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# **Enforcing the ADA:**

## **A Status Report from the Department of Justice**

### **July - September 2006**

This Status Report covers the ADA activities of the Department of Justice during the third quarter (July - September) of 2006. This report, previous status reports, and a wide range of other ADA information, including the consent decrees and formal settlement agreements mentioned in this report, are available through the Department's ADA Home Page at [www.ada.gov](http://www.ada.gov) (see page 14).

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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 II

**Private Suits Against States Upheld in Public Education, Rejected for Parking-Placard Fees** -- The U.S. Court of Appeals

for the First Circuit ruled in Toledo v. Sanchez-Rivera that sovereign immunity does not prevent a student from suing the University of Puerto Rico for allegedly failing to accommodate his disability. It held that, given the long history of unconstitutional disability discrimination in public education, the ADA's abrogation of State immunity is a valid exercise of congressional authority to enforce the equal protection guarantees of the Fourteenth Amendment in that area. On the other hand, the U.S. Court of Appeals for the Eighth Circuit ruled in Klingler v. Department of Revenue that the ADA does not validly abrogate the State of Missouri's immunity from suits challenging the legality of disability parking placard fees. The Department intervened in both cases to defend the constitutionality of the ADA's abrogation of sovereign immunity.

#### **Seventh Circuit Interprets Reasonable Modification Obligation in Zoning** --

The U.S. Court of Appeals for the Seventh Circuit issued an opinion in Wisconsin Community Services v. City of Milwaukee on the application of title II to zoning. The plaintiff, Wisconsin Community Services, which operates an outpatient clinic for

persons with mental health problems, tried to move its operations to a larger building in a business zone. Despite having a limited budget, it needed a facility that was located in a safe neighborhood and had adequate floor space, parking, and access to public transit. After searching for three years, it was able to find two buildings that met its criteria. Neither property, however, was located in a neighborhood zoned for health clinics. Both were in areas where health clinics are permitted only as “special uses” that require issuance of a permit by the Milwaukee zoning authorities. The city denied the plaintiff’s request for a special-use permit to operate in the new location. The district court held that the city had an obligation under the ADA to make a reasonable modification in its zoning rules allowing plaintiff to relocate the clinic. A divided three-judge panel of the Seventh Circuit sent the case back to the district court, concluding that a plaintiff must prove either intentional discrimination or disparate impact to trigger the duty of reasonable modification. The full Seventh Circuit then agreed to rehear the case and invited the Department to file an amicus brief. It issued an opinion agreeing with the Department that the duty to make reasonable modifications under title II is an independent basis of liability under the ADA and therefore that a plaintiff does not need to allege either disparate treatment or disparate impact in order to state a reasonable modification claim; that the title II reasonable modification requirement applies to municipal zoning decisions; and that, in order to prevail on a title II reasonable modification claim, the plaintiff must show that the challenged rule or decision hurts persons with disabilities because of their disability and not just because of some quality that they share with the public generally, for example, a lack of financial resources. The Seventh Circuit sent the case back to the district court for further consideration in light of these principles.

### Title III

**Courts Split Over Lines of Sight Over Standing Spectators** -- The U.S. District Court for the Central District of California ruled in Miller v. The California Speedway Corp. that a speedway did not violate the ADA by failing to provide lines of sight over standing spectators for patrons who use wheelchairs. The Department was invited by the U.S. District Court for the Central District of California to provide its views concerning the proper interpretation of the language in the ADA Standards for Accessible Design (“ADA Standards”) requiring that wheelchair users be provided lines of sight comparable to those provided other patrons. The Department has consistently interpreted this language to require public accommodations to provide patrons who use wheelchairs with lines of sight over standing spectators at facilities where spectators can be expected to stand during games or events. The court ruled that the Department’s interpretation of the Standards was reasonable. However, it held that, because the Department did not subject its interpretation to formal public notice and comment, it was still bound by an earlier interpretation stated by the Access Board when issuing its ADA Accessibility Guidelines, suggesting that the provision did not require lines of sight over standing spectators. This district court decision follows an earlier decision of the U.S. Court of Appeals for the Third Circuit in Caruso v. Blockbuster-Sony Music Entertainment Centre holding that the Department’s ADA Standards do not require public accommodations to provide lines of sight over standing spectators. The D.C. Circuit reached the opposite conclusion in Paralyzed Veterans of America v. D.C. Arena L.P., ruling that lines of sight over standing spectators were required at the newly constructed MCI Arena in Washington, D.C.

## 2. New Lawsuits

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

### **Title II**

**New Interventions to Defend the Constitutionality of the ADA** -- The Department intervened in three additional cases to defend the constitutionality of private title II lawsuits against State agencies. The States argued that they were protected from ADA suits by sovereign immunity. They asserted that Congress lacked authority under the ADA to remove this immunity because the ADA's protections are broader than the equal protection rights guaranteed by the U.S. Constitution. The Department argued that Congress had the authority to remove State immunity because the ADA is appropriate legislation under the Constitution to remedy the history of pervasive discrimination against people with disabilities. The cases are --

- Disability Rights Council of Greater Washington v. WMATA (District of Columbia) -- a lawsuit challenging adequacy of paratransit system operated by Washington Metro.
- Bowers v. NCAA (3d Circuit) -- a lawsuit by a student with a learning disability against the National Collegiate Athletic Association and certain public universities alleging that he was denied an athletic scholarship because of his disability.
- Buchanan v. Maine (1st Circuit) -- a lawsuit by the brother of a deceased individual with mental disabilities challenging Maine's program of care for individuals with mental disabilities.

**George v. Bay Area Rapid Transit** -- The Department intervened in the U.S. District Court for the Northern District of California to defend the validity of the regulations issued by the U.S. Department of Transportation under the ADA. Plaintiffs had filed suit against the San Francisco Bay Area Rapid Transit District ("BART") alleging that public entrances at four BART stations were inaccessible to persons who are blind or who have low vision. The district court ruled that the Department of Transportation's regulations, as applied to accessible routes, were invalid because they were not adequate to ensure that the required accessible route would be accessible to individuals who are blind or who have low vision. On appeal, the Department of Justice filed an amicus brief arguing that the Department of Transportation's regulations were a reasonable interpretation of the ADA because the government carefully considered the needs of people who are blind or who have low vision and issued rules that, taken as a whole, address the obligation of public transportation facilities to provide access to these individuals. The Ninth Circuit returned the case to the district court for further review with instructions to include the United States as a party. The Department of Justice then intervened in the district court and again argued in support of the validity of the Department of Transportation's regulations.

**Gillespie v. Dimensions Health Corporation** (see "Consent Decrees," p.5)

**Youth Services International, Inc., Sarasota, Florida** (see "Formal Settlements," p.7)

### 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

##### **Gillespie v. Dimensions Health**

**Corporation** -- The Department entered into a consent decree with Laurel Regional Hospital, a community hospital serving the Maryland suburbs of Washington, in which the hospital agreed to ensure effective communication with patients or companions who are deaf or hard of hearing. The consent decree, filed in the U.S. District Court for the District of Maryland, resolves a lawsuit, in which the Department intervened, alleging that on several occasions the hospital did not appropriately respond to requests to provide qualified sign language interpreters or other auxiliary aids for patients or companions. Under the decree, the hospital will assess the communication needs of individuals with speech or hearing impairments upon their arrival or at the time an appointment is scheduled. It will provide qualified interpreters either onsite or by a video relay system within specified time limits as necessary for effective communication, especially in circumstances involving lengthy or complex interactions, such as admissions and detailed discussions of symptoms, diagnosis, and treatment. The hospital will also provide auxiliary aids, when needed, to companions as well as to patients. In addition, the hospital will meet certain standards for video interpreting services, including high-quality, clear, delay-free, full motion video and audio over a dedicated high-speed internet connection. These services will be carefully

monitored because patients with certain medical conditions or injuries may not be able to use their arms or they may not be in an appropriate position to view the screen or to perform sign language.

**U.S. v. DeNunzio's Restaurant** -- The Department agreed to a consent decree in the U.S. District Court for the Western District of Pennsylvania resolving its lawsuit against DeNunzio's Restaurant alleging that the restaurant had failed to engage in barrier removal that was readily achievable. The Jeannette, Pennsylvania, restaurant agreed to construct an accessible restroom, move its hostess station to a location that is accessible to individuals in wheelchairs, and provide an alternative accessible bar area.

## B. Formal Settlement Agreements

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

#### Title II

**City of Milwaukee Riverwalk, Milwaukee, Wisconsin** -- The U.S. Attorney's Office for the Eastern District of Wisconsin entered an agreement with the City and County of Milwaukee and Milwaukee Business Improvement District No. 15 resolving an accessibility complaint regarding the Milwaukee Riverwalk, a public walkway along the Milwaukee River, which was developed by the city and local property owners acting through the business improvement district. Under the agreement, the City and County of Milwaukee and the business improvement district have agreed to install accessible ramps, walkways, or lifts in several locations to ensure that the riverwalk

is readily accessible to and usable by persons with mobility impairments. They will modify, replace or install handrails as appropriate to provide accessibility; construct an accessible walkway from a parking lot to an existing accessible ramp; and remove existing ramps and install new gangways to floating docks in three locations.

**Minnetonka Police Explorer Program, St. Paul Minnesota** -- The U.S. Attorney's Office for the District of Minnesota entered an agreement with the City of Minnetonka, Minnesota, a large suburb of Minneapolis, resolving a complaint filed by the parents of a child with a learning disability who had been enrolled for two years in the city's police explorer scout program. The parents alleged that the city violated the ADA when police officials abruptly dismissed their son from further participation in the police scout program because of his disability. Under the settlement agreement, the city has agreed to promulgate new policies, procedures, and directives for its police explorer scout program, including a statement that it does not discriminate on the basis of disability. It will also provide notice of the new policies, procedures, and directives to all current participants in the city's police explorer scout program and distribute them on a regular basis to persons enrolled in the program, and train all police department personnel, including all uniformed police officers, on the requirements of the ADA. In addition, the city will pay \$6,250 to the parents to be used for counseling services for their disabled son, who experienced depression as a result of the abrupt dismissal from the program.

### Title III

**PONY Baseball, Inc., Hilo, Hawaii** -- The Department reached an agreement with PONY Baseball Inc., a youth baseball and softball organization, resolving a complaint by a PONY player who is deaf. The Department investigated allegations that PONY violated the ADA by refusing to allow the father of a player who is deaf to provide sign language interpreting for his son during tournament games. PONY's rules limited the number of coaches who could participate in the game, and the league ruled that the father, who was only providing sign language interpreting, had to be included in the total number of coaches for his son's team. In the settlement, PONY agreed to modify its rules to specifically allow players to use sign language interpreters during games; provide sign language interpreters for players who are deaf or hard of hearing; make reasonable modifications to PONY's rules and practices to allow players with disabilities an equal opportunity to participate in PONY's baseball and softball games; appoint an ADA coordinator who will be responsible for ensuring that PONY responds properly to requests for auxiliary aids, including sign language interpreters, and requests for reasonable modifications; provide ADA training to PONY's ADA coordinator and board of directors, and pay the complainant \$30,000 in damages.

**Fabric Store Chain Agrees to Nationwide Barrier Removal** -- The U.S. Attorney's Office for the Eastern District of Michigan entered an agreement with JoAnn Stores, Inc., resolving complaints that JoAnn stores are not accessible to wheelchair users. This nationwide agreement covers all of JoAnn's 840 stores in the United States and addresses barriers involving entrances, the size of aisles, merchandise display areas, fabric cutting areas, check-out counters, and other spaces and elements at new and existing stores. The agreement requires JoAnn Stores to hire an ADA consultant to assist in implementing the agreement and designate a corporate ADA coordinator; conduct a survey of every JoAnn store for compliance with the ADA over a four-year period; remove all barriers to access in each store within one year of the access survey; train all personnel involved in the implementation of the agreement; and incorporate ADA training into JoAnn's training curriculum for all new employees.

**Bethesda Memorial Hospital, Boynton Beach, Florida** -- The Department reached an agreement with Bethesda Memorial Hospital resolving a complaint that the hospital failed to provide a sign language interpreter for a deaf patient diagnosed with streptococcal pneumonia and her husband, who is also deaf, during a 20-day hospitalization. The complaint alleged that despite repeated requests for interpreting services, the patient met with doctors, specialists, and nurses many times without a qualified interpreter. The complaint also alleged that the hospital's failure to provide an interpreter placed an inappropriate burden on the husband to facilitate communication between hospital staff and his wife. Under the agreement the hospital agreed to designate staff to be available 24 hours a day to respond to requests for effective communication at the hospital; continually assess patients' communication needs; and furnish auxiliary aids where necessary to provide effective communication, including TTYs and sign language interpreters. The hospital also agreed to provide ADA training to staff, establish a complaint procedure for persons with disabilities to register complaints with the hospital; publish notice to patients and

the community that the hospital provides effective communication without charge; and pay \$8,500 in compensatory damages to the complainants and \$4,000 in civil penalties to the United States.

**Youth Services International, Inc., Sarasota, Florida** -- The Department filed a lawsuit against Youth Services International, Inc. (YSI), and simultaneously entered a settlement resolving allegations that YSI, a company that provides services at juvenile justice facilities and in community nonresidential programs in several states, failed to provide a sign language interpreter for a deaf youth at the Victor Cullen Center in Sabillasville, Maryland. The lawsuit resulted partly from YSI's failure to comply with a number of similar provisions to which YSI agreed in a 2004 settlement agreement with the Department. The agreement, which was filed in the U.S. District Court for the District of Maryland, requires YSI to ensure that youth who are deaf or hard of hearing have an equal opportunity to participate in its programs. The deaf complainant, who communicates through American Sign Language, was detained at the center for 11 months and, along with other detainees, required to participate in rehabilitative,

educational, recreational, and other programs. However, he allegedly could not participate fully in, or benefit from, the programs because he was not given appropriate services, such as a sign language interpreter. Under the agreement, YSI will ensure that all youth who are deaf or hard of hearing will be provided appropriate auxiliary aids and services, including sign language interpreters, TTYs, and visual alarms. The company will also implement a companywide training program on the ADA and communication with persons who are deaf or hard of hearing. The parties asked the court to place the case on its docket for three and a half years, at which time the case will be dismissed if YSI has met the terms of the agreement.

**McLeod Regional Medical Center, Florence, South Carolina** -- The Department and McLeod Regional Medical Center entered a settlement agreement resolving a series of complaints against the medical center for failing to secure qualified interpreters when necessary to ensure effective communication with patients who use sign language for communication. One complainant alleged that she was unable to communicate effectively with the doctors during treatment for an attempted suicide and during an earlier emergency visit for an on-the-job injury. Another complaint alleged that the patient's friend had to interpret during several periods of hospitalization. Under the agreement the hospital agreed to identify staff members to be available as contact persons 24 hours a day to respond to requests for effective communication; provide necessary auxiliary aids, such as TTYs and sign language interpreters; and assess each patient's communication needs upon intake and continue to monitor the patient's ongoing need for interpreters or other auxiliary aids. The hospital also will provide ADA training for hospital staff; provide notice in the hospital

and the community that the hospital provides effective communication without charge; and develop a grievance procedure for ADA complaints.

**Twin Cities Avanti Stores LLC ("Oasis Markets"), Minneapolis, Minnesota** -- The U.S. Attorney's Office for the District of Minnesota entered into a settlement agreement resolving a complaint filed by a local independent living center that Oasis Market convenience stores and gas stations were not accessible to individuals with disabilities, including persons who use wheelchairs. The chain agreed to remove barriers in 22 gas station and convenience stores in Minnesota. Within one year, parking and external store access remodeling will be completed; within two years store counters and internal store access will be completed; and within 48 months bathrooms will be remodeled in accordance with the ADA Standards for Accessible Design. In addition, employees of Oasis Markets will be trained to provide refueling assistance to persons with disabilities who request assistance.

**Law Office of Cohen and Jaffe, LLC, Lake Success, New York** -- The U.S. Attorney's Office for the Eastern District of New York reached an agreement with the Law Office of Cohen and Jaffe, LLC, resolving a complaint that the law office failed to provide a qualified sign language interpreter for a client who was deaf as she prepared for deposition testimony and for other settlement and legal discussions. The office allegedly relied upon the complainant's mother, who is not a qualified interpreter, to interpret for her daughter. Under the agreement, the office agreed to provide qualified sign language interpreters for deaf individuals, post prominently a notice stating its responsibilities under the ADA, provide appropriate auxiliary aids and services free of charge, and pay the complainant \$7,000.



**Compliance Reviews Result in Comprehensive Accessibility Agreements at the University of Chicago and Colorado College** -- The Department reached its first two comprehensive agreements under a program of compliance reviews of private colleges and universities. Agreements with the University of Chicago and Colorado College address a wide array of issues and require the schools to ensure increased access to their campuses for students, faculty, and visitors, in particular those with mobility, hearing, and vision disabilities. For example, the colleges will --

- submit accessibility plans outlining proposals to comply with the agreement to the Department for review after seeking public comment;
- implement campus-wide emergency evacuation, sheltering, and shelter-in-place plans for individuals with disabilities after public comment and Department review;
- ensure that three percent of the units (and adjacent toilet rooms) in student living facilities are accessible and dispersed among the facilities, and that a reasonable number of housing facilities has an accessible entrance, first floor common area, and toilet room that is usable by a visitor with a disability;
- display information on their websites identifying accessible routes through the campuses, accessible parking areas, accessible entrances to buildings, and accessible spaces within buildings;
- post signs at facility entrances and toilet rooms identifying those that are accessible and, at inaccessible entrances and toilet rooms, directing individuals to the nearest accessible entrance or toilet room;
- provide assistive listening systems and devices for people who are deaf or hard of hearing in lecture halls, meeting rooms, auditoria, and other assembly areas;
- move classes and other activities to fully accessible locations when necessary; and
- correct violations of the accessibility standards for new construction.

The University of Chicago also agreed to ensure that its transportation services, including its fixed-route campus-wide bus system and on-call evening and night-time service, satisfy the requirements of the ADA.

**Marin Magnetic Imaging, Greenbrae, California** -- The Department reached an agreement with Marin Magnetic Imaging, a magnetic resonance imaging (“MRI”) office, resolving a complaint from an individual who has quadriplegia alleging that he was denied an MRI because the office did not have

an accessible MRI table and the technician refused to lift him onto the MRI table. The complainant brought his own Hoyer lift to assist him in transferring, but the wheels of the lift allegedly would not fit under the MRI table. Under the agreement, the office agreed to purchase a height-adjustable MRI compatible

gurney that can assist individuals with mobility disabilities to transfer to the MRI table. It also adopted a nondiscrimination policy, agreed to train its staff on the ADA and transferring techniques, and paid the complainant \$2000.

**Delta Ridge LLC (“Victorian Palace Hotel”), Branson, Missouri** -- The Department entered an agreement resolving a complaint about the Victorian Palace, a 59-room hotel in Branson, Missouri, with respect to the barrier removal obligations of its current owners, Delta Ridge LLC. Under the agreement, the owners will ensure that both main hotel entrances (one at each of two ground levels, on opposite sides of the building) are accessible; that accessible parking spaces are designated at the two main entrances to the hotel; and that four of the hotel’s sleeping rooms will be accessible.

**Madonna Inn, Inc., San Luis Obispo, California** -- The Department reached an agreement with Madonna Inn, Inc. that will make the landmark 108-room, roadside inn more accessible to people with disabilities. The inn has agreed to modify its guest reservation policies to increase the availability of its accessible guest rooms to people with disabilities; acquire 10 kits of equipment to make rooms accessible to persons who are deaf or hard of hearing, including visual alarms, notification devices to alert patrons of door knocks, and TTYs for using the telephones; and remove barriers to access in each of the five designated accessible guest rooms. In the future, should the inn grow and expand, the settlement requires additional accessible guest rooms to be added. In order to provide a range of accessible guest room types, the inn will also provide different bed types in three of the designated accessible guest rooms (or two guest rooms with connecting doors for the price of one room) and additional amenities, such as a patio or fireplace, in at least two of these rooms. In addition, the agreement will lead to greater access to common spaces and elements throughout the inn and restaurant.

**Busy Bumble Bee Palace, Chicago, Illinois** -- The U.S. Attorney’s Office for the Northern District of Illinois reached an agreement with the Busy Bumble Bee Palace Infant and Toddler Care Center resolving a complaint by a mother that the center discontinued services to her two-year-old son because of his developmental and speech delays. The center agreed to adopt a nondiscrimination policy and to pay the complainant \$4,500.

## C. Other Settlements

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

### Title II

An inmate with a mobility disability complained that a midwestern State correctional facility was going to replace his motorized wheelchair with a manual wheelchair instead of fixing it. The correctional facility purchased replacement parts, including a new battery, and repaired the complainant’s motorized wheelchair.

An inmate with a psychiatric disability filed a complaint against a western State department of corrections alleging that she had been denied adequate medical care relating to her mental illness. The department has provided additional care, including periodic contact with a contract psychiatrist for medication management, access to other mental health staff upon request, and a mental health liaison to help her to secure SSDI benefits upon her scheduled release.

### Title III

An individual with a mobility disability complained that a bank in Arizona failed to provide an accessible card reading machine and counter space. The bank modified placement of the card reading machine and installed a lower counter that can be used easily by persons who use wheelchairs during all regular banking hours.

An individual with a mobility disability complained that a California hotel had no accessible parking, no accessible paths of travel to the guest rooms, and an inaccessible bathroom in a designated accessible guest room. The hotel made the bathrooms accessible in the six accessible guest rooms. The hotel also installed six accessible parking spaces, as well as accessible paths of travel from those parking spaces to the rest of the facility.

An individual with a mobility disability complained that an Arizona hotel was not accessible. The hotel, part of a national chain, agreed to provide designated accessible parking spaces, install directional signage to accessible public toilet rooms, provide auxiliary aids for deaf or hard-of-hearing guests, and pay \$8,000 to the complainant.

An individual with a mobility disability complained that a New Jersey diner's designated accessible parking spaces did not have access aisles, that the signage for those spaces was mounted too low, and that there was no accessible route to the restaurant's entrance. The owner of the diner made changes to the designated accessible parking spaces, access aisles, signage, and paths of travel to make them accessible.

An individual with a mobility disability complained that a Texas location of a national chain sandwich shop lacked appropriate signage

for its van-accessible space. The owner of the restaurant installed a van-accessible sign at the parking space.

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

**Northern District of Illinois** -- A deaf patient complained that a medical practice in Chicago refused to provide a sign language interpreter for an appointment. The practice agreed to implement a written policy for the provision of appropriate auxiliary aids and services, including qualified sign language interpreters, to ensure effective communication with patients. Additionally, the practice will provide ADA training to current and future employees and pay the complainant \$2,000 in damages.

**Southern District of Mississippi** -- A deaf patient complained that a medical practice failed to provide a sign language interpreter for several scheduled appointments. The medical practice adopted an effective communication policy stating that they will provide sign language interpreters and other auxiliary aids and services as needed.

**Southern District of New York** -- Deaf and hard of hearing individuals complained that a botanical garden failed to provide qualified sign language interpreters for a workshop and a tour. The garden will ensure that its auxiliary aids policy is carried out appropriately, provide ADA training to its staff, configure registration software for workshops and courses to record individual requests from visitors with disabilities for auxiliary aids and services, provide information about the availability of sign language interpreters in its catalogs, form an accessibility committee and work with disability consultants to improve access and signage in the garden, and purchase neck loops that transmit an infrared signal to hearing aids for the lecture hall.

An individual with a mobility impairment filed a complaint against a public passenger ship terminal alleging that the facility lacked an accessible route from the accessible parking to the embarkation area. The third level of the parking garage serving the facility, which is the only level where cruise ship passengers may park, was only connected to the pier by escalators and stairs. The terminal has now installed three large passenger elevators at three piers. Additionally, curb ramps have been constructed in each parking lot providing access to the elevators.

**Eastern District of Wisconsin** -- A local disability advocacy group complained that a restaurant was not accessible from the adjacent public riverside promenade. The restaurant constructed an accessible ramp to replace stairs leading from the promenade to its outside patio. The group also complained about the lack of handrails on newly constructed, sloped portions of the promenade under the authority of a business improvement district. The business group agreed to install continuous, accessible handrails.

## 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 400 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 New York, a person who has a mobility disability complained that a department store was inaccessible. The store cleared the dressing room of obstacles, implemented new ADA training for employees, and gave the complainant a \$50 gift card.
- An individual who is deaf and has low vision complained that a North Carolina doctor's office refused to allow his service

animal to accompany him into treatment areas. The office modified its policy to allow service animals in all areas of the practice and adopted a comprehensive policy to provide effective communication for patients. The owner of the practice apologized to the complainant and volunteered to apply these policies in 23 other office locations, posted signs about the new policies, and trained staff at all locations.

- In Kansas, a wheelchair user complained that a restaurant was inaccessible. The restaurant installed accessible parking spaces and a ramp to the entrance and reconfigured the bathroom to provide access to people with mobility impairments.
- In New York, an individual who is deaf alleged that a hotel was inaccessible to her. The hotel purchased a communication kit including a TTY and an alarm clock for individuals who are deaf.

- A wheelchair user complained that an Arizona office building was inaccessible. The office building added an accessible parking space and installed a ramp at the entrance.
- In Oklahoma, a parent whose son uses a mobility stroller complained that a law firm, which is on the second floor of a building without an elevator, was inaccessible. The firm obtained space on the first floor to meet with and provide services to individuals unable to climb stairs. The firm also installed signage identifying this alternate space and the accessible route.
- In Tennessee, a deaf individual complained that a uniform sales company refused to accept phone orders from callers using the relay service. The company agreed to accept relay calls and provide ADA training to staff at 200 stores in 36 states. The company also apologized to the complainant and offered a \$100 gift certificate.
- In Florida, a person with a mobility disability complained that she had been denied the opportunity to volunteer at a museum and theater company because of her disability. The company agreed to accept the complainant as a volunteer and to open all of their volunteer activities to people with disabilities.
- A person with a mobility impairment complained that a West Virginia golf course refused to allow golfers with disabilities to take golf carts off the path. The club agreed to modify the policy. The complainant and resident golf pro worked together to identify areas that would be unsafe for cart travel in wet conditions and developed a brochure about the off-path policy.
- In Washington, a wheelchair user complained that a mobile phone store was inaccessible. As a result he had to wait outside in cold and rainy weather for a long time as he tried to help a friend with low vision shop for a cell phone. The company installed a wheelchair lift outside of the store and renovated the store entrance to make it accessible. In addition, the company developed comprehensive ADA training materials for its employees and paid \$2,783.75 to the complainant and his friend.

## IV. Technical Assistance

**The ADA requires the Department of Justice to provide technical assistance to businesses, State and local governments, and individuals with rights or responsibilities under the law. The Department provides education and technical assistance through a variety of means. Our activities include providing direct technical assistance and guidance to the public through our ADA Website, ADA Information Line, and ADA Fax on Demand; developing and disseminating technical assistance materials to the public; undertaking outreach initiatives; and coordinating ADA technical assistance government wide.**

### ADA Website

The Department's ADA Website on the Internet's World Wide Web provides direct access at anytime to ADA information offered by the Department and by other Federal agencies.

The ADA Home Page ([www.ada.gov](http://www.ada.gov)) is the entry point to the website. It provides direct access to --

- ◆ ADA regulations and technical assistance materials in English and Spanish,
- ◆ electronic versions of the ADA Standards for Accessible Design, including illustrations and hyperlinked cross-references,
- ◆ selected ADA legal documents, settlement agreements, and technical assistance letters,

- ◆ the ADA Business Connection, including ADA Business Briefs in English and Spanish,
- ◆ Reaching out to Customers with Disabilities, a web based interactive online course that explains the requirements of title III,
- ◆ The ADA Video Gallery with accessible streaming video, including Ten Small Business Mistakes and the ADA Signing Ceremony,
- ◆ an online ordering form for the ADA Technical Assistance CD-ROM,
- ◆ links to the Department's press releases, and
- ◆ links to Internet webpages of other Federal agencies and Federal grantees that contain ADA information.

The ADA Website also 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.

**Department Continues Outreach to Minority and Rural Communities** -- The Department presented its ADA Technical Assistance exhibit at the national conferences of the National Council of La Raza, the NAACP, and the Organization of Chinese Americans, as well as the Upper Peninsula State Fair in Michigan. Staff answered questions and distributed compliance assistance materials to promote public awareness of the ADA. During the past year, the Department participated in more than 70 speaking and outreach events, reaching over 210,000 people among a wide variety of audiences, including minority and rural communities. Several of the Department's technical assistance publications are available in languages other than English, including Spanish, Cambodian, Chinese, Hmong, Japanese, Korean, Laotian, Tagalog and Vietnamese. These materials may be ordered through the ADA Information Line.

### **ADA Information Line**

The Department of Justice operates a toll-free ADA Information Line to provide information and publications to the public about the requirements of the ADA. Automated service, which allows callers to order publications by mail or fax, is available 24 hours a day, seven days a week. ADA specialists are available on Monday, Tuesday, Wednesday, and Friday from 9:30 a.m. until 5:30 p.m. and on Thursday from 12:30 p.m. until 5:30 p.m. (Eastern Time). Foreign 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 technical assistance publications 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/PA Branch, NALC Room 311  
 Washington, D.C. 20530  
 Fax: 202-514-6195

Currently, the FOIA/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 FOIA/PA Branch also provides access to ADA materials on the World Wide Web. A link to search or visit this website is provided from the ADA Home Page.

## V. Other Sources of ADA Information

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

ADA publications  
 800-669-3362 (voice)  
 800-800-3302 (TTY)

ADA questions  
 800-669-4000 (voice)  
 800-669-6820 (TTY)  
[www.eeoc.gov](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** provides information about the transportation provisions of title II of the ADA.

ADA Assistance Line for regulations and complaints  
 888-446-4511 (voice/relay)  
[www.fta.dot.gov/ada](http://www.fta.dot.gov/ada)

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

ADA publications and questions  
 800-872-2253 (voice)  
 800-993-2822 (TTY)  
[www.access-board.gov](http://www.access-board.gov)

The **ADA and IT 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)  
<http://projectaction.easterseals.com>

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)

## VI. 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.