



# Enforcing the ADA:

## A Status Report from the Department of Justice

**July - September 2002**

This Status Report covers the ADA activities of the Department of Justice during the third quarter (July - September) of 2002. 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

##### Title I

**Fifth Circuit Requires Individualized Assessment in Diabetes Case** -- The U.S. Court of Appeals for the Fifth Circuit ruled in

Kapche v. City of San Antonio that the ADA requires an individualized assessment in determining whether an applicant or employee with insulin-treated diabetes can perform the essential functions of a job. The Department filed an amicus brief asking the Fifth Circuit to abandon the blanket rule it adopted in earlier decisions holding that individuals with insulin-treated diabetes were automatically ineligible for jobs involving driving because, in the court's view, they presented a serious risk of harm to themselves and others. In Kapche the plaintiff was rejected for a police officer position because of his insulin-treated diabetes. The Department argued in its amicus brief that this policy violated the ADA because the ADA requires a fact-based, present assessment of both an applicant's qualifications for the job and the employer's qualification standards that screen out individuals with disabilities. The brief noted that the U.S. Department of Transportation completed a study concluding that it is feasible to evaluate on an individualized basis applicants for commercial motor vehicle licenses who have insulin-treated diabetes. It also informed the court that Federal law enforcement agencies no longer apply a blanket exclusion of applicants with insulin-treated diabetes. The Fifth Circuit agreed with

the Department that an individualized assessment is necessary, noting recent Supreme Court opinions requiring such an analysis in determining whether an individual has a disability and whether he or she is entitled to a reasonable modification in policy.

## Title II

**Fourth Circuit Bars Private Title II Damages Claims Against States ...** The U.S. Court of Appeals for the Fourth Circuit ruled in Wessel v. Glendening that Congress exceeded its powers to enforce the Equal Protection Clause of the Fourteenth Amendment when it abrogated State sovereign immunity for private damages claims under title II of the ADA. The Department of Justice intervened in Wessel to defend the constitutionality of private ADA claims for damages against States. In this case a prison inmate brought a damages claim against Maryland alleging that the prison system excluded him because of his foot impairment from special programs and employment that would have allowed him to earn points to reduce the length of his prison term. The Fourth Circuit rejected the Department's argument that the ADA's abrogation provision was appropriate legislation by Congress to protect the Equal Protection Clause rights of people with disabilities. The court held that Congress lacked evidence of constitutional violations by States and that the rights created by title II are far broader than those protected by the Constitution.

**... But First Circuit Allows Prisoner's Suit to Continue** – The U.S. Court of Appeals for the First Circuit in Kiman v. New Hampshire Department of Corrections upheld the constitutionality of a damages claim brought by a prison inmate under title II. The Department intervened in Kiman to defend the ADA's abrogation of State sovereign immunity for private damages claims under title II. The plaintiff, who has amyotrophic lateral sclerosis, known as ALS or "Lou

Gehrig's disease," a degenerative disease affecting his motor functions, alleged that prison officials violated the ADA by denying him the use of medically necessary assistive devices, such as a cane for walking and a chair for sitting in the shower, and sued the State for damages. The First Circuit held that in this particular case the plaintiff's allegations stated a violation of the U.S. Constitution's Eighth Amendment ban on cruel and unusual punishment and that title II is valid legislation to enforce these rights under the Fourteenth Amendment.

## Title III

**Texas Federal Court Finds Cruise Ships Covered by Title III** – The U.S. District Court for the Southern District of Texas agreed with an amicus brief filed by the Department and ruled that cruise ships are covered by title III. In Spector v. Norwegian Cruise Line Limited plaintiffs alleged that Norwegian's cruise ships violate title III by failing to provide an adequate number of accessible cabins and by charging extra for them, and by providing programs and services in inaccessible areas of the ships. The court held that cruise ships are both "public accommodations" and "specified public transportation" covered by title III, and that application of title III to foreign-flagged cruise ships does not conflict with international treaties or violate the presumption against extraterritorial application of federal law. The court, however, disagreed with the Department that the cruise line was under an obligation to engage in readily achievable barrier removal. Instead, it dismissed the barrier removal claims because it believed that the absence of requirements for cruise ships in the ADA Standards for Accessible Design leaves cruise lines without adequate notice of what is expected of them and courts without sufficient guidance to make consistent decisions as to what readily achievable barrier removal requires. The court, however, did not dismiss plaintiff's claims regarding the alleged

surcharges for accessible rooms and the failure to make reasonable modifications in policies, practices, and procedures.

## 2. New Lawsuits

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

### Title II

**Miranda B. v. Kitzhaber** -- The Department intervened in this case in the U.S. Court of Appeals for the Ninth Circuit to defend the constitutionality of the ADA's abrogation of State sovereign immunity for private damages claims against States under title II. Plaintiffs are developmentally disabled or mentally retarded adults residing in Oregon whose disabilities prevent them from fully caring for themselves. They receive State-funded services but allege that the services are not being provided in the most integrated setting appropriate. The Department's brief argued that the suit against the Oregon Department of Human Services and named State officials should be allowed to continue because the Ninth Circuit has already upheld the ADA's abrogation of State sovereign immunity as appropriate legislation to enforce equal protection rights under the Fourteenth Amendment. In addition the brief argues that the plaintiffs can bring a suit against the State officials in their official capacity for an injunction ordering them to comply with title II.

### Title III

**U.S. v. Top China Buffet, Inc.** -- The U.S. Attorney's Office for the Southern District of Indiana filed a lawsuit against the owner and operator of Top China Buffet in Indianapolis, Indiana, for allegedly violating the ADA by refusing service to a customer with a disability because she was accompanied by her service dog. The complainant, who has permanent nerve damage and uses a wheelchair, is assisted by the animal in picking up and

delivering objects that she is unable to reach herself. A Top China employee allegedly said "No dog!" to the complainant and her family as they entered the restaurant even though the dog was wearing a blue harness identifying him as a service animal. The complainant and her husband told the employee that the dog was not a pet, but rather a service animal that is authorized under the ADA to go into restaurants. She presented a card certifying that her dog is a specially trained service animal, but the employee repeated, "No dog!" Unable to be seated or served, she and her family left the restaurant. The lawsuit seeks injunctive relief, including a court order requiring Top China Buffet to allow service animals into the restaurant, monetary damages, 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.**

### Title III

**\*\* U.S. v. Penn's Landing Partners** -- The U.S. Attorney for the Eastern District of Pennsylvania negotiated a consent decree with Penn's Landing Partners, the owner and developer of the Hyatt Regency Hotel at Penn's Landing in Philadelphia, and the architectural firm of Brennan Beer Gorman that resolves violations of the ADA's requirements for new construction. The violations were identified in a compliance review begun while the hotel was still under construction. Among the design changes agreed to by the parties were the following:

- ♦ The accessible route from the terrace to the restaurant would approximate in length and convenience the route provided by steps to the general public;

- ◆ The parking facility would have van-accessible spaces and accessible routes of travel for individuals with mobility impairments;
- ◆ To the extent feasible, accessible routes between various elements of the hotel and the adjacent public ways, including the promenade along the river, would coincide with those for the general public, and there would be improved accessibility in employee work areas;
- ◆ The number of rooms designed to be fully accessible and the number equipped for guests with hearing impairments would be increased;
- ◆ The rooms available to guests with disabilities would be dispersed to offer a wider range of options than originally planned in terms of room size, amenities, and views;
- ◆ A VIP suite and the Presidential suite would be accessible.

In addition, the developer paid a civil penalty of \$15,000 and Brennan Beer Gorman, the architectural firm, paid a civil penalty of \$25,000. Further, Brennan has agreed to provide additional ADA training to its architects specializing in hotel design.

## B. Formal Settlement Agreements

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

### Title I

**Colorado** -- The Department entered into an agreement with a Colorado school district resolving a charge filed with the U.S. Equal

Employment Opportunity Commission by an individual with osteoarthritis of the cervical spine and degenerative disc disease who was denied a substitute teaching job. The school district agreed to post a notice to employees informing them of their ADA rights; develop and implement a written nondiscrimination policy for all aspects of employment including the right to reasonable accommodation; provide training to the school board, executive directors, principals, assistant principals, and human resources staff on this policy; and provide all current and incoming employees with an ADA brochure that summarizes employee rights under the ADA, identifies the school district's ADA coordinator, and explains the services provided by the school district related to its ADA obligations. The school district also agreed to pay the complainant \$7,500 in damages.

### Title II

**\*\* Project Civic Access, Flagstaff, Arizona** -- The Department signed a settlement agreement with the City of Flagstaff, Arizona, as part of Project Civic Access, a wide-ranging initiative to ensure that State facilities, counties, cities, towns, and villages comply with the ADA so that people with disabilities have an equal opportunity to participate in civic life. Under Project Civic Access fifty governments nationwide have now signed agreements requiring comprehensive efforts to make themselves more accessible. The City of Flagstaff agreed to make physical modifications to city facilities so that parking, exterior routes, restrooms, service and concession counters, showers, and public phones are accessible to people with disabilities; to monitor and train emergency call center employees in making and receiving 9-1-1 TTY calls; to train employees in the use of Arizona's telephone relay system to facilitate communication with residents who are deaf or hard of hearing; to establish procedures for providing auxiliary aids and services (including alternate formats) when

necessary to ensure effective communication; to provide notice to residents of their ADA rights; to adopt grievance procedures for handling ADA complaints; and to amend city employment policies to conform to the ADA's requirements.

**Bridgeport, Connecticut** -- The Department entered into a settlement agreement with the Bridgeport Police Department resolving a complaint alleging that the police failed to provide a sign language interpreter or a TTY for the complainant when he was arrested and detained on four separate occasions. The Bridgeport Police agreed to provide appropriate auxiliary aids, including interpreters, when necessary to ensure effective communication, purchase another TTY and train staff on its use, and post signs in the booking and detention area of the station announcing the availability of auxiliary aids and services.

**\*\* Bryan, Texas** -- An individual with a mobility impairment filed a complaint alleging that the City of Bryan, Texas, failed to ensure the accessibility of the private towing company facility where he had to go to pick up his towed vehicle. The city maintains a rotation list of private towing companies for dispatching trucks to tow cars that are illegally parked or that have been in accidents or used to commit crimes. The city agreed to require towing companies that wish to be on its rotation list to certify that their facilities meet basic ADA accessibility requirements for accessible routes, parking, and public restrooms and to remove from the list businesses that do not comply.

**\*\* Fort Walton Beach, Florida** -- An individual with a mobility impairment filed a complaint alleging that the City of Fort Walton Beach failed to conduct a self-evaluation, develop a transition plan, and establish a grievance procedure for ADA complaints. It also alleged that various city

facilities are not accessible to individuals with mobility impairments. The Department surveyed a wide range of sites, including the city hall and city auditorium, several neighborhood and recreation centers and parks, a city museum, and the city beach and landing. Fort Walton Beach agreed to post its TTY telephone number on all letters sent to the public from every city office, provide a TTY at police headquarters, and adopt procedures for providing on-call qualified sign language interpreter services to individuals detained at police headquarters who are deaf or hard of hearing. The city also agreed to make physical modifications to its facilities so that parking, routes into the buildings, entrances, doors, ramps, signage, restrooms, dressing rooms, picnic areas, service counters, drinking fountains, playground equipment, and boat launch piers are accessible to people with disabilities.

### Title III

**Quality Inn Hotel, Indianapolis, Indiana** -- An individual from Missouri who uses a wheelchair filed a complaint alleging that the bathroom of a designated accessible guest room at an Indianapolis Quality Inn was not accessible. The complainant had made reservations for the designated accessible guest room prior to traveling to Indianapolis to attend a national drag racing event and the opening game of the Indianapolis Colts football team. Shadeland Dome Inn, Inc., which operates the Quality Inn, entered into an agreement with the U.S. Attorney's Office for the Southern District of Indiana in which it agreed to make changes to two sleeping rooms to make them fully accessible. The owners also agreed to monitor usage requests and, if necessary to meet demand, make additional guest rooms accessible. They also agreed to construct a fully accessible restroom facility to serve the common areas of the hotel and to install appropriate signage and parking. In addition, the owners agreed to provide

comprehensive ADA training to every hotel employee and each new employee and to pay \$5,000 in damages to the complainant.

**\*\* Mel Tillis Theater, Branson, Missouri --**

The Department entered into an agreement with the Mel Tillis Theater to resolve violations of the ADA's requirements for new construction. The theater agreed to provide accessible ticket and concession counters, drinking fountains, and pay telephones in the theater lobby; make the men's and women's public toilet rooms accessible; provide 28 new wheelchair-accessible seating areas with fixed companion seating in the theater auditorium; install 14 new accessible aisle seats with removable or folding armrests; and place appropriate signage in the parking lot for accessible parking spaces. The theater will also implement new ticketing policies so that designated accessible seating is held for customers with disabilities until all other seating is full.

**\*\* Safeway, Inc., Pleasanton, California --**

The Department extended its settlement agreement with the Safeway supermarket chain under which Safeway agreed to remove barriers and remedy violations of the ADA's new construction requirements nationwide. Under the extension Safeway agreed to complete barrier removal at every store it owns and remedy all violations at its newly constructed or remodeled stores by September 30, 2002. If it fails to meet this deadline, it agreed to pay civil penalties in amounts ranging from \$5,000 to \$10,000 per month up to a maximum of \$110,000 over a twelve-month period. Safeway agreed to file monthly reports on its approximately 1,500 stores certifying whether all accessibility work has been completed at each store. Safeway will also pay for an independent consultant to conduct accessibility checks at a minimum of 40 stores chosen by the Department of Justice and report the results to the Department.

**Formal  
Settlement  
Agreements**

**Rio Bravo Resort, Bakersfield, California --**

The Department entered into a settlement agreement resolving a complaint against the Rio Bravo Resort alleging that designated accessible guestrooms were not, in fact, accessible to persons who use wheelchairs. The 100-room resort agreed to bring three guest rooms into compliance with the ADA Standards for Accessible Design. Two of the rooms will have an accessible bathtub or transfer shower and the third will have an accessible roll-in shower.

**Dr. Sharon Pollick, Patchogue, New York --**

The U.S. Attorney's Office for the Eastern District of New York entered an agreement with Dr. Sharon Pollick, a dentist, resolving a complaint that she had discriminated against an elderly blind couple. The complaint alleged that, when the couple arrived for the wife's scheduled dental surgery, a receptionist gave the husband a clipboard with forms requiring completion, refused to assist them in completing the forms, and told them the wife would not be treated if the forms were not completed. The receptionist also allegedly refused to permit a taxi driver who had accompanied the couple into the office to assist in completing the forms, maintaining that only the legal guardian could perform such a task. The settlement requires Dr. Pollick to provide assistance to individuals with disabilities in completing forms and to otherwise comply with the ADA's nondiscrimination requirements. The dentist also agreed to provide ADA training to her staff and to pay a total of \$13,000 in compensatory damages with half going to each spouse.

**Oroville Hospital, Oroville, California --**

The U.S. Attorney's Office for the Eastern District of California, in conjunction with the Office of Civil Rights of the U.S. Department of Health and Human Services, entered into an agreement with Oroville Hospital (part of the

Golden Valley Health Network) to implement major changes in the hospital's treatment of patients who are deaf or hard of hearing. The agreement resolved a complaint filed with the Department of Justice alleging that the hospital failed to provide a qualified sign language interpreter for the complainant's office visits and that the hospital had routinely scheduled the complainant's appointments around the schedule of a surgical nurse with limited signing skills. Oroville Hospital agreed to implement a wide-ranging program to assist patients who are deaf or hard of hearing and their companions. The hospital will provide auxiliary aids and services, such as assistive listening devices, sign language and oral interpreters, and computer-assisted, real-time transcription services. These aids will be provided free of charge and disability communication administrators will be available 24 hours a day to provide assistance with the aids and services provided. Additionally, physicians and staff will receive training on the health care needs of persons who are deaf and hard of hearing. The hospital also agreed to pay \$20,000 in damages to the complainant and \$10,000 in civil penalties.

**Nashville Auto-Diesel College, Nashville, Tennessee** -- The Department entered into a settlement agreement with the Nashville Auto-Diesel College (NADC) resolving a complaint from a former student with learning disabilities and epilepsy. The student alleged that NADC failed to provide notetaking and tutoring services for courses and additional time and readers for tests. NADC also allegedly had no system for the student to request appropriate auxiliary aids or services. Even though the complainant is no longer a student, NADC agreed to make testing and course modifications in the future, train staff, and provide appropriate auxiliary aids and services as necessary. In addition, NADC agreed to pay damages in the amount of

\$4,000 to the complainant and to contribute \$2,500 to a nonprofit, disability-related entity of NADC's choosing. NADC also agreed to post signs and advertise its nondiscrimination policies.

**\*\* McGuffey's Restaurants, Inc., Asheville, North Carolina** -- The Department entered into an agreement with McGuffey's Restaurants, Inc., resolving an investigation of three McGuffey's restaurants in Branson, Missouri. McGuffey's agreed to remedy violations of the ADA's new construction standards and remove other architectural

barriers at the three restaurants by ensuring that designated accessible parking spaces with appropriate signage are located on the shortest accessible route from the restaurant entrances to adjacent parking; providing accessible fixed seating in the

restaurant dining areas; and installing accessibility features in the men's and women's public restrooms.

**\*\* Magical Palace, Branson, Missouri** -- The Department entered into an agreement with the Magical Palace in Branson, Missouri, to remedy violations of the ADA's new construction and alterations standards. The theater agreed to add designated accessible parking spaces and install ADA-compliant signage in the parking lot and provide accessible ticket, concession, and gift shop counters and accessible drinking fountains in the theater lobby. It will also install accessibility features in the men's and women's public toilet rooms, add four additional designated wheelchair accessible seating areas and fixed companion seating in the theater auditorium and six designated accessible aisle seats with removable or folding armrests in the auditorium, provide a permanent assistive listening system in the auditorium, and install accessibility features in the dressing rooms. The theater will also implement new ticketing policies so that

**Formal  
Settlement  
Agreements**



**\*\* Washington Opera Will Increase Accessible Seating** -- The Washington Opera agreed to increase the number and locations of wheelchair-accessible seating at performances held at both DAR Constitution Hall in 2003 and the soon-to-be-remodeled Opera House at the John F. Kennedy Center for the Performing Arts. The increased accessible seating for opera performances will become available immediately for performances during 2003 in DAR Constitution Hall. The Opera has agreed to install 30 wheelchair accessible seats and to designate 30 seats next to the wheelchair accessible seats as companion seats. These accessible seats will be dispersed throughout the orchestra section and sold at all price categories offered to the general public. Also, previously planned structural improvements are being made to the Kennedy Center Opera House that will include increased accessible seating dispersed throughout the auditorium. Prior to this settlement agreement, the only wheelchair-accessible seats in the Kennedy Center Opera House were the most expensive seats. For performances held at the Kennedy Center during the remainder of 2002, the Opera has agreed to designate and reserve wheelchair-accessible box seats at the Opera House exclusively for purchase by persons who use wheelchairs. For the first time ever these accessible seats will be available at similar price ranges offered to the general public and not solely as the top prices in the auditorium. After the Kennedy Center's renovation, the Opera will return to the Kennedy Center Opera House in January 2004 and will offer wheelchair-accessible seating dispersed throughout the auditorium in various ticket price categories. These seats will ensure that opera fans who use wheelchairs will have an equal opportunity to enjoy performances by providing a choice of admission prices and lines of sight comparable to that of the general public. In addition, the Opera has agreed to designate an ADA Coordinator, create an ADA Advisory Committee, and conduct extensive advertising about the availability, pricing, and locations of wheelchair-accessible seats.

designated accessible seating is held for customers with disabilities until all other seating is full and pay a \$5,000 civil penalty to the United States.

**Morgan's Restaurant and Bar, Mokenal, Illinois** -- The U.S. Attorney's Office for the Northern District of Illinois entered into an agreement with Morgan's Restaurant and Bar resolving a complaint filed by a bar customer who uses a wheelchair. The complainant was allegedly asked by a bouncer to move away from the group of people he was with so he would be "out of the way." He refused to move because nonwheelchair users who were in the same line of traffic were not asked to move. A second bouncer repeated the request and finally the owner came over and offered to

move the whole group, including the complainant, to the back of the bar. At that point the complainant left. The settlement agreement requires the owners and employees of the facility to undergo training on the requirements of the ADA. The agreement also requires that the owners of the facility ensure that patrons who use wheelchairs are not treated differently than other patrons and to pay the complainant \$5,000 in damages.

## C. Other Settlements

### Title III

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

#### Title II

- A New Jersey township installed two accessible parking spaces at its town hall and will install a unisex accessible restroom to ensure that individuals with mobility impairments have access to the first floor's services. The township also published in the local newspaper a plan for delivering services in alternate accessible locations.
- An individual who uses a wheelchair complained that meetings of the board of supervisors for a Pennsylvania township were inaccessible to persons with mobility impairments. The township installed a ramp to the entrance of the building, provided two accessible parking spaces, and made modifications to the restrooms to make them accessible.
- A woman who is deaf filed a complaint that a Georgia city police department failed to provide effective communication for her when responding to incidents over a six-month period. The city implemented a procedure for furnishing auxiliary aids and services to ensure effective communication by providing on-call qualified sign language interpreter services and training for officers in the area of effective communication.
- An individual complained that a Virginia gas station and convenience franchise failed to provide curb cuts and accessible parking for patrons who use wheelchairs. The company added signage directing patrons to the accessible space, which was also restriped to make it van-accessible, and relocated an ice machine to ensure an unobstructed path of travel.
- An individual with Hepatitis C complained that she was denied treatment by a North Carolina dental office on the basis of her disability. The dental office agreed to post a nondiscrimination policy in its office and pay the complainant \$1500.
- A deaf individual in Arizona complained that the customer and technical support center of a software and internet service provider company refused to accept his call from the telecommunications relay service. The company restated its policy of requiring customer and technical service representatives to accept all relay calls, substantially expanded its capability to receive direct TTY calls, and paid the complainant \$3,750.
- An individual who uses a wheelchair complained that a Massachusetts dentist's office was inaccessible to people with mobility impairments. The dentist installed accessible door hardware, and appropriate signage and a buzzer to allow persons with mobility impairments to request assistance.
- A deaf individual complained that a Florida retail store refused to accept an order through the telecommunications relay service and that staff treated her in a derogatory manner. The company

developed a policy requiring its employees to provide full service to relay service callers and gave the complainant over \$250 in health and beauty products.

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

Eastern District of Louisiana -- A man who is deaf complained that a court ordered him to attend pretrial counseling sessions and to pay for his own sign language interpreter for these sessions. The court agreed to pay for the interpreter.

District of Minnesota -- Several individuals who are deaf or hard of hearing complained that a hospital failed to provide sign language interpreters and other auxiliary aids. The hospital implemented an effective communication policy that includes the provision of these services.

Western District of Missouri -- An individual who uses a wheelchair complained that municipal services at a city hall were not

accessible to individuals with mobility impairments. The city installed a ramp to the entrance of city hall.

District of Nebraska -- An individual complained that two locations of national franchise restaurants in Nebraska were inaccessible. The restaurants added accessible parking spaces, removed barriers between the parking lots and entrances, and widened their entrance doorways.

District of New Hampshire -- An individual who uses a wheelchair complained that a theater festival stage did not have accessible seating and restrooms. The theater added accessible seating, modified the restroom to make it accessible, and lowered a ticket counter and concession tables.

Northern District of Texas -- An individual who uses a wheelchair complained that a restaurant was inaccessible. The owner installed ramps and a lift to provide access to the restaurant.

## **II. Mediation**

**Under a contract with the Department of Justice, The Key Bridge Foundation receives referrals of complaints under titles II and III for mediation by professional mediators who have been trained in the legal requirements of the ADA. An increasing number of people with disabilities and disability rights organizations are specifically requesting the Department to refer their complaints to mediation. More than 450 professional mediators are available nationwide to mediate ADA cases. Over 75 percent of the cases in which mediation has been completed have been successfully resolved. Following are recent examples of results reached through mediation.**

- In Nevada, a person who is deaf complained that a medical office refused to provide an interpreter for her first appointment with the physician, instead requiring her to bring her own interpreter. The office agreed that it would provide sign language interpreters upon request by deaf patients. The office also designated a specific staff member to be responsible for arranging and paying for interpreter services.
- In Mississippi, an individual complained that a medical laboratory was inaccessible and that it conducted outpatient lab work in the waiting room in front of other

patients. The hospital that owns the laboratory agreed to alter a room to provide accessible private and confidential laboratory services to patients who use wheelchairs.

- A wheelchair user complained that a Texas hotel charged a higher rate for an accessible room with roll-in shower because it also contained a hot tub. There are no other rooms with roll-in showers in the hotel. The hotel adopted and implemented a written policy to charge regular room rates to guests with disabilities requesting the accessible room with roll-in shower.
- In New Jersey, a wheelchair user complained that a fast food restaurant was inaccessible because there was no van-accessible parking, no ramp or curb cut to the front door, and no accessible tables or bathrooms. The restaurant agreed to develop a timetable to remedy these problems within seven months.
- A wheelchair user from Idaho complained that a Utah hotel had only one accessible room, which had been rented to another guest, and also that the hotel provided transportation to him in an ambulance because the hotel's airport shuttle was not accessible. The hotel agreed to construct twelve additional accessible guest rooms, including the appropriate number of rooms equipped with roll-in showers. The corporation agreed to conduct a comprehensive review of its 36 properties prior to initiation of any planned renovations and to achieve full ADA compliance in all hotels by 2005. The corporation agreed to provide lift-equipped hotel shuttle service at every location, provide ADA training to its employees, pay the complainant \$7,500, and provide free airfare and hotel accommodations for the complainant and his family to visit the hotel after completion of the accessibility modifications.
- In South Carolina, a woman who is deaf complained that an orthopedic center refused to provide a sign language interpreter and instead referred her to a hospital clinic in order to avoid the expense of providing the interpreter. The center agreed to provide sign language interpreter services to assure effective communication with deaf or hard-of-hearing patients. The center also agreed to publish and implement its effective communication policy, provide training to its staff, place a sign in a conspicuous location in the patient waiting area announcing the availability of sign language interpreters, and designate a staff person responsible for implementing the policy.
- A person with a mobility disability complained that a Mississippi gas station did not have accessible parking or accessible restrooms. He further complained that the station would not provide refueling assistance for people with disabilities. The station agreed to install a van-accessible parking space with appropriate signage; create an accessible path of travel from parking to the station's entrance; modify the restroom by removing a sink cabinet, relocating the paper towel dispenser and mirror, and installing grab bars; and provide refueling assistance to persons with disabilities.
- In New Jersey, a person with a mobility impairment complained that the seating in a movie theater was only accessible by stairs. The theater landlord installed an accessible ramp and the theater owner trained staff on how to provide courteous and effective service to patrons with disabilities.

- A wheelchair user complained that a Texas gym did not provide sufficient accessible parking, restrooms, or exercise equipment. The gym installed a van-accessible parking space, remodeled the bathroom to make it accessible, and installed a hand-operated exercise bike.
- In Idaho, a wheelchair user complained that a building housing several public accommodations was inaccessible. The building owners remodeled the women's and men's bathrooms on the lower level to make them fully accessible, adjusted the elevator door closer to provide additional time to enter and exit, and installed an automatic door at the building's main entrance.

### III. 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 governmentwide.**

#### ADA Home Page

The ADA Home Page is operated by the Department on the Internet's World Wide Web ([www.ada.gov](http://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),
- ♦ online ordering of the ADA Technical Assistance CD-ROM,
- ♦ Freedom of Information Act (FOIA) ADA materials, including technical assistance letters, and
- ♦ links to the Department's press releases and Internet home pages of other Federal agencies that contain ADA information.

## ADA Information Line

The Department of Justice operates a toll-free ADA Information Line to provide information and publications to the public about the requirements of the ADA. Automated service, which allows callers to listen to recorded information and to order publications, is available 24 hours a day, seven days a week. ADA specialists are available on Monday, Tuesday, Wednesday, and Friday from 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 34 different ADA technical assistance publications and receive the information, usually within minutes, directly on their fax machines or computer fax/modems. A list of available documents and their code numbers may also be ordered through the ADA Information Line.

## Publications and Documents

Copies of the Department's ADA regulations and publications, including the Technical Assistance Manuals for titles II and III, can be obtained by calling the ADA Information Line, visiting the ADA Home Page, or writing to the address listed below. All materials are

available in standard print as well as large print, Braille, audiotape, or computer disk for persons with disabilities.

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

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

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

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

Fax: 202-514-6195

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

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

## IV. Other Sources of ADA Information

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

ADA 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/cgb/dro](http://www.fcc.gov/cgb/dro)

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

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

[www.fta.dot.gov/office/civrights](http://www.fta.dot.gov/office/civrights)

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

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

[www.access-board.gov](http://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](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 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](http://www.jan.wvu.edu)

## V. How to File Complaints

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### 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.