



Disability Rights online News

U. S. Department of Justice
Civil Rights Division

April 2008
Issue Twenty Four

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.

In this Issue:

ADA	1 - 2, 4 - 5
Fair Housing	1 - 4
ADA Mediation	5 - 6
ADA Outreach	6

UNIVERSITY OF MICHIGAN AGREES TO IMPROVE ACCESSIBILITY AT FOOTBALL STADIUM

The Justice Department and the Michigan Paralyzed Veterans of America have reached a settlement with the University of Michigan resolving a lawsuit brought to challenge the lack of accessible seating in the University's football stadium. On March 10, 2008, the federal court in Detroit entered the consent decree resolving the lawsuit.

Under the settlement, the University will add a minimum of 248 permanent wheelchair seats and 248 companion seats to the stadium during the next two years. The majority of these seats will be along the side lines. Currently, the stadium has 81 pairs of wheelchair and companion seats, all located in the end zones. By the 2010 football season, the University

(Continued on page 2)

DEPARTMENTS OF HOUSING AND URBAN DEVELOPMENT AND JUSTICE RELEASE NEW GUIDANCE ON "REASONABLE MODIFICATIONS" UNDER THE FAIR HOUSING ACT

On March 5, 2008, the Departments of Housing and Urban Development (HUD) and Justice (DOJ) released new guidance reinforcing the right of people with disabilities to make "reasonable modifications" to their dwellings if a structural change to their dwelling or to a common area of the building or complex in which they live is needed so that they can fully enjoy the premises. The guidance is designed to help housing providers and homeowners' associations better understand their obligations and help people with disabilities better understand their rights regarding the "reasonable modifications" provision of the federal Fair Housing Act (FHA).

(Continued on page 2)

(University of Michigan, continued)

will have at least 329 pairs of wheelchair and companion seats dispersed throughout the stadium. At the end of the 2010 season, the parties will discuss whether to add additional accessible seating along one of the sidelines.

The University also agreed to modify its ticketing policies significantly for wheelchair and companion seats for a two-year period following the time that each seating area becomes available. This will help to ensure that individuals who use wheelchairs will be afforded a meaningful opportunity to purchase these seats. The University will also add accessible parking, accessible toilet rooms, and accessible routes to and throughout the stadium, and will improve access to other facilities and services at the stadium.

“The Justice Department is committed to continued vigorous enforcement of the Americans with Disabilities Act. This agreement will ensure that the university’s football stadium, which is the largest college football stadium in the United States, has the accessible seating and amenities that federal law requires,” said Grace Chung Becker, Acting Assistant Attorney General for the Civil Rights Division. “I commend the University of Michigan and the Michigan Paralyzed

Veterans Association for working cooperatively with the United States to ensure that the rights of individuals with disabilities are protected.”

“This is a great day for all University of Michigan fans. Thanks to the cooperation of U of M, and the hard work and dedication of those Department of Justice attorneys who work diligently every day on civil rights matters, fans with disabilities -- as well as their families and friends -- will be able to enjoy the excitement of all home games together,” said Stephen J. Murphy, United States Attorney for the Eastern District of Michigan.

The University is currently in the midst of a \$226 million expansion of the stadium, including the addition of luxury boxes and suites. Those seating areas, which were not addressed in the consent decree, will include additional wheelchair seating.

The Justice Department intervened in this lawsuit on November 26, 2007, after receiving a referral from the United States Department of Education following its lengthy investigation of complaints filed by people who use wheelchairs. (See previous story in issue # 22.)

(FHA Guidance, continued)

“The right to reasonable modifications is essential to ensuring that persons with disabilities can fully enjoy the homes in which they live,” said Grace Chung Becker, Acting Assistant Attorney General for the Civil Rights Division. “This guidance will help housing providers understand their obligations under this important component of the Fair Housing Act.”

“Persons with disabilities have a right to have the place they call home altered in a way that will enable them to fully enjoy it,” said Kim Kendrick, HUD’s Assistant Secretary for Fair Housing and Equal Opportunity. “This guidance is a major step toward enforcing that right today, and for generations to come.”

The FHA prohibits discrimination in housing based on disability, race, color, religion, national origin, sex and familial status. HUD and DOJ share responsibility for enforcing the FHA. HUD is the agency with the primary responsibility to investigate individual complaints of discrimination. The Secretary of HUD, on his or her own initiative, may file complaints alleging discrimination. In addition, the Attorney General may commence a civil action in federal court when he or she has reasonable cause to believe that person(s) are engaged in a pattern or practice of

(FHA Guidance, continued)

discrimination or that a group of people has been denied rights protected by the FHA.

One type of discrimination prohibited by the FHA is the refusal by housing providers or homeowner associations to permit a reasonable modification – i.e., a structural alteration – of existing premises, occupied or to be occupied by a person with a disability, when the modification is necessary to afford the person full enjoyment of the premises. Although the housing provider or homeowner association must permit the modification, the tenant (or prospective tenant) is responsible for paying the cost of the modification. Examples of reasonable modifications include widening doorways to make rooms more accessible to people who use wheelchairs or installing a ramp to provide access to a public or common use area, such as a clubhouse.

The new guidelines, issued in the form of questions and answers, cover such topics as:

- What is a reasonable modification?
- Who must comply with the reasonable modification requirement?

- Who is responsible for expenses associated with the upkeep or maintenance of a reasonable modification?
 - When and how should an individual request permission to make a modification?
 - What types of documents and assurances may a housing provider require regarding the modification before granting the modification?
 - What procedures are available to a person wishing to challenge a denial of a requested modification?
- The guidelines are available online at both www.usdoj.gov/fairhousing and www.hud.gov/offices/fheo/disabilities.

DEPARTMENT FILES BRIEF SUPPORTING CONNECTICUT OPERATOR OF HOMES FOR PEOPLE IN RECOVERY FROM ALCOHOL AND DRUG ADDICTIONS

On February 22, 2008, the Department filed a brief as “friend of the court” in a private lawsuit in federal district court in New Haven, Connecticut. The case, *Turning Point Foundation v. DiStefano*, is about a dispute between the City of New Haven and a non-profit group that operates two “recovery homes” there. A recovery home houses people recovering from alcohol and drug addictions, who support each other in continued abstinence. Residents who use alcohol or illegal drugs are asked to leave immediately. This rule is enforced by random drug testing.

The lawsuit is about Turning Point’s request to house more people in each home than the eight residents permitted by New Haven’s zoning ordinance. The Fair Housing Act requires municipalities to make “reasonable accommodations” to their zoning laws for the benefit of people with disabilities. The brief, addressing legal defenses raised by the City, explains the Department’s views that a court can decide that the residents of a recovery home are disabled based on the home’s rules and admissions criteria, without hearing evidence about the background of each resident, and that the municipality must consider each request for an accommodation on the facts of the individual case. The Department did not take a position as to which side should win this particular lawsuit.

DEPARTMENT TO HOLD MULTI-FAMILY HOUSING ACCESS FORUM IN SEATTLE IN MAY

The Department's next Multi-Family Housing Access Forum will be held on Tuesday morning, May 20, 2008, at the Marriott SpringHill Suites in downtown Seattle, Washington. The Access Forum is a nationwide program that the Assistant Attorney General for the Civil Rights Division launched in 2005. Its purpose is to help building professionals understand their legal obligations under the federal Fair Housing Act's accessibility requirements and to celebrate partnerships that have successfully produced accessible multi-family housing in which everyone profits – developers and consumers alike. Expected to participate are building professionals, including architects and engineers, as well as developers, government officials, and advocates for individuals with disabilities. The last Access Forum event was held in Miami in November, and was attended by more than 80 people. Previous events were held in Minneapolis, Phoenix, Atlanta, Dallas, and Washington, DC. To learn more about the program and the Department's fair-housing enforcement activities, visit www.usdoj.gov/fairhousing/. To receive an invitation to the May event, email the Department at accessforum@usdoj.gov.

FLORIDA TAXI COMPANY AGREES TO TRANSPORT PEOPLE WHO USE SERVICE ANIMALS

On February 21, 2008, the owner and operator of Golden Cab Corporation in West Palm Beach, Florida, entered into a settlement agreement with the Department resolving a complaint alleging that the company had refused to provide a taxi ride to a passenger because she was accompanied by her service animal. The Office of the State Attorney, Fifteenth Judicial Circuit of Florida, which had referred the complaint to the Department of Justice, was also a party to the settlement.

In the agreement, Golden Cab agreed to adopt a series of written policies which include the following:

- 1) Golden Cab's drivers may not refuse to transport a person with a disability because that person is accompanied by a service animal or charge that person an additional fee because of the presence of a service animal;
- 2) Golden Cab will distribute the new policies in writing to all present and future reservation call-takers, dispatchers, cab drivers, and other employees or contractors whose duties involve contact with Golden Cab's customers;
- 3) Golden Cab will provide training in the new policies to all present and future reservation call-takers, dispatchers, cab drivers, and other employees or contractors whose duties involve contact with Golden Cab's customers;
- 4) Golden Cab will require that all if its dispatched cab drivers and all other individuals using vehicles owned or leased by Golden Cab post a sign stating that people with disabilities who are accompanied by service

(Florida Taxi, continued)

- animals are welcome in all Golden Cabs (the posting must be printed in 26 or greater point font and be posted in a location on the inside or outside of each taxi where it can be seen readily by potential passengers;
- 6) Golden Cab will promptly investigate each oral or written complaint it receives which alleges inappropriate treatment of a person with a disability who is accompanied by a service animal; and
- 5) Golden Cab will require full compliance with this new service animal policy in the terms of any new, amended, or renewed contract between Golden Cab and any driver who is dispatched by Golden Cab and/or any other person using a vehicle owned or leased by Golden Cab;
- 7) Golden Cab will impose sanctions for violation(s) of its new service animal policy and, if there is a violation, will provide \$1,000 in compensation to the complainant as well as pay \$1,000 in civil penalties to the government.

■ In Maryland, an individual who is deaf complained that an automotive retail store refused to accept telephone relay calls. The company agreed to change its policy to accept relay calls, pay the complainant \$5,000, and make a \$5,000 donation to a national disability rights organization.

■ In North Carolina, a person who is deaf complained that an architecture firm's receptionist refused to communicate with him through note writing as he requested. The office changed its policy and agreed to communicate by exchanging written notes when it is the customer's preferred method of communicating, and paid \$500 to the complainant.

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.

Complaints against health care providers from people who are deaf or hard of hearing were highlighted in a previous issue.

In this issue, we highlight complaints against other service providers from people who are deaf or hard of hearing that have been successfully mediated.

■ In Tennessee, an individual who is deaf alleged that a package shipping company refused to accept his calls placed through the telephone relay system. The company changed its policy to accept relay calls and agreed to have the policy tested by the complainant.

■ In California, a woman who is deaf complained that a service organization consistently failed to provide effective communication at its classes. The organization agreed to include a statement of its commitment to provide accommodations on all class announcements, to provide qualified sign language interpreters within seven days of a request, to train all instructors on how to enable closed captions for videos, and to provide all instructors and volunteers with additional ADA training within three months.

(Mediation, continued)

- In Florida, a person who is deaf complained that a State professional association to which she belonged refused to provide effective communication at its annual convention and also at its local county meetings. The board of directors of the association adopted a policy to provide sign language interpreters at its annual state conventions and local meetings when requested.
- A group of deaf individuals complained that an Illinois amusement park refused to provide the services of sign language interpreters during an annual event sponsored by the park. The manager agreed to provide qualified sign language interpreters during the event, written scripts for the shows, and sign language interpreters during the narrated train rides. He agreed to provide four TTYs in locations throughout the park and to provide information at the gate about the availability of auxiliary aids and services. He also agreed to hire a permanent liaison to address the needs of customers who are deaf.
- In Florida, a couple who is hard of hearing complained that a movie theater did not have enough assistive listening devices and those they had often did not work. The theater complex, located in an area with a large elderly population, agreed to provide more than 40 assistive listening devices and to implement a policy to ensure they are operable.

RECENT OUTREACH ACTIVITIES

- On February 21, staff delivered the keynote address and participated on a question-and-answer panel at the Public Policy Forum sponsored by the Institute for Public Administration at the University of Delaware in Newark, Delaware. The presentation outlined the ADA as a civil rights law and provided an update on the Department's enforcement and technical assistance efforts. The audience included officials from local governments, the Delaware Department of Transportation, and the private sector.
- On March 1, staff gave a presentation at the legislative conference of the National Association of Counties in Washington, DC, regarding emergency management and local government obligations under Title II of the ADA. Other panelists included representatives from the Federal Emergency Management Agency and the United Spinal Cord Association.
- On March 3, staff addressed the annual Advocacy/Legislation seminar of Paralyzed Veterans of America, held in Arlington, Virginia. The topic was the Section's ADA enforcement efforts.
- On March 3 - 4, staff conducted a training workshop on the ADA as it applies to law enforcement and corrections at the Wichita State University - Midwest Criminal Justice Institute in Wichita, Kansas. Attendees included police chiefs, sheriffs, jail administrators, parole and probation officers, and law enforcement and correctional officers from sixteen municipalities throughout Kansas.
- On March 12, staff presented a training on ADA accommodations in correctional environments to the Washington State Department of Correction in Olympia, Washington. Attendees included ADA coordinators from Washington State and Oregon.
- On March 20, staff gave a presentation on the ADA and service animals in food establishments at the Mid-Continental Association of Food & Drug Officials 2008 Annual Conference in Springfield, Missouri. Attendees included representatives of state and local health agencies.