



# Disability Rights online News

U.S. Department of Justice  
Civil Rights Division

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## **Disability Rights Online News**

is a bi-monthly update about the Civil Rights Division's activities in the area of disability rights. The Division enforces laws prohibiting discrimination based on disability in employment, housing, access to businesses serving the public, access to government programs and services, including voting and public transportation, and unconstitutional conditions in institutions of confinement.

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## **DEPARTMENT PROPOSES CHANGES IN ADA REGULATIONS AND DESIGN STANDARDS**

On June 17, 2008, the Department published a Notice of Proposed Rulemaking (NPRM) on proposed amendments to its regulations implementing titles II and III of the ADA. The proposed amendments will make changes in the existing ADA Standards for Accessible Design to provide greater consistency among ADA requirements, other federal and state accessibility requirements, and model building codes. The changes also address specific types of designs not included in the Department's original ADA Standards, including certain public facilities such as courtrooms and an array of recreation facilities including playgrounds, swimming pools, amusement parks, and golf courses.

In addition to changing and expanding the ADA Standards, the proposed amendments will address and clarify many

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## **NEXT MULTI-FAMILY HOUSING ACCESS FORUM TO BE HELD IN HOUSTON**

The Department's eighth Access Forum will be held in Houston, Texas, on Tuesday morning, November 18, 2008. Launched in 2005, the Access Forum's objective is to help building professionals understand their legal obligations under the federal Fair Housing Act's accessibility requirements and to highlight partnerships that have successfully produced accessible multi-family housing in which everyone profits – developers and consumers alike. The Access Forum brings together developers and building professionals, government officials, and advocates for individuals with disabilities. People interested in attending this event should send an email with their name, organization, and contact information, as well as names and contact information for other attendees from their office and any other people who might be interested in this event, to [accessforum@usdoj.gov](mailto:accessforum@usdoj.gov).

(Changes In ADA Regulations, continued)

regulatory issues that have arisen over the years since the ADA was implemented. The NPRM raised a number of questions designed to encourage public input on topics the Department intends to address, including:

- requirements for ensuring that people who are deaf or hard of hearing can receive and convey vital information in medical settings;
- requirements for ensuring that accessible hotel rooms may be reserved and guaranteed to the same extent as other guestrooms in the facility;
- requirements for ensuring that accessible seating in public venues remains available for purchase by people with disabilities until all other seating is sold out;
- rules regarding the use of service animals by people with disabilities, highlighting that a service animal must be a dog or other common domestic animal that is trained to perform specific tasks to assist its owner;
- whether, and in what settings, new devices such as Segways may be used as mobility devices; and
- whether building elements that comply with the current ADA Standards are required to be modified to meet the new design standards.

In the NRPM, the Department solicited public comments on the proposed changes and established a 60-day time frame for submitting comments. On July 15, 2008, the Department held a public hearing to provide an opportunity to interested persons to express their views on the proposed changes. Grace Chung Becker, Acting Assistant Attorney General for the Civil Rights Division, presented opening remarks and Deputy Assistant Attorney General Loretta King presided at the hearing. Approximately 50 people, speaking on behalf of themselves as individuals or representing businesses, professional entities, or advocacy organizations, testified, including thirteen who

testified via speaker phone. In addition to the people who attended in person, approximately 2,000 people tuned in to a live webcast of the hearing.



**Acting Assistant Attorney General Grace Chung Becker welcomes audience at public hearing**

By the end of the public comment period, the Department had received more than 4,400 comments from individuals and organizations. To view the comments, go to [www.regulations.gov](http://www.regulations.gov), enter ADA in the search box and click Go, then at the next screen click on DOJ in the left column. The NPRM, the proposed ADA Standards, the Department's Regulatory Impact Analysis, and a transcript of the July 15 hearing are available on the ADA Website at [www.ada.gov/NPRM2008/ADAnprm08.htm](http://www.ada.gov/NPRM2008/ADAnprm08.htm).

## **INTERNATIONAL SPY MUSEUM WILL MAKE ACCESSIBILITY IMPROVEMENTS**

On June 3, 2008, the International Spy Museum in Washington, DC, entered into a settlement agreement with the Department to improve access for visitors with vision, hearing, and mobility disabilities throughout its facility, including its exhibits, theaters, restaurant, and museum shop.

For individuals who are blind or have low vision, the museum will provide tactile maps of the museum and floor plan that visitors can borrow; provide a qualified audio describer on request for audio-visual presentations, computer interactives, and exhibits; and provide a qualified reader on request to read labels in exhibitions. The museum will also make available for tactile examination a representative sample of objects, models, and/or reproductions of objects that communicate the main themes of the exhibitions, accompanied by audio description.

For people who are deaf or hard of hearing, the museum will provide captions for all audiovisual, audio-only, and computer interactive programs unless doing so would fundamentally alter the nature of the audio content or result in an undue burden. In

the latter event, it will provide scripts or wall text to communicate the audio narration or ambient sounds. Upon advance request, the museum will also offer sign language and oral interpreter services and realtime captioning for all public programs.

For visitors who have mobility disabilities, the museum will enhance physical access to its facility by providing accessible ramps, improved access to doors and counters, and integrated

wheelchair seating areas and companion seats in its theaters.

The museum will display information about the availability of auxiliary aids and services on its website and in its brochures, print, and video advertisements. It will also designate an ADA compliance officer, train all first-line supervisors and managers on the ADA, and ensure that all newly hired supervisors and managers receive this training within thirty days of hire.

## **INTERCITY BUS OPERATOR WILL PROVIDE ACCESSIBLE SERVICE FOR INDIVIDUALS WHO USE WHEELCHAIRS**

On July 7, 2008, the Department filed a complaint and a proposed consent decree in the federal court in the District of Columbia and announced that it had reached a settlement with New Century Travel, Inc., a company that provides low-cost, fixed route bus service to major cities along the East Coast, including Washington, Philadelphia, and New York. This is the first ADA decree secured between the Department and a low-cost, fixed route carrier. The consent decree, which was approved by the court on July 10, 2008, enforces the Department of Justice's and Department of Transportation's ADA regulations requiring that over-the-road bus companies, including those that offer discount service, provide accessible service for people with disabilities.

Among other things, the consent decree provides that people who use wheelchairs can schedule rides on buses equipped with wheelchair lifts with 48 hours advance notice to New Century. It also requires New Century to modify its

(Bus operator, continued)

web site to enable people with disabilities to reserve a seat on an accessible bus and to receive confirmation of their arrangements in writing in a timely manner. In addition, it requires New Century to post notices on its web site, in stations, and in pick-up locations stating its obligation to provide accessible transportation for people with disabilities and to train relevant employees about the requirements of the ADA and how they apply to New Century. New Century also agreed to pay \$5,000 in civil penalties to the United States and \$1,000 in compensatory damages to people who were denied accessible transportation by the company.

“This settlement opens the roads to individuals with mobility disabilities who now will be able to take advantage of low-cost travel opportunities and to make arrangements for accessible transportation with less difficulty,” said Acting Assistant Attorney General Grace Chung Becker. “It ensures that New Century welcomes individuals with disabilities on an equal basis with all other riders.”

## POLICE OFFICER WILL BE PROMOTED AND RECEIVE RETROACTIVE BENEFITS

On July 22, 2008, the federal court in Denver approved a consent decree resolving all issues in United States and Lazoff v. City of Colorado Springs, a case alleging retaliation against a police officer because of his assistance to his wife, who was also a police officer and had been the lead plaintiff in a successful ADA case against the City of Colorado Springs, Colorado, Police Department (see previous article in newsletter issue 23). After expressing vocal support for his wife’s case, the officer, a 17-year veteran of the police department and a nationally renowned instructor of SWAT

techniques who periodically was chosen to serve as Acting Sargent in his unit, was passed over for each of the 16 sergeant positions for which he was eligible over a two-year period despite his credentials, the support of his chain of command, and his qualification on the standardized components of the promotional process.

Under the terms of the consent decree, Officer Lazoff will be promoted to Sergeant with retroactive pension contributions, seniority, and all other non-monetary benefits to which he would have been entitled had he not been subjected to retaliation. The city

### Did you know . . .

An online version of the video *My Country* has been added to the ADA web site. Narrated by world-famous conductor James DePriest, this highly acclaimed video sets the ADA in context as a civil rights law and chronicles the struggle of people with disabilities to achieve independence and equal opportunity. The accessible streaming video, which can be found at [www.ada.gov/videogallery.htm](http://www.ada.gov/videogallery.htm), is divided into five segments ranging from 2 ½ to 20 minutes in length and is available for both dial-up and high speed access.

will also pay Officer Lazoff back pay. In addition, the city will train all police department supervisory personnel on the ADA and its retaliation prohibition.

“Employees who exercise their civil rights to oppose discrimination against others are entitled to protection from retaliatory measures,” said Acting Assistant Attorney General Grace Chung Becker. “The Department will continue to vigorously enforce laws that protect employees from retaliation.”

## **BROWN MACKIE COLLEGE CAMPUSES WILL MAKE ACCESSIBILITY IMPROVEMENTS**

On July 24, 2008, the Educational Management Corporation (EDMC), a for-profit business that provides education and training and is one of the largest providers of private post-secondary education (primarily career-focused education) in North America entered into a settlement agreement with the Department covering 19 Brown Mackie College campuses operated by EDMC. This is the Department's first ADA agreement with a post-secondary proprietary school and the Department's first agreement with an education provider that leases its campus facilities from another entity.

Under the agreement, EDMC will create a plan to remove architectural barriers in existing facilities at each Brown Mackie campus where such removal is readily achievable and will undertake alterations to make the facilities readily accessible to and usable by people with disabilities to the maximum extent feasible. To the extent that EDMC's plan will require physical

changes to parts of facilities or spaces for which EDMC does not have exclusive control or responsibility, EDMC will provide the landlord with a detailed listing of any accessibility issues that EDMC believes the landlord is responsible for rectifying and will request the issues be rectified promptly. Following negotiations between EDMC and its landlords, if any landlord refuses to rectify any accessibility issues, EDMC will notify the Department.

In addition, EDMC will ensure that assistive listening

devices will be available in assembly areas as needed; will establish and implement an emergency evacuation plan for individuals with disabilities; will modify its policies, practices, and procedures when necessary to afford access to services and facilities for individuals with disabilities; and will designate an ADA Compliance Officer who will have the authority and responsibility for ensuring accessibility on the Brown Mackie Campuses.

## **DELAWARE ATTORNEY AGREES TO PROVIDE EFFECTIVE COMMUNICATION**

On May 29, 2008, Clifford B. Hearn, Jr., P.A., of Wilmington, Delaware, signed a settlement agreement with the Department resolving a complaint from a person who is deaf who alleged that Hearn, an attorney, had refused to provide sign language interpreter services for effective communication with the complainant. Under the agreement Hearn will provide appropriate auxiliary aids and services, including qualified sign language interpreters, when needed to provide effective communication; adopt and enforce an effective communication policy; distribute the policy to all staff; establish and maintain a list of qualified sign language and oral interpreter providers; post the policy and procedures for requesting auxiliary aids, including sign language interpreters; and maintain a log of each request for auxiliary aids and services.

## SCHOOL AGREES TO ACCOMMODATE CHILDREN WITH DIABETES

On July 10, 2008, the Raynor Country Day School in Westhampton, New York, and the Department entered into a settlement agreement to make the programs at this private day school and its summer camp accessible to children with diabetes. The agreement is very similar to the consent decree reached earlier in United States v. Town Sports International, a major chain offering summer camp programs in cities throughout the Northeast. (See previous article in issue # 13.) In this agreement, Raynor Country Day School agreed to accept children with diabetes in both the school and summer camp programs and agreed to supervise students who are monitoring their blood sugar and insulin intake using insulin pumps, as well as monitoring diet and food intake. Under the agreement, Raynor will require students with diabetes to share information about their medical needs with the school as part of the application process, so the school can be involved in implementing any medical plans provided by the health care professionals treating the student. The agreement resolved complaints filed by two families that their children were dis-enrolled from summer camp after first being accepted when the school learned of their use of insulin pumps.

## MINNESOTA HOSPITALS WILL PROVIDE EFFECTIVE COMMUNICATION

On May 22, 2008, HealthEast, a large health care provider that owns and operates St. Joseph's Hospital in St. Paul, St. John's Northeast Hospital in Maplewood, and Woodwinds Hospital in Woodbury, Minnesota, entered into a settlement agreement with the Department resolving a complaint by a woman who is deaf who is the conservator and power of attorney for her elderly mother. The woman, who was making arrangements to have her mother transported from a nursing home to the HealthEast hospital in St. Paul for medical assistance at an early hour in the morning, was told that no sign language interpreter was available because it was after hours. She called the hospital again in the morning to explain that she and her mother would soon be arriving and again requested an interpreter. When they arrived

at the hospital, no interpreter was present. Finally, four hours later, an interpreter was provided. However, over the course of the mother's two-day hospitalization, the hospital did not routinely provide an interpreter for the daughter for important communications with medical staff or for the mother's discharge conference, in which important after-care instructions were provided.

Under the settlement, HealthEast agreed that its health care professionals will communicate effectively with patients and family members who are deaf or hard-of-hearing. The agreement requires HealthEast to designate a system-wide coordinator for the implementation of the agreement and a coordinator at each hospital to respond to requests for auxiliary aids and services; to identify a group response team at each hospital to provide interpreter services 24 hours a day, seven days a week; to conduct mandatory ADA training of its 1,200 employees that provide medical care; to modify its policies and procedures and to develop patient and visitor notification and brochures indicating that appropriate auxiliary aids and services, including qualified interpreters, will be available free of charge. The settlement agreement further provides damages in the amount of \$26,000 for the complainant.

## NEW PROJECT CIVIC ACCESS SETTLEMENTS

On July 10, 2008, the Department entered into a settlement agreement with the Kanawha County Public Library Board in Charleston, West Virginia, in which the library board agreed to make physical modifications to each of its ten library facilities, to ensure that communications with people with disabilities are as effective as communications with others, to adopt an ADA grievance procedure, to appoint an ADA coordinator, and to take steps to improve the accessibility of its website. The agreement was part of the Department's Project Civic Access, an initiative to ensure greater access for Americans with disabilities to local government services and facilities.

On July 23, 2008, Humboldt County, California, entered into a settlement agreement with the Department following a review that encompassed most of the County's programs, activities, and services. The agreement specifies that the county will post, publish, and distribute a notice to inform members of the public of the ADA's provisions and their applicability to the county's programs, services and activities; make physical modifications to its facilities so that parking, routes into the buildings, entrances, public telephones, restrooms, service counters, and drinking fountains

are accessible to people with disabilities; provide information to the public about the existence and location of the county's accessible services, activities, and programs; ensure access to voting and emergency management services for people with disabilities; develop a policy to accept calls through California's telephone relay service and train staff in using the service; continue to ensure that 9-1-1 emergency service calls placed by people with disabilities who use text telephones (TTYs) are answered as quickly as other calls, are monitored for timeliness and accuracy, and employees are skilled in using a TTY to make and receive calls; make auxiliary aids and services available to people with disabilities upon

request; and ensure that the county's official web site is accessible to people with disabilities.

"Today we are celebrating the commitment that Humboldt County officials have made to ensure that their community is accessible to all of their citizens," said Acting Assistant Attorney General Grace Chung Becker. "As a result of today's agreement, many more persons with disabilities will now be able to participate fully in fundamental aspects of American life in their own community, including attending town hall meetings, viewing government Web sites, accessing emergency services, and voting at their local polling places. Their increased participation benefits all Americans."

## MICHIGAN CLINIC AGREES TO DISCONTINUE DISCRIMINATORY ADMISSION POLICY

On July 10, 2008, the Medical Weight Loss Clinic in Detroit, Michigan, signed a settlement agreement with the Department resolving a complaint concerning an obese woman with HIV disease and hypertension who sought admission to the clinic after her doctor advised her to lose weight. The clinic denied her admission because of her HIV status. The clinic also admitted that they categorically deny from their program individuals with 18 specific physical and mental impairments, including other disabilities covered by the ADA. The agreement includes a non-discrimination policy that requires an individualized assessment of any individual who has certain physical or mental disabilities, including HIV or AIDS, rather than a categorical disqualification from the diet program. In addition, the clinic will pay \$20,000 in compensatory damages to the complainant.

## TWO NEW YORK CITY HOTELS AGREE TO IMPROVE ACCESSIBILITY

Two additional hotels in Manhattan's theater district, the 1,944-room Marriott Marquis and the 200-room Muse Hotel, have entered into settlement agreements to improve accessibility for customers with disabilities, under the hotel compliance initiative being conducted by the U.S. Attorney's Office in Manhattan. Both hotels agreed to evaluate their designated accessible rooms and make any modifications necessary to comply with the ADA Standards for Accessible Design; make additional rooms accessible, including some with accessible roll-in showers, as needed to meet the required number of accessible rooms; provide visual alarms and communication devices, and appropriate electrical outlets, in rooms for people with hearing disabilities; disperse accessible rooms among all classes of sleeping accommodation; and establish written policies and procedures for providing services to hotel guests with disabilities. (See previous articles on this hotel initiative in newsletter issues 16, 17, and 22).

## ADA BUSINESS CONNECTION HOLDS MEETING IN CONNECTICUT

On June 26, 2008, the 23rd ADA Business Connection Leadership meeting was held in New Haven, Connecticut. The meeting focused on access to healthcare facilities and programs for patients, family members, and companions with disabilities. Fifty-six representatives of both healthcare and disability rights organizations from throughout Connecticut participated. The meeting was moderated by Deputy Assistant Attorney General Loretta King. The co-host for the event was Marna Borgstrom, President and CEO of Yale-New Haven Hospital. The speakers were Michelle Duprey, Esq., Director,

of the City of New Haven Department of Services for Persons with Disabilities, and Patrick G. O'Connor, M.D., Professor of Medicine, Chief of General Internal Medicine, Yale University School of Medicine and Yale-New Haven Hospital. Discussion centered on ways that disability rights advocates and businesses can work together to improve access to healthcare by training professionals, educating medical students, providing auxiliary aids and services, and removing barriers to facilities.



Marna Borgstrom from Yale-New Haven Hospital speaking at the ADA Business Connection meeting in New Haven

## DEPARTMENT FILES FRIEND-OF-THE-COURT BRIEF IN DISABILITY CASE

On June 26, 2008, the Department filed an amicus, or friend-of-the-court, brief in Equal Rights Center v. AvalonBay (D. Md.). In this Fair Housing Act lawsuit, the Equal Rights Center (ERC) alleges that the defendant designed and constructed 100 properties in 11 states and the District of Columbia that failed to comply with FHA's accessibility requirements.

(Friend-of-the-Court, continued)

AvalonBay moved to dismiss ERC's claims regarding 77 properties that were completed more than two years before ERC filed suit, on the ground that the statute of limitations had expired for those properties. In its brief, the Department argued that AvalonBay's position is wrong because ERC is claiming that AvalonBay engaged in a pattern or practice of discrimination that continued into the statute of limitations period, as demonstrated by common design elements and similar FHA violations among the 100 buildings. The Department further argued that the Ninth Circuit Court of Appeals' recent decision in Garcia v. Brockway, 526 F.3d 456 (9th Cir. 2008) (en banc) did not apply because Garcia concerned only one apartment complex and the parties agreed that it was completed outside the statute of limitations period.

## **MINNESOTA RESIDENTIAL COMPLEX AGREES TO ADOPT POLICY ALLOWING ASSISTANCE ANIMALS**

On June 23, 2008, the federal court in Minneapolis approved a consent decree in United States & Wilder v. Bouquet Builders, Inc. The Department's complaint alleged that the owners of townhomes in Rochester, Minnesota, violated the Fair Housing Act by refusing to grant a reasonable accommodation to a woman with a disability who was attempting to rent a unit. Specifically, the landlords refused to make an exception to their no-pets policy to allow the woman to keep her emotional assistance animal, a beagle, in her unit. The consent decree

requires the defendants to pay the woman, her husband, and minor daughter \$82,500 in damages and attorney's fees, adopt an assistance animal policy, attend fair housing training, and comply with reporting and record-keeping requirements.

The lawsuit arose as a result of a complaint filed by the woman and her family with the U.S. Department of Housing and Urban Development (HUD). After an investigation of the complaint, HUD issued a charge of discrimination, and the respondents elected to have the case heard in federal court.

## **STATE OF NEBRASKA AGREES TO IMPROVE CONDITIONS AT DEVELOPMENTAL CENTER**

On July 2, 2008, the federal court in Omaha, Nebraska, signed and entered a consent decree negotiated between the Department and the State of Nebraska regarding needed improvements in the care and services provided to residents of the Beatrice State Developmental Center (BSDC). BSDC is a state-owned and operated residential institution located in Beatrice, Nebraska, that serves almost 300 people with intellectual and/or developmental disabilities. The agreement stems from concerns about conditions and practices at BSDC based on the Department's investigation of the facility pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA).

After conducting a week-long, onsite tour of the facility with five expert consultants in mid-October 2007, the Department issued a comprehensive and detailed findings letter on March 7, 2008, that concluded that the state was violating the constitutional and statutory rights of the BSDC

(Nebraska, continued)

residents. The letter outlined problems with resident safety, including abuse and neglect of residents; a high incidence of chronic and prolonged restraint use, including restrictive four- and five-point restraints; and concerns about the delivery of health care, psychiatric, and behavioral services.

The Department also found that the state was violating the ADA by failing to serve and place residents in the most integrated setting appropriate to their needs. The number of residents discharged from the BSDC institution to integrated community placements has been very low and had stagnated over recent years. As of mid-October, BSDC had placed only two residents into integrated community settings in all of 2007. In the previous five years, BSDC had placed only fourteen residents into the community – an average of less than three per year. Not a single resident was placed into the community in all of calendar year 2005. In the last 10 years, BSDC had never placed more than six residents in any given year into integrated, non-institutional settings.

Under the terms of the decree, personally signed on behalf of the state by the Governor of Nebraska, the state will work to ensure that BSDC residents are safe and receive the care and services necessary

to meet their individualized needs. The state agreed to undertake a variety of specific measures, such as: providing a safe and humane environment with zero tolerance for abuse or neglect of residents; providing adequate medical care, nursing services, and nutritional and physical support, including therapy and communication support; providing adequate psychological and behavioral services and psychiatric care; and ensuring that residents are free from undue bodily restraint.

The state will also ensure that each resident is served in the most integrated setting appropriate to his or her needs. In the decree, the state agreed that all residents of BSDC meet the essential eligibility requirements for placement and habilitation in integrated community settings. The decree includes requirements to promptly implement plans for transitioning residents to the community; address and overcome objections to community placement; provide several viable alternative placement and/or program options in the community; emphasize placement in smaller community homes with fewer (2-4) people; disfavor placing residents into nursing homes or other institutions; take effective steps to support and expand services and provider

capacity in the community so as to better assist residents with housing, health care, psychological and psychiatric services, related professional services, and support for people with communication and mobility disabilities; develop and implement a plan to expand the state's tele-health network to provide better access to expertise, records, professionals, and lab results, especially for people living in remote or rural locations; monitor placements in the community to ensure that the needs of each placed person are continually met; develop a quality assurance system to review placements

### Did you know . . .

**CRIPA authorizes the Attorney General to investigate conditions in certain institutions owned or operated by, or on behalf of, state or local governments. These institutions include nursing homes, residential facilities serving people with intellectual and/or developmental disabilities, mental health facilities, jails, prisons, and juvenile correction facilities. CRIPA's focus is on systemic deficiencies rather than individual, isolated problems.**

(Nebraska, continued)

and implement corrective measures for individual and systemic problems; and provide additional protections, services, and supports if problems arise in the community.

The decree calls for appointment of a court monitor, called an “Independent Expert,” whose fees will be paid by the state, through the court. The state also agreed to pay for a team of consultants to assist the Independent Expert in reviewing issues where expert assistance is needed. The budget for the Independent Expert is attached to the decree; the overall budget for the monitoring office is about \$380,000 per year.

“By agreeing to implement a comprehensive and effective remedial plan, Nebraska officials have demonstrated a genuine commitment to address the needs of the State’s citizens with developmental disabilities in a positive and constructive manner,” said Acting Assistant Attorney General Grace Chung Becker. “We are very pleased that we were able to work cooperatively with the State to arrive at a resolution that will ensure that the rights of persons with developmental disabilities are protected. We applaud the State of Nebraska for its innovative efforts to more effectively serve BSDC residents and ensure their health, safety, and welfare.”

## **CITY OF SAN FRANCISCO AGREES TO EXPAND COMMUNITY-BASED SERVICES FOR NURSING HOME RESIDENTS**

On June 13, 2008, the City of San Francisco entered into a comprehensive settlement agreement with the Department regarding the City’s Laguna Honda Hospital and Rehabilitation Center (LHH), a very large 1,200-bed nursing home. Over the years, under CRIPA, the Department has issued several findings letters that detailed deficient conditions and practices at the nursing home. The Department found that the city also violated the

ADA by not serving residents in the most integrated setting appropriate to their needs.

Under the settlement agreement, the city will divert individuals from LHH to community placements whenever possible, will reduce bed capacity from 1,200 to 780 beds, and will expand support services to help individuals age in place in the community. The agreement includes a host of service-delivery reform measures to better provide for

residents’ safety, health care, psychiatric services, behavioral services, therapies, and activities.

The agreement takes a three-pronged approach to addressing community issues. (1) The city will take steps to turn LHH into more of an outpatient support center for people in the community so that they might stay home and age in place without having to be admitted to LHH for services. (2) The city will take steps to minimize long-term stays, and emphasize short-term, rehabilitation stays, where people can get needed services and then get back to their homes as soon as possible. (3) The city will also take steps to build up resources in the community to provide a richer alternative to nursing home care than exists now.

The agreement also includes particular remedial provisions for special populations who live at LHH, including the homeless, those with developmental disabilities, and those with mental illness. For example, the city has agreed to implement its Ten-Year Plan to End Chronic Homelessness and apply it to LHH residents, and the city will better coordinate with the local regional center to get more people with developmental disabilities out of LHH.

## ADA MEDIATION HIGHLIGHTS

The ADA Mediation Program is a Department-sponsored initiative intended to resolve ADA complaints in an efficient, voluntary manner. Mediation cases are initiated upon referral by the Department when both the complainant and the respondent agree to participate. The program uses professional mediators who are trained in the legal requirements of the ADA and has proven effective in resolving complaints at less cost and in less time than traditional investigations or litigation. Over 78% of all complaints mediated have been resolved successfully.

In this issue, we highlight complaints against attorneys that have been successfully mediated.

- In Missouri, an individual who is deaf alleged that an attorney failed to provide an interpreter during several consultations. The attorney developed a written policy for providing auxiliary aids to ensure effective communication and trained the office staff on its ADA obligations. In addition, the

attorney contacted the local bar association and proposed a seminar on working with clients who are deaf to be presented by two members of a deaf advocacy group in Missouri.

- In Illinois, a person who is deaf complained that a lawyer refused to provide effective communication during a meeting. The lawyer agreed to change his policy and provide qualified sign language interpreters when requested. The lawyer also agreed to donate \$500 to a disability rights organization to fund a seminar to teach attorneys how to comply with the ADA.

- 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 has obtained space on the first floor to meet with and provide services to individuals unable to climb stairs. The firm has also installed signage identifying this alternate space and the accessible route.

## RECENT OUTREACH ACTIVITIES

- On June 5 and 6, staff from the Department and the Access Board presented a one and a half day ADA Information Forum sponsored by Virginia Tech in Blacksburg, Virginia, on the requirements of the ADA as they apply to higher education, with emphasis on facilities-related issues.

- On June 9, staff presented a workshop entitled “Disaster Planning for Persons with Disabilities” at the annual conference of the National Emergency Number Association (NENA) in Tampa, Florida.

- From June 13-16, representatives staffed a booth at the National Alliance of the Mentally Ill Annual Convention in Orlando, Florida, to answer questions and disseminate ADA information.

- From June 19-20, representatives staffed a booth at the 2008 United Cerebral Palsy Annual Conference at the Hyatt Regency in Washington, DC, to distribute technical assistance materials and answer questions about the ADA.

(Outreach, continued)

- On June 24, staff gave a presentation at the annual conference of the North American State and Provincial Lotteries (NASPL) in Baltimore, Maryland. The presentation, before NASPL's Legal Subcommittee, addressed ADA compliance issues for state lottery programs and their retail vendors. The audience included general counsel and staff attorneys for various state and Canadian provincial lotteries.
- On June 24, staff gave two presentations at the Deaf Services Center of Palm Beach County in West Palm Beach, Florida, addressing ADA awareness and how the ADA applies to healthcare professionals. Attendees of this event included healthcare professionals, individuals who are deaf and hard of hearing, and the general public.
- On June 25, 2008, staff gave a presentation on recent ADA issues at the Maryland Municipal League's Annual Convention in Ocean City, Maryland. Attendees of the convention included city and town officials from Maryland.
- From July 10-12, representatives staffed a booth at the 79th Annual League of United Latin American Citizens (LULAC) National Convention and Exposition in Washington, DC, to answer questions and disseminate ADA information. Approximately 30,000 people attended the conference.
- From July 7-11, staff attended the National Association of the Deaf Conference in New Orleans, Louisiana, and participated in a workshop on ADA rights for individuals who are deaf or hard of hearing.
- From July 11-15, representatives staffed a booth at the 73rd Annual National Association of Counties Conference and Exposition in Kansas City, Missouri, to answer questions and disseminate ADA information. Approximately 3,500 people attended the conference.
- From July 12-17, representatives staffed a booth at the 99th Annual NAACP Convention in Cincinnati, Ohio, to answer questions and disseminate ADA information. Approximately 16,000 people attended the conference.
- Between July 14 and 20, staff participated in two pre-conference institute sessions and gave two other presentations during the week-long national conference of the Association on Higher Education and Disability (AHEAD) in Reno, Nevada. One day-long preconference session covered ADA requirements for colleges and universities, physical accessibility, and strategies for complying with the ADA. The other session provided an introduction to disability law for disability student services professionals.
- On July 23-24, representatives staffed a booth at the 2008 National Council on Independent Living Annual Conference in Washington, DC, to answer questions and distribute technical assistance materials about the ADA.
- On July 25, staff gave a presentation at a celebration of the 18th anniversary of the ADA sponsored by the Access Center for Independent Living in Dayton, Ohio. The presentation addressed the impact of the ADA and provided information on how to file an ADA complaint. This event was open to the general public.
- On July 28, staff gave a presentation on the Department's proposed amendments to the regulations for title II and title III of the ADA at the annual convention of the International Association of Assembly Managers in Anaheim, California.

(Outreach, continued)

- On July 30, staff gave a presentation in Cambridge, Massachusetts, at Harvard University's Executive Education Program "Universal Design and Fair Housing, and the New ADA/ABA Guidelines." The presentation discussed the Department's proposed amendments to the regulations for title II and title III of the ADA.
- From July 30-August 2, representatives staffed a booth at the 2008 National Urban League Conference in Orlando, Florida, to answer questions and disseminate ADA information. Approximately 14,000 people attended the conference.
- On August 13, staff gave a presentation in New York, New York, at the FEMA Urban Hazards Forum V: Conference on Emergency Preparedness for Special Needs Populations. The presentation addressed the emergency management requirements of the ADA. Attendees of this event included federal, state, and local government agencies, community based service providers, advocacy groups, and volunteer organizations that engage in disaster response.
- On August 23, staff gave a presentation at the 2008 Leadership Exchange in Arts and Disability Conference in Fort Lauderdale, Florida, on ADA legal issues for cultural arts institutions. This annual event, which is sponsored by The John F. Kennedy Center for the Performing Arts, is for ADA coordinators, 504 coordinators, and accessibility administrators of art institutions.