



Disability Rights online News

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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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DISTRICT OF COLUMBIA AGREES TO IMPROVE ACCESS TO ITS HOMELESS SHELTER PROGRAM

On December 12, 2008, the District of Columbia entered into a settlement agreement with the Department of Justice to improve access for individuals with disabilities in the city's homeless shelter program. The Department initiated an investigation of the program after receiving complaints alleging widespread ADA violations. According to a January 2008 survey conducted by a contractor who administers the shelter program, 23 percent of the city's homeless residents have a physical disability, 19 percent have a severe mental illness, and two percent have HIV or AIDS.

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DEPARTMENT FINDS THAT STATE OF TEXAS FAILS TO MEET THE NEEDS OF INSTITUTIONALIZED RESIDENTS WITH DEVELOPMENTAL DISABILITIES

On December 1, 2008, under the Civil Rights of Institutionalized Persons Act (CRIPA), the Department issued a findings letter regarding conditions and practices at 12 residential treatment facilities for individuals with developmental disabilities that are owned and/or operated by the State of Texas. Addressing state-wide deficiencies across the entirety of the state's institutional service-delivery system, the letter concluded that numerous conditions and practices at the facilities violate the constitutional and federal statutory rights of the residents.

Specifically, the Department found that the facilities failed to provide residents with generally accepted professional standards of care in a number of areas: adequate protection from harm; adequate medical care; adequate mealtime

(Continued on page 2)

(State of Texas, continued)

The settlement requires the District to develop a comprehensive plan to ensure that people with disabilities have equal access to homeless shelter facilities; implement specific policies, practices, and training to ensure that people with disabilities have equivalent access to all services and activities of the shelter program; improve notice and procedures to ensure that shelter applicants and residents are aware of their rights under the ADA; enhance effective communication with shelter applicants and residents who have speech, vision, or hearing disabilities; and improve oversight of private contractors and subcontractors that provide homeless shelter services in the District. As part of the settlement, the District must take public comments on its plan, hold at least one public hearing, and then submit the plan to the Department for final approval. The District is also required to take interim steps to enhance the accessibility of shelter facilities while the plan is under development.

(Homeless Shelter, continued)

supports; and adequate mental health services, behavioral therapy, and training. The Department also found that the facilities lacked adequate discharge planning, placement, and services in the most integrated setting appropriate to an individual's needs, as required by the Americans with Disabilities Act. The letter sets forth the minimum remedial measures the State should implement to remedy the identified deficiencies and protect the constitutional and statutory rights of the facilities' residents.

The Texas Department of Aging and Disability Services owns and operates 13 state facilities for individuals with developmental disabilities that provide campus-based

direct services and supports to approximately 5,000 residents. The findings letter summarizes the results of a comprehensive review that began in March 2008 with an investigation into the Denton State School in Denton, Texas, and was expanded in August 2008 to include other state facilities. The facilities affected by the findings letter are: Abilene State School, Austin State School, Brenham State School, Corpus Christi State School, Denton State School, El Paso State Center, Lufkin State School, Mexia State School, Richmond State School, Rio Grande State Center, San Angelo State School, and San Antonio State School. The Lubbock State School in Lubbock, Texas, was the subject of

Did you know...

In addition to addressing CRIPA issues, the Department's enforcement efforts in health care include determining whether or not institutionalized residents are served in the most integrated setting appropriate for the individual's needs, as required by the ADA and the Olmstead opinion. Remedial health care agreements include detailed provisions that require community placement and expanded community resources whenever needed and appropriate.

a previous findings letter issued by the Department in December 2006.

Under CRIPA, the Department has the authority to seek relief on behalf of residents of public institutions who have been subjected to a pattern or practice of egregious or flagrant conditions in violation of the Constitution or federal law. After a findings letter is issued, the Department generally succeeds in negotiating a settlement agreement to correct the violations identified.

WEST VIRGINIA MEDICAL GROUP AGREES TO PROVIDE EFFECTIVE COMMUNICATION FOR PEOPLE WHO HAVE HEARING DISABILITIES

On December 1, 2008, Medbrook Medical Associates, Inc., an urgent and primary health care provider in Bridgeport, West Virginia, entered into a settlement agreement with the Department under which the company will provide sign language interpreters and other auxiliary aids and services for patients who are deaf or hard of hearing and their family members or companions when appropriate. The settlement resolves a complaint filed by a man who is deaf who sought Medbrook's urgent care services because of symptoms suggesting that he might be having a heart attack. He alleged that Medbrook denied his request for a sign language interpreter and required his wife to interpret for him, even though she informed the receptionist that she did not feel qualified to interpret, did not know the signs for medical terminology, and was herself ill and seeking treatment.

The agreement requires Medbrook to establish nondiscriminatory policies for providing auxiliary aids and services for people with communication disabilities, post a notice of the policy in its waiting rooms, train staff on the policies, and use an effective communication assessment form to determine which aid or service is needed to provide effective communication for patients or their companions. In addition, the company will pay \$4,000 each in compensatory damages to the complainant and his spouse and will also pay \$1,000 in civil penalties.

COMPANY THAT SELLS WOODWORKING EQUIPMENT AGREES TO PROVIDE EFFECTIVE COMMUNICATION

On December 1, 2008, Shopsmith, Inc., entered into a settlement agreement with the Department resolving a complaint alleging ineffective communication in its educational programs. This company manufactures, markets, and sells woodworking tools and equipment

and provides educational materials and instruction in the use and operation of its products. At the time of the complaint, the company offered a variety of education programs through two training academies. The Traveling Woodworking Academy provided hands-on training to customers at the home office in Dayton, Ohio, and at places such as hotels and inns around the country. The complainant alleged that Shopsmith twice refused to obtain a qualified sign language interpreter to ensure effective communication with him at one-day workshops conducted by the Traveling Woodworking Academy.

Subsequently, the company decided that it will phase out its hands-on workshops. Under the agreement, Shopsmith will provide the complainant a closed-captioned instructional DVD for the product he purchased, along with a \$500 Shopsmith gift card. The company will also adopt an effective communication policy, post the policy on its website, and provide closed-captioned DVDs depicting basic maintenance, alignment, and set-up instructions for its products to other customers who have hearing disabilities.

CHATHAM UNIVERSITY WILL INCREASE CAMPUS ACCESSIBILITY

On December 9, 2008, Chatham University, a private university in Pittsburgh, Pennsylvania, entered into a settlement agreement with the Department under which the university will make its campus and services more accessible to individuals with disabilities. The settlement resolves an investigation during which the Department found violations of the ADA Standards for Accessible Design in newly constructed buildings, architectural barriers in existing facilities, and inaccessible circulation paths throughout the campus. The university has agreed to undertake specific remedial steps over the next five years to remedy these and other barriers to full accessibility on campus.

The agreement addresses the major facilities on campus and related services, including administration buildings and faculty offices, assembly areas, classrooms, skill labs, cultural facilities, science facilities, dining areas, student housing and lounges, the library, the athletic center and playing fields, and parking. It also requires the university to modify policies, practices, and procedures when necessary to afford access to services and facilities for individuals with disabilities.

HOTEL GROUP WILL ELIMINATE PHYSICAL BARRIERS AND PROVIDE EFFECTIVE COMMUNICATION DEVICES FOR GUESTS WHO HAVE DISABILITIES

On November 18, 2008, Promus Hotels, Inc., which is affiliated with the Hilton Hotel Corporation and owns or operates 23 Hampton Inn and Suites across the country, reached a settlement agreement with the Department resolving a complaint alleging that a Hampton Inn and Suites in Memphis, Tennessee, did not provide the equipment required to alert guests with hearing disabilities to door knocks, telephone and wake up calls, and also lacked text telephones (TTYs) as required by the ADA. The comprehensive settlement agreement affects all Hampton Inn and Suites owned or operated by Promus.

Under the agreement, Promus will provide kits containing visual signalling devices and TTYs to each of its 23 hotels. Promus will also conduct a comprehensive survey of its properties to evaluate their accessibility and will remove any architectural barriers identified.

TWO NEW YORK CITY HOTELS AGREE TO IMPROVE ACCESSIBILITY

Two additional hotels in Manhattan's theater district, the 935-room Park Central Hotel and the 666-room Sheraton Manhattan, 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, 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 initiative in issues 16, 17, 22, and 26).

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 restaurants that have been successfully mediated.

- In Texas, a person who uses a wheelchair alleged that a restaurant's restrooms were inaccessible. The restaurant removed a door and enlarged the area in front of the restroom to provide maneuvering space, and converted the men's restroom into an accessible unisex restroom.
- In New York, a person with no arms complained that he was refused service and ridiculed when attempting to pay for his food with his feet at a fast food drive-through window. The restaurant recommitted itself to its existing nondiscrimination policies and training program, fired the employee involved in the incident, apologized to the complainant, and paid him \$6,000.
- A person who uses a wheelchair complained that a New Jersey restaurant was inaccessible. The restaurant relocated the accessible parking spaces close to the existing accessible entrance at the rear of the restaurant and posted directional signage.
- A person who uses a wheelchair complained that an Iowa restaurant was inaccessible. The restaurant installed a ramp to the entrance, removed a step and graded the pathway to the parking area, and moved a freezer away from an interior doorway to provide access to the dining area.
- A person who uses a wheelchair complained that a Texas restaurant did not have accessible restrooms or an adequate entrance ramp. The restaurant modified the restrooms, repaired the entrance ramp, and installed appropriate signage.
- In Texas, a person who uses a wheelchair complained that a restaurant did not have accessible parking or signage identifying the accessible entrance. The restaurant installed accessible parking and appropriate signage at both entrances, curb ramps to provide an accessible path of travel, signage identifying the location of the accessible entrance, a bell to be used by customers who may need additional assistance, and agreed to provide ongoing staff training about how to accommodate all customers.
- In Florida, a person who uses a wheelchair complained that a fast food restaurant had an inaccessible path to an otherwise accessible toilet stall, because the entrance to the restroom was too narrow. The restaurant agreed to modify the entrance to provide wheelchair access.
- In New Jersey, a person who uses a wheelchair complained that a restaurant's accessible parking did not comply with the ADA and that the entrance to the dining room was not accessible. The manager agreed to modify the accessible parking space, to have an additional ramp created to the entrance to the restaurant, to relocate the service podium at the entrance to the dining room to provide access for wheelchair users, and to train the staff to maintain a clear path of travel between the accessible seating and the accessible restrooms.

RECENT OUTREACH ACTIVITIES

- On December 16, staff made a presentation at a national conference in Nashville, Tennessee, hosted by the Vera Institute of Justice, Accessing Safety Initiative, and the U.S. Department of Justice, Office on Violence Against Women. The presentation addressed the accessibility and legal requirements of the ADA.
- On December 16, staff made a presentation at the Office on Violence Against Women's two-day grantee orientation training in Crystal City, Virginia. The presentation provided overviews of titles II and III of the ADA as well as Section 504 of the Rehabilitation Act. Approximately 175 people representing OVW grant recipients from around the country attended the session, including law enforcement agencies, legal advocacy organizations, and service providers.
- On January 15, staff made several presentations at a conference sponsored by the City of Sacramento and the California Departments of Rehabilitation and Fair Employment and Housing. Topics included title II obligations and the role and responsibilities of ADA Coordinators. The audience of 300 included officials from the City of Sacramento and other northern California localities, California state government, and local disability rights organizations.
- On February 5 - 6, staff made several presentations at a two-day management institute in Atlanta, Georgia, conducted by the Association on Higher Education and Disability (AHEAD). The session entitled "Managing Physical Access on Campus: Current Issues and Trends" covered current and future ADA requirements for new construction, alterations, barrier removal, and program accessibility. The audience included disability student service coordinators, ADA coordinators, administrators, and campus architects.