy, and agreed to provide a free one-hour consultation to the complainant with an interpreter.

An individual who uses a wheelchair complained to the U.S. Attorney's Office for the District of Arizona that the designated accessible parking space serving a building containing doctors' offices was not van accessible and was not properly marked. The company agreed to provide accessible parking and to pay \$1,000 in damages to the complainant and a \$1,000 civil penalty to the United States.

II. Mediation

Under a contract with the Department of Justice, The Key Bridge Foundation receives referrals of complaints under titles II and III for mediation by professional mediators who have been trained in the legal requirements of the ADA. An increasing number of people with disabilities and disability rights organizations are specifically requesting the Department to refer their complaints to mediation. 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.

- In Missouri, an individual with a mobility impairment complained that a county failed to provide access to public zoning meetings that were held on the second floor of the courthouse. The county installed an elevator.
- A parent of a child with diabetes complained that a Kentucky movie theater that sold only candy and soda refused to allow the parent to bring food for her child into the theater. The theater owner changed its policy and installed signage stating food and drink are allowed in the theater if needed because of a disability, trained all staff on the policy change, and apologized to the parent.
- In Virginia, a deaf individual alleged that a statewide agency's voice-activated automated telephone line was not accessible to her and that agency staff did not know how to communicate with her on the telephone relay system. The agency installed a dedicated line for clients who use TTY's, allowing them equal access to the interactive telephone check-in system that they are required to use. The agency also provided staff training on the use of TTY's and the telephone relay service.
- In Oklahoma, an individual complained that a service organization did not have an accessible entrance. The organization constructed a ramp with handrails.
- A wheelchair user complained that an Indiana tire and auto store failed to provide accessible parking or an accessible entrance. The owner of the property installed a van-accessible parking space with appropriate signage, constructed a new accessible store entrance, and installed a ramp to the sidewalk in front of the entrance. In addition, the owner remodeled the restroom to make it wheelchair accessible.
- A deaf individual complained that a California hotel failed to provide closed captioning for televisions in guest rooms. In mediation, it was discovered that the hotel did have closed captioning, but that staff did not know how to use it. The hotel trained its staff on how to make this service available to guests.
- In Pennsylvania, a wheelchair user complained that two individually owned restaurants did not provide accessible parking or public restrooms. The owner of each restaurant immediately created a van-accessible parking space with appropriate signage, installed an accessible ramp to the restaurant, and made the bathrooms accessible.

- In Indiana, an individual filed a complaint on behalf of his mother-in-law, a wheelchair user who was unable to access the women's restroom at a local fraternal organization building. In mediation, the complainant learned that the building did have an accessible public unisex restroom but that there was no signage directing the general public to it. The organization agreed to place signage at the inaccessible restrooms directing the public to the accessible restroom.
- A wheelchair user complained that an Arkansas occupational school held courses at an inaccessible hotel despite advertisements stating that all courses were held in accessible locations. The school agreed to ask all applicants if they have accessibility needs and to conduct an onsite inspection prior to selecting a course site to ensure that students with disabilities have full access to all classrooms as well as to hotel guest rooms.
- In Wisconsin, a husband and wife, both with disabilities that make lifting difficult, complained that a retail store refused to assist them in lifting an item they wished to purchase. The store agreed to change its policy and to provide assistance to customers with disabilities. The store also apologized to the complainants and provided them with a small compensatory package of goods and services from the store.

III. Certification of State and Local Accessibility Requirements

The ADA requires that newly constructed or altered places of public accommodation and commercial facilities comply with title III of the ADA, including the ADA Standards for Accessible Design (ADA Standards). The Department of Justice is authorized to certify that State and local accessibility requirements, which are often established through building codes, meet or exceed the ADA's accessibility requirements. In any lawsuit that might be brought, an entity that complies with a certified State or local code can offer that compliance as rebuttable evidence of compliance with the ADA.

In implementing its certification authority, the Department works closely with State and local officials, providing, as needed, detailed technical assistance to facilitate efforts to bring those accessibility requirements into accord with the ADA Standards. In addition, the Department responds to requests from private entities for review of the accessibility provisions of model codes and standards, and provides informal guidance regarding the extent to which they are consistent with the minimum accessibility requirements of the ADA.

The Department has certified the accessibility codes of the States of Washington, Texas, Maine, and Florida, and has pending requests for certification from California, Indiana, Maryland, New Jersey, and North Carolina. Recent certification activity includes --

North Carolina -- The Department issued a technical assistance letter to the State of North Carolina in response to its application for certification of Volume I-C of the North Carolina Building Code. Volume I-C contains accessibility requirements for new construction and alterations of places of public accommodations and commercial facilities. The Department found that in many areas Volume I-C is closely equivalent to the new construction and alterations requirements of title III of the ADA. However, further clarification of some of the provisions of Volume I-C, and possible modification of others, is required before a preliminary certification determination can be made as to whether Volume I-C meets or exceeds the ADA's new construction and alterations requirements. The Department will continue to work closely with North Carolina officials to facilitate resolution of the remaining issues.

IV. Technical Assistance

The ADA requires the Department of Justice to provide technical assistance to businesses, State and local governments, and individuals with rights or responsibilities under the law. The Department provides education and technical assistance through a variety of means to encourage voluntary compliance. 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, and coordinating ADA technical assistance government wide.

ADA Home Page -- ada.gov

The ADA Home Page is operated by the Department on the Internet's World Wide Web at www.ada.gov. 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 --

- ◆ electronic versions of the ADA Standards for Accessible Design, including illustrations and hyperlinked cross-references,
- ◆ ADA regulations and technical assistance materials (which may be viewed online or downloaded for later use),
- ◆ on-line ordering of the ADA Technical Assistance CD-ROM,
- ◆ Freedom of Information Act (FOIA) ADA materials, including technical assistance letters, and
- ◆ links to the Department's press releases 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 9:30 a.m. until 5:30 p.m. and on Thursday from 12:30 p.m. until 5:30 p.m. (Eastern Time). Spanish language service is also available.

Updated ADA Technical Assistance CD-ROM Now Available -- The Department has produced a new edition of its technical assistance CD-ROM for personal computers which includes a wide array of important ADA documents, including the Department of Justice ADA regulations, the ADA Standards for Accessible Design, the Title II and Title III Technical Assistance Manuals and Updates, the entire collection of ADA technical assistance documents and the ADA status reports, "Enforcing the ADA," dating from 1994. Users can access the documents and information in the same manner as on a web site, navigating to various publications from a home page on the CD-ROM. Many documents can be viewed as formatted publications in Adobe Acrobat that look the same as the original printed version. All publications are also available in WordPerfect and text formats for users who prefer these alternate formats. To order the updated CD-ROM online, go to the ADA Home Page (www.ada.gov) and select the link for the CD-ROM. To order by telephone call the ADA Information Line, 800-514-0301 (voice) or 800-514-0383 (TTY).

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

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

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 34 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, can be

obtained by calling the ADA Information Line, visiting the ADA Home Page, 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.

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530

Some publications are available in foreign languages. For further information please call the ADA Information Line.

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

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
FOIA Branch, NALC Room 311
Washington, D.C. 20530

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 (www.usdoj.gov/crt/foia/records.htm). A link to search or visit this website is provided from the ADA Home Page

V. 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 publications
800-669-3362 (voice)
800-800-3302 (TTY)

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

www.eeoc.gov

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

ADA publications and questions
888-225-5322 (voice)
888-835-5322 (TTY)

www.fcc.gov/cgb/dro

**U.S. Department of Transportation,
Federal Transit Administration**

ADA Assistance Line for regulations
and complaints
888-446-4511 (voice/relay)

www.fta.dot.gov/office/civrights

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

ADA publications and questions
800-872-2253 (voice)
800-993-2822 (TTY)

www.access-board.gov

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 & TTY)

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 (TTY)

www.projectaction.org

The **Job Accommodation Network (JAN)** is a free telephone consulting service funded by the U.S. Department of Labor. 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 & TTY)

www.jan.wvu.edu

VI. 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 (TTY) 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 --

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530

If you wish your complaint to be considered for referral to the Department's ADA Mediation Program, please mark "Attention: Mediation" on the outside of the envelope.

The Attorney General has determined that publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice.