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Subseries:

OA/ID Number: 5091

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Folder Title:

Americans with Disabilities

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Facts You Can Use— People with Disabilities

Background data on people with disabilities that you can use in your community education programs

Who Are the People with Disabilities?

There are many different ways of defining and counting people with disabilities. This fact sheet offers a variety of research data from different perspectives.

The Americans with Disabilities Act covers people whose disabilities typically cause great difficulty in such daily activities as walking, talking, seeing, hearing, communicating, learning, or working.

The National Center for Health Statistics, in its annual National Health Interview Survey of U.S. households, estimates the prevalence of various types of impairments. All ages are surveyed, and the impairments reported may cause mild as well as severe difficulties in daily activities.

Total Number of People Who Reported Impairments	No. Per 1000
People with hearing impairments. . . . 23,296,000	94.7
People with visual impairments. . . . 7,525,000	30.6
People with speech impairments. . . . 2,285,000	9.3
People with arthritis. . . . 30,833,000	125.3
People with epilepsy. . . . 1,174,000	4.8
People with missing extremities (excluding toes & fingers). . . . 1,232,000	5.0
People who have partial or complete paralysis. . . . 1,445,000	5.9

In addition, many people in the households surveyed reported health conditions often considered "impairments" or "disabilities." Examples include:

People with diabetes. . . . 6,232,000	25.3
People with hypertension. . . . 27,129,000	110.2
People with heart disease. . . . 19,307,000	78.5
People with kidney trouble. . . . 3,061,000	12.4
People with back injury. . . . 17,308,000	70.3

The Centers for Disease Control estimate that one percent to two percent of the noninstitutionalized population are persons with **mental retardation** and that two out of every one thousand people have **cerebral palsy**. A soon-to-be published survey from the National Center on Health Statistics reports approximately 1.4 million people in the United States use **wheelchairs**. The Interagency Committee on Learning Disabilities, in its 1987 report to Congress, estimates that between five and ten percent of the United States population—or approximately 12 to 25 million people—have **learning disabilities**. And according to the Center for Psychiatric Disabilities at Boston University, 2.5 million people have severe, long-term **mental illness**.

Who Are the Working-Age Adults with Disabilities?

- They are Americans with a “work disability,” defined by the U.S. Census Bureau as a “yes” answer to the following question:

“Does anyone in this household have a health problem or disability which prevents them from working or limits the amount or kind of work they can do?”

The Census Bureau poses this question each year in the March supplement to its monthly *Current Population Survey* of approximately 60,000 households. The main purpose of the survey is to gather statistics on employment, unemployment, income, and poverty. The figures in this fact sheet come from the March 1991 *Current Population Survey*.

- Most working-age adults with disabilities live and work in metropolitan areas in . . .
 - the South: 5,359,000
 - the Midwest: 3,339,000
 - the West: 3,055,000
 - the Northeast: 2,894,000
- 14,648,000 have a work disability; 4,250,484 are employed; 10,397,000 are not employed.

How Many Adults with a Work Disability Are Employed?

Here is the latest census data showing how many civilians with disabilities, age 16 to 64, are employed either full or part-time:

Sex	Total No. Who Have A Work Disability	Total No. Employed Full- or Part-Time
Both sexes	14,648,000	4,250,484 (29.0%)
Women	7,380,000	1,830,240 (24.8%)
Men	7,268,000	2,420,244 (33.3%)
White women	5,690,000	1,581,820 (27.8%)
White men	5,853,000	2,077,815 (36.6%)
Black women	1,455,000	194,970 (13.4%)
Black men	1,207,000	217,260 (18.0%)
Women, Hispanic origin	568,000	86,336 (15.2%)
Men, Hispanic origin	620,000	151,900 (24.5%)

What Has Been the Hiring Trend?

This chart shows an UPWARD trend in employment of **women** with and without a work disability and a DOWNWARD trend in employment of **men** with and without a work disability.

Percentage Employed Full-Time	1981	1986	1991
Women with a work disability	11.4	11.3	15.1
Women with no work disability	41.6	44.8	49.1
Men with a work disability	29.8	25.8	25.3
Men with no work disability	74.1	73.6	72.4

For more information...

Copies of "Current Estimates From the National Health Interview Survey, 1990" can be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC, 20402. The cost is \$11.00 and can be ordered using Stock Number 0170220114912. If you have any questions about the statistics from the National Health Interview Survey, call 301-436-8500.

To obtain disability statistics from the U.S. Census Bureau, write to:

Disability Statistics
Housing and Household Economic Statistics Division
U.S. Bureau of the Census
Washington, DC 20233

Words with Dignity

Guidance on how to write and speak about people with disabilities

Choosing Words with Dignity

People with disabilities, like other minority groups, are actively seeking full civil rights. They want to be accepted in their communities as equals.

Your portrayal of individuals with handicapping conditions can greatly affect the public's perception of their worth. What you write and what you say can enhance the dignity of people with disabilities and can promote positive attitudes about their abilities.

Let your descriptive words emphasize the person's worth and abilities, not the disabling condition. Refer to the person first rather than the disability. The phrase "people with disabilities" is preferred, for instance, over "the disabled" which tends to emphasize disability and to create the image of an unusual and homogeneous group.

Affirmative Phrases

- person who is blind; person who is visually impaired
- person who is deaf; person who is hearing impaired
- person who has multiple sclerosis
- person affected by cerebral palsy
- person who has muscular dystrophy
- person with mental retardation
- person with epilepsy; person with a seizure disorder
- person who uses a wheelchair
- person without disabilities; non-disabled person
- physically disabled
- unable to speak; non-verbal
- seizure
- successful, productive

Negative Phrases

- the blind
- suffers a hearing loss
- afflicted by MS
- CP victim
- stricken by MD
- retarded; mentally defective
- epileptic
- confined or restricted to a wheelchair
- normal person (implies person with a disability isn't normal)
- cripple; lame; deformed
- dumb; mute
- fit
- courageous (implies the person is a hero or martyr)
- drain; burden; poor; unfortunate

President's Committee on Employment of People with Disabilities
1331 F Street, NW • Washington, DC 20004-1107

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The Harris Poll

THE HARRIS POLL 1992 #76

For release: Sunday, November 29, 1992

PRESIDENT BUSH DID POORLY AMONG DISABLED VOTERS IN SPITE OF PASSING MAJOR NEW LAW TO HELP DISABLED PEOPLE

by Humphrey Taylor

Despite all the support he gave to legislation to help the disabled, President Bush was badly beaten by Bill Clinton among disabled voters. The president championed the Americans with Disabilities Act, a new law giving disabled people important new rights, pushing it through Congress and referring to it repeatedly during the campaign.

past record

In the election, Clinton enjoyed a 24 percent lead among disabled voters, which was 19 percentage points better than his 5 point margin of victory. In 1988, George Bush lost the disabled vote by 5 percentage points to Michael Dukakis, which was only 13 points worse than Bush's 8 point margin of victory.

In 1988, Harris surveys tracking the voting intentions of the disabled showed Bush making strong gains among this group before the election. In that campaign, Bush spoke to the concerns of disabled voters in several appearances, including his acceptance speech at the Republican convention, which seemed to help him.

Disabled people form a large, but often overlooked, block of voters. There are more disabled voters than black voters, for example, but they received much less attention from the candidates, the parties and the media. In total, disabled people comprise at least 13 percent of the population and about 10 percent of those who actually vote.

During the 1992 campaign, President Bush made repeated references to the Americans with Disabilities Act, which he pushed through the Congress, presumably with a view to attracting disabled voters. Even though this was a major piece of legislation that gave disabled people very important new rights, Mr. Bush failed to do well among disabled voters this time.

X No future plan

In 1992, it seems likely that disabled voters -- who are much poorer and are much more likely to be unemployed than other voters -- were particularly badly hit by the nation's economic problems for which George Bush was generally blamed.

Clinton offered more

Furthermore, they were more concerned about health care reform, an issue where Clinton enjoyed a clear advantage. For these and possibly other reasons, disabled voters did not vote to support a president who has pushed very hard for their rights, harder than many Conservatives and Republicans would have liked.

Humphrey Taylor is the President and CEO of Louis Harris and Associates, Inc.

(NOTE TO EDITORS: This is the last Harris Poll that will focus on the 1992 election.)

TABLE 1

HOW DISABLED PEOPLE VOTED IN '88 AND '92
COMPARED TO ALL VOTERS

	1988		1992	
	Disabled %	All %	Disabled %	All %
Bush	47	54	27	37
Dukakis/Clinton	52	46	41	42
Perot ('92 only)	-	-	21	19
Other Candidates	1	1	1	1
Bush Lead	-5	8	-24	-5
Difference in lead between All Voters and Disabled Voters	13% (More Democratic)		19% (More Democratic)	

LUJUIS HARRIS & ASSOC TEL: 1-212-698-9667

Dec 04, 92 12:08 No.003 P.04

TABLE 2

DISABLED AND ALL VOTERS COMPARED AT FIVE POINTS IN CAMPAIGN

	DISABLED LIKELY REGISTERED VOTERS				ALL LIKELY VOTERS			
	Bush	Clinton	Perot*	None/ Other/ Not Sure	Bush	Clinton	Perot	None/ Other/ Not Sure
<u>Between Conventions</u>	%	%	%	%	%	%	%	%
Aug. 17-19	29	63	N/A	8	36	60	N/A	4
<u>After Republican Convention</u>								
Aug. 26-Sept. 1	34	40	23	3	35	38	22	5
Oct. 2-4	20	61	14	6	36	53	9	3
Oct. 20-22	25	51	16	8	32	46	18	4
Oct. 30-Nov. 1	26	50	18	6	37	43	16	4

*Where asked.

TABLE 3

CLINTON LEAD OVER BUSH AT FIVE POINTS IN CAMPAIGN

	Among Disabled Likely Voters	Among All Likely Voters	Difference*
	%	%	%
Aug. 17-19	34	24	10
Aug. 26-Sept. 1	6	3	3
Oct. 2-4	41	17	24
Oct. 20-22	26	14	12
Oct. 30-Nov. 1	24	6	18

*More Democratic.

METHODOLOGY

This column was based on several Harris Polls conducted by telephone within the United States between Aug. 17-Aug. 19, Aug. 26-Sept. 1, Oct. 2-Oct. 4, Oct. 20-Oct. 22 and Oct. 30-Nov. 1, among a nationwide cross section of 1,256 adults, 904 likely voters, 1,015 likely voters, 1,021 likely voters and 2,169 likely voters respectively from a sample of 1,256 adults, 1500 adults, 1,583 adults, 1600 adults and 3,197 adults respectively. Figures for age, sex, race and education were weighted where necessary to bring them into line with their actual proportions in the population.

In theory, with a sample of this size, one can say with 95 percent certainty that the results have a statistical precision of plus or minus 3 percentage points of what they would be if the entire adult population had been polled with complete accuracy. Unfortunately, there are several other possible sources of error in all polls or surveys which are probably more serious than theoretical calculations of sampling error. They include refusals to be interviewed (non-response), question wording and question order, interviewer bias, weighting by demographic control data and screening (e.g., for likely voters.) It is difficult or impossible to quantify the errors which may result from these factors.

This statement conforms to the principles of disclosure of the National Council on Public Polls.

921205, 921206, 921207, 921106, 921129

Contact Louis Harris and Associates, Inc., Information Services, 630 Fifth Avenue, New York, N.Y. 10111. (212) 698-9697, for complete demographic details for the questions in this release.

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ISSN 0895-7983

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Americans with Disabilities Act, a Summary

A description of the enforcement jurisdiction, effective dates and regulatory agencies for the titles and parts of the Act.

ADA: Implementation Dates

P.L. 101-336

Title	Law's Effective Date	Regulations by Federal Agency	Enforcement Jurisdiction
Title I Employment	July 26, 1992 for employers with twenty-five (25) or more employees; July 26, 1994 for employers with fifteen (15) or more employees.	July 26, 1991 all regulations from Equal Employment Opportunity Commission (EEOC).	Remedies for violations of Title I of the ADA include hiring, reinstatement, promotion, back pay, front pay, restored benefits, reasonable accommodation, attorneys' fees, expert witness fees, and court costs. Compensatory and punitive damages also may be available in cases of intentional discrimination or where an employer fails to make a good faith effort to provide a reasonable accommodation.
Title II Public Services All activities of local and state governments	January 26, 1992	July 26, 1991, all regulations from Attorney General.	Remedies identical to those under the Rehabilitation Act of 1973 Section 505 which include private right of action, injunctive relief, and some damages.
(Part I) Public transportation (buses, light and rapid rail including fixed-route systems, paratransit, demand response systems and transportation facilities).	August 26, 1990, all orders for purchases or leases of new vehicles must be for accessible vehicles; one-car-per-train must be accessible as soon as practicable, but no later than July 26, 1995; paratransit services must be provided after January 26, 1992; new stations built after January 26, 1992 must be accessible. Key stations must be retrofitted by July 26, 1993; with some extensions allowed up to July 26, 2020.	July 26, 1991, all regulations from Secretary of Transportation.	Same as above.
(Part II) Public transportation by intercity Amtrak and commuter rail (including transportation facilities).	By July 26, 2000, Amtrak passenger coaches must have same number of accessible seats as would have been available if every car were built accessible; half of such seats must be available by July 26, 1995. Same one-car-per-train rule and new stations rule as above. All existing Amtrak stations must be retrofitted by July 26, 2010; key commuter stations must be retrofitted by July 26, 1993 with some extensions allowed up to 20 years.	July 26, 1991, all regulations from Secretary of Transportation.	Same as above.

Americans with Disabilities Act, a Summary

Title	Law's Effective Date	Regulations by Federal Agency	Enforcement Jurisdiction
Title III Public accommodations operated by private entities.			
A. Public accommodations (all business and service providers.)	In general, January 26, 1992, except no lawsuits may be filed before July 26, 1992 against businesses with twenty-five (25) or fewer employees and revenues of \$1 million or less; or before January 26, 1993 for businesses with ten (10) or fewer employees and revenues of \$500,000 or less.	July 26, 1991, regulations from Attorney General. Standards must be consistent with the Architectural and Transportation Barriers Compliance Board (ATBCB) guidelines.	For individuals, remedies identical to Title II of the Civil Rights Act of 1964 which are private right of action, injunctive relief: For Attorney General enforcement in pattern or practice cases or cases of general importance with civil penalties and compensatory damages.
B. New construction—alteration to public accommodations and commercial facilities.	January 26, 1992, for alterations. January 26, 1993 for new construction.	Same as above.	Same as above.
C. Public transportation provided by private entities.	In general, January 26, 1992, but by August 26, 1990 all orders for purchases or leases of new vehicles must be for accessible vehicles. Calls for a three (3) year study of over-the-road buses to determine access needs with requirements effective July 26, 1996 to July 26, 1997.	July 26, 1991, regulations from Secretary of Transportation. Regulations will be based on standards issued by the ATBCB.	Same as above.
Title IV Telecommunications	July 26, 1993, telecommunications relay services to operate twenty-four (24) hours per day.	July 26, 1991, all regulations by the Federal Communications Commission.	Private right of action and Federal Communications Commission.
Title V Miscellaneous	Effective dates of Title V are those determined by most of the analogous sections in Titles I through IV.	In general this title depicts the ADA's relationship to other laws, explains insurance issues, prohibits state immunity, provides congressional inclusion, sets regulations by ATBCB, explains implementation of each title and notes amendments to the Rehabilitation Act of 1973.	

For Additional General Information

Write to:

President's Committee on Employment
of People with Disabilities
1331 F Street, NW, Washington, DC
20004-1107

Phone: 202-376-6200 (Voice)
202-376-6205 (TDD)
202-376-6219 (FAX)

All public documents produced by the President's Committee on Employment of People with Disabilities are available in alternative format.

March, 1992

Agriculture to develop a procedure whereby individuals could apply for the Food Stamp and Supplemental Security Income (SSI) benefits on a single application prior to their release from a public institution.

The "Hunger Prevention Act of 1988" (P.L. 100-435) made available additional types of commodities to improve food stamp programs. It also amended the Act to reduce barriers to participation by individuals who are elderly and disabled.

RIGHTS

AMERICANS WITH DISABILITIES ACT

A. Overview

Throughout the 1970s and 1980s, Congress enacted numerous bills aimed at protecting individuals with disabilities against discrimination and other forms of unjust treatment. Among the types of statutory safeguards extended to individuals with disabilities were (a) protection against discrimination in federally assisted and federally conducted programs; (b) accessibility to facilities and programs supported or operated by the federal government; (c) the right to a free, appropriate education; (d) an entitlement to constitutional rights to protection from harm in institutions; (e) access to protection and advocacy services for individuals who are developmentally disabled, chronic mental illness or have other severe disabling conditions; and, (f) the right of infants born with disabilities to medically indicated treatment."

Finally, after nearly two decades of legislative activities, in 1990 Congress approved the Americans with Disabilities Act (P.L. 101-336), a sweeping affirmation of the rights of citizens with disabilities. As President George Bush said in signing this legislation into law, it represents "... the first comprehensive act of equality for persons with disabilities in the world" and "... brings us closer to the day when no American will be denied their right to life, liberty and the pursuit of happiness."

B. Major Legislation Affecting Persons with Disabilities

This landmark legislation is divided into five titles, following an introductory section that spells out the findings and purposes of the legislation and defines a number of key terms that are used throughout the ADA. Title I of the Act prohibits discriminatory employment practices, while Title II deals with discrimination in public services. Parallel provisions governing the denial of rights and privileges to persons with disabilities in privately operated settings that are open to the public are contained in Title III of the Act. Title IV of the ADA requires telephone companies to install telecommunication relay services for persons with speech and hearing impairments. Finally, Title V includes a number of miscellaneous provisions.

The Act has the following basic purposes:

- "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- ...to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
- ...to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and
- ...to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities."

The term "disability" is defined in Section 3 of the Act as:

- "(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment."

1. Employment. The Act specifies that no covered entity shall discriminate against a qualified person with a disability, based on his/her disability, in regard to application procedures, hiring, advancement, discharge, employee compensation, job training, or other terms, conditions and privileges of employment. The provisions of Title I become effective 24 months following the date of enactment (July 26, 1992). During the initial two years following the effective date of Title I, only employers with 25 or more employees are covered by the provisions of the Act. Thereafter, employers with 15 or more employees are covered.

Discrimination in employment is interpreted to include:

- limiting, segregating, or classifying a job applicant or employee in a way that adversely affects his or her opportunities or status;
- participating in contractual or other arrangements that have the effect of subjecting individuals with disabilities to discrimination;
- using standards, criteria or methods of administration that have a discriminatory effect or perpetuate discrimination of other individuals who are subject to common administrative controls;
- excluding or denying equal opportunities to a qualified non-disabled individual because of his/her relationship to a person with a disability;

- failing to make reasonable accommodations to the known limitations of a qualified individual with a disability unless such entity can demonstrate that the accommodation would impose an undue hardship on its business;
- denying employment opportunities to a qualified individual because he/she needs a reasonable accommodation;
- imposing or applying tests and other selection criteria that screen out (or tend to screen out) individuals with disabilities, unless such tests or other selection criteria can be shown to be job-related and consistent with business necessity; and
- failing to select and administer employment-related tests in a manner sensitive to the needs of people with disabilities.

For purposes of applying the prohibition against discriminatory practices, the term "qualified individual with a disability" is defined as:

"...an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position...."

Consideration is to be given to the employer's judgement regarding the essential functions of a particular job.

The Act also defines the terms "reasonable accommodation" and "undue hardship". A "reasonable accommodation" may include (a) making existing facilities "...readily accessible to and useable by individuals with disabilities"; and (b) restructuring a job; modifying work schedules; reassigning persons to vacant positions; acquiring or modifying equipment/devices; modifying examinations, training materials and policies; the provision of qualified readers/interpreters and similar changes. An "undue hardship" is "an action requiring significant difficulty or expense when considering..." such factors as (a) the nature and cost of the proposed accommodation; (b) the overall financial resources of the facility(ies) and the number of people with disabilities who would be affected; (c) the overall financial resources of the covered entity; and (d) the type of operations of the covered entity.

Current users of illegal drugs are not considered to be "qualified individuals with disabilities" and, thus, are not subject to the protections of the Act. Individuals who are enrolled in drug rehabilitation programs and not currently using illegal medications, however, are protected.

The Equal Employment Opportunities (EEOC) Commission is directed to promulgate regulations implementing Title I of the Act within one year of the date of enactment. [N.B., Final implementing regulations were published by EEOC on July 26, 1991.]

2. Public Services. Unlike Section 504 of the Rehabilitation Act (see description below), Title II of the ADA makes all activities of state and local agencies (i.e., not just federally funded activities) subject to the protections of the Act.

All newly purchased fixed route buses of all sizes as well as rail and other fixed route vehicles must be readily accessible to and useable by individuals with disabilities. This provision applies to all solicitations to purchase such vehicles issued 30 days or more after the enactment date of the ADA. No retrofitting of existing vehicles is required, however.

Communities with fixed route transportation systems also must operate a paratransit system to serve individuals with disabilities who are unable to use fixed route transportation. However, in establishing and maintaining such paratransit systems, communities generally are not required to make expenditures that would impose an undue financial burden.

Thirty days after the effective date of the Act (i.e., January 26, 1992), all new buses and other vehicles purchased by communities that operate demand-responsive transit systems which provide transportation services to the general public must be readily accessible to and useable by persons with disabilities, unless the system can demonstrate that, when viewed in its entirety, it provides an equivalent level of services to individuals with disabilities as it does to other members of the general public.

All newly constructed/manufactured facilities used to provide public transportation services must be accessible (rail and bus stations; airports, etc.). In addition, when alterations are made to existing facilities that affect the useability of the facility, such alterations, including the path of travel to the altered facilities as well as the bathrooms, telephones, and drinking fountains serving the remodeled area, must be accessible. The obligation to make the path of travel accessible, however, applies only when the covered entity undertakes major structural modifications.

All stations in intercity rail systems must be accessible to persons with disabilities within twenty years of the date of enactment and key stations in rapid rail, commuter rail and light rail systems must be made readily accessible as soon as practicable but in any event no later than three years after the date of enactment; however, the Secretary of Transportation is authorized to extend the deadline for achieving full accessibility in instances where extraordinarily expensive structural changes or replacement of existing facilities are necessary.

Intercity, light rail, rapid and commuter rail systems must have at least one car per train accessible to persons with disabilities as soon as possible but in any event within five years.

The Attorney General is responsible for promulgating rules to implement Title II within one year of the enactment date of the legislation. In addition, the Secretary of Transportation is directed to issue regulatory standards that are consistent with the minimum accessibility guidelines/requirements published by the Architectural and Transportation Barriers Compliance Board. The latter rules also are to be issued within one year of the enactment date. [N.B., Both set of rules were issued in final form on September 6, 1991.]

For purposes of Title II of the Act, the term "qualified individual with a disability" means:

"...an individual with a disability who, with or without reasonable modifications to rules, policies, practices, the removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity."

The provisions of Title II become effective 18 months after the date of enactment, except for the provision governing the purchase of new buses which takes effect immediately.

3. Public Accommodations and Services Operated by Private Entities. Title III of the Act states that:

"No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation."

The term "public accommodation" is broadly defined to include (a) an inn, hotel, motel or other place of lodging (unless it has five or fewer rooms for rent and is occupied by the proprietor); (b) a restaurant, bar or other establishment serving food or drink; (c) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment; (d) an auditorium, convention center, lecture hall, or other place of public gathering; (e) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or retail establishment; (f) a laundromat, dry cleaner, bank, barbershop, travel service, funeral parlor, gas station, office of an accountant, lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment; (g) a terminal, depot, or other station used for specified transportation; (h) a

museum, library, gallery, or other place of public display or collection; (i) a park, zoo, amusement park or other place of recreation; (j) a nursery, elementary, secondary, undergraduate or postgraduate private school or other place of education; (k) a day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service establishment; and (l) a gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation.

The Act contains general and specific categories of prohibited discrimination. Among the general categories of discrimination specified in the legislation are:

- denying individuals the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages or accommodations furnished by a covered entity;
- affording persons with disabilities an opportunity that is not equal to that afforded to citizens without a disability;
- providing an opportunity that is less effective than that provided to other citizens; and
- providing an opportunity that is different or separate, unless such action is necessary to furnish the affected individual with an opportunity that is as effective as that provided to other (non-disabled) citizens.

Other categories of discrimination mentioned in Title III of the ADA are:

- denial of participation;
- participation in an unequal program or benefit;
- provision of a separate benefit or program;
- failure to provide goods, services or accommodations "... in the most integrated setting appropriate to the needs of the individual";
- denial of the opportunity to participate in programs and activities that are not separate and different;
- the use of administrative methods that have the effect of discriminating on the basis of disability or perpetuating discrimination of others who are subject to common administrative control; and
- discriminating against an individual on the basis of his/her association with a person with a disability.

Among the specific acts of discrimination that are prohibited under the Act are:

- the use of eligibility criteria that tend to screen out persons with disabilities;

- failure to make reasonable modifications in policies, practices or procedures when such changes would result in appropriate accommodations for persons with disabilities, unless it can be demonstrated that such modifications would "... fundamentally alter the nature" of the goods, services or facilities being provided;
- failure to provide auxiliary aids that are necessary to allow persons with disabilities to take advantage of the particular goods, services or facilities unless the provision of such aids would constitute an undue burden;
- failure to remove architectural, communications and transportation barriers where such removal is "readily achievable"; and
- failure to make goods, services or facilities available through alternative methods in cases where the removal of architectural, communications or transportation barriers are not readily achievable, provided such alternative methods are readily achievable.

Title III also contains specific provisions governing the accessibility of privately operated transportation services that parallel the provisions affecting public transit systems included in Title II of the legislation. Newly constructed places of public accommodation and commercial facilities which are opened 30 months or more after the enactment date of the ADA must be accessible to people with disabilities, unless the affected entity can demonstrate that such action would be "structurally impractical".

The provisions of Title III do not apply to "... individuals who pose a direct threat to the health and safety of others". The term "readily achievable" is defined as "... easily accomplishable and able to be carried out without much difficulty or expense".

The Secretary of Transportation is directed to issue regulations governing the operation of private transit services within one year of the enactment date of the legislation. By this same date, the Attorney General is responsible for publishing regulations governing the remainder of Title III. [N.B., These regulations were promulgated in final form on September 6, 1991.]

Title III becomes effective 18 months after the date of enactment (i.e., January 26, 1992).

4. Telecommunications. Under Title IV of the bill, telephone companies that offer services to the general public also must provide interstate and intrastate telecommunication relay services for persons who are deaf, hearing and speech impaired, unless such services are furnished as part of a statewide relay program. The Federal Communications Commission is responsible for issuing implementing

regulations within one year of the date of enactment. [N.B.: These regulations were issued in final form on August 2, 1991.]

Title IV of the Act also provides that all television public service announcements that are produced or funded by an agency of the federal government must include closed captioning for persons who are deaf or hearing impaired.

5. Miscellaneous Provisions. Title V of the Act specifies that the ADA shall not be construed to reduce the scope of coverage or standards applicable to federal agencies and recipients of federal assistance under Title V of the Rehabilitation Act of 1973, as amended. In addition, nothing in the Act shall be construed to invalidate or limit the rights, remedies or procedures available to individuals with disabilities under other federal, state or local laws.

Title V also (a) makes the provisions of the Act fully applicable to state governments by waiving immunity under the Eleventh Amendment to the U.S. Constitution; (b) prohibits acts of retaliation or coercion against persons with disabilities (or individuals who aid them) who exercise rights granted under the Act; (c) authorizes the Architectural and Transportation Barriers Compliance Board to issue minimum accessibility guidelines; (d) allows the prevailing party in any litigation under the Act to recover reasonable attorney's fees; (e) directs the Attorney General to develop and issue a plan to assist all covered entities to fulfill their responsibilities under the Act and authorizes all responsible federal agencies to furnish technical assistance on those aspects of the Act for which they are responsible; (f) directs the National Council on Disability to conduct a study of the effects designation and land management practices have on the ability of persons with disabilities to enjoy national wilderness areas; and (g) spells out the policies and procedures to be used in enforcing the rights and privileges of employees of the House of Representatives, the Senate and other agencies of the Legislative Branch.

References: Americans with Disabilities Act, 42 U.S.C. 12101, et. seq. C.F.D.A.: N/A.

FAIR HOUSING ACT

In 1988, Congress enacted amendments to the Fair Housing Act of 1968 (Title VIII of the Civil Rights Act) which extended the protections afforded by the legislation to individuals with disabilities (P.L. 100-430). Prior to the passage of these far-reaching amendments, the Act only applied to discrimination in the sale or rental of housing based on race, color, religion, sex and national origin.

The passage of P.L. 100-430 served as a precursor to the enactment of the Americans with Disabilities Act in 1990. In both cases, the fundamental thrust of the legislation was to extend the principle of



Americans with Disabilities Act Requirements

Fact Sheet

Employment

- ✓ Employers may not discriminate against an individual with a disability in hiring or promotion if the person is otherwise qualified for the job.
 - ✓ Employers can ask about one's ability to perform a job, but cannot inquire if someone has a disability or subject a person to tests that tend to screen out people with disabilities.
 - ✓ Employers will need to provide "reasonable accommodation" to individuals with disabilities. This includes steps such as job restructuring and modification of equipment.
 - ✓ Employers do not need to provide accommodations that impose an "undue hardship" on business operations.
- Who needs to comply:*
- ✓ All employers with 25 or more employees must comply, effective July 26, 1992.
 - ✓ All employers with 15-24 employees must comply, effective July 26, 1994.

Transportation

- ✓ New public transit buses ordered after August 26, 1990, must be accessible to individuals with disabilities.
- ✓ Transit authorities must provide comparable paratransit or other special transportation services to individuals with disabilities who cannot use fixed route bus services, unless an undue burden would result.
- ✓ Existing rail systems must have one accessible car per train by July 26, 1995.
- ✓ New rail cars ordered after August 26, 1990, must be accessible.
- ✓ New bus and train stations must be accessible.
- ✓ Key stations in rapid, light, and commuter rail systems must be made accessible by July 26, 1993, with extensions up to 20 years for commuter rail (30 years for rapid and light rail).
- ✓ All existing Amtrak stations must be accessible by July 26, 2010.

Public Accommodations

- ✓ Private entities such as restaurants, hotels, and retail stores may not discriminate against individuals with disabilities, effective January 26, 1992.
- ✓ Auxiliary aids and services must be provided to individuals with vision or hearing impairments or other individuals with disabilities, unless an undue burden would result.
- ✓ Physical barriers in existing facilities must be removed, if removal is readily achievable. If not, alternative methods of providing the services must be offered, if they are readily achievable.
- ✓ All new construction and alterations of facilities must be accessible.

State and Local Government

- ✓ State and local governments may not discriminate against qualified individuals with disabilities.
- ✓ All government facilities, services, and communications must be accessible consistent with the requirements of section 504 of the Rehabilitation Act of 1973.

Telecommunications

- ✓ Companies offering telephone service to the general public must offer telephone relay services to individuals who use telecommunications devices for the deaf (TDD's) or similar devices.

This document is available in the following accessible formats:

- Braille
- Large print
- Audio tape
- Electronic file on computer disk
and electronic bulletin board. (202) 514-6193

For more information about the ADA contact:

U.S. Department of Justice
Civil Rights Division
Public Access Section
P.O. Box 66738
Washington, D.C. 20035-6738
(202) 514-0301 (Voice)
(202) 514-0381 (TDD)
(202) 514-0383 (TDD)



Americans with Disabilities Act Requirements in Public Accommodations Fact Sheet

General

- ✓ Public accommodations such as restaurants, hotels, theaters, doctors' offices, pharmacies, retail stores, museums, libraries, parks, private schools, and day care centers, may not discriminate on the basis of disability. Private clubs and religious organizations are exempt.
- ✓ Reasonable changes in policies, practices, and procedures must be made to avoid discrimination.

Auxiliary Aids

- ✓ Auxiliary aids and services must be provided to individuals with vision or hearing impairments or other individuals with disabilities, unless an undue burden would result.

Physical Barriers

- ✓ Physical barriers in existing facilities must be removed, if removal is readily achievable. If not, alternative methods of providing the services must be offered, if they are readily achievable.
- ✓ All new construction in public accommodations, as well as in "commercial facilities" such as office buildings, must be accessible. Elevators are generally not required in buildings under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center, mall, or a professional office of a health care provider.
- ✓ Alterations must be accessible. When alterations to primary function areas are made, an accessible path of travel to the altered area (and the bathrooms, telephones, and drinking fountains serving that area) must be provided to the extent that the added accessibility costs are not disproportionate to the overall cost of the alterations. Elevators are required as described above.

✓ Entities such as hotels that also offer transportation must generally provide equivalent transportation service to individuals with disabilities. New fixed-route vehicles capable of carrying more than 16 passengers must be accessible.

Remedies

✓ Individuals may bring private lawsuits to obtain court orders to stop discrimination, but money damages cannot be awarded.

✓ Individuals can also file complaints with the Attorney General who may file lawsuits to stop discrimination and obtain money damages and penalties.

This document is available in the following accessible formats:

- Braille
- Large Print
- Audiotape
- Electronic file on computer disk and
electronic bulletin board (202) 514-6193

For more information on the ADA contact:

U.S. Department of Justice
Civil Rights Division
Public Access Section
P.O. Box 66738
Washington, D.C. 20035-6738
(202) 514-0301 (Voice)
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3

Divider Title: _____



Title II Highlights

- I. Who is covered by title II of the ADA
- II. Overview of Requirements
- III. “Qualified Individual with a Disability”
- IV. Program Access
- V. Integrated Programs
- VI. Communications
- VII. New Construction and Alterations
- VIII. Enforcement
- IX. Complaints
- X. Designated Agencies
- XI. Technical Assistance

I. Who is Covered by Title II of the ADA

- The title II regulation covers “public entities.”
- “Public entities” include any State or local government and any of its departments, agencies, or other instrumentalities.
- All activities, services, and programs of public entities are covered, including activities of State legislatures and courts, town meetings, police and fire departments, motor vehicle licensing, and employment.
 - Unlike section 504 of the Rehabilitation Act of 1973, which only covers programs receiving Federal financial assistance, title II extends to all the activities of State and local governments whether or not they receive Federal funds.
- Private entities that operate public accommodations, such as hotels, restaurants, theaters, retail stores, dry cleaners, doctors’ offices, amusement parks, and bowling alleys, are not covered by title II but are covered by title III of the ADA and the Department’s regulation implementing title III.
- Public transportation services operated by State and local governments are covered by regulations of the Department of Transportation.
 - DOT’s regulations establish specific requirements for transportation vehicles and facilities, including a requirement that all new busses must be equipped to provide services to people who use wheelchairs.

II. Overview of Requirements

- State and local governments --
 - May not refuse to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability.
 - For example, a city may not refuse to allow a person with epilepsy to use parks and recreational facilities.
 - Must provide programs and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.
 - Must eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy their services, programs or activities unless “necessary” for the provisions of the service, program or activity.
 - Requirements that tend to screen out individuals with disabilities, such as requiring a driver’s license as the only acceptable means of identification, are also prohibited.

- Safety requirements that are necessary for the safe operation of the program in question, such as requirements for eligibility for drivers' licenses, may be imposed if they are based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.
- Are required to make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result.
 - For example, a city office building would be required to make an exception to a rule prohibiting animals in public areas in order to admit guide dogs and other service animals assisting individuals with disabilities.
- Must furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.
- May provide special benefits, beyond those required by the regulation, to individuals with disabilities.
- May not place special charges on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as making modifications required to provide program accessibility or providing qualified interpreters.
- Shall operate their programs so that, when viewed in their entirety, they are readily accessible to and usable by individuals with disabilities.

III. "Qualified Individuals with Disabilities"

- Title II of the Americans with Disabilities Act provides comprehensive civil rights protections for "qualified individuals with disabilities."
- An "individual with a disability" is a person who --
 - Has a physical or mental impairment that substantially limits a "major life activity," or
 - Has a record of such an impairment, or
 - Is regarded as having such an impairment.
- Examples of physical or mental impairments include, but are not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. Homosexuality and bisexuality are not physical or mental impairments under the ADA.

- “Major life activities” include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- Individuals who currently engage in the illegal use of drugs are not protected by the ADA when an action is taken on the basis of their current illegal use of drugs.
- “Qualified” individuals.
 - A “qualified” individual with a disability is one who meets the essential eligibility requirements for the program or activity offered by a public entity.
 - The “essential eligibility requirements” will depend on the type of service or activity involved.
 - For some activities, such as State licensing programs, the ability to meet specific skill and performance requirements may be “essential.”
 - For other activities, such as where the public entity provides information to anyone who requests it, the “essential eligibility requirements” would be minimal.

IV. Program Access

- State and local governments--
 - Must ensure that individuals with disabilities are not excluded from services, programs, and activities because buildings are inaccessible.
 - Need not remove physical barriers, such as stairs, in all existing buildings, as long as they make their programs accessible to individuals who are unable to use an inaccessible existing facility.
 - Can provide the services, programs, and activities offered in the facility to individuals with disabilities through alternative methods, if physical barriers are not removed, such as --
 - Relocating a service to an accessible facility, e.g., moving a public information office from the third floor to the first floor of a building.
 - Providing an aide or personal assistant to enable an individual with a disability to obtain the service.
 - Providing benefits or services at an individual’s home, or at an alternative accessible site.
 - May not carry an individual with a disability as a method of providing program access, except in “manifestly exceptional” circumstances.

- Are not required to take any action that would result in a fundamental alteration in the nature of the service, program, or activity or in undue financial and administrative burdens. However, public entities must take any other action, if available, that would not result in a fundamental alteration or undue burdens but would ensure that individuals with disabilities receive the benefits or services.

V. Integrated Programs

- Integration of individuals with disabilities into the mainstream of society is fundamental to the purposes of the Americans with Disabilities Act.
- Public entities may not provide services or benefits to individuals with disabilities through programs that are separate or different, unless the separate programs are necessary to ensure that the benefits and services are equally effective.
- Even when separate programs are permitted, an individual with a disability still has the right to choose to participate in the regular program.
 - For example, it would not be a violation for a city to offer recreational programs specially designed for children with mobility impairments, but it would be a violation if the city refused to allow children with disabilities to participate in its other recreational programs.
- State and local governments may not require an individual with a disability to accept a special accommodation or benefit if the individual chooses not to accept it.

VI. Communications

- State and local governments must ensure effective communication with individuals with disabilities.
- Where necessary to ensure that communications with individuals with hearing, vision, or speech impairments are as effective as communications with others, the public entity must provide appropriate auxiliary aids.
 - “Auxiliary aids” include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDD’s), videotext displays, readers, taped texts, Brailled materials, and large print materials.
 - A public entity may not charge an individual with a disability for the use of an auxiliary aid.
- Telephone emergency services, including 911 services, must provide direct access to individuals with speech or hearing impairments.

- Public entities are not required to provide auxiliary aids that would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. However, public entities must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or undue burdens.

VII. New Construction and Alterations

- Public entities must ensure that newly constructed buildings and facilities are free of architectural and communication barriers that restrict access or use by individuals with disabilities.
- When a public entity undertakes alterations to an existing building, it must also ensure that the altered portions are accessible.
- The ADA does not require retrofitting of existing buildings to eliminate barriers, but does establish a high standard of accessibility for new buildings.
 - Public entities may choose between two technical standards for accessible design: The Uniform Federal Accessibility Standard (UFAS), established under the Architectural Barriers Act, or the Americans with Disability Act Accessibility Guidelines, adopted by the Department of Justice for places of public accommodation and commercial facilities covered by title III of the ADA.
 - The elevator exemption for small buildings under ADA Accessibility Guidelines would not apply to public entities covered by title II.

VIII. Enforcement

- Private parties may bring lawsuits to enforce their rights under title II of the ADA. The remedies available are the same as those provided under section 504 of the Rehabilitation Act of 1973. A reasonable attorney's fee may be awarded to the prevailing party.
- Individuals may also file complaints with appropriate administrative agencies.
 - The regulation designates eight Federal agencies to handle complaints filed under title II.
 - Complaints may also be filed with any Federal agency that provides financial assistance to the program in question, or with the Department of Justice, which will refer the complaint to the appropriate agency.

IX. Complaints

- Any individual who believes that he or she is a victim of discrimination prohibited by the regulation may file a complaint. Complaints on behalf of classes of individuals are also permitted.

- Complaints should be in writing, signed by the complainant or an authorized representative, and should contain the complainant's name and address and describe the public entity's alleged discriminatory action.

- Complaints may be sent to --

Coordination and Review Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66118
Washington, D.C. 20035-6118.

- Complaints may also be sent to agencies designated to process complaints under the regulation, or to agencies that provide Federal financial assistance to the program in question.

X. Designated Agencies

The following agencies are designated for enforcement of title II for components of State and local governments that exercise responsibilities, regulate, or administer services, programs, or activities in the following functional areas --

- (1) Department of Agriculture: Farming and the raising of livestock, including extension services.
- (2) Department of Education: Education systems and institutions (other than health-related schools), and libraries.
- (3) Department of Health and Human Services: Schools of medicine, dentistry, nursing, and other health-related schools; health care and social service providers and institutions, including "grass-roots" and community services organizations and programs; and preschool and daycare programs.
- (4) Department of Housing and Urban Development: State and local public housing, and housing assistance and referral.
- (5) Department of Interior: Lands and natural resources, including parks and recreation, water and waste management, environmental protection, energy, historic and cultural preservation, and museums.
- (6) Department of Justice: Public safety, law enforcement, and the administration of justice, including courts and correctional institutions; commerce and industry, including banking and finance, consumer protection, and insurance; planning, development, and regulation (unless otherwise assigned); State and local government support services; and all other government functions not assigned to other designated agencies.
- (7) Department of Labor: Labor and the work force.
- (8) Department of Transportation: Transportation, including highways, public transportation, traffic management (non-law enforcement), automobile licensing and inspection, and driver licensing.

XI. Technical Assistance

- The ADA requires that the Federal agencies responsible for issuing ADA regulations provide "technical assistance."
- Technical assistance is the dissemination of information (either directly by the Department or through grants and contracts) to assist the public, including individuals protected by the ADA and entities covered by the ADA, in understanding the new law.
- Methods of providing information include, for example, audio-visual materials, pamphlets, manuals, electronic bulletin boards, checklists, and training.
- The Department issued for public comment on December 5, 1990, a government-wide plan for the provision of technical assistance.

The Department's efforts focus on raising public awareness of the ADA by providing--

- Fact sheets and pamphlets in accessible formats,
 - Speakers for workshops, seminars, classes, and conferences,
 - An ADA telephone information line, and
 - Access to ADA documents through an electronic bulletin board for users of personal computers.
- The Department has established a comprehensive program of technical assistance relating to public accommodations and State and local governments.
 - Grants will be awarded for projects to inform individuals with disabilities and covered entities about their rights and responsibilities under the ADA and to facilitate voluntary compliance.
 - The Department will issue a technical assistance manual by January 26, 1992, for individuals or entities with rights or duties under the ADA.

For additional information, contact:

Office on the Americans with Disabilities Act
Civil Rights Division
U.S. Department of Justice
P.O. Box 66118
Washington, D.C 20035-6118
(202) 514-0301 (Voice)
(202) 514-0383 (TDD)
(202) 514-6193 (Electronic Bulletin Board).



Department of Justice Enforcement of Title II of the Americans with Disabilities Act (ADA)

A Fact Sheet

July, 1993

Background

Title II of the Americans with Disabilities Act (ADA), which prohibits discrimination against qualified individuals with disabilities on the basis of disability by State and local governments, generally went into effect on January 26, 1992. The Coordination and Review Section of the Department of Justice's Civil Rights Division coordinates the enforcement of title II by Federal agencies, and investigates complaints for which the Department of Justice is the designated agency.

This fact sheet provides an update of the Coordination and Review Section's efforts to enforce title II during the year and one-half since the ADA became effective.

INSIDE...

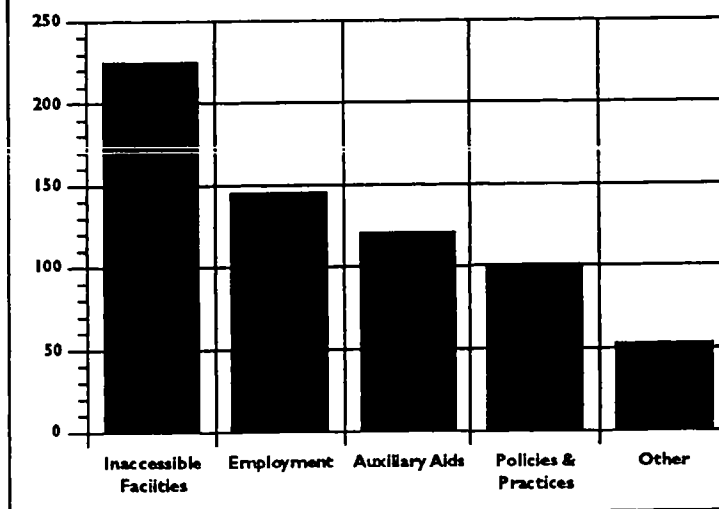
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Complaint Investigations

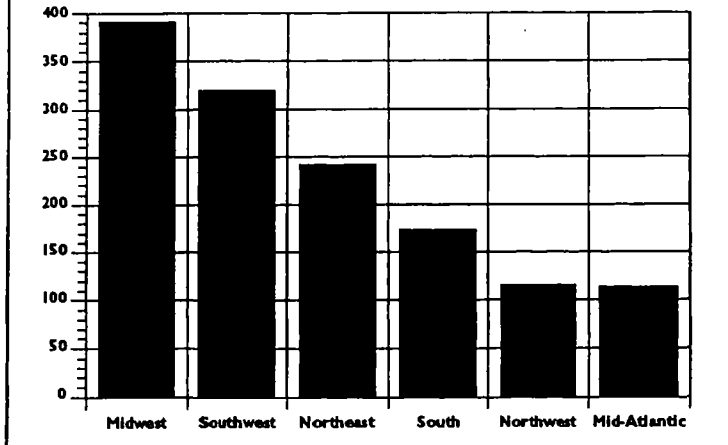
The Coordination and Review Section has received 1,355 complaints alleging violations of title II. Of this number, 646 have been retained for investigation by the Department, which is one of the eight Federal agencies designated to conduct title II complaint investigations.

The Department investigates complaints involving public safety and the administration of justice (*e.g.*, prisons, courts, police departments, fire departments) and other general government functions not assigned by the title II implementing regulation to other Federal agencies (*e.g.*, personnel offices, election boards, municipal stadiums). The complaints allege a wide variety of violations, including physical inaccessibility, failure to provide auxiliary aids such as sign language interpreters and written material in alternate formats, discriminatory policies, and employment discrimination.

**Title II Complaints Retained by DOJ
by Type (646)**

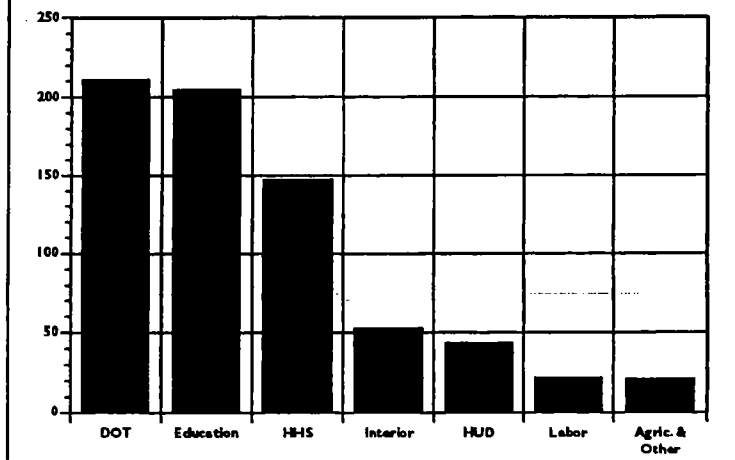


**Total Title II Complaints Received
by DOJ by Region (1355)**



The Section referred the other 709 complaints to the appropriate designated agencies: the Departments of Agriculture, Education, Health and Human Services, Housing and Urban Development, Interior, Labor, and Transportation.

**Referrals to Other Federal
Agencies (709)**



Title II complaint investigations follow the administrative enforcement model used by Federal agencies to enforce section 504 of the Rehabilitation Act of 1973, a forerunner of title II. These enforcement procedures are familiar to many State and local governments that receive Federal financial assistance.

Coordination and Review Section staff investigate each complete complaint. In lieu of full-scale investigations, when appropriate, investigators use alternative dispute resolution techniques to resolve the issues. The Department may enter into a formal or informal agreement with a State or local government wishing to voluntarily come into compliance before an investigation is completed.

If a resolution is not reached or a settlement agreement cannot be negotiated, a formal Letter of Findings of noncompliance is issued. In cases where noncompliance is found, the Coordination and Review Section attempts to negotiate a voluntary compliance agreement with the entity. If these negotiations are unsuccessful, the case is referred to the Civil Rights Division's Public Access Section for litigation.

If an investigation is completed and no violation is found, a formal Letter of Findings of compliance is issued.

The Coordination and Review Section has issued 10 formal Letters of Findings of compliance. On June 14, 1993, the Section issued its first noncompliance Letter of Findings in which it found that a St. Louis County, Missouri, Court violated title II by providing auxiliary aids upon request only to individuals with business before the court or who seek employment at the court, but not to observers of courtroom proceedings. Negotiations in this case are ongoing and, if a resolution cannot be achieved, the case will be referred to the Public Access Section for litigation.

Formal Settlement Agreements

The Department has negotiated two formal settlement agreements with the following local governments:

Paulding County, Ohio

On March 17, 1993, the Section entered into its first formal settlement agreement. In response to a complaint alleging that the county courtroom was inaccessible to individuals with mobility impairments, the County Board of Commissioners agreed to relocate court activities to an accessible site upon reasonable notice and to publicize its new policy.

Clearwater, Florida

On June 29, 1993, the Section entered into its first settlement agreement with a local police department. The complaint alleged that the police department had failed to provide an interpreter in the arrest of an individual who is deaf. The police department agreed to establish and publicize a written policy for providing interpreters whenever necessary for effective communication.

Informal Complaint Resolutions

The Section has successfully resolved 44 complaints without litigation or formal settlement agreements. Some of these resolutions were achieved after an extensive negotiation process. In other cases, the public entity agreed to take action to resolve the issues directly upon learning of the complaint.

Examples of resolutions include the following:

Inaccessible Facilities

- A county agreed to resolve two complaints regarding the inaccessibility of programs offered in its courthouse. The county agreed to install an elevator and make other

structural modifications, and, in the interim, to provide alternate means for providing services to individuals with disabilities.

- A number of cities agreed to install elevators in their city halls and, in the interim, to move their programs to alternate accessible locations.

Auxiliary Aids

- A Committee of Bar Examiners of a State bar agreed to allow a severely visually-impaired individual to use a personal computer with a high resolution monitor to take the bar exam.
- A State Department of Corrections agreed to provide an interpreter for a deaf inmate's parole hearing.
- A State District Court agreed to provide an assistive listening device to an individual who is hard of hearing for an upcoming court date.

Policies and Procedures

- A State Board of Behavioral Science Examiners agreed to provide an accommodation to an individual with a learning disability in taking the oral examination for licensed clinical social worker.
- A police department agreed to allow a mobility-impaired individual to use his motorscooter on roads and sidewalks within City limits anywhere that conventional wheelchairs are allowed.
- A prison agreed to change its policies to allow a disabled wife to visit with her inmate husband.

- A State Department of Corrections agreed to relocate a disabled inmate to a facility closer to his mother's home so that his mother could visit him and monitor his medical condition.
- A county government agreed to include individuals with disabilities in developing its self-evaluation and transition plans.
- A court agreed to move a court hearing to a pollution-free courtroom for a woman with severe chemical sensitivity.

Employment

- A county agreed to separate its medical and personnel records, as required by the ADA.

Investigations in Progress

Inaccessible Public Stadiums and Arenas

The Coordination and Review Section is investigating over 30 complaints alleging that public stadiums and arenas are inaccessible to individuals with mobility impairments. Several of these facilities have not yet been constructed, and it is alleged that the design plans do not meet the requirements of the ADA.

Licensing and Certification Examinations

A number of complaints have been filed against a major State Board of Law Examiners, and against other public licensing and accreditation boards, alleging that accommodations are not being provided to individuals with disabilities in order for them to take critical examinations. The Department is working with these Boards to develop Statewide policies to accommodate people with disabilities.

Inaccessible Corrections Facilities and Programs

The Department is investigating two large State prison systems after receiving numerous complaints that inmates with mobility, hearing, and visual impairments were not being provided an equal opportunity to participate in correctional programs and activities.

Ineffective Communications in Emergency Telecommunications Systems

The Department is investigating complaints from individuals in several large cities that their emergency "9-1-1" systems do not provide direct access for individuals who use telecommunications devices for deaf persons (TDD's).

For Further Information

To file a complaint, write to:

U.S. Department of Justice
Civil Rights Division
Coordination and Review Section
P.O. Box 66118
Washington, D.C. 20035-6118

(202) 307-2222 (Voice)
(202) 307-2678 (TDD)

The Public Access Section has established an **ADA information line** that is available 24 hours a day. Callers can choose to speak with an operator from 1 p.m. to 5 p.m. (EST) Monday through Friday, or at any time they can listen to recorded information or request technical assistance materials. The information line number is (202) 514-0301 (voice) or (202) 514-0383 (TDD).



Title III Highlights

- I. Who is Covered by title III of the ADA
- II. Overview of Requirements
- III. "Individuals with Disabilities"
- IV. Eligibility for Goods and Services
- V. Modifications in Policies, Practices, and Procedures
- VI. Auxiliary Aids
- VII. Existing Facilities: Removal of Barriers
- VIII. Existing Facilities: Alternatives to Barrier Removal
- IX. New Construction
- X. Alterations
- XI. Overview of Americans with Disabilities Act Accessibility Guidelines for New Construction and Alterations
- XII. Examinations and Courses
- XIII. Enforcement of the ADA and its Regulations
- XIV. Technical Assistance

I. Who is Covered by Title III of the ADA

- The title III regulation covers --
 - Public accommodations (i.e., private entities that own, operate, lease, or lease to places of public accommodation),
 - Commercial facilities, and
 - Private entities that offer certain examinations and courses related to educational and occupational certification.
- Places of public accommodation include over five million private establishments, such as restaurants, hotels, theaters, convention centers, retail stores, shopping centers, dry cleaners, laundromats, pharmacies, doctors' offices, hospitals, museums, libraries, parks, zoos, amusement parks, private schools, day care centers, health spas, and bowling alleys.
- Commercial facilities are nonresidential facilities, including office buildings, factories, and warehouses, whose operations affect commerce.
- Entities controlled by religious organizations, including places of worship, are not covered.
- Private clubs are not covered, except to the extent that the facilities of the private club are made available to customers or patrons of a place of public accommodation.
- State and local governments are not covered by the title III regulation, but rather by the Department of Justice's title II regulation.

II. Overview of Requirements

- Public accommodations must --
 - Provide goods and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.
 - Eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy the goods and services of a place of public accommodation.
 - Make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration would result in the nature of the goods and services provided.
 - Furnish auxiliary aids when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.

- Remove architectural and structural communication barriers in existing facilities where readily achievable.
 - Provide readily achievable alternative measures when removal of barriers is not readily achievable.
 - Provide equivalent transportation services and purchase accessible vehicles in certain circumstances.
 - Maintain accessible features of facilities and equipment.
 - Design and construct new facilities and, when undertaking alterations, alter existing facilities in accordance with the Americans with Disabilities Act Accessibility Guidelines issued by the Architectural and Transportation Barriers Compliance Board and incorporated in the final Department of Justice title III regulation.
- A public accommodation is not required to provide personal devices such as wheelchairs; individually prescribed devices (e.g., prescription eyeglasses or hearing aids); or services of a personal nature including assistance in eating, toileting, or dressing.
 - A public accommodation may not discriminate against an individual or entity because of the known disability of a person with whom the individual or entity is known to associate.
 - Commercial facilities are only subject to the requirement that new construction and alterations conform to the ADA Accessibility Guidelines. The other requirements applicable to public accommodations listed above do not apply to commercial facilities.
 - Private entities offering certain examinations or courses (i.e., those related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes) must offer them in an accessible place and manner or offer alternative accessible arrangements.

III. “Individuals with Disabilities”

- The Americans with Disabilities Act provides comprehensive civil rights protections for “individuals with disabilities.”
- An individual with a disability is a person who --
 - Has a physical or mental impairment that substantially limits one or more “major life activities,” or
 - Has a record of such an impairment, or
 - Is regarded as having such an impairment.

- Examples of physical or mental impairments include, but are not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. Homosexuality and bisexuality are not physical or mental impairments under the ADA.
- “Major life activities” include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- Individuals who currently engage in the illegal use of drugs are not protected by the ADA when an action is taken on the basis of their current illegal use of drugs.

IV. Eligibility for Goods and Services

- In providing goods and services, a public accommodation may not use eligibility requirements that exclude or segregate individuals with disabilities, unless the requirements are “necessary” for the operation of the public accommodation.
 - For example, excluding individuals with cerebral palsy from a movie theater or restricting individuals with Down’s Syndrome to only certain areas of a restaurant would violate the regulation.
- Requirements that tend to screen out individuals with disabilities, such as requiring a blind person to produce a driver’s license as the sole means of identification for cashing a check, are also prohibited.
- Safety requirements may be imposed only if they are necessary for the safe operation of a place of public accommodation. They must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.
 - For example, an amusement park may impose height requirements for certain rides when required for safety.
- Extra charges may not be imposed on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as removing barriers or providing qualified interpreters.

V. Modifications in Policies, Practices, and Procedures

- A public accommodation must make reasonable modifications in its policies, practices, and procedures in order to accommodate individuals with disabilities.
- A modification is not required if it would “fundamentally alter” the goods, services, or operations of the public accommodation.

- For example, a department store may need to modify a policy of only permitting one person at a time in a dressing room if an individual with mental retardation needs the assistance of a companion in dressing.
- Modifications in existing practices generally must be made to permit the use of guide dogs and other service animals.
- Specialists are not required to provide services outside of their legitimate areas of specialization.
 - For example, a doctor who specializes exclusively in burn treatment may refer an individual with a disability, who is not seeking burn treatment, to another provider. A burn specialist, however, could not refuse to provide burn treatment to, for example, an individual with HIV disease.

VI. Auxiliary Aids

- A public accommodation must provide auxiliary aids and services when they are necessary to ensure effective communication with individuals with hearing, vision, or speech impairments.
- “Auxiliary aids” include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDD’s), videotext displays, readers, taped texts, brailled materials, and large print materials.
- The auxiliary aid requirement is flexible. For example, a brailled menu is not required, if waiters are instructed to read the menu to blind customers.
- Auxiliary aids that would result in an undue burden, (i.e., “significant difficulty or expense”) or in a fundamental alteration in the nature of the goods or services are not required by the regulation. However, a public accommodation must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or an undue burden.

VII. Existing Facilities: Removal of Barriers

- Physical barriers to entering and using existing facilities must be removed when “readily achievable.”
- Readily achievable means “easily accomplishable and able to be carried out without much difficulty or expense.”
- What is readily achievable will be determined on a case-by-case basis in light of the resources available.
 - The regulation does not require the rearrangement of temporary or movable structures, such as furniture, equipment, and display racks to the extent that it would result in a significant loss of selling or serving space.

- Legitimate safety requirements may be considered in determining what is readily achievable so long as they are based on actual risks and are necessary for safe operation.
- Examples of barrier removal measures include --
 - Installing ramps,
 - Making curb cuts at sidewalks and entrances,
 - Rearranging tables, chairs, vending machines, display racks, and other furniture,
 - Widening doorways,
 - Installing grab bars in toilet stalls, and
 - Adding raised letters or braille to elevator control buttons.
- First priority should be given to measures that will enable individuals with disabilities to “get in the front door,” followed by measures to provide access to areas providing goods and services.
- Barrier removal measures must comply, when readily achievable, with the alterations requirements of the ADA Accessibility Guidelines. If compliance with the Guidelines is not readily achievable, other safe, readily achievable measures must be taken, such as installation of a slightly narrower door than would be required by the Guidelines.

VIII. Existing Facilities: Alternatives to Barrier Removal

- The ADA requires the removal of physical barriers, such as stairs, if it is “readily achievable.” However, if removal is not readily achievable, alternative steps must be taken to make goods and services accessible.

Examples of alternative measures include --

- Providing goods and services at the door, sidewalk, or curb,
- Providing home delivery,
- Retrieving merchandise from inaccessible shelves or racks,
- Relocating activities to accessible locations.
- Extra charges may not be imposed on individuals with disabilities to cover the costs of measures used as alternatives to barrier removal. For example, a restaurant may not charge a wheelchair user extra for home delivery when it is provided as the alternative to barrier removal.

IX. New Construction

- All newly constructed places of public accommodation and commercial facilities must be accessible to individuals with disabilities to the extent that it is not structurally impracticable.
- The new construction requirements apply to any facility occupied after January 26, 1993, for which the last application for a building permit or permit extension is certified as complete after January 26, 1992.
- Full compliance will be considered “structurally impracticable” only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features (e.g., marshland that requires construction on stilts).
- The architectural standards for accessibility in new construction are contained in the ADA Accessibility Guidelines issued by the Architectural and Transportation Barriers Compliance Board, an independent Federal agency. These standards are incorporated in the final Department of Justice title III regulation.
- Elevators are not required in facilities under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center, shopping mall, professional office of a health care provider, or station used for public transportation.

X. Alterations

- Alterations after January 26, 1992, to existing places of public accommodation and commercial facilities must be accessible to the maximum extent feasible.
- The architectural standards for accessibility in alterations are contained in the ADA Accessibility Guidelines issued by the Architectural and Transportation Barriers Compliance Board. These standards are incorporated in the final Department of Justice title III regulation.
- An alteration is a change that affects usability of a facility. For example, if during remodeling, renovation, or restoration, a doorway is being relocated, the new doorway must be wide enough to meet the requirements of the ADA Accessibility Guidelines.
- When alterations are made to a “primary function area,” such as the lobby or work areas of a bank, an accessible path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving that area, must be made accessible to the extent that the added accessibility costs are not disproportionate to the overall cost of the original alteration.
 - Alterations to windows, hardware, controls, electrical outlets, and signage in primary function areas do not trigger the path of travel requirement.
 - The added accessibility costs are disproportionate if they exceed 20 percent of the original alteration.

- Elevators are not required in facilities under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center, shopping mall, professional office of a health care provider, or station used for public transportation.

XI. Overview of Americans with Disabilities Act Accessibility Guidelines for New Construction and Alterations

- New construction and alterations must be accessible in compliance with the ADA Accessibility Guidelines.
- The Guidelines contain general design (“technical”) standards for building and site elements, such as parking, accessible routes, ramps, stairs, elevators, doors, entrances, drinking fountains, bathrooms, controls and operating mechanisms, storage areas, alarms, signage, telephones, fixed seating and tables, assembly areas, automated teller machines, and dressing rooms. They also have specific technical standards for restaurants, medical care facilities, mercantile facilities, libraries, and transient lodging (such as hotels and shelters).
- The Guidelines also contain “scoping” requirements for various elements (i.e., it specifies how many, and under what circumstances, accessibility features must be incorporated).
- Following are examples of scoping requirements in new construction --
 - At least 50 percent of all public entrances must be accessible. In addition, there must be accessible entrances to enclosed parking, pedestrian tunnels, and elevated walkways.
 - An accessible route must connect accessible public transportation stops, parking spaces, passenger loading zones, and public streets or sidewalks to all accessible features and spaces within a building.
 - Every public and common use bathroom must be accessible. Only one stall must be accessible, unless there are six or more stalls, in which case two stalls must be accessible (one of which must be of an alternate, narrow-style design).
 - Each floor in a building without a supervised sprinkler system must contain an “area of rescue assistance” (i.e., an area with direct access to an exit stairway where people unable to use stairs may await assistance during an emergency evacuation).
 - One TDD must be provided inside any building that has four or more public pay telephones, counting both interior and exterior phones. In addition, one TDD must be provided whenever there is an interior public pay phone in a stadium or arena; convention center; hotel with a convention center; covered shopping mall; or hospital emergency, recovery, or waiting room.
 - One accessible public phone must be provided for each floor, unless the floor has two or more banks of phones, in which case there must be one accessible phone for each bank.

- Fixed seating assembly areas that accommodate 50 or more people or have audio-amplification systems must have a permanently installed assistive listening system.
 - Dispersal of wheelchair seating in theaters is required where there are more than 300 seats. In addition, at least one percent of all fixed seats must be aisle seats without armrests (or with movable armrests). Fixed seating for companions must be located adjacent to each wheelchair location.
 - Where automated teller machines are provided, at least one must be accessible.
 - Five percent of fitting and dressing rooms (but never less than one) must be accessible.
- Following are examples of specific scoping requirements for new construction of special types of facilities, such as restaurants, medical care facilities, mercantile establishments, libraries, and hotels --
- In restaurants, generally all dining areas and five percent of fixed tables (but not less than one) must be accessible.
 - In medical care facilities, all public and common use areas must be accessible. In general purpose hospitals and in psychiatric and detoxification facilities, ten percent of patient bedrooms and toilets must be accessible. The required percentage is 100 percent for special facilities treating conditions that affect mobility, and 50 percent for long-term care facilities and nursing homes.
 - In mercantile establishments, at least one of each type of counter containing a cash register and at least one of each design of check-out aisle must be accessible. In some cases, additional check-out aisles are required to be accessible (i.e., from 20 to 40 percent) depending on the number of check-out aisles and the size of the facility.
 - In libraries, all public areas must be accessible. In addition, five percent of fixed tables or study carrels (or at least one) must be accessible. At least one lane at the check-out area and aisles between card catalogs, magazine displays, and stacks must be accessible.
 - In hotels, four percent of the first 100 rooms and approximately two percent of rooms in excess of 100 must be accessible to persons with hearing impairments (i.e., contain visual alarms, visual notification devices, volume-control telephones, and an accessible electrical outlet for a TDD) and to persons with mobility impairments. Moreover, an identical percentage of additional rooms must be accessible to persons with hearing impairments.
 - Technical and scoping requirements for alterations are sometimes less stringent than those for new construction. For example, when compliance with the new construction requirements would be technically infeasible, one accessible unisex bathroom per floor is acceptable.

XII. Examinations and Courses

- Certain examinations or courses offered by a private entity (i.e., those that are related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes) must either be given in a place and manner accessible to persons with disabilities, or be made accessible through alternative means.
- In order to provide an examination in an accessible place and manner, a private entity must --
 - Assure that the examination measures what it is intended to measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills.
 - Modify the examination format when necessary (e.g., permit additional time).
 - Provide auxiliary aids (e.g., taped exams, interpreters, large print answer sheets, or qualified readers), unless they would fundamentally alter the measurement of the skills or knowledge that the examination is intended to test or would result in an undue burden.
 - Offer any modified examination at an equally convenient location, as often, and in as timely a manner as are other examinations.
 - Administer examinations in a facility that is accessible or provide alternative comparable arrangements, such as providing the examination at an individual's home with a proctor.
- In order to provide a course in an accessible place and manner, a private entity may need to -
 - Modify the course format or requirements (e.g., permit additional time for completion of the course).
 - Provide auxiliary aids, unless a fundamental alteration or undue burden would result.
 - Administer the course in a facility that is accessible or provide alternative comparable arrangements, such as provision of the course through video tape, audio cassettes, or prepared notes.

XIII. Enforcement of the ADA and its Regulations

- Private parties may bring lawsuits to obtain court orders to stop discrimination. No monetary damages will be available in such suits. A reasonable attorney's fee, however, may be awarded.
- Individuals may also file complaints with the Attorney General who is authorized to bring lawsuits in cases of general public importance or where a "pattern or practice" of discrimination is alleged.

- In suits brought by the Attorney General, monetary damages (not including punitive damages) and civil penalties may be awarded. Civil penalties may not exceed \$50,000 for a first violation or \$100,000 for any subsequent violation.

XIV. Technical Assistance

- The ADA requires that the Federal agencies responsible for issuing ADA regulations provide “technical assistance.”
- Technical assistance is the dissemination of information (either directly by the Department or through grants and contracts) to assist the public, including individuals protected by the ADA and entities covered by the ADA, in understanding the new law.
- Methods of providing information include, for example, audio-visual materials, pamphlets, manuals, electronic bulletin boards, checklists, and training.
- The Department issued for public comment on December 5, 1990, a government-wide plan for the provision of technical assistance.

The Department’s efforts focus on raising public awareness of the ADA by providing--

- Fact sheets and pamphlets in accessible formats,
 - Speakers for workshops, seminars, classes, and conferences,
 - An ADA telephone information line, and
 - Access to ADA documents through an electronic bulletin board for users of personal computers.
- The Department has established a comprehensive program of technical assistance relating to public accommodations and State and local governments.
 - Grants will be awarded for projects to inform individuals with disabilities and covered entities about their rights and responsibilities under the ADA and to facilitate voluntary compliance.
 - The Department will issue a technical assistance manual by January 26, 1992, for individuals or entities with rights or duties under the ADA.

For additional information, contact:

Office on the Americans with Disabilities Act
Civil Rights Division
U.S. Department of Justice
P.O. Box 66118
Washington, D.C 20035-6118
(202) 514-0301 (Voice)
(202) 514-0383 (TDD)
(202) 514-6193 (Electronic Bulletin Board)

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U.S. Equal Employment
Opportunity Commission



U.S. Department of Justice
Civil Rights Division

The Americans with Disabilities Act

Questions and Answers

Introduction

Barriers to employment, transportation, public accommodations, public services, and telecommunications have imposed staggering economic and social costs on American society and have undermined our well-intentioned efforts to educate, rehabilitate, and employ individuals with disabilities. By breaking down these barriers, the Americans with Disabilities Act will enable society to benefit from the skills and talents of individuals with disabilities, will allow us all to gain from their increased purchasing power and ability to use it, and will lead to fuller, more productive lives for all Americans.

The Americans with Disabilities Act gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

Fair, swift, and effective enforcement of this landmark civil rights legislation is a high priority of the Federal Government. This booklet is designed to provide answers to some of the most often asked questions about the new law.

**This publication was printed with the generous support of the
National Institute on Disability and Rehabilitation Research**

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Employment

- Q. What employers are covered by title I of the ADA, and when is the coverage effective?**
- A.** The title I employment provisions apply to private employers, State and local governments, employment agencies, and labor unions. Employers with 25 or more employees are covered as of July 26, 1992. Employers with 15 or more employees will be covered two years later, beginning July 26, 1994.
- Q. What practices and activities are covered by the employment nondiscrimination requirements?**
- A.** The ADA prohibits discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities.
- Q. Who is protected from employment discrimination?**
- A.** Employment discrimination is prohibited against "qualified individuals with disabilities." This includes applicants for employment and employees. An individual is considered to have a "disability" if s/he has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Persons discriminated against because they have a known association or relationship with an individual with a disability also are protected.

The first part of the definition makes clear that the ADA applies to persons who have impairments and that these must substantially limit major life activities such as seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, and working. An individual with epilepsy, paralysis, HIV infection, AIDS, a substantial hearing or visual impairment, mental retardation,

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or a specific learning disability is covered, but an individual with a minor, nonchronic condition of short duration, such as a sprain, broken limb, or the flu, generally would not be covered.

The second part of the definition protecting individuals with a record of a disability would cover, for example, a person who has recovered from cancer or mental illness.

The third part of the definition protects individuals who are regarded as having a substantially limiting impairment, even though they may not have such an impairment. For example, this provision would protect a qualified individual with a severe facial disfigurement from being denied employment because an employer feared the "negative reactions" of customers or co-workers.

Q. Who is a "qualified individual with a disability"?

- A.** A qualified individual with a disability is a person who meets legitimate skill, experience, education, or other requirements of an employment position that s/he holds or seeks, and who can perform the "essential functions" of the position with or without reasonable accommodation. Requiring the ability to perform "essential" functions assures that an individual with a disability will not be considered unqualified simply because of inability to perform marginal or incidental job functions. If the individual is qualified to perform essential job functions except for limitations caused by a disability, the employer must consider whether the individual could perform these functions with a reasonable accommodation. If a written job description has been prepared in advance of advertising or interviewing applicants for a job, this will be considered as evidence, although not conclusive evidence, of the essential functions of the job.

Q. Does an employer have to give preference to a qualified applicant with a disability over other applicants?

- A.** No. An employer is free to select the most qualified applicant available and to make decisions based on reasons unrelated to a disability.

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For example, suppose two persons apply for a job as a typist and an essential function of the job is to type 75 words per minute accurately. One applicant, an individual with a disability, who is provided with a reasonable accommodation for a typing test, types 50 words per minute; the other applicant who has no disability accurately types 75 words per minute. The employer can hire the applicant with the higher typing speed, if typing speed is needed for successful performance of the job.

Q. What limitations does the ADA impose on medical examinations and inquiries about disability?

- A.** An employer may not ask or require a job applicant to take a medical examination before making a job offer. It cannot make any pre-employment inquiry about a disability or the nature or severity of a disability. An employer may, however, ask questions about the ability to perform specific job functions and may, with certain limitations, ask an individual with a disability to describe or demonstrate how s/he would perform these functions.

An employer may condition a job offer on the satisfactory result of a post-offer medical examination or medical inquiry if this is required of all entering employees in the same job category. A post-offer examination or inquiry does not have to be job-related and consistent with business necessity.

However, if an individual is not hired because a post-offer medical examination or inquiry reveals a disability, the reason(s) for not hiring must be job-related and consistent with business necessity. The employer also must show that no reasonable accommodation was available that would enable the individual to perform the essential job functions, or that accommodation would impose an undue hardship. A post-offer medical examination may disqualify an individual if the employer can demonstrate that the individual would pose a "direct threat" in the workplace (i.e., a significant risk of substantial harm to the health or safety of the individual or others) that cannot be eliminated or reduced below the "direct threat" level through reasonable accommodation. Such a disqualification is job-related and consistent

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with business necessity. A post-offer medical examination may not disqualify an individual with a disability who is currently able to perform essential job functions because of speculation that the disability may cause a risk of future injury.

After a person starts work, a medical examination or inquiry of an employee must be job-related and consistent with business necessity. Employers may conduct employee medical examinations where there is evidence of a job performance or safety problem, examinations required by other Federal laws, examinations to determine current "fitness" to perform a particular job, and voluntary examinations that are part of employee health programs.

Information from all medical examinations and inquiries must be kept apart from general personnel files as a separate, confidential medical record, available only under limited conditions.

Tests for illegal use of drugs are not medical examinations under the ADA and are not subject to the restrictions of such examinations.

Q. When can an employer ask an applicant to "self-identify" as having a disability?

A. Federal contractors and subcontractors who are covered by the affirmative action requirements of section 503 of the Rehabilitation Act of 1973 may invite individuals with disabilities to identify themselves on a job application form or by other pre-employment inquiry, to satisfy the section 503 affirmative action requirements. Employers who request such information must observe section 503 requirements regarding the manner in which such information is requested and used, and the procedures for maintaining such information as a separate, confidential record, apart from regular personnel records.

A pre-employment inquiry about a disability is allowed if required by another Federal law or regulation such as those applicable to disabled veterans and veterans of the Vietnam era. Pre-employment inquiries about disabilities may be necessary under such laws to identify appli-

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cants or clients with disabilities in order to provide them with required special services.

Q. Does the ADA require employers to develop written job descriptions?

A. No. The ADA does not require employers to develop or maintain job descriptions. However, a written job description that is prepared before advertising or interviewing applicants for a job will be considered as evidence along with other relevant factors. If an employer uses job descriptions, they should be reviewed to make sure they accurately reflect the actual functions of a job. A job description will be most helpful if it focuses on the results or outcome of a job function, not solely on the way it customarily is performed. A reasonable accommodation may enable a person with a disability to accomplish a job function in a manner that is different from the way an employee who is not disabled may accomplish the same function.

Q. What is "reasonable accommodation"?

A. Reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities.

Q. What are some of the accommodations applicants and employees may need?

A. Examples of reasonable accommodation include making existing facilities used by employees readily accessible to and usable by an individual with a disability; restructuring a job; modifying work schedules; acquiring or modifying equipment; providing qualified readers or interpreters; or appropriately modifying examinations, training, or other programs. Reasonable accommodation also may

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include reassigning a current employee to a vacant position for which the individual is qualified, if the person is unable to do the original job because of a disability even with an accommodation. However, there is no obligation to find a position for an applicant who is not qualified for the position sought. Employers are not required to lower quality or quantity standards as an accommodation; nor are they obligated to provide personal use items such as glasses or hearing aids.

The decision as to the appropriate accommodation must be based on the particular facts of each case. In selecting the particular type of reasonable accommodation to provide, the principal test is that of effectiveness, i.e., whether the accommodation will provide an opportunity for a person with a disability to achieve the same level of performance and to enjoy benefits equal to those of an average, similarly situated person without a disability. However, the accommodation does not have to ensure equal results or provide exactly the same benefits.

Q. When is an employer required to make a reasonable accommodation?

- A. An employer is only required to accommodate a "known" disability of a qualified applicant or employee. The requirement generally will be triggered by a request from an individual with a disability, who frequently will be able to suggest an appropriate accommodation. Accommodations must be made on an individual basis, because the nature and extent of a disabling condition and the requirements of a job will vary in each case. If the individual does not request an accommodation, the employer is not obligated to provide one except where an individual's known disability impairs his/her ability to know of, or effectively communicate a need for, an accommodation that is obvious to the employer. If a person with a disability requests, but cannot suggest, an appropriate accommodation, the employer and the individual should work together to identify one. There are also many public and private resources that can provide assistance without cost.

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Q. What are the limitations on the obligation to make a reasonable accommodation?

- A. The individual with a disability requiring the accommodation must be otherwise qualified, and the disability must be known to the employer. In addition, an employer is not required to make an accommodation if it would impose an "undue hardship" on the operation of the employer's business. "Undue hardship" is defined as an "action requiring significant difficulty or expense" when considered in light of a number of factors. These factors include the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the employer's operation. Undue hardship is determined on a case-by-case basis. Where the facility making the accommodation is part of a larger entity, the structure and overall resources of the larger organization would be considered, as well as the financial and administrative relationship of the facility to the larger organization. In general, a larger employer with greater resources would be expected to make accommodations requiring greater effort or expense than would be required of a smaller employer with fewer resources.

If a particular accommodation would be an undue hardship, the employer must try to identify another accommodation that will not pose such a hardship. Also, if the cost of an accommodation would impose an undue hardship on the employer, the individual with a disability should be given the option of paying that portion of the cost which would constitute an undue hardship or providing the accommodation.

Q. Must an employer modify existing facilities to make them accessible?

- A. The employer's obligation under title I is to provide access for an *individual* applicant to participate in the job application process, and for an *individual* employee with a disability to perform the essential functions of his/her job, including access to a building, to the work site, to needed equipment, and to all facilities used by employees. For example, if an employee lounge is located in a place inaccessible to an employee using a wheelchair, the lounge might be modified or relo-

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cated, or comparable facilities might be provided in a location that would enable the individual to take a break with co-workers. The employer must provide such access unless it would cause an undue hardship.

Under title I, an employer is not required to make its existing facilities accessible until a particular applicant or employee with a particular disability needs an accommodation, and then the modifications should meet that individual's work needs. However, employers should consider initiating changes that will provide general accessibility, particularly for job applicants, since it is likely that people with disabilities will be applying for jobs. The employer does not have to make changes to provide access in places or facilities that will not be used by that individual for employment-related activities or benefits.

Q. Can an employer be required to reallocate an essential function of a job to another employee as a reasonable accommodation?

A. No. An employer is not required to reallocate essential functions of a job as a reasonable accommodation.

Q. Can an employer be required to modify, adjust, or make other reasonable accommodations in the way a test is given to a qualified applicant or employee with a disability?

A. Yes. Accommodations may be needed to assure that tests or examinations measure the actual ability of an individual to perform job functions rather than reflect limitations caused by the disability. Tests should be given to people who have sensory, speaking, or manual impairments in a format that does not require the use of the impaired skill, unless it is a job-related skill that the test is designed to measure.

Q. Can an employer maintain existing production/performance standards for an employee with a disability?

A. An employer can hold employees with disabilities to the same standards of production/performance as other similarly situated employees

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without disabilities for performing essential job functions, with or without reasonable accommodation. An employer also can hold employees with disabilities to the same standards of production/performance as other employees regarding marginal functions unless the disability affects the person's ability to perform those marginal functions. If the ability to perform marginal functions is affected by the disability, the employer must provide some type of reasonable accommodation such as job restructuring but may not exclude an individual with a disability who is satisfactorily performing a job's essential functions.

Q. Can an employer establish specific attendance and leave policies?

A. An employer can establish attendance and leave policies that are uniformly applied to all employees, regardless of disability, but may not refuse leave needed by an employee with a disability if other employees get such leave. An employer also may be required to make adjustments in leave policy as a reasonable accommodation. The employer is not obligated to provide additional paid leave, but accommodations may include leave flexibility and unpaid leave.

A uniformly applied leave policy does not violate the ADA because it has a more severe effect on an individual because of his/her disability. However, if an individual with a disability requests a modification of such a policy as a reasonable accommodation, an employer may be required to provide it, unless it would impose an undue hardship.

Q. Can an employer consider health and safety when deciding whether to hire an applicant or retain an employee with a disability?

A. Yes. The ADA permits employers to establish qualification standards that will exclude individuals who pose a direct threat -- i.e., a significant risk of substantial harm -- to the health or safety of the individual or of others, if that risk cannot be eliminated or reduced below the level of a "direct threat" by reasonable accommodation. However, an employer may not simply assume that a threat exists; the employer must establish through objective, medically supportable methods that

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there is significant risk that substantial harm could occur in the workplace. By requiring employers to make individualized judgments based on reliable medical or other objective evidence rather than on generalizations, ignorance, fear, patronizing attitudes, or stereotypes, the ADA recognizes the need to balance the interests of people with disabilities against the legitimate interests of employers in maintaining a safe workplace.

Q. Are applicants or employees who are currently illegally using drugs covered by the ADA?

- A. No. Individuals who currently engage in the illegal use of drugs are specifically excluded from the definition of a "qualified individual with a disability" protected by the ADA when the employer takes action on the basis of their drug use.

Q. Is testing for the illegal use of drugs permissible under the ADA?

- A. Yes. A test for the illegal use of drugs is not considered a medical examination under the ADA; therefore, employers may conduct such testing of applicants or employees and make employment decisions based on the results. The ADA does not encourage, prohibit, or authorize drug tests.

If the results of a drug test reveal the presence of a lawfully prescribed drug or other medical information, such information must be treated as a confidential medical record.

Q. Are alcoholics covered by the ADA?

- A. Yes. While a current illegal user of drugs is not protected by the ADA if an employer acts on the basis of such use, a person who currently uses alcohol is not automatically denied protection. An alcoholic is a person with a disability and is protected by the ADA if s/he is qualified to perform the essential functions of the job. An employer may be required to provide an accommodation to an alcoholic. However, an employer can discipline, discharge or deny

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employment to an alcoholic whose use of alcohol adversely affects job performance or conduct. An employer also may prohibit the use of alcohol in the workplace and can require that employees not be under the influence of alcohol.

Q. Does the ADA override Federal and State health and safety laws?

- A. The ADA does not override health and safety requirements established under other Federal laws even if a standard adversely affects the employment of an individual with a disability. If a standard is required by another Federal law, an employer must comply with it and does not have to show that the standard is job related and consistent with business necessity. For example, employers must conform to health and safety requirements of the U.S. Occupational Safety and Health Administration. However, an employer still has the obligation under the ADA to consider whether there is a reasonable accommodation, consistent with the standards of other Federal laws, that will prevent exclusion of qualified individuals with disabilities who can perform jobs without violating the standards of those laws. If an employer can comply with both the ADA and another Federal law, then the employer must do so.

The ADA does not override State or local laws designed to protect public health and safety, except where such laws conflict with the ADA requirements. If there is a State or local law that would exclude an individual with a disability from a particular job or profession because of a health or safety risk, the employer still must assess whether a particular individual would pose a "direct threat" to health or safety under the ADA standard. If such a "direct threat" exists, the employer must consider whether it could be eliminated or reduced below the level of a "direct threat" by reasonable accommodation. An employer cannot rely on a State or local law that conflicts with ADA requirements as a defense to a charge of discrimination.

Q. How does the ADA affect workers' compensation programs?

- A. Only injured workers who meet the ADA's definition of an "indi-

Employment

vidual with a disability" will be considered disabled under the ADA, regardless of whether they satisfy criteria for receiving benefits under workers' compensation or other disability laws. A worker also must be "qualified" (with or without reasonable accommodation) to be protected by the ADA. Work-related injuries do not always cause physical or mental impairments severe enough to "substantially limit" a major life activity. Also, many on-the-job injuries cause temporary impairments which heal within a short period of time with little or no long-term or permanent impact. Therefore, many injured workers who qualify for benefits under workers' compensation or other disability benefits laws may not be protected by the ADA. An employer must consider work-related injuries on a case-by-case basis to know if a worker is protected by the ADA.

An employer may not inquire into an applicant's workers' compensation history before making a conditional offer of employment. After making a conditional job offer, an employer may inquire about a person's workers' compensation history in a medical inquiry or examination that is required of all applicants in the same job category. However, even after a conditional offer has been made, an employer cannot require a potential employee to have a medical examination because a response to a medical inquiry (as opposed to results from a medical examination) shows a previous on-the-job injury unless all applicants in the same job category are required to have an examination. Also, an employer may not base an employment decision on the speculation that an applicant may cause increased workers' compensation costs in the future. However, an employer may refuse to hire, or may discharge an individual who is not currently able to perform a job without posing a significant risk of substantial harm to the health or safety of the individual or others, if the risk cannot be eliminated or reduced by reasonable accommodation.

An employer may refuse to hire or may fire a person who knowingly provides a false answer to a lawful post-offer inquiry about his/her condition or worker's compensation history.

An employer also may submit medical information and records

Employment

concerning employees and applicants (obtained after a conditional job offer) to state workers' compensation offices and "second injury" funds without violating ADA confidentiality requirements.

Q. What is discrimination based on "relationship or association" under the ADA?

- A. The ADA prohibits discrimination based on relationship or association in order to protect individuals from actions based on unfounded assumptions that their relationship to a person with a disability would affect their job performance, and from actions caused by bias or misinformation concerning certain disabilities. For example, this provision would protect a person whose spouse has a disability from being denied employment because of an employer's unfounded assumption that the applicant would use excessive leave to care for the spouse. It also would protect an individual who does volunteer work for people with AIDS from a discriminatory employment action motivated by that relationship or association.

Q. How are the employment provisions enforced?

- A. The employment provisions of the ADA are enforced under the same procedures now applicable to race, color, sex, national origin, and religious discrimination under title VII of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1991. Complaints regarding actions that occurred on or after July 26, 1992, may be filed with the Equal Employment Opportunity Commission or designated State human rights agencies. Available remedies will include hiring, reinstatement, promotion, back pay, front pay, restored benefits, reasonable accommodation, attorneys' fees, expert witness fees, and court costs. Compensatory and punitive damages also may be available in cases of intentional discrimination or where an employer fails to make a good faith effort to provide a reasonable accommodation.

Employment

Q. What financial assistance is available to employers to help them make reasonable accommodations and comply with the ADA?

- A. A special tax credit is available to help smaller employers make accommodations required by the ADA. An eligible small business may take a tax credit of up to \$5,000 per year for accommodations made to comply with the ADA. The credit is available for one-half the cost of "eligible access expenditures" that are more than \$250 but less than \$10,250.

A full tax deduction, up to \$15,000 per year, also is available to any business for expenses of removing qualified architectural or transportation barriers. Expenses covered include costs of removing barriers created by steps, narrow doors, inaccessible parking spaces, restroom facilities, and transportation vehicles. Information about the tax credit and the tax deduction can be obtained from a local IRS office, or by contacting the Office of Chief Counsel, Internal Revenue Service.

Tax credits are available under the Targeted Jobs Tax Credit Program (TJTCP) for employers who hire individuals with disabilities referred by State or local vocational rehabilitation agencies, State Commissions on the Blind, or the U.S. Department of Veterans Affairs, and certified by a State Employment Service. Under the TJTCP, a tax credit may be taken for up to 40 percent of the first \$6,000 of first-year wages of a new employee with a disability. This program must be reauthorized each year by Congress, and currently is extended through June 30, 1993. Further information about the TJTCP can be obtained from the State Employment Services or from State Governors' Committees on the Employment of People with Disabilities.

Q. What are an employer's recordkeeping requirements under the employment provisions of the ADA?

- A. An employer must maintain records such as application forms submitted by applicants and other records related to hiring, requests for reasonable accommodation, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or

Employment

apprenticeship for one year after making the record or taking the action described (whichever occurs later). If a charge of discrimination is filed or an action is brought by EEOC, an employer must save all personnel records related to the charge until final disposition of the charge.

Q. Does the ADA require that an employer post a notice explaining its requirements?

- A. The ADA requires that employers post a notice describing the provisions of the ADA. It must be made accessible, as needed, to individuals with disabilities. A poster is available from EEOC summarizing the requirements of the ADA and other Federal legal requirements for nondiscrimination for which EEOC has enforcement responsibility. EEOC also provides guidance on making this information available in accessible formats for people with disabilities.

Q. What resources does the Equal Employment Opportunity Commission have available to help employers and people with disabilities understand and comply with the employment requirements of the ADA?

- A. The Equal Employment Opportunity Commission has developed several resources to help employers and people with disabilities understand and comply with the employment provisions of the ADA.

Resources include:

- A Technical Assistance Manual that provides "how-to" guidance on the employment provisions of the ADA as well as a resource directory to help individuals find specific information.
- A variety of brochures, booklets, and fact sheets.

For information on how to contact the Equal Employment Opportunity Commission, see page 29.

State and Local Governments

State and Local Governments

Q. Does the ADA apply to State and local governments?

- A.** Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all State and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of State or local governments. It clarifies the requirements of section 504 of the Rehabilitation Act of 1973 for public transportation systems that receive Federal financial assistance, and extends coverage to all public entities that provide public transportation, whether or not they receive Federal financial assistance. It establishes detailed standards for the operation of public transit systems, including commuter and intercity rail (AMTRAK).

Q. When do the requirements for State and local governments become effective?

- A.** In general, they became effective on January 26, 1992.

Q. How does title II affect participation in a State or local government's programs, activities, and services?

- A.** A state or local government must eliminate any eligibility criteria for participation in programs, activities, and services that screen out or tend to screen out persons with disabilities, unless it can establish that the requirements are necessary for the provision of the service, program, or activity. The State or local government may, however, adopt legitimate safety requirements necessary for safe operation if they are based on real risks, not on stereotypes or generalizations about individuals with disabilities. Finally, a public entity must reasonably modify its policies, practices, or procedures to avoid discrimination. If the public entity can demonstrate that a particular modification would fundamentally alter the nature of its service, program, or activity, it is not required to make that modification.

State and Local Governments

Q. Does title II cover a public entity's employment policies and practices?

- A.** Yes. Title II prohibits all public entities, regardless of the size of their work force, from discriminating in employment against qualified individuals with disabilities. In addition to title II's employment coverage, title I of the ADA and section 504 of the Rehabilitation Act of 1973 prohibit employment discrimination against qualified individuals with disabilities by certain public entities.

Q. What changes must a public entity make to its existing facilities to make them accessible?

- A.** A public entity must ensure that individuals with disabilities are not excluded from services, programs, and activities because existing buildings are inaccessible. A State or local government's programs, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as "program accessibility," applies to facilities of a public entity that existed on January 26, 1992. Public entities do not necessarily have to make each of their existing facilities accessible. They may provide program accessibility by a number of methods including alteration of existing facilities, acquisition or construction of additional facilities, relocation of a service or program to an accessible facility, or provision of services at alternate accessible sites.

Q. When must structural changes be made to attain program accessibility?

- A.** Structural changes needed for program accessibility must be made as expeditiously as possible, but no later than January 26, 1995. This three-year time period is not a grace period; all alterations must be accomplished as expeditiously as possible. A public entity that employs 50 or more persons must have developed a transition plan by July 26, 1992, setting forth the steps necessary to complete such changes.

State and Local Governments

Q. What is a self-evaluation?

- A.** A self-evaluation is a public entity's assessment of its current policies and practices. The self-evaluation identifies and corrects those policies and practices that are inconsistent with title II's requirements. All public entities must complete a self-evaluation by January 26, 1993. A public entity that employs 50 or more employees must retain its self-evaluation for three years. Other public entities are not required to retain their self-evaluations, but are encouraged to do so because these documents evidence a public entity's good faith efforts to comply with title II's requirements.

Q. What does title II require for new construction and alterations?

- A.** The ADA requires that all new buildings constructed by a State or local government be accessible. In addition, when a State or local government undertakes alterations to a building, it must make the altered portions accessible.

Q. How will a State or local government know that a new building is accessible?

- A.** A State or local government will be in compliance with the ADA for new construction and alterations if it follows either of two accessibility standards. It can choose either the Uniform Federal Accessibility Standards or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, which is the standard that must be used for public accommodations and commercial facilities under title III of the ADA. If the State or local government chooses the ADA Accessibility Guidelines, it is not entitled to the elevator exemption (which permits certain private buildings under three stories or under 3,000 square feet per floor to be constructed without an elevator).

State and Local Governments

Q. What requirements apply to a public entity's emergency telephone services, such as 911?

- A.** State and local agencies that provide emergency telephone services must provide "direct access" to individuals who rely on a TDD or computer modem for telephone communication. Telephone access through a third party or through a relay service does not satisfy the requirement for direct access. Where a public entity provides 911 telephone service, it may not substitute a separate seven-digit telephone line as the sole means for access to 911 services by nonvoice users. A public entity may, however, provide a separate seven-digit line for the exclusive use of nonvoice callers in addition to providing direct access for such calls to its 911 line.

Q. Does title II require that telephone emergency service systems be compatible with all formats used for nonvoice communications?

- A.** No. At present, telephone emergency services must only be compatible with the Baudot format. Until it can be technically proven that communications in another format can operate in a reliable and compatible manner in a given telephone emergency environment, a public entity would not be required to provide direct access to computer modems using formats other than Baudot.

Q. How will the ADA's requirements for State and local governments be enforced?

- A.** Private individuals may bring lawsuits to enforce their rights under title II and may receive the same remedies as those provided under section 504 of the Rehabilitation Act of 1973, including reasonable attorney's fees. Individuals may also file complaints with eight designated Federal agencies, including the Department of Justice and the Department of Transportation.

Public Accommodations

Public Accommodations

Q. What are public accommodations?

- A. A public accommodation is a private entity that owns, operates, leases, or leases to, a place of public accommodation. Places of public accommodation include a wide range of entities, such as restaurants, hotels, theaters, doctors' offices, pharmacies, retail stores, museums, libraries, parks, private schools, and day care centers. Private clubs and religious organizations are exempt from the ADA's title III requirements for public accommodations.

Q. Will the ADA have any effect on the eligibility criteria used by public accommodations to determine who may receive services?

- A. Yes. If a criterion screens out or tends to screen out individuals with disabilities, it may only be used if necessary for the provision of the services. For instance, it would be a violation for a retail store to have a rule excluding all deaf persons from entering the premises, or for a movie theater to exclude all individuals with cerebral palsy. More subtle forms of discrimination are also prohibited. For example, requiring presentation of a driver's license as the sole acceptable means of identification for purposes of paying by check could constitute discrimination against individuals with vision impairments. This would be true if such individuals are ineligible to receive licenses and the use of an alternative means of identification is feasible.

Q. Does the ADA allow public accommodations to take safety factors into consideration in providing services to individuals with disabilities?

- A. The ADA expressly provides that a public accommodation may exclude an individual, if that individual poses a direct threat to the health or safety of others that cannot be mitigated by appropriate modifications in the public accommodation's policies or procedures, or by the provision of auxiliary aids. A public accommodation will be permitted to establish objective safety criteria for the operation of its business; however, any safety standard must be based on objective

Public Accommodations

requirements rather than stereotypes or generalizations about the ability of persons with disabilities to participate in an activity.

Q. Are there any limits on the kinds of modifications in policies, practices, and procedures required by the ADA?

- A. Yes. The ADA does not require modifications that would fundamentally alter the nature of the services provided by the public accommodation. For example, it would not be discriminatory for a physician specialist who treats only burn patients to refer a deaf individual to another physician for treatment of a broken limb or respiratory ailment. To require a physician to accept patients outside of his or her specialty would fundamentally alter the nature of the medical practice.

Q. What kinds of auxiliary aids and services are required by the ADA to ensure effective communication with individuals with hearing or vision impairments?

- A. Appropriate auxiliary aids and services may include services and devices such as qualified interpreters, assistive listening devices, notetakers, and written materials for individuals with hearing impairments; and qualified readers, taped texts, and brailled or large print materials for individuals with vision impairments.

Q. Are there any limitations on the ADA's auxiliary aids requirements?

- A. Yes. The ADA does not require the provision of any auxiliary aid that would result in an undue burden or in a fundamental alteration in the nature of the goods or services provided by a public accommodation. However, the public accommodation is not relieved from the duty to furnish an alternative auxiliary aid, if available, that would not result in a fundamental alteration or undue burden. Both of these limitations are derived from existing regulations and caselaw under section 504 of the Rehabilitation Act and are to be determined on a case-by-case basis.

Public Accommodations

Q. Will restaurants be required to have brailled menus?

A. No, not if waiters or other employees are made available to read the menu to a blind customer.

Q. Will a clothing store be required to have brailled price tags?

A. No, not if sales personnel could provide price information orally upon request.

Q. Will a bookstore be required to maintain a sign language interpreter on its staff in order to communicate with deaf customers?

A. No, not if employees communicate by pen and notepad when necessary.

Q. Are there any limitations on the ADA's barrier removal requirements for existing facilities?

A. Yes. Barrier removal need be accomplished only when it is "readily achievable" to do so.

Q. What does the term "readily achievable" mean?

A. It means "easily accomplishable and able to be carried out without much difficulty or expense."

Q. What are examples of the types of modifications that would be readily achievable in most cases?

A. Examples include the simple ramping of a few steps, the installation of grab bars where only routine reinforcement of the wall is required, the lowering of telephones, and similar modest adjustments.

Q. Will businesses need to rearrange furniture and display racks?

A. Possibly. For example, restaurants may need to rearrange tables and

Public Accommodations

department stores may need to adjust their layout of racks and shelves in order to permit access to wheelchair users.

Q. Will businesses need to install elevators?

A. Businesses are not required to retrofit their facilities to install elevators unless such installation is readily achievable, which is unlikely in most cases.

Q. When barrier removal is not readily achievable, what kinds of alternative steps are required by the ADA?

A. Alternatives may include such measures as in-store assistance for removing articles from inaccessible shelves, home delivery of groceries, or coming to the door to receive or return dry cleaning.

Q. Must alternative steps be taken without regard to cost?

A. No, only readily achievable alternative steps must be undertaken.

Q. How is "readily achievable" determined in a multisite business?

A. In determining whether an action to make a public accommodation accessible would be "readily achievable," the overall size of the parent corporation or entity is only one factor to be considered. The ADA also permits consideration of the financial resources of the particular facility or facilities involved and the administrative or fiscal relationship of the facility or facilities to the parent entity.

Q. Who has responsibility for ADA compliance in leased places of public accommodation, the landlord or the tenant?

A. The ADA places the legal obligation to remove barriers or provide auxiliary aids and services on both the landlord and the tenant. The landlord and the tenant may decide by lease who will actually make the changes and provide the aids and services, but both remain legally responsible.

Public Accommodations

Q. What does the ADA require in new construction?

- A. The ADA requires that all new construction of places of public accommodation, as well as of "commercial facilities" such as office buildings, be accessible. Elevators are generally not required in facilities under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center or mall; the professional office of a health care provider; a terminal, depot, or other public transit station; or an airport passenger terminal.

Q. Is it expensive to make all newly constructed places of public accommodation and commercial facilities accessible?

- A. The cost of incorporating accessibility features in new construction is less than one percent of construction costs. This is a small price in relation to the economic benefits to be derived from full accessibility in the future, such as increased employment and consumer spending and decreased welfare dependency.

Q. Must every feature of a new facility be accessible?

- A. No, only a specified number of elements such as parking spaces and drinking fountains must be made accessible in order for a facility to be "readily accessible." Certain nonoccupiable spaces such as elevator pits, elevator penthouses, and piping or equipment catwalks need not be accessible.

Q. What are the ADA requirements for altering facilities?

- A. All alterations that could affect the usability of a facility must be made in an accessible manner to the maximum extent feasible. For example, if during renovations a doorway is being relocated, the new doorway must be wide enough to meet the new construction standard for accessibility. When alterations are made to a primary function area, such as the lobby of a bank or the dining area of a cafeteria, an accessible path of travel to the altered area must also be provided.

Public Accommodations

The bathrooms, telephones, and drinking fountains serving that area must also be made accessible. These additional accessibility alterations are only required to the extent that the added accessibility costs do not exceed 20% of the cost of the original alteration. Elevators are generally not required in facilities under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center or mall; the professional office of a health care provider; a terminal, depot, or other public transit station; or an airport passenger terminal.

Q. Does the ADA permit an individual with a disability to sue a business when that individual believes that discrimination is about to occur, or must the individual wait for the discrimination to occur?

- A. The ADA public accommodations provisions permit an individual to allege discrimination based on a reasonable belief that discrimination is about to occur. This provision, for example, allows a person who uses a wheelchair to challenge the planned construction of a new place of public accommodation, such as a shopping mall, that would not be accessible to individuals who use wheelchairs. The resolution of such challenges prior to the construction of an inaccessible facility would enable any necessary remedial measures to be incorporated in the building at the planning stage, when such changes would be relatively inexpensive.

Q. How does the ADA affect existing State and local building codes?

- A. Existing codes remain in effect. The ADA allows the Attorney General to certify that a State law, local building code, or similar ordinance that establishes accessibility requirements meets or exceeds the minimum accessibility requirements for public accommodations and commercial facilities. Any State or local government may apply for certification of its code or ordinance. The Attorney General can certify a code or ordinance only after prior notice and a public hearing at which interested people, including individuals with disabilities, are provided an opportunity to testify against the certification.

Public Accommodations

Q. What is the effect of certification of a State or local code or ordinance?

A. Certification can be advantageous if an entity has constructed or altered a facility according to a certified code or ordinance. If someone later brings an enforcement proceeding against the entity, the certification is considered "rebuttable evidence" that the State law or local ordinance meets or exceeds the minimum requirements of the ADA. In other words, the entity can argue that the construction or alteration met the requirements of the ADA because it was done in compliance with the State or local code that had been certified.

Q. When are the public accommodations provisions effective?

A. In general, they became effective on January 26, 1992.

Q. How will the public accommodations provisions be enforced?

A. Private individuals may bring lawsuits in which they can obtain court orders to stop discrimination. Individuals may also file complaints with the Attorney General, who is authorized to bring lawsuits in cases of general public importance or where a "pattern or practice" of discrimination is alleged. In these cases, the Attorney General may seek monetary damages and civil penalties. Civil penalties may not exceed \$50,000 for a first violation or \$100,000 for any subsequent violation.

Miscellaneous

Miscellaneous

Q. Is the Federal government covered by the ADA?

A. The ADA does not cover the executive branch of the Federal government. The executive branch continues to be covered by title V of the Rehabilitation Act of 1973, which prohibits discrimination in services and employment on the basis of handicap and which is a model for the requirements of the ADA. The ADA, however, does cover Congress and other entities in the legislative branch of the Federal government.

Q. Does the ADA cover private apartments and private homes?

A. The ADA does not cover strictly residential private apartments and homes. If, however, a place of public accommodation, such as a doctor's office or day care center, is located in a private residence, those portions of the residence used for that purpose are subject to the ADA's requirements.

Q. Does the ADA cover air transportation?

A. Discrimination by air carriers in areas other than employment is not covered by the ADA but rather by the Air Carrier Access Act (49 U.S.C. 1374 (c)).

Q. What are the ADA's requirements for public transit buses?

A. The Department of Transportation has issued regulations mandating accessible public transit vehicles and facilities. The regulations include requirements that all new fixed-route, public transit buses be accessible and that supplementary paratransit services be provided for those individuals with disabilities who cannot use fixed-route bus service. For information on how to contact the Department of Transportation, see page 30.

Q. How will the ADA make telecommunications accessible?

A. The ADA requires the establishment of telephone relay services for

Miscellaneous

individuals who use telecommunications devices for deaf persons (TDD's) or similar devices. The Federal Communications Commission has issued regulations specifying standards for the operation of these services.

Q. Are businesses entitled to any tax benefit to help pay for the cost of compliance?

- A.** As amended in 1990, the Internal Revenue Code allows a deduction of up to \$15,000 per year for expenses associated with the removal of qualified architectural and transportation barriers.

The 1990 amendment also permits eligible small businesses to receive a tax credit for certain costs of compliance with the ADA. An eligible small business is one whose gross receipts do not exceed \$1,000,000 or whose workforce does not consist of more than 30 full-time workers. Qualifying businesses may claim a credit of up to 50 percent of eligible access expenditures that exceed \$250 but do not exceed \$10,250. Examples of eligible access expenditures include the necessary and reasonable costs of removing architectural, physical, communications, and transportation barriers; providing readers, interpreters, and other auxiliary aids; and acquiring or modifying equipment or devices.

Resources

Telephone Numbers for ADA Information

This list contains the telephone numbers of Federal agencies that are responsible for providing information to the public about the Americans with Disabilities Act and organizations that have been funded by the Federal government to provide information through staffed information centers.

The agencies and organizations listed are sources for obtaining information about the law's requirements and informal guidance in understanding and complying with the ADA. They are not, and should not be viewed as, sources for obtaining legal advice or legal opinions about your rights or responsibilities under the ADA.

Architectural and Transportation Barriers Compliance Board	1-800-872-2253 (voice & TDD)
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Equal Employment Opportunity Commission

For questions and documents	1-800-669-3362 (voice) 1-800-800-3302 (TDD)
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Alternate number for ordering documents (print and other formats)	202/663-4264 (voice) 202/663-7110 (TDD)
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Federal Communications Commission

For ADA documents and general information	202/632-7260 (voice) 202/632-6999 (TDD)
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Job Accommodation Network	1-800-526-7234 (voice) 1-800-526-7234 (TDD)
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Within West Virginia	1-800-526-4698 (voice & TDD)
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Resources

President's Committee on Employment of
People with Disabilities Information Line:
ADA Work 1-800-232-9675 (voice
& TDD)

U.S. Department of Justice 202/514-0301 (voice)
202/514-0383 (TDD)

U.S. Department of Transportation

Federal Transit Administration 202/366-1656 (voice)
(for ADA documents and information) 202/366-2979 (TDD)

Office of the General Counsel 202/366-9306 (voice)
(for legal questions) 202/755-7687 (TDD)

Federal Aviation Administration 202/376-6406 (voice)

Rural Transit Assistance Program 1-800-527-8279 (voice
(for information and assistance on & TDD)
public transportation issues)

Regional Disability and Business Technical Assistance Centers

ADA information, assistance, and copies of ADA documents supplied by the Equal Employment Opportunity Commission and the Department of Justice, which are available in standard print, large print, audio cassette, braille, and computer disk, may be obtained from any of the ten Regional Disability and Business Technical Assistance Centers.

Toll-free number for reaching any 1-800-949-4232 (voice
of the following Centers & TDD)

Region I (Maine, New Hampshire, Vermont, 207/874-6535 (voice
Massachusetts, Rhode Island, Connecticut) & TDD)

Resources

Region II (New York, New Jersey, 609/392-4004 (voice)
Puerto Rico) 609/392-7004 (TDD)

Region III (Pennsylvania, Delaware, 703/525-3268 (voice & TDD)
Maryland, District of Columbia,
Virginia, West Virginia)

Region IV (Kentucky, Tennessee, North 404/888-0022 (voice)
Carolina, South Carolina, Georgia, 404/888-9098 (TDD)
Alabama, Mississippi, Florida)

Region V (Ohio, Indiana, Illinois, 312/413-7756 (voice & TDD)
Michigan, Wisconsin, Minnesota)

Region VI (Arkansas, Louisiana, 713/520-0232 (voice)
Oklahoma, Texas, New Mexico) 713/520-5136 (TDD)

Region VII (Iowa, Missouri, 314/882-3600 (voice & TDD)
Nebraska, Kansas)

Region VIII (North Dakota, South 719/444-0252 (voice & TDD)
Dakota, Montana, Wyoming,
Colorado, Utah)

Region IX (Arizona, Nevada, California, 510/465-7884 (voice)
Hawaii, Pacific Basin) 510/465-3172 (TDD)

Region X (Idaho, Oregon, 206/438-3168 (voice)
Washington, Alaska) 206/438-3167 (TDD)

Addresses for ADA Information

U.S. Equal Employment Opportunity Commission
1801 L Street NW
Washington, DC 20507

U.S. Department of Justice
Civil Rights Division
Public Access Section
P.O. Box 66738
Washington, DC 20035-6738

U.S. Department of Transportation
400 Seventh Street SW
Washington, DC 20590

Architectural and Transportation Barriers
Compliance Board
1331 F Street NW
Suite 1000
Washington, DC 20004-1111

Federal Communications Commission
1919 M Street NW
Washington, DC 20554

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- Braille
- Large print
- Audiocassette
- Electronic file on computer disk and electronic bulletin board (202) 514-6193.

Note: Reproduction of this document is encouraged.

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This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

5

Divider Title: _____

"NOBODY WANTS TO LIVE IN A NURSING HOME."

--Mike Auberger, *American Disabled for
Attendant Programs Today (ADAPT)*

"How can I go to work when I can't afford someone to help me get out of bed in the morning?"

Why is it that we, as taxpayers, are willing to pay up to \$30,000 a year to place someone in a nursing home when it costs substantially less to provide attendant services in their own home?

The great promises of the Americans with Disabilities Act -- employment of this nation's 43 million disabled people, 2/3 of whom do not work -- cannot happen without a strong national program for in-home personal assistance services.

Access to consumer-driven personal assistance services must be a key element in a Democratic domestic agenda if the promise of the Americans with Disabilities Act is to be fulfilled.

"I believe that personal assistance services should be a human and civil right, and should be available for persons of all ages, irrespective of . . . income level, marital and/or family status," says Gov. Bill Clinton.

We must end the incarceration of our citizens in paternalistic institutions simply because they happen to have a disability. A national program for personal attendant services will liberate many now trapped in costly hospitals and nursing homes.

Attend the Disability Issues Caucus meeting on Tuesday, July 14 at 2:30 p.m. in the Hudson/Sutton Suite of the Ramada Hotel (across from Madison Square Garden at the corner of 33rd St. and Seventh Ave.)

**NATIONAL DEMOCRATIC CAUCUS ON
DISABILITY ISSUES**

IN 1988, GEORGE BUSH STOLE THE ELECTION FROM THE DEMOCRATS ON THE STRENGTH OF "THE DISABILITY VOTE."

DON'T LET IT HAPPEN AGAIN.

George Bush claims disabled voters were the pivotal group in swinging the 1988 election for him. The disability vote was captured by Bush in 1988, he claims, on the strength of his nomination-speech promise to "bring disabled Americans into the mainstream," according to a Lou Harris poll. "The data demonstrates that 1 to 3 points of President-Elect Bush's 7-point margin of victory are attributed to the swing in disabled voters from their traditional Democratic leanings toward Bush after he pledged to include disabled voters in the mainstream," says Louis Genevie, vice president of Louis Harris and Associates. *

We cannot afford to allow George Bush to continue to claim ownership of disabled voters!

A Democratic Congress passed the Americans with Disabilities Act that Bush claims credit for. The Americans with Disabilities Act, the most far-reaching civil rights act of recent history, was a Democratic bill, supported and passed overwhelmingly by Democrats. Yet George Bush shamelessly claims the ADA as the single 'Point of Light' in his otherwise midnight-dark domestic agenda. He will use this tactic in 1992 to appeal to the 43 million Americans who have disabilities; he will use it to win the disability vote unless Democrats fight to stop him.

The Democrats cannot afford to lose
the disability vote in 1992.

The disability vote is crucial.

Attend the Disability Issues Caucus meeting on Tuesday, July 14 at 2:30 p.m. in the Hudson/Sutton Suite of the Ramada Hotel (across from Madison Square Garden at the corner of 33rd St. and Seventh Ave.)

*"Despite the landslide that [Bush] won in the electoral college, the election actually turned on 4 million votes. If four million people who voted for George Bush had instead voted for Michael Dukakis, [Bush] would have received only 43 million votes and . . . Dukakis would have gotten 45 million . . . Two of those four million votes came from disabled people who changed their minds during the course of the campaign and voted for [Bush]. . . . At the beginning of the campaign, only one out of three disabled voters, representing just under four and a half million people said they would vote for George Bush. By the end of the campaign, however, about half of all disabled people -- some six and one half million voters -- said they would cast their vote for Bush, and increase of over two million . . ." (from a letter from Lou Genevie to the Bush Administration)

CONVENTION '92 -- The Disability Presence - Jim Parrish, Jr.

Democrats descended on the Big Apple this past July 13-16 and made clear that they are a revitalized Party. Included in the process were approximately eighty delegates and VIP's with disabilities attending the 1992 Democratic National Convention.

Activities began with a press party at Bryant Park Saturday night. This gave attendees an early opportunity to network and begin to get into the atmosphere of the up-coming week. Sunday night saw state delegations entertained at different venues around Manhattan culminating in one giant kick-off party at Lincoln Center.

On Monday, several delegates with disabilities met to evaluate and plan the activities of the week at the New York Hilton, the Democratic National Committee's Headquarters Hotel. Among the items discussed were planning a meeting with Gov. Clinton's Staff, drafting new handouts and press releases for delegates and press, and spreading the word about Tuesday afternoon's Disability Caucus. Special recognition should be given to Sharon Mistler, Starley Shade, Jennifer Ley, Judy Heumann, Jim Tuscher, and Peter Thomas. Others to thank include Kitty Lunn and other members of the 504 Democratic club in New York. Lastly, Anne Emmerman, Executive Director of the New York City Mayors Office for People with Disabilities was extraordinary in helping to make this convention a success.

As a member of the National Arrangements Committee, along with Judy, I asked that Larry Allison of New York represent me at the meeting of the committee in June. We were fortunate that the chairs of the committee, Edward J. Carlough and Rep. Lindy Boggs, along with the DNC, paid additional concern and attention to meeting access needs. Co-Chair Carlough asked in a letter to DNC Vice-Chair Yolanda Caraway for the grievances expressed by disabled delegates at the 1988 Atlanta Convention. I, for one, was impressed.

While there were a couple of issues yet to resolve, most everyone agreed that the convention was, according to one disabled delegate, "...an incredible improvement over 1988 and Atlanta." For the first time ever, delegates were able to sit with their own delegations -- disabled or not. New York City's Bus system, totally lift equipped, proved to be an invaluable asset while the Access-A-Ride (para-transit) program was made available to anyone who needed it. Special thanks to transportation coordinator Thor Hesla and certainly no amount of gratitude can be enough for Ron Jacobowitz. He was everywhere and everything. Making sure that delegates with disabilities had the proper accommodation and credentials, Ron was invaluable. It was evident that access to conventions from now on, with oversight from us, need not be an issue of consternation, contingency plans, and implementation of a makeshift 'Plan B.'

Tuesday afternoon brought representatives from the disability delegation to meet with staff persons at the Intercontinental

Hotel, Headquarters of Gov. Clinton. Here we met with Stephanie Solien, Campaign Policy Director, and others, to outline concerns and issues that the campaign and our nominee should be addressing. Afterwards, we rushed to the Ramada, across the street from Madison Square Garden, where our Disability Caucus was held.

While the meeting room was small and warm, our agenda was large and warmer. There were approximately 40 people who attended, and there would have been more except for the size of the facility and a conflict with other activities, particularly, the Health Caucus. In addition, a march organized by United for Aids Action was being held.

We addressed a brief history of events between Atlanta '88 and now and were visited by Congressman Steny Hoyer of Maryland, Chief Sponsor of the Americans with Disabilities Act in the House of Representatives. Of course, the conversation turned to ADA which was fine with both the Congressman and the Caucus. Cong. Hoyer also urged us to return to our communities and get involved in the campaign. Also stopping by were Bob Boorstin, Deputy Communications Director on Policy, and Stephanie Solien who a few of us had met with earlier. Both listened while caucus members echoed the concerns voiced at the earlier meeting. Both campaign staffers stressed Gov. Clinton's commitment to our issues and asked for continued input from caucus members. Before adjournment, two motions were made, discussed, and passed. They were: 1. That the Caucus support an amendment to the delegate selection rules that would provide goals and timetables for the selection of delegates with disabilities, and 2. That the Caucus support the election of Bill Clinton and Al Gore as President and Vice President.

The evening session marked the return of President Jimmy Carter, under whose administration Section 504 of the Rehabilitation Act was signed. Previously, President Nixon had vetoed the bill, twice. "Too costly," the Republicans stated. Sound familiar?

Wednesday provided a brief and welcome respite from the convention grind. Some delegates caught up on sleep, some took tours, while others watched a free outdoor performance of several Broadway shows. Still, there was work being done while other caucuses met and the conventioners prepared for Gov. Cuomo's nomination of Bill Clinton the forthcoming night. Included in this night's activities was a call on representatives of the party who were delegates to come up to the podium. Representing the disability community was a woman with a walker from New Mexico and a man in a wheelchair from Illinois. More visibility. The evening finished with Gov. Clinton coming to the Garden for a 'surprise' thank you after the roll call of states had given him the nomination of our party. Ironically, it was the state of Ohio that put him over the top on the necessary votes to win. Ohio also clinched the nomination for Jimmy Carter in 1976, our last Democratic President.

Thursday was, of course, the big day. Gov. Clinton and Sen. Gore were to accept their nominations. But there was still

work to be done. Caucus leaders met back at the New York Hilton to review Tuesdays caucus and the events to date. It was decided that a letter be drafted to DNC Chairman Ron Brown reiterating our concerns as stated at Tuesdays caucus. The primary focus of the letter was based on the Lou Harris poll of 1989 showing how George Bush 'stole' the disability vote. If we don't get to work immediately, countering Republican rhetoric and stating the fact that eighty percent of the Democratic Congress were co-sponsors of ADA as compared to a paltry fifteen percent by the Republicans, there will be no excuse. Bipartisan? I think not! We also expressed our concern for a full-time staff person with a disability at the DNC to coordinate, inform, react and respond, and on every way practical reach out to that burgeoning electoral giant known as the Disabled Vote!

Sen. Al Gore accepted his nomination and urged us to embrace this new generation of leaders. Afterall, we have not had a leader in the White House for twelve years. Indeed, Sen. Gore, "The time has come to go." As far as disability issues are concerned, Sen. Gore has always been there for us.

Bill Clinton gave an impassioned speech for change. In doing so, he called out to the disability community three times on three different issues. The first dealt with what Gov. Clinton referred to a 'new approach to government.' He said, "...a government that offers more empowerment and less entitlement...and choices for the elderly and people with disabilities and the long term care they receive..." Policy staffers realize the importance of Personal Assistant Services. The second reference dealt with education, whereby all children could borrow money for college and repay it by serving their community "...or working with...people with disabilities." Again, think of the pool of attendant care that could be provided. Lastly, his mention of people with disabilities was included in a list of groups that he said, for too long, politicians have been blaming; 'Them.' "And so we must say to every American: look beyond the stereotypes..."

The night was truly electric. Signs and slogans, banners and balloons, cameras and celebrities. It seemed at times a religious revival. And maybe a revival it was. A culmination of a long an arduous process to revitalize the Democratic Party. Ask Ross Perot. Ask anyone in attendance that night. And in November, ask George Bush. Truly, he 'just doesn't get it' and won't.

We must call our local Democratic Party Headquarters or Clinton for President office and ask, "What can I do?" If we don't, if we allow this great opportunity to slip away, then what will our children say, especially our children with disabilities? We are 43 million, strong. A fraction of our community can elect the next President of the United States. Let's show our Party, our country, and ourselves that the Disability Vote counts! And when that Lou Harris Poll is taken next spring, there will be no argument, no hesitation, no placating remarks -- when we ask for our seat at the table.

BILL CLINTON - A PERSONAL PERSPECTIVE

If those of us with disabilities desire a national leader who will promote independence, equal opportunity, integrated community living options, consumer controlled personal care services and an active role for us in public policy development, we will elect Bill Clinton as the next President of the United States. I have worked closely with Bill Clinton and his administration in Arkansas since 1987. I became a wheelchair user at the age of 17. For over 20 years I have been a vocal advocate for the rights of persons with disabilities at the local, state and national level. As the executive director of an independent living center for 7 years and a board member of the National Council on Independent Living when it was just developing, I am a firm believer in the independent living philosophy. I am convinced Bill Clinton will work with us to make the independent living philosophy the foundation on which national disability policy is based.

In late 1987, I was selected by Bill Clinton and his administration to head the state vocational rehabilitation agency in Arkansas. Bill Clinton's administration has appointed other qualified persons with disabilities as state agency administrators. His record of appointment of persons with disabilities to boards and commissions is strong. Over the years as Governor of Arkansas, Bill Clinton has had considerable personal involvement with the growing constituency of Arkansans with disabilities. He has personally met on many occasions with individuals and groups of disability advocates engaging in lively discussions of issues. Bill Clinton recognizes the viability of the organized disability movement and will seek us out as resources and participants in policy development.

Unfortunately, the information known about Bill Clinton by many people active in disability rights is that a dozen members of Americans Disabled for Attendant Programs Today (ADAPT) occupied his office in the State Capitol in December 1991. The protest was highly publicized and was a result of cuts in the Arkansas Department of Human Services (DHS) Medicaid-funded Personal Care Program. ADAPT wrote a letter to Governor Clinton protesting the cuts with a deadline for a response. The deadline passed with no response thus the resulting occupation. Most people don't realize that Bill Clinton had never been shown the letter and was unaware of the issue.

Most experienced ADAPT activists would have expected to be forcibly removed after making their way into the Governor's private office, full of valuables and cherished personal possessions. Such was even suggested by certain nervous security officials but Bill Clinton, out of state but constantly in touch by telephone throughout the entire

fifteen hour occupation said "absolutely not". He invited the ADAPT group to make themselves at home in his office, instructed security to stay out of the way and began a process of identifying the issues and negotiating a fair and equitable solution. Shortly after midnight, through a teleconference call, Bill Clinton and ADAPT members reached an agreement which restored funding cuts imposed in the Medicaid Personal Care Program. Bill Clinton demonstrated how a true leader should react in a crisis. With the firm belief that people with disabilities have a right to live with appropriate support in the community and with the realization that the reduction in personal care services could result in some individuals with severe disabilities being forced into institutions Bill Clinton took action. He turned what could have been a very negative experience for all involved into a win-win situation for persons with disabilities and state government of Arkansas. **That's the Bill Clinton I know.**

Bill Clinton called a special session of the Arkansas Legislature in January 1992, at which time he placed personal care services on a very limited agenda. Through his leadership, legislation was passed which resulted in increased funding and reimbursement rates for personal assistance.

Bill Clinton represents a new generation of leaders. His style is one of involvement and consensus building not old time autocratic decision-making. I know he is a man who believes we can do more tomorrow than we are doing today and we can do it better. His actions have demonstrated that he believes people are one of our greatest natural resources. He believes if one listens to the concerns of "we the people" and involves us in seeking solutions then the problems of tomorrow will be fewer and the future will be bright.

For example Bill Clinton sat at a conference table with persons with disabilities and other key representatives service discussing concerns, such as the lack of accessible, affordable housing with appropriate support services. As a result of such discussions, Bill Clinton established the Governor's Task Force on Supported Housing. The task force consists of people with disabilities, persons who are elderly, State/Federal government representatives, providers, and representatives of real estate and banking industries. The task force identified barriers and future initiatives necessary to increase the development of accessible, affordable housing with appropriate support services, which enables persons with disabilities and elderly people to live quality lives in integrated community settings. This effort has produced a fully staffed supported housing office, which serves as a catalyst and source of technical assistance for those pursuing supported housing initiatives. Programs are being pursued which will result in first home ownership for

people with disabilities. Joint ventures involving people with disabilities, non-profit organizations, real estate and financial institutions are being explored which will result in community living and unique support system opportunities which would have been impossible to achieve without such a collaborative effort.

Similar round table discussions have resulted in Bill Clinton establishing the Governor's Task Force on Home and Community-Based Services for persons with disabilities. Again, a governor-appointed group of involved citizens, with the majority of the membership being persons with disabilities, will begin a process of system change based on principles of consumer control and availability of options for pursuing independent productive lives in the community. **Such initiatives, reflect the Bill Clinton I know.**

As President, Bill Clinton will aggressively pursue effective implementation and enforcement of the Americans with Disabilities Act. The Clinton approach of inclusion and consensus building will provide a framework for the continuing empowerment of persons with disabilities as we assume our rightful place as first class citizens with equal opportunities to participate in society.

Bill Clinton will:

- . Pursue a Health Care for all Americans Plan resulting in access to comprehensive health care for persons with disabilities.
- . Steps will be taken to prohibit insurance companies from denying coverage to persons with disabilities based on pre-existing conditions.
- . National policy focusing on consumer driven personal assistance services will be developed and implemented.
- . People with disabilities will be directly involved in the planning and implementation of national policy impacting the lives of Americans with disabilities.

It is time for a change.

Bill Clinton and Al Gore represent a new generation of leadership which we so desperately need in order to move our country progressively into the 21st century. Bill Clinton has a strong social conscience and vision for the country which was formulated against the backdrop of the civil rights movement of the 1960's and the evolving independent living movement. His philosophy and attitudes are in harmony with those of us seeking equality, opportunity and self determination for all people. Bill Clinton's administration

will be one of progressive vision, inclusion, and consensus building. We will not only have a voice in his administration but also a viable role to play in making our country great once again. **This is the Bill Clinton I know. I hope you will join me and demonstrate the political power of persons with disabilities, our friends, families and supporters by electing Bill Clinton as the next President of the United States.**

Bobby C. Simpson
8/10/92

CLINTON•GORE ON AMERICANS WITH DISABILITIES

Bill Clinton and Al Gore have long recognized that people with disabilities are among the nation's greatest untapped resources. They believe that all persons with disabilities must be fully integrated into mainstream American society, so they can live fulfilling and rewarding lives. During their years in public office, they have compiled strong records of supporting public and private initiatives to enhance the independence and productivity of persons with disabilities.

As President and Vice President, they will continue their efforts. A Clinton/Gore Administration will actively involve people with disabilities in developing a national policy that promotes equality, opportunity, and community for all Americans. Bill Clinton and Al Gore will ensure that children with disabilities receive a first-rate education that suits their needs. People with disabilities will be able to live in their own homes, in their own communities. Adults with disabilities will work alongside their peers without disabilities. And people with disabilities will have access to comprehensive health care and consumer-driven personal assistance services.

We must not rest until America has a national disability policy based on three simple creeds: inclusion, not exclusion; independence, not dependence; and empowerment, not paternalism.

THE CLINTON/GORE PLAN

Americans with Disabilities Act

Health care for all Americans

Improve educational opportunities for children with disabilities

Expand employment opportunities for Americans with disabilities

THE CLINTON/GORE PLAN

The ADA is not about handouts and it is not a giveaway — it guarantees the civil rights of American citizens with disabilities.

We must never forget that ADA also stands for "American Dream for All." We must not rest until America has a national disability policy based on three simple creeds: inclusion, not exclusion; independence, not dependence; and empowerment, not paternalism.

Americans With Disabilities Act

- Work to ensure that the Americans with Disabilities Act (ADA) is fully implemented and aggressively enforced — to empower people with disabilities to make their own choices and to create a framework for independence and self-determination.

Health care for all Americans

- Provide all Americans with affordable, quality health coverage, either through their workplaces or through a government program; prohibit insurance companies from denying coverage based on pre-existing conditions; and contain costs by taking on the health care industries.
- Expand long-term care choices for Americans with disabilities.

Expand educational opportunities for children with disabilities

- Work to ensure that children with disabilities receive a first-rate education, tailored to their unique needs but provided alongside their classmates without disabilities.
- Support increased funding for special education services and work to improve the enforcement of laws that guarantee children with disabilities the right to a high-quality public education.
- Support increased efforts to integrate children with disabilities into their schools' regular activities, instead of sectioning them off in special programs where they cannot socially integrate with other students.
- Expand early intervention programs in health care and education — such as Head Start — to ensure that children with disabilities live full and productive lives.

Improve employment opportunities for Americans with disabilities

- Increase special education, professional training, and job training efforts to reduce the extraordinarily high unemployment rate among Americans with disabilities as part of national adult education, job training, and apprenticeship programs.
- Sign into law the Family and Medical Leave Act, which George Bush vetoed in 1990, so that no worker is forced to choose between keeping his or her job and caring for a newborn child or sick family member.

Expand political participation

- Sign into law the "Motor-Voter Act," which George Bush vetoed this year, to make it easier for people with disabilities to register to vote.

THE RECORD

- As Governor, Bill Clinton increased the funding of community programs for people with disabilities by 220 percent from 1983 to 1990.
- As Attorney General and Governor, recruited and employed qualified persons with disabilities on his staff. Under Governor Clinton's current administration, the State Directors of the Division of Rehabilitation Services, and the Division of Services for the Blind are qualified individuals with disabilities.
- With the legislature in 1985, established the Governor's Commission on People with Disabilities. The Commission has sparked more involvement and participation by persons with disabilities.
- A decade before the Americans with Disabilities Act, Governor Clinton supported administrative action to permit state agencies to secure adequate accommodations for staff with disabilities, regardless of costs.
- During the 1987 legislative session, provided key assistance to establish an interim Message Relay Center. The center provides statewide telephone accessibility for persons who are deaf and hard of hearing.
- In 1990, established the Governor's Task Force on Supported Housing. Its mission was to recommend state legislation, policy changes and program initiatives to increase the availability of supported housing — affordable, accessible housing in integrated community settings, with appropriate support services for the elderly and people with disabilities.
- In 1991-92, took action to provide additional state funds for expansion of Supported Employment Services, a vocational rehabilitation program for severely disabled people who need job coaching services and long-term support to obtain or maintain employment.
- In 1992, established a Governor's Task Force on In-Home and Community-Based Services for Persons with Disabilities. This task force is composed of leaders of the disability community, state agency officials and private business representatives.
- Senator Gore was an original cosponsor of the Americans with Disabilities Act.
- Voted for the "Motor-Voter" Act, which would have made it easier for people with disabilities to register to vote. George Bush vetoed the Act.



October 14, 1992

Dear Disability Rights Leader,

People with disabilities, their families, friends and colleagues deserve a voice in this Presidential election. As a leader among Americans with disabilities, you have championed the cause of equality and opportunity. You have been patient and persistent. I salute your efforts.

July 26 this year marked the second anniversary of the Americans with Disabilities Act, and the implementation of the employment provisions. As my friend Tom Harkin, who guided the legislation for which you fought so hard through the Senate, stated: "The ADA is, first and foremost, the outcome of the extraordinary efforts of the disability community. This is your bill, and you have earned it."

I agree. But the job is not finished. Your ongoing effort is necessary if we are to achieve full implementation of the ADA.

I am writing to tell you that as President, I will join you in that effort. I know that you will continue to educate your fellow citizens as to the moral and economic value of this legislation for our nation. We must continue to voice our conviction that it is morally wrong to deny equal rights of citizenship to Americans with disabilities. We must remind others that our entire nation will share the economic and other benefits that will result from the full participation of all Americans.

As President, I will work with you to continue the process of education by ensuring that technical assistance is provided to those who need it, and I will insist that the enforcement provisions of the ADA are fully implemented.

My commitment to equality and opportunity for all people is supported by my record. I take great pride in the following accomplishments of my Administration which directly affect disabled individuals:

- Before the passage of the ADA we established an interim Message Center which provides statewide telephone accessibility for persons who are deaf or hard of hearing.

- We established the Governor's Task Force on Supported Housing. Its mission was to recommend State legislation, policy changes and program initiatives to increase the availability of supported housing -- affordable, accessible housing in integrated community settings, with appropriate support services for people with disabilities.
- We established the Governor's Task Force on In-Home and Community-Based Services for Persons with Disabilities. The task force is composed of leaders of the disability community, state agency officials and private business representatives.

I recruited and employed qualified persons with disabilities as part of my staff. Presently, the State Directors of the Division of Rehabilitation Services and the Division of Services for the Blind are qualified individuals with disabilities.

As President, I will provide all Americans with affordable, quality health coverage. I will prohibit insurance companies from denying coverage based on pre-existing conditions, and contain costs by taking on the health care industries. Access to health care and consumer-driven personal assistance services will be a top priority.

I will expand educational opportunities for children with disabilities by working to ensure that children with disabilities receive a first-rate education, tailored to their unique needs but provided alongside their classmates who do not have disabilities. I will support increased efforts to integrate children with disabilities into their school's regular activities, instead of sectioning them off in special programs where they cannot socially integrate with other students.

I will sign into law the Family and Medical Leave Act, so that no worker is forced to choose between keeping his or her job and caring for a newborn child or sick family member.

I will aggressively seek ways to increase the participation of disabled citizens in the political process, beginning with the signing of the "Motor Voter" Act, which would make it easier for people with disabilities to register to vote.

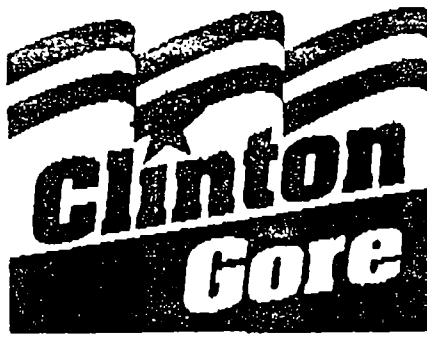
We must not rest until America has a national disability policy based on three simple creeds: inclusion, not exclusion; independence, not dependence; and empowerment, not paternalism.

We can no longer make weak excuses to exclude people from the American Dream. We do not have a single person to waste. It is time to end discrimination in this country. It is time to knock down the walls of ignorance. It's time for a change in America, and we ask for your support in making this country a better place for all its citizens.

Sincerely,



Bill Clinton



Statement of Governor Clinton on Personal Assistance Services

I support efforts to make affordable personal assistance services available to Americans with disabilities. We must ensure that all people have the opportunity to live independent lives. People who have disabilities and have a need for personal assistance services should have maximum control over the care they receive. Personal assistance services must be consumer-driven -- they must meet the needs and desires of the user, not the dictates of the supplier.

I believe that personal assistance services are of the utmost importance. I understand that every person has different needs. For this reason, I believe that every individual has a right to personal care.

I believe that personal assistance services should be provided by a wide range of qualified individuals. In my proposal for a National Service Trust Fund, I have suggested that young men and women who go to college can pay for their education by spending two years working in jobs which serve our community -- teaching our children, policing our streets, rebuilding our infrastructure. Employment in personal assistance services should be an option in this program, and I hope thousands of men and women choose it. This is only one of many ways in which we can expand the scope of available services.

Personal assistance services should be a part of any comprehensive health care reform plan. For this reason, I intend to appoint a task force, including individuals with disabilities, on the role of personal assistance services and long term care in health care reform. I have promised to submit a reform package to Congress in the first 100 days of my Administration. The task force will submit recommendations on reform in that time period.

It is time for America to realize that silence on issues of concern to people with disabilities is as damaging as prejudice. As President, I will work with individuals with disabilities to empower people to live independently. I will bring people together and make this plan a reality.

October 16, 1992

Office of the President-Elect
and Vice President-Elect

December 1, 1992

Letter from President Elect Clinton
ADA Employment Summit

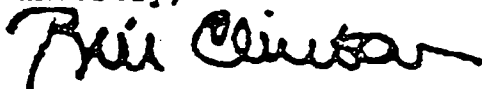
Greetings and welcome to all of you in attendance at the President's Committee on Employment of People with Disabilities ADA Employment Summit. As leaders among Americans with disabilities, you have championed the cause of equal and expanding opportunity, and I salute your efforts. I support the worthy goal of the summit to bring leaders of business, industry, labor, government and disability organizations together in a spirit of harmony and cooperation for full implementation of the Americans with Disabilities Act.

My highest priorities as your next President are to restore economic opportunity and rebuild a sense of community in our great nation. That is why I believe the ADA is so important. In a competitive global economy, our country doesn't have a single person to waste -- opportunity must be open to everyone. I am strongly committed to full implementation and enforcement of the ADA, because I believe our entire nation will share in the economic and social benefits that will result from full participation of Americans with disabilities in our society. I look forward to working with you to help create a greater sense of understanding and support for the ADA throughout our nation.

My agenda for our country and for people with disabilities goes beyond full implementation of the ADA. I am committed to fighting for a national health care system which provides universal access to affordable, quality health care, with more options for personal assistance services for the elderly and for persons who are disabled. I believe we must drastically improve our children's education system, so that all children, including children with disabilities, receive a first-class education tailored to their needs. We need to reform government so it once again fights for our interests and shares our values. And, above all, we need a growing economy with more and better jobs, an economy in which we can maximize the participation and contribution of Americans with disabilities in the workplace.

As I have stated throughout this past year on the campaign trail, I believe it is time for our country to come together again. I look forward to working with all of you to build a better America.

Sincerely,



Bill Clinton

P. O. Box 8086, Little Rock, AR 72203-8086 501-374-3322
1120 Vermont Avenue, N.W., Washington, DC 20270 202-973-2600

PUTTING PEOPLE FIRST

HOW
WE CAN
ALL
CHANGE
AMERICA



Governor
Bill Clinton



Senator
Al Gore

PUTTING PEOPLE FIRST

...tunities to the community that would
...t should the sale not go through. Pur-
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...y their fair share of taxes.

Americans with Disabilities

WE HAVE LONG recognized that people with disabilities are some of our nation's greatest untapped resources. We believe that all persons with disabilities must be fully integrated into mainstream American society, so they can live fulfilling and rewarding lives. During our years in public office, we have compiled strong records of supporting public and private initiatives to enhance the independence and productivity of persons with disabilities.

As President and Vice President, we will continue our efforts. We will actively involve people with disabilities in developing a national policy that promotes equality, opportunity, and community for all Americans.

A Clinton-Gore Administration will ensure that children with disabilities receive a first-rate education that suits their needs. People with disabilities will be able to live in their own homes, in their own communities. Adults with disabilities will work alongside their peers without disabilities. And people with disabilities will have access to comprehensive health-care and consumer-driven personal assistance services.

We must not rest until America has a national disability policy based on three simple creeds: inclusion, not

exclusion; independence, not dependence; and empowerment, not paternalism.

Here's what we will do:

Americans with Disabilities Act

- Work to ensure that the *Americans with Disabilities Act* (ADA) is fully implemented and aggressively enforced—to empower people with disabilities to make their own choices and to create a framework for independence and self-determination. The ADA is not about handouts and it is not a giveaway—it guarantees the civil rights of American citizens with disabilities.

Health Care for All Americans

- Provide all Americans with affordable, quality health coverage, either through their workplaces or through a government program; prohibit insurance companies from denying coverage based on pre-existing conditions; and contain costs by taking on the insurance industry and the drug industries.
- Expand long-term care choices for Americans with disabilities.

Improve Educational Opportunities for Children with Disabilities

- Work to ensure children with disabilities a first-rate education, tailored to their unique needs but provided alongside their classmates without disabilities.
- Support increased funding for special education ser-

vices and work to improve the enforcement of laws which guarantee children with disabilities the right to a high-quality public education.

- Support increased efforts to integrate children with disabilities into their schools' regular activities, instead of sectioning them off in special programs where they cannot interact with other students.
- Expand early intervention programs in health care and education—such as Head Start—to ensure that children with disabilities live full and productive lives.

Expand Employment Opportunities for Americans with Disabilities

- Increase the amount of special education, professional training, and job training to reduce the extraordinarily high unemployment rate among Americans with disabilities as part of national adult education, job training, and apprenticeship programs.
- Sign into law the *Family and Medical Leave Act*, which George Bush vetoed in 1990, so that no worker is forced to choose between keeping his or her job and caring for a newborn child or sick family member.

PRESIDENTIAL CANDIDATES SPEAK OUT

Over the course of this campaign, I have often said that America doesn't have a person to waste. I firmly believe that the only way we can get our country going in the right direction again is by involving every American in the revitalization of our country. As a nation, we are not doing enough to tap into the talents of Americans with disabilities. My administration's disability policies will be based on three simple creeds: inclusion, not exclusion; independence, not dependence; and empowerment, not paternalism.

If I am elected president, I will work with the disability community and Congress to ensure that persons with disabilities are fully integrated into American society. This theme of empowerment, inclusion and independence means providing education and job training so Americans with disabilities can actively contribute to our country's productivity. It means providing quality, affordable, comprehensive health care that accommodates the special health needs of Americans with disabilities. It also means more and better housing and more opportunities for people with disabilities to live independently in their own homes, in their own communities.

The swift and sure enforcement of the Americans with Disabilities Act (ADA) is crucial to the goals of independence and an end to discrimination in the workplace. The ADA is not about handouts or affirmative action, and it is not a giveaway — it equalizes opportunity and guarantees the civil rights of American citizens with disabilities. My administration will make the implementation and enforcement of this ground-breaking legislation a top priority.

In the last four years, America has witnessed its slowest growth rate since World War II, and millions of Americans are out of work. Perhaps nowhere is this job shortage felt more than among people with disabilities. Empowering Americans means giving them the tools they need to compete in an increasingly competitive economy; while the provision of reasonable accommodations to reduce barriers to the work place are essential, adequate training is particularly important for people with disabilities. My administration will increase the amount of special education and job training for Americans with disabilities as part

of national adult education, job training and apprenticeship programs.

Today, over 34 million Americans have no health coverage, and many more are underinsured. The poor management of health care costs and the inadequate distribution of services disproportionately affects Americans with disabilities. I will provide Americans with affordable, quality and comprehensive health care by taking on the insurance companies and the pharmaceutical manufacturers. In a Clinton administration, insurance companies

will not be allowed to deny an individual coverage because of a "pre-existing" condition. In addition to providing every American with a core benefits package, the Clinton plan will expand Medicare for disabled Americans to include more long-term care and emphasize home and community-based care that allows the individual to decide what kind of care best serves his or her needs.

Empowerment means putting people first by investing in lifetime learning — a concerted effort to invest in the collective talents of our people. Education is more than merely the key to climbing the ladder of opportunity. It is imperative to America's long-term economic viability. For too long, education and training for Americans with disabilities has been underfunded and pushed outside of national efforts. I will work to make sure that children with disabilities receive a first-rate education, tailored to their unique needs but provided alongside their non-disabled classmates. My administration will fully fund the Head Start program and other early intervention programs that will assist children with disabilities. These children must be included in regular school activities, not shut off from their peers.

Our country suffers from a dearth of affordable housing, and again, the disability community suffers disproportionately. By raising the ceiling on the Federal Housing Authority mortgage guarantees from 65 percent to 95 percent of the price of the average American home, we can stimulate the construction industry and make the purchase of a first home a reality for many Americans. I also support a greater federal involvement in low-income, long-term housing buyout programs and more tenant management of



I will work to make sure that children with disabilities receive a first-rate education, tailored to their unique needs but provided alongside their non-disabled classmates.

Bill Clinton



continued on page 18

PRESIDENTIAL CANDIDATES SPEAK OUT

continued from page 17

public housing units. I will require the Department of Housing and Urban Development and the Justice Department to enforce the ADA and investigate and prosecute cases involving discrimination of any kind, including discrimination against Americans with disabilities.

Independence means making our private and public transportation systems and public buildings accessible to persons with disabilities.

ities. Access to transportation and mandated compliance with federal access requirements are essential prerequisites for increased inclusion of Americans with disabilities into American society. In my National Economic Strategy, I have outlined my proposal to put every dollar by which we reduce the military budget into research and development of civilian technologies, including the world's most advanced transportation systems. We can, and must,

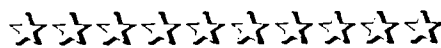
greatly improve the integration of Americans with disabilities into society by making present and future transportation systems accessible.

During my public life as Attorney General and Governor of Arkansas, I've worked to defend the rights of Arkansans with disabilities and improve services that assist this community. A decade before the Americans with Disabilities Act, I supported efforts to give state agencies the funding they needed to make their offices accessible to staff members with disabilities. In 1985, I worked with the Arkansas state Legislature to establish the Governor's Commission on People with Disabilities. As a



In a Clinton administration, insurance companies will not be allowed to deny an individual coverage because of a "pre-existing" condition.

Bill Clinton



result, there is increased involvement and participation of people with disabilities in both the public and private sectors. I have also actively recruited and hired persons with disabilities to serve on my staffs.

Inclusion, independence and empowerment. These will be the Clinton administration's guiding policies to improve the lives of Americans with disabilities. I have learned a tremendous amount from Senator Tom Harkin on these issues in the past, and I am looking forward to listening to new ideas on how the federal government can create unprecedented opportunities for Americans with disabilities. Now more than ever, America needs the active participation of every one of its citizens. We simply don't have a person to waste.

*Democratic Candidate,
Bill Clinton*

Gifts that Last a Lifetime!

If you've been looking for a holiday gift that can help someone you love learn basic life skills, these PUZZLE GAMES are the perfect solution.

Guaranteed to get a smile, these PUZZLE GAMES are not only educational but great fun. Developed by an educator of individuals with developmental disabilities, the PUZZLE GAMES reinforce life skills training in both the home and community setting.

This Two-Step educational program is an ideal independent activity that encourages task completion.

STEP 1-PUZZLE:

Assemble the 63 piece, full-color Puzzle (19" X 15"). The easy-to-work Puzzle pieces are 2 inches in size. STEP 2-GAME:

Match Picture and/or Word Cards to the correct space on the Puzzle. 48 cards are provided with each PUZZLE GAME.

After the PUZZLE GAME is completed and the Picture and/or Word Cards are in place, a parent, brother, sister, or friend reviews and

discusses card placement choices with the person playing the game.

In addition to teaching basic life skills, the PUZZLE GAMES also teach hand-eye coordination, learning to follow directions, and reinforce other skills like reading, basic communication, attention-to-task,

matching, and number and color recognition. There are 4 Life Skill PUZZLE GAMES to choose from. Each cost only \$19.95. For a limited time you can save \$10.00 by ordering the set for only \$69.50. The set includes: Community Skills, Looking Good (Grooming), Cooking Class, and Eating Skills. Each PUZZLE GAME coordinates to the matching PCI Life Skills Program used in schools and residential facilities throughout the nation.

Find out how you can help someone learn Life Skills and have great fun doing it! Call today to order your Life Skills PUZZLE GAMES. Charge your order by phone in time for the Holidays!



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When I'm elected...

Disability community hopes Clinton carries out campaign promises

Prior to his election, then-Governor Bill Clinton pledged that if he was elected president, he and his cabinet would "continue to voice our conviction that it is morally wrong to deny equal rights of citizenship to Americans with disabilities."

Now that he has won, here are more detailed excerpts of what he has said about the rights and needs of people with disabilities. The information is compiled from his Democratic national platform, an interview with the National Organization on Disability and statements made to disability leaders.



DISABILITY POLICY

Bill Clinton and Al Gore have long recognized that people with disabilities are among the nation's greatest untapped resources. We believe that all persons with disabilities must be fully integrated into mainstream American society, so they can live fulfilling and rewarding lives.

We will actively involve people with disabilities in developing a national policy that promotes equality, opportunity and community for all Americans. We will ensure that:

- Children with disabilities receive a first-rate education that suits their needs and support increased efforts to integrate them into regular school activities;
- People with disabilities will be able to live in their own homes, in their own communities;
- Adults with disabilities will work alongside their peers without disabilities, and;
- People with disabilities will have access to comprehensive health care and personal assistance services.

We must not rest until America has a national disability policy based on three simple creeds: inclusion, not exclusion; independence, not dependence; and empowerment, not paternalism.

CIVIL AND EQUAL RIGHTS

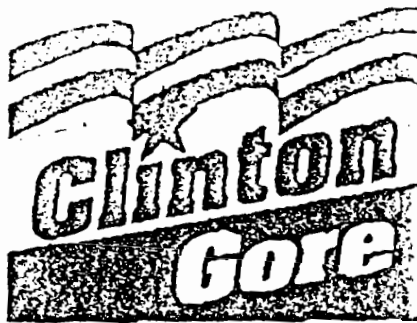
We don't have an American to waste... We support the ratification of the Equal Rights Amendment, affirmative action and stronger protection of voting rights for... minorities. We will reverse the Bush Administration's assault on civil rights enforcement and, instead, work to rebuild and vigorously use machinery for civil rights enforcement... and fully enforce the Americans with Disabilities Act to enable people with disabilities to achieve independence and function at their highest possible level.

OTHER CAMPAIGN PLEDGES

- Provide all Americans with affordable, quality health coverage;
- Prohibit insurance companies from denying coverage based on pre-existing conditions and contain costs;
- Sign into law the Family and Medical Leave Act, so that workers can keep their jobs while taking care of a newborn child or sick family member, and;
- Seek ways to increase the participation of disabled citizens in the political process, beginning with the signing of the Motor Voter Act, which makes it easier for people with disabilities to register to vote.

FOR THE RECORD

While governor of Arkansas, Clinton supported programs for people with disabilities. He increased funding of community programs by 220 percent from 1983 to 1990, established the Governor's Commission on People with Disabilities in 1985, helped establish an interim statewide message relay center for telephone access and established a task force and office on housing for the disabled. He also provided additional state funds to expand a vocational rehabilitation program for people who are severely disabled, established the Governor's Task Force on In-Home and Community-Based Services for Persons with Disabilities earlier this year and has people with disabilities on his staff.



Recommended Response to Oregon Questions:

1) The fundamental problem is that America has had no leadership on health care, forcing states to deal with a national health cost explosion. Both Clinton and Gore applaud the states like Oregon, Hawaii, Washington, Connecticut and others struggling with national health crisis while Bush ignores it.

2) Bill Clinton and Al Gore support health care coverage for Americans, regardless of age, disability, or any pre-existing condition. Their plan would control costs and ensure universal coverage without discrimination, ending our health care crisis.

3) Bill Clinton favors giving states the flexibility to deal with the health care crisis that George Bush's inaction has helped create. However, he would only support waivers that do not violate the ADA or any other civil rights laws. He would vigorously enforce the ADA.

4) Governor Clinton knows that every person has different needs. Because of this, he believes that every individual has a right to personal care. All people's health needs are individually important.

5) Both Governor Clinton and Senator Gore agree that states are having to struggle with these problems because Bush has avoided his responsibility and broken his promises to get costs under control. What is needed is a national solution.

6) There have been many advances made in Arkansas to empower people with disabilities throughout the state. Governor Clinton has always actively supported the disabled community and their strive for independence and integration.

- In the state of Arkansas, Personal Assistance Services has increased ten-fold between 1985 and 1991.

- In the state of Arkansas, skilled Home Health Care services for people with disabilities has increased three-fold in the past ten years. Without these services, thousands of individuals would have been hospitalized.

- The Arkansas Department of Health has instituted in-home health services for people with disabilities who need special care.

- In-home health services for Arkansans with disabilities is available 24 hours a day, seven days a week.

7) A Clinton/Gore administration will insure independence, integration, and empowerment for all people with disabilities. They will break down the barriers of ignorance by upholding the ADA and by guaranteeing comprehensive health care for ALL people.



Democratic National Committee

October 4, 1992

Dear Disability Rights Advocate:

We all recognize the need for change in this country, particularly with respect to issues facing the disability community. The disability community has suffered tremendously from the past 12 years of Reagan/Bush/Quayle. For the disability community, Governor Bill Clinton and Senator Al Gore represent positive and promising change. We would like to welcome you to the campaign and thank you for your support. Our goal is to involve the disability community and our friends in the campaign in order to elect Clinton/Gore and other Democratic candidates supporting disability rights. The promise of a Clinton/Gore administration will not only benefit the disability community, but the entire country.

The Democratic National Committee has opened a Disability Constituency Office, staffed by Sharon Mistler and Jennifer Ley. The office has identified disability rights leaders in each state to serve as steering committee members. Each state steering committee will receive regular updates on policy positions, events, and organizing ideas. They will share this with other disability rights advocates in their networks. Selected mailings will go to all individuals identified to the office as disability rights advocates working on national, state, and local campaigns.

During the remaining six weeks of the campaign, we need to work together, and with the entire disability community in the U.S.A., to support and elect the Democratic ticket. We want to thank you for your interest in and your commitment to change. We are including in this initial packet some basic information on positions. More will come! Materials in alternate format are available. Please contact this office for that material.

CLINTON PLAN

Putting People First

BUSH "PLAN"

More of the Same

Tax breaks for the middle class. The richest 2 percent will have to pay their fair share. The rest of us will get a break.	Tax breaks for the rich. Millionaires will get a \$100,000 tax break. Families making \$20,000 will get \$50.
Protection for the middle class. Bill Clinton will guarantee family leave, crack down on deadbeat parents, and make sure full-time working families don't live in poverty.	An assault on the middle class. George Bush will gut Medicare, increasing the average elderly person's bills by \$400 each year, and take away benefits from one million disabled veterans.
A plan to create jobs. Bill Clinton will Rebuild America and create millions of high-wage, high-skill jobs.	No jobs plan. Bush has just repackaged his old ideas in a new wrapper. They don't work: under Bush, unemployment rose by 3 million.
Affordable, quality health care. Bill Clinton will take on the insurance industry and the drug companies to bring costs down. He'll make health care a right, not a privilege.	Still no health care plan. Bush won't control costs and won't guarantee care. His no-plan plan will help the average family pay for just a month of care -- and leave millions uninsured.
The right to borrow for college. Bill Clinton will guarantee every American the chance to borrow for college -- and to pay the money back through national service or as a small part of future income.	Closing the doors on college. Bush will slash student loans for 3 million students.
A revolution in government. Bill Clinton will cut White House staff by 25 percent -- and eliminate 100,000 unnecessary slots in the bureaucracy.	More government bloat. Bush will only cut his staff if Congress cuts its staff, too. His last budget tried to increase the White House budget by 43%.
Commitment. Bill Clinton's Arkansas is a high-growth, low-tax state: last year it led the nation in jobs and ranked second lowest in taxes.	Hypocrisy. Bush recommended the pay hike he now wants to roll back. And he opposed the tax cut for families he now says he favors.

This election year is full of promise. The disability community showed their strength in passing ADA. We have to continue to use this strength in making sure that ADA is not just a dream but a reality! The disability rights community must become involved in this crucial election year. We are empowered! Let us use it!

Sincerely,

Sharon E. Mistler

Sharon Mistler
Disability Constituency Coordinator

Please contact us at the following numbers:

Sharon Mistler, Coordinator
(202) 479-5130
Jennifer Ley, Assistant Coordinator
(202) 479-5113
TDD
(202) 479-5164

CLINTON•GORE ON AMERICANS WITH DISABILITIES

Bill Clinton and Al Gore have long recognized that people with disabilities are among the nation's greatest untapped resources. They believe that all persons with disabilities must be fully integrated into mainstream American society, so they can live fulfilling and rewarding lives. During their years in public office, they have compiled strong records of supporting public and private initiatives to enhance the independence and productivity of persons with disabilities.

As President and Vice President, they will continue their efforts. A Clinton/Gore Administration will actively involve people with disabilities in developing a national policy that promotes equality, opportunity, and community for all Americans. Bill Clinton and Al Gore will ensure that children with disabilities receive a first-rate education that suits their needs. People with disabilities will be able to live in their own homes, in their own communities. Adults with disabilities will work alongside their peers without disabilities. And people with disabilities will have access to comprehensive health care and consumer-driven personal assistance services.

We must not rest until America has a national disability policy based on three simple creeds: inclusion, not exclusion; independence, not dependence; and empowerment, not paternalism.

THE CLINTON/GORE PLAN

Americans with Disabilities Act

Health care for all Americans

Improve educational opportunities for children with disabilities

Expand employment opportunities for Americans with disabilities

THE CLINTON/GORE PLAN

The ADA is not about handouts and it is not a giveaway — it guarantees the civil rights of American citizens with disabilities.

We must never forget that ADA also stands for "American Dream for All." We must not rest until America has a national disability policy based on three simple creeds: inclusion, not exclusion; independence, not dependence; and empowerment, not paternalism.

"Americans With Disabilities Act

- Work to ensure that the Americans with Disabilities Act (ADA) is fully implemented and aggressively enforced — to empower people with disabilities to make their own choices and to create a framework for independence and self-determination.

Health care for all Americans

- Provide all Americans with affordable, quality health coverage, either through their workplaces or through a government program; prohibit insurance companies from denying coverage based on pre-existing conditions; and contain costs by taking on the health care industries.
- Expand long-term care choices for Americans with disabilities.

Expand educational opportunities for children with disabilities

- Work to ensure that children with disabilities receive a first-rate education, tailored to their unique needs but provided alongside their classmates without disabilities.
- Support increased funding for special education services and work to improve the enforcement of laws that guarantee children with disabilities the right to a high-quality public education.
- Support increased efforts to integrate children with disabilities into their schools' regular activities, instead of sectioning them off in special programs where they cannot socially integrate with other students.
- Expand early intervention programs in health care and education — such as Head Start — to ensure that children with disabilities live full and productive lives.

Improve employment opportunities for Americans with disabilities

- Increase special education, professional training, and job training efforts to reduce the extraordinarily high unemployment rate among Americans with disabilities as part of national adult education, job training, and apprenticeship programs.
- Sign into law the Family and Medical Leave Act, which George Bush vetoed in 1990, so that no worker is forced to choose between keeping his or her job and caring for a newborn child or sick family member.

Expand political participation

- Sign into law the "Motor-Voter Act," which George Bush vetoed this year, to make it easier for people with disabilities to register to vote.

THE RECORD

- As Governor, Bill Clinton increased the funding of community programs for people with disabilities by 220 percent from 1983 to 1990.
- As Attorney General and Governor, recruited and employed qualified persons with disabilities on his staff. Under Governor Clinton's current administration, the State Directors of the Division of Rehabilitation Services, and the Division of Services for the Blind are qualified individuals with disabilities.
- With the legislature in 1985, established the Governor's Commission on People with Disabilities. The Commission has sparked more involvement and participation by persons with disabilities.
- A decade before the Americans with Disabilities Act, Governor Clinton supported administrative action to permit state agencies to secure adequate accommodations for staff with disabilities, regardless of costs.
- During the 1987 legislative session, provided key assistance to establish an interim Message Relay Center. The center provides statewide telephone accessibility for persons who are deaf and hard of hearing.
- In 1990, established the Governor's Task Force on Supported Housing. Its mission was to recommend state legislation, policy changes and program initiatives to increase the availability of supported housing — affordable, accessible housing in integrated community settings, with appropriate support services for the elderly and people with disabilities.
- In 1991-92, took action to provide additional state funds for expansion of Supported Employment Services, a vocational rehabilitation program for severely disabled people who need job coaching services and long-term support to obtain or maintain employment.
- In 1992, established a Governor's Task Force on In-Home and Community-Based Services for Persons with Disabilities. This task force is composed of leaders of the disability community, state agency officials and private business representatives.
- Senator Gore was an original cosponsor of the Americans with Disabilities Act.
- Voted for the "Motor-Voter" Act, which would have made it easier for people with disabilities to register to vote. George Bush vetoed the Act.

THE CLINTON HEALTH PLAN

The Clinton plan will control costs and provide affordable, quality care for all Americans. It will preserve the private sector, maintaining consumer choice in coverage, private doctors and hospitals that provide the highest quality care in the world. It is comprehensive, offering the discipline of a budget linked to the innovation and flexibility of a truly competitive market.

◆ For cost control: A national health budget with market-based reform.

- A national health budget to limit public and private costs to give the discipline needed to control costs.
- State-level negotiations to set consistent rates among insurers within the budget.
- Allows market-based reform by letting health networks and other innovative care arrangements opt out of regulations so long as their costs rise no faster than those of regulated insurers.
- Malpractice reform to end the costly practice of "defensive medicine" where doctors must order unnecessary tests to protect themselves in case of litigation.
- Steps to improve efficiency and cut paperwork, such as standardized claims forms, electronic processing, and "smart cards" for personal medical data.

◆ For universal access.

- Core benefits package for all Americans set by a National Health Board.
- Universal coverage will be phased in as savings are achieved.
- Companies will be required to insure their employees, with federal assistance in early years and mechanisms to limit costs for small businesses.

◆ For taking on insurance companies.

- End job lock and ban insurance company exclusion of "pre-existing conditions" from coverage.
- No worker will be unable to change jobs because his or her child has diabetes or another illness that now jeopardizes continuing insurance coverage.
- Insurance companies must charge "community rates" instead of different rates for those who are healthy and those who are ill.

◆ For taking on drug companies.

- To protect consumers and bring down drug prices, eliminate tax breaks for drug companies that raise their prices faster than Americans' incomes.
- Discourage companies from spending more on marketing than on R&D.

FACT SHEET ON HEALTH CARE

1. Bush is only playing politics with health care.

- ◆ 1/88: George Bush, campaigning, said, "We must mount a comprehensive effort to reduce the cost and improve the quality of, and access to, health care in America." [AP Wire, 9/20/88] Yet, he never delivered a plan to Congress.
- ◆ 1/89: No plan. Bush inaugural address does not mention health care.
- ◆ 1/90: Promises study. State of the Union devotes only 77 words to health care.
- ◆ 1/91: No plan. State of the Union devotes only 45 words to health care.
- ◆ 11/91: Harris Wofford of Pennsylvania comes from 47 points behind to win a Senate seat with a campaign for national health reform.
- ◆ 1/92: Bush promises a plan in his State of the Union address.
- ◆ 2/92: Outline of Bush "plan" released with few specifics.
- ◆ Today: Bush still has not submitted a plan to Congress.

2. During 12 years of Republican neglect:

- ◆ The average cost of individual health insurance rose from \$1000 to \$3000 a year. It is expected to reach \$5712 by the end of the decade. [Health Care Finance Review, Fall, 1991.]
- ◆ Since 1980, national annual spending on health care increased from \$250B to \$809B today [House Ways and Means Comm.].
- ◆ Health care costs became the number one cause of bankruptcy and labor disputes.
- ◆ Health care costs add \$1086 to every car made in America. [Wally Maher, Dir. of Fed. Relations, Chrysler Corp.]
- ◆ From 1980 to 1992, Medicare and Medicaid grew from 8% to 13.5% of the budget. In the next five years, they will consume 20% of the budget and result in more than half of its growth. [CBO, March, 1992.]

3. The Bush Plan.

- ◆ No comprehensive plan to control overall health costs.
- ◆ Based on vouchers and deductions, which cost \$36B/yr, gives more money to insurance companies and reaches only 9 million out of the 37 million uninsured. [Kenneth Thorpe, Dept. of Health Policy, UNC Chapel Hill; President's Comprehensive Health Reform Program, 2/6/92]
- ◆ Under the Bush plan, family health insurance would still average \$6500 this year and reach more than \$14,000 by 2000. [Families USA.]
- ◆ No plan for universal access.
- ◆ Only piecemeal efficiency measures that do little on their own — standardized claim forms, increased HMO incentives for small business, "flexibility" for states to do the job, more consumer information.

"It isn't simply that [Bush's] credit vouchers aren't large enough or that they won't be getting out to people. Printing health care vouchers [and] credits, the way the Russian republics print paper rubles, without acting to contain costs, is simply fueling inflation." [Sen. Jay Rockefeller, 2/6/92]

THE CLINTON HEALTH RECORD IN ARKANSAS

- Governor Clinton was a Vice-Chair of the Health Care Reform Task Force of the National Governors' Association in 1990-91. Earlier, as Chairman of the National Governors' Association, he formed the first working group of governors to develop a policy position on AIDS, calling for AIDS education and prevention efforts at the state and federal levels.

- Because the Arkansas State Employees Insurance Program is self-insured, the plan does not have to pay premium taxes or produce a profit. Currently, for every \$1.00 collected, 97 cents is paid in claims and only 3 cents is paid out in administrative fees.

- Cost-containment programs, including pre-hospitalization review and Major Case Management, have been effective. According to the 1990 Foster Higgins Health Care Benefits Survey, medical indemnity plan costs generally rose 21.6% from a \$2,600 per employee average in 1989 to \$3,161 in 1990. By comparison, the average per employee cost for Arkansas' self-insured plan is \$2,057.

- The Rural Physician Recruitment and Retention Program encourages physicians to locate and practice family medicine in small Arkansas communities, and Rural Medical Practice Student Loans and Scholarships provide support for medical students agreeing to practice in rural communities.

- The AIDS Advisory Committee was established in 1987. This committee makes recommendations on HIV policy and program services. HIV services in the state currently include anonymous testing at two centers and confidential testing and counseling at public health clinics located in all 75 Arkansas counties.

- A strong State Employees Health Insurance Program to which the State of Arkansas' contribution has increased by 335.3% between July 1, 1982 and July 2, 1991 whereas the state employees' premium for family coverage increased only 89%.

- Established a radon program to assess the overall radon situation in Arkansas and identify at-risk areas. During the winter of 1991, 1,800 homes were tested for radon. Results indicate that Arkansas' home radon levels are among the lowest in the nation.

A strong tribute to Governor Clinton's tireless efforts to improve the health of Arkansas' people came recently from Dr. Joycelyn Elders, the state's Health Department Director, who has received the National Governor's Association Distinguished Service Award, the NEA's Mary Futrell Award for Creative Leadership in Women's Rights, and the AMA's Dr. Nathan Davis Award. In a New York Times interview, Dr. Elders noted, "He (Governor Clinton) has a real desire to invest in health issues. He has always backed me in tough situations like when he took on the Legislature and fought his guts out for my health department budget."

A CLINTON/GORE ADMINISTRATION WILL ACT AGGRESSIVELY ON A PLAN:

- ♦ Ensure that the ADA is fully implemented and aggressively enforced - to empower people with disabilities to make their own choices and to create a framework for independence and self-determination.
- ♦ Sign into law the Family Medical Leave Act so that no worker is forced to choose between keeping his or her job and caring for a sick family member.
- ♦ Support increased efforts to integrate children with disabilities into their school's regular activities, instead of sectioning them off in special programs where they cannot socially integrate with other students.
- ♦ Increase special education, professional training, and job training efforts to reduce the extraordinarily high unemployment rate among Americans with disabilities as part of national adult education, job training, and apprenticeship programs.
- ♦ Guarantee universal health coverage for all Americans.
- ♦ End drug company price gouging.
- ♦ Take on the insurance companies to get costs down by:
 - Allowing consumers to change plans without risk
 - Requiring them to offer a single rate to all their customers
 - Providing full benefits including preventive care and prescription drugs
 - Limiting their costs by placing a ceiling on their rates.

THE CLINTON AND GORE RECORDS DEMONSTRATE REAL COMMITMENT:

- ♦ Senator Gore was an original cosponsor of the ADA.
- ♦ Senator Gore voted for the "Motor Voter" Act, which would have made it easier for people with disabilities to register to vote. George Bush vetoed the Act.
- ♦ A decade before the ADA was introduced, Governor Clinton supported administrative action to permit state agencies to secure adequate accommodations for staff with disabilities, regardless of costs.
- ♦ Bill Clinton increased the funding of community programs for people with disabilities by 220 percent from 1983 to 1990.
- ♦ In 1990, Clinton established the Governor's Task Force on Supported Housing. Its mission was to recommend state legislation, policy changes, and program initiatives to increase availability of affordable, accessible housing in integrated community settings.

AMERICANS WITH DISABILITIES

BUSH FAILED TO SUPPORT FAIR REMEDIES TO PEOPLE WITH DISABILITIES WHO ARE INTENTIONALLY DISCRIMINATED AGAINST:

♦ The Bush Administration failed to bring full equity to people with disabilities by refusing to support provisions of the Civil Rights Act which would have provided victims of intentional discrimination with the same remedies as afforded to victims of intentional racial discrimination.

QUAYLE COUNCIL WEAKENED HUD ACCESSIBLE HOUSING REGULATIONS:

♦ After Bush's Department of Housing and Urban Development (HUD) approved a regulation - intended to implement the Fair Housing Amendments Act of 1988 - making multi-unit housing more accessible for people with disabilities, the National Association of Homebuilders (NAHB) successfully lobbied the Quayle Council on Competitiveness to get the rule weakened. [WSJ, 6/30/92]

Soon after, NAHB wrote Allan Hubbard, then-Executive Director of the Council, to thank him for intervening, saying "HUD would not have changed its position without the active intervention of the Council on Competitiveness." NAHB also thanked Quayle for "the help and assistance" of his office. [House Government Operations Committee, 7/23/92]

BUSH PROPOSES MAJOR BUDGET CUTS IN PROGRAMS FOR THE DISABLED:

♦ In order to fund his \$1 billion Home Ownership for People Everywhere (HOPE) program - part of his 6-point "plan" for cities - Bush would cut several housing programs, including \$1 billion (77%) from Elderly and Handicapped Housing. Eighty five (85%) fewer new units would be constructed. [DSG, 2/25/92]

♦ Bush's FY 1993 budget would cut \$17.2 million (31%) from a program allowing states to provide federal matching grants to private, non-profit organizations which purchase vehicles used to transport the disabled. [Consortium for Citizens with Disabilities, 3/92]

♦ Bush's FY 1993 budget would eliminate funding for \$1.5 million for the AgrAbility Project, which provides education and assistance to disabled farmers, ranchers and agricultural workers so they may continue working in their rural communities. [CCD, 3/92]

♦ Bush's FY 1993 budget would cut the Centers for Disease Control disability prevention program by 12% (\$1.6 million). The program provides technical assistance and short term financial support for states and communities to establish programs for the prevention of disabilities such as mental retardation, cerebral palsy, blindness, and hearing impairment. [CCD, 3/92]

DISABILITY POLICY

"I am going to do whatever it takes to make sure the disabled are included in the mainstream. For too long they've been left out. But they're not going to be left out anymore."

-- George Bush, 1988 Republican Convention

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- ◆ Soon after, NAHB wrote Allan Hubbard, then-Executive Director of the Council, to thank him for intervening, saying, "HUD would not have changed its position without the active intervention of the Council on Competitiveness". NAHB also thanked Quayle for "the help and assistance" of his office. [House Government Operations Committee, 7/23/92]

BUSH'S URBAN PLAN WOULD CUT MOST OF ACCESSIBLE HOUSING PROGRAM:

- ◆ In order to fund his \$1 billion Home Ownership for People Everywhere (HOPE) program -- part of his 6-point 'plan' for cities -- Bush would cut several housing programs, including \$1 billion (77%) from Elderly and Handicapped Housing. 85% fewer new units would be constructed. [DSG, 2/25/92]

BUSH'S BUDGET WOULD CUT FUNDING FOR FAIR HOUSING ENFORCEMENT:

- ◆ Bush's FY 1993 budget would cut funding for enforcement of and education regarding the Fair Housing Amendments Act of 1988 by \$600,000 (4.6%). The act protects people with disabilities, families with children and minorities from discrimination in housing. [Consortium for Citizens with Disabilities (CCD), 3/92]

BUSH BUDGET WOULD ELIMINATE SBA LOANS FOR HANDICAPPED OWNERS:

- ◆ For the fourth year in a row, Bush proposes eliminating the Small Business Administration's Handicapped Assistance Loan Program, which provides loans to small businesses owned by people with disabilities (and certain non-profits) when other government or commercial funds are not available. [CCD, 3/92]

BUSH BUDGET WOULD CUT SPECIAL EDUCATION:

- ◆ Bush's FY 1993 budget would cut special education by \$3 million (.1%) from current levels (adjusted for inflation). \$14.3 million (10%) would be cut from aid to state-operated schools educating children with disabilities. [DSG, 2/25/92; CCD, 3/92]

BUSH BUDGET WOULD CUT REHABILITATION PROGRAM:

- ◆ Bush's FY 1993 budget would cut the Special Projects and Demonstration program by \$10.4 million (25%). The program establishes innovative vocational rehabilitation services for people with disabilities, prepares youths with disabilities for entry into the labor force, and makes recreational facilities fully accessible. [CCD, 3/92]

BUSH BUDGET WOULD CUT TRANSPORTATION PROGRAMS:

- ◆ Bush's FY 1993 budget would cut \$17.2 million (31%) from a program allowing states to provide federal matching grants to private, non-profit organizations for the purchase of vehicles to provide transportation services to people with disabilities or the elderly. [CCD, 3/92]

BUSH BUDGET WOULD CUT FUNDING FOR MENTAL HEALTH:

- ◆ Bush's FY 1993 budget would eliminate funding for model programs to prevent mental and emotional illness in people at risk, including displaced workers, abused and adopted children, and adolescents. [CCD, 3/92]
- ◆ Bush's FY 1993 budget would also eliminate funding for the Protection and Advocacy System for Individuals with Mental Illness. The program protects and advocates the rights of about 25,000 persons with mental illnesses and investigates complaints of abuse and neglect in mental health facilities. [CCD, 3/92]

BUSH BUDGET WOULD CUT AID TO DISABLED FARMERS:

- ◆ Bush's FY 1993 budget would eliminate funding (\$1.5 million) for the AgrAbility Project, which provides education and assistance to disabled farmers, ranchers and agricultural workers so they may continue working in their rural communities. [CCD, 3/92]

BUSH BUDGET WOULD CUT DISABILITY PREVENTION PROGRAM:

- ◆ Bush's FY 1993 budget would cut the Centers for Disease Control disability prevention program by 12% (\$1.6 million). The program provides technical assistance and short term financial support for states and communities to establish programs for the prevention of disabilities such as mental retardation, cerebral palsy, blindness and hearing impairment. [CCD, 3/92]

Travelling Blind
by Harold W. Snider

I am blind, and I travel independently using a long white cane. My blindness is the first thing that most people notice about me. Yet, I have come to regard my blindness as but one of my characteristics. Kenneth Jernigan, the longtime leader of the National Federation of the Blind taught me that blindness is like being left-handed or bald-headed, a characteristic that one can learn to live with and overcome. Certainly, most people regard blindness as an overwhelming tragedy, and a disability which cannot be overcome. That outdated stereotype is just plain wrong. Blindness is definitely a severe disability, but with proper training and opportunity blindness need not be a limiting factor in one's life. I have been blind since birth. The two major limitations of blindness which must be overcome are independent travel and written communications.

I am a year younger than Bill Clinton. I grew up in Jacksonville, Florida and always attended public school and never attended a school for the blind. In some ways public school was more difficult for me, but it provided me with the skills for social integration which have made it possible for me to live a normal life. At age six, I learned Braille from a blind teacher. Reading and writing Braille is the only way in which a blind person can be literate. I am writing this essay on an ordinary computer which has attachments for producing synthetic speech and a high-speed Braille printer. At age sixteen, I learned to travel independently using a long white fiberglass cane. My cane travel teacher was also blind.

Over the years, I have been exposed to the prejudices and stereotypes which the public have about blindness. As a blind person, I have experienced considerable discrimination in education, housing, employment and in everyday social situations. This essay is a memoir about how Bill Clinton became my friend and dealt with my blindness.

In 1965, I was accepted as the first blind student to attend the prestigious Georgetown University School of Foreign Service. I was thrilled with the idea of studying at Georgetown and living in Washington D.C. My parents were not quite so thrilled. Money was not the problem. They were worried about how I would manage on my own, living in a dormitory and studying at Georgetown. They were more worried about my blindness than they were about my ability to do the work for a degree. On September 18, 1965, my parents and I arrived at Loyola Hall on the campus of Georgetown University with a car full of my belongings. The first person we met when we entered the building was Bill Clinton. Bill was head of the freshman orientation for students in the School of Foreign Service. He was accompanied by his friend, John Dagnon, a student in the School of Business Administration. Bill immediately put my parents at ease, totally charming my mother and father with a disarming smile and Southern courtesy. He told us that he had approached several local agencies for the blind in the Washington area, but none of them were willing to provide someone to get me

acclimated to the campus. He told us that he had taken it upon himself to do the job. He assured us that with a little common sense, I would be travelling the campus by myself in no time. This was hardly the approach one would expect from a total stranger who freely admitted that he knew nothing about blindness. But this was no ordinary person, it was Bill Clinton.

After my parents got me settled, and we got through the obligatory freshman reception, my parents departed and Bill and I got to work. For the next three weeks, Bill and I were practically inseparable. First of all, he had to learn how I got around by myself. He had to learn how I used the long white cane and my hearing to get from one place to another. He had to learn how I conceptualized spatial relationships, that is, how I understood how far one thing or place is from another. I explained that I first learned to travel independently following prescribed routes, and after mastering those routes, I could vary the route and go anywhere. We decided to use the same approach at Georgetown.

My first week at Georgetown was spent in orientation and registration. Bill and I walked the campus, going from one building to another. Fortunately, part of the campus leading to the School of Foreign Service was down O Street and right on 36th Street one block to the Walsh Building. That part was easy. The main part of the campus at Georgetown was daunting. Bill and I together had to discover landmarks which I could use to know whether I was going in the right direction, left to New South and the cafeteria or right to White-Gravenor and further on up the steps and over the small hill to the girls' dorm, a very important place to go! Together, Bill and I found sound cues for which I could listen in order to determine where I was going. After about the first ten days, my confidence increased and I could find my way to most of the major buildings on campus.

After I registered and got my class schedule, we were faced with a whole new problem. I had to learn to get from class to class, sometimes with only ten minutes to get from one end of the campus to the other. Since I learned to travel independently using routes and landmarks, we quickly learned where I had to go and exactly how much time it took to get there. When Bill wasn't available to walk with me, one of our friends, John Dagnon or Sue Mooney, went along. They had both become interested in what Bill had been doing.

After almost three weeks, I could travel to most parts of the campus by myself. I had graduated from the Bill Clinton School of Independent Travel, at least for the time being. Along the way I had acquired a whole bunch of new friends, thanks to Bill. During our time at Georgetown, Bill and I saw each other sporadically. Occasionally, we would double date or just meet for a hamburger at the Tombs. During my junior year Bill applied for a Rhodes Scholarship, and all of his friends were overjoyed when it was announced that he was the first student in the history of Georgetown University to receive such a scholarship. Little did I know that in less than two years, I would follow Bill to England.

The toughest freshman course in the School of Foreign Service was Development of Civilization, taught by Professor Carroll Quigley. Dr. Quigley had a charismatic personality, a dynamic

other at odd angles. Bill showed me New College Lane, Hollywell Street, Broad Street, High Street, Cornmarket Street, and Cattle Street. Between April and July, 1970, Bill and I worked together on learning Oxford. I took the train from London and arrived at Oxford as early as possible. We usually had as near a Southern breakfast as you could at a "greasy spoon" in the Covered Market. British bacon, fried eggs, tomatoes and mushrooms are even better when they are a little greasy. After breakfast, Bill and I would set forth to learn a different part of Oxford. It took no more than eight or ten trips to Oxford for me to learn the city and its colleges, streets and stores. In the afternoon, we would sometimes end up at Bill's favorite pub for one beer. Neither Bill nor I are big drinkers. Bill was living in a house in north Oxford along with other students. In July, he introduced me to his friend, Diana Marx, who was a nurse at the Radcliffe Infirmary and who shared the house in north Oxford. My wife and I moved to Oxford in early September, and she was due to give birth to our first child in mid-October. Diana became our friend and was very helpful.

I was a much better and more confident cane traveller when I learned Oxford with Bill than when we had learned Georgetown. This improvement was due to Ramona, the NFB and Bill's confidence in my ability. Also, Bill was even a better teacher the second time around. So the Bill Clinton School of Independent Travel closed for a second and final time in July 1970, when he returned to attend Yale Law School.

Sadly, Bill's and my life have not converged very much since 1970. In 1977, he talked about our travel experiences and friendship in a commencement address at the Arkansas School for the Blind. I saw him twice in 1978, once at an NFB of Arkansas state convention and again at a conference on civil rights for people with disabilities in Little Rock. Since returning from Oxford, I taught history at the University of North Florida in 1975. I worked as Coordinator of Programs for the Handicapped at the Smithsonian Institution from 1975 to 1978. I then ran a consulting firm called Access for the Handicapped Inc. from 1978 to 1989. That firm has had many interesting clients who sent me all over the world to do their work. In October, 1989 I was hired by Lee Atwater to be the first Director Of Outreach for People With Disabilities at the Republican National Committee. I worked with the Party structure, the Congress, and the White House to get the Americans With Disabilities Act adopted and signed. ADA is a landmark piece of civil rights legislation which is designed to ensure nondiscrimination against America's forty-three Million people with disabilities. In July 1990, I assumed my current position as Deputy Executive Director at the National Council on Disability. NCD is an independent Federal agency which makes and reviews disability policy in Federal programs and reports directly to the President and to Congress. In 1987 the National Council wrote the first draft of the Americans with Disabilities Act and unanimously recommended it for adoption. My wife Gail and I now live in a house in Northwest Washington with our two wonderful children, David (21) and Ellen (19).

Without Bill Clinton's help my adjustment to Georgetown and to

lecture style, eccentric habits, and a notorious grading style. For instance, after teaching Plato's Dialogue, he would heave the book out the window of his second-floor classroom in the White-Gravenor building. Bill and I found him fascinating, electrifying, and brilliant. He inspired in both of us a sense of personal responsibility and an eagerness to enter public service. Dr. Quigley encouraged us both to go to England to do graduate work. I know that he wrote letters of recommendation for both of us and was very proud and pleased that we both went on to study at Oxford. Dr. Quigley was our mentor and friend. He left an indelible impression on our lives.

During the late 1960's, there were a number of blind students at Georgetown. Another friend of Bill's whom I met in my freshman year was Ramona Willoughby who was in her junior year studying Russian. Ramona came from Iowa, and there had become involved in the National Federation of the Blind. She said jokingly that she wouldn't go out with me unless I joined the NFB. I did join, and the organized blind movement changed my attitudes about my own blindness. The NFB gave me the confidence to dream of studying in England. Ramona helped me to improve my cane travel skills, and encouraged me to increase my use of Braille in note-taking.

Bill went to England to study at Oxford in September 1968. I went to England for interviews at graduate schools in December 1968. In early 1969, I was accepted to study for a Master's degree in British Imperial and Commonwealth History at King's College, University of London. I left the U.S. to study in England shortly after my graduation from Georgetown in June of 1969. In July, I met and fell in love with a blind Englishwoman named Gail Lovelace. We were married on September 20, 1969. In early October, I looked up my old friend Bill through Rhodes House at Oxford. I called him to tell him that I was now in England and that I had recently married. We talked on the phone several times, but our paths did not cross immediately. He was studying hard at Oxford and I was studying hard in London and was a newlywed.

In April 1970, I was accepted to study for a Doctorate in Modern British History at New College, Oxford. Shortly after receiving my acceptance, I called Bill to tell him the good news. He had just received news that he had been accepted at Yale Law School and would be returning to the U.S. for the fall semester. Bill offered to show me around Oxford in the same way that he had done at Georgetown. I gratefully accepted his offer. I didn't have any other friends at Oxford, and I only knew the British academics who had interviewed me. Also, the use of the long white cane among blind people in England was in its infancy. Although British blind students had been studying at Oxford for over a century, they had been totally dependent on help from sighted people getting around on a daily basis. I wanted to be as independent at Oxford as I had been at Georgetown, and the same fine teacher was eager and available.

Oxford has been a center of learning since medieval times. Bill really had his work cut out for him this time. The blend of ancient and modern in Oxford is readily apparent to any visitor. Oxford colleges are spread out all over the city. Streets do not run perpendicular or parallel to each other. They run into each

Oxford would have been infinitely more difficult. Bill showed real compassion and understanding. He was never patronizing or condescending. I will always be grateful to Bill for his help. I am writing this essay at the conclusion of the 1992 Democratic Convention in New York. Who knows? Perhaps someday, if he should become President of the United States, Bill Clinton will have the chance to show me how to travel around his new domain, the White House.

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Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JULY 15, 1993

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**JUSTICE DEPARTMENT SETTLEMENT WITH HOTEL
BRINGS GREATER ACCESS FOR PERSONS WITH DISABILITIES**

WASHINGTON, D.C. -- The Department of Justice announced today that the 691-room Inter-Continental Hotel in Manhattan will make numerous changes over the next five years to improve access for people with disabilities--the first formal settlement the government has reached with a major hotel to correct alleged violations of the Americans with Disabilities Act (ADA).

Acting Assistant Attorney General James P. Turner of the Civil Rights Division said the agreement resolves a complaint filed under Title III of the ADA, which bans discrimination on the basis of disability. According to a complaint filed with the Department by a private party, the hotel had a critical barrier to access to its facility by people with disabilities. A subsequent Department investigation discovered a wider range of barriers, including the need for auxiliary aids for people with vision and hearing impairments.

"This agreement guarantees that persons with disabilities will be able to enjoy the full range of services at the

(MORE)

Intercontinental Hotel and therefore represents a model for existing luxury hotels, " said Turner. "It shows that, when the Federal government and private industry work together, scarce resources can be spent on ramps and lifts, not on legal fees and court costs."

Under the agreement, the hotel will:

- Provide access for people with mobility impairments by installing ramps at its front entrance and lobby restaurant; modifying several public rest rooms; and installing a platform lift to the main meeting room and ballroom.
- Modify public telephones to make them accessible to people with mobility and/or hearing impairments by lowering phones; installing telecommunication devices for deaf persons (TDD's) at the front desk; and providing volume controls, shelves and outlets for portable TDD's.
- Alter 21 guest rooms of several types and price ranges to make them accessible to people with mobility impairments and equip those rooms and an additional 14 with auxiliary aids for people who are deaf or hard of hearing.
- Modify elevators so they are accessible to people with sight, hearing or mobility impairments.
- Change reservation and room assignment policies to assure that accessible rooms are made available to those who request them.

The hotel also agreed to ensure that retail stores renting space in its lobby improve service for people with disabilities by installing accessible doorbells, intercoms, or other devices at the entrance of each store; providing service through telephone orders, at the curb or in the lobby; and making available product lists in regular and large type, braille or

(MORE)

audio tape. The hotel will also provide shopping assistance to people who have difficulty maneuvering within the stores.

The complaint against the Intercontinental Hotel was one of more than 1,000 complaints that the Department is currently investigating alleging Title III violations. A majority of these complaints involve the failure to remove existing architectural barriers. The Department expects that most of these will be settled voluntarily.

In instances where entities fail to comply voluntarily, the Department can bring civil suits. Where appropriate, compensatory damages and civil penalties of up to \$50,000 for a first violation may be awarded. Today's action is the second formal settlement agreement that the Department has announced. The Department has filed two lawsuits, intervened in one additional case, and filed amicus briefs in four other ADA actions.

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Department of Justice

FOR IMMEDIATE RELEASE
July 2, 1993

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(202) 514-2007
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JUSTICE DEPARTMENT SETTLES FIRST POLICE DEPARTMENT ADA CASE

WASHINGTON, D.C. -- The U.S. Department of Justice announced today that it has resolved a complaint filed against a Florida police department for failing to provide an interpreter in the arrest of a deaf individual.

This represents the first settlement agreement with a local police agency under the recently-enacted Americans with Disabilities Act, which prohibits discrimination against people with disabilities.

Acting Assistant Attorney General for Civil Rights James P. Turner said the settlement with the Clearwater, Florida police department requires the city to provide an interpreter whenever necessary to ensure effective communication any time police interact with people who are deaf or hard of hearing.

The Justice Department initiated this action in response to an administrative complaint alleging that the Clearwater police department failed to provide an interpreter to a deaf individual who was arrested and jailed overnight. Under Title II of the ADA, public entities, such as police departments and municipal governments, must provide appropriate auxiliary aids and services whenever necessary to ensure effective communication with individuals with disabilities.

Turner said, "the enthusiastic cooperation of the Clearwater Police Department avoided litigation and led to the establishment of new policy guidance. This guidance," added Turner, "serves as an excellent model for other police departments throughout the country which must comply with the ADA."

The agreement requires the Clearwater police to:

Establish a written policy on effective communication in police situations involving persons who are deaf or hard of hearing.

Secure the services of a qualified interpreter whenever necessary to ensure effective communication during a police

investigation, prior to an arrest or the issuance of a non-criminal citation, or during an interrogation.

Publicize the new policy through public notices in local newspapers.

The agreement also permits the Justice Department to petition the U.S. District Court to seek specific performance of the agreement's terms if the police department fails to comply.

Turner stated that many of the Title II complaints received by the Justice Department involve interactions between deaf persons using sign language and police departments.

SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND

CLEARWATER POLICE DEPARTMENT, CLEARWATER, FLORIDA

DEPARTMENT OF JUSTICE COMPLAINT NUMBER 204-17M-20 (FORMERLY 192-T2-00443)

This matter was initiated by a complaint filed under title II of the Americans with Disabilities Act (ADA), 42 U.S.C. 12131-12134, with the United States Department of Justice, Civil Rights Division, Coordination and Review Section, against the Clearwater Police Department, Clearwater, Florida. The complaint alleges that an individual who is deaf and uses sign language for communication was arrested by the Clearwater Police Department without being afforded the right to communicate through an interpreter when communication became difficult between the arresting officer and the individual. Pursuant to the provision of the ADA entitled "Alternative Means of Dispute Resolution," 42 U.S.C. 12212, the parties have entered into this Agreement.

The Department of Justice is authorized under 28 C.F.R. Part 35, Subpart F, to investigate fully the allegations of the complaint in this matter to determine the compliance of the Clearwater Police Department with title II of the ADA and the Department's implementing regulation, issue findings, and, where appropriate, negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized under 42 U.S.C. 12133, to bring civil action enforcing title II of the ADA should the Department fail to secure voluntary compliance pursuant to Subpart F. In consideration of the terms of this Agreement as set forth below, the Attorney General agrees to refrain from undertaking further investigation or from filing civil suit in this matter.

The parties to the Agreement are the United States of America and the Clearwater Police Department. The parties agree that this Agreement is not an admission of liability and should not be construed as an admission by the Clearwater Police Department of any liability. In the interests of securing compliance by voluntary means, the parties hereby agree as follows:

1. The ADA applies to the Clearwater Police Department because it is a public entity as defined in 42 U.S.C. 12131.
2. Title II of the ADA and its implementing regulation prohibit discrimination against qualified individuals with disabilities on the basis of disability in the services, programs, or activities of the Clearwater Police Department.

3. An individual who is deaf or hard of hearing may not be denied an equal opportunity to participate in or benefit from the Clearwater Police Department's services, programs, or activities or otherwise treated differently because of the disability or because of the need for qualified interpreting services.

4. The Clearwater Police Department will furnish appropriate auxiliary aids and services when necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, the Clearwater Police Department's services, programs, or activities. Auxiliary aids and services include qualified interpreters, computer aided note taking, written materials, and note pad and pen.

5. In any situation involving an individual who is deaf or hard of hearing, the Clearwater Police Department will give the individual the opportunity to request the auxiliary aid or service of his or her choice. The Clearwater Police Department will give primary consideration to the expressed choice of the individual unless the Police Department can demonstrate that another effective means of communication exists or that use of the means chosen would result in undue financial and administrative burdens.

6. The Clearwater Police Department has developed a written policy, which is attached, to provide that in those situations where the provision of interpreting services is necessary to ensure effective communication, the Clearwater Police Department will, upon reasonable notice, provide qualified interpreting services.

7. Within thirty (30) days of the effective date of this Agreement, a notice regarding the Clearwater Police Department's policy will be published on two separate occasions in a newspaper of general circulation serving the City of Clearwater. The notice will state that "Pursuant to the requirements of title II of the Americans with Disabilities Act, the Clearwater Police Department will not discriminate against qualified individuals with disabilities on the basis of disability in the Clearwater Police Department's services, programs, or activities," in addition to the statement of the Police Department's policy.

8. Copies of the policy will be provided to members of the public upon request.

9. The Clearwater Police Department agrees to inform and instruct all its employees who are in any way responsible for the conduct of any proceedings to adhere to and comply with the policy.

10. This Agreement is a public document. A copy of this document or any information contained in it may be made available to any person by the Clearwater Police Department or the Department of Justice on request.

11. The Department of Justice may review compliance with this Agreement at any time. If it determines that this Agreement or any requirement thereof has been violated, it may institute civil action seeking specific performance of the provisions of this Agreement in an appropriate Federal court.

12. The Department of Justice's failure to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein will not be construed as a waiver of the Department of Justice's right to enforce other deadlines and provisions of this Agreement.

13. In the event that the Clearwater Police Department fails to comply in a timely manner with any requirement of this Agreement without obtaining sufficient advance written agreement with the Department of Justice as a temporary modification of the relevant terms of this Agreement, all terms of this Agreement will become enforceable in an appropriate Federal court.

14. The effective date of this Agreement is the date of the last signature below.

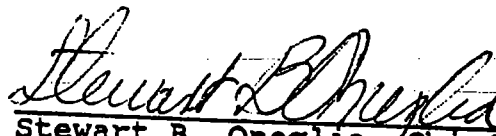
15. This Agreement constitutes the entire Agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Agreement, will be enforceable. This Agreement does not purport to remedy any other potential violations of the Americans with Disabilities Act or any other Federal law. This Agreement does not affect the Clearwater Police Department's continuing responsibility to comply with all aspects of the Americans with Disabilities Act.

For the Clearwater Police
Department:



Sid Klein, Chief of Police

For the United States:



Stewart B. Oneglia, Chief
Coordination & Review Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66118
Washington, D.C. 20035-6118

Date June 24, 1993

Date June 29, 1993

THE CLEARWATER POLICE DEPARTMENT
POLICY ON
EFFECTIVE COMMUNICATION IN SITUATIONS
INVOLVING INDIVIDUALS WITH HEARING IMPAIRMENTS

It is the policy of the Clearwater Police Department that the Clearwater Police Department will furnish appropriate auxiliary aids and services whenever necessary to ensure effective communication with individuals with hearing impairments.

1. Auxiliary aids and services include qualified interpreters, written materials, note pads, and other effective methods of making aurally delivered materials available to individuals with hearing impairments.
2. When an auxiliary aid or service is required to ensure effective communication, the Clearwater Police Department must provide an opportunity for individuals with hearing impairments to request the auxiliary aids and services of their choice and must give primary consideration to the choice expressed by the individuals. "Primary consideration" means that the Clearwater Police Department must honor the choice, unless it can show that another equally effective means of communication is available, or that use of the means chosen would result in a fundamental alteration in the service, program, or activity or in undue financial and administrative burdens.
3. This policy addresses only those situations where a police officer, after consulting with the individual with a hearing impairment, determines that the services of a qualified interpreter are necessary to ensure effective communication.

A. COMMUNICATING WITH A SUSPECT
WITH A HEARING IMPAIRMENT
PRIOR TO AN ARREST
WHEN A POLICE OFFICER HAS PROBABLE CAUSE
WITHOUT HAVING TO INTERVIEW THE SUSPECT

If an individual without a hearing impairment would have been arrested on probable cause, then a suspect with a hearing impairment in the same situation does not need to be provided with a qualified interpreter. For example, if an officer responds to an aggravated battery call and upon arriving at the

scene observes the victim bleeding and the individual with a hearing impairment holding a weapon in his hand and is told by witnesses and the victim that the individual with a hearing impairment struck the victim with the weapon, the officer obviously has sufficient probable cause to make a felony arrest without taking any statement from the suspect.

However, a qualified interpreter may still be required if an officer is unable to convey to the arrestee the nature of the criminal charges by communicating on a note pad or by using another means of communication. If the arrestee does not decline the opportunity to communicate through an interpreter, the arrestee should be transported to a holding cell at the Clearwater Police Department. Either the arresting officer or the transporting officer can convey the information through the interpreter when the interpreter arrives.

**B. INTERVIEWING A SUSPECT WITH A HEARING
IMPAIRMENT WHEN THE POLICE
OFFICER NEEDS TO INTERVIEW THE SUSPECT TO
ESTABLISH PROBABLE CAUSE**

If a police officer needs to interview a suspect with a hearing impairment to determine if there is probable cause to make an arrest, a qualified interpreter must be provided if the written communication is ineffective. When the services of a qualified interpreter are required to provide effective communication, but the officer cannot wait until a qualified interpreter arrives because the officer has to respond to another more urgent call, the following procedures apply:

- 1) If the investigation does not involve a serious offense, the officer must postpone the interview and possible arrest until the officer can return to the scene when a qualified interpreter is present. If the qualified interpreter is unable to respond or if the officer cannot return to the scene, then, after leaving the suspect at the scene, the officer must document his or her investigation as completely as possible and file the appropriate report.
- 2) If the investigation involves a serious offense, the officer, before leaving the scene, must contact the appropriate Investigations Division supervisor and advise the supervisor of the case. The supervisor will determine if a detective will be called in to wait for a qualified interpreter. If the supervisor determines that a detective will not be responding and if the officer cannot return to the scene, then, after leaving the suspect at the scene, the officer must document his or her investigation as completely as possible and file the appropriate report.

**C. INTERROGATING AN ARRESTEE WITH A
HEARING IMPAIRMENT**

If an officer cannot effectively inform the arrestee of the Miranda warnings without the use of an interpreter, then the officer must secure the services of a qualified interpreter in order to communicate accurately the warnings to the arrestee prior to any interrogation.

An officer seeking to interrogate an arrestee with a hearing impairment must obtain the services of a qualified interpreter prior to any interrogation whenever an interpreter is needed for effective communication. If exigent circumstances do not permit a delay in the interrogation of the arrestee, if an interpreter cannot be located within a reasonable period of time (which should occur very infrequently), if written communication between the officer and the arrestee was effective in conveying an understanding of the Miranda warnings, and if the arrestee specifically declines the opportunity to communicate through an interpreter, the officer may proceed with the interrogation by using a note pad. However, if written communication becomes ineffective, for example, because the factual pattern is complex, because the arrestee is having difficulty communicating without an interpreter, or because the arrestee chooses to discontinue the interrogation, the officer must discontinue the interrogation and wait until a qualified interpreter is present before continuing the interrogation. In most instances a qualified interpreter will be available and the interrogation will not be delayed.

**D. COMMUNICATING WITH A SUSPECT
WITH A HEARING IMPAIRMENT
PRIOR TO THE ISSUANCE OF A NON-CRIMINAL CITATION
WHEN A POLICE OFFICER HAS PROBABLE CAUSE
WITHOUT HAVING TO INTERVIEW THE SUSPECT**

If an individual without a hearing impairment would have been issued a non-criminal citation without being questioned by the investigating officer, then a suspect with a hearing impairment in the same situation does not need to be provided with a qualified interpreter. For example, if the suspect with a hearing impairment is caught on radar speeding, the investigation officer does not have to provide an interpreter to the violator.

If an officer has stopped a suspect for committing a non-criminal infraction and if the officer is unable to convey to the violator the nature of the non-criminal infraction by communicating on a note pad or by using another means of communication, then the officer should use his or her discretion as to whether to call a qualified interpreter to the scene or whether to issue a warning rather than a citation.

**E. INTERVIEWING A VICTIM OR CRITICAL WITNESS
WITH A HEARING IMPAIRMENT
DURING AN INVESTIGATION OF AN OFFENSE**

If an officer is able to communicate effectively by writing questions on a note pad and having the victim or witness with a hearing impairment write his or her responses, then the officer may proceed with the interview using a note pad. However, if an investigating officer is unable to communicate effectively with a victim or critical witness by using a note pad or some other means of communication other than a qualified interpreter, then the investigating officer must provide the victim or critical witness with a qualified interpreter. If the investigating officer cannot wait until a qualified interpreter arrives because the officer has to respond to another more urgent call, the following procedures apply:

(1) If the investigation does not involve a serious offense, then (a) the officer can have a qualified interpreter dispatched to the victim's or critical witness's location and request the communications division to re-contact the officer when the interpreter arrives. If a qualified interpreter is unable to respond or if the officer cannot return to the scene, the officer must document his or her investigation as completely as possible and file the appropriate report; or (b) the officer can ask the victim or critical witness to come voluntarily to the station when a qualified interpreter is available. At that time the investigating officer can return to the station to complete the investigation. If a qualified interpreter is unable to respond or if the officer cannot return to the station, the officer must document his or her investigation as completely as possible and file the appropriate report.

(2) If the investigation does involve a serious offense and if the victim or witness with a hearing impairment is critical to establishing probable cause for an arrest or for completing the investigation, then the investigating officer, before leaving the scene, must contact the appropriate Investigations Division supervisor and advise the supervisor of the case. The supervisor will determine if a detective will be called in to wait for a qualified interpreter. If the supervisor determines that a detective will not be responding, and if neither option (1)(a) nor (1)(b) above is available, then the officer may leave the victim(s) or witness(es) at the scene. The investigating officer must then document his or her investigation as completely as possible and file the report.

4. All identifying information on the interpreter must be included in the report. All written questions and responses

between and among police officers and persons with hearing impairments must be treated as evidence and handled accordingly. A copy of the written questions and responses must be forwarded with the police report, and the originals must be placed into evidence.

If you have any questions, please call Robert Surette, Legal Advisor, at (813) 462-6067.



Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, MAY 21, 1993

CR
(202) 514-2007
TDD (202) 514-1888

JUSTICE DEPARTMENT SETTLES ADA LAWSUIT

WASHINGTON, D.C. -- The Department of Justice filed a civil rights complaint in federal court against a St. Louis, Missouri, firm that operates more than 90 discount stores in eight states today, charging that its check writing policy violated the Americans with Disabilities Act (ADA). At the same time, the Department moved to consolidate its case with a private suit and also filed a consent decree to resolve both suits.

The complaint, filed in U.S. District Court in Chicago, alleged that Venture Stores Inc. had a policy that permitted customers with a driver's license to pay for merchandise with a personal check, but refused to extend that privilege to those who did not have a driver's license but possessed a state-issued identification card unless the person also obtained a special check-cashing card.

The United States said this procedure imposed additional burdens on disabled persons who could not obtain a driver's license and cited several instances in which Venture refused to accept checks from individuals who had state-issued

(MORE)

- 2 -

identification cards, but whose disability--epilepsy, blindness and muscular dystrophy--prevented them from obtaining a driver's license.

Venture denied that its policy violated the act but has agreed under the consent decree to allow the use of state identification cards or driver's licenses for identification in order to purchase merchandise by check. The company also will train employees and provide notice to customers regarding the new policy, which is effective in 90 days, and will report any further complaints to the Department of Justice after implementation.

Today's motion also sought to consolidate the government's case with a private suit filed in October 1992 and resolve it with the proposed consent decree. Under the decree, the four complainants in the two cases would receive certificates to purchase \$2,200 in Venture merchandise as compensation for alleged injuries caused by the former check policy.

James P. Turner, Acting Assistant Attorney General in charge of the Civil Rights Division, said, "The filing of this action demonstrates the Department of Justice's strong commitment to effective enforcement of the ADA. We are very pleased with the agreement reached today ensuring that persons who cannot drive due to disability have an equal opportunity to enjoy benefits available to other members of our society.

(MORE)

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"We appreciate Venture's cooperation with the government throughout the investigation of the matter and in reaching this resolution of the government's claims," he said.

Venture operates stores in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Missouri and Oklahoma.

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93-143



Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, MARCH 17, 1993

CR
(202) 514-2007
TDD (202) 514-1888

**JUSTICE DEPARTMENT SETTLES ADA
COMPLAINT FILED AGAINST OHIO COUNTY**

WASHINGTON, D.C. -- The Department of Justice announced today it has resolved administratively a complaint alleging that the Paulding County, Ohio, courthouse did not provide physical access to courtroom facilities to individuals with disabilities, particularly those with mobility impairments--a violation of Title II of the Americans with Disabilities Act.

Title II prohibits discrimination on the basis of disability in the programs, services or activities of a state or local government. The agreement was executed under the ADA's alternative dispute resolution process, which encourages settlement through informal negotiations.

According to the settlement, the Paulding County Board of Commissioners will relocate courtroom activities to accessible sites upon reasonable notification by an individual with a mobility impairment or other disability that would prevent that person from gaining access to the courtrooms. In addition, the county agreed to publicize the new policy through the dissemination of public notices in local newspapers.

(MORE)

- 2 -

James P. Turner, Acting Assistant Attorney General for Civil Rights, said, "We encourage state and local governments to voluntarily correct inaccessible programs and activities located in physically inaccessible facilities. Our enforcement policy is based on education and negotiation with state and local governments to bring about compliance with the accessibility requirements of the ADA. The use of the alternative dispute resolution process is an efficient and cost effective way to comply with the ADA."

The agreement also permits the Department to petition U.S. district court to seek specific performance of its terms if the Department determines the county is not in compliance.

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SETTLEMENT AGREEMENT BETWEEN**THE UNITED STATES OF AMERICA****AND****THE PAULDING COUNTY, OHIO, BOARD OF COMMISSIONERS****DEPARTMENT OF JUSTICE COMPLAINT NUMBER 192-T2-00382**

This matter was initiated by a complaint filed under title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-12134, with the United States Department of Justice, Civil Rights Division, Coordination and Review Section, against the Paulding County, Ohio, Board of Commissioners ("the County"). The complaint alleges that the courtroom facilities located in the Paulding County Courthouse are inaccessible to and unusable by individuals who use wheelchairs. Pursuant to the provision of the ADA entitled "Alternative Means of Dispute Resolution," 42 U.S.C. § 12212, the parties have entered into this agreement.

The parties to this agreement are the United States of America and the County. In order to avoid the burdens and expenses of an investigation and possible litigation, the parties hereby agree as follows:

1. The ADA applies to the County because it is a public entity as defined in 42 U.S.C. § 12131.
2. The County owns and operates a courthouse located in Paulding, Ohio.
3. Because of architectural barriers, the courtroom facilities located in the County's courthouse are inaccessible to and unusable by individuals with mobility impairments.
4. Title II of the ADA prohibits discrimination against qualified individuals with disabilities on the basis of disability, in the services, programs, or activities of a public entity such as the County.
5. The County may not deny the benefits of or participation in its courtroom facilities to individuals with disabilities because the courtroom facilities are inaccessible.
6. Under the ADA, the services, programs, or activities provided in the County's courtroom facilities, when viewed in their entirety, must be accessible to and usable by individuals with disabilities.

7. The subject of this settlement agreement is the development of a plan which will provide access to the services, programs, and activities provided in the courtroom facilities located in the County's courthouse.

8. The County shall develop a written policy (hereinafter "written policy") to provide that in those situations where an individual with a mobility impairment may be required or chooses to attend legal and other proceedings which are held in the courtroom facilities located in the County's courthouse, the County shall, on reasonable notice from the individual desiring access, relocate the proceeding to a location that is accessible to and usable by the individual with the mobility impairment.

9. All appropriate County and/or State officials responsible for conducting proceedings in the courtroom facilities shall review and agree to the written policy.

10. Within thirty (30) days of the execution of this agreement, the County shall submit a copy of the final written policy to the Department for review and approval.

11. Within thirty (30) days of Departmental approval of the written policy, the written policy shall be published on two separate occasions in a newspaper of general circulation serving Paulding County. In addition to including the written policy, the notice shall state that "Pursuant to the requirements of title II of the Americans with Disabilities Act, Paulding County will not discriminate against qualified individuals with disabilities on the basis of disability, in the County's services, programs, or activities."

12. Copies of the written policy shall be provided to members of the public upon request and shall be prominently displayed on all bulletin boards in the County's courthouse.

13. The County agrees to instruct all its employees who are in any way responsible for the conduct of any proceedings in the courtroom facilities of the written policy.

14. The Department may review compliance with this agreement at any time.

15. Failure by the Department to enforce this entire agreement or any provision thereof with regard to any deadline or any other provision herein shall not be construed as a waiver of its right to do so with regard to other deadlines and provisions of this agreement.

- 3 -

16. This document is a public agreement. A copy of this document or any information contained in it may be made available to any person by the County or the Department on request.

17. The effective date of this agreement is the date of the last signature below.

18. The Department of Justice is authorized under 28 C.F.R. Part 35, Subpart F, to investigate fully the allegations of the complaint in this matter to determine the compliance of Paulding County, Ohio with title II of the ADA and the Department's implementing title II regulation, issue findings, and, where appropriate, negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized under 42 U.S.C. § 12133, to bring a civil action enforcing title II of the ADA should the Department of Justice fail to secure voluntary compliance pursuant to Subpart F. In consideration of the terms of this agreement as set forth above, the Attorney General agrees to refrain from undertaking further investigation or from filing civil suit in this matter.

19. The Department of Justice may review compliance with this agreement at any time. If it determines that this agreement or any requirement thereof has been violated, it may institute a civil action seeking specific performance of the provisions of this agreement in an appropriate Federal court.

20. The Department of Justice's failure to enforce this entire agreement or any provision of thereof with respect to any deadline of any other provision herein shall not be construed as a waiver of the Department of Justice's right to enforce other deadlines and provisions of this agreement.

21. In the event that the Board of Commissioners of Paulding County, Ohio, fails to comply in a timely manner with any requirement of this agreement without obtaining sufficient advance written agreement with the Department of Justice as a temporary modification of the relevant terms of this agreement, all terms of this agreement shall become enforceable in an appropriate Federal court.

22. This agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written agreement, shall be enforceable. This agreement does not purport to remedy any other potential violations of the Americans

- 4 -

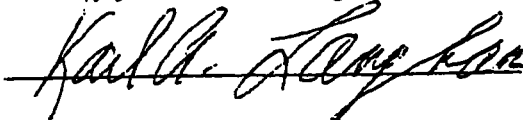
with Disabilities Act or any other federal law. This agreement does not affect the County's continuing responsibility to comply with all aspects of the Americans with Disabilities Act.

For the County:



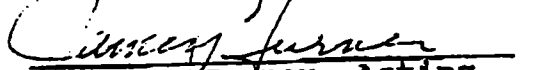
Date February 25, 1993





PAULDING COUNTY COMMISSIONERS

For the United States:


James P. Turner, Acting
Assistant Attorney General

Stewart B. Oneglia
Louis M. Stewart
Attorneys

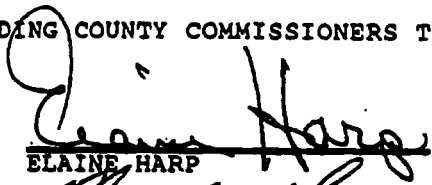
Coordination & Review Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66738
Washington, D.C. 20035-6738

Date MAR 17 1993

PAULDING COUNTY COURTROOM FACILITIES POLICY

IT SHALL BE THE POLICY OF PAULDING COUNTY, OHIO TO PROVIDE IN THOSE SITUATIONS WHERE AN INDIVIDUAL WITH A MOBILITY IMPAIRMENT MAY BE REQUIRED OR CHOOSES TO ATTEND LEGAL OR OTHER PROCEEDINGS WHICH ARE HELD IN THE COURTROOM FACILITIES IN THE PAULDING COUNTY COURT HOUSE, THE COURTS SHALL, ON REASONABLE NOTICE FROM THE INDIVIDUAL DESIRING ACCESS, RELOCATE THE PROCEEDINGS TO A LOCATION THAT IS ACCESSIBLE TO AND USABLE BY THE INDIVIDUAL WITH THE MOBILITY IMPAIRMENT.

BY ORDER OF THE PAULDING COUNTY COMMISSIONERS THIS 25th DAY OF FEBRUARY 1993.


ELAINE HARP


MAURICE WANNEMACHER


KARL A. LANGHAM

WE HAVE REVIEWED AND AGREE TO THE ABOVE WRITTEN COUNTY POLICY.


J. DAVID WEBB, JUDGE
PAULDING COUNTY COMMON PLEAS COURT
(GENERAL DIVISION)
COURT ROOM NO. 1


RUSSELL J. McMASTER, JUDGE
PAULDING COUNTY COMMON PLEAS COURT
(PROBATE/JUVENILE DIVISION)
COURT ROOM NO. 2



Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, MARCH 16, 1993

CR
(202) 514-2007
TDD (202) 514-1888

JUSTICE DEPARTMENT ANNOUNCES FIRST FORMAL SETTLEMENT OF ADA TITLE III COMPLAINT

WASHINGTON, D.C. -- The Department of Justice announced that it resolved a complaint filed against the Municipal Credit Union of New York for failing to remove architectural barriers for persons with disabilities at its Manhattan branch--marking its first formal out-of-court settlement under Title III of the Americans with Disabilities Act (ADA).

According to the complaint, the only entrance to the building at 2 Lafayette Street was inaccessible to persons who used wheelchairs or had other mobility impairments. Title III of the ADA requires, among other things, that existing places of public accommodation, like the Credit Union, remove barriers to make their facilities more accessible to people with disabilities, if it is readily achievable.

As a result of the settlement, reached yesterday, the Credit Union installed a permanent ramp at the entrance and also agreed to notify its customers of the change, post appropriate signs and instruct its staff to assist individuals with disabilities who request assistance.

(MORE)

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James P. Turner, Acting Assistant Attorney General for the Civil Rights Division, said, "This settlement agreement illustrates the Department's commitment to achieving access for persons with disabilities. We are pleased that the complete cooperation of the Credit Union helped to resolve the issues without the need to resort to litigation. The modifications that the Credit Union has made serve as an example for others in the banking industry who must comply with the ADA."

Turner said a majority of the more than 900 Title III complaints the Department has received relate to barrier removal in existing facilities. Many have been resolved informally as a result of informal negotiations. If negotiations are not successful, the Department is authorized to file an action in federal district court to enforce Title III, he said.

The Department can seek an order for corrective action, monetary damages on behalf of individuals and civil penalties of up to \$50,000 for the first violation. On December 28, 1992, the Department filed a suit against Becker CPA Review, for its alleged failure to provide sign language interpreters or other appropriate auxiliary aids for persons enrolled in a course it offers in preparation for the certified public accountant exam.

As of January 26, 1993, the "phase-in" periods for coverage of smaller businesses under Title III expired, and public accommodations of any size are covered by Title III. The

(MORE)

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requirements for accessibility to new construction also became effective on that date.

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93-071

**SETTLEMENT AGREEMENT UNDER THE AMERICANS WITH DISABILITIES ACT
BETWEEN THE UNITED STATES OF AMERICA AND THE MUNICIPAL
CREDIT UNION OF NEW YORK CITY FOR COMPLAINT DJ 202-51-4**

This matter was initiated by a complaint filed with the United States Department of Justice ("the Department") against the Municipal Credit Union at 2 Lafayette Street in New York, New York. The complaint was investigated by the Public Access Section, formerly known as the Office on the Americans with Disabilities Act, of the Civil Rights Division of the United States Department of Justice under the authority granted by section 308(b) of the Americans with Disabilities Act ("ADA" or "the Act"), 42 U.S.C. § 12188. The complaint alleges that the Municipal Credit Union Branch located at 2 Lafayette Street is operating in violation of the ADA, because its owners and operators have failed to remove architectural barriers where such removal is readily achievable.

The parties to this agreement are the United States of America and the Municipal Credit Union ("the Credit Union"). In order to avoid litigation, the parties hereby agree as follows:

1. The Credit Union is a corporation incorporated under the laws of the state of New York. The Credit Union provides banking services for members of the public who fall within its field of membership.
2. The Credit Union operates a branch located at 2 Lafayette Street. That branch is the subject of this settlement agreement.
3. The City of New York is the owner of the building at 2 Lafayette Street, in which the above-mentioned branch of the Credit Union is located. New York City administers this building through its Department of General Services, Division of Real Property.
4. The Americans with Disabilities Act applies to the Credit Union, because it is a public accommodation as defined in section 301(7)(F) of the Act and section 36.104 of the Department's regulation, 42 U.S.C. § 12181, 28 C.F.R. § 36.104.
5. The subject of this settlement agreement is removal of architectural barriers at the front entrance of the Credit Union branch located at 2 Lafayette Street.
6. Subsequent to January 26, 1992, the Credit Union operated with a front entrance that allegedly was inaccessible to individuals with disabilities, including those who use wheelchairs, because the front entrance could only be reached by climbing three steps or by use of a temporary ramp. This temporary ramp may not have provided independent access and may not have met the standards for accessibility and safety set forth

at section 4.8 of the Americans with Disabilities Act Accessibility Guidelines ("the Guidelines").

7. The Department received a complaint dated January 27, 1992, from individuals with disabilities, alleging that the Credit Union was not in compliance with the ADA, because it had failed to remove the barrier to access at its front entrance and such removal was readily achievable.

8. On March 25, 1992, representatives of the Department visited the Credit Union and observed that in their opinion there was no accessible entrance to the Credit Union. Department representatives further observed that the feasibility of installing a permanent ramp made it highly likely that the removal of the barrier was readily achievable. Representatives of the Credit Union agreed in principle to install a ramp.

9. It is readily achievable to make the front entrance of the Credit Union branch located at 2 Lafayette Street accessible by constructing a permanent ramp in accordance with the Guidelines.

10. The Credit Union has installed a permanent ramp at the front entrance to the building at 2 Lafayette Street. The ramp is constructed in accordance with the blueprints and plans attached hereto as Attachment A.

11. The Credit Union further agrees to indicate the location of the ramp through the use of appropriate signage. The signage will comply with the requirements set forth in the Guidelines at section 4.30.

12. The Credit Union further agrees to maintain the ramp in good working condition and to use reasonable efforts to keep it clear of debris or any other items that will interfere with its use by persons with disabilities, including those who use wheelchairs.

13. The Credit Union further agrees to use reasonable efforts to maintain a clear pathway on the ramp and the landing surrounding the doorway, including during such times when inclement weather would make such clearance necessary for the ramp and entry to be used safely by individuals with disabilities, including those who use wheelchairs. Implementation of paragraphs 12 and 13 of this agreement will include appropriate instructions to staff.

14. The Credit Union further agrees to instruct all its employees at the 2 Lafayette Street Branch to assist individuals with disabilities who request assistance in opening the front door.

15. The Credit Union further agrees that as of the effective date of this agreement, its employees will inform all persons with disabilities, as well as any others, who inquire of the barrier removal requirements of this agreement, including the times when such work will be completed.

16. In its March 1993, newsletter, the Credit Union shall notify its members of the erection of the permanent ramp referred to herein, and that such ramp provides access to persons with disabilities, including those who use wheelchairs.

17. The Credit Union further agrees to complete the actions specified in paragraphs 10 through 11 and paragraphs 14 through 16 within 120 days from the effective date of this agreement.

18. The Credit Union further agrees to commence the actions required in paragraphs 12 and 13 at the time the ramp is completed, and to continue such maintenance for as long as the Credit Union or its successors in interest operate the street level facility at 2 Lafayette Street that is the subject of this agreement.

19. The Attorney General is authorized, pursuant to section 308(b)(1)(B) of the Act, to bring a civil action under title III, enforcing the ADA in any situation where pattern or practice of discrimination is believed to exist or a matter of general public importance is raised. In consideration of the terms of this agreement as set forth above, the Attorney General agrees to refrain from undertaking further investigation or from filing civil suit under title III with regard to the subject of this agreement.

20. The Department may review compliance with this agreement at any time. If the Department believes that this agreement or any requirement thereof has been violated, it will give the Credit Union thirty (30) days written notice to cure such violation. If such violation is not cured within such thirty (30) day period (or if the violation is of a nature which cannot be cured within 30 days, then steps to cure such violation must be commenced within 30 days) it may institute a civil action. If the government demonstrates in such a proceeding that the respondent has failed to comply with any provision of this agreement, the respondent shall be liable to the United States in an amount of no less than \$7,500.00.

21. Failure by the Department to enforce this entire agreement or any provision thereof with regard to any deadline or any other provision herein shall not be construed as a waiver of its right to do so with regard to other deadlines and provisions of this agreement.

22. In the event that the Credit Union fails to comply in a timely fashion with any requirement of this agreement without obtaining sufficient advance written agreement with the Department as to a temporary modification of the relevant terms of the agreement, all terms of this agreement shall become enforceable in United States District Court.

23. This document is a public agreement. A copy of this document or any information contained herein may be made available to any person. The Credit Union or the Department shall provide a copy of this agreement to any person on request.

24. The effective date of this agreement is the date of the last signature below. This agreement shall be binding on all of the Credit Union's successors in interest, and respondents have a duty to so notify all such successors in interest.

25. This agreement and the plans attached hereto constitute the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written agreement, shall be enforceable. This agreement is limited to the facts set forth in paragraphs 1 through 9, and it does not purport to remedy any other potential violations of the Americans with Disabilities Act or any other federal law. This agreement does not affect the respondent's continuing responsibility to comply with all aspects of the Americans with Disabilities Act. Specifically, this agreement does not affect duties raised with regard to the Credit Union's policies, practices and procedures, or with regard to barrier removal in other parts of the 2 Lafayette branch or any other facility owned and/or operated by the Credit Union.

26. The parties agree that, if any provision of this agreement is affected by any future proceeding in bankruptcy, the parties shall jointly apply to the district court for withdrawal to the district court for resolution of the matter.

27. By executing this agreement and agreeing to the terms contained herein, the Credit Union is not admitting that it is or was in violation of the Americans with Disabilities Act. The Credit Union is merely executing this document, agreeing to the terms contained therein, so that the parties may amicably resolve this matter.

28. A signer of this document in a representative capacity for a partnership, corporation, or other entity, represents that he or she is authorized to bind such partnership, corporation or other entity to this agreement.

For the Municipal Credit
Union:

William Porter

William Porter
Chief Executive Officer
Municipal Credit Union
22 Cortlandt Street
New York, N.Y. 10007
(212) 238-3370

Date 2-26-93

For the United States:

James P. Turner

James P. Turner
Acting Assistant Attorney
General
John L. Wodatch
L. Irene Bowen
Joseph C. Russo
Public Access Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66738
Washington, D.C. 20035-6738
(202) 307-2227

Date 3/15/93

ATTACHMENTS



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, DECEMBER 28, 1992

CR
202-514-2007
TDD 202-514-1888

JUSTICE DEPARTMENT FILES ITS FIRST ADA ACTION IN FEDERAL COURT

WASHINGTON, D.C. -- In its first court action brought to enforce the Americans with Disabilities Act (ADA), the Department of Justice today filed a complaint against a California-based company charging that it discriminated against students with hearing impairments enrolled in its CPA review courses.

The complaint filed in U.S. District Court for the District of Columbia, alleges that Becker CPA Review, a private company that offers review courses for accountants preparing to take the national certified public accountant exam, discriminated against persons with hearing impairments in violation of the ADA by refusing to provide sign language interpreters or other appropriate auxiliary aids necessary for persons with hearing impairments to participate fully and equally in the course's classroom instruction.

John R. Dunne, Assistant Attorney General for Civil Rights, stated, "The filing of this action demonstrates the Department of Justice's strong commitment to effective enforcement of the ADA. Our enforcement policy has been first to educate and negotiate with entities to bring about compliance with accessibility requirements, and to litigate only, as in this case, where there

(MORE)

is a refusal to be in compliance. We thereby seek to ensure that all persons with disabilities have an equal opportunity to pursue career opportunities available to all members of our society."

The complaint, based on violation of the ADA, which prohibits discrimination on the basis of disability in employment, public accommodations, and public services, cites a specific instance in which Becker CPA Review refused to provide the necessary type of auxiliary aids to a person with a hearing impairment.

The suit alleges that Becker CPA Review violated two separate provisions of the law. First, the ADA specifically requires that courses for professional certification be offered in a manner accessible to persons with disabilities. Second, the ADA requires that private entities provide "auxiliary aids" when necessary to ensure effective communication. Auxiliary aids may include sign language interpreters, notetakers, written transcripts, and other methods of making orally delivered materials available to persons with hearing impairments.

Becker CPA Review is headquartered in Encino, California, and teaches its courses in the District of Columbia and across the country to approximately 10,000 students per year. The course prepares accountants for the national certified public accountant examination. Most states require accountants to pass

(MORE)

this examination in order to be qualified to prepare and sign tax documents for clients.

The Department seeks declaratory and injunctive relief, including an order requiring Becker CPA Review to provide appropriate auxiliary aids to persons with disabilities. The Department of Justice also seeks civil penalties up to \$50,000 and damages.

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92-411