



Enforcing the ADA:

A Status Report from the Department of Justice

April - June 2003

This Status Report covers the ADA activities of the Department of Justice during the second quarter (April - June) 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 13). 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

Supreme Court Clarifies Rules for Counting Employees Under Title I -- The Supreme Court issued an opinion on 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 Clackamas Gastroenterology Associates, P.C. v. Wells, if the four physicians are counted as employees, the medical practice would meet the 15-employee threshold for title I coverage, but if they are not, the practice would not be covered. 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. Consistent with the Department's amicus brief and the longstanding position of the Equal Employment Opportunity Commission, the Supreme Court concluded that, even if the medical practice is incorporated, the physicians should not be considered employees of the corporation if they operate independently and participate in managing the business. The Court sent the case back to the Ninth Circuit for a decision under this standard.

Supreme Court Leaves Title II Sidewalk Coverage in Place -- The Supreme Court decided not to review the decision of the U.S. Court of Appeals for the Ninth Circuit in City of Sacramento v. Barden, which held that Sacramento's sidewalks are covered under title II of the ADA. The plaintiffs, a group of

individuals who are blind or use wheelchairs, filed suit alleging that Sacramento had violated the ADA by failing to install curb ramps at intersections on newly constructed or altered streets and by failing to remove other obstructions (for example, benches, sign posts, and guy wires) that made some existing sidewalks inaccessible. The U.S. District Court for the Eastern District of California ruled that the midblock portion of a sidewalk that connects one intersection to another is not a program, service, or activity of the City of Sacramento and, therefore, is not covered by the ADA. On appeal, the Department argued in an amicus brief that providing, constructing, and maintaining a system of sidewalks is a government service covered by title II. The Ninth Circuit agreed, asserting that the requirement for curb ramps would be meaningless if the sidewalks between the curb ramps were inaccessible. Sacramento asked the Supreme Court to review the Ninth Circuit's decision. In response, the Department filed an amicus brief urging the Supreme Court not to take the case because the Ninth Circuit was correct in ruling that sidewalks are covered and that the ruling was not in conflict with decisions in any other courts of appeals. The brief also argued that because of title II's undue financial and administrative burdens defense there is no reason to assume that Sacramento would be

subjected to what it believes would be staggering costs, and that issues relating to any undue financial and administrative burdens would be better left to the district court to decide after it has heard evidence on the impact of the program accessibility requirements.

Two Appeals Courts Uphold Suits Against State Officials -- Two U.S. Courts of Appeals, the Second and Seventh Circuits, have ruled that State officials may be sued as individuals in their official capacities for prospective relief even when Eleventh Amendment sovereign immunity bars a suit against the State itself. The Second Circuit case, Henrietta D. v. Giuliani, involves claims against New York State officials for failing to make reasonable modifications in the process of awarding of public benefits in order to avoid discrimination against people with HIV disease. In the Seventh Circuit case, Bruggeman v. Blagojevich (formerly Boudreau v. Ryan), the plaintiffs are five developmentally disabled or mentally retarded adults who live with their parents who claim that the failure of State officials to provide them with residential Medicaid services for which they are eligible violates the ADA. In both cases the Department filed briefs arguing that State officials are subject to suit in their official capacities.

Supreme Court Will Review Constitutionality of Title II Suits Against States -- The Supreme Court agreed to review the decision of the U.S. Court of Appeals for the Sixth Circuit in Tennessee v. Lane, which upheld the constitutionality of suits against States under title II. The suit was brought by two individuals with mobility impairments who use wheelchairs against the State of Tennessee and 25 of its counties for having inaccessible courthouses. One plaintiff was charged with two misdemeanor offenses and had to crawl up two flights of stairs to reach the courtroom to answer the charges. The other plaintiff, a certified court reporter, alleged that inaccessible courthouses impaired her ability to practice her profession and serve clients. The Department intervened in this case in the Sixth Circuit several years ago to defend the constitutionality of title II suits against States. The Sixth Circuit ruled that title II is an appropriate expression of congressional authority to enforce the due process rights (but not the equal protection rights) guaranteed by the Fourteenth Amendment and refused to dismiss the suit.

Ninth Circuit Reaffirms Constitutionality of Title II Suits Against States -- The U.S. Court of Appeals for the Ninth Circuit ruled in Miranda B. v. Kitzhaber that a suit by ten individuals with mental illness against the Oregon Department of Human Services challenging their continued placement in State psychiatric hospitals under title II was not barred by Eleventh Amendment sovereign immunity. The court also ruled that, even if the State agency itself was immune, State agency officials may be sued in their official capacities for prospective relief.

2. New Lawsuits

The Department initiated or intervened in the following lawsuits.

Title II

Goodman v. Ray -- The Department intervened in the U.S. Court of Appeals for the Eleventh Circuit in Goodman v. Ray to defend the constitutionality of title II suits against States. The case involves a Georgia inmate with paraplegia who uses a wheelchair, who claims that the Georgia corrections system failed to provide reasonable accommodations for his disability. The Department's brief argued that title II validly abrogates Georgia's sovereign immunity because it is an appropriate exercise of congressional authority to enforce the equal protection guarantees of the Fourteenth Amendment.

Title III

U.S. v. Ali-Ann, Inc. -- The Department filed suit in the U.S. District Court for the District of New Jersey alleging that the corporate operator and the owner and landlord of Kaminski's, a 250-seat restaurant in Cherry Hill, New Jersey, failed to remove architectural barriers to the restaurant and parking lot even though it was readily achievable to do so. The lawsuit alleges that the front entrance, restrooms, and parking lot are inaccessible. It asks the court to order that

the architectural barriers be removed, that compensatory damages be paid to an individual with multiple sclerosis who was unable to enter the restaurant, and that a civil penalty be paid to the United States.

U.S. v. Parkway Hospital -- The Department, represented jointly by the U. S. Attorney's Office for the Eastern District of New York and the Disability Rights Section, sued Parkway Hospital alleging that the hospital violated the ADA by failing to ensure effective communication with a deaf patient and her family members. The deaf, elderly patient was admitted to the emergency room of the Queens, New York, hospital in critical condition and remained in the hospital until she died several months later. The patient, her deaf husband, and three other family members (two of whom are also deaf) who participated in decisions about her care repeatedly made requests for a qualified sign language interpreter that were denied. Instead, doctors and hospital staff relied on inadequate exchanges of written notes or on the limited interpreting skills of a hospital staff member to communicate with the patient and her family. As a result, important decisions about complicated procedures, including surgery and related consent forms, were allegedly made without effective communication. The lawsuit seeks an order requiring Parkway Hospital to provide effective communication with patients who are deaf or hard of hearing and persons who are associated with them; damages to family members injured by the hospital's practices, and civil penalties.

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.

** **U.S. v. Tennessee** -- The State of Tennessee agreed to a consent decree resolving the

Department's lawsuit challenging four Tennessee state statutes that exclude all individuals with "apparent mental disorders" from certain public safety jobs. The lawsuit was originally filed against the State of Tennessee and Weakley County by two former 9-1-1 dispatchers who after years of satisfactory job performance were subjected to psychological testing and summarily removed from their positions following the psychologist's determination that they were, respectively, "subject to emotional instability," and "overly reactive" and "at risk of impulse control difficulties." The county fired them because of the Tennessee statute even though it had not found either of them to be unable to perform their jobs or to pose a safety threat. The Department intervened in the suit and in January 2001 entered into a consent decree resolving the claims against the county by the individual plaintiffs and the United States. Now, under a new consent order, the State of Tennessee agreed not to enforce the four statutes and to take steps to repeal them. It also agreed to revise its policies regarding psychological and physical evaluations for State job applicants and employees, require existing employees to undergo a medical examination only when job-related and

consistent with business necessity, and provide training to State agencies and to Tennessee's counties and municipalities on the employment discrimination provisions of the ADA.

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 I

Raytheon Company v. Hernandez -- The Department filed an amicus brief in the U.S. Supreme Court in Raytheon v. Hernandez, a suit challenging an employer's refusal to rehire an individual who had earlier lost his job because of illegal drug use. The plaintiff, Joel Hernandez was an employee of the Hughes Missile Systems Company (later acquired by Raytheon Company) in 1991 when he tested positive at work for cocaine use. Under Raytheon's policy prohibiting the use of illegal drugs, Hernandez's employment was terminated. In 1994, after Hernandez had recovered from his drug addiction and alcoholism, he applied to be rehired by

**** Agreement Expands Access to Concertgoers With Diabetes** -- SFX Entertainment, Inc., will adopt a new policy allowing patrons with diabetes to keep their medical supplies and food with them when attending concerts. The policy is required under a consent decree agreed to by the Department of Justice and approved by the U.S. District Court for the Eastern District of Pennsylvania. SFX owns, leases, or operates more than one hundred concert venues in the United States. The Department's lawsuit, U.S. v. SFX Entertainment, Inc., alleged that SFX, which does business as Clear Channel Entertainment, violated the ADA by establishing and enforcing a policy prohibiting individuals from keeping their diabetic supplies and food with them at concerts. The complaint further alleged that individuals with diabetes were forced by SFX's policy to choose between being barred from concerts or taking unreasonable health risks. In addition to changing its policy, SFX agreed to provide training to employees who have responsibility for implementing the new policy and to pay damages of \$20,000. SFX also agreed to permit concert patrons to keep with them an EpiPen (a disposable drug delivery system for people with severe allergies).

Raytheon. Raytheon denied his application for employment because it had a policy of not rehiring former employees who were terminated for violating company rules. Hernandez filed suit under title I alleging that Raytheon refused to hire him because of his history of drug addiction in violation of the ADA. The U.S. District Court for the District of Arizona ordered the case dismissed but the U.S. Court of Appeals for the Ninth Circuit disagreed. The Department filed an amicus brief in the Supreme Court arguing that Raytheon's policy did not violate the ADA because it was a neutral policy applied in a nondiscriminatory manner. It noted that the policy applied equally to all former employees discharged for misconduct regardless of the type of misconduct that was the basis for the discharge and regardless of whether the former employee had a disability, and that the ADA explicitly allows employers to hold employees who use illegal drugs to the same qualification and behavioral standards as other employees even if an employee is unable to meet those standards because of his drug use. The brief also argued that the case should be dismissed because Hernandez failed to present sufficient evidence that the no-rehire policy was being applied in a way that singled out Hernandez because of disability.

B. Formal Settlement Agreements

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

Title II

**** Columbia County, New York** -- The Department signed an agreement with Columbia County, New York, under Project Civic Access, a wide-ranging effort by the Department of Justice to ensure that cities, counties, towns, and villages comply with the ADA. It is the fifty-third and final agreement

reached under phase one of the project which is dedicated to removing barriers to all aspects of civic life, including courthouses, libraries, polling places, police stations, and parks. The agreement requires the county to provide program accessibility at numerous county government facilities by providing accessible parking, entrances, doors, routes of travel, service counters, ramps, call boxes, drinking fountains, public restrooms, public telephones, and visual and audible emergency warning systems. The county also agreed to provide designated accessible courtrooms in the courthouse, make county documents available in alternate formats upon request, print the county's central TTY telephone number on county letterhead, provide oral and sign language interpreters upon request, post a newly adopted ADA nondiscrimination policy and grievance procedure, and implement an ADA training program for county employees.

**** Metropolitan Government of Nashville and Davidson County, Tennessee** -- The Department reached a final agreement with the Metropolitan Government of Nashville and Davidson County on plans to make government buildings and facilities accessible. Schools will be addressed in a future agreement. Under an earlier agreement completed under Project Civic Access, a plan was developed through a process of program assessments, facility surveys, and five public hearings for making necessary structural changes to existing facilities in order to achieve program accessibility. The most common barriers to program access were identified as inaccessible exterior routes, parking, building entrances, and interior routes of travel. The final agreement provides for implementing these changes in programs, activities, and services in hundreds of government buildings, parks, playgrounds, and rights of way. It also commits the parties to reach a negotiated supplemental agreement covering school buildings after surveys and reviews of the public schools are completed.

Title III

Burleson St. Joseph Health Center, Burton, Texas -- The Department reached an agreement with the Burleson St. Joseph Health Center resolving a complaint alleging that a rural health care clinic operated by the center denied additional medical treatment to an individual after learning that he had HIV disease. The complainant came to the clinic for treatment of sinusitis. The clinic, which is the only medical provider in the town, was staffed by a nurse practitioner who gave the complainant medication for his sinusitis and, in the course of taking his medical history, learned that he had HIV. The complainant informed the nurse practitioner that he was under the care of a specialist in Houston for his HIV disease. Three weeks after his visit to the clinic, he received a letter by certified mail informing him that he could no longer receive treatment at the clinic “ due to [his] medical condition being out of the scope of service of our nurse practitioner,” and suggesting that he see a physician in a town an hour away. Under the settlement agreement, Burleson St. Joseph agreed to adopt and post a policy prohibiting discrimination on the basis of disability. Burleson St. Joseph will also provide training for its employees on the nondiscrimination requirements of the ADA. After filing a complaint with the Department, but before the Department reached this settlement agreement, the complainant filed a Federal lawsuit and resolved his private claims through an out-of-court settlement.

O’Grady’s Family Restaurant, Phoenixville, Pennsylvania -- The Department reached an agreement with the O’Grady’s Family Restaurant resolving a complaint by a wheelchair user that the restaurant failed to take readily achievable steps to remove barriers. The restaurant agreed to provide accessible parking and to modify restrooms to make them accessible.

Reno Sparks Cab Company, Reno, Nevada -- The Department entered an agreement with Reno Sparks Cab Company resolving a complaint alleging that it refused to pick up an individual who is deaf and her service animal because the animal was not identified by a special leash or collar as required by State law. The company agreed to modify its policy and no longer insist that a service animal be identified or certified in any particular manner and to train its drivers on the service animal requirements of the ADA.

Jay’s Taxi, Sikeston, Missouri -- The Department signed an agreement with Jay’s Taxi Service settling a complaint by a blind individual who alleged that the taxi service charged him an additional fee to transport his service animal. Jay’s Taxi agreed not to charge extra fees for service animals and to train current and future employees on this policy.

High Country Motel, Cooke County, Montana -- The Department signed an agreement with the High Country Motel in Cooke County, Montana, resolving a complaint alleging discrimination by the hotel against an individual with a disability who uses a service animal for hearing and balance. The complainant allegedly reserved a nonsmoking room, but after the motel learned at registration that the complainant had a service animal, he was offered a smoking room because of the motel’s policy that barred animals from nonsmoking rooms. The complainant refused to accept the smoking room. The agreement required the motel to modify its policy prohibiting animals from nonsmoking rooms when necessary to accommodate a guest with a disability, post a written policy welcoming service animals in a prominent place at the motel, and compensate the complainant for the cost of finding other lodging.

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

An individual who uses a wheelchair complained that a Pennsylvania volunteer fire department building was inaccessible. The department installed signage for the accessible parking space, altered the entrance door threshold to make it accessible, and installed an accessible public restroom and appropriate signage throughout the building.

An individual who is hard of hearing complained that a Pennsylvania district court failed to provide a sign language interpreter on two occasions when he was called to be a witness by the county district attorney's office. The court administrator agreed to provide necessary auxiliary aids to ensure effective communication to individuals who are deaf or hard of hearing.

An individual who could not climb stairs complained that a historic Georgia county courthouse was inaccessible to persons with physical disabilities. The county decided to move all of its services and judicial offices to a newly constructed judicial center with accessible parking, restrooms, offices, courtrooms and holding cells.

An individual with quadriplegia complained that a New Jersey municipal building did not have accessible parking. The municipality added an accessible space.

Title III

An individual who uses a wheelchair complained that an Oklahoma Shopping Center did not have accessible parking. The shopping center management company provided accessible parking spaces by adding appropriate signage and access aisles to its existing parking.

An individual who uses a wheelchair complained that a local Michigan over-the-road bus line failed to provide accessible transportation when it sent a bus that had a broken wheelchair lift. The company acknowledged its error, reprimanded the employee who failed to follow company procedures, amended the company's internal procedures to ensure that bus drivers are notified that individuals requiring accessible transportation will be on board their bus, and provided the complainant with a one-year bus pass good for unlimited trips on the company's bus routes.

An individual who uses a wheelchair complained that a retail automotive and marine equipment store in Alaska did not provide accessible parking. The store agreed to provide three accessible parking spaces, including one van-accessible space.

A man who uses oxygen support and has a valid accessible parking placard complained that a nationally franchised hotel in Durham, North Carolina, had an insufficient number of parking spaces available to persons with disabilities. The hotel agreed to create four additional parking spaces for persons with disabilities, including one van-accessible space.

A man who is legally blind and has a hearing impairment was refused service at a restaurant in Portsmouth, Ohio, because he uses a service animal. The restaurant owner agreed to place a sign at the front counter welcoming individuals who use service animals.

An individual whose mobility impairment made it difficult to climb into elevated vehicles alleged that a Pennsylvania airport shuttle service sent a vehicle with a broken lift to transport her from the airport to her home and that she was verbally abused when she attempted to complain. The shuttle service fired the abusive individual and sent the complainant a formal letter of apology and

two vouchers for free round trip transportation to and from the airport.

A wheelchair user complained that two southern California shuttle bus services did not provide accessible transportation to individuals with mobility impairments. The companies each agreed to install lifts on two of their buses.

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.

- A person who is hard of hearing complained that a New Jersey town failed to provide effective communication at its public meetings. The town purchased an infrared assistive listening system, trained town employees in the use of the equipment, and agreed to provide notice of the availability of the equipment in all announcements of town meetings.
- In Washington, a person who uses a walker complained that she was unable to walk from the locker room to the pool at the fitness facility she had joined because the floors were too slippery. The fitness facility provided firm, slip-resistant mats to create an accessible route allowing customers with mobility impairments to get from the locker room to the pool.
- In Texas, a husband complained on behalf of his wife who has a mobility impairment that an automobile racing event at a large track was inaccessible. The accessible parking was not properly marked and was blocked by large equipment and motorcycles, and there were many obstacles in the accessible path of travel. The track agreed to move the accessible parking to provide an accessible path of travel with better lighting, installed appropriate signage, and agreed to ensure that contractors would not block the accessible parking.
- A parent claimed that a summer camp in South Carolina refused to allow her son, who has multiple disabilities, to attend a camp program that included overnights unless she provided a full-time attendant for him. In the course of mediation, the parties agreed to a process to explore whether or not the child needed continual supervision and if so, who would provide it. After several months of good faith exploration, including observation of the child to better understand his needs, the

camp agreed to let the child attend its camp without requiring the mother to provide an attendant.

- In Virginia, a wheelchair user complained that a hospital did not provide accessible parking near the main entrance, the existing parking in the rear lot was difficult to find due to poor lighting, and unauthorized vehicles were allowed to park in accessible spaces. The hospital created additional accessible parking at both the front and rear entrances, created a curb cut to provide access from the parking lot to the hospital entrances, increased exterior lighting to enhance the visibility of accessible parking in the rear lot, and adopted a policy to monitor use of accessible parking by unauthorized drivers and to notify local police to ticket those who were illegally parked.
- In North Carolina, an individual with a mobility impairment complained that a golf course's facilities were inaccessible and that course policies discriminated against golfers with mobility impairments. The golf course provided two additional accessible parking spaces with appropriate signage. It also installed a bell for assistance in using a steep, existing ramp to an upper-level portion of the clubhouse because hilly terrain made an accessible ramp infeasible. The course acquired a golf cart designed for use by persons with disabilities and modified policies to allow for the use of standard golf carts by persons with disabilities in areas that would otherwise be closed to carts, subject to limitations under certain weather conditions. In addition, it agreed to designate ball drop areas to be used when a ball is hit into an area that is dangerous for cart use.
- A parent of an adult son with mental retardation claimed that the new owners of a Texas resort discriminated against them by refusing to allow them to return to the resort with their son. The resort welcomed the family to return at any time and the family agreed to provide appropriate supervision if needed. The owners obtained training on the ADA and how to provide hospitality services to customers with disabilities. The resort also paid the family \$2,500 and offered them a free three-night stay at the resort.
- In Florida, an individual with a mobility disability complained that a bank refused to allow her to use a drive-in teller reserved for commercial accounts, even though she explained she was unable to use the pneumatic tube drive-in window or open the bank's heavy doors because of her disability. The bank advised all supervisors that customers with disabilities may use the commercial drive-in teller if needed and explained that the employees who had refused to allow the complainant to use the commercial teller were no longer employed at the bank. The bank also installed automatic push button doors at the entrance.
- A person with a disability complained that a North Carolina motel refused to rent her a room because she has a service dog. The motel required all staff to complete training on ADA regulations regarding service animals and required all employees to view a video on ADA regulations and to sign off that they had done so. In addition, the motel moved a sign stating that service animals are allowed to accompany guests with disabilities so that it would be more visible to all employees and provided the complainant with a complimentary guest pass to stay one night at any of the owner's four motels.

- In New Hampshire, a wheelchair user and a companion complained about the possibility that tickets for accessible wheelchair seating were being sold by a professional sports team in Ohio to people who did not need accessible seating. The team agreed to add a notice about ticket fraud and the proper use of tickets on its website and on all brochures and mail materials on wheelchair accessible seating. The team also agreed to state at the time of purchase that the accessible seating is intended for the use of wheelchair users and companions. In addition, the team will hold unsold accessible seats for 72 hours after a game is sold out before making them available to the general public. It also agreed to hold 50 accessible and 50 companion seats until the day of the game before releasing them for general sale.

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 Justice Department 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 --

Maryland -- The Department notified the State of Maryland of its decision to preliminarily certify that the Maryland Accessibility Code meets or exceeds the new construction and alterations requirements of title III of the ADA. Before the preliminary certification determination becomes final, the Department will provide an opportunity for public comment in writing and at a public hearing. After consideration of all of the comments and further consultation with the Access Board, the Department may issue a final certification and inform the public through a notice in the Federal Register.

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 order publications by mail or fax, 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.

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)

New ADA Technical Assistance Publications for Websites, Designated Agencies --

**** Accessibility of State and Local Government Websites --** A new technical assistance publication provides guidance on making State and local government websites accessible. The document discusses website accessibility and provides examples of accessible features. Resources for web developers, including the Section 508 Standards and the Web Content Accessibility Guidelines, are included along with a voluntary plan for making new and existing State and local government websites accessible. Users may access the web version and two PDF versions from ada.gov. The PDF print version may be used to reproduce high quality print copies.

**** ADA Designated Investigative Agencies --** Another new technical assistance publication identifies nine Federal agencies that are designated to investigate disability-related discrimination complaints filed against State and local government programs under the ADA. Information and addresses for filing complaints are provided for each agency.

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). 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 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/ada

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)

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

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 (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.