



# Enforcing the ADA:

## A Status Report from the Department of Justice

### October 2004 - March 2005

This Status Report covers the ADA activities of the Department of Justice during the fourth quarter (October - December) of 2004 and the first quarter (January - March) of 2005. 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 14). The symbol (\*\*) indicates that the document is available on the ADA Home Page.

#### INSIDE...

ADA Litigation .....	2
Formal Settlement Agreements .....	6
Other Settlements .....	8
Mediation .....	9
Certification .....	12
Technical Assistance .....	14
Other Sources of ADA Information .....	17
How to File Complaints .....	18

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 thousands 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

**Third Circuit Bars Private Damages Claim Against State Prison System** -- The U.S. Court of Appeals for the Third Circuit ruled in Cochran v. Pinchak that the ADA's abrogation of sovereign immunity allowing private title II

suits against States is unconstitutional with respect to a suit brought by a New Jersey inmate who is legally blind. The complaint, which included a damages claim against the New Jersey Department of Corrections, alleged that the prison system had temporarily denied his access to talking books, a talking watch, a usable lock, and his walking cane. The court ruled that, given the wide latitude granted by the Supreme Court to prison officials to create prison policies and anticipate security issues, abrogation of immunity would be inappropriate in this particular case because the title II accommodation requirements go far beyond any equal protection rights asserted by the plaintiff.

**District Court Allows U.S. HIV Lawsuit to Continue Despite Dismissal of Individual Claims** -- The U.S. District Court for the Eastern District of Pennsylvania ruled that, even though the individual plaintiff's ADA lawsuit had to be dismissed because it was filed too late under the State statute of limitations, the claims brought by the Department of Justice could continue because the State time limit for filing suit does not apply to the Federal Government. The Department intervened in Smith v. City of

Philadelphia, a lawsuit brought by an individual with HIV who claims that Philadelphia violated the ADA by discriminating against him in the provision of emergency medical services. The Department's complaint alleged that after the plaintiff began experiencing severe chest pain his partner called 9-1-1. Emergency medical technicians arrived on the scene and, after being informed of plaintiff's HIV status, allegedly refused to provide the prehospital care that would have been reasonable and appropriate under the circumstances. The plaintiff alleged that they refused to touch him to assess his condition or to give him physical assistance in getting him out of his home and into the ambulance. He alleged that on the way to the hospital he was verbally harassed and insulted because of his HIV status. The Department's complaint asked the court for an order to prevent the fire department from discriminating against individuals with HIV and for an award of compensatory damages for the complainant.

## 2. New Lawsuits

**The Department initiated or intervened in the following lawsuits.**

### Title II

**Dillworth v. City of Detroit** -- The Department moved to intervene in a lawsuit filed in the U.S. District Court for the Eastern District of Michigan, challenging the inaccessibility of Detroit's public transportation system. The Department's complaint alleged that the City of Detroit failed to maintain and repair the wheelchair lifts of the city's fixed-route bus system, denying individuals with disabilities an equal opportunity to benefit from public transportation. The complaint described situations where individuals who use wheelchairs were allegedly forced to wait, often 30 minutes or more, while multiple buses with inoperable lifts passed them by, often leaving them stranded as they attempted

**Department Seeks Supreme Court Review of Prison Decision** -- The Department asked the Supreme Court to review the Eleventh Circuit decision in Goodman v. Ray, which held that private title II suits against State prisons are barred by sovereign immunity. The Solicitor General argued in the Department's brief that the Court should agree to review the decision in order to resolve the conflict between the Ninth Circuit, which upheld the constitutionality of individual title II suits against State prisons in Phiffer v. Columbia River Correctional and the Eleventh Circuit decision in Goodman, which held such suits unconstitutional. Since the petition for review was filed, the Third Circuit also ruled, as noted under "Decisions," above, that an individual prisoner's claim for damages was barred by sovereign immunity. In its petition, the Department argued that the Eleventh Circuit decision in Goodman was wrong because it was inconsistent with the Supreme Court's decision in Tennessee v. Lane, which upheld the constitutionality of individual title II suits against State court systems. The petition asserted that title II is an appropriate congressional response to the history of constitutional violations against persons with disabilities in prisons. The plaintiff, who has paraplegia and uses a wheelchair, alleged that his cell was too small for him to maneuver his wheelchair, making it impossible for him to access his bed, toilet, and shower without assistance, and that assistance was often denied. He also claimed that the prison's barriers prevented him from using the prison library, attending religious services, and participating in a wide range of counseling, education, and vocational training programs.

to get to work, church, medical appointments, grocery shopping, and numerous other essential destinations. The complaint also alleged that Detroit has approximately 120 buses with lifts that have not been working for more than six months and that the city does not intend to make the needed repairs.

### **Defending the Constitutionality of Title II --**

The Department intervened in four additional lawsuits to defend the constitutionality of title II of the ADA. In Tennessee v. Lane the Supreme Court upheld the constitutionality of title II in cases involving the fundamental right of access to courts. The Department intervened in the following cases to support title II's constitutionality in other areas as indicated --

#### **Courts of Appeals**

Roe v. Johnson (2d Circuit)(attorney licensing)

Bill M. v. Nebraska Department of Health and Human Services Finance and Support (8th Circuit)(institutionalization)

Constantine v. Rectors and Visitors of George Mason University (4th Circuit) (law school testing accommodations and retaliation)

#### **District Court**

Birdsong v. Perdue (N.D. Georgia) (institutionalization)

### **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 II**

**George v. Bay Area Rapid Transit District --** The Department filed an amicus brief in the U.S. Court of Appeals for the Ninth Circuit in

order to defend the Department of Transportation's (DOT) regulations implementing title II of the ADA in public transportation. Plaintiffs filed suit against the Bay Area Rapid Transit District (BART) alleging that public entrances at four BART stations were inaccessible to persons with vision impairments. The U.S. District Court for the Northern District of California ruled that the DOT regulations, as applied to accessible routes, were invalid because they were not adequate to ensure that the required accessible route would be accessible to individuals who are blind or who have low vision. The Department argued on appeal that the DOT regulations were a reasonable interpretation of the ADA because the government carefully considered the needs of people who are blind or who have low vision and issued rules that, taken as a whole, address the obligation of public transportation facilities to provide access to these individuals.

#### **Title III**

**Spector v. Norwegian Cruise Lines, Ltd --** The Solicitor General filed an amicus brief in the Supreme Court in Spector v. Norwegian Cruise Lines, Ltd., arguing that cruise ships sailing under foreign flags are covered by the ADA when operating in U.S. ports. The plaintiffs, who are individuals with mobility disabilities and their nondisabled companions, filed suit under the ADA alleging that the cruise line discriminated against them on a cruise from Houston, Texas, by imposing a surcharge for an accessible cabin; by failing to remove architectural barriers to ship facilities and services, such as public restrooms, restaurants, swimming pools, and elevators; and by failing to make reasonable modifications in policies needed to include people with disabilities in the ship's emergency evacuation procedures. The Supreme Court is reviewing the decision of the U.S. Court of Appeals for the Fifth Circuit in this case, which held that title III does not

apply to foreign-flag cruise ships even when they voluntarily enter U.S. ports to receive passengers. Relying on general international law principles that domestic law may not be applied to foreign-flag ships without specific evidence of congressional intent to do so, the Fifth Circuit found no indication either in the statutory text or the legislative history that Congress intended title III to apply to foreign-flag cruise ships. This Fifth Circuit decision is in conflict with an earlier decision of the Eleventh Circuit in Stevens v. Premier Cruises, Inc. which agreed with the Department's amicus brief in that case arguing that foreign-flag ships operating in U.S. ports are covered by title III. In the Supreme Court, the Department argued, as it did in the courts of appeals, that the ADA applies to foreign-flag cruise ships when they voluntarily enter U.S. ports to receive passengers and that such coverage does not result in an unlawful extraterritorial application of the statute because the discrimination occurs in U.S. internal waters.

## 4. Consent Decrees

**Some litigation is resolved at the time the suit is filed or afterwards by means of a negotiated consent decree. Consent decrees are monitored and enforced by the Federal court in which they are entered.**

### Title III

**\*\* U.S. v. Fairview Health Services** -- The United States Attorney's Office for the District of Minnesota entered a consent decree with Fairview Health Services settling a lawsuit alleging that Fairview failed to provide qualified sign language interpreters and other services to deaf patients. Under the agreement, Fairview agreed to hire one or more qualified sign language interpreters who will be available 24 hours a day, seven days a week, to provide effective communication at each of the five Fairview hospitals and agreed

**Cinemark Theater Chain Will Provide Comparable Wheelchair Seating in Stadium-Style Movie Theaters** -- The Department of Justice and Cinemark USA, Inc., agreed to a consent decree in the U.S. District Court for the Northern District of Ohio that will dramatically improve the moviegoing experience for people who use wheelchairs and for their companions at Cinemark stadium-style movie theaters across the United States. The agreement brings an end to U.S. v. Cinemark USA, Inc., a lawsuit challenging Cinemark's construction of stadium-style movie theaters that failed to provide persons who use wheelchairs with lines of sight comparable to those of the general public. These theaters often required wheelchair users and their companions to sit at the very front of the theaters directly under the screen. Under the consent decree, all future construction of Cinemark theaters will be designed in accordance with plans approved by the Department with wheelchair seating near the middle of the auditorium. In existing theaters, Cinemark agreed to move wheelchair seating farther back from the screen in over 100 auditoriums in 14 existing complexes within the Sixth Circuit (including Ohio, Michigan, Kentucky, Tennessee) and in theaters located in a number of other States as well, including Utah, Illinois, New York, California, and Oregon. In addition, Cinemark will add wheelchair spaces and companion seats in dozens of theaters across the country, allowing persons using wheelchairs and their companions to sit shoulder-to-shoulder next to each other on the same level, like other patrons, and to enjoy unobstructed views.

to pay \$188,000 in damages to four complainants and a \$20,000 civil penalty to the United States. Fairview will also rewrite its hospital policy and procedures to bring them into compliance with the ADA, develop patient and visitor information and notices in forms that are accessible to deaf and hard-of-hearing patients, and conduct comprehensive training of hospital personnel.

## B. Formal Settlement Agreements

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

### Title II

**\*\* Project Civic Access Agreements Signed by Seven More Communities** -- The Department has signed seven additional agreements under its Project Civic Access initiative, a wide-ranging effort to ensure that cities, counties, towns, and villages throughout the United States comply with the ADA. The new agreements cover --

Sedona, Arizona;  
Hutchinson, Kansas;  
San Luis Obispo, California;  
Cheshire County, New Hampshire;  
Washington County, Utah;  
Carpinteria, California; and  
Missoula County, Montana

The goal of Project Civic Access is to ensure that people with disabilities have an equal opportunity to participate in civic life. Departmental investigators, attorneys, and architects survey State and local government facilities and programs across the country for the purpose of identifying modifications needed to comply with ADA requirements. Depending on the circumstances in each community, the agreements address specific

areas where access can be improved. To date, 111 Project Civic Access agreements have been signed. Each community agreed to take specific steps, depending on local circumstances, to make core government functions more accessible to people with disabilities. The agreements have improved access to many aspects of civic life including, courthouses, libraries, parks, sidewalks, and other facilities, and address a wide range of accessibility issues, such as employment, voting, law enforcement activities, and emergency preparedness and response.

**Nevada State Welfare Division, Las Vegas, Nevada** -- The Department entered an agreement with the Nevada State Welfare Division to resolve two complaints alleging that the Welfare Division failed to provide qualified interpreters necessary to ensure effective communication with individuals with disabilities in the services, programs, and activities of the Welfare Division. The agreement requires the Welfare Division to establish and maintain a system for providing appropriate auxiliary aids and services, including qualified interpreters, whenever necessary both during regular hours and for after-hours emergencies to secure effective communication between its staff, agency clients, and their companions, as defined in the agreement.

**Clackamas County Sheriff's Office, Oregon City, Oregon** -- The Department reached an agreement with the Clackamas County Sheriff's Office resolving a complaint that the county violated title II by failing to provide effective communication with an inmate who is deaf. The county agreed to provide appropriate auxiliary aids, including qualified interpreters, and to designate an official to carry out this policy. The county also agreed to provide telephones with volume controls for prisoners with hearing loss and TTYs for prisoners with speech or hearing disabilities

who need them to communicate by telephone. The county will also permit prisoners with hearing disabilities to buy or use visual and tactile alarm clocks whenever other prisoners are permitted to buy or use alarm clocks, to provide televisions with closed captioning features for use by prisoners with hearing disabilities whenever other prisoners are permitted access to television, and to provide hearing aid batteries for prisoners who use hearing aids during the period of their detention.

### Title III

**Dr. Robila Ashfaq, Irvine, California** -- The Department reached an agreement with a California physician, a solo practitioner in family medicine, resolving a complaint alleging unequal treatment for people with disabilities. The complainant, an individual with paraplegia who uses a wheelchair, alleged that at her first office visit her husband helped her onto the examination table and that for subsequent visits over the course of a year she was examined in her wheelchair. When it came time for her annual physical, which would require use of an examination table, she asked the doctor to borrow or purchase an adjustable exam table or a lift to facilitate her transfer to the existing table. The doctor informed her that she no longer wished her to continue as her patient and that she could not provide an accessible table or lift because of budget constraints. Under the settlement, the doctor agreed to provide equal access by purchasing an accessible, adjustable height examination table; pay the complainant \$1000; adopt an ADA nondiscrimination policy; attend training for herself and her staff on the requirements of the ADA; and ensure that, when scheduling an appointment, her staff will ask the patient if he or she will need any special assistance, modification of policy, or auxiliary aid or service at the examination because of a disability.

**\*\* Blue Plate Café, Memphis, Tennessee** -- The U.S. Attorney's Office for the Western District of Tennessee entered a settlement with the owner and operator of two Blue Plate Café restaurants, resolving a complaint that at one of the locations an individual accompanied by a service animal was not allowed to enter the restaurant. Under the agreement the owner will ensure access to individuals with disabilities accompanied by service animals at both restaurants, post its nondiscrimination policy at the entrances and employee areas, give a copy of the policy to each employee, and pay \$3,500 in damages to the complainant and a \$1,000 civil penalty to the U.S. Government.

**Natural Bridge, Virginia** -- The Department entered into a settlement agreement with A & M Investments, Inc., and Marshall Management, Inc., the owners and operators of the Natural Bridge complex, to ensure that persons with disabilities have equal access to the many attractions and accommodations of historic Natural Bridge, Virginia. The agreement is in response to a complaint that the Natural Bridge Inn and Conference Center did not provide adequate accessible guest-rooms. The agreement requires one fully accessible sleeping room in the 18-room Stonewall Inn, two in the 34-room Cottages, and five additional fully accessible sleeping rooms in the 121-room Natural Bridge Inn. It also requires a number of additional rooms to have notification devices for persons who are deaf or hard of hearing, including visual door knockers, TTY's, and visual alarms. In addition, the agreement requires accessible parking, service counters, ATM's, public telephones, and toilet rooms in the Natural Bridge Gift Shop and Bridge Entrance Building and requires accessibility modifications in a number of other facilities including the wax museum.

## 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.**

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

**District of Arizona** -- An individual who is deaf complained that an urgent care medical clinic failed to provide sign language interpreters and other auxiliary aids to ensure effective communication. The facility adopted a written effective communication policy, posted notice of the policy in the waiting room, entered into contracts with local interpreting agencies, and provided ADA training to its staff.

**Northern District of Iowa** -- An individual who uses a motorized wheelchair complained that an Iowa city police department threatened to ticket him for using a motorized wheelchair on city streets. The individual was riding in the street because there were no curb cuts and sidewalks in some parts of the city. The city agreed to refrain from ticketing wheelchair users for riding in streets where no sidewalks or curb ramps exist, and to install curb ramps throughout the city.

**Southern District of Mississippi** -- An individual who uses a wheelchair complained that the office of a health care provider was inaccessible. The landlord constructed a ramp; provided two new parking spaces with appropriate signage; created an accessible

route from the accessible parking spaces to the office entrance; modified the landing, ramp, and handrails at the office entrance; removed the threshold plate and smoothed the floor surface at the entrance to the restroom; and relocated the toilet flush valve to the left side of the tank.

A wheelchair user complained that an insurance company office failed to remove barriers and to comply with the ADA in making alterations. The insurance office paved the public parking lot at the front of the building and designated two accessible parking spaces, one of which is designated as van accessible; installed a ramp from the accessible parking spaces in the public parking lot to the building's front entrance; eliminated the four-inch change in level at the front door threshold; modified one of the restrooms in the new addition and designated it as a unisex accessible restroom; replaced all exterior and interior door hardware with accessible door hardware; paved the employee parking lot in the rear of the building and designated one van-accessible parking space in that lot; and eliminated the 13" level change from the employee parking lot to the building's rear entrance.

An individual who uses a wheelchair complained that a county board of supervisors did not make a community center that was used as a polling place accessible. The community center subsequently burned down, and the county designated the fire hall as a replacement polling place. The U.S. Attorney's Office reviewed proposed plans to make the fire hall accessible and negotiated additional changes to the facility, including the addition of two accessible parking spaces with an access aisle; the provision of accessible signage for the parking spaces; the installation of a ramp, hand rails, and a landing; and the removal of a protruding object from the accessible route.

**Eastern District of Louisiana** -- An individual who uses a wheelchair complained that a New Orleans theater was not accessible. The theater agreed to ensure that accessible parking spots are reserved for use by people with disabilities; to maintain accessible routes to all features of the facility; to modify steep curb cuts and outdoor emergency egress ramps in order to have the proper slope; to modify lobby features, such as the condiment island and nearby display shelves, to make them accessible to persons using wheelchairs; to replace armrests on one percent of the aisle seats in each theater with armrests that swivel up and out of the way; to make modifications to the wheelchair accessible bathroom stalls;

and to purchase additional assistive listening devices.

**Western District of Missouri** -- Two individuals who use wheelchairs complained that a county courthouse was not accessible. The county installed an elevator to provide access to its zoning hearing room and its courtrooms located on the second floor.

**Northern District of New York** -- An individual complained that the owners of an office building often locked the accessible entrance. The office building owners agreed to keep the accessible entrance unlocked during office hours.

## 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 400 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.**

- An individual with a hearing impairment complained that a Missouri hotel was inaccessible. The hotel agreed to purchase six kits containing portable alarms, door and telephone notification devices, and TTYs for use by guests who are deaf or

hard of hearing. The hotel further agreed to reimburse the complainant for 50 percent of her room charges.

- A wheelchair user complained that a Connecticut town allowed restaurants to use public sidewalks to provide outdoor seating, creating barriers for people who use wheelchairs or other mobility devices. The town worked with the restaurant owners and the local chamber of commerce to advise them about the need for unobstructed accessible routes and drafted a local ordinance to provide for and maintain sidewalk accessibility.
- The husband of a wheelchair user complained that a Washington ski tour company arranged a trip that included inaccessible hotel and transportation accommodations. The owner of the company agreed to speak directly to any individual with a disability for whom he was making trip arrangements and to

confirm, in advance of the travel, that the arrangements would meet the accessibility needs of the traveler. In addition, the tour operator provided the complainant and his family a free week at a condo in the ski area that was the destination of the original trip.

- In North Carolina, an individual with a disability who uses a service animal complained that hotel employees questioned her disability and challenged her right to bring the service animal into the hotel. The hotel provided ADA and sensitivity training to its employees and posted a copy of its ADA nondiscrimination policy at the front desk. The hotel also posted a sign at the hotel entrance welcoming guests with service animals, provided a letter of apology, and paid the complainant \$4,000.
- In Pennsylvania, an individual who is deaf complained that a doctor's office refused to provide sign language interpreter services, and made her pay for an interpreter she needed for an office visit. The office agreed to amend its preappointment letter to patients to include a statement that the practice would provide sign language interpreter services upon request. The office also provided a letter of apology to the complainant, reimbursed her for the full cost of the interpreter services, and paid her \$750 in compensation.
- In New Jersey, a man who is deaf complained that a hotel did not have accessible telephones, doorbells, and alarms and that hotel employees did not use the TTY at the front desk to communicate with guests who are deaf. The hotel directed employees to use the existing TTY at the front desk and provided training on how to use it. The hotel purchased four each of the following devices: TTYs, visual alarms connected to the building's emergency system, visual notification devices for incoming phone calls and room doorbells, and closed-caption television decoders. The hotel also agreed to provide ADA and sensitivity training to all employees.
- Relatives of a wheelchair user complained that a North Carolina restaurant lacked accessible restroom facilities. With technical assistance from a local independent living center and the local building inspector, the restaurant constructed a unisex accessible restroom, installed one van-accessible and two standard accessible parking spaces, and created an accessible path of travel from the parking area to the restaurant entrance.
- In California, a couple with mobility impairments complained that a cruise line did not honor a free-upgrade promotion because none of the cabins in the "upgrade class" were accessible. The cruise line agreed to offer accessible rooms from a comparable upgrade class and to provide additional training on the ADA to key management staff. It also agreed to provide a free 10-day cruise to the couple as compensation.
- In Georgia, a deaf individual complained that a doctor's office refused to provide her an interpreter for an appointment. The office agreed to provide appropriate auxiliary aids and entered into a contract with an interpreting service. In addition, the office posted signage indicating that assistance will be provided to persons with disabilities upon request.
- In California, an individual with a mobility disability complained that a theater did not have accessible restrooms. The theater adjusted the front doors to both the men's and women's restrooms and installed raised toilet seats. The theater also agreed to provide additional accessible restroom

signage and to run an announcement on the movie screen prior to each film explaining restroom locations. The theater also provided the complainant with complimentary movie tickets.

- In Tennessee, a couple complained that a hotel refused to honor their reservation upon learning that one of them uses a service animal, forcing them to find lodging elsewhere. The hotel agreed to apologize to the couple and to train its staff to carry out the requirements of the ADA. In addition, the hotel reimbursed the couple for the cost of substitute lodging as well for phone calls and postage required to make the change. Finally, the hotel extended an offer for a complimentary room for two nights.
  - A wheelchair user complained that, despite reserving an accessible room and reconfirming it shortly before her arrival, the desk clerk at a California hotel gave her an inaccessible room. The hotel agreed to retrain all desk clerks on procedures for holding guaranteed reservations and terminated the employee who changed the guaranteed reservation. It also agreed to make arrangements and pay for an accessible room at another hotel in the event a reserved accessible room is unavailable. Further, the hotel agreed to hire a trainer with expertise in ADA compliance to conduct an ADA workshop for managers of all properties in the hotel chain at their next annual conference, and to pay the complainant a \$1,500 consulting fee to incorporate her experiences and suggestions in the training. In addition, the hotel paid \$7,500 to the complainant for her suffering and embarrassment.
  - A wheelchair user in Florida complained that a cinema complex with ten movie theaters did not provide accessible seating or doors in the individual theaters and failed to provide accessible restrooms.
- The cinema removed existing seats and installed accessible seating in a variety of locations within each theater and signage to identify the location of the accessible seating. The respondent agreed to modify the stalls in both the men's and women's restrooms to make them accessible and to reduce the door opening force on all restroom and auditorium doors.
- A wheelchair user in Washington attended a stadium sporting event and complained that standing patrons were crowding the accessible seating area from behind and that vendors were using the accessible seating area as a walkway between seating sections and as a place to store the items they were selling. The stadium agreed to train ushers to keep space behind accessible seating areas clear and to instruct vendors to use alternate paths between seating sections and not to store their goods in accessible seating areas. In addition, the stadium agreed to allow the complainant to buy a preferred seating package, including accessible seats, for fewer games than is normally required.
  - In Massachusetts, an individual with a mobility impairment complained that a public golf course's policies excluded people with disabilities unnecessarily by restricting cart access to certain parts of the course. The golf course agreed to modify the existing policy and developed a written policy providing persons with mobility disabilities access by golf cart to specified areas otherwise off limits. The respondent also apologized to the complainant and offered him a pass for a complimentary round of golf.
  - In Florida, a wheelchair user complained that he had requested an accessible room at a hotel but did not receive one at check-in. The hotel agreed to make several changes to its reservations policy to ensure that guests requesting accessible rooms

actually receive them. Individuals making reservations with the hotel who request an accessible room will be offered a “personal planning” follow-up contact to provide detailed information about the accessible features at the hotel and provide an opportunity for guests to relate any additional specific requests. Any additional information from “personal planning” follow-ups will be conveyed to check-in staff.

- A deaf couple in Nevada complained that a health care provider in a remote area did not provide a sign language interpreter for an appointment. The doctor agreed to provide interpreters when requested and the parties worked together to identify potential interpreters in the area. In addition, the doctor agreed to write a letter to all the other medical practitioners in the area about how to provide effective communication to persons who are deaf and hard of hearing and including contact information for local interpreters.
- In Texas, a wheelchair user and her young daughter complained that although they had reserved an accessible room, there appeared to be no accessible features at the hotel when they arrived. The hotel sent a written apology to the daughter and reimbursed the mother \$700 for expenses incurred in finding alternative lodging. The hotel modified four guestrooms to make them accessible. Three additional rooms were added to the capital plan to be rebuilt with roll-in showers. In addition, the hotel modified the ballroom to make it accessible, including installation of a vertical wheelchair lift between two levels and lowering a section of the bar to make it accessible. The hotel also gutted and rebuilt restrooms in the lobby and sixth floor ballroom to be accessible and provided all staff members with training on the requirements of the ADA.

### 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 (ADA Standards). 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 accessibility requirements into accord with the ADA Standards. 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 States of Texas, Maine, Florida and Maryland currently have accessibility codes certified by the Department of Justice. The State of Washington recently implemented new accessibility requirements that replace the accessibility code certified previously by the Department. Requests from the States of California, Indiana, New Jersey, North Carolina and Utah for certification are pending before the Department. Recent certification-related activity includes --

**North Carolina** -- North Carolina officials were notified of the Department's preliminary determination of equivalency for the North Carolina Accessibility Code (NCAC). Prior to making a final determination regarding the NCAC, the Department will publish notices in the Federal Register of the preliminary determination of equivalency, and request comments in writing and at informal public hearings in North Carolina and Washington, D.C. After considering all of the comments and consulting with the U.S. Access Board, the Department will issue a final determination for the NCAC and publish a notice of the final determination in the Federal Register.

**Utah** -- The Division received a request for certification of Utah's newly adopted accessibility requirements for public accommodations and commercial facilities. This request updated and supplemented the State's pending request for certification review, which was based upon accessibility requirements in effect in Utah as of August 2003. In 2004 the State revised its accessibility code and conducted a public hearing in January 2005 regarding the State's intention to request ADA certification for the new code.

**Michigan** -- The Division received a request from Michigan for technical assistance in evaluating the consistency of the current Michigan accessibility code with the ADA's new construction and alterations requirements for public accommodations and commercial facilities. Michigan officials plan to utilize the Department's technical assistance in preparing a future request for certification for Michigan's accessibility code.

**Model Code Organization** -- The Division received a request from the International Code Council (ICC) for technical guidance regarding the extent to which the model accessibility code provisions of the 2003 edition of the International Building Code (IBC) are consistent with the new construction and alterations requirements of title III of the ADA.

## 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 and guidance to the public through our ADA Website, ADA Information Line, and ADA Fax on Demand; developing and disseminating technical assistance materials to the public; undertaking outreach initiatives; and coordinating ADA technical assistance governmentwide.**

### ADA Website

The Department's ADA Website on the Internet's World Wide Web provides direct access at anytime to ADA information offered by the Department and by other Federal agencies.

The ADA Home Page ([www.ada.gov](http://www.ada.gov)) is the entry point to the website. It provides direct access to --

- ◆ ADA regulations and technical assistance materials in English and Spanish (which may be viewed online or downloaded for later use),
- ◆ electronic versions of the ADA Standards for Accessible Design, including illustrations and hyperlinked cross-references,
- ◆ selected ADA legal documents, settlement agreements, and technical assistance letters,
- ◆ the ADA Business Connection, including ADA Business Briefs in English and Spanish,
- ◆ an online ordering form for the ADA Technical Assistance CD-ROM,
- ◆ links to the Department's press releases, and
- ◆ links to Internet web pages of other Federal agencies and Federal grantees that contain ADA information.

The ADA Website also 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.

**\*\* ADA Website Adds Two New Videos** -- Two new accessible streaming videos, -- “Ten Small Business Mistakes” and “The ADA Signing Ceremony,” now appear on the ADA Website ([www.ada.gov](http://www.ada.gov)). Available in both open-captioned and audio-described versions, the videos can be viewed easily through either a dial-up or a broadband internet connection. “Ten Small Business Mistakes” identifies common mistakes that small businesses make when trying to comply with the ADA and addresses the importance and value of doing business with 50 million people with disabilities. “The ADA Signing Ceremony” shows the speech delivered by President George H. W. Bush when signing the ADA into law on the White House lawn on July 26, 1990.

**\*\* New Publication Addresses Accessible Cells in Correctional Facilities** -- The Section’s newest technical assistance publication, “ADA/Section 504 Design Guide: Accessible Cells in Correctional Facilities,” provides guidance to the wide range of persons and entities involved in the design of correctional facilities, including law enforcement organizations, wardens and correctional officers, sheriffs, parole and probation officers, architecture firms, construction companies, and plumbing and fixture manufacturers that specialize in the design of justice-related facilities. Copies can be ordered through the ADA Information Line or downloaded from the ADA Website ([www.ada.gov](http://www.ada.gov)).

### 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 order publications by mail or fax, is available 24 hours a day, seven days a week. ADA specialists are available on Monday, Tuesday, Wednesday, and Friday from 9:30 a.m. until 5:30 p.m. and on Thursday from 12:30 p.m. until 5:30 p.m. (Eastern Time). Foreign 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)

### 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.

### 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

**Department Issues Updated Technical Assistance CD** -- The Department has produced a new edition of its popular technical assistance CD featuring three recently produced ADA publications -- “Communicating with People Who Are Deaf or Hard of Hearing in Hospital Settings,” “Communicating with Guests Who Are Deaf or Hard of Hearing in Hotels, Motels, and Other Places of Transient Lodging,” and the “ADA Checklist for Polling Places.” These publications, along with updates of other materials, have been added to the collection of ADA documents that were contained in the previous CD, including the Department’s ADA regulations, the ADA Standards for Accessible Design, the Title II and Title III Technical Assistance Manuals, a large collection of ADA technical assistance publications, and a complete set of the ADA status reports, “Enforcing the ADA,” dating from 1994. From a home page on the CD, users with personal computers can select, view, and print the files in the same manner as from a web site. All publications are provided in WordPerfect and text formats for users who prefer these formats. Most of the publications can also be viewed in Acrobat (PDF) format which looks the same as the original printed version. To order the updated CD online, please go to the ADA Home Page ([www.ada.gov](http://www.ada.gov)) and select the link for the CD. To order by telephone, please call the ADA Information Line, 800-514-0301 (voice) or 800-514-0383 (TTY).

print, Braille, audiotape, or computer disk for persons with disabilities.

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

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

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](http://www.usdoj.gov)). A link to search or visit this website is provided from the ADA Home Page.

## 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](http://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](http://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/ada](http://www.fta.dot.gov/ada)

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](http://www.access-board.gov)

The **ADA and IT 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](http://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)

[www.projectaction.org](http://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](http://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.