



# Disability Rights

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# online News

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U.S. Department of Justice  
Civil Rights Division

July 2004 -- Issue Two

## Disability Rights Online News

is a 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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## COOPERATIVE INITIATIVE IMPROVES ACCESS TO BUSINESSES

Did you know that there are more than 50 million people with disabilities in the United States? And that they have \$175 billion in discretionary spending power? And that in 2003 they spent \$35 billion in restaurants nationally and spent an additional \$3.6 billion on a combination of work and leisure travel?

This message is part of the Department's ADA Business Connection, an initiative aimed at educating the American business community about the enormous business opportunities presented by people with disabilities. Under the leadership of R. Alexander Acosta, the Assistant Attorney General for Civil Rights, the initiative seeks to improve access to goods and services for people with disabilities and to promote the benefits of voluntary compliance with the Americans with Disabilities Act (ADA) for businesses and customers alike.

The central piece of this multi-faceted initiative is a series of highly visible conferences held in cities around the country. These meetings, hosted by Assistant Attorney General Acosta, bring together local leaders from corporations, small and medium-sized businesses, trade associations, and organizations of people with disabilities to discuss issues and establish ongoing connections. They serve as a forum for initiating dialogue, gaining better understanding of customers' and employees' needs, and building working relationships between the business and disability communities at the local level.

Speakers representing businesses and disability organizations have discussed the advantages of offering accessible products and services, providing staff training, hiring employees with disabilities, and honing effective marketing techniques. These presentations spark lively discussions among participants. Business leaders benefit from discovering the opportunities presented by customers and employees with disabilities and develop contacts for continuing the discussions or collaborating in the future. Since inception of the program in January 2001, nine meetings have been held in Atlanta, Boston, Houston, Seattle, and Washington, DC. The next session will occur in Chicago later this year.

(ADA Business Connection, con't)

A meeting held in Bellevue, Washington, a suburb of Seattle, on June 21 is typical of these events. The session, which focused on accessible customer service practices, featured an address by a company president who conducts customer service assessments with an industry-standard method called "mystery shopping," a practice where customers shop, test, and report on a business's service practices. The executive director of a California statewide

A business representative who attended a recent ADA Business Connection meeting defined the success of this initiative: "The ADA Business Connection is a great thing. The meetings are important for maintaining connection to the issues and the people; the biggest value of the meeting is the communication."

The impact of these meetings continues to be felt long after they adjourn. For instance, the Houston meeting inspired the formation of



**ADA Business Connection events include people with disabilities and business leaders**

independent living council with expertise in evaluating retail venues' accessibility for customers with disabilities also addressed the gathering. Finally, Assistant Attorney General Acosta led an enthusiastic discussion addressing the integration of people with disabilities in product development, advertising campaigns, customer service, retail facility design, and the workplace.

a three-way collaboration on accessible website design. Now is in its initial stages, the collaboration between a business technology consulting firm, a large technology corporation, and a disability technical assistance organization will work to support and encourage Houston businesses in creating accessible websites.

As a result of a Business Connection meeting in Washington, DC, a senior vice president of a major hotel corporation suggested to her company that its diversity advisory board include a representative of the disability community. She recommended a person she had met through

the ADA Business Connection meeting for that board position. Based on what she learned at the meeting, the executive was inspired to take other actions such as requiring closed captioning on all new television commercials produced for her company and recommending to a university's hotel school that it include an instructional module on serving patrons with disabilities in its curriculum.

The ADA Business Connection page on the ADA website provides a direct link to publications and other ADA information that applies to businesses, making it easy for business owners to find out about the law and how to comply. The website includes a growing collection of short information pieces known as ADA Business Briefs which explain discrete ADA issues of particular interest to businesses in a format that is easily printed from a computer and distributed to employees.

These activities reflect the Department's view that, when representatives of business and people with disabilities talk in a friendly forum, collaboration, not litigation, is the likely result.

To visit the  
ADA Business  
Connection on the  
web, go to  
[www.ada.gov/  
business.htm](http://www.ada.gov/business.htm)

**Did you know...**

**Studies show that people with disabilities will make significant changes in their buying habits in response to positive marketing with positive images of people with disabilities.**

**Did you know...**

**ADA Business Briefs address topics such as service animals, re-striping parking lots, refueling assistance at gasoline stations, and communicating with individuals who are deaf or hard of hearing in hotels and hospital settings. You can find these publications online at [www.ada.gov/business.htm](http://www.ada.gov/business.htm).**

## **REACHING LOCAL AUDIENCES WITH ADA INFORMATION AND PUBLICATIONS**

Each year, the Department staffs a booth to answer ADA questions and distribute information at eight to twelve major events around the country. This outreach activity is targeted toward harder-to-reach populations including rural residents, minority communities, people with disabilities, and others with an interest in the ADA. The staff answer questions and hand out regulations, accessibility standards, pamphlets, and other materials.

In June, the Department staffed a booth at the Annual Conference of the National Council on Independent Living held in Washington, D.C., and a booth at the National Council of La Raza's Annual Conference in Phoenix. In July,

staff exhibited at the annual conferences of the National Association for the Advancement of Colored People in Philadelphia and the American Correctional Association in Chicago. Upcoming events will include the World Congress on Disability in Orlando and the AARP (formerly known as the American Association of Retired Persons) in Las Vegas. Staff are also scheduled to bring the booth to the Tennessee State Fair.

The ADA requires the Department to provide technical assistance to entities affected by the Act. These outreach activities help people become aware of the law and the Department's technical assistance services.

## **DEPARTMENT SETTLES COMPLAINT ALLEGING DISCRIMINATION AGAINST CHILD WITH A DISABILITY**

In June 2004, the Justice Department settled a complaint alleging that a privately owned childcare center in Millville, New Jersey, had refused enrollment in a summer program to a seven-year-old girl with cerebral palsy and epilepsy.

The complaint arose early last summer when the girl's mother called the owner-director of the center to inquire about openings in its summer program. The daughter had just finished first grade and had

been attending public school and daycare since the age of eighteen months. She required no additional assistance with daily care or age-appropriate activities, and no modifications to the center's activities or programs were anticipated – except that staff members would need to be generally knowledgeable that she had occasional petit mal seizures, after which she would be very tired or fall asleep.

(Child Care, continued)

Under the settlement agreement, the center agreed to adopt a nondiscrimination policy and to publicize that policy in its handbooks for parents and employees. The center also agreed to provide training to management and staff on the obligations of child care providers concerning the rights of individuals with disabilities. Lastly, it agreed to pay the mother, on behalf of her daughter, \$4,000 in compensatory damages. The Department will monitor compliance with the terms of this agreement.

### Did you know...

A collection of the Department's ADA publications – including regulations, design standards, and technical assistance materials – is available on a CD-ROM. You can order a copy online at [www.ada.gov/cdrequestform.htm](http://www.ada.gov/cdrequestform.htm).

## DEPARTMENT FILES SUIT AGAINST GROUP HOME OPERATOR FOR SEXUAL HARASSMENT OF PEOPLE WITH MENTAL DISABILITIES

On June 17, 2004, the Department filed a lawsuit against the owner and operator of several group homes for persons with disabilities in Albuquerque, New Mexico. The Department's complaint alleges that the owner-operator subjected his mentally disabled residents to pervasive sexual harassment.

"The type of unrelenting harassment and sexual exploitation alleged in this case is appalling and unacceptable," said R. Alexander Acosta, Assistant Attorney General for Civil Rights. "No American should suffer this type of abuse, particularly in the sanctity of their home. We remain committed to combating discrimination in housing."

"The basic right to obtain housing without reprisals based on one's sex or disability is fundamental," said U.S. Attorney David C. Iglesias. "We cannot, and will not, tolerate a practice of using one's position as a landlord to abuse or extort sexual favors from tenants."

Specifically, the Department alleges that over a six-year period the owner-operator subjected his residents to unwanted sexual touching. The government further alleges that he threatened to punish his residents, through deprivation of medications and other services, if they refused to submit to him.

## CITY WILL PERMIT HOUSING FOR HOMELESS VETERANS WITH DISABILITIES

On June 15, 2004, the Justice Department announced an agreement with the City of Johnstown, Pennsylvania, to settle a lawsuit alleging discrimination against disabled veterans. The Department initiated its investigation after referral from the Department of Veterans Affairs, which is one of the primary sources of funding for the proposed facility.

The American Legion Department of Pennsylvania Housing for Homeless Veterans Corporation wanted to establish and operate a facility to house up to 30 homeless veterans in an old school building, located in a residential neighborhood in Johnstown. The building had most recently been used as a housing facility for homeless veterans.

Even though the proposed use was identical to the preceding one and the City's Planning Commission had recommended approval, the City Council denied the American Legion's application based on strong neighborhood opposition. At City

(Homeless veterans, continued)

Council meetings, area residents expressed fears, typical in cases involving facilities for persons with disabilities, that the veterans, because of their disabilities, would endanger neighborhood children, commit crimes, and otherwise make the neighborhood unsafe. In unanimously rejecting the American Legion's application, some City Council members indicated that their votes were in response to citizens' concerns.

After the Department filed suit, the City Council rescinded its denial of the American Legion's application and voted unanimously to issue the zoning permit. The proposed consent order enjoins the City from discriminating on the basis of disability in housing, requires the City to pay \$82,500 in damages to the American Legion and a \$15,000 civil penalty to the United States, and mandates that certain city employees receive training on the provisions of the Fair Housing Act.

**For more information about the Department's enforcement of the Fair Housing Act, see [www.usdoj.gov/crt/housing](http://www.usdoj.gov/crt/housing).**

## **ARCHITECTS, ENGINEERS, DEVELOPERS, AND OWNERS SUED OVER INACCESSIBLE HOUSING COMPLEX**

On June 21, 2004, the Department sued the architects, engineers, developers, and owners responsible for designing, constructing, and operating the McGregor Village Apartments in Wilton, New York. The Department charges that the defendants, despite repeated warnings from town officials that the complex violated the accessibility provisions of the Fair Housing Act, proceeded with the construction and later failed to make appropriate reasonable accommodations.

Among other things, each of the complex's 106 ground-floor apartments has two steps leading to the front door, which is the only entrance to the unit; doors in the units are too narrow for wheelchairs; electrical outlets and thermo-

stats are positioned beyond the reach of people in wheelchairs; and kitchens and bathrooms do not have sufficient space to allow people in wheelchairs to use them.

The Department of Housing and Urban Development referred the case to the Justice Department. The original complainant, who uses a wheelchair, has been unable to fully enjoy her apartment or the complex's common use areas and continues to be severely limited by the complex's architectural barriers. In filing suit on behalf of the complainant, the Department added a "pattern or practice" claim on behalf of other persons who may have been injured by the defendants' discrimination.

## **PUBLIC NURSING HOME AGREES TO CORRECT DEFICIENCIES**

On June 16, 2004, the Department entered into an agreement regarding conditions of resident care and treatment in the nursing home units of the Banks-Jackson-Commerce Medical Center and Nursing Home ("BJC") in Commerce, Georgia. The agreement resolves an investigation that began in June 2001 under the Civil Rights of Institutionalized Persons Act.

BJC is a public nursing home operated by the Banks-Jackson-Commerce Hospital and Nursing Home and Medical Center Authority on behalf of the counties of Banks and Jackson and the city of Commerce, Georgia. The nursing home cares for approximately 160 residents, the vast majority of whom are elderly.

(Nursing home, continued)

The investigation identified numerous civil rights violations at the nursing home. Under the terms of the agreement, BJC is required to correct each of the deficiencies identified by the investigation. The agreement requires BJC to: provide a safe environment for residents; provide adequate medical and nursing care; provide adequate nutritional services; improve its restraint practices; improve its psychotropic medication practice; and provide adequate therapeutic activities for residents. The agreement also requires BJC to ensure that residents are served in the most integrated setting appropriate to meet their needs in accordance with the Americans with Disabilities Act.

The staff and officials of BJC have cooperated with the Department throughout the course of the investigation and have committed to continued cooperation as the facility proceeds to improve conditions at the nursing home.

**For more information about the Civil Rights of Institutionalized Persons Act (CRIPA), see [www.usdoj.gov/crt/split](http://www.usdoj.gov/crt/split).**

## COUNTY JAIL SUED FOR INADEQUATE MENTAL HEALTH CARE

On June 7, 2004, the Department filed a lawsuit against Terrell County, Georgia, for systemic constitutional violations at the Terrell County Jail. In a complaint filed in the U.S. District Court for the Middle District of Georgia, the Department alleges that Terrell County has failed to provide constitutionally adequate mental health care for Jail detainees. The suit was filed under the Civil Rights of Institutionalized Persons Act (CRIPA) a law that gives the United States authority to file a lawsuit when a state or county engages in a pattern or practice that systemically violates the federal rights of institutionalized persons. In addition to the claim about mental health care, the complaint also alleges that the Jail fails to protect inmate

safety, fails to provide medical care, and fails to provide sufficiently sanitary living conditions.

Terrell County had previously entered into a voluntary settlement agreement that would have remedied the illegal conditions identified at the jail. However, the County failed to live up to the terms of that agreement, which necessitated the filing of this lawsuit.

“When a jurisdiction refuses to take appropriate steps to address violations of constitutional rights, and flouts its agreements to do so, the Department of Justice will move aggressively to protect those rights,” said R. Alexander Acosta, Assistant Attorney General for Civil Rights.

## INVESTIGATION OPENED AT VERMONT STATE HOSPITAL

On May 28, 2004, the Department opened an investigation of conditions of care at the Vermont State Hospital, located in Waterbury, Vermont. The investigation will focus on whether the hospital is adequately protecting patients from harm, whether seclusion and restraints are being used properly, whether medical and nursing care is adequate, whether patients are being provided adequate rehabilitation and treatment programming,

and whether patients are being served in the most integrated setting appropriate to their needs.

Vermont State Hospital is a 54-bed mental health hospital for involuntarily committed patients. Although small, the hospital plays a significant role within Vermont’s mental health system as the center for servicing those with the most serious mental illnesses and forensic patients committed by the court system for evaluation.

(State hospital, continued)

Twenty percent of the patients are short-term admissions who remain for less than 30 days while roughly one-third have been at the facility for more than one year.

In September 2003, after two suicides within six weeks, one of which occurred during a survey by the Centers for Medicare and Medicaid Services ("CMS"), and a history of locking patients in their rooms overnight without access to restrooms, CMS sent a letter to Vermont State Hospital terminating its federal assistance. The hospital has applied for CMS re-certification.

On June 3, 2004, Justice Department representatives met with Vermont officials regarding the investigation. The State has pledged its cooperation with the investigation.

## MEDIATION HIGHLIGHTS

One of the Justice Department's most innovative programs is the ADA Mediation Program through which complaints are referred to professional mediators who have been trained in the legal requirements of the ADA. This has proven to be an effective way to resolve ADA complaints at much less cost and in a shorter period of time than traditional investigations or litigation. Over 75% of complaints mediated have been resolved successfully.

Highlights of recent mediations include:

- A parent of a child with diabetes complained that a Kentucky movie theater that sold only candy and soda refused to allow the parent to bring food for her child into the theater. The theater owner changed its policy and installed signage stating food and drink are allowed in the theater if needed because of a disability, trained all staff on the policy change, and apologized to the parent.

- A wheelchair user complained that an Indiana tire and auto store failed to provide accessible parking or an accessible entrance. The owner of the property installed a van-accessible parking space with appropriate signage, constructed a new accessible store entrance, and installed a

ramp to the sidewalk in front of the entrance. In addition, the owner remodeled the restroom to make it wheelchair accessible.

- A person who is hard of hearing complained that a New Jersey town failed to provide effective communication at its public meetings. The town purchased an infrared assistive listening system, trained town employees in the use of the equipment, and agreed to provide notice of the availability of the equipment in all announcements of town meetings.

- A parent of an adult son with mental retardation claimed that the new owners of a Texas resort discriminated against them by refusing to allow them to return to the resort with their son. The resort welcomed the family to return at any time and the family agreed to provide appropriate supervision if needed. The owners obtained training on the ADA and how to provide hospitality services to customers with disabilities. The resort also paid the family \$2,500 and offered them a free three-night stay at the resort.

- In Virginia, a deaf individual alleged that a statewide agency's voice-activated automated telephone line was not accessible to her and that

### Did you know...

**Businesses must comply with the ADA Standards for Accessible Design when building new facilities or altering or expanding existing facilities. These Standards are available online at [www.ada.gov/stdspdf.htm](http://www.ada.gov/stdspdf.htm).**

(Mediation, continued)

agency staff did not know how to communicate with her on the telephone relay system. The agency installed a dedicated line for clients who use TTY's, allowing them equal access to the interactive telephone check-in system that they are required to use. The agency also provided staff training on the use of TTY's and the telephone relay service.

■ In Washington, a person who uses a walker complained that she was unable to walk from the locker room to the pool at the fitness facility she had joined because the floors were too slippery. The fitness facility provided firm, slip-resistant mats to create an accessible route allowing customers with mobility impairments to get from the locker room to the pool.

■ An individual who is blind complained that a State government discriminated against persons with vision impairments by refusing repeated requests to provide public documents in alternate formats, such as Braille and computer disks, that the State's website was not accessible to individuals who use screen readers, and that the State capitol building did not have accessible signage. The legislature agreed to provide all legislative bills in alternate formats, to publish its legislative directory in Braille, and to take steps to make its website

accessible to individuals who use screen readers. The State executive branch will also provide documents in alternative formats and maintain the accessibility of its website. In addition, the State agreed to post appropriate Braille signage in its historic State house.

■ In Wisconsin, a husband and wife, both with disabilities that make lifting difficult, complained that a retail store refused to assist them in lifting an item they wished to purchase. The store agreed to change its policy and to provide assistance to customers with disabilities. The store also apologized to the complainants and provided them with a small compensatory package of goods and services from the store.

■ In California, an individual with multiple sclerosis complained that a restaurant refused access to her because she used a service animal. The restaurant changed its policy to allow service animals to enter the restaurant, informed staff of the new policy, and provided two pairs of complimentary dinners to the complainant.

■ In North Dakota, a wheelchair user complained that a restaurant did not have an accessible entrance. The restaurant owner constructed a ramp with hand rails.

■ In South Carolina, a wheelchair user complained that a fairgrounds arena was inaccessible. The fairgrounds owners agreed to create an accessible seating area for at least ten wheelchair users immediately in front of the bleachers, create an accessible path of travel to the accessible seating area for each event, and rent bleachers that met safety standards, including hand rails. The organization also developed and distributed to all paid and volunteer fairground workers and security staff an information sheet on appropriate ways to assist persons with disabilities.

**The Justice Department provides ADA speakers and information booths at national and regional events nationwide.**

**To request a speaker or booth for a major event, write to:**

**Speakers Bureau, U.S. Department of Justice, Civil Rights Division, 950 Pennsylvania Ave, NW DRS - 1425 NYA, Washington, DC 20035.**