



# Enforcing the ADA:

## A Status Report from the Department of Justice

### April-September 2000

This Status Report covers the ADA activities of the Department of Justice during the second and third quarters (April-September) of 2000. 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 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 of up to \$55,000 for the first violation and \$110,000 for any subsequent violation.**

#### 1. Decisions

**Eleventh Circuit Applies ADA to Foreign Flag Cruise Ships in U.S. Waters** -- The U.S. Court of Appeals for the Eleventh Circuit allowed a title III suit to continue against the owners of a cruise ship registered in the Bahamas. The plaintiff in Stevens v. Premier Cruise Lines alleged that the Miami-based company violated the ADA by providing her an inaccessible cabin, charging her extra for it,

and by failing to remove architectural and communication barriers on the ship. The Court of Appeals agreed with the Department's amicus brief and ruled that the ADA covers cruise vessels when they are in the ports or other internal waters of the United States, even if they are registered in a foreign country. It also decided that the plaintiff had "standing" to file the lawsuit because she intended to take another cruise with Premier if it made its ships accessible.

**Ninth Circuit Rules that Title III Plaintiff Can Go Straight to Court** -- The U.S. Court of Appeals for the Ninth Circuit agreed with the Department's amicus brief in Botosan v. McNally Realty and ruled that title III does not require a plaintiff to notify any State or local agency before filing an ADA suit. The suit was filed against a California real estate office and the landlord alleging that the defendants violated title III because they failed to provide a designated parking space for persons with disabilities.

**Fifth Circuit Avoids Ruling on Internet Coverage** -- The U.S. Court of Appeals for the Fifth Circuit in Hooks v. OKBridge did not reach the issue of ADA internet coverage in dismissing a suit against a commercial website on which customers can play bridge for a fee. The plaintiff alleged that he was terminated from membership at the site

because he has bipolar disorder. The U.S. District Court for the Western District of Texas earlier ruled against the plaintiff, because it believed that a company providing services over the internet is not a physical place of public accommodation under the ADA and that defendant was exempt from the ADA as a “private club.” On appeal, the Department filed an amicus brief with the Fifth Circuit arguing that public accommodations under title III are not limited to companies providing services to customers at a physical location and that the entertainment or recreation services provided by OKBridge make it a place of public accommodation. The brief also argued that the OKBridge website is not a private club because it is a profit-making business with more than 18,000 fee-paying members in over 90 countries. The Fifth Circuit ruled that OKBridge did not violate the ADA because it was not aware of the plaintiff’s alleged disability when it terminated his membership.

**Appeals Court Concludes that ADA Does Not Apply to Terms and Conditions of Life Insurance Policy** -- In Chabner v. United of Omaha the U.S. Court of Appeals for the Ninth Circuit ruled that title III of the ADA covers physical access to an insurance office but does not cover discrimination in the terms and conditions of a life insurance policy. The Department filed an amicus brief supporting an individual with fascioscapulohumeral muscular dystrophy who alleged that United of Omaha violated the ADA by charging him a premium that was about twice as much as the standard premium it charges nondisabled policyholders. The amicus brief argued that title III guarantees more than mere physical access to public accommodations, that the statute reaches disability-based discrimination in the terms and conditions of insurance coverage, that United of Omaha engaged in disability-based discrimination by charging the plaintiff a higher premium than it charged nondisabled persons, and that an insurance company cannot qualify for the ADA’s limited insurance exemption unless it produces evidence that its insurance practices

comply with relevant State law. Although the Court of Appeals concluded that the ADA did not cover the terms of the insurance policy, it found the policy to be discriminatory under California law.

**Dyslexia Can Be ADA-Protected Disability Even if Mitigating Measures Are Considered** --

The U.S. Court of Appeals for the Second Circuit ruled that an individual with dyslexia who is seeking testing accommodations for the New York bar exam is not barred from being a person with a disability under the ADA, even if the coping techniques she has learned over the years are taken into account. In an earlier decision in Bartlett v. New York State Board of Law Examiners, the Second Circuit ruled that, because of her dyslexia, the applicant’s ability to decode words in a timely fashion was significantly restricted as compared to the average person in the general population and therefore that she was a person with a disability under the ADA. The court did not take into account Bartlett’s history of self-adjustments, which allowed her to achieve roughly average reading skills on some measures, in determining whether her dyslexia substantially limited the major life activities of reading or learning. The decision was appealed to the Supreme Court which returned the case to the Second Circuit for review in light of the Supreme Court’s 1999 rulings that mitigating measures should be taken into account in determining whether an individual is a person with a disability. The Department’s latest brief argued that even taking her efforts at self-accommodation into account the applicant still lacks automaticity (the ability to recognize words accurately and immediately without thinking) and remains substantially limited in the major life activity of reading. The court agreed that Bartlett lacks automaticity and is a slow reader but returned the case to the district court for a determination as to whether, considering all the evidence, she was substantially limited in the major life activity of reading as compared to most people.

**Fifth Circuit Imposes Weak Standard for Accessibility in Stadium-style Movie Theaters** -- The U.S. Court of Appeals for the Fifth Circuit ruled in Lara v. Cinemark that the ADA's requirement for comparable lines of sight only requires theaters to provide unobstructed views of the screen. The Department unsuccessfully argued in an amicus brief that Cinemark had violated the ADA by designing and constructing a new 20-screen, stadium-style complex in El Paso, Texas, with all accessible seating placed at the front of the theater in areas with the worst sight lines. The Department is continuing to argue in other cases that seating for wheelchair users in newly constructed "stadium-style" movie theaters must provide lines of sight that are at least comparable to those of the average patron and cannot be limited to the worst seats in the house.

**Pro Golfer Allowed to Use Cart** -- The U.S. District Court for the Western District of Texas told the United States Golf Association that it must modify its no-carts rule to allow a golfer with postpolio syndrome who is unable to walk an 18-hole course to use a golf cart in the qualifying round for the U.S. Senior Open Golf Championship. The Department filed an amicus brief in Jones v. United States Golf Association arguing that the USGA is covered by the reasonable modification requirement of title III because it is a public accommodation. The brief asserted that a golf course operated by the USGA during a tournament, including the area "within the ropes" where the golfers actually play, is a place of public accommodation even though access to the course may be restricted.

**New York Federal Court Refuses to Dismiss Zoning Challenge** -- The U.S. District Court for the Northern District of New York allowed a title II challenge to a Syracuse zoning policy to proceed. The plaintiff in Kennedy v. Fitzgerald has cerebral palsy and requires the use of a motorized wheelchair for mobility. He was unable to enter an ice cream store due to the presence of a single concrete

step. Although the store agreed to install a wheelchair ramp, the City refused to permit the necessary encroachment on the city sidewalk. The Department argued in an amicus brief that the City is obligated under title II to make reasonable modifications to its zoning policies in order to avoid discrimination against persons with disabilities, that the plaintiff had alleged enough facts to state a claim that the requested zoning modification is reasonable and would not fundamentally alter the City's zoning program, that allowing the ramp would not be an unconstitutional "taking" of city property, and that the city may be liable for damages.

**Federal Court Says State Licensing of Crop Burning Covered by ADA** -- The U.S. District Court for the Eastern District of Washington ruled that the ADA covers the State of Washington's granting of permits for farmers to burn wheat stubble. The plaintiffs in Save Our Summers v. Washington Department of Ecology seek to stop wheat stubble burning because the smoke that it produces allegedly causes serious health problems for two children, one with severe asthma and the other with cystic fibrosis, and prevents them from going outside their homes to use public facilities such as schools and roads. Some farmers choose to clear their fields by burning wheat stubble because it removes the remaining vegetation while also eliminating pests, thereby reducing the need for pesticides. In response to the court's request for guidance, the Department filed an amicus brief arguing that the State's licensing activity was covered by the ADA as well as the Clean Air Act and that it should be evaluated in light of the ADA's requirement for reasonable modifications in policies, practices, and procedures. The court agreed and allowed the case to continue to trial. The Department did not take a position at this preliminary stage on what, if any, policy modifications would be reasonable in this particular case.

## 2. New lawsuits

**The Department initiated or intervened in the following lawsuits.**

### Title I

**United States v. Mississippi Department of Public Safety** -- The Department sued the Mississippi State Department of Public Safety for violating title I by allegedly refusing to accommodate a cadet with diabetes at its training academy for new State troopers and for dismissing him from the academy because of his disability. Despite his diabetes, the cadet had worked as a law enforcement officer for more than 20 years and had successfully completed three other law enforcement and military academies. In addition to using

insulin, he regulates his diabetes through exercise and by timing and adjusting his food intake. Officials at the training academy allegedly rejected his requests for simple accommodations, such as access to a vending machine or for specific additional food at the cafeteria. Because he was not allowed to take simple steps to control his diabetes in the usual manner, he had a hypoglycemic episode on the third day of the training. When he appeared disoriented and unresponsive, he was dismissed from the academy and told to get into his car and leave immediately. The suit seeks reinstatement, back pay, compensatory damages, and a court order requiring the Department of Public Safety to adequately train its state troopers about the ADA and diabetes.

**\*\* Department Defends ADA's Constitutionality in Supreme Court** -- The Department filed a brief in the U.S. Supreme Court in The Board of Trustees of the University of Alabama v. Garrett arguing that two Georgia employment discrimination lawsuits brought under titles I and II of the ADA are constitutional. One claim involves an allegation that the University of Alabama-Birmingham illegally demoted a registered nurse employed in the University Hospital because she was diagnosed with breast cancer. The other lawsuit asserted that the Alabama Department of Youth Services failed to provide reasonable accommodations for one of its security officers who has severe chronic asthma and other respiratory problems, including sleep apnea. The State of Alabama is arguing that it is unconstitutional for Congress to permit ADA lawsuits directly against State governments because the ADA's protections go beyond the equal protection rights guaranteed by the Fourteenth Amendment to the U.S. Constitution. The Department intervened in this case to argue that, because of the history of pervasive discrimination against people with disabilities, the ADA is constitutionally appropriate legislation to remedy and prevent discrimination against people with disabilities. The Department also continued its nationwide defense of the ADA's constitutionality in lower Federal courts. It intervened in Thompson v. Colorado, a title II challenge to Colorado's fee for parking placards, and Cisneros v. Wilson, a title I employment suit against New Mexico, to urge the U.S. Court of Appeals for the Tenth Circuit to follow its earlier rulings upholding the ADA's constitutionality. The court upheld the ADA in Cisneros. The Department also filed amicus briefs in Webb v. Clyde L. Choate Mental Health and Development Center, a title I employment suit in Illinois, and McGarry v. Department of Revenue, a title II challenge to the Missouri fee for parking placards, arguing that suits against State officials seeking a court order, and not damages, should be allowed to continue even though the courts of appeals in the Seventh and Eighth Circuits, respectively, have found suits for damages to be unconstitutional.



### 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

**U.S. v. American Association of State Social Work Boards** -- The American Association of State Social Work Boards (AASWB), which offers a standardized test nationwide for licensing social workers, agreed to a consent decree requiring it to provide qualified readers for test takers with vision impairments. The agreement settles a lawsuit brought against AASWB in the U.S. District Court for the

Southern District of Iowa by the Department of Justice after the organization failed to carry out an earlier out-of-court agreement with the Department. The complainant alleged that he was not allowed to use his own reader for the social work license examination, but instead was 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. The AASSWB agreed 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 makes

#### Titles I and II

**\*\* Denver Agrees to \$1.5 Million in Back Pay Awards for Failure to Reassign Police Officers with Disabilities** -- Under a consent decree with the Department of Justice, the City and County of Denver will modify their employment policies to allow police officers with disabilities to be reassigned to civilian jobs in the city and county when their disabilities make them unable to continue working as police officers. The city and county also will pay \$1.5 million to eleven police officers who were forced to retire as a result of Denver's prior policy prohibiting them from being reassigned. The amount is the largest obtained by the Department to date under title I of the ADA. The Department alleged in its 1996 lawsuit that Denver's refusal to reassign police officers with disabilities to other city and county jobs violated titles I and II of the ADA. The Department filed the lawsuit after learning that Denver police officers who became disabled, many as a result of injuries incurred in the line of duty, were being forced to retire after Denver officials determined that they could no longer perform the essential functions required of police officers.

In addition to requiring the City and County of Denver to discontinue any discriminatory employment practices, the settlement also requires them to --

- Implement a written reassignment policy that requires Denver to reassign police officers with disabilities who can no longer perform the essential functions of their jobs to vacant civilian positions for which they are qualified; and
- Ensure that the claimants, or any others who opposed Denver's reassignment policy, will not be retaliated against as a result of their involvement with the lawsuit or their opposition to the former policy.

clear that testing entities may also simply choose to allow test-takers with vision impairments to supply their own readers. AASWB also agreed to appoint an ADA coordinator, train its employees on ADA policy, and pay the original complainant \$1,500.

**Higgins v. Warrior Insurance Group** -- An insurance company agreed to pay \$175,000 in damages and \$25,000 in civil penalties to settle a lawsuit alleging that it violated the ADA when it terminated the auto insurance coverage of an individual with mild mental retardation. The U.S. Attorney for the Southern District of Illinois intervened in the lawsuit to support the plaintiff. In addition to paying damages and civil penalties, Warrior agreed not to consider the mental disability of an insured or applicant for insurance in deciding to grant or continue insurance coverage if Warrior receives a doctor's report stating that the individual is able to drive safely. The complaint alleged that the company issued an auto insurance policy to the plaintiff but revoked it when her car was stolen, and refused to pay the claim. The company claimed that, in response to a question about "nervous" or "medical conditions" on the insurance application, she misrepresented her health status by not indicating that she had mental retardation. The company therefore believed it was entitled to rescind the policy. The Department believed there was no misrepresentation and that the company's actions violated title III.

#### **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**

**Duncan v. Washington Metropolitan Area Transit Authority** -- The Department and the Equal Employment Opportunity Commission filed a joint brief in the U.S. Court of Appeals

for the District of Columbia Circuit arguing that the plaintiff, an unskilled manual laborer with a back injury, was covered by the ADA. The plaintiff claimed that he was fired because of his back impairment in violation of title I and won a \$250,000 jury verdict in the lower court. The plaintiff had limited education, training, and work skills and a history of performing unskilled heavy labor jobs involving "medium" and "heavy" lifting. A back injury left him unable to lift more than 20 pounds. A three-judge panel of the Court of Appeals overturned the jury award, because it ruled that the plaintiff had not provided enough evidence that he was substantially limited in the major life activity of working. The full Court of Appeals, however, agreed to rehear the case. In its brief to the full court, the Department argued that the plaintiff had introduced enough evidence for the jury to conclude that he was substantially limited in his ability to perform a class of jobs involving heavy manual labor and that there was no need for him to submit expert testimony or statistical evidence on the number of jobs from which he was excluded.

##### **Title II**

**Newberry v. Menke** -- The Department filed an amicus brief in the U.S. District Court for the Middle District of Tennessee arguing that individuals who reside in the community, but who are at risk of institutionalization, have "standing" to challenge aspects of a Tennessee Medicaid program that allegedly create incentives for institutionalization in violation of title II's integration requirement. The plaintiffs allege that they have been denied home health care services as a result of certain financial incentives in the TennCare system, and that without home health care services, plaintiffs' only alternative is to enter nursing homes despite the fact that the care they require is more appropriately provided in the community. The amicus brief opposed the State's argument that only people who are currently institutionalized are entitled to bring this lawsuit.

**Title III**

**Disability Rights Council of Greater Washington v. Ames Department Stores, Inc.** -- The Department filed an amicus brief in the U.S. District Court for the District of Columbia arguing that plaintiffs are not required to notify a State agency before filing a lawsuit under title III of the ADA. The lawsuit alleges that Ames violated the ADA by failing to remove architectural barriers from its stores.

## **B. Formal Settlement Agreements**

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

**Title I**

**Orleans Parish School Board, New Orleans, Louisiana** -- The Orleans Parish School Board and the Department reached an agreement resolving reasonable accommodation claims brought by two school teachers with HIV. The school board agreed to reinstate both teachers, assign them to air conditioned classrooms, and pay them monetary settlements of \$30,000 and \$50,000. The school board will adopt a new system-wide policy to address the needs of individuals with disabilities who request accommodations. It will also provide annual training to the employees responsible for carrying out this policy.

**Bellwood Public Library, Bellwood, Illinois** -- The Department entered into a settlement agreement with the Bellwood Public Library resolving allegations of harassment and a discriminatory firing. The complainant alleged that as a result of her having filed a workman's compensation claim, the Bellwood Public Library learned of her depression and then subjected her to disparaging remarks and gestures and ultimately terminated her. Bellwood agreed to pay \$14,000 in compensatory damages to the complainant.

**Title II**

**Gulfport Municipal Court, Gulfport, Mississippi** -- The U.S. Attorney's Office for the Southern District of Mississippi entered into a settlement agreement with the Gulfport Municipal Court in Gulfport, Mississippi, resolving a complaint that the court failed to provide a sign language interpreter for the complainant, a deaf individual who was a defendant in a municipal court proceeding. The court agreed to establish a written policy on the provision of interpreters for courtroom participants who are deaf or hard of hearing, including parties, witnesses, jurors, legal representatives, and spectators; provide, at the court's expense, the services of a qualified interpreter or appropriate auxiliary aid or service whenever necessary to ensure effective participation; and maintain a contract with an interpreter service in order to provide interpreting services on one hour's notice.

**Court of General Sessions, Shelby County, Tennessee** -- The Shelby County, Tennessee, Court of General Sessions, agreed to improve procedures for providing auxiliary aids when necessary to ensure effective communication. A deaf individual complained that the court only provided real-time captioning after repeated requests. Under the new procedures the court will confer with individuals requesting auxiliary aids, determine the type of services required, and give primary consideration to their choice of auxiliary aid. The court will distribute procedures and provide training for responding to requests for auxiliary aids to all judges and staff of the court system.

**Oregon, Ohio** -- The City of Oregon, Ohio, agreed to adopt a written policy and procedures ensuring effective communication with people who are deaf or hard of hearing. It also agreed to review its 9-1-1 telephone emergency system in light of ADA requirements and to make appropriate changes to ensure direct and equal access for TTY users.



**\*\* Project Civic Access Eliminates Barriers in Local Government** -- Under “Project Civic Access,” the Department has reached agreements with 17 cities and towns that will open up civic life to people with disabilities. In her address commemorating the tenth anniversary of the ADA on July 26, 2000, Attorney General Janet Reno declared, “One of the basic freedoms of every American is to have access to the institutions of government.” Project Civic Access is dedicated to removing barriers to all aspects of civic life, including courthouses, libraries, polling places, police stations, and parks. Investigators visited each State in surveying a total of over 50 villages, towns, cities, and counties nationwide. The 17 agreements signed so far by the following communities will provide useful guidance to local governments across the country for making their programs accessible to people with disabilities --

Boulder County, Colorado  
 Farmington, Maine  
 Fernandina Beach, Florida  
 Forsyth, Montana  
 Hot Springs, Arkansas  
 Laramie, Wyoming  
 Mantorville, Minnesota  
 Moscow, Idaho  
 Mt. Vernon, Washington

City of Nashville and Davidson  
 County, Tennessee  
 Pella, Iowa  
 South Orange, New Jersey  
 Springfield-Greene County Library  
 District, Missouri  
 City Utilities of Springfield, Missouri  
 Summers County, West Virginia  
 Windham, Connecticut  
 Wisconsin Dells, Wisconsin

The investigators learned that most communities are aware of their ADA obligations and have taken some steps to meet them. The agreements focus on resolving remaining problems. Depending on local circumstances they may require a particular community to --

- Make physical modifications of facilities to improve access by providing accessible parking, restrooms, drinking fountains, and telephones; and accessible routes into and through the facilities. The facilities include city and town halls; police and fire stations; sheriff departments; courthouses; teen and senior activities centers; convention centers; libraries; baseball stadiums; parks, pools, and band shells;
- Alter polling places or provide curbside or absentee balloting;
- Upgrade 9-1-1 emergency services to provide direct, effective access for people who are deaf and others who use TTY’s;
- Install assistive listening systems in legislative chambers, courtrooms, and municipal auditoriums;
- Establish procedures and time frames for providing auxiliary aids, including sign language interpreters and materials in Braille, large print, or on cassette tapes; and
- Adopt procedures for relocating inaccessible activities to accessible locations upon request (for example, city and town council meetings, municipal and county court proceedings).

Negotiations continue with cities and towns in 11 additional States, and on-site investigations have concluded in another 22 States, Puerto Rico, and the District of Columbia.

### Title III

**Safeway Stores, Inc., Pleasanton, California** -- The Department extended and expanded its earlier nationwide settlement agreement with the Safeway grocery store chain. By the end of 2001, Safeway will complete barrier removal at every store it owns, including not only all 835 "Safeway" stores covered by the original agreement but also more than 600 stores acquired by Safeway since 1995 and operated under the following names -- Vons', Pavillions, Dominick's Fine Foods, Randall's, Tom Thumb, and Carr-Gottstein Foods. Safeway will also pay for an independent consultant to evaluate compliance with the agreement at a minimum of 70 stores.

**Poplarville Plaza, Poplarville, Mississippi** -- The U.S. Attorney's Office for the Southern District of Mississippi reached an agreement with Southern Development of Mississippi, Inc., dealing with alleged violations of the ADA's barrier removal and new construction requirements at Poplarville Plaza. The plaza owner agreed to provide the required number of accessible parking spaces with proper dimensions and signage, and to replace several improperly designed curb ramps. The owner will also modify sidewalks to comply with ADA slope and handrail requirements and provide curb ramps along the pedestrian crosswalk between the plaza's two buildings.

**McNichols Clinic, Dixon, Illinois** -- The Department signed an agreement with an Illinois clinic successfully resolving a complaint alleging that the clinic refused to provide a sign language interpreter for a deaf parent whose child required medical treatment. The clinic agreed to adopt policies and procedures to ensure effective communication with patients with hearing or speech impairments and their companions, including provision of sign language interpreters when appropriate, and to pay the complainant \$250.

**Coco's Restaurants, Inc., Phoenix, Arizona** -- An Arizona restaurant chain agreed to add accessible seating to the nonsmoking area at a Phoenix location and to change its seating policy to keep nondisabled persons from being seated at accessible tables until all of the inaccessible tables are taken. The agreement between the U.S. Attorney for the District of Arizona and Coco's Restaurants resolved a complaint alleging that Coco's failed to seat a party because two of the individuals were wheelchair users.

### 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.**

A northern California town agreed to provide accessible portable toilet facilities.

A medical clinic agreed to provide accessible parking and appropriate signage under an agreement with the U.S. Attorney's Office for the Southern District of Mississippi.

A south Florida hotel made alterations to its existing facility to provide seven accessible guest rooms and adopted a reservations policy to ensure the availability of accessible rooms for people with disabilities.

A physician in Rockford, Illinois, adopted a written policy for providing appropriate auxiliary aids and services, including sign language interpreters, at no expense to the patient.

## 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 80 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 with a mobility impairment complained that a Pennsylvania pizzeria was inaccessible because of two steps at the entrance. The parties agreed that, because of the location of the steps and city sidewalk, there was not enough room to install a permanent ramp. As an alternative, the restaurant owner obtained a portable ramp, installed a doorbell, and posted a sign instructing customers to ring the bell to alert staff, who would immediately bring the ramp to the entrance.
- In California, a customer who uses a service animal complained that a towing service refused to allow the service animal to accompany her in the tow truck. The owner of the towing service agreed to modify its policy to allow service animals to ride in its trucks.
- A blind individual complained that a Virginia chain store refused to admit him with his service animal and that employees in another store in the chain refused to assist him in selecting items for purchase. The chain agreed to provide additional ADA training to employees in that region and to apologize to the individual for the conduct of its employees. The chain also agreed to pay the complainant's legal fees and to pay \$3,500 in damages.
- In Texas, an individual alleged that a professional sports organization charged a higher price for wheelchair accessible seating than general seating. The sports organization reaffirmed its policy of charging the same price for all seats and agreed to install additional accessible seating and parking and to locate accessible restrooms throughout the sports venue.
- An individual with disabilities complained that a Massachusetts country club was not accessible. The country club installed a lift at the entrance, an accessible restroom, accessible parking, and outside lighting.
- In Maryland, a person with a disability alleged that an underground parking garage did not have any accessible parking spaces, that only one of the two sets of elevators was accessible, and that it was locked after 7 p.m. The garage agreed to install a ramp to the inaccessible elevators, to increase operation of the already accessible elevators to 24 hours a day, to install signage at existing accessible and van accessible parking spaces, to add signage at the entrance identifying the locations of the accessible parking spaces, and to provide valet parking services for customers with disabilities in the event that all accessible parking spaces were legally occupied.
- In Florida, a wheelchair user filed a complaint alleging that a fast food restaurant had an inaccessible path to an otherwise accessible toilet stall, because the entrance to the restroom was too narrow. The restaurant agreed to modify the entrance to provide wheelchair access.
- An Oregon wheelchair user filed a complaint alleging that a Washington, D.C., hotel failed to provide him safe

egress from the building during a fire alarm. The hotel adopted a policy with detailed procedures for the emergency evacuation of guests with disabilities, including assigning specific evacuation duties to individual staff members, providing on-going two-way communication among assigned staff during emergencies, requiring staff training four times per year, and conducting mock evacuation drills two times per year.

- In Florida, a wheelchair user complained that a major department store was inaccessible because he could not open the door. The store agreed to install automatic doors at all entrances.
- A wheelchair user complained that an Illinois medical center did not have accessible restrooms. The medical center modified the restrooms to be accessible and paid the complainant \$2,500.
- In North Carolina, a wheelchair user complained that the interior of an eye doctor's office was inaccessible. The office agreed to widen the doorway between the examination room and the hallway, remove protruding cabinet doors in the examination room to provide additional maneuvering space, and remove chairs from the hallway and examination rooms.
- A wheelchair user complained that a Texas restaurant did not have accessible restrooms or an adequate entrance ramp. The restaurant modified the restrooms, repaired the entrance ramp, and installed appropriate signage.
- In Texas, a wheelchair user complained that a retail store did not provide an accessible path of travel to the entrance. The building's landlord installed both curb cuts and wheel stops in parking spaces.
- A wheelchair user complained that a six-inch step made the front entrance to an Iowa paint store inaccessible. The store installed a ramp to the entrance, provided disability awareness training to all employees, and implemented a grievance procedure to address any ADA complaints that may arise in the future.
- In Missouri, a wheelchair user complained that a restaurant's entrance had a steep, narrow concrete delivery ramp with no directional signage identifying it as the accessible entrance. The restaurant installed a new ramp at its main entrance, restriped the parking lot to provide accessible parking, and installed appropriate signage.
- In California, a blind person complained that a store would not admit her because she uses a service animal. The store owner agreed to admit service animals in the future and to immediately implement an employee training program on how to properly serve customers who use service animals. The store owner and employees apologized to the complainant and agreed to pay her \$200.
- A parent complained that her child with autism had been denied access to a day care program in Tennessee. The program agreed to comply with the ADA and to admit the child immediately, to establish a plan for ongoing communication with the parent about any needs the child may have, and to provide individualized assistance when deemed necessary by all parties.
- In Texas, a wheelchair user complained that a restaurant did not have accessible parking or signage identifying the accessible entrance. The restaurant installed accessible parking and appropriate signage at both entrances, curb ramps to provide an accessible path of travel, signage identifying the location of the accessible entrance, a bell to be used by customers who may need additional assistance, and ongoing staff training about how to accommodate all customers.

## 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, administering an ADA technical assistance grant program, and coordinating ADA technical assistance governmentwide.**

### ADA Home Page

An ADA home page is operated by the Department on the Internet's World Wide Web ([www.usdoj.gov/crt/ada/adahom1.htm](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, 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, 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 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.



**Technical Assistance Initiatives Celebrate Tenth Anniversary of the ADA**

**\*\* Special Tenth Anniversary Status Report** -- The Attorney General issued a 41-page report, "Enforcing the ADA: Looking Back on a Decade of Progress," summarizing the Department's ADA litigation, settlement, mediation, certification, and technical assistance activities over the past ten years. The report uses photographs, quotations, and personal stories to highlight how the Department's activities have opened up job opportunities for people with disabilities, expanded participation in the mainstream of American life, ensured accessibility in the built-environment, improved access to health care, child care, and other services, and protected the ADA against challenges to its constitutionality.

**\*\* A Guide to Disability Rights Laws** -- The Department reissued an expanded version of its "Guide to Disability Rights Laws," a booklet that provides consumers with information about Federal civil rights laws that protect people with disabilities, including the Americans with Disabilities Act, Telecommunications Act, Fair Housing Act, Air Carrier Access Act, Voting Accessibility Act, National Voter Registration Act, Civil Rights of Institutionalized Persons Act, Individuals with Disabilities Education Act, Rehabilitation Act, and Architectural Barriers Act. Along with a brief description of the laws, the booklet provides the names, addresses, telephone numbers, and web sites of the Federal agencies responsible for their enforcement. The booklet is available in English and nine other languages -- Spanish, Chinese, Hmong, Japanese, Khmer, Korean, Laotian, Tagalog, and Vietnamese.

**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.

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

### **... More Tenth Anniversary Initiatives**

**\*\* “Faces of the ADA” on Expanded ADA Home Page** -- The Department’s “Faces of the ADA” series first appeared on the ADA Home Page in the days leading up to the tenth anniversary. The series included feature stories on individuals with disabilities who had benefited from the Department’s ADA enforcement activities. Other additions to the Home Page included “A Special Tenth Anniversary Status Report,” ten regional press reports, “A Guide to Disability Rights Laws,” newly announced settlement agreements from Project Civic Access, and speeches and photographs of Attorney General Janet Reno and Assistant Attorney General Bill Lann Lee at “Spirit of ADA Torch Relay” tenth anniversary events. The ADA Home Page is now also easier to use because of its new index and search pages.

**Sign Language Pictograms for Hospital Communication** -- The Department published a two-volume set of “Sign Language Pictograms for Hospital Communication” to improve communication between hospital staff and deaf patients while waiting for a sign language interpreter to arrive. The Department will disseminate 1000 copies of the pictograms to hospitals in the eighty cities that serve large populations of people who are deaf and to hospital associations in all fifty states. The pictogram project was the result of a 1998 consent decree resolving lawsuits against thirty-two acute care hospitals in the State of Connecticut for failure to provide appropriate auxiliary aids. .

**Supporting ADA 10<sup>th</sup> Anniversary Events Nationwide** -- The Department provided free ADA publications to centers for independent living and other groups in more than 50 cities as part of “Spirit of ADA Torch Relay” celebrations. Through this initiative, copies of “A Guide to Disability Rights Laws” and “A Special 10th Anniversary Status Report” were disseminated nationwide.

**Outreach to Minority and Rural Populations** -- ADA specialists staffed exhibits, answered questions, and distributed free publications at annual meetings of the National Council of La Raza, the League of United Latin American Citizens, the National Association for the Advancement of Colored People, the National Urban League, the Congressional Black Caucus, and the Minnesota and Nebraska State Fairs. In addition to translating “A Guide to Disability Rights Laws” into nine languages, the popular “My Country” video was reproduced with Spanish captions.

**Technical Assistance to Native Americans** -- The Department joined with the Department of Education to provide technical assistance on the ADA to Native Americans with disabilities, as well as to tribal officials and service providers. This project will create a technical assistance center aimed at educating Native Americans and service providers about Federal laws that can improve the employment opportunities of Native Americans with disabilities.

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

[www.fcc.gov/cib/dro](http://www.fcc.gov/cib/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/civ.htm](http://www.fta.dot.gov/office/civ.htm)

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](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 & TTY)

[www.dredf.org](http://www.dredf.org)

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](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 (TTY)

[www.projectaction.org](http://www.projectaction.org)

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 & TTY)

<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 (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 --

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

If you wish the complaint to be referred 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.