



Enforcing the ADA:

A Status Report from the Department of Justice

January-March 2002

This Status Report covers the ADA activities of the Department of Justice during the first quarter (January - March) 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 hundreds of cases. Under general rules governing lawsuits brought by the Federal Government, the Department of Justice may not file a lawsuit unless it has first unsuccessfully attempted to settle the dispute through negotiations.

A. Litigation

The Department may file lawsuits in Federal court to enforce the ADA and may obtain court orders including compensatory damages and back pay to remedy discrimination. Under title III the Department may also obtain civil penalties of up to \$55,000 for the first violation and \$110,000 for any subsequent violation.

1. Decisions

Title I

Supreme Court Asks Sixth Circuit to Take Another Look at Auto Worker's Claim --

The Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams disagreed with a decision of the U.S. Court of Appeals for the Circuit that an auto worker was substantially limited in the major life

activity of performing manual tasks. The Sixth Circuit had ruled that the worker was a person with a disability because her carpal tunnel syndrome and tendinitis in her hands, arms, shoulders, and neck made her unable to perform a particular assembly line job. The worker alleged that Toyota refused to reassign her to her previous job after her new job exacerbated her condition by requiring her to grip a block of wood and to keep her hands and arms around shoulder height repetitively over several hours. Despite her condition she was able to perform other work-related manual tasks as well as certain manual tasks unrelated to work, such as brushing her teeth, laundering, and some driving. The Supreme Court held that in order to substantially limit the major life activity of performing manual tasks, an impairment must, on a long-term basis, prevent or severely restrict a person from performing activities that are of central importance to most people's daily lives. The Supreme Court agreed with the Department's amicus brief that the Sixth Circuit was wrong to limit its analysis to only the manual tasks associated with a particular assembly line job. The Court returned the case to the Sixth Circuit for an evaluation of the evidence as to whether the plaintiff's condition substantially limited her ability to perform manual tasks of central importance to daily life, such as household chores, bathing, and brushing one's teeth.

Supreme Court Says Private Arbitration Agreement Does Not Bar Victim-Specific Relief in EEOC Title I Suit -- The Supreme Court ruled in EEOC v. Waffle House, Inc. that an employee's private agreement with his employer to submit all employment disputes to binding arbitration does not limit the remedies that the Equal Employment Opportunity Commission (EEOC) may seek in a lawsuit enforcing that employee's rights under the ADA. The U.S. Court of Appeals for the Fourth Circuit had ruled that the EEOC could bring a lawsuit for general relief, such as an order requiring the defendant not to engage in discriminatory practices, but could not obtain victim-specific relief, such as damages, back pay, and reinstatement. EEOC sued on behalf of an individual who was fired from his job at a Waffle House in West Columbia, South Carolina, allegedly because of his seizure disorder. The Department's brief in the Supreme Court argued that EEOC's authority to sue to enforce title I in the public interest is independent of the individual's authority to sue, and that the EEOC may seek all remedies authorized by the statute including victim-specific relief. The Court agreed with the Department's brief and held that the EEOC's authority cannot be limited by an arbitration agreement to which it is not a party.

Title II

Sixth Circuit Upholds Constitutionality of Title II Damages Claim Under Due Process Clause -- The U.S. Court of Appeals for the Sixth Circuit ruled in Popovich v. Cuyahoga County Court of Common Pleas that the plaintiff, who is hard of hearing, was not prevented by sovereign immunity from bringing a damages claim against an Ohio court for allegedly failing to provide an appropriate auxiliary aid in proceedings involving a custody dispute. He alleged that as a result of the court's policy he was unable to see or communicate with his daughter for nearly five years. The jury awarded him \$400,000 in compensatory damages. The State of Ohio appealed arguing that title II

provides rights extending far beyond those protected under the Equal Protection Clause and that the ADA provision allowing individuals to sue States for damages is therefore unconstitutional. The Department of Justice intervened to defend the constitutionality of the ADA. Although the Sixth Circuit agreed with the State that the abrogation of immunity could not be supported under the Equal Protection Clause, it agreed with the Department that title II also enforces other constitutional rights such as the right to due process. As a result, the Sixth Circuit sent the case back to the district court for a new trial based on the due process nature of the claim.

2. New lawsuits

The Department intervened in the following lawsuits.

Title II

New Actions to Defend ADA's Constitutionality -- The Department intervened in three additional cases in U.S. Courts of Appeals to defend the constitutionality of title II suits by private litigants against States for monetary damages --

Badillo-Santiago v. Andrue-Garcia (1st Circuit) (challenging a Puerto Rico court's failure to provide auxiliary aids to a party in a court proceeding)

Kiman v. New Hampshire Department of Corrections (1st Circuit) (challenging refusal to provide requested accommodations for prisoner with Lou Gehrig's disease)

Project Life, Inc. v. Glendening (4th Circuit) (challenging refusal by State to allow docking privileges in Baltimore Harbor for ship housing residential drug treatment for women)

Wessel v. Glendening (4th Circuit) (challenging exclusion of prisoner with spinal injury from work assignments)

**** LSAC Agrees to Modify Policy on Testing Accommodations for Students with Physical Disabilities** -- The Law School Admission Council (LSAC), the agency that administers the Law School Admission Test (LSAT), agreed in a consent decree to revise its policies on test accommodations for persons with physical disabilities. The Department of Justice filed suit alleging that the LSAC violated the ADA when it failed to provide reasonable testing accommodations to four persons with physical disabilities for the LSAT, a standardized test administered to those seeking admission to law school. Some applicants who have cerebral palsy and who requested extra time to complete the examination because of the nature of their physical disabilities were asked by LSAC to undergo testing for learning disabilities. Under the terms of the settlement, the LSAC will grant the requested testing accommodation to candidates who have been granted the same or comparable accommodation on other standardized admission tests; give considerable weight to the recommendation of the candidate's doctor or other evaluator; ensure that LSAC does not require individuals to undergo diagnostic or functional tests that are unnecessary and/or not commonly utilized by the medical community; and pay \$20,000 to individuals harmed by LSAC's actions.

The Department noted that Congress gathered extensive evidence of unconstitutional discrimination by States and specifically made findings in the text of the ADA that State-sponsored discrimination persisted in areas such as education, voting, institutionalization, and public services. Because of this evidence and these findings, the Department argued that title II is appropriate legislation to enforce equal protection and other constitutional rights and that the ADA can therefore subject States to suits for damages.

3. Amicus Briefs

The Department files briefs in selected ADA cases in which it is not a party in order to guide courts in interpreting the ADA.

Title I

Memorial Hospital Association v. Humphrey -- The Department filed an amicus brief urging the Supreme Court not to review a decision of the U.S. Court of

Appeals for the Ninth Circuit involving an employment discrimination suit by an individual with obsessive compulsive disorder. Because of her disorder the plaintiff engaged in rituals that made it difficult for her to get to work on time as a medical transcriptionist. The parties agreed on an accommodation that allowed her to arrive at work at any time as long as she worked an eight-hour day. The employee, however, continued to miss work and asked to be allowed to work at home. The employer refused and fired her after two more absences. The U.S. Court of Appeals for the Ninth Circuit refused to dismiss the case. It ruled that before firing her the employer should have considered offering her a leave of absence to give her and her doctor time to get her condition under control. The employer asked the Supreme Court to review the Ninth Circuit opinion. In its amicus brief the Department opposed this request because the employer had not accurately presented to the Court the issues addressed by the Ninth Circuit.

Title II

Pace v. Bogalusa City School Board -- The Department filed an amicus brief in the U.S. Court of Appeals for the Fifth Circuit in support of a student, a wheelchair user with both physical and learning disabilities, who filed a lawsuit complaining of the lack of accessible facilities at his Louisiana high school. The district court ruled that, despite the access problems at the high school, the school system had not violated the Individuals with Disabilities Education Act (IDEA) because it provided meaningful educational benefit to the plaintiff and did not deny him a free appropriate public education. The district court then decided that its dismissal of the IDEA claim prevented the plaintiff from making a separate ADA claim because the ADA claim was based on the same facts. The Department's amicus brief argued that the ADA claim should not have been dismissed because it was based on a legal analysis different from the IDEA claim. According to the brief, therefore, a court's ruling on whether educational services are adequate under the IDEA should not bar a claim that a school failed to comply with the ADA's architectural requirements for alterations when it made physical changes in the facility to accommodate the student.

Barnes v. Gorman -- The Department filed an amicus brief in the U.S. Supreme Court arguing that, although suits for compensatory damages against municipalities are permitted under the ADA, title II does not authorize suits against municipalities for punitive damages. The plaintiff, a wheelchair user, was arrested after an altercation with a nightclub bouncer in Kansas City, Missouri. He was transported in a police van that had no wheelchair locks. Over his objection the police removed him from his wheelchair and attempted to fasten him with his belt to a narrow bench in the back of the van. During the ride to the police station he fell from the

bench and ruptured his urine bag which he had not been allowed to empty before being transported. Injuries to his neck and shoulder caused by the fall left him unable to work full-time. He sued the Kansas City police and received a jury award under the ADA of over one million dollars in compensatory damages and \$1.2 million dollars in punitive damages. The Department argued that the U.S. Court of Appeals had made an error in upholding the award of punitive damages against Kansas City because Congress did not clearly indicate that such damages were available under the ADA.

Title III

Access Now, Inc. v. Ambulatory Surgery Center Group, Ltd. -- The Department filed an amicus brief in the U.S. District Court for the Southern District of Florida objecting to a proposed private class action settlement

agreement resolving litigation against two of 450 hospital corporations named in the lawsuit. The Department argued that the agreement involving Northwest Medical Center, Inc., in Margate, Florida, and Largo Medical Center, Inc., in Largo,

Florida, would inappropriately limit the rights of people with disabilities. The proposed settlement agreement addresses a wide range of hospital accessibility issues, including physical and communications accessibility and modification of discriminatory policies. The Department objected to the agreement because of inadequate notice to class members, overly broad language protecting the defendants from future claims, and a dispute resolution procedure heavily weighted in favor of the defendants. Together these provisions would make it difficult or impossible for people with disabilities or the Department to bring future ADA claims challenging barriers and discriminatory policies at the two hospitals, including even those barriers or policies that are not addressed by the proposed agreements.

Amicus Briefs

B. Formal Settlement Agreements

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

Title I

**** Honolulu, Hawaii** -- The Department reached an agreement with the Honolulu Police Department regarding the hiring of individuals who use hearing aids. Previously, the Honolulu Police Department automatically excluded all police recruits who use hearing aids even though it retained veteran officers who continued to perform their jobs effectively after they began to use hearing aids. Under the agreement police recruits who use hearing aids will be tested on an individual basis to see whether their ability to hear with a hearing aid meets State standards for police officers.

Title II

**** More Project Civic Access Agreements** -- The Department has signed five additional agreements under the Department's Project Civic Access initiative, a wide-ranging effort to ensure that cities, towns, and villages comply with the ADA. Project Civic Access is dedicated to removing barriers to all aspects of civic life, including courthouses, libraries, polling places, police stations, and parks. The new agreements cover --

Savannah, Georgia
 New Orleans, Louisiana
 Biloxi, Mississippi
 San Antonio, Texas
 Craig County, Virginia

Forty-nine agreements have been signed to date. They require communities, depending on local circumstances, to --

- Improve access to programs at city and town halls, police and fire stations,

sheriff's departments, courthouses, health care delivery centers, childcare centers, teen and senior activities centers, convention centers, animal shelters, libraries, baseball stadiums, golf course clubhouses, and parks (including ice skating rinks, skateboard rinks, public pools, playgrounds, ball fields and bleachers, and band shells);

- Alter polling places and provide curbside or absentee balloting;
- Upgrade 9-1-1 emergency services for people who use TTY's;
- Install assistive listening systems in legislative chambers, courtrooms, and municipal auditoriums; and
- Provide delivery systems and time frames for providing auxiliary aids, including sign language interpreters and materials in Braille, large print, or on cassette tapes.

Tucson, Arizona -- The Division entered into a settlement agreement with the Tucson Police Department resolving a complaint alleging that the police failed to provide a sign language interpreter upon request. The Tucson Police agreed to provide appropriate auxiliary aids and services, including interpreters, when necessary to ensure effective communication. It also agreed to instruct all of its employees to comply with the provisions of the agreement and to provide notice of the new policy to the public by distributing pamphlets and putting a notice on its web site.

Title III

Berkeley Capri Motel, Berkeley, California -- A blind individual alleged that the Berkeley Capri Motel failed to follow its established policy of permitting service animals into its establishment when it barred her service animal. The motel agreed to readopt and implement a policy of nondiscrimination

towards individuals with disabilities who are accompanied by service animals and pay \$100 in compensation to the complainant.

Winn-Dixie, Inc., Jacksonville, Florida --

The Department entered into a settlement agreement with Winn-Dixie, Inc., resolving a complaint that one of its stores in Orlando had denied access to a service animal. Winn-Dixie agreed to issue an ADA service animal policy and distribute it through a new edition of its compliance manual to staff at over 1150 stores. It will also train its management officials at the Orlando store to ensure that staff carry out the policy.

**** White House Theater, Branson, Missouri --** The White House Theater in Branson, Missouri, reached an agreement with the Department resolving a compliance

review of the theater's accessibility to patrons with disabilities. Under the agreement, the White House Theater, which offers customers a combination dining and entertainment experience, agreed to take steps to increase accessibility to its facilities, including restriping the parking lot; providing accessible ticket and concession counters, drinking fountains, and pay telephones in the theater lobby; installing accessibility features in the men's and women's public toilet rooms; installing 20 new designated wheelchair accessible seating areas and fixed companion seating in the theater auditorium; implementing new ticketing policies so that designated accessible seating is held for customers with disabilities until all other seating is full; and renovating backstage dressing rooms and restrooms so that they are accessible to performers with disabilities.

**** Millikin University Will Make Its Campus More Accessible to People With Disabilities --** Millikin University agreed to take the necessary steps to make a broad range of its campus activities accessible to people with disabilities, including academic programs, dining and living facilities, and social and recreational activities. The agreement resolved a complaint filed with the Department of Justice alleging that a number of buildings and facilities on Millikin's campus were not accessible to people with mobility impairments. Millikin agreed to --

- Modify entrances, counters, food service lines, telephones, bathrooms, drinking fountains, seating areas, booths, tables and picnic areas throughout campus so they are accessible to persons with disabilities;
- Create accessible routes between and within university buildings and other facilities through measures such as repairing sidewalks and curbs, modifying doors, and installing ramps;
- Install an elevator in the student union so that persons using a wheelchair can access each level of the building without the use of a platform lift and without going outside the building;
- Provide accessible wheelchair seating locations and assistive listening devices in lecture halls and other assembly areas;
- Add signage throughout the campus that is accessible to people with vision impairments and that properly directs people with mobility impairments to accessible routes and spaces.

**** New Orleans Jazz Fest, New Orleans, Louisiana** -- The U.S. Attorney for the Eastern District of Louisiana signed a settlement agreement with the organizers of the New Orleans Jazz Fest, an annual spring outdoor music festival, addressing a wide range of accessibility issues. The agreement requires the Jazz Fest organizers to ensure access to all aspects of the festival by providing accessible wheelchair and companion seating locations in all performance areas; three full-time interpreters for performances and for emergency medical care; an accessible website and alternate formats of all maps, brochures, and other materials; lowered food counters; accessible routes throughout the grounds; TTY's and assistive listening systems; accessible parking and transportation; and accessible portable and permanent restrooms.

Maple Star Nevada, Las Vegas, Nevada -- The Department entered a settlement agreement with Maple Star Nevada, a non-profit agency in Las Vegas, Nevada, that arranges foster care services for children with special needs. The agreement resolves a complaint filed by a deaf mother who alleged that Maple Star refused to provide an interpreter during the required application and certification process for becoming a foster parent. Under the agreement Maple Star agreed to give the mother another opportunity to apply to be a foster parent and to provide sign language interpreters and other appropriate auxiliary aids when necessary to ensure effective communication with deaf or hard of hearing applicants. The agency will also develop a written policy that requires the nondiscriminatory receipt and processing of applications by individuals with disabilities and commits Maple Star Nevada to consult promptly with individuals who are deaf or hard of hearing regarding any requests for sign language interpreters or other auxiliary aids.

STEP 2, Reno, Nevada -- STEP 2, a private organization that provides substance abuse intervention services under deferred sentencing programs offered by Nevada courts for women who are chemically dependent, agreed to provide appropriate auxiliary aids, including sign language interpreters, when necessary to ensure effective communication with participants who are deaf or who have speech disabilities. The agreement resolved a complaint filed by a deaf individual who was admitted into STEP 2's residential program for several weeks, but was allegedly denied a sign language interpreter.

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

In Ohio, a deaf individual complained that a municipal police department's 9-1-1 emergency call-taking services were unresponsive to persons who use TTY's. The city agreed to install a TTY at each emergency call taking position and to develop a plan for ongoing training of emergency call center staff.

A person who uses a wheelchair complained that the facilities of a contractor who provides property assessment services for an Indiana county were inaccessible. The county moved all assessment activities to the accessible city-county building and also added language to its

contracts requiring contractors to provide accessible programs, services, and activities to persons with disabilities in performing activities on behalf of the county.

An individual who is deaf complained that a California regional medical center had not provided him with a qualified sign language interpreter. The center developed a communication assessment form to determine patient communication needs, obtained a portable TTY, agreed to install permanent TTY's wherever a telephone is available to the public, and added a visual alarm in the cafeteria. The center also revised its patient handbook to provide information on requesting interpreter assistance and closed captioned televisions.

An individual who uses a wheelchair complained that a Missouri city's offices and facilities were not accessible. The city installed a ramp to city hall, provided accessible entrances and parking, and raised the sidewalk in front of the historic community hall.

A wheelchair user complained that an Oregon city hall was inaccessible. The city installed an accessible entrance ramp, removed the inaccessible city council dais, installed an assistive listening system in the council room, and added an accessible parking space.

In Nebraska, an individual who uses a wheelchair complained that the county courthouse facilities were inaccessible. The county agreed to provide accessible parking, entrances, drinking fountains, and restrooms on each floor of the courthouse, and appropriate signage throughout the courthouse. The county also agreed to provide accessible hardware for interior courtroom doors, an accessible route in each courtroom from the gallery to counsel tables, and accessible seating areas in each courtroom gallery.

Other
Settlements

A deaf individual complained that an Oklahoma County district attorney's office failed to provide effective communication when she attempted to file a complaint. The district attorney agreed to adopt and implement a policy ensuring effective communication including the use of the local speech and hearing association and a local sign language interpreter for qualified sign language interpreter services.

A New England State court system acquired numerous assistive listening devices, installed TTY phones in each courthouse, provided signage explaining how to obtain accommodations, and contracted with the local Independent

Living Center to fill requests for sign language interpreters after an individual who is deaf complained about accessibility.

Title III

In Arkansas, an individual who is deaf complained that a nationally recognized franchise hotel did not have TTY's, visual alarms, visual notification devices, or televisions with captioning capabilities. The hotel agreed to provide televisions with closed captioning, a public telephone with volume control, a TTY at the front desk, and seven room communication kits that include a TTY, a visual alarm, and visual notification devices.

In Virginia, an individual complained that a private medical center did not provide an interpreter for her even though the hospital was aware that the complainant was deaf and that she would be accompanying her husband during his outpatient heart surgery. The medical center posted copies of its policy for providing auxiliary aids and services to individuals who are deaf or hard of hearing, agreed to provide staff training on the ADA, and paid \$1500 to the complainant.

An individual who is blind complained that a Colorado motel refused to permit the use of service animals. The motel adopted and implemented a policy of nondiscrimination for individuals with disabilities who are accompanied by service animals, posted copies of the new policy, and paid the complainant \$500.

A wheelchair user complained that an Indiana restaurant was inaccessible. The restaurant provided accessible parking by restriping the parking lot to provide a van-accessible parking space, installed an accessible ramp into the facility with edge protection, provided accessible hardware on the entrance door, posted signage at the accessible restrooms, repaved the sidewalk on the accessible route, and repaired the curb cut.

An individual who is blind complained that employees of an electronics store in Pennsylvania would only accept a state-issued driver's license as a valid form of identification. The store paid the complainant \$500, modified its policy with respect to identification to permit forms of State-issued identification other than drivers' licenses, and now requires employees to read the return policies to customers upon request and to inform customers that the return and exchange policy is available at the customer service counter in an alternate large print format.

An individual who is deaf complained that a Texas vision clinic told him that he would have to provide his own sign language interpreter when he arrived for a scheduled appointment. The clinic adopted a written policy of providing necessary auxiliary aids to ensure effective communication with individuals who are deaf or hard of hearing and paid the complainant \$1000.

An individual who is deaf complained that a South Carolina hospital was not accessible and did not provide effective communication

for persons who are deaf or hard of hearing. The hospital contracted with the South Carolina School for the Deaf and Blind to provide sign language interpreter services, purchased seven new TTY's, and trained staff on how to provide auxiliary aids and services in order to ensure effective communication.

A wheelchair user complained that an Ohio nightclub was not accessible to persons with disabilities because it lacked accessible parking and accessible restroom facilities. The tenant modified the restroom to make it accessible and the landlord installed the appropriate number of accessible parking spaces, including a van-accessible space.

A wheelchair user complained that a Florida sightseeing company's vehicles were not accessible. The company purchased an accessible van and revised its brochures to publicize the system for reserving the accessible van.

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

District of Arizona -- An individual who uses a wheelchair complained that the shower area in a jail pod of a county sheriff's facility was not accessible. The county agreed to provide an accessible shower ramp, shower fixtures, handrails, and seating in the shower area, and accessible seating and tables in the cells and in the day-room portion of the pod.

Western District of Tennessee -- The owner of an apartment complex agreed to install accessible parking spaces and a curb ramp on the route to the rental office and a van-accessible parking space at the pool.

A Tennessee town agreed to provide two new accessible parking spaces and an accessible ramp from the parking lot to the sidewalk leading into City Hall.

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 Missouri, disability rights advocates complained that a restaurant was inaccessible to individuals using mobility devices. The restaurant agreed to reduce the opening force of restroom doors, construct an accessible stall in both the men's and women's restrooms, and level the floor in the accessible women's stall. The restaurant also installed accessible sink faucet handles and soap dispensers and wrapped the pipes underneath the sink in each restroom.
- In Tennessee, a deaf couple complained that three different doctors had refused to provide them with a qualified sign language interpreter for their medical appointments. Each doctor agreed to provide sign language interpreters for all current and future patients who are deaf.
- A wheelchair user complained that a Colorado theater placed a portable concession stand in the wheelchair accessible seating area. The theater owner apologized to the complainant and provided him with a copy of a letter sent to all theater managers reiterating its policy that accessible seating areas must remain unobstructed and available for use at all times.
- In New Mexico, a wheelchair user complained that a hotel's entrance, parking, conference rooms, and public restrooms were inaccessible. The hotel agreed to relocate parking for its courtesy van and agreed to maintain unobstructed access aisles in the accessible parking spaces. The hotel posted signage at its front entrance directing customers with disabilities to the two accessible entrances. The hotel also beveled and reduced the height of all conference room thresholds. Finally, the hotel relocated several fixtures, installed accessible sink and door handles, insulated pipes under the sinks in the public restrooms, and posted appropriate signage identifying the accessible restrooms.
- A wheelchair user complained that a Virginia medical center refused to treat her during a scheduled appointment because they said they could not lift her on to the examining table. The medical center completed a survey of current examination tables and developed a capital budget and time line to purchase motorized exam tables. It also provided training to staff on ADA requirements.
- A wheelchair user complained that a small Indiana strip mall housing three stores was inaccessible. The owner of the mall installed a van-accessible parking space with appropriate signage as well as an accessible path of travel to the sidewalk leading to the stores in the mall.

- In Pennsylvania, a wheelchair user complained that a small flower shop's entrance was inaccessible. The parties agreed that making the entrance accessible was not readily achievable. Instead the shop installed a call bell at the entrance for customers unable to enter the shop. The shop manager will either provide curb side service or make arrangements to provide services to the customer in his or her home.
- A wheelchair user complained that a New York motel was inaccessible. The motel agreed to install accessible parking and a ramp to the lobby entrance; construct five fully accessible rooms, including one with a roll-in shower; equip two additional rooms to be accessible to guests who are deaf or hard of hearing; and widen entrance doors to all 80 guest rooms to provide 32 inches of clear space.

III. Certification of State and Local Accessibility Requirements

The ADA requires that newly constructed or altered places of public accommodation and commercial facilities comply with title III of the ADA, including the ADA Standards for Accessible Design. The Justice Department is authorized to certify that State and local accessibility requirements, which are often established through building codes, meet or exceed the ADA's accessibility requirements. In any lawsuit that might be brought, an entity that complies with a certified State or local code can offer that compliance as rebuttable evidence of compliance with the ADA.

In implementing its certification authority, the Department works closely with State and local officials, providing, as needed, detailed technical assistance to facilitate efforts to bring those standards into accord with the ADA requirements. In addition, the Department responds to requests from private entities for review of the accessibility provisions of model codes and standards, and provides informal guidance regarding the extent to which they are consistent with the minimum accessibility requirements of the ADA.

The Department has certified the accessibility codes of the States of Florida, Maine, Texas and Washington and has pending requests for certification from California, Indiana, Maryland, New Jersey, New Mexico and North Carolina. Recent certification activity includes --

State of Indiana -- The Department issued a letter providing technical assistance to code officials for the State of Indiana regarding their application for certification of Chapter 11, Part I of the Indiana Building Code (Chapter 11). Chapter 11 contains accessibility requirements for new construction and alterations of places of public accommodation and commercial facilities. The Department's review indicated that in many areas Chapter 11 is in close accord with the new construction and alterations requirements of title III of the ADA. In other areas further clarification or modification is needed to ensure equivalency of Indiana's standards with the ADA. The Department will continue to work closely with Indiana officials to facilitate resolution of the remaining issues.

IV. Technical Assistance

The ADA requires the Department of Justice to provide technical assistance to businesses, State and local governments, and individuals with rights or responsibilities under the law. The Department provides education and technical assistance through a variety of means to encourage voluntary compliance. Our activities include providing direct technical assistance to the public through our ADA Information Line, ADA Home Page, and Fax on Demand, developing and disseminating technical assistance materials, 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.usdoj.gov/crt/ada/adahom1.htm). The home page provides information about --

- the toll-free ADA Information Line,
- the Department's ADA enforcement activities,
- the ADA technical assistance program,
- certification of State and local building codes,
- proposed changes in ADA regulations and requirements, and
- the ADA mediation program.

The home page also provides direct access to --

- electronic versions of the ADA Standards for Accessible Design, including illustrations and hyperlinked cross-references,

- ADA regulations and technical assistance materials (which may be viewed online or downloaded for later use),
- on-line ordering of the ADA Technical Assistance CD-ROM,
- Freedom of Information Act (FOIA) ADA materials, including technical assistance letters, and
- links to the Department's press releases and Internet home pages of other Federal agencies that contain ADA information.

ADA Information Line

The Department of Justice operates a toll-free ADA Information Line to provide information and publications to the public about the requirements of the ADA. Automated service, which allows callers to 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)

**** Department Kicks-off New “ADA Business Connection”** -- The ADA Business Connection is a multifaceted initiative by the Department to improve accessibility of America’s businesses by making it easier for the business community to comply with the ADA. A new ADA Business Connection site on the ADA Home Page now provides a direct link to ADA information of interest to businesses, including the **** ADA Guide for Small Businesses**; information on tax incentives available to help businesses comply with ADA; the ADA regulations; the ADA Standards for Accessible Design; and introductory information for people who are learning about the ADA. The ADA Business Connection page also provides links to a new series of **** ADA Business Briefs**, short documents explaining specific ADA issues that are designed to be easily printed and distributed to employees. The first two briefs address service animals and restriping parking lots.

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.

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

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.

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). A link to search or visit this website is provided from the ADA Home Page.

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

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

The **Federal Communications Commission** offers technical assistance to the public concerning the communication provisions of title IV of the ADA.

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

www.fcc.gov/cgb/dro

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

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

www.fta.dot.gov/office/civ.htm

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

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

www.access-board.gov

The **Disability and Business Technical
Assistance Centers** are funded by the U.S.
Department of Education through the National
Institute on Disability and Rehabilitation
Research (NIDRR) in ten regions of the
country to provide resources and technical
assistance on the ADA.

ADA technical assistance
800-949-4232 (voice & TTY)

www.adata.org

Project ACTION is funded by the U.S.
Department of Transportation to provide ADA
information and publications on making
transportation accessible.

Information on accessible transportation
800-659-6428 (voice/relay)
202-347-3066 (voice)
202-347-7385 (TTY)

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

VI. How to File Complaints

Title I

Complaints about violations of title I (employment) by units of State and local government or by private employers should be filed with the Equal Employment Opportunity Commission. Call 800-669-4000 (voice) or 800-669-6820 (TTY) to reach the field office in your area.

Titles II and III

Complaints about violations of title II by units of State and local government or violations of title III by public accommodations and commercial facilities should be filed with --

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

If you wish your complaint to be considered for referral to the Department's ADA Mediation Program, please mark "Attention: Mediation" on the outside of the envelope.

The Attorney General has determined that publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice.