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DISABILITY FUNDING NEWS

Washington: November 19, 1993

No. 93-22

HIGHLIGHTS:

- ◆ Multiple Sclerosis Ass'n to expand program using federal funds, land donations for barrier-free housing . Page 7
- ◆ Upgrade your donors using donor clubs, monthly giving programs Page 8

Washington Watch:

- High court backs parents in IDEA case . . . Page 1
- Feds expand disability definition Page 2
- Witnesses testify on Clinton plan Page 3
- AARP finds support for long-term care . . . Page 4

Legislative Update:

- Disability bills move as adjournment nears . Page 4

Model Programs:

- Group uses federal funds, land donations to build affordable, accessible housing Page 7

Fundraising:

- Monthly giving, clubs can upgrade donors . Page 8
- "Olympix" raises \$20,000 Page 10

Federal Grants:

- Mental health center plans competition for services to SED kids Page 10
- Health Care Page 11

- Rehabilitation Page 12
- Special Education Page 13
- Training Page 13

Regulations:

- ADA/Accessibility Page 14
- Independent Living Page 14

Notices:

- General Page 15
- Social Security/SSI Page 15
- Transportation Page 15

Contracts Page 16

State/Local News Page 16

Reports

- DoEd reports on IDEA Page 17
- Disability claims process "in crisis" Page 17

Grant Update Page 18

WASHINGTON WATCH

Supreme Court Unanimously Rules For Parents in Special Education Case *District Must Reimburse Even Though Private School Placement Didn't Meet State Standards*

School districts must reimburse parents who put their disabled children in private schools because the public schools are unable to accommodate their special needs, even if the private school isn't approved by the state, the Supreme Court rules.

The court unanimously upholds a lower court decision ordering Florence County, S.C., School District Four to reimburse the parents of Shannon Carter \$35,000 for 3 years of tuition at Trident Academy, a private school unapproved by the state for special education.

The Carters decided to send Shannon, who has dyslexia and attention deficit disorder, to private school because the school district was unable to offer an appropriate Individualized Education Plan. They were unable to reach a solution through administrative procedures.

In her opinion on the case, Justice O'Connor emphasizes that the ruling does not give parents a free hand to put their children in unapproved private schools. She points to findings by lower court that the public school's IEP was inadequate and that the private school provided

an appropriate education, although it was not in technical compliance with all state standards.

Advocates for children and people with disabilities applaud the decision, but some education officials are wary, fearing the case could lead to higher costs and threaten their control as more parents place their disabled children in expensive private schools.

"We're delighted with the decision," Justine Maloney, legislative chairman of the Learning Disabilities Ass'n, tells *DFN*. While LDA supports the requirement that private school special education teachers meet the same standards as public school teachers, parents do not have access to the information needed to make such determinations and shouldn't be penalized because of this.

"Some of the moans and groans are push-button," Maloney says, calling the decision "very, very narrow." "We don't see this as any major shift in attitude. If you notice, they went on to say that schools would have no problem if they did their jobs."

The association's only fear is that the ruling "could be interpreted as a shift toward vouchers." LDA "would much rather see public schools get their act together than have wholesale tuition grants," Maloney says.

George Ayers, executive director of The Council for Exceptional Children, tells us, "We agree that a student should receive appropriate services. We support the parents in trying to better the circumstances for their child and find an appropriate placement. If the public school environment cannot provide it, then alternatives must be found."

But Ayers echoes Maloney's caution about exempting private schools from minimum standards requirements. "Even though this particular case was narrowly defined on the basis of the lower court's ruling, CEC is concerned that this ruling overlooks/eliminates important, vital safeguards that could ultimately translate into poor practice or inappropriate services for our children."

Madelyn DeWoody, general counsel and director of program development for the Child Welfare League of America, tells *DFN*, "We are supportive of anything that expands access for children with disabilities." If programs are not available in public schools, students must be able to get them through public schools, CWLA believes.

Meanwhile, education officials react warily. The Nat'l Ass'n of State Special Education Directors heard immedi-

ately after the decision from members worried about the implications of the ruling.

"Members are concerned, but we're trying not to be panic-stricken about this. If you look at the decision, it's not *carte blanche*," Myrna Mandlawitz, government relations director, tells us. NASDE is waiting to see how the decision plays out in the lower courts.

Federal Agencies Move To Broaden Disability Protections

Federal agencies are moving toward an expansive interpretation of disability under civil rights laws, if 2 recent cases are any indication.

In a "friend of the court" brief filed this summer, the Equal Employment Opportunity Comm'n declares "obesity may, in appropriate circumstances, constitute a disability." The brief supports a decision by the U.S. District Court for Rhode Island to award \$100,000 in damages to Bonnie Cook, a 329-pound woman who was denied a job by the state Dep't of Mental Health, Retardation and Hospitals because of her weight.

The lower court found that the state regarded Cook as disabled because of her weight, putting it in violation of Sec. 504 of the Rehabilitation Act, which prohibits discrimination against people with disabilities in federally-funded activities.

A physician for the residential center for the mentally retarded at which Cook applied testified he disqualified her because he thought her weight made her susceptible to other health problems and would prevent her from performing job functions, such as lifting patients, even though she had held the same job previously.

"Obesity may be a disability under Sec. 504 of the Rehabilitation Act and Sec. 3(2) of the ADA [Americans with Disabilities Act] if it constitutes an impairment and if it is of such duration that it substantially limits a major life activity or is regarded as doing so," EEOC says. The opinion applies only to those who are morbidly obese -- that is, at least twice the normal weight for their height.

Meanwhile, the departments of Justice and Housing and Urban Development insist that a Virginia housing development make reasonable accommodations for a woman suffering from "multiple chemical sensitivity," the *Washington Post* reports.

Melinda Lebens alleges she is unable to walk outside her house without a respirator because she is allergic to

pesticides and inorganic fertilizers used to maintain the development's landscaping. She says her sensitivities limit her access to the development in the same way that lack of ramps constitutes a barrier to a wheelchair user.

Lebens has rejected an offer by the homeowners association to create a buffer zone around her house, demanding instead that the entire development be maintained using only organic gardening. Neighbors fear switching to organic gardening will cause property values to decline and require drastic increases in grounds fees.

The case has been under investigation for a year and is still in the conciliation process. HUD officials say there have been at least 4 similar cases in the region in the past year. Medical opinion is split on whether multiple chemical sensitivity actually exists, and HUD says there are few legal precedents to help decide the case.

Congress Hears Testimony on Clinton Long-Term Care Proposals

Witnesses from advocacy groups for the disabled and elderly, insurance industry representatives and health care professionals present diverging views on those parts of President Clinton's health care plan regarding long-term care to the House Ways and Means Committee and the Senate Labor and Human Resources committees.

♦ **Eligibility** -- Home care professionals and advocates for people with disabilities and the elderly feel strongly that the eligibility standards for the new home- and community-based waiver program are too high. In fact, only 25% of people with disabilities who require long-term care would be eligible, says Jenifer Simpson of the Consortium of Citizens with Disabilities.

The standards require applicants to meet one of the following criteria:

- 1) Impairment in 3 of 5 activities of daily living (eating, bathing, dressing, transferring and toileting).
- 2) Severe or profound mental retardation, evidenced by a score of 36 or lower on a standard intelligence test.
- 3) Severe cognitive or mental impairment, as shown on a test to be developed by the Dep't of Health and Human Services. Also eligible would be those who score at a certain level on this test and need constant supervision because they pose a threat to themselves or others, have multiple, significant behavior problems or are unable to administer prescribed medications.
- 4) For a child under 6, is dependent on technology and otherwise requires hospital or institutional care.

Witnesses for disability and aging groups say requiring impairment in ADLs is too high, and recommend setting the threshold at 2 ADLs. Even then, some people who need help will be left out.

An individual with impairment in only one ADL, such as eating, can be extremely disabled and in need of home- and community-care if no family or other caregiver is available, says Val Halamandaris of the Nat'l Ass'n for Home Care.

While most groups focus on the standards for the physically disabled, CCD also takes issue with the standards for the mentally or cognitively impaired and children. But it praises the plan for recognizing the need to use different measurements for different types of disability.

♦ **Financing** -- Plans for financing the new home- and community-based care program through Medicare cuts and an increase in the cigarette tax engender uneasiness. Many witnesses oppose the Medicare cuts and say cigarette tax revenues will decline over time. Even if Congress adopts both these measures to pay for long-term care, the combined savings and revenues may be insufficient, critics say.

The proposed cap on expenses under the new program also causes concern. Advocates for the elderly and disabled wonder what will happen when a state nears the end of its allotment for a given year. Will people with disabilities suddenly find their services cut off? But

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other witnesses praise Clinton for resisting the urge to create another entitlement program.

♦ **State Control** -- Many advocates feel that the plan gives too much latitude to the states to determine whether they will participate in the new home- and community-based services program, and, if so, what services they will cover.

CCD recommends that Congress require states to cover a wide range of services and demonstrate that the range of services offered will meet the needs of all eligible people. People with disabilities should "not be subject to the vagaries of state-level political decision making regarding vital services which they require through this joint federal/state program."

However, policy analysts from the Brookings Institution, a liberal think-tank, say giving states a prominent role in the new program will encourage them to quickly implement the new program and control costs. States also have the experience in long-term care and knowledge of local needs to make the program successful, they say.

"Although this raises the specter of the interstate variation that plagues the Medicaid program, and will undoubtedly complicate the decision-making process, the alternative is a prescription for financial problems at the federal level."

Survey Finds Inclusion of Long-Term Care Increases Support for Health Reform

Many Americans say their support for health reform would increase if long-term care benefits are part of the plan, a survey by the American Ass'n of Retired Persons finds.

Nearly 1/3 of respondents say it's likely they or a family member will need long-term care in the next 5 years, and 57% say coverage of home- and community-based care would increase their support for President Clinton's health plan.

The poll, completed in early November, surveyed 1,200 people over age 18. AARP found that overall understanding of the Clinton health plan and health reform in general was low, with only 38% saying they understand Clinton's proposals "fairly well" or "well."

Understanding of the long-term care provisions of Clinton's plan is even lower. Only 30% think the Clinton plan includes any long-term coverage. The rest

either believe the plan includes no long-term care coverage (37%) or don't know (37%).

Of those who know that the plan contains long-term care provisions, 38% don't know what type of care it covers, and 48% think it includes both home- and community-based and nursing home care.

AARP says it will fight for a long-term care plan that serves the needs of people of all ages who have disabilities and urges Americans to ask their congressmen to make sure the final plan includes long-term care.

LEGISLATIVE UPDATE

Last-Minute Burst of Action Moves Disability-Related Legislation

As the session winds down, Congress works on several pieces of disability-related legislation, but will delay final action on many of these until it reconvenes in January. Below, we look at some of these measures.

Traumatic Brain Injury Act

The Senate Labor and Human Resources Committee approves a bill sponsored by chairman Kennedy (D-Mass.) that authorizes \$33 million for traumatic brain injury research, prevention and service delivery projects. However, a committee staffer tells us Congress is likely to delay action on the bill until its return in January.

S 725 authorizes:

♦ \$20 million in FY94 for state demonstration projects on patient advocacy, service coordination, surveillance and development of standards or adoption of national standards for marketing rehabilitation services. States would have to provide \$1 for every \$2 federal dollars and establish an advisory board that includes individuals with TBI or their families.

♦ \$6 million in fiscal 1994 for prevention initiatives conducted by the Centers for Disease Control and Prevention, including model TBI prevention, research and support programs. CDC also would establish other initiatives to promote prevention and public awareness of TBI and study the incidence and prevalence of the injury.

♦ \$5 million in FY94 for basic and applied research on mechanical, biomechanical and metabolic TBI supervised by the Nat'l Institutes of Health.

♦ \$2 million for a study by the Agency for Health Care Policy and Research to determine major causes of TBI, rate treatment effectiveness, identify state and local

preventive efforts, recommend practice guidelines and identify treatment and long-term rehabilitation service needs of individuals with TBI.

Rep. Slattery (D-Kan.) is the sponsor of a companion bill, HR 2871. The bill is in the House Energy and Commerce Committee, which has taken no action on it.

Developmental Disabilities Act

After a delay of several months, the House Energy and Commerce Committee moves quickly to approve HR 3505, reauthorizing the Developmental Disabilities and Bill of Rights Assistance Act. The Senate passed its bill, S 1284, in August.

The act provides grants to states to serve people with developmental disabilities and conduct protection and advocacy activities on their behalf, funds for university-affiliated research and training programs and grants to nonprofits for innovative service delivery and data collection projects.

According to information provided by committee staff, the bill authorizes only minor changes in existing law, making technical changes, updating the purposes and findings sections and clarifying the Adm'n on Developmental Disabilities' responsibilities regarding review of protection and advocacy projects.

The delay resulted from an argument over which committee had jurisdiction over the bill -- Energy and Commerce or Education and Labor. The House finally referred the bill back to Energy and Commerce, and subcommittee action followed swiftly thereafter.

A Consortium for Citizens with Disabilities member tells us the coalition had hoped for a referral to Education and Labor, which it believes would have resulted in a strengthening of changes made by the Senate bill.

The House measure reauthorizes programs for 3 years, for \$117 million in FY94 (the current appropriation level) and unspecified amounts in FY95 and 96.

Technology-Related Assistance Act

House and Senate staff negotiate to resolve discrepancies in their respective versions of the Tech Act reauthorization (HR 2339 S 1283), but they're unlikely to complete work before Congress adjourns, a Hill staffer tells *DFN*.

The Tech Act authorizes competitive grants to states to develop systems that help people with disabilities access assistive technology and grants to nonprofits for demonstrations of innovative ways to improve access.

Senate staff sent a proposal to the House Oct. 1 and the House responded, but hasn't heard back. A few of the disagreements defy easy resolution, and the staffer tells us it's likely a formal conference will be necessary.

The major sticking points are:

- ♦ The House insists on a 10-year sunset provision that would toss states out of the program at the end of their second grant period. The Senate wants to reauthorize the law for 5 years and then revisit the matter.

- ♦ The Senate rejects House provisions that would make it easier for governors to redesignate the agency that will operate the state's assistive technology project.

However, staffers are close to a compromise on setting aside funds for protection and advocacy activities. Originally, the Senate mandated an off-the-top setaside of 10% of a state's funds, while the House would have given DoEd discretion to decide what amount a state should earmark, taking into account size and population.

The compromise would allow DoEd flexibility to choose an amount within a certain range (probably \$40,000-\$100,000), taking into account state size and population.

While the Tech Act expired Sept. 30, programs are operating under the Gen'l Educational Procedures Act, which allows most DoEd programs to run for one year pending reauthorization, so a wrap-up before the end of the session isn't urgent.

However, the Consortium for Citizens with Disabilities would like to see a bill before Christmas, a reauthorization task force member tells *DFN*. But the staffer says that lack of pressure from the field is the primary reason committees have not rushed to complete the bill.

The Dep't of Education announced in September that it planned to invite applications for the state grant program in April with a June deadline, leaving it some time to incorporate any changes.

Near-certain components of any final measure include a shift in focus toward systems change, a mandatory setaside for protection and advocacy activities and provisions for investigating alternative financing for assistive technology.

School-to-Work Programs

Both the House and Senate education panels have cleared versions of the Clinton Adm'n school-to-work transition bill (HR 2884 S 1361), which has provisions for ensuring the inclusion of students with disabilities (*DFN* 8/27p2).

The bills are expected to pass, but probably won't reach the floors of their respective chambers before Congress returns in January, Hill staffers tell us.

The departments of Education and Labor have already begun the program under current authorization, proposing a priority that would allow them to award planning grants to states using \$100 million in FY94 funds. Funds would help states create systems linking employers, schools and students and providing paid work experience, job-site mentoring and school-based learning with career counseling.

Health Care Reform

The administration sends its health care bill to Congress, where the many committees with jurisdiction over the bill begin holding hearings (see story, p3). Among the ways the bill differs from the draft (DFN 9/24p1):

- ◆ A program not in the draft appears to attempt to address criticism by advocates for children and people with disabilities that the plan would have deprived children with congenital problems of services they now get under Medicaid, although it does not specify what services would be offered.

- ◆ The plan no longer gives explicit permission to health alliances to limit the number of fee-for-service plans offered, although it does not prohibit them from doing so.

- ◆ Personal needs allowances for nursing home residents would rise to \$70, rather than \$100, as originally proposed.

- ◆ States would be allowed, rather than required, to increase asset limits for nursing home residents from \$2,000 to \$12,000.

- ◆ Authorization levels for programs are provided.

Legislators from all sides of the political spectrum have introduced competing proposals, but most have little detail on how they would treat people with disabilities. Work on producing a health care bill will begin in earnest in January, with a final bill possible by fall of next year. Any final bill is likely to be much changed from the president's plan.

Chapter 1

Congress holds hearings on reauthorization of the Elementary and Secondary Education Act, which includes the Chapter 1 Handicapped program, but no action on the bill is likely until January.

The Clinton Adm'n introduced HR 3130, which would phase out Chapter 1 in favor of new provisions in the

Individuals with Disabilities Education Act. Hold-harmless provisions would ensure there would be no loss of total funding through 1997.

Chapter 1 is a formula grant program that provides funds to help educate children enrolled in state-operated schools or programs or who were enrolled in such a program and are now being educated by a local education agency.

Both the current and previous administrations have moved to phase out Chapter 1, which they believe duplicates state formula grant programs under IDEA, by decreasing their budget requests for the program. But disability advocates oppose the program's elimination, saying it helps integrate severely disabled children not adequately served through other programs.

HR 3130 also contains provisions to ease the participation of students with disabilities in other programs under ESEA, such as the main Chapter 1 program and Even Start.

A Dep't of Education summary of the bill, *Improving America's Schools Act of 1993*, is available from us a *CDS 7299, 36pp. See p3 box to order.

Telecommunications Grants

The House passes HR 2639, the Telecommunications Infrastructure and Facilities Assistance Act, which would authorize grant programs to increase access by people with disabilities to telecommunications networks. A Senate Commerce subcommittee staffer tells DFN a companion bill will be introduced soon.

The Telecommunications and Information Infrastructure program would provide grants to nonprofits and state or local governments to use advanced communications technologies to enhance social service delivery and/or help create a universally accessible telecommunications infrastructure.

The bill directs the Commerce Dep't to notify people with disabilities of the availability of funds under this program and give priority to projects that would increase their ownership, operation of and access to telecommunications and information infrastructure.

Congress could appropriate up to \$100 million for the program in FY95 and \$150 million in FY96. Applicants would have to provide 50% of the project cost, although Commerce could allow 25% matches under special circumstances.

The measure also would provide grants to improve the capabilities of existing public broadcasting entities to serve people with hearing or vision impairments, among

other purposes, authorizing \$35 million for the program in FY95 and an equal amount in FY96.

Rescissions/Reinventing Government

The House may vote in the next few days on a package of \$11 billion in spending cuts President Clinton proposes as part of his reinventing government plan.

The main disability-related provision in HR 3400 seeks \$485.3 million in savings by shoring up the Social Security Administration's ability to perform continuing disability reviews, stopping benefit payments to those who are no longer disabled.

A competing proposal sponsored by Reps. Penny (D-Minn.) and Kasich (R-Ohio) seeks to reduce federal spending by about \$100 billion over the next 5 years. Clinton opposes the plan because its Medicare savings would go toward reducing the deficit, rather than financing health care reform.

Changes that could affect disability organizations include:

- ◆ Consolidating the Social Services, Community Services, Title IV-A "At Risk" Child Care and Child Care and Development block grants, Title III (services and meals for the aging) and the Adm'n for Children and Families Dependent Care Planning and Development Grants. The proposals also would reduce the combined budget for these grants by 4%, for an overall savings of \$800 million over 5 years.

- ◆ Requiring 20% coinsurance on all home health services under Medicare (except for those with incomes at or below 150% of the poverty level), for an estimated savings of \$18.5 billion over 5 years.

MODEL PROGRAMS

Organization Uses Federal Funds, Municipal Donations To Finance Accessible Housing

The Multiple Sclerosis Ass'n of America completes a dress rehearsal of its barrier-free housing program and prepares to expand into other states. By providing low-cost, accessible housing, MSSA hopes to keep people with multiple sclerosis and other physical disabilities out of institutions, housing director Dawn Human tells *DFN*.

The experiences of MSSA's president, John Hodson, Sr., led the organization to initiate the program in 1986.

Hodson's wife had multiple sclerosis, and the couple was unable to find an accessible rental apartment when she began having difficulties with barriers in their home.

The projects typically have about 25 units, 24 for disabled tenants and one for a live-in supervisor. Buildings feature modifications such as wider hallways and doors, lowered switches and cabinets, higher outlets, roll-in showers, easy-to-turn levers and pipes that are insulated so those with nerve damage won't be accidentally scalded.

As support, MSSA also loans medical equipment, offers counseling and peer support and provides paratransit to take residents to medical appointments and social functions. Project costs average \$2 million per building, and sites must have 2-3 acres.

To finance the projects, MSSA persuades municipalities to donate land, and then applies for funds under the Dep't of Housing and Urban Development's Sec. 811 program, which offers capital grants and rental assistance to projects providing housing and supportive services to people with disabilities. MSSA is the only organization to win funding under the program 4 times, Human says.

Since MSSA's headquarters is in New Jersey, it started its first 4 projects there, so it could work out the kinks more easily before moving out of state. Now the group hopes to establish at least one project in every state, before returning to develop additional projects.

Getting municipalities to donate land is not as difficult as it might sound, Human says. A court decision requires them to establish a certain number of units of affordable housing, which includes accessible housing.

Generally, municipalities prefer barrier-free housing to multi-family projects, which they associate with increased crime and traffic. Tenants of barrier-free housing are usually single, without children and don't drain the locality's resources.

The mayor of one township with an MSSA project keeps saying, "I'm still waiting for the catch." But there is no catch, Human says. Once a municipality donates land, MSSA secures funding to build and manage the project. The organization also makes sure to seek the input of town officials on how the building will look, and projects adhere to all municipal regulations.

Usually, MSSA requests donations through the general press and by writing directly to municipalities where it would like to locate projects. Its success in getting land thus far "has been chance in every case," Human says.

MSSA hasn't selected sites for its out-of-state projects yet, but it has had many inquiries from people in need of accessible housing. It will select sites based both on need and which municipalities offer to donate land. If an area shows great need, but no town will donate land, MSSA will acquire the land with its own funds.

Similarly, MSSA would use private funds to finance a project if a municipality offered a site which HUD found unacceptable for the Sec. 811 program. Although MSSA has a good relationship with program officials, Sec. 811 has very specific site guidelines.

The program also requires a sizable up-front investment, making it an unlikely funding source for smaller charities, Human says. MSSA has to spend about \$100,000 per application to meet audit requirements and pay engineers to look at the site and architects to draw plans for the building.

Since all current projects are under Sec. 811, MSSA must use the program's guidelines for selecting tenants, opening projects to those with all types of physical disabilities. MSSA doesn't believe in "clustering" people with certain types or degrees of disability, Human says. In fact, its experience is that people with different types of disabilities can help each other.

Projects accept tenants on a first-come, first-serve basis, provided they meet income and credit requirements. Tenants must be able to live independently, but may request temporary leave if they become ill.

Info: Dawn Human, MSSA, 601 White Horse Pike, Oaklyn, NJ 08107, 609/858-3211 or 800/833-4672 (general information on MSSA).

FUNDRAISING

Donor Clubs, Monthly Giving Programs Offer Chance To Upgrade Donors

So you've started a direct mail program and begun to develop a core of regular donors. What's the next step? Donor clubs and monthly giving programs can increase donor loyalty and the size of contributions, but good design is crucial to their success, say fundraising experts at a Direct Marketing Ass'n of Washington workshop.

Donor Clubs

Donor clubs offer contributors tangible benefits in exchange for donations of a certain size. For example,

the Kennedy Center for the Performing Arts operates a low-end club (the Stars) and a high-end club (the Circles). Both clubs offer an array of membership privileges, such as ticket and seating priority, admittance to special events and recognition in programs and annual reports. Benefits increase as the contribution level increases.

When he reworked the Kennedy Center's clubs to increase their member retention rates, Wallace Whitworth, director of the center's annual fund, followed 5 principles:

- 1) The customer (donor) is the focal point.
- 2) Benefits work.
- 3) Regular research prevents stagnation.
- 4) Service is the key to retention, member satisfaction and the all important relationship.
- 5) Integrity is what you sell, how you sell it and in all member communications is imperative.

The relationship between the customer and the seller (the donor and the fundraiser) is the key to all good marketing and fundraising, Whitworth says. If your donors don't renew, it often has to do with something you promised and didn't deliver. Once you've started the relationship, you must cultivate it.

To design a donor club, you first must understand that while people give for lots of reasons, they fall into 2 distinct categories. Often, people give out of altruism -- they like your mission, they need to connect or belong, they need to help or make a difference. But frequently beneath these lofty reasons is self interest -- before they give, prospective donors want to know, "What's in it for me?"

A successful donor club acknowledges both motivations and appeals to the donor both as a contributor (who likes the organization and its mission) and a purchaser (who likes what your club offers).

Donor clubs are subsets of membership organizations, in which the primary reason for joining is the organization's cause or mission. Members may receive benefits, but they are usually minor, such as monthly newsletters or a bumper sticker.

A donor club goes further, offering tangible, usable benefits that possibly equal the mission as a reason for giving. Benefits should revolve around:

- 1) Access -- the chance to get inside your organization, to belong to the inner circle.
- 2) Advantage.
- 3) Privilege or status.

- 4) Social opportunity-- the chance to meet a certain stratum of society.
- 5) Recognition -- e.g., the chance to see their name in the program.
- 6) Definition of the relationship -- you're saying something about the person who joins at a certain level.

Once you've established your club, you should "never stop creating" it, Whitworth says. Your work is never done, although you may reach a point where you can coast a little.

Conduct regular research, which:

- 1) Keeps the focal point on the customer.
- 2) Keeps you in touch formally.
- 3) Keeps you current.
- 4) Qualifies and quantifies trends.
- 5) Catches problems before they catch you.
- 6) Demonstrates your ongoing commitment to quality and service.

Avoid forming too many donor clubs for 2 reasons, says Rod Smith, consultant to the Nat'l Republican Senatorial Committee. First, it detracts from the exclusivity of your clubs, one of their main selling points. Second, if you have too many contribution levels, donors have an easy out not to upgrade.

Start with a low-dollar club and high-dollar club and force donors to choose. Natural breakpoints include \$25, \$100, \$250 and \$1,000. But a donor who can give \$500 likely can give \$1,000, Smith says. Don't cheat yourself out of that \$500.

Monthly Giving Programs

The goal of monthly giving programs is to place frequent contributors on a regular giving program, increasing donor loyalty and cumulative donations.

One highly successful monthly giving program is run by Covenant House, a shelter for runaways that is one of the largest direct mail charities in the country, says Gene Henderson, president of the not-for-profit group at Epsilon, a marketing and fundraising consulting firm.

The organization has 664,000 active donors, who make about 2.63 gifts per year, averaging \$33.40. Of its \$70 million budget, \$58.5 million comes from public donations.

Its monthly giving program pulls in about \$10.8 million and has 60,000 active donors, who make about 7.28 gifts per year, averaging \$24.80. Thus, about 10% of active donors account for about 19% of gross revenue.

Covenant's original strategy for its monthly giving program was to invite the entire donor file to join its monthly giving program. However, it has since switched to a targeted, 3-pronged strategy that has proven more successful, Henderson says.

First, when a donor gives a third gift in a 12-month period, Covenant invites them to join in its thank-you letters. The charity also uses direct mail and internal telemarketing to invite qualified donors to join, even if they haven't made 3 gifts. Finally, Covenant continues to publicize the monthly program in "collateral pieces," such as newsletters.

Secrets for nurturing monthly donors include:

- 1) Using 1st-class postage on correspondence.
- 2) Giving them inside info.
- 3) Tailoring copy (such as inserting the donor's name in correspondence).
- 4) Sending periodic gifts, such as pens or certificates -- nothing too grandiose.
- 5) Sending a year-end donation statement.
- 6) Allowing an open-ended dollar commitment (no specific monthly pledge).

The dataprocessing for a monthly giving program can be tricky, Henderson says. You run the risk of offending the donor if you post a donation at the wrong level or don't post it at all.

It may help to remove your monthly program from the main donor file and run it on a smaller system. You can buy software especially for this purpose that makes running reminder notices, posting donations and sending acknowledgements nearly foolproof.

Answers to some common questions about monthly giving programs:

♦ What happens if a donor stops giving? Covenant puts donors into a "pre-lapse" program if they don't give for 6 months, ultimately contacting them by telephone to request that they resume donations.

♦ Do you send other appeals to your monthly donors? Yes. It "may not seem fair or polite, but it is effective," Henderson says. If you ask with class, your monthly donors won't be insulted, they'll respond.

♦ What about electronic funds transfer (debiting a donor's account electronically and depositing the funds in your account)? Because it eliminates the need for donors to sit down and write a check each month, EFT can dramatically increase donors' "longevity," Smith says.

But getting donors to convert to EFT is often extremely difficult, especially among older people, who may feel uncomfortable with the technology. Your best bet is to design a program or club and make EFT a part of it.

♦ What percentage of your donor file can you expect to convert to monthly giving? Ten percent is a good goal. To get a better idea, look at how many of your donors make frequent gifts.

♦ What about permitting donors to contribute on a quarterly or semiannual basis, rather than monthly? Flexibility is good, if you have the computer capability to do it, Smith says. But the flip side is that there is a direct link between gift frequency and donor loyalty to your organization.

Need Ideas for Special Events? --

Office "Olympix" Nets \$20,000

Reading, Pa. -- The Easter Seal Society of Berks County raised \$20,000 in one night at its annual "Office Olympix" last year.

The year before it made \$29,000, says Pat Casselberry, event organizer (215/775-1431).

Area businesses, schools and nonprofit agencies--anyone with office personnel--may enter the "Olympix," which consists of 10 events, including a rubber-band shoot and a rolling office chair race.

A few months before the Olympix, ESSBC sent out invitations. An office paid \$150 per 5-person team to enter. Last year there were 50 teams.

About 35% of the money raised comes from team entry fees. The remainder is collected by team members as pledges from coworkers, associates and friends.

Plaques are awarded for coming in first, second and third place in Olympix events. Additional awards are presented to teams raising the most pledge money. The team with the largest amount of pledges wins a weekend for 2 at a nearby resort.

Olympix events are divided into semi-final and final competitions. Three teams compete at once.

The Olympix "stadium" is a local inn where activities are held in meeting rooms and prizes are awarded in the ballroom.

Following is ESSBC's description of Olympix events:

Swivel Chair Relay--The boss is away and it's time to play.

Fear Of Flying--There is some important gossip you need to share with a coworker but your boss says that you talk too much. You decide to communicate via air mail (paper airplane).

Dress The Boss--Your boss has a brilliant mind for business, but has a hard time tying his shoes. There's a plane to catch and it's your responsibility to get him bundled up and on his way.

5 O'Clock Dash--You have an important dinner date across town. You should have left 10 minutes ago, but a few tasks must be completed before you leave.

Coffee Slalom Relay--The executive officers are having a board meeting. They may be the key to your future success. You are required to bring a few items to them; get it right in one try.

Rubber-Band Shoot Out--You are the only person in the office and you decide to take this time to sharpen your rubber-band shooting skills. (The most accurate wins.)

Waste-Paper Free Throw--The same chart has been revised 6 times. Revision 7 is on your desk. You vent your frustrations by finding creative ways of disposing of the first 6 revisions.

Mail Room Mania--The mailman picks up the mail at 5 p.m. It must be postmarked today! It's your job to get it to the mail room on time. (Start stamping.)

Floppy Disk Throw--You have just completed 6 hours of programming, getting nowhere. It's time to assault your personal computer with a barrage of disks.

Par For The Course--You are playing golf with your boss and want to keep both the ball and your career on the straight and narrow.

Info: Pat Casselberry, Easter Seal Society of Berks County, 1040 Liggett Ave., Reading, PA 19611.

-- By CD Publications Staff

FEDERAL GRANTS

Program Official Discusses FY94 Plans For Program Serving SED Children

By CD Publications Staff -- The Center for Mental Health Services likely will solicit new applications in fiscal 1994 for the Community Mental Health Services for Children and Adolescents with Serious Emotional Disturbances (SED) Program, a CMHS official indicates in an interview with *DFN's* sister publication, *Fed'l Assistance Monitor*.

CMHS may also fund FY93 applications that scored high but didn't get money, says Gary DeCarolis, who heads the center's Child, Adolescent and Family Branch. If so, the top 25% of unfunded FY93 proposals might be supported, although CMHS is far from making a final decision on this, DeCarolis notes.

In addition, DeCarolis plans to recommend to CMHS that some FY94 money "go hand-in-hand with other federal child-related agencies and see if we can do some

collaborative efforts that would pump up mental health components of grants they put out to the states."

Generally, these programs provide comprehensive care for SED children through collaboration among child welfare, education, juvenile justice, substance abuse, mental health and other providers.

More than 40 state, local and Indian agencies applied for \$4.9 million in FY93 funds. Four were funded at \$1 million each for projects in Vt., Ohio, S.C. and Md.

For FY94, Congress provided \$35 million, giving the program enough resources to substantially expand the number of grantees.

However, DeCarolis wants to broaden the program's reach even more through interagency collaboration at the federal level. "My narrow purpose is to ensure good mental health services for children who need it, and who might not be directly served by CMHS," he says.

For example, DeCarolis would like to tap into the new Family Support and Preservation initiative at the Adm'n for Children & Families, which received \$60 million in funding this year.

Similarly, CMHS could reach SED children in the Maternal and Child Health Program administered by the Health Resources & Services Adm'n.

DeCarolis plans to touch base with officials at these agencies and at the Dep't of Education, Dep't of Justice and Center for Substance Abuse Treatment to explore interagency cooperation.

"We should be in the front and back pockets of all the other federal agencies that are working with children," he says. "I'm fully aware that these other departments may or may not have money that they can bring to the table right now. But they might have a technical assistance arm that could stretch into our area."

Similarly, state and local agencies must work together, DeCarolis says. For instance, the 4 FY93 grantees have experience networking under the 9-year-old Child and Adolescent Service System Program, which helps states and local agencies form comprehensive care systems.

This was a factor in their winning funds and will be important to CMHS in selecting FY94 projects as well, DeCarolis suggests.

Low-scoring FY93 proposals "didn't have the strategy planning or the linkages, the blending of funds, or the relationships between departments" that high-scoring applicants had, he points out. "The service package they presented was very fragmented."

In FY94, DeCarolis would also like to see stronger ties between grantees and the juvenile justice system. Kids in the criminal justice system need "some major mental health supports," he notes.

This will be one of the areas CMHS will address with the FY94 projects, DeCarolis says.

HEALTH CARE . . .

Awards for New Researchers Can Support Disability-Related Health Services Studies

Funds: About 3 awards of \$350,000 (direct costs) for 5-year projects. Yearly budgets may not exceed \$100,000. AHCPR will pay indirect costs to the researcher's institution in accordance with applicable policy.

Eligibility: Domestic, nonprofit institutions and organizations on behalf of investigators who are no longer in training but are at the beginning of their research careers. Researchers must commit at least 50% of their time.

Agency: Agency for Health Care Policy and Research.

Deadline: March 11.

Summary: AHCPR invites applications for First Independent Research Support and Transition Awards in health services research.

Many priorities can support disability-related research, including research on:

- ◆ Health care reform issues.
- ◆ Health care costs and financing.
- ◆ Relationship between primary care and health care costs, access and quality.
- ◆ Rural health, including access to services, supply of health professionals, delivery systems issues, primary health care, health promotion and disease prevention, technology diffusion and special populations.
- ◆ Costs and quality of alternative delivery systems and managed care.
- ◆ Health care technologies, facilities and equipment.
- ◆ Access, medical effectiveness and patient outcomes research in low-income, minority, elderly and other underserved populations.
- ◆ Dissemination of health and clinical information and research findings to practitioners and consumers for use in improved decisionmaking.

Info: Center for Research Dissemination and Liaison, Suite 501, AHCPR, 2101 E. Jefferson St., Rockville, MD 20852, 301/594-1362; Center for Medical Effectiveness Research, Suite 605, same address, 301/594-1485; or Center for Gen'l Health Services Extramural Research, Suite 502, 301/594-1349, ext. 104.

NIH Guide 11/5p6. RFA# HS-94-004.

REHABILITATION . . .

Engineering Research Center Will Focus on Home Automation

Funds: \$500,000 for the first year of a 5-year award.

Eligibility: Public or private, nonprofit and for-profit organizations, including institutions of higher education, Indian tribes and tribal organizations. Centers must be operated by or in collaboration with an institution of higher education or a nonprofit organization.

Agency: Dep't of Education.

Deadline: March 4.

Summary: DoEd's Nat'l Institute on Disability and Rehabilitation Research invites applications to operate a Rehabilitation Research and Engineering Center on accessibility and universal design in housing.

The center's primary purpose will be to develop an array of affordable housing options and innovative approaches to designing, financing and managing adaptive housing models. Its secondary purpose will be to investigate the use of universal design in the home.

Applicants should have access to experts in architecture, engineering, construction, computer sciences, gerontology, rehabilitation, independent living, ecology, telecommunications and energy conservation, NIDRR says.

Applicants must be able to design and test prototype devices and help transfer successful designs to the marketplace. The center must provide graduate-level research training on rehabilitation engineering, using training materials in a variety of accessible formats.

The RERC must disseminate findings and products widely, to individuals with disabilities, their families and representatives, service providers, manufacturers and distributors. It must include individuals with disabilities and, if appropriate, their families in all phases of the center's operation. Applicants must also show how they

will address the needs of people with disabilities from minority backgrounds.

Grantees must coordinate with other NIDRR-funded centers, particularly the RERC on Technology Evaluation and Transfer operated by the State Univ. of New York at Buffalo.

DoEd received 19 comments on the proposed priority (*DFN* 8/13p15). Changes to the final priority in response include: specifying that the center must address the needs of elderly people with disabilities; decreasing emphasis on high technology; removing references to home-based work and home-learning; and changing the center's name.

Info: Dianne Villines, DoEd, 400 Maryland Ave., SW, Rm. 3147, Wash., DC 20202-2704, 202/205-9141.

Fed'l Register 11/12p60096 (funding priorities); p60099 (funding notice). CFDA# 84.133E.

DoEd Extends Deadline, Clarifies Eligibility For Supported Employment Demonstrations

Funds: DoEd estimates it will make 12 awards of \$400,000-\$500,000 for 3-year projects.

Eligibility: States and territories that have not received grants under this program: Ala., Hawaii, Idaho, Mass., Miss., Mo., Ohio, R.I., S.C., S.D., Texas, W.Va., Puerto Rico, Guam, U.S. Virgin Islands, American Samoa, the Northern Mariana Islands and the Republic of Palau.

Agency: Dep't of Education.

Deadline: Dec. 22 (originally Dec. 1).

Summary: DoEd extends the deadline for applications to conduct statewide supported employment demonstration projects because officials omitted some eligible applicants from the original funding notice (*DFN* 10/8p13, *Fed'l Register* 9/24p50160).

The grants help states and territories switch funding from existing programs to supported employment programs by providing technical assistance and training and promoting interagency collaboration. Funds can't support service delivery.

Info: Ted Gonzales, Dep't of Education, 400 Maryland Ave., SW, Rm. 3320, Wash., DC 20202-2650, 202/205-8321.

Fed'l Register 11/9p59543. CFDA# 84.128B.

SPECIAL EDUCATION . . .

DoEd Opens Competition for Research Projects To Improve Education and Related Services

Funds: Vary. See below.

Eligibility: Local and state educational agencies, institutions of higher education and other public and private nonprofits.

Agency: Dep't of Education.

Deadline: Varies. See below.

Summary: DoEd invites fiscal 1994 applications under 4 priorities of the Research in Education of Individuals with Disabilities Program:

♦ **School-Linked Services To Support Better Outcomes for Children with Disabilities and Their Families** -- Will support research projects that study participation of and outcomes for students and their families in schools that are developing collaborations with health care providers and social service agencies to offer services at or near the school. Projects also will study the programmatic and policy implications of this approach to service delivery.

DoEd will award up to 10 extra points to projects that include site(s) where the need for ties between schools and health and social services providers is especially great because of high poverty levels or complicated social, cultural or geographic relationships.

Funds: \$720,000 for 4 awards of up to \$180,000 per year for 3 years. **Deadline:** Feb. 11. **Info:** Judith Fein, Rm. 3524, address below, 202/205-8119. **CFDA#** 84.023D.

♦ **Synthesize and Communicate a Professional Knowledge Base** -- Seeks to expand traditional approaches to translating research findings to practice by funding projects that will analyze literature on a topic and work with researchers, policymakers, practitioners and individuals with disabilities and their families to apply it to education of students with disabilities.

Funds: \$450,000 for 3 2-year projects, with first-year budgets of \$150,000. **Deadline:** March 25. **Info:** Ellen Schiller, Rm. 3523, address below, 202/205-8123. **CFDA#** 84.023E.

♦ **Center for Policy Research** -- Will research the impact of general education reform on students with disabilities and the impact of special education reform activities on all students. **Funds:** \$5000,000 for the first year of a 5-year project. **Deadline:** April 8. **Info:** Louis Danielson, Rm. 3532, address below, 202/205-8119. **CFDA#** 84.023H.

♦ **Initial Career Awards** -- Will support projects that help researchers who are just beginning their careers initiate and develop studies that would improve early intervention and special education services. Projects must support individuals who have completed a doctoral program no earlier than the 1989-90 academic year.

DoEd will award up to 10 extra points to projects that would support underrepresented groups, such as individuals with disabilities or members of ethnic and racial minorities. **Funds:** Melville Appell, Rm. 3529, address below, 202/205-8113. **CFDA#** 84.023N.

The agency proposed priorities for the program July 7 (*DFN* 7/9p13) and made some major changes in response to the 14 comments received, including moving a priority on state and local efforts to implement the Individuals with Disabilities Education Act transition requirements to the Special Studies program (*DFN* 10/22p12).

Info: For requests for applications or general information, Darlene Crumblin, DoEd, 400 Maryland Ave., SW, Rm. 3525, Wash. DC 20202-2641, 202/205-8953.

Fed'l Register 11/18p60928 (funding priorities), p69934 (funding notice). **CFDA#** 84.023.

TRAINING . . .

Short-Term Training Grants Focus on Work Incentives, Postsecondary Support

Funds: DoEd estimates it will make 2 awards of \$140,000-\$170,000, one for training on work incentives and one for training on support services and financial aid for postsecondary students.

Eligibility: State agencies and other public and private nonprofit agencies, including institutions of higher education.

Agency: Dep't of Education.

Deadline: Jan. 18.

Summary: DoEd invites applications for fiscal 1994 awards under the Rehabilitation Short-Term Training program. The agency received only 2 comments in response to the proposed priorities (*DFN* 9/10p15), and made no changes in response.

The department will fund one project under each of 2 priorities:

♦ **Training Rehabilitation Practitioners and Educators on Provisions of Titles II and XVI of the Social Security Act --** The 1992 Rehabilitation Act Amendments call for DoEd to fund this priority, which will support projects to train rehab personnel on the work incentives provisions of the Social Security Disability Insurance and Supplemental Security income programs.

Projects will develop training programs on work incentives and how they relate to rehabilitation services, focusing on the skills voc rehab personnel need to develop and modify Individualized Written Rehabilitation Programs and the importance of voc rehab personnel and Social Security Adm'n personnel collaborating to move clients from SSI/DI to employment.

Grantees must use SSA informational materials and coordinate with SSA staff. Projects must be national in scope, demonstrate the potential for replication through dissemination of training materials and prepare voc rehab training personnel to train others.

♦ **Training Rehabilitation Counselors, Practitioners and Educators on Student Financial Aid and Student Support Services for Individuals with Disabilities in Postsecondary Education Settings --** This priority supports projects to keep rehab personnel apprised of changes in postsecondary financial aid programs and teach them how to coordinate rehab, mental health and independent living services with support services offered by schools.

Projects will develop training programs that show how financial aid and support programs relate to rehab services, focusing on increasing rehab professionals' knowledge and skills, developing and modifying IWRPs and the importance of collaboration between rehab personnel and postsecondary staff. Projects must be national in scope and show potential for replication through dissemination of training materials.

Info: Robert Werner, DoEd, 400 Maryland Ave., SW, Rm. 3322, Wash., DC 20202-2649, 202/205-8291.

Fed'l Register 11/9p59608. CFDA# 84.246.

REGULATIONS

ADA/ACCESSIBILITY . . .

Comptroller's Office Proposes Contracting Outreach Program

The Office of the Comptroller of the Currency proposes to include people with disabilities in a program to ensure that women and minorities have access to its contracting process. The Treasury Dep't agency supervises the banking industry.

While the Financial Institutions Reform, Recovery and Enforcement Act requires the office to promote participation by women and minorities, it does not require outreach to people with disabilities. However, OCC says inclusion of people with disabilities is consistent with the intent of the Rehabilitation Act.

Outreach activities would include obtaining lists of disabled-owned business, targeting appropriate firms for participation in the outreach program, attending business promotion events to explain contracting opportunities and get names of firms, ensuring OCC staff understand the program and registering firms in the office's database.

OCC invites comments, due Jan. 10, on the proposal, particularly on the inclusion of people with disabilities.

Info: Mary Ellen Dorsey, Acquisitions Br., 202/874-5040 or Patricia Grady, Legislative, Regulatory and Int'l Activities Div'n, 202/874-5090, OCC, 250 E St., SW, Wash., DC 20219.

INDEPENDENT LIVING . . .

Education Dep't Proposes Compliance Indicators for Centers Program

The Dep't of Education proposes to amend the regulations governing the Centers for Independent Living Program to establish minimum compliance standards for centers.

The compliance indicators stem from 7 evaluation standards the Rehabilitation Act sets for independent living centers. DoEd originally proposed these evaluation standards in a July 1992 advance notice of proposed rulemaking.

Indicators would fall into the following categories:

- ◆ Philosophy -- Centers must be consumer-controlled, emphasize self-advocacy and development of peer relationships and role models. They must provide equal access to individuals with severe disabilities.
- ◆ Provision of services -- Centers must provide services on a cross-disability basis, including to people with disabilities who belong to underserved populations.
- ◆ Independent living goals -- Centers must keep consumer service records for all clients, measure clients' achievements and notify clients of their right to an independent living plan.
- ◆ Community options and community capacity -- Centers must conduct at least one of 5 activities to increase the availability and quality of community-based programs for people with severe disabilities in a 12-month period, such as community advocacy, technical assistance or collaboration with other agencies.
- ◆ Independent living core services -- Centers must provide information and referral to all who request them, as well as independent living skills training, peer counseling, individual and systems advocacy and other services to those eligible.
- ◆ Resource development activities -- Centers must provide evidence of their ongoing efforts to obtain funding from other sources.

Comments are due Dec. 13.

Info: John Nelson, DoEd, 400 Maryland Ave., SW, Rm. 3326, Wash., DC 20202-2741, 202/205-9362.
Fed'l Register 10/27p57942.

NOTICES

GENERAL . . .

DoEd Proposes Term Change

The Dep't of Education proposes to use the term "significant," rather than "severe," in referring to the extent of an individual's disability. The agency feels that "severe" has negative connotations and believes people with disabilities may prefer "significant."

DoEd seeks comments, due Dec. 13, on the change, especially regarding whether it would have an operational impact on Office of Special Education and Rehabilitative Services programs.

Info: Gregory March, DoEd, 400 Maryland Ave., SW, Rm. 3124, Wash., DC 20202-2741, 202/205-8441.
Fed'l Register 10/27p57938.

SOCIAL SECURITY/SSI . . .

SSA Clarifies Resource Disposal Rules

The Social Security Adm'n releases final rules, effective immediately, governing how and when claimants must dispose of resources to have them excluded from Supplemental Security Income eligibility calculations.

The agency says prior regulations weren't clear, and it's changing them to clarify that the time period for resource disposal begins when SSA accepts an individual's signed agreement to dispose of property.

Info: Henry Lerner, Office of Regulations, SSA, 6401 Security Blvd., Baltimore, MD 21235, 410/965-1762.
Fed'l Register 11/15p60103.

TRANSPORTATION . . .

Transit Agency Lists State Allotments Of Funds To Help Disabled, Elderly

The Fed'l Transit Adm'n publishes a list of fiscal 1994 allotments to states under the Sec. 16 program and Sec. 3 bus program.

Under Sec. 16, FTA provides funds to states for transportation of the elderly and people with disabilities, based on census figures for people aged 65 and over and the disabled. States distribute money primarily to private nonprofit organizations, but also to public agencies in areas that no private nonprofit serves. FTA is distributing nearly \$59 million through this program.

Under the Sec. 3 bus program, Congress directs FTA to give priority for discretionary grants to projects that enable states and transit authorities to meet Americans with Disabilities Act or Clean Air Act requirements. FTA has about \$73.3 million for discretionary grants, and encourages states to apply for this money as early as possible in FY94.

Info: Your FTA regional administrator or Janet Sahaj, Resource Management and State Programs Div'n, Office of Capital and Formula Assistance, 202/366-2053.
Fed'l Register 11/8p59300.

CONTRACTS

Occupational Therapist Services -- Ft. Knox, Ky., seeks a contractor to provide occupational therapy. Bidders must be licensed in Ky., have at least one year's full-time experience working with disabled children in a school or preschool setting and have training in Sensory Integration Apraxis. Submit written or faxed requests for solicitation #DABT23-94-B-0013 to Nelson Kerr, Directorate of Contracting, Bldg. 4022, Ft. Knox, KY 40121-5000, 502/624-4947. Bids are due Dec. 20. *CBD* 11/4p9.

Vocational/Educational Counseling Services and Vocational Assessment/Systematic Exploration Services -- The Dep't of Veterans Affairs Medical Center in Montgomery, Ala., seeks contractors to provide vocational counseling and assessment services to clients referred by its case manager. Providers must be located in one of the counties covered by the request for bids.

Submit written requests for solicitation #619-10-94 (Jefferson, Walker, Marion, Winston, Shelby, Cullman, St. Clair and Blount counties); #619-11-94 (Calhoun, Clay, Talladega and Cleburne counties); #619-12-94 (Montgomery, Lowndes, Autauga, Elmore, Macon, Tallapoosa, Chilton, Coosa, Bullock, Crenshaw and Pike counties); #619-13-93 (Chotaw, Clark, Monroe, Washington, Conecuh, Escambia, Baldwin and Mobile counties); #619-14-94 (Covington, Geneva, Houston, Dale, Coffee and Henry counties); #619-15-94 (Madison, Jackson, Limestone and Morgan counties) or #619-16-94 (Russell, Lee, Barbour, Chambers and Randolph counties) to Victoria Ghent, VA Medical Center, 215 Perry Hill Rd., Montgomery, AL 36109-3798, 205/272-4670, ext. 4481. Bids are due Jan. 4. *CBD* 11/4p5-6 and 11/5p9.

CBD=Commerce Business Daily

STATE/LOCAL NEWS

Maine School Board Votes To Honor "Do Not Resuscitate" Request

Lewiston, Maine -- The school board here votes a second time to honor a mother's wishes that her severely disabled daughter not be resuscitated if her heart stops while in school.

In its third hearing on the matter, the board listened to teachers who feel they and Corey Brown's fellow students shouldn't have to watch her die, but reaffirmed its decision to honor a "Do Not Resuscitate" request. Earlier, the board voted to reject the request, but testimony from Brown's doctor prompted it to reverse that decision.

Brown has cerebral palsy and progressive scoliosis (curvature of the spine). She attends special education classes, except for art and music, which she attends with her nondisabled peers.

Her doctors say her condition is deteriorating and performing cardiopulmonary resuscitation might only cause her pain and injure her further. The DNR order permits other treatments, such as administering oxygen and suctioning airways. School board officials have no plans to offer counseling to teachers or students.

The Lewiston Education Ass'n, the local teachers' union, is considering legal action against the board, saying teachers shouldn't have to make life or death decisions.

School officials say the district is the first in the state to honor a DNR request. Several other Maine districts have rejected such requests. Many experts believe such dilemmas will become increasingly common as severely disabled students are moved into public schools.

After Repeated Violations, State Officials Move To Replace Nursing Home Management

St. Paul, Minn. -- State health and human services officials move to replace the staff of a nursing home that cares for 32 severely retarded and medically fragile children and young adults.

Officials say they will place the People's Community Care Residence in voluntary receivership by Dec. 1, in response to criminal charges against 3 key staff members and repeated citations for violations of health and safety codes. The home's license has been suspended and its eligibility for Medicaid funds revoked.

Because the residents are too medically unstable to be moved, the state will replace the facility's management instead. Representatives of People Inc., the nonprofit corporation which manages the home, say they're cooperating with the state to ensure a smooth transition.

Three staff members face prosecution for abuse and neglect of residents. The nursing home's record of past violations includes improperly monitoring sick residents, moving them improperly and failing to administer pre-

scribed medication. The home also has been cited for failure to protect residents from physical and sexual abuse.

REPORTS

Number of Disabled Students in Regular Classrooms Increases, Education Dep't Says

The number of students with disabilities attending school in regular classrooms increased 6.1% between the 1985-86 and 1989-90 school years to nearly 1.6 million, the Education Dep't says.

These students represent 1/3 of the nearly 5 million children with disabilities receiving special education and related services that year, DoEd tells Congress in its annual report on implementation of the Individuals with Disabilities Education Act.

The 2/3 of disabled students not in regular classrooms were in resource rooms (35%), special classes (25%), special schools (5%), residential facilities (0.8%) and homes or hospitals (0.7%).

Other report findings include:

- ◆ While more than 78% of students with speech or language impairments attend regular classrooms, only 7% of students with mental retardation do.

- ◆ States still experience significant shortages of personnel to serve young children with disabilities, saying they need an average of one additional teacher for every 6 employed.

- ◆ Within 3-5 years after high school, 20% of students with disabilities are functioning independently in living arrangements, social relationships and work. Another 43% operate independently in at least 2 of these categories. However, many work at relatively low-skill, low-paying jobs.

Info: Report to Congress on the Implementation of the Individuals with Disabilities Education Act is free from Lou Danielson, 3532 Switzer Bldg., DoEd, 330 C St., SW, Wash., DC 20202, but supply is limited.

Staff Shortages, Lack of Funds Bring Disability Benefits Programs To Crisis Stage

"The administration of SSA's disability programs has reached a crisis stage," the Gen'l Accounting Office says.

A survey of state disability determination services, the agencies which judge eligibility for Supplemental Security Income and Social Security Disability Insurance benefits, finds staff shortages and underfunding in key areas of operations contribute to further problems, such as poor employee morale and a reduction in quality and amount of training.

Administrators identify funding for automated systems support for claims processing as their greatest need besides funding for more staff. Because staffing and systems support are inadequate, many DDSs are "staging" claims (setting them aside until an examiner is free).

Many disability claims administrators feel stressful work conditions are hurting the accuracy of eligibility determinations, GAO says.

Short-term initiatives to reduce the backlog of disability claims led to only a minor increase in DDS productivity, according to administrators surveyed. However, the release of a contingency fund to pay for overtime spent processing claims helped a great deal.

While SSA plans long-term efforts to improve processing, it's vague on when and to what extent service will improve, GAO says. SSA should develop a specific plan for reducing its claims backlog and achieving its goal of 60-day claims turnaround.

Info: Social Security: Increasing Number of Disability Claims and Deteriorating Service, GAO/HRD-94-11, is free from GAO, Box 6015, Gaithersburg, MD 20884-6015, 202/512-6000.

GRANT UPDATE

Grant Update lists deadlines for federal funding announcements that have appeared in previous issues.

Aging

Health Behaviors and Attitudes Research; Nat'l Institute on Aging; fellowship deadlines -- April 5, research grants, First Independent Research and Transition awards, conference grants and career development awards -- Feb. 1, competing continuation and revised grants -- March 1; Marcia Ory, 301/496-3136; 4/12p8. Research to Decrease Disability, Improve Functioning; NIA; deadlines vary; Ronald Abeles, 301/496-3136; 5/14p7. Effects of Cognitive and Perceptual Disabilities; NIA; deadlines vary; Robin Barr; 301/496-3136; 5/14p8. Centers to Prevent, Reduce Disability; NIA; Dec. 9; Stanley Slater, 301/496-6761; 7/9p7.

Geriatric Education Centers; Health Resources and Services Adm'n; Jan. 28; Anne Kahl, 301/443-6887; 11/5p9.

Health Care

Primary Care Reform; Agency for Health Care Policy and Research; Feb. 1; Carolyn Clancy, 301/227-8357; 3/26p10.
Quality Improvement in Long-Term Care; AHCPR; Feb. 1, June 1 and Oct. 1 through July 1995; Bertha Atelsek, 301/227-8352, ext. 111; 5/28p9.

Home/Community Care

Improving Public Policy for People with AIDS; Agency for Health Care Policy and Research; Jan. 2, May 1 and Sept. 1; Melford Henderson, 301/594-1354, ext. 122; 10/8p10.

Housing

Elderly Independence Multifamily Demonstration; Dep't of Housing and Urban Development; Dec. 27; Gerald Benoit, 202/708-4077; 10/8p10.
Youthbuild; HUD; Jan. 7; Michael McMahon, 202/708-2035; 10/8p11.

Mental Health

Emergency Services to Disabled Children; NIMH; deadlines vary; Kimberly Hoagwood, 301/443-3065; 5/14p9.
Psychosocial Treatments for Mental Disabilities with Significant Public Health Implications; NIMH; for new grants, Feb. 1 and June 1, for competing continuations, March 1, July 1 and Nov. 1; Barry Wolfe, 301/443-4527; 6/25p10.

Prevention

Preventing Work-Related Disabilities; Nat'l Institute for Occupational Safety and Health; Feb. 1 and June 1 for research and demonstration projects; March 1, July 1 and Nov. 1 for Special Emphasis Research Career Awards and small grants; Roy Fleming, 404/639-3343, 7/9p9.
Alcohol-Related Injuries; Nat'l Institute on Alcohol Abuse and Alcoholism; Jan. 24; Kendall Bryant, 301/443-1677; 10/22p10.
Injury Control Centers; Centers for Disease Control and Prevention; Feb. 1 and Oct. 12; Tom Voglesonger, 404/488-4265; 11/5p10.

Public Education

Clearinghouse on Osteoporosis, Bone Disorders; Nat'l Institute of Arthritis and Musculoskeletal and Skin Diseases; Dec. 21; Joan McGowan, 301/594-9957; 10/8p12.

Rehabilitation

Research to Restore Walking Ability; NICHD and NINDS; deadlines vary; William Heetderks, NINDS, 301/496-5745 or Danuta Krotoski, 301/402-2242; 5/14p10.
Recreational Programs; DoEd; Jan. 21; Tony Cavataio, 202/205-8206; 10/8p12.
Community-Based Supported Employment for the Severely Disabled; DoEd; March 24; Ted Gonzales, 202/205-8321; 10/8p12.
Voc Rehab Services to Migratory and Seasonal Farmworkers; DoEd; Jan. 14; Tony Cavataio, 202/205-8206; 10/8p13.

Improving Orthopedic Implants; Nat'l Institute on Arthritis and Musculoskeletal and Skin Disease; Stephen Gordon, 301/594-9951; 11/5p10.

Research

Multiple Sclerosis Research; NINDS; varying deadlines; Dr. A.P. Kerza-Kwiatkowski, 301/496-1431; 2/12p7.
Epilepsy Research; NINDS; varying deadlines; Charlotte McCutchen, 301/496-1917; 2/12p7.
Immune-Related Hearing Loss; Nat'l Institute on Deafness and Other Communication Disorders; deadlines vary; Kenneth Gruber, 301/402-0909, 5/14p10.
Nutrition and Cystic Fibrosis; NIDDK; deadlines vary; Judith Fradkin, 301/594-7567; 8/27p9.
Deafness and Other Communication Disorders; NIDCD; Dec. 17, April 8 and Aug. 23; several contacts, see *DFN* 11/5p11.

Special Education

Research Grants; Dep't of Education; Jan. 14; Darlene Crumblin, 202/205-9141; 8/13p12.
Early Childhood Education; DoEd; demonstrations - Jan. 10, outreach projects - Jan. 5, model inservice training projects - Dec. 29, research institute - Jan. 10; Gail Houle, 202/205-9045; 9/24p10.
Secondary Education and Transitional Services for Youth with Disabilities; DoEd; research - April 8, demonstrations - Dec. 17, outreach - March 28; Michael Ward, 202/205-8163; 9/24p11.
Technology, Media and Materials; DoEd; Jan. 7; David Malouf, 202/205-8111; 9/24p12.
Postsecondary Education; DoEd; Feb. 4; Joseph Clair, 202/205-9503; 9/24p12.
Services for Children with Deaf-Blindness; DoEd; Dec. 17; Charles Freeman, 202/205-8165; 9/24p13.
Program for Children with Severe Disabilities; DoEd; research - Dec. 15, model inservice training projects - Feb. 3, statewide systems change - Jan. 14, institute on implementing inclusive education - Dec. 30; Dawn Hunter, 202/205-5809; 9/24p14.
Preventing Serious Emotional Disturbance; DoEd; Jan. 7; Helen Thornton, 202/205-5910; 10/22p11.
Educational Media Research, Production, Distribution and Training; DoEd; deadlines vary by component; Ernest Hairston, 202/205-9172; 10/22p11.
Special Studies; DoEd; March 25; Susan Sanchez, 202/205-8998; 10/22p12.

Telecommunications

Distance Learning and Medical Links; Rural Electrification Adm'n; Jan. 14; Blaine Stockton, 202/720-9552, 3/12p12.

Training

Training Educational Interpreters; DoEd; Jan. 14; Max Mueller, 202/205-9554; 6/11p13.
State Grants for Special Education Personnel Training; DoEd; 12/17; Max Mueller, 202/205-9554; 6/11p13.
Rehabilitation Long-Term Training; DoEd; deadlines vary by priority; Richard Melia, 202/205-9400.
Nursing School Fellowships for Health Workers; Health Resources and Services Adm'n; Dec. 15; Mary Hill, 301/443-6193; 11/5p13.

Pull
HSC
story on John
Appiano story

62846

Brief. Sdr - Briefing
Safedr -

#Century Council - Betsy Right
Press Release

THE CLINTON RECORD ON SCHOOL AND COMMUNITY SAFETY

Today, in a Rose Garden Ceremony, President Clinton honored 98 schools, which have made outstanding progress toward meeting the National Education Goal of having all schools free of drugs and safe for learning. Safety in schools and communities is perhaps the number one concern of parents and educators throughout the country. President Clinton recognizes the importance of this issue and has put together an extensive record of legislative and executive action aimed at tackling the problem.

THE SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT -- The National Education Goal 6 challenges the country to create safe, disciplined and drug-free schools for our children. The Elementary and Secondary Education Act (ESEA), reauthorized last year, created the Safe and Drug-Free Schools program to address that goal. In fiscal year 1995, \$482 million was appropriated to support comprehensive strategies including drug abuse prevention curricula and programs linking schools and communities.

GOALS 2000: EDUCATE AMERICA ACT -- The centerpiece of President Clinton's education agenda, the Act recognizes the need for a comprehensive approach to violence prevention. It provides resources to states and communities for education reforms aimed at helping all students reach challenging academic and occupational-skill standards. It addresses school readiness, school completion, competency in challenging subject matter, science and mathematics achievement, literacy, safe and drug-free schools, and parental participation. It affirms the President's belief that education is central to America's future and that the federal government is an important partner of states and communities in improving education and making schools safe places for children to learn.

THE SAFE SCHOOLS ACT -- A one year program that provides competitive grants to local school districts for prevention programs such as conflict resolution, hiring security guards and installing metal detectors. At the end of January, the Department of Education awarded \$18 million worth of grants to schools in high crime areas.

THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994
One of the President's most significant legislative achievements, the 1994 Crime Bill balanced policing, prevention and punishment, and embraced a tough, smart strategy on youth crime. With new penalties and punishment -- The Crime Bill sent a strong NO to gangs, guns and drugs. It bans handguns for juveniles; creates stiff penalties for crime-committing gang members; establishes Boot Camps and Drug Courts to discipline first-time, non-violent and drug offenders; and provides for hardened young criminals -- as young as 13 years old -- to be tried as adults.

1410-547-1200
K2579

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6703

**The First Year (FY-1992) of the
NIDRR ADA Technical Assistance Initiative:
Facilitating Implementation of the Americans with
Disabilities Act of 1990**

The National Institute on Disability and Rehabilitation Research (NIDRR) has awarded 15 grants as well as a coordination contract in the fall of 1991 to hasten execution of the Americans with Disabilities Act of 1990. Over 500 training events have been held to educate and train over 30,000 people from around the country by the two National Training Projects and ten Disability and Business Technical Assistance Centers (DBTAC). Each of the DBTAC's have begun regional newsletters for constituents and distributed almost 200,000 ADA publications as well as fielded over 20,000 phone calls on the national toll-free number (1 800 949-4ADA). An electronic bulletin board, an "ADA News Service", and a performance data base for reporting on grant recipients activities have been effectively initiated. 40,313 instances of ADA technical assistance have been recorded from June through September by all the DBTAC's combined. 48% of their activity was targeted to employers and business establishments. In addition the NIDRR ADA Technical Assistance Initiative has set up three Materials Development Projects (MDPs) which have successfully finished sixteen titles for business, government, and disability groups dealing with employment, accessibility, and public accommodation issues. Writings so far include a topical biography on the ADA, a paper on warnings for the blind and a legal memorandum on the ADA status of Native Americans.

U.S. Department of Justice
Civil Rights Division
Office on the Americans with Disabilities Act

APR 1993



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.

For your convenience, the numbers for reaching these offices by both voice telephone and TDD telephone devices (also called text telephones) are listed. A directory indicating which agencies and organizations to call for information on the different provisions of the ADA is attached.

Architectural and Transportation
Barriers Compliance Board

1-800-872-2253 (voice)
1-800-872-2253 (TDD)

The Arc
(formerly named Association for Retarded Citizens
of the United States)

1-800-433-5255 (voice)
1-800-855-1155 (TDD) (tell
operator you would like to place
a collect call to 817/277-0553)

Disability Rights Education and
Defense Fund

1-800-466-4232 (voice)
1-800-466-4232 (TDD)

Equal Employment Opportunity
Commission

1-800-669-3362 (voice)
1-800-800-3302 (TDD)

Federal Communications Commission

For ADA documents and information

202/632-7260 (voice)
(for TDD access, use your local
relay service)

For legal inquiries

202/634-1808 (voice)
(for TDD access, use your local
relay service)

Job Accommodation Network

Within West Virginia

1-800-526-7234 (voice)
1-800-526-7234 (TDD)
1-800-526-4698 (V/TDD)

National Council on Disability Information Line: ADA Watch	1-800-875-7814 (voice) 301/577-7814 (TDD)
National Easter Seal Society Project ACTION (Accessible Community Transportation in Our Nation)	202/347-3066 (voice) 202/347-7385 (TDD)
National Federation of the Blind	410/659-9314 (voice) 410/625-2867 (TDD)
President's Committee on Employment of People with Disabilities Information Line: ADA Work	1-800-232-9675 (voice) 1-800-232-9675 (TDD)
The Foundation on Employment and Disability (for California residents only)	1-800-499-4232 (voice) 1-800-499-0559 (TDD)
U.S. Department of Justice	202/514-0301 (voice) 202/514-0383 (TDD)
U.S. Department of Labor, Office of Federal Contract Compliance Programs	202/523-9428 (voice) 1-800-326-2577 (TDD)
U.S. Department of Transportation	
Federal Transit Administration (for ADA documents and information)	202/366-1656 (voice) 202/366-2979 (TDD)
Office of the General Counsel (for legal questions)	202/366-9306 (voice) 202/755-7687 (TDD)
Federal Aviation Administration	202/376-6406 (voice)
Rural Transit Assistance Program (for information and assistance on public transportation issues)	1-800-527-8279 (voice) 1-800-527-8279 (TDD)

Regional Disability and Business Technical Assistance Centers

For 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:

Toll-free number for reaching any of the following Centers	1-800-949-4232 (voice) 1-800-949-4232 (TDD)
Region I (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut)	207/874-6535 (voice) 207/874-6535 (TDD)
Region II (New York, New Jersey, Puerto Rico)	609/392-4004 (voice) 609/392-4004 (TDD)
Region III (Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, West Virginia)	703/525-3268 (voice) 703/525-3268 (TDD)
Region IV (Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Florida)	404/888-0022 (voice) 404/888-0022 (TDD)
Region V (Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota)	312/413-1407 (voice) 312/413-1407 (TDD)
Region VI (Arkansas, Louisiana, Oklahoma, Texas, New Mexico)	713/520-0232 (voice) 713/520-5136 (TDD)
Region VII (Iowa, Missouri, Nebraska, Kansas)	314/882-3600 (voice) 314/882-3600 (TDD)
Region VIII (North Dakota, South Dakota, Montana, Wyoming, Colorado, Utah)	719/444-0252 (voice) 719/444-0252 (TDD)
Region IX (Arizona, Nevada, California, Hawaii, Pacific Basin)	510/465-7884 (voice) 510/465-3189 (TDD)
Region X (Idaho, Oregon, Washington, Alaska)	1-800-435-7232 (voice) 1-800-435-7232 (TDD)

Directory of Staffed Telephone Lines for ADA Information

EMPLOYMENT PROVISIONS OF THE ADA AND INFORMATION ABOUT EMPLOYING PEOPLE WITH DISABILITIES

For specific information about the employment provisions that affect —

- Private employers with fifteen (15) or more employees; or
- State and local government employers with fifteen (15) or more employees, call:

Equal Employment Opportunity Commission

- All State and local government employers from January 26, 1992 until the employment provisions of Title I of the ADA go into effect; or
- Local governments with less than fifteen (15) employees, call:

U.S. Department of Justice

For information about how the responsibilities of a Federal contractor under Section 503 of the Rehabilitation Act relate to their responsibilities under the ADA, call:

U.S. Department of Labor, Office of
Federal Contract Compliance Programs

For information about the ADA and for advice and guidance about cost-effective ways and means to accommodate employees who have disabilities, call:

Disability Rights Education and Defense Fund

Job Accommodation Network

Regional Disability and Business
Technical Assistance Centers

For other sources of information and assistance, call:

National Council on Disability

President's Committee on Employment
of People with Disabilities

COMMUNICATIONS PROVISIONS OF THE ADA

For specific information about the requirements that apply to —

- Employers for communicating effectively with applicants and employees who have hearing, speech, or vision disabilities, call:

Equal Employment Opportunity Commission

- Government agencies and public accommodations for communicating effectively with customers or clients who have hearing, speech, or vision disabilities; or
- Lodging establishments and health care institutions for providing TDD's and closed captioning decoders for their customers' or patients' use, call:

U.S. Department of Justice

- Telephone companies for providing relay services for communicating with people who use TDD's; or
- Television stations for transmitting certain public service announcements with closed captioning, call:

Federal Communications Commission

For information about the ADA and for advice and guidance about how to communicate effectively with people who have vision, hearing, or speech disabilities, call:

Disability Rights Education and Defense Fund

Job Accommodation Network

National Federation of the Blind

Regional Disability and Business Technical Assistance Centers

For other sources of information and assistance, call:

National Council on Disability

President's Committee on Employment of People with Disabilities

PROVISIONS OF THE ADA THAT APPLY TO FACILITIES

For technical information about the *standards* for new construction and for alterations in —

- Public accommodations;
- Commercial facilities;
- Government facilities; or
- Transportation facilities, call:

Architectural and Transportation Barriers Compliance Board

For specific information about *when and where* the new construction and alterations standards apply, call:

U.S. Department of Justice

For specific information about the requirements that apply to —

- Public accommodations for removing barriers in *existing* facilities that make goods or services inaccessible to persons with disabilities; or
- Government agencies for making programs and activities in *existing* facilities accessible to persons with disabilities, call:

U.S. Department of Justice

For information about the ADA and for advice and guidance about how to remove barriers that make places of public accommodation or government programs inaccessible, call:

Disability Rights Education and Defense Fund

Job Accommodation Network

Regional Disability and Business Technical Assistance Centers

For other sources of information and assistance, call:

National Council on Disability

President's Committee on Employment of People with Disabilities

Note: For information about the accessibility standards that apply to residential facilities under the Fair Housing Act, contact the U.S. Department of Housing and Urban Development.

PROVISIONS OF THE ADA THAT APPLY TO TRANSPORTATION SERVICES

For specific information about the provisions that apply to —

- Public transportation systems owned and operated by *government agencies*;
- Public transportation systems owned and operated by *private companies*; or
- Transportation services provided by *public accommodations* for their customers, participants, or the general public (such as transportation provided by hotels or shopping centers, student transportation systems, and transportation provided in recreational facilities), call:

U.S. Department of Transportation
Federal Transit Administration

For information and general assistance concerning public transportation issues, including accessibility, funding, training, management, and drug testing, call:

U.S. Department of Transportation
Rural Transit Assistance Program (RTAP)

For information on a project that seeks to improve mass transportation services for people with disabilities, call:

National Easter Seal Society
Project ACTION

For other sources of information and assistance, call:

National Council on Disability
President's Committee on Employment of People with Disabilities

PROVISIONS OF THE ADA AS THEY APPLY TO SPECIAL FOCUS ISSUES

For information about how the ADA affects persons with mental retardation, call:

The Arc

For information in English, Spanish, Korean, Mandarin, Cantonese, Vietnamese, or Cambodian about the ADA's effect on business owners, service providers, and individuals with disabilities, California residents may call:

The Foundation on Employment and Disability

RESOLVING ADA MISUNDERSTANDINGS AND DISPUTES

For assistance, call:

Disability Rights Education and Defense Fund

Regional Disability and Business Technical Assistance Centers

TAX PROVISIONS RELATED TO THE ADA

The U.S. Congress has established tax credits and deductions that may assist businesses in complying with the ADA. IRS publication 907 explains these provisions. To obtain a copy, call:

**Internal Revenue Service
202/622-3110 (voice)
800-829-4059 (TDD)**

Public Accommodations

- ✓ Private entities such as restaurants, hotels, and retail stores may not discriminate against individuals with disabilities.
- ✓ 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
Coordination and Review Section
P.O. Box 66118
Washington, D.C. 20035-6118
(202) 514-0301 (Voice)
(202) 514-0381 (TDD)
(202) 514-0383 (TDD)**

Draft Memorandum on ADA and the Federal government

materials requested	follow-up calls	received	contact
1. Justice Dept. 9-7	two calls		Eleanor Acheson
	10-22 Eldie Acheson	checking	to
call me back this am			
514-2061			
*2. HHS 8/30		9-9	
*3. FCC		James Keegan -	
		634-1867	
		Jim Quello 632-	
		7557	
*4. EOC 9-29		Alfred Ramaz?	
5. transportation 10-5		Mort Downey 366-	
x 6. architectural review board			

2222

WORKING MEMORANDUM on the ADA

The lead agencies on implementation and enforcement of the Americans with disabilities Act appear to be:

++ Justice Department -- Civil Rights Division -- Public Access Section (Section Chief, John L. Wodatch 307-2227)

++ Health and Human Services

(Counselor to the Secretary, Peter Edelman 690-7000)

(General Counsel, Harriet Rabb, 690-7741

Civil rights, George Lyon, 619-0900)

Admin on Developmental Disabilities, Bob Williams, 690-

6590

Query: Architectual Review Board -under DHSS or free-standing)

++ Office of Personnel Management --Q: insurance group 606-0600) policies affecting federal employees

++ OMB ???

++ Education -- Judy Heumann, Asst Sec for Spec Ed & Rehab Services 205-5465

Relationship between ADA and Section 504 enforcement appears murky; all departments have some Sec. 504 responsibilities regarding their federally assisted programs

needed at that time.³

III. A. Federal EEOC has had some early successes in obtaining consent agreements or preliminary rulings in ADA-based AIDS bias claims against health insurers.⁴

V. agency performance

- full implementation of telecommunication relay service (TRS) across America to relay conversation between users of text and voice telephones.⁵

VI. • bar examiners have granted reasonable accommodations, such as extra time for a Stanford law school graduate with severe dyslexia, DOJ had filed amicus curiae brief that prodded settlement⁶

- inquiries into past mental health problems for professional licensure have been limited, such as The DC Court of Appeal's 5-year limit on questions about drug or alcohol treatment or hospitalization for mental illness.⁷

³ National Council on disability, ADA Watch -- Year one: A Report to the President and Congress on Progress in implementing the Americans with Disabilities Act I, 4 (April 5, 1993)

⁴ Milt Freudenheim, "In Minnesota, Settlement is first For AIDS Bias by Health Insurer," N.Y. Times, Dec. 22, 1993, A19. (noting another settlement with damages awarded where AIDS health insurance coverage ^{had been} reduced from \$300,000 to \$5,000).

⁵ Letter from James R. Keegan, Chief, Domestic Facilities division, FCC, 10-21-93; FCC, Telecommunications Relay Services: An Informational Handbook (Jan. 1992).

⁶ Rosenthal v. N.Y. State Board of Law Examiners, no. 92-CIV-1100 (S.D.N.Y. 1992).

⁷ "Bar Examiners Respond to the ADA: Spurred by suits or the law, officials grant more test time to disabled applicants," ABAJ 20 (Nov. 1992).

See ^{wendy} Presidential ^{Stalents}
(True Name)

notes on presidential announcement 12-22-93 of \$400,000,000

3 days before x-mas

11,000 units
shelter plus care
SROs

help people 'deal with their demons'

offer them skills and assistance

asked C -how long before we can make a measurable difference on
the streets\\

Cisneros:

prior admin efforts to hide problem
prior to housing unsheltered
President told him personal priority

187 grants in 44 states largest single allocation of
homelessness assistance in history

make some space for those w no place

Rev. Stenbruck

Innovation housing fund 25 mil
innovative cities fund 75 mil, of which 20 m reserved for dc

announced in fed reg
reprogrammed 94 money in hud budget --
not demonstration money, but HUD discretionary;

today's grants are much

interview wendy graul, sp, 12-22-93, at wh

better source jackie loving

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6590

Query: Architectural Review Board -under DHSS or
free-standing)

++ Office of Personnel Management --Q: insurance group 606-0600)
policies affecting federal employees

++ OMB ??? Alice Rivlin

++ Education ~~Ruby~~ Judy Heumann, Asst Sec for Spec Ed & Rehab Services 205-5465

Relationship between ADA and Section 504 enforcement appears murky; all departments have some Sec. 504 responsibilities regarding their federally assisted programs

- for the consumer/institute
Rehab. Act

EEOL Pessy Mastrianni
663-4900

1331 FST NW
DC. 20004-1111
(FAX) 202
272-5447

Resub for info 9-8-93 12:00
Jay Murdock -- T.A. 272-5434 x33

Low Thibault

- Accessibility Guidelines under ADA
(ADA)

-- Checklist for users

-- Freq T.A. Bulletin

-- Publication

Architectural Barriers Facility (Fed Act) (1968)
(maybe some conflicts)

Rehab Act (1973)

Set of guidelines

Uniform Federal Accessibility Standard (UFAS) (Fed)

Changes are the State's primary
street/

- 4 standard setting precedent

1. ADA

2. Ambulatory Congress consistency

3. State Building Codes →
re-ADA

Minimum public works projects
(1997)

Three model codes

some overlap state + fed

But for Committee of State Model Codes
(getting to documents)

Access Bel

- 1) long recorded message
- 2) director not in, nearby Frankham
- 3) deputy director, ditto
- 4) request for somebody, sent
Jay Murdoch & technical assistance,
(sam info)
- 5) requested call back re msg

Carol - You asked for the Architectural Barriers Board mission. Here's its 1992 priorities and accomplishments, from which one can infer the mission. Stan

Chairman's Message

Americans with Disabilities Act (ADA): Still the Priority

As it was in 1991, the ADA was again in 1992 the Access Board's number one priority. Board members, staff, and resources were dedicated to creating the guidelines for title II of the ADA: accessibility to State and local government facilities.

When the Access Board published a notice of proposed rulemaking, State and local governments were informed that at a later date the final rule would apply to them. They were invited to comment.

A working group of Board members was formed; they discussed the issues relating to title II, met with other Federal agencies involved, and set out a plan of action to develop the guidelines. Many meetings and many hours of work later, the draft preamble and proposed guidelines were completed.

Proposed rules that can have a "...significant economic impact on a substantial number of small entities" must be accompanied by a regulatory impact analysis. With completion of that study, the guidelines were published in the *Federal Register* for public comment on December 21, 1992.

It has been a pleasure to serve as Chairman of the Access Board and work with Board members, especially the officers, who have again risen to the challenge with tireless, thorough efforts to develop the State and local government facilities guidelines. And I want to say a special word of thanks to the staff who, in addition to the work with the guidelines, have continued to respond day after day to an increasing number of requests for technical assistance.

The Access Board was originally created to ensure accessibility under the Architectural Barriers Act. We are achieving the removal of more barriers, due in part to the growing awareness brought along by the ADA of the need to make buildings accessible to all people. This year the agency's compliance program continued to resolve complaints efficiently and effectively.

Finally, when I was elected Chairman of the Access Board, I stated that I wanted the agency to "...do all it can to move toward a universal design standard that's acceptable to both the disability community and those involved with the design and creation of the built environment." I also called for a single set of standards to put us all on the same track to aesthetically appealing, safe, efficient, and functional designs for everyone.

As I conclude my term as Chairman, I see definite signs that we are beginning to move "on the same track" toward that single set of standards. Just one example this year was the Access Board's meeting with the American National Standards Institute (ANSI) Committee, model building code groups, State building code officials, and the Department of Justice to coordinate development of the *ADA Accessibility Guidelines* and ANSI standards. I am very pleased.



Gordon H. Mansfield

Gordon H. Mansfield
Chairman

Fiscal Year 1992 Accomplishments

- Completed a *Notice of Proposed Rulemaking* on the *Americans with Disabilities Act (ADA) Accessibility Guidelines* for State and local governments under title II of the act.
- Responded to approximately 19,000 telephone requests for technical assistance. Distributed approximately 10,500 technical information packages to the public.
- Mailed nearly 41,000 copies of 32 Access Board publications.
- Distributed over 32,000 copies of the *ADA Accessibility Guidelines*.
- Finalized technical bulletins on detectable warnings and visual alarms.
- Completed the *ADA Accessibility Guidelines Checklist Manual*.
- Completed *ADA Accessibility Guidelines* manuals on buses, rapid rail, light rail, commuter rail, intercity rail, over-the-road-buses, high-speed rail, automated guideway transit systems, and trams systems.
- Completed a transportation access course with slides and workbooks.
- Completed training videos on the *ADA Accessibility Guidelines* and the *Uniform Federal Accessibility Standards (UFAS)*.
- Sponsored or participated in 62 *ADA Accessibility Guidelines* training sessions.
- Participated in meetings with representatives of model building code groups, the American National Standards Institute (ANSI) Committee, State building code officials, and the Department of Justice to coordinate development of *ADA Accessibility Guidelines* and ANSI.
- Issued a *Federal Register* notice requesting comments on the Access Board's five-year technical assistance/research plan and ADA related research projects.
- Acted on four petitions under the Administrative Procedures Act to review aspects of ADA regulations.
- Closed 153 Architectural Barriers Act (ABA) complaints between October 1, 1991, and September 30, 1992. Received 145 new cases during the year.
- Moved to our new offices at 1331 F Street, NW.

TO: DPC Program Staff
FROM: Carol H. Rasco *CHR*
SUBJ: Program Staff Planning Session
DATE: August 11, 1993

At the last staff meeting I mentioned I would like to hold a minimum four hour staff planning session in early September. I would like to target Thursday, September 2 for the meeting. Please respond to Rosalyn ASAP and let her know if the morning or afternoon would be better for you or even the middle of the work day.

This session will focus on the following topics:

Administrative details for DPC
Congressional calendar
Current policy development projects
Presidential promises of policy development not yet begun

We will have more detail on each topic prior to the session; I am hopeful of doing the session at my place in Alexandria.

I regret it does not appear we will be able to have a staff meeting this week due to the stress of so many projects in the "hurry up and finish" stage with the President as he prepares to be gone. Next week I may or may not be in the office very much; alas, no vacation appears on the horizon but when I am out of the office I will be easily reachable.

The following week (August 23) I will be out of town on that Monday the 23rd giving a speech but in the remainder of the week with a possible exception of Friday afternoon; we will establish a staff meeting for the week of the 23rd. The week of August 30 I will be in and out of the office within the DC area helping my daughter get moved and settled prior to the beginning of school on September 8. You will have my travel schedules of mine and you should have the numbers or the staff roster by which I am usually available.

In the meantime I thank each of you so very much for your continuing hard, hard work for the President. Hopefully by early September everyone will get some well deserved time away from the office. Thanks again!

PHOTOCOPY
PRESERVATION

save as a:agenda 8-24-93

Agenda with Carol 8-25 9:35 to 10:15

x1. WP and greetings

2. Settling in -- just keep asking Roz from time to time;
mystery to C; R: takes time for permanent; she still has temp

3. ADA -- see separate file

4. AAMR -- usually dont; wants to attend this one - 31st of June
3rd --soin a 3minute talk; mabe can team partner if up in DC for
daughters grad. on June 1

5. Priorities -- priorities right; 1st four Health Care (bre sure
to look at dental care for Ms. s ;
--has been yelling about waht plan does to Medicaid; "wrap around
coverage"? affect on children w/disabilities who need continuing
therapy not just recuperative halp m ex occupational and speech
therapy ; possible solution block grant top the states to do
those type of services ; NEED TO WATCHDOG THIS ISSUE

special education --talk to Galston back Fri or
Mon.

ADA
personal care -assistance --talk to Mike Laux in
Public Liason re formation of task group
no initiative yet re family suppport
welfare reform --talk to Kathi and Bruce
job training -- talk w Reich and Riley re school to
work
professional prep -- nothing so far

6. letter of introduction -- see memo to DPC
work way thru it

7. pass/credential -- see above takes time

8. next meeting -- staff meeting next thursday at her house
if need to meet, that thursday am let her know

good first meeting--- warm welcome -liked Family of Man always
wanted one; on coffee table
BEGAN W/APOLOGY RE CONFUSION RE STARTRT DATE 8-23--cr KNEW ; r
JUST HAD IN HER HEAD 9-23
informal ; collegial; sharing info
magazines;
liked getting Hilary rts of children art in 1973 only had seen
synopsis
delighetd at idea of getting ADA book
"we're on aroll"

if any prtoiblem re gattingh in tourt let her know

BDA--

David Cade -- '85 690-7699

Genent Counsel, I+ICFA

Medicare/Medicaid

Health reform -- diversity case

P-T detail -- Medicaid

Office of the Executive

Pretty risorous;

↓ OCR
Genent Counsel:
Common on Civil Rights --
Tomorrow --

-- Shanks memos

Justice Dept

EEOC → Employment

456-7028



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington, D.C. 20201

September 9, 1993

Mr. Stanley Herr
Public Policy Fellow
Domestic Policy Council
Room 224 OEOB
Washington, D.C. 20500

Dear Stan:

Attached is a memo on ADA
Implementation and some underlined
materials. Please take a look at these
and let me know whether they give you
enough of a basis on which to proceed.

All the best.

Sincerely,

A handwritten signature in cursive script, appearing to read "Peter".

Peter B. Edelman
Counselor to the Secretary

P.S. I knew I had seen this when
I saw you -- I thought it
had been sent already. Let me
know if you need more. PBC



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D. C. 20201

FACSIMILE

**PLEASE NOTIFY OR HAND-CARRY
THIS TRANSMISSION TO THE
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WASHINGTON, D.C. 20201

(202) 690-7000

FAX NO. (202) 690-7595

COMMENTS:



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington, D.C. 20201

SEP - 3 1993

NOTE TO PETER EDELMAN:

You asked for the names of staff in the Department whom Stanley Herr, White House, could contact for information about implementation of the ADA. In calling Mr. Herr, we learned that he is also interested in contacts beyond the Department and in information about section 504 activities.

HHS has no direct responsibility for implementation or enforcement of ADA. The Department of Justice, EEOC, Department of Transportation, and the FCC are the four agencies each having a component for implementing and enforcing the act. DOJ has the lead for Titles II and III, having to do with assistance to state and local governments and public accommodations. EEOC enforces Title I, Transportation has Title IV (transportation), and the FCC has responsibility for ensuring that telecommunications are usable by the hearing impaired.

Other entities that had direct participation in the development of the ADA and continue to be active in its implementation are:

- the Architectural Barriers Transportation Compliance Board - commonly referred to as the Access Board. The Board has been working with DOJ in developing accessibility guidelines. Marsha Mazz, on staff at the Board, has been providing technical assistance to DOJ.
- ✓ ● The President's Committee on People with Disabilities has been very active; Justin Dart, Chair and Rick Douglas, Executive Director;
- The National Council on Disability; Billie Jean Hill, contact person;
- the U.S. Commission on Civil Rights; James Cunningham, Assistant Staff Director for Civil Rights Evaluation; and
- the Office of Special Education and Rehabilitation Services at the Department of Education; Judy Human, Assistant Secretary.

Within HHS, the Administration on Developmental Disabilities provides referrals to requests for information about ADD. A copy of the materials they send out is attached. Bob Williams is the new Administrator and his telephone number is 690-5973. Other departmental contacts with expertise in ADA and section 504 issues include: Joe Kennedy, Director of Program Development and Training, Office of Civil Rights at 619-1234; Ralph Rouse, Office

of Civil Rights, Region VI at 214-767-4210 (or 767-4056), George Lyon, Office of the General Counsel, Civil Rights Division at 619-0900.


Joni Cunningham OS\ES

Attachment

**The Administration on
Developmental Disabilities
wants you to know**

UPDATE ON INFORMATION REGARDING THE ADA (P.L. 101-336):
AVAILABLE RESOURCES

The U.S. Department of Justice has released the following:

- 1) A pocket guide on ADA
- 2) A listing of statutory deadlines relative to ADA
- 3) A fact sheet outlining Title III of the ADA

Copies of each are available through the Department of Justice:

Mr. James D. Bennett, Coordination and Review
Civil Rights Division, Department of Justice
320 First Street, N.W.
Washington, D.C. 20530
(202) 307-2220

The American Printing House for the Blind (APH) has the ADA in the following accessible forms.

- 1) Braille - 1st copy is free, \$19.80 each addt'l copy
- 2) Cassette - 1st copy is free, \$10.75 each addt'l copy
- 3) Large Type - 1st copy is free, \$7.20 each addt'l copy
- 4) Flexible Disk - 1st copy is free, \$.65 each addt'l copy

These resources are available through:

The American Printing House for the Blind
1839 Frankfort Avenue
Louisville, KY 40206
(502) 895-2405

The Federal agencies mandated to issue compliance regulations or standards for the ADA (Public Law 101-336) are responding to public inquiries about the legislation.

-The Department of Justice

(202) 514-0301 (V) (202) 514-0383 (TDD)

-The Department of Transportation

(202) 634-1837 (V) (202) 755-7687 (TDD)

-The Equal Employment Opportunity Commission

(202) 663-4900 (V) (202) 663-4494 (TDD)

-The Architectural and Transportation Barriers Compliance Board (800) 872-2253 (V/TDD)

-The Federal Communications Commission

(202) 634-1800 (V) (202) 632-6999

w rons #
Suzanne Hopkins -
Linda Dubroff
634-1808

The Department of Transportation issued regulations for buses, vans and trains in October, 1990. The regulations address part of the transportation provisions under Titles II and III of the ADA and apply to all public and private transportation entities specified, not just those receiving Federal government support. Transportation agencies must provide:

- 1) Accessible vehicle
- 2) Accessible transportation information (i.e. accessible scheduling information, TDDs at information centers, etc.)
- 3) Trained personnel to "operate vehicles and equipment safely and properly"
- 4) The regulations call on transportation personnel to "treat individuals with disabilities...in a courteous and respectful way."

The Architectural and Transportation Barriers Compliance Board proposed regulations governing the structure of facilities. The regulations governing physical access apply only to new construction or business renovations after January 1, 1992.

- The law initially applies to compliance with 25 or more employees, but that number drops to 15 employees in 1995.
- The employment and accommodation regulations are scheduled to go into effect July 1992.

The "Tips and Trends" Newsletter, a complimentary publication of the President's Committee on Employment of People with Disabilities offers updates on ADA action. Available through:

The President's Committee on Employment
of People with Disabilities
1111 20th Street, N.W., Suite 636
Washington, D.C. 20036-3470

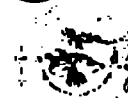
The President's Committee on Employment of People with Disabilities presents "Worklife: A Publication on Employment and People with Disabilities". Volume 3; Number 3; Fall, 1990 is the first of two Social Issues on the Americans with Disabilities Act. The second issue will focus on the history of ADA and its impact on the future. The Editor encourages the submission of articles for publications, especially from people with disabilities.

**A limited number of complimentary subscriptions are available
from the President's Committee:**

Senior Editor, PCEPD
111 20th Street, N.W., Suite 636
Washington, D.C. 20036 - (202) 653-5044 (V)
(202) 653-5050 (TDD); (202) 652-7386

**LEARN MORE ABOUT THE ADA AT THE COMMISSIONER'S FORUM, MAY 15-17,
IN WASHINGTON, D.C.**

February, 1991



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.



April 4, 1994

Enforcing the ADA

A Status Report from the Department of Justice

INSIDE...

ADA Litigation.....	2-5
Formal Settlement Agreements	5-8
Other Settlements	8-12
Certification.....	13
Technical Assistance	13-14
Other Sources of Information	15
How to File a Complaint	16

The Americans with Disabilities Act (ADA) is a comprehensive civil rights law for people with disabilities. The Department of Justice enforces the ADA's requirements in three areas --

Title I: Employment practices by units of State and local government

Title II: Programs, services, and activities of State and local government

Title III: Public accommodations and commercial facilities

I. Enforcement

Through lawsuits and both formal and informal settlement agreements, the Department has achieved greater access for individuals with disabilities in over 200 cases. Under general rules governing lawsuits brought by the Federal Government, the Department of Justice may not file a lawsuit unless it has first unsuccessfully attempted to settle the dispute through negotiations. As a result, most complaints filed with the Department will be resolved before a lawsuit becomes necessary. Many cases are settled after an on-site investigation.

A. Litigation

The Department may file lawsuits in Federal courts to enforce the ADA and may obtain court orders including compensatory damages to remedy discrimination. Under title III the Department may also obtain civil penalties of up to \$50,000 for the first violation and \$100,000 for any subsequent violation.

1. Ongoing lawsuits

The Department has initiated, or intervened in, the following pending lawsuits.

Title I

U.S. v. State of Illinois -- The Department sued the State of Illinois, the City of Aurora, and its police and fire pension funds for excluding police officers and firefighters from its pension funds on the basis of disability. Under the challenged system, police officers and firefighters are required to undergo separate physical examinations, after they are hired, to determine eligibility for retirement and disability benefits. The Department's investigation resulted from the complaint of an Aurora police officer who was ruled ineligible for pension benefits because he has diabetes.

Title III

U.S. v. Morvant, Louisiana and U.S. v. Castle Dental Center, Texas -- The Department filed lawsuits against a dentist in New Orleans and a dental center in Houston alleging that they had violated title III of the ADA by refusing to provide dental treatment to individuals who had tested positive for HIV. The Department asserts that there is no scientific or medical justification for excluding persons with HIV or AIDS from dental or orthodontic treatment solely on the basis of their HIV+ status. Both cases are in the early stages of litigation.

In *Morvant* the court denied the defendant's motion to dismiss. The court ruled that compensatory damages may be awarded on behalf of a deceased individual who suffered discrimination because of his positive HIV status. The court also held that the defendant dentist may be sued in his individual, as well as his corporate, capacity.

U.S. v. Becker CPA Review, Inc., District of Columbia -- The Department sued Becker CPA Review for failing to take appropriate steps to communicate effectively with students who have hearing impairments. Becker, the nation's largest CPA review course, prepares over 10,000 students a year to take the national certified public accountant exam. The Department is seeking (1) a permanent change in Becker's policy so that sign language interpreters and other auxiliary aids are provided to those who need them; (2) civil penalties; and (3) damages for the original complainant, several other people with hearing impairments who have reported that they were not accommodated, and any others who may have had similar experiences. Trial is scheduled for July 5, 1994.

Pinnock v. International House of Pancakes (IHOP), California -- Upon notice by the Federal district court that the constitutionality of a Federal law was being challenged, the Department intervened in this case to defend the constitutionality of title III of the ADA. The suit had been filed by a private individual asserting that the California pancake restaurant had failed to undertake readily achievable barrier removal and to provide auxiliary aids and services. The court adopted the Department's views and upheld title III's constitutionality. The defendant has appealed the court's ruling.

Ongoing Lawsuits

Posner v. Central Synagogue, New York -- In a private lawsuit involving alleged discrimination by a nursery school, the Department intervened, upon notice by the Federal district court, to defend the constitutionality of the exemption for religious organizations under title III of the ADA. The court has not yet issued a ruling.

2. Consent decrees

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

Title III

U.S. v. Allright Colorado, Inc., Colorado -- The Department entered into a consent decree resolving its lawsuit against Allright Colorado, a company that owns or operates over 100 parking lot facilities in Denver. Under the agreement, Allright will add well over 400 accessible parking spaces to its facilities and will instruct parking attendants to monitor the slots and ticket cars that are improperly parked in accessible spaces. Allright paid a \$20,000 civil penalty to the United States because of the alleged delay in moving toward compliance.

U.S. v. Venture Stores, Inc., Illinois -- The Department entered into a consent decree resolving its lawsuit against Venture Stores, Inc., a St. Louis, Missouri, firm that operates more than 90 discount department stores in eight states. Venture agreed to modify its policy of permitting only customers with drivers' licenses to pay for merchandise with a personal check, and will now permit individuals who do not drive because of a disability to pay by check if they have a non-driver state ID card. Venture also agreed to make payments to four individual complainants.

3. Amicus briefs

The Department files briefs in selected ADA cases in which it is not a party in order to guide courts in interpreting the ADA properly.

Title II

Kinney v. Yerusolim, Pennsylvania -- In agreement with an amicus brief filed by the Department of Justice, the U.S. Court of Appeals for the Third Circuit ruled that the ADA requires cities to install curb ramps when they resurface streets. This title II lawsuit was brought against the city of Philadelphia by a group of people with mobility impairments.

Lakes Region Consumer Advisory Board v. City of Laconia, New Hampshire -- The City of Laconia denied the Lakes Region Consumer Advisory Board's application for a permit to operate a facility providing services to persons with mental illness. The Advisory Board sued, alleging that the denial violated title II of the ADA and section 504 of the Rehabilitation Act. The Department filed an amicus brief supporting the Advisory Board's position that zoning decisions are subject to review under title II of the ADA and section 504 of the Rehabilitation Act. No ruling has yet been issued.

Medical Society of New Jersey v. New Jersey State Board of Medical Examiners, New Jersey -- The Medical Society of New Jersey filed suit challenging certain questions on the State medical board's application for renewal of medical licenses. The Department filed an amicus brief arguing that broad questions pertaining to a history of psychiatric illness or a history of drug or alcohol abuse, not drawn to focus on current impairments of a physician's fitness to practice medicine, are discriminatory under title II of the ADA. In a procedural ruling, the Federal district

court agreed that a licensing process that places greater burdens on individuals because of positive responses to the challenged questions would likely violate title II.

Galloway v. Superior Court of the District of Columbia, District of Columbia -- A blind individual filed a lawsuit in Federal district court charging that the District of Columbia Superior Court's policy of categorically excluding blind persons from jury service violates title II of the ADA and section 504 of the Rehabilitation Act of 1973. The Federal district court judge agreed, and awarded the plaintiff \$30,000 in damages. The Department of Justice argued in support of the plaintiff's view that compensatory damages are available remedies under both the ADA and section 504.

Livingston v. Guice, North Carolina -- A person who uses a wheelchair filed a lawsuit in Federal district court against the State of North Carolina and a State court judge charging that they had violated title II of the ADA by preventing her from entering a courtroom through the only accessible entrance known to her. The Department argued in an amicus brief that States may be sued for damages under title II. The court has not yet issued a ruling.

Amicus Briefs

Rosenthal v. State Board of Law Examiners, New York -- A law school graduate with learning disabilities filed a lawsuit charging that the New York State Board of Law Examiners had refused to make reasonable adjustments in its procedures to give her an equal opportunity to pass the State bar exam. In settling the case the State Board agreed to let her take the exam in a separate room, take twice the usual amount of time, and have the assistance of a person to transcribe her answers onto the multiple choice answer sheet. During the litigation the Department of Justice filed an amicus brief arguing that both title II and

title III of the ADA require reasonable modifications in policies, practices, and procedures when necessary to avoid discrimination in testing.

Title III

Cohen v. Boston University, Massachusetts -- A person who has Tourette Syndrome filed a lawsuit against Boston University charging that it violated title III of the ADA by refusing to readmit her to its graduate school of social work because of her disability. The Department filed a brief in support of the plaintiff arguing that the court should not grant summary judgment for the University, because facts concerning the University's actions remain in dispute. The court has not yet issued a decision.

B. Formal settlement agreements

The Department has resolved a number of cases without filing a lawsuit by means of formal written settlement agreements.

Title II

Philadelphia, Pennsylvania -- The City of Philadelphia entered an agreement resolving a complaint alleging that emergency medical technicians (EMT's) of the Philadelphia Fire Department had refused to assist an individual when they learned that he had HIV. The City agreed to conduct mandatory training of the Department's 2,300 EMT's and firefighters regarding universal precautions to prevent the transmission of HIV/AIDS, as well as to provide HIV/AIDS sensitivity training. The City will also develop and publicize a written policy stating that individuals with disabilities shall be given the opportunity to benefit fully from its emergency medical services. The policy will include disciplinary measures for any individual

who fails to follow the City's guidelines. In addition, the City will provide \$10,000 in compensatory damages and a written apology to the individual denied services.

Hickman County, Kentucky -- Hickman County agreed to develop a compliance plan to provide access to the services, programs, and activities conducted in its courthouse, thus resolving a complaint alleging that a man using a wheelchair was unable to enter the circuit clerk's office to renew his driver's license because the doors were too narrow.

Van Buren County, Arkansas -- Van Buren County agreed to relocate County court activities to an accessible site upon request; develop a self-evaluation and a transition plan; adopt a grievance procedure; and place public notices of its nondiscrimination policy and responsibilities under the ADA on County bulletin boards and in local newspapers.

Harris County (Houston), Texas -- Harris County agreed to make all of the programs offered in each of its 106 courtrooms and jury assembly rooms accessible, to furnish the auxiliary aids necessary to achieve effective communication in all of the county's programs, and to provide staff training.

Scott County, Arkansas -- Scott County agreed to renovate the county courthouse in order to make it readily accessible to individuals with disabilities. Specifically, the county agreed to renovate the courthouse's entrances, restrooms, door hardware, and drinking fountains.

City of Fargo, North Dakota -- The City of Fargo agreed to resolve complaints against its sports stadium and general entertainment facility, the Fargodome. The City will adopt a formal policy

Formal Settlement Agreements

that provides for ticket prices for individuals with disabilities who need special seating to attend events in the Fargodome that are equivalent to ticket prices charged to others. The City also agreed to publicize its new policy, appoint an ADA coordinator for the Fargodome, develop an ADA grievance procedure, and conduct an evaluation of its policies and practices as required by title II.

Norwood, Ohio -- The City of Norwood agreed to develop a written plan and timetable for making the services, programs, and activities offered at the Norwood City Hall accessible for persons with mobility impairments; submit architectural plans to the Department for review if the City determines that structural changes are needed; and make the agreement available to the public.

Madison County, Florida -- The Board of Commissioners of Madison County agreed to install an elevator, widen doors, renovate toilet facilities and water fountains, and install appropriate signage to make its programs at the Madison County Courthouse accessible for persons with mobility impairments. The County also will submit an interim plan for making its programs accessible until the renovations are completed.

Pinellas County, Florida -- The Sixth Judicial District of Florida entered into an agreement requiring the courts in that district to establish a written policy on providing qualified interpreters for participants, including parties, witnesses, jurors, and spectators, who are deaf or hard of hearing; secure the services of a qualified interpreter when necessary to ensure effective communication; notify the public about the policy; and inform and instruct all appropriate district court officials to comply with the policy.

*Formal
Settlement
Agreements*

Salt Lake City, Utah -- The complaint alleged that a State district court in Salt Lake City disqualified or otherwise excluded from jury service individuals who are deaf unless they bring their own interpreters. The agreement with the Utah State Administrative Office of the Courts committed the courts in Utah to provide appropriate auxiliary aids and services, including qualified interpreters, when necessary to provide an individual with a disability an opportunity to serve as a juror. The agency will establish a written policy on jury duty and the provision of interpreting services; notify the public about the new policy; inform and instruct all appropriate district court officials to adhere to the policy; and conduct at least four regional training seminars.

Clearwater, Florida -- The complaint alleged that the police department had failed to provide an interpreter in the arrest of an individual who is deaf. The Clearwater police department agreed to establish and publicize a written policy for providing interpreters whenever necessary for effective communication.

Paulding County, Ohio -- In response to a complaint 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 request, if the request is made in a reasonable period of time before the scheduled court date. The County board also agreed to publicize its new policy.

Title III

Educational Testing Service, New York, New York -- The Educational Testing Service (ETS) and the College Entrance Examination Board agreed to provide additional opportunities for students with disabilities to take the new version of the Scholastic Assessment Text (SAT-I) in the spring of 1994. Students had complained that the testing schedule set up by ETS and the College Board prevented students with disabilities from taking the SAT-I in May or June 1994 even though virtually all other students were given those opportunities. Approximately 2,600 students with disabilities took an old version of the SAT in March 1994. Under the agreement, ETS will notify them of the opportunity to cancel those scores and take the new SAT-I in June 1994.

Motorcycle Mechanics Institute, Phoenix, Arizona -- A Phoenix trade school agreed to pay \$16,000 to an individual with a vision impairment who had been denied admission to the program. The school also agreed to change its policy of requiring persons with disabilities to submit additional documentation regarding their career goals and proof of employability.

Omaha Zoological Society, Omaha, Nebraska -- The Omaha Zoological Society, a nonprofit corporation that operates and manages the Henry Doorly Zoo, Lied Jungle indoor rainforest, and its Treetops Restaurant, agreed to remove architectural barriers and to provide auxiliary aids and services. Under the agreement the Society will install a wheelchair lift in the Treetops Restaurant; continue to make electric scooters available to persons with mobility impairments to provide access to the Jungle floor path; remove barriers on the Jungle's path; and make modifications to restrooms. In addition, the society will provide a

variety of auxiliary aids and services, including audiotape recordings of the Lied Jungle Trial Guide and information about the rainforest contained on signs located throughout the jungle. Staff will be available to serve as guides to visitors with visual impairments upon request.

Empire State Building, New York, New York -- The owners and operators of the Empire State Building agreed to take wide-ranging measures to ensure access to public areas of the building. The agreement mandates changes to the lobby, entrance, observation decks, restrooms and telephones, but does not cover any privately leased office space in the building. The complaint alleged that the Empire State Building was operating in violation of the ADA because its owners and operators failed to remove architectural barriers where such removal was readily achievable.

Formal Settlement Agreements

Emerald Lanes, Greenwood, South Carolina -- The owners of Emerald Lanes, a bowling center, agreed to construct a ramp and a new door at the front entrance; build a new, accessible unisex restroom and vestibule leading to it; and add accessible parking. The agreement resolved a complaint from an individual who uses a wheelchair for mobility who could not watch his children participate in a bowling league and banquet because the facility was inaccessible.

Marquee Video, Lacey, Washington -- Marquee Video of Lacey, Washington, agreed to modify its policy of permitting only customers with drivers' licenses to rent videotapes and videotape players. It will now permit people who do not drive because of a disability to rent videotapes and tape players if they have a non-driver State ID card.

Sardi's Restaurant, New York, New York --
Sardi's Restaurant in New York City agreed to resolve a complaint that the restaurant's restrooms were inaccessible for persons who use wheelchairs or other mobility devices. Sardi's will install an accessible unisex restroom and signage indicating the location of the restroom.

Quality Hotel Downtown, Washington, D.C. --
Staff of the Quality Hotel Downtown in Washington, D.C., had not permitted a guest to use a motorized scooter as a mobility device to get to his room. The hotel agreed to pay the complainant \$10,000 in damages and to train all employees on the requirements of the ADA.

*Formal
Settlement
Agreements*

Inter-Continental Hotel, New York, New York --
The Department entered a wide-ranging formal settlement agreement with the Inter-Continental Hotel in midtown New York, a member of a chain of prestigious hotels in major cities. The hotel will make numerous changes to its 691-room facility and procedures over the next five years, including removing physical barriers in public areas such as the front entrance, lobby, and ballroom, as well as in 21 guest rooms; providing television decoders, telephone handset amplifiers, visual smoke alarms, and visual door knock and telephone indicators in 35 guest rooms; making elevator modifications to provide access for persons with vision impairments; and modifying reservation and room assignment policies to ensure that accessible rooms are made available to those who request them.

Municipal Credit Union, New York, New York --
A branch office of the Municipal Credit Union in New York City was inaccessible to people with mobility impairments. The Credit Union agreed

to install a ramp at the entrance, to notify its customers of the ramp, to post appropriate signs, and to instruct the staff to provide assistance when requested by an individual with a disability.

C. Other settlements

The Department resolves numerous cases without litigation or a formal settlement agreement. In some instances, the public accommodation or commercial facility promptly agrees to take the necessary actions to achieve compliance. In others, extensive negotiations are required. Following are some examples of what has been accomplished through informal settlements.

Title II

Access to facilities

- A Missouri county agreed to install an elevator and make other structural modifications to make its courthouse accessible. In the interim, it will provide alternative means for providing services to individuals with disabilities.
- A Tennessee city agreed to move all city meetings from the inaccessible second floor of the town hall to the city's accessible library. It also built ramps at two entrances to the town hall and remodeled restrooms in the town hall and library.
- Various cities and towns in the East and Midwest agreed to install elevators in their city halls/courthouses and to undertake other structural actions, such as adding ramps and remodeling restrooms and entrances, or to make these buildings accessible by moving their programs (e.g., town meetings and services) to alternative accessible locations.

- A Washington county installed an intercom on the first floor of its courthouse annex so that persons can contact offices located on the second floor when they need to have the services provided on the first floor.
- A New England town agreed to build a roof over the ramp leading to its 150-year-old town hall to ensure that the ramp does not become blocked by snow.
- A small town in Oklahoma agreed to formulate and enforce a written policy prohibiting the misuse of accessible parking spaces at its town hall by nondisabled town officials.
- In Iowa, a board of elections agreed to move a polling place to an accessible location.

Other Settlements

Policies and procedures

- A Texas police department agreed to change its policies and procedures on public contact after an individual with severe physical disabilities was treated in a demeaning manner at the scene of an automobile accident.

The police officer involved received a reprimand and was required to attend sensitivity training.

- A State board of law examiners agreed to allow an individual extra time (time and one-half over two days) to take the State bar examination as an accommodation for his learning disability.
- A west coast State board of behavioral science examiners agreed to provide extra time (time and one-half) for an individual with a learning disability taking the oral examination for licensed clinical social worker.
- An Arizona police department agreed to allow an individual with a mobility impairment to use his motorscooter on roads and sidewalks within city limits anywhere that conventional wheelchairs are allowed.
- A State department of corrections agreed to relocate an inmate with a disability to a facility 400 miles closer to his mother's home so that his mother could visit him and monitor his medical condition.
- Two midwest State prisons agreed to modify security and visitation procedures to allow wives with disabilities to visit their inmate husbands.
- A county in Washington State agreed to include individuals with disabilities in developing its self-evaluation and transition plans.

Effective communication

- A western State department of corrections agreed to provide a sign language interpreter for a deaf inmate's parole hearing.
- A Michigan State district court agreed to provide an assistive listening device for an upcoming court date for an individual who is hard of hearing.
- A city in Texas agreed to provide additional microphones during city council meetings to ensure more effective communication with persons who have hearing impairments.
- A committee of bar examiners of a west coast State agreed to allow a severely visually impaired individual to use a personal computer with a high resolution monitor to take the bar exam.

- A Pennsylvania county court agreed to provide accommodations for an individual with a learning disability, including daily transcripts and extra time to ask questions, during court proceedings.
- A Louisiana fast food restaurant, a Texas grocery store, a health care facility, a shopping mall, an Oregon shopping center, and a retirement community have all agreed to provide accessible parking in their parking lots. The grocery store and shopping center also agreed to install the curb ramps that a person who uses a wheelchair needs to get from the parking lot to the front door.

Employment

- A Tennessee county agreed to separate its medical and personnel records, as required by the ADA.
- A city in Illinois agreed to reinstate an individual with epilepsy to his position as custodian.
- Two other fast food restaurants agreed to relocate their accessible parking spaces to make them closer to the front door.

Title III

Other Settlements

Access to facilities

- A Utah bank, an Illinois bowling center, an office building, and a Maryland cable television company have all agreed to install ramps to make their entrances accessible for people who use mobility devices. The bowling center, office building, and cable TV company also agreed to provide accessible parking in their parking lots.
- A credit union agreed to lower an ATM machine to make it accessible for persons who use wheelchairs.
- An Illinois bank agreed to install automatic doors at its front entrance to make it easier for people with visual, manual, and mobility impairments to gain access.
- A health club agreed to install a lift to enable a wheelchair user to participate in an arthritis rehabilitation program in the club's swimming pool.
- A national retail chain agreed to provide accessible parking at its stores nationwide, and a major rental car company agreed to provide accessible parking at a major metropolitan airport and to institute valet parking service when needed by customers with disabilities.
- A 12-theater complex in Colorado agreed to provide additional seating throughout its theaters for people who use wheelchairs.
- A California department store agreed to make its restrooms and fitting rooms accessible for people with manual or mobility impairments, to lower the height of its public telephones and drinking fountains to make them accessible for people who use wheelchairs, and to upgrade its elevators and install signage to make the store accessible for people who have vision impairments.

- A motel in Louisiana agreed to provide accessible parking, to make its front desk and lobby restrooms accessible, and to make six guest rooms accessible for guests with mobility impairments, including converting to roll-in showers in two of the rooms.
- A Louisiana steamboat company agreed to improve accessibility for passengers with mobility impairments on two of its boats. It eliminated access barriers in its dining and entertainment areas and made its restrooms accessible.
- Organizers of the Mississippi Delta Blues Festival, which draws some 10,000 to 20,000 spectators each year, took a number of steps to make its parking, seating, restrooms, and festival grounds accessible for people with disabilities when the 1993 festival was held in Greenville, Mississippi.
- A baseball stadium agreed to make its ticket counters, seating, restrooms, and concessions accessible for people who have mobility impairments.
- A hospital agreed to change its policy of providing sign language interpreters only for patients and not for family members. It provided an interpreter for a man who is deaf so that he could attend his wife's Lamaze classes and serve as her coach during the birth of their child.
- Several movie theaters in Florida have agreed to provide assistive listening devices for patrons who have hearing impairments.
- A famous entertainer, who was performing in New York, allowed a man with a hearing impairment to move closer to the stage so that he could read the entertainer's lips during the concert and provided him with printed lyrics for all of the songs to be performed.
- An Arizona hotel agreed to purchase additional TDD's and closed-captioning decoders and to implement a better system for responding to guests with hearing impairments who request the use of this equipment during their stay in the hotel.

Other Settlements

Effective communication

- A variety of public accommodations, including a practicing attorney in California, a midwife service, a psychiatric hospital in New York, a famous entertainer, an alcohol and drug counseling program in Washington, D.C., and a program to reduce domestic violence in Colorado, have agreed to provide sign language interpreters to communicate effectively with clients who are deaf or hard of hearing.
- A North Carolina mortgage company agreed to pay damages to a complainant who alleged that the company rejected his application for refinancing his mortgage loan because of his disability. The mortgage company paid to the complainant direct expenses that were sustained as a result of refinancing his mortgage elsewhere, and other damages, with a total payment of \$6,000.
- A national rental car company revised its policy relating to cash qualifications for rental car customers. Previously, customers who did not have credit cards could only rent a car with cash if they had a verifiable em-

Policies and procedures

ployment history. A person with a disability who was unemployed due to the disability, and who did not have a credit card, was denied service altogether. Now customers may complete a written application that includes disability-related income as an alternative to employment information.

- A Texas movie theater that had prevented a woman from bringing a box of cookies into the theater for her diabetic child agreed to modify its policy against outside food and beverages by making an exception in the case of medical necessity.
- A bar in Illinois agreed to modify its policy of refusing to serve alcohol to customers who appear to be drunk based on the way they walk. A customer who has Parkinson's disease had been refused service because staff assumed he was drunk due to his unsteady gait associated with his disability.
- A drugstore chain agreed to modify its policy against permitting animals in its stores by making an exception in the case of service animals such as guide dogs.
- A famous restaurant in New York City that had turned away a customer who was wearing sneakers due to a mobility impairment agreed to modify its dress code by making an exception when necessary to provide service to a person with a disability.
- A Nevada hotel agreed to offer its barrier-free rooms at the same rate as its other rooms, including at those times when promotional or special rates are offered.

Other Settlements

D. Investigations

The Department is currently investigating over 900 complaints against public accommodations and commercial facilities under title III.

In addition, the Department is currently investigating nearly 800 complaints against units of State and local government under title II. Seven other Federal agencies are also investigating title II complaints and may refer cases to the Department of Justice for litigation.

The Department also has a number of investigations underway under title I against public employers. (Enforcement of title I against private employers is handled by the EEOC.)

II. Certification of State and Local Building Codes

The ADA authorizes the Department to certify State or local laws or building codes that meet or exceed the ADA's accessibility requirements. This is a voluntary program in which States and localities can choose to participate. In a jurisdiction whose law or code has been certified, when a new public accommodation or other commercial facility is built, or an existing facility is altered or expanded, compliance with the local regulations will give the building owner and other responsible parties rebuttable evidence of compliance with the ADA if the building's accessibility is later challenged under the ADA.

On May 20, 1993, the Department of Justice issued its first response to a request for certification of a state accessibility code. The letter to the State of Washington provided a side-by-side analysis of the State's standards and the ADA standards as a means of providing technical

assistance to the State in identifying minor areas of discrepancy. It was not a formal preliminary determination of equivalency or nonequivalency with the Federal accessibility standards.

Other requests for certification have been received from the City of New York, the State of New Mexico, the State of Utah, and the State of Florida.

The Department has also responded to a request for technical assistance from the State of New Hampshire and is reviewing requests for technical assistance from the Council of American Building Officials (CABO) on behalf of the American National Standards Institute (ANSI) A117.1 committee, the Building Officials and Code Administrators International (BOCA), and the National Parking Association.

III. Technical Assistance

The ADA requires the Department of Justice to provide technical assistance to entities and individuals with rights and responsibilities under the ADA. The Department encourages voluntary compliance by providing education and technical assistance to business, industry, government, and members of the general public through a variety of means.

ADA telephone information line

The Department of Justice now provides toll-free "800" service for both voice and TDD callers who have questions about title II and title III of the ADA, including the Standards for Accessible Design. Under its expanded hours of operations, operators may be reached from 11:00

a.m. to 5:00 p.m. (EDT), Monday through Friday (except Thursdays, 1:00 p.m. to 5:00 p.m.). The system has been upgraded to accommodate a larger number of callers simultaneously and to provide Spanish language service. Callers may hear recorded information and order materials at any time, day or night. The information line numbers are:

Nationwide

1-800-514-0301 (voice)
1-800-514-0383 (TDD)

Washington, D.C., area

202-514-0301 (voice)
202-514-0383 (TDD)

Grants

ADA technical assistance grants are awarded primarily to target specialized information to specific audiences. To date, \$6.5 million in grant funds have been awarded for ADA technical assistance projects to 30 organizations.

Publications

Copies of the Department of Justice's regulations for titles II and III of the ADA, the ADA Questions and Answers booklet, the ADA Handbook (limited quantities available), and information about the Department's technical assistance grant program can be obtained by calling the telephone number listed above or writing to the address listed below. These materials are available in standard print, large print, Braille, audio-tape, and computer disk.

U.S. Department of Justice
Civil Rights Division
Public Access Section
Post Office Box 66738
Washington, D.C. 20035-6738

These materials are also available through the Department of Justice's ADA electronic bulletin board at 202-514-6193.

Copies of the Department of Justice's Technical Assistance Manuals for titles II and III can be obtained by subscription from the Government Printing Office. The subscription for the Title II Manual, which includes annual supplements through 1996, costs \$24. The subscription for the Title III Manual with supplements through 1996 costs \$25. Call the ADA information line to obtain an order form.

Copies of legal documents and settlement agreements mentioned in this publication can be obtained by writing to:

Freedom of Information/Privacy Act
Branch
Room 7337
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

IV. Other Sources of ADA Information

The Equal Employment Opportunity Commission offers technical assistance to the public concerning title I of the ADA.

For ordering documents
1-800-669-3362 (voice)
1-800-800-3302 (TDD)

For questions
1-800-669-4000 (voice)
TDD: use relay service

The U.S. Department of Transportation offers technical assistance to the public concerning the public transportation provisions of title II and title III of the ADA.

ADA documents and general questions
202-366-1656 (voice)
202-366-2979 (TDD)

ADA legal questions
202-366-9306 (voice)
202-755-7687 (TDD)

Nat'l Easter Seal Society
"Project Action" grant
202-347-3066 (voice)
202-347-7385 (TDD)

Air Carrier Act questions
202-376-6406 (voice)

The Federal Communications Commission offers technical assistance to the public concerning title IV.

ADA documents and general questions
202-632-7260 (voice)
TDD: use relay service

ADA legal questions
202-634-1808 (voice)
202-632-6999 (TDD)

Hearing Aid Compatibility
Act (HACA) questions
202-634-7150 (voice)
TDD: use relay service

The U.S. Architectural and Transportation Barriers Compliance Board, or "Access Board," offers technical assistance to the public on the ADA Accessibility Guidelines.

ADA documents and questions
800-872-2253 (voice & TDD)
202-272-5434 (voice)
202-272-5449 (TDD)

The National Institute on Disability and Rehabilitation Research (NIDRR) of the U.S. Department of Education has funded Disability and Business Technical Assistance Centers (DBTAC's) in ten regions of the country to provide technical assistance to the public concerning title I, title II, and title III of the ADA.

ADA technical assistance
(800) 949-4232 (voice & TDD)

V. How to File Complaints

Title I

Complaints about violations of title I (employment) by units of State and local government or by private employers should be filed with --

Equal Employment Opportunity Commission
Program Development and Technical Assistance Division
Office of Program Operations
1801 "L" Street, N.W.
Washington, D.C. 20507

Title II

Complaints about violations of title II by units of State and local government should be filed with --

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

Title III

Complaints about violations of title III by public accommodations and commercial facilities should be filed with --

U.S. Department of Justice
Civil Rights Division
Public Access Section
Post Office Box 66738
Washington, D.C. 20035-6738

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U.S. Department of
Transportation

Office of the Secretary
of Transportation

Memorandum

Subject Department of Transportation
Activities in Improving Transportation
Accessibility (Update)

Date JUN 3 1994

From Joseph Canny *Joseph Canny*
Deputy Assistant Secretary for
Transportation Policy

Reply to
Attn of

To Stanley Herr
Domestic Policy Council

In response to your request to Deputy Secretary Mortimer Downey, enclosed is an updated version of the Department of Transportation's (DOT) memorandum to you of December 28, 1993, on what has been accomplished in removing barriers to persons with disabilities who wish to use the Nation's transportation system and the Department's future directions in this area. The new material added to the December 28 memo is highlighted by its placement under "Update" headings. Also enclosed is an addendum describing DOT's effort to inform and involve persons with disabilities and industry representatives about Departmental programs and requirements for improving transportation services for persons with disabilities. The addendum includes some discussion as well as problems encountered in complying with accessibility rules.

I trust you will find this information helpful.

Enclosures

Department of Transportation Activities
in Improving Transportation Accessibility (Update)

The following is an update of the Department of Transportation's (DOT) December 28, 1993, memorandum--together with an addendum--on what has been accomplished in removing barriers to persons with disabilities who wish to use the Nation's transportation system.

ACCESSIBILITY GOALS

The following goals are drawn from our governing statutes and implementing regulations:

- . to work towards a barrier-free environment for all who desire to travel, that will foster increased employment and educational and social opportunities for some 40 million Americans with disabilities;
- . to ensure that travelers with disabilities will be treated without discrimination;
- . to ensure or encourage the training of all transportation employees who have contact with the public so that they can provide needed services to passengers in an appropriate way;
- . to work with public and private providers of transportation services, professional organizations and consumers in improving accessibility to transportation for the disability community; and
- . to ensure that DOT enforces national transportation accessibility regulations and standards and makes its own facilities and services accessible.

INTRODUCTION

The Department's activities in this area are governed by the Americans With Disabilities Act (ADA) of 1990, the Air Carrier Access Act (ACAA) of 1986 and section 504 of the Rehabilitation Act of 1973 (section 504). These statutes also provide a basis for technical standards that define accessible facilities and vehicles.

The following provides a brief overview of what has been accomplished to date.

- . In aviation, disabled travelers can use the air transportation system with much less difficulty than was true 10 years ago. Airports are far more accessible and new aircraft must have features such as movable armrests on aisle seats, special wheelchairs to permit easy boarding and movement in the cabin, and, in some cases, accessible lavatories.

- . In **mass transit**, every Federally subsidized system provides some type of service usable by disabled and elderly passengers. Accessibility improvements are appearing rapidly, in the form of bus lifts, vehicle ramps, and door-to-door paratransit vans for persons unable to use fixed-route service. Rail transit systems are upgrading their key stations and buying railcars with accessible devices. The Federal Transit Act requires any fixed-route transit system receiving Federal operating assistance to charge elderly and disabled passengers one-half the standard fare in non-peak periods.
- . Intercity rail service is becoming generally accessible; one car per train must be accessible by 1995, and Amtrak's existing stations must be modified by 2010. Elderly and disabled passengers travel at a 25 percent discount, subject to certain restrictions.
- . For streets and highways, new Interstate and other rest areas funded with Federal aid must be accessible. Streets and highway pedestrian facilities being constructed, renovated and altered with Federal aid are being brought into conformance through installation of curb cuts that will accommodate wheelchairs.
- . Intercity buses currently have few accessibility features, and the Department is developing a proposed regulation to establish accessibility requirements for intercity, charter and other non-mass transportation bus services. The DOT rule will take effect by the ADA deadlines of 1996 and 1997.
- . In the maritime area, the Department is planning preparatory research, to gather data that will assist in the development of a rule establishing accessibility standards. The Department expects to begin rulemaking in 1995 that would implement ADA requirements for accessible marine vessels (ranging from ferry boats to cruise ships) and facilities.

The Department provides information and interpretation of DOT's accessibility regulations to travelers with disabilities and responds to complaints about non-compliance on a continuing basis. As a statutory member of the Architectural and Transportation Barriers Compliance Board (Access Board), the Department participates in formulating policy and standards for accessibility requirements. It also provides information and technical assistance on the special transportation needs of persons with disabilities to planners, architects, designers, and providers of transportation services.

Although much work has been accomplished, the task is far from complete.

AVIATION

Status - In the Nation's air transportation system, many barriers to persons with disabilities have now been eliminated:

- Airport Facilities - Federally assisted airports and all air carrier-operated terminal facilities being built or altered must be made accessible. Required accessibility features pertain to such items as accessible parking, baggage services, signage, water fountains, bathrooms, ticket counters, and information/telecommunications devices. There must be an accessible path from the front door of the terminal to each boarding gate, including loading ramps, boarding bridges, lifts or mobile lounges to all aircraft with 30 or more seats. All Federally assisted airports are generally in compliance with DOT's requirements. Places of public accommodation within the airports are covered under Department of Justice (DOJ) ADA Title III regulations.
- Aircraft - DOT's ACAA rule requires new aircraft delivered after April 5, 1992, to have the following accessibility features:
 - Movable aisle armrests: required on 50 percent of aisle seats in new and refurbished aircraft with 30 or more seats. We estimate that, by the end of 1993, 400 to 800 new and refurbished aircraft had roughly 6,500 to 13,000 such armrests installed, about 10 to 20 percent of the fleet. All such aircraft should be so equipped by the year 2000. Very few aircraft with less than 30 seats have armrests.
 - Aisle wheelchairs: required on aircraft with 60 or more seats and an accessible lavatory, or upon passenger request. Just about all such aircraft are now equipped with on-board wheelchairs.
 - Cabin stowage: space for at least one passenger's folding wheelchair required on all new aircraft with over 99 seats. We estimate about 200 such new aircraft have cabin stowage space large enough for one folding wheelchair. Many existing aircraft also have adequate space for a wheelchair in a coat closet or other areas.
 - Accessible lavatories: required on twin-aisle aircraft (typically 200+ seats). We estimate only a few new twin-aisle aircraft were delivered with fully accessible lavatories by the end of 1993. A DOT Federal Advisory Committee, which completed most of its work last year, has circulated for internal committee comment a draft report on the feasibility and costs (\$20,000 to \$150,000) of installing accessible lavatories on single-aisle aircraft with over 100 seats.

- **Passenger Services** - All carriers, upon request, must now provide disabled passengers with special assistance in boarding, deplaning, and connecting with flights (including hand-carrying onto aircraft larger than 30 seats, if no other means of boarding exists). In the cabin, passengers' wheelchairs and other assistive devices are given priority stowage over carry-on baggage. Passengers with battery-powered wheelchairs are routinely accommodated (with few exceptions due to baggage compartment limitations or safety), and spillable batteries are placed in hazardous materials packages at no charge. Carriers are required to designate Complaints Resolution Officials to resolve complaints and respond to inquiries by persons with disabilities. Some carriers, but not all, have chosen on a voluntary basis to provide requesting passengers with medical oxygen, stretchers, incubators, or respirators on their aircraft, at an additional charge in some cases.
- **Training** - DOT's ACAA rule requires all carriers operating aircraft with more than 19 seats to provide carrier and contract employees having contact with the public with sensitivity training, as well as education to proficiency about DOT's accessibility regulations and proper and safe operation of equipment for travelers with disabilities.
- **Consumer Guidance on ACAA Regulations** - Since January 1992, about 35,000 copies of a booklet, "New Horizons for the Air Traveler with a Disability," developed by DOT to help disabled travelers understand their rights to accessible air travel, have been mailed to advocacy groups, the air travel industry and the public. The Department also distributes a two-page fact sheet summarizing these regulations.

Update: Between January 1 and May 31, 1994, the Department has distributed an additional 2500 copies of New Horizons and 287 more copies of the fact sheet.

Compliance - The Department monitors air carrier compliance through complaints. (DOT staff takes complaints from the public on airline service issues and conducts follow-up investigations with carriers.) Between April 5, 1990 (the effective date of DOT's ACAA rule) and the end of August 1993, 678 complaints have been filed with DOT. These include such issues as improper handling or packaging of wheelchairs and their batteries, denial of boarding assistance, refusal of some airlines to provide oxygen aboard their planes (not required by our regulations), and carrier personnel who are not trained adequately to comply with the various provisions of the ACAA regulations.

Update: Between August 1993 and May 31, 1994, DOT has received an additional 233 complaints.

In each instance, DOT verifies that the carrier has responded and taken appropriate corrective action, where necessary. Such complaints are also routinely reviewed to determine the extent to which carriers are in compliance with the regulations. The Department also uses these complaints to track trends or spot areas of concern which may warrant further action with carriers in the future. Cases in which serious or recurrent violations of the regulations are found are referred to the Department's enforcement office. Since the enactment of the regulations, the Department has taken enforcement action against four major airlines for violations of the rules. DOT also receives about 10 complaints per year alleging that some part of an airport facility does not comply with accessibility regulations, and DOT conducts follow-up investigations with airports and carriers to resolve such complaints.

Coming Initiatives - When DOT issued its 1990 ACAA regulations, there was no safe, efficient way for wheelchair passengers to board and leave small commuter aircraft (primarily those with 19 to 30 seats). As a result, the ACAA regulation does not require boarding assistance for those aircraft, if hand-carrying is the only form of assistance available. This has resulted in instances of disabled travelers being denied boarding assistance on commuter flights.

Private sector firms have now developed a series of external lifts that have tested satisfactorily on most (but not all) commuter aircraft in the 19 to 30 seat range. These devices range in cost from \$13,000 to \$37,000. In September 1993, DOT published a proposed rule to jointly require commuter air carriers and operators of roughly 545 airports to acquire lift devices or other equipment to board passengers with mobility impairments onto such aircraft by 1997. DOT expects to publish a final rule by summer 1994. Currently, we estimate about 50 airports have voluntarily purchased lift devices for these aircraft. The lifts are not designed for aircraft with below 19 seats, but the proposed rule would require their use on such aircraft where feasible.

Update: DOT extended the comment period on its NPRM for commuter aircraft boarding equipment, in response to a request from the Paralyzed Veterans of America. This delayed the spring 1994 target date for final rule publication. Approximately 500 comments were received on this NPRM, and reviewed, analyzed and categorized by issue category. FAA's Airport Improvement Program (AIP) grants office is surveying regional offices for updated estimates on the number of lifts purchased or requested by airports using AIP funding. Next Steps: Evaluation of major issues and drafting of final rule. Problem: Special cost analysis of impacts of rule on small entities requested by OMB may delay this rulemaking further.

The Department must also determine how it will resolve problems for passengers requiring medical oxygen. FAA regulations prohibit airline passengers from carrying their own supply of medical oxygen on board aircraft. It is provided by some airlines, at costs ranging from \$50 to \$75 per flight. The apparatus must be surrendered, however, at the gate upon arrival. If passengers must lay over at an airport, medical oxygen is generally not available for use in the terminal. While airlines and terminals are not required to provide oxygen, many such travelers needing it feel they are unfairly being denied access to the Nation's air transportation system. The Department has asked for comments in a recent NPRM about how better to serve the needs of those who require medical oxygen, as well as about the handling of wheelchair batteries.

Update: Roughly 200 docket comments were received on the citizen's petition for rulemaking concerning exorbitant costs and other issues related to medical oxygen provision by airlines and airports. DOT staff met with a member of the National Association of Medical Directors of Respiratory Care to discuss alternatives to carriers' provision of oxygen and related safety and hazardous materials regulations. DOT is considering conduct of a regulatory negotiation during FY 1995 to discuss issues and draft regulations.

Cost - The Department estimated industry compliance cost to meet its ACAA rule's aircraft accessibility and training requirements at roughly \$19.7 million per year (1990\$). Estimates of total additional costs to the aviation industry to provide boarding equipment for commuter aircraft (19-30 passenger seats) would range from \$1.0 million to \$8.3 million (1993\$) per year (based on alternative assumptions about the number of lifts and boarding chairs needed per airport).

MASS TRANSIT

Status - In accordance with DOT's ADA regulations issued September 6, 1991, every Federally subsidized transit system currently provides some type of accessible service usable by passengers with disabilities. The phased-in implementation of the ADA is on schedule, and no major problems have been encountered. The transit industry has held thousands of meetings with persons with disabilities, involving them in their system planning and fostering a new community of trust.

- Accessible Vehicles - Under the ADA, all new, used and refurbished transit buses, vans with over 16 seats, and railcars for which a solicitation for purchase was made after August 25, 1990, must be accessible. In demand responsive

service (e.g., dial-a-ride), an operator can provide equivalent service in lieu of acquiring all new accessible vehicles.

- Buses: Out of a total active fleet of about 52,500 fixed-route buses in excess of 24 seats, operated by 458 Federally assisted transit agencies in urbanized areas (over 50,000 population), roughly 50 percent, or 26,000 buses, are now lift-or ramp-equipped, versus 35 percent prior to the ADA. DOT estimates the fleet will be 100 percent accessible in 405 urbanized areas by 2001.
- Railcars: Under ADA, rapid, light and commuter rail operators must provide one accessible car per train by 1995. As of year-end 1991, the total transit rail fleet consisted of 8,106 rapid railcars, 811 light railcars, and 3,989 commuter railcars. Currently, all rapid railcars are accessible to wheelchair users, though many do not satisfy ADA requirements for accessible features to facilitate use by persons with vision and hearing impairments (e.g., exterior speakers). There are greater accessibility problems with many current light and commuter rail systems.
- Paratransit - DOT has completed review of plans required from transit agencies covering a 5-year phase-in of paratransit services, for persons with disabilities unable to use fixed-route systems. Despite the effect of the recession being experienced at that time on local tax revenues, only two of the 540 systems submitting paratransit plans to the DOT in the first year requested a waiver due to undue financial burden (Richmond, VA and Suffolk County, NY), and are being denied. However, waiver requests are expected to increase significantly as we approach the end of the phase-in period in 1996.

By year-end 1993, the second year of the phase-in period, over 100 of the 540 ADA paratransit areas have indicated that they are planning to be in full compliance. The remaining 440 areas are expected to complete paratransit system implementation by year-end 1996. It is still too early in the implementation timetable to determine whether lack of funding for paratransit will prove a major problem in transit agencies, all of which are dependent on existing Federal, state and local funds. Many paratransit systems are encountering problems because they now find they may have to deny service to able-bodied elderly patrons previously served on the basis of age, but who are no longer required to be eligible under ADA guidelines.

- **Key Rail Stations** - A key station is one that has particular importance to users (e.g., because it is a transfer point between lines, generates a high volume of demand, or interfaces with other transportation modes). We estimate about 500 of the 708 key stations are now wheelchair accessible.

Time extensions beyond ADA's required July 1993 compliance date have been granted by DOT for 284 key rail stations. Some key station extensions run until 1999; others extend up to 2020; and some dates are still being determined. As key station implementation proceeds, lack of funding to accommodate major modifications may be a problem, because rail operators must stretch existing Federal, state and local funds for regular transit service to cover ADA station improvements. Aside from granting time extensions authorized by ADA for extraordinary key station expenses, DOT also proposed to nearly fully fund authorized levels for the FY 95 mass transit program, in part to help remedy some of the ADA funding concerns.

The Department has decided to extend the deadline for installation of detectable warning strips on rail platforms from July 1993 to July 1994. DOT explicitly recognized the safety importance of detectable warnings to visually impaired passengers, but believed that rail systems needed additional time to solve practical problems concerning the installation and maintenance of such strips.

Cost - Over the FY 1995-FY 1999 period, ADA costs to the Nation's public fixed-route operators should total about \$900 million annually, or about four percent of all public transit costs. Annual costs are then expected to drop to \$800 million following the year 2000 after most key rail stations are made accessible (the one-time capital cost estimates are \$907 million for 12 rapid rail operators, 10 commuter rail systems, and 14 light rail systems for 708 key stations). Recurring capital and operating costs of complementary paratransit service are estimated to be \$700 million per year. Lifts on buses and vans cost about \$50 million per year, and railcar modification costs are estimated at about \$15 million per year. In the 1991-2000 decade total costs for ADA mass transit compliance are estimated at \$7.3 billion.

Compliance - The Department denied 115 key station time extension requests, on the basis that the rail operators' requests did not meet the \$225,000 cost threshold established by FTA guidance to satisfy the ADA criterion of "extraordinary expensive structural change". These 115 key stations were in probable non-compliance with the ADA July 1993. They have been referred to FTA's Office of Civil Rights.

Update: FTA, in consultation with groups representing persons with disabilities, are working out voluntary agreements, with reasonable timetables for rail transit operators to reach compliance. For example, in Boston, the FTA asked local groups to review and comment on the voluntary compliance agreement between the FTA and the Massachusetts Bay Transit Authority (MBTA), the local transit provider. This agreement sets forth a reasonable timetable for key station compliance for rail stations that were denied time extensions under the cost threshold levels in the regulation. This agreement was crafted to meet the needs of the FTA, the MBTA, and persons with disabilities in the Boston area.

INTERCITY RAIL SERVICE

Status - Amtrak's service is becoming accessible, providing where necessary station-based lifts to accommodate wheelchairs from the platform onto the car and accessible features within railcars. Amtrak is purchasing new railcars and expects to meet the requirement of one accessible car per train by ADA's July 1995 deadline.

Update: As of May 31, 1994, Amtrak has received 47 accessible Superliner cars.

Amtrak stations must undergo major alterations to bring them into conformance with DOT's ADA standards, which call for full accessibility at all Amtrak stations as soon as possible, but no later than July 2010. In October 1992, the Amtrak Board of Directors approved a plan to modify eight Amtrak-owned joint use stations that have been designated as key stations and requested that DOT extend its July 1993 deadline for installation of warning edge stripping on train platforms and other substantial improvements. Extensions were granted into 1994 and 1995 for five of the stations, but Amtrak has since requested extensions on these stations to July 1997.

Cost - The total cost of modifying the eight key Amtrak stations is estimated at \$9.3 million.

STREETS AND HIGHWAYS

Status - All Interstate highway rest areas were made accessible a number of years ago because of previous legislation affecting persons with disabilities. Other street and highway-related facilities are covered by the DOJ's ADA Title II regulations affecting state and local facilities. Under Title II, whenever pedestrian facilities or bus stops and shelters are provided in conjunction with new street or highway construction, curb cuts must be included. For existing crosswalks on highways with curbs in downtown areas, state and local governments with 50 or more employees were required by July 1993, to include in their

transition plans a schedule for providing curb cuts, ramps, or other sloped areas, giving priority to walkways serving state and local government offices, facilities, transportation, public accommodations, and employers.

In order to eliminate state to state inconsistencies concerning parking for persons with disabilities, the Department issued a set of nonbinding regulatory guidelines for establishment of a uniform system for such parking in 1989.

Coming Initiatives - DOJ will soon amend its Title II regulation expanding coverage to everything within public rights-of-way (e.g., signage, street furniture, emergency road-side call boxes).

Compliance - Complaints affecting streets and highways received by DOJ under Title II are being forwarded to DOT for investigation. A significant number of these complaints are premature as the alleged violations cannot yet be viewed as such under the state's transition plan requirements.

MARITIME

Status - The Department is in the process of planning preparatory research and anticipates issuing a proposed rule and cost/benefit analysis by year-end 1995. An ANPRM would begin the process of establishing ADA accessibility regulations and standards for marine passenger vessels (ranging from ferry boats to cruise ships) and facilities. This project must be coordinated with the Access Board's issuance of related accessibility guidelines.

Update: Work is expected to begin in two weeks on a study to provide background data for determining the technical and financial feasibility of designing and constructing marine passenger vessels to accommodate persons with disabilities.

PRIVATE TRANSPORTATION

Status - Unlike previous statutes, the ADA requires private as well as public transportation vehicles, services, and facilities to be accessible, whether or not they receive Federal funds. The ADA requirements for private transportation vary, depending on whether the operator is or is not primarily involved in the transportation business, operates demand-responsive or fixed-route service, and uses large or small vehicles. Generally, most private transportation operators must either acquire accessible vehicles or provide equivalent service to disabled passengers. Over-the-road buses are a special case under the ADA and are discussed next.

INTERCITY, CHARTER, AND TOUR BUSES

Status - The ADA requires the Department to promulgate a final rule by mid-May 1994, implementing accessibility requirements for over-the-road buses (OTRB) and related facilities in the intercity, charter and tour bus industries. These requirements are to be effective in July 1996 for large carriers and July 1997 for small carriers, although the President may delay implementation for up to one year to reduce excessive cost burdens.

Currently, there are 3,500 private companies operating a total fleet of 25,000 OTRBs, ranging in size from Greyhound with 1950 fixed-route regular service buses to small companies with fewer than one-half dozen buses. Most of the OTRB fleet is inaccessible, as are most terminals and flag stops (gas stations, grocery stores, etc.). The OTRB industry provides a variety of services, including fixed-route buses linking some 6,000 communities; charter and tour services; and commuter, airport and other services. For a number of reasons, since 1982, the OTRB ridership base has shrunk from 130 million annual passengers to 37 million passengers in 1990.

Currently, 26 OTRB operators provide about 350 lift-equipped buses under contract to public agencies, and almost all such buses have been purchased with the aid of public monies. Few passengers have used the lifts. In October 1993, DOT issued an ANPRM to explore legal, technical and operational issues involved in developing OTRB accessibility requirements. The Department and the Access Board held a joint workshop on October 21-22, 1993, where key issues with all parties affected by this rulemaking were discussed. Major issues to be addressed in this rulemaking concern (1) the potential compliance costs on a struggling industry; (2) how to provide accessible restroom services; and (3) how to frame ADA-mandated accessibility requirements to minimize economic disruption of the industry, and reduce the risk that OTRB services will be cancelled in rural areas where they are especially needed.

Costs - Based on OTA's report to Congress, the estimated cost of equipping an OTRB with lift and related equipment ranges from \$7,000 to \$35,000. There are also costs from foregone revenue resulting from the loss of seating and baggage capacity to accommodate lifts and wheelchair securement spaces.

Update: The cost impacts of the various options under consideration for making OTRB service accessible to persons with disabilities has resulted in the development of an options paper seeking Secretarial guidance on which option to propose and on whether the Department should also pursue legislation to authorize a Federal subsidy to assist the OTRB industry in meeting ADA accessibility requirements.

CONCLUSION

Much has been accomplished in removing barriers to persons with disabilities in the Nation's transportation system. The Department has kept up reasonably well in developing, promulgating, and implementing its regulations within the timetables mandated by the ADA, the ACAA, and section 504. In many cases, enforcement procedures are still evolving, as new rules go into effect and we gain experience with their implementation. In addition, the Department is working to ensure that its own programs and facilities are fully consistent with requirements for non-discrimination on the basis of disability.

APPENDIX A

STATUTES AND REGULATIONS AFFECTING PERSONS WITH DISABILITIES

Many programs and activities of the Department are affected by the following laws pertaining to persons with disabilities.

- ° The Architectural Barriers Act of 1968, as amended, requires that certain buildings financed with Federal funds be designed and constructed to be accessible to the physically handicapped.
- ° Section 16 of the Federal Transit Act, as amended, sets forth a policy that elderly and persons with disabilities have the same right to utilize Federally-subsidized mass transportation facilities and services as other persons.
- ° Section 165(b) of the Federal Aid Highway Act of 1973, as amended, requires that certain transportation projects receiving Federal funds under the Act be planned, designed, constructed, and operated to allow effective utilization by elderly and handicapped persons.
- ° Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of handicap in all Federally assisted and conducted programs.
- ° The Air Carrier Access Act of 1986 prohibits discrimination on the basis of handicap in air travel.
- ° Section 161 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 directed the Secretary of Transportation to conduct a study on parking for handicapped persons.
- ° The Americans With Disabilities Act OF 1990 (ADA) gives civil rights protection to individuals with disabilities similar to those given to individuals on the basis of race, sex, national origin and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services and telecommunications. The Department issued a final rule in 1990 implementing many provisions of the ADA.

APPENDIX B

ADA TECHNICAL ASSISTANCE

The Federal Transit Administration (FTA) has produced the following ADA guidelines and reference reports:

Handbook on Preparation of ADA Paratransit Plan.

Guidelines for Improvement of Transit Accessibility for Persons with Disabilities.

Update of 1986 FTA-Sponsored "Guidelines for Active and Passive Wheelchair Lifts, Ramps and Securement Devices."

Guidelines on Rail Car Gaps and High Platform Safety.

Guidelines on Wheelchair and Three Wheel Scooters use in Public Transit.

Guidelines on Transportation Needs of Persons with Visual, Hearing, and Cognitive Impairments.

Strategies for Implementing a Standee-on-Lift Program for Fixed-Route Bus Service.

Accessibility Handbook for Transit Facilities.

Handbook and Course on Public Participation in Transportation Planning.

Americans With Disabilities Act Paratransit Eligibility Manual and Course of Study.

Independent Locking Securement System for Mobility Aids in Public Transportation Vehicles.

FTA is also supporting accessibility demonstration projects in 25 cities, which are being conducted under the auspices of the National Easter Seal Society.

During fiscal year 1994, FTA's technical assistance activities will continue to focus on the technology requirements to overcome mobility barriers and will address additional accessibility needs with regard to buses, bus stops, rail cars, and transit facilities. Special emphasis will be placed on problems of safety (adequacy of securements for wheelchairs and other mobility aids in vehicles and protective devices for standees on lifts), and on the communications needs of persons with visual, hearing, and other physical or mental impairments.

DOT's OUTREACH TO INDUSTRY OPERATORS OF ACCESSIBLE TRANSPORTATION SERVICES AND PERSONS WITH DISABILITIES

DOT's National ADA Mass Transit Outreach Efforts

. **Project ACTION.** DOT's most significant direct effort to involve persons with disabilities in ADA implementation is our \$2 million annual funding of the National Easter Seals' Project ACTION, which serves as a forum to bring together all key decisionmakers in implementing the ADA including: the DOT, Access Board members, transit providers and equipment manufacturers, and, most importantly, major groups representing persons with disabilities. Project ACTION developed many technical publications and films for use in training transit agency personnel and disabled riders in using fixed-route accessible services. On June 6-7, Project ACTION will host a national conference in Washington, DC, where every major national disability group will offer DOT their inputs and recommendations on facilitating ADA implementation, solving problems, and improving transit access.

. **Technical Assistance.** The next most significant DOT effort to assist in ADA implementation is our funding of technical assistance to the transit industry on making vehicles and stations accessible. DOT's technical assistance program includes ongoing research projects and technical bulletins on accessible vehicle standards, lift maintenance, driver sensitivity training in reaching out to passengers with different types of disabilities, vehicle and station audio and visual communication systems for persons with visual and hearing impairments, accessible facility requirements, tactile warning strips at the edge of platforms for blind persons, wheelchair securement safety, etc.

. **National Transit Institute.** DOT's most significant direct effort to educate transit operators on all aspects of the ADA is concentrated in the newly created National Transit Institute at Rutgers University, in New Jersey. Our recent course on determining ADA Paratransit Eligibility was an overwhelming success; about 300 transit professionals were trained at 10 courses held across the Nation. The FTA and NTI are currently preparing a new course on implementing ADA.

. **Enforcement.** Nationally, persons with disabilities were involved in drafting and commenting on DOT's transit accessibility regulations, and we continue to seek their inputs in issuing new and amended ADA rules. But, beyond the rulemaking stage, we also involve local disability groups in ADA enforcement/compliance actions across the Nation.

. **National Clearing House.** Since ADA enactment, DOT and the American Public Transit Association have conducted four training-seminars for transit operators nationwide concerning their obligations under the Act. We continue in this education role, and also serve as a national clearing house and authority on all aspects of ADA transportation implementation for the general public, including private taxi services and other private transportation providers (e.g., hotel and airport shuttles, church and company owned buses and vans).

Amtrak's National ADA Consumer Outreach Efforts

. The National Railroad Passenger Corporation (Amtrak) has a system-wide policy of offering passengers with disabilities and elderly patrons a 25 percent discount on one-way ticket purchases.

Amtrak, with appropriate prior notification to its reservation offices, provides special food service to accommodate passengers with diet restrictions, telecommunications devices for handling reservations for hearing impaired persons, special equipment handling, provision of wheelchairs, and assistance in boarding and deboarding passengers. Amtrak operates a Special Services Desk seven days a week that assists passengers with special needs in obtaining tickets and transportation. Persons may request these services through Amtrak's toll free special service desk number at 1-800-USA-RAIL. They also may inform their travel agents or station ticket agents of their need for assistance at the time they book their reservations, or call the railroad station in advance of their travel.

More than 150,000 senior citizens, mobility-impaired and other persons with disabilities sought assistance from the Special Services Desk during 1993, and thousands of other disabled and elderly persons traveled on Amtrak unassisted. Amtrak works each year with a number of organizations representing persons with disabilities and elderly persons in planning large special moves of passengers needing assistance.

Local ADA Outreach Efforts through DOT's Mass Transit Grantees

Through public participation requirements set forth in the Department's ADA rules, DOT requires significant outreach efforts by its grantees to their customers who are disabled.

. **Key Rail Stations.** In developing local ADA plans to identify-and make key rail stations accessible, transit agencies also are required by DOT to hold public hearings and incorporate the comments of persons with disabilities into their plans. More than elevators, bricks and mortar are required to make stations accessible to riders with disabilities; both public transit and train schedules are published in accessible formats, and special audio/visual systems are being installed in stations to communicate public announcements to persons with visual and hearing impairments.

. **Accessible Bus Systems.** An ADA accessible bus requires more than a lift or a ramp. ADA accessibility requires communication systems to provide riders with sensory impairments with sufficient information to board and navigate the fixed-route bus system. Bus schedules must be in accessible formats. Transit providers are providing travel mobility training to persons with disabilities and are reaching out to high schools to train disabled students in how to use fixed-route systems. A spillover benefit of many accessible communication systems required by DOT is that buses are now easier to use by all riders, not just persons with disabilities.

. **Paratransit & Outreach.** In developing their initial plans for DOT on provision of ADA supplementary paratransit services, transit providers had to survey all local disability groups, independent living centers, local social service agencies, etc. in an attempt to identify all persons whose disabilities might qualify them for ADA paratransit service and to inventory all paratransit service provided in the region. Transit providers were required to establish ongoing advisory groups composed of persons eligible for paratransit to consult with them on planning and implementing acceptable services. These groups often meet monthly with over 500 fixed-route transit operators across the nation to review service progress. Service and route changes are routinely directed through these groups and networked to riders with disabilities. DOT attributes much of the success in ADA paratransit implementation to these local groups.

. **Updates of ADA Paratransit Plans.** During the allowable 5-year phase-in period for ADA paratransit service, local providers' plans to provide ADA paratransit services must be annually updated and must pass muster at annual public hearings. Comments of persons with disabilities must be addressed. DOT must review over 500 transit provider plan

updates each year. Failure to meet the public participation requirements has resulted in plan disapproval by DOT, and could jeopardize future Federal funding assistance if not corrected.

. **Consumer Feedback.** DOT sponsored a recent consumer survey in Pittsburgh to query transit riders on the quality of service. Other surveys are being planned.

Assessment of ADA Transit Implementation Problems, to Date

. **Implementation of the ADA in Public Transit.** The ADA was enacted almost four years ago, and implementation of accessible public transit services appear to be on schedule, with fewer complaints than expected to date. Other than the complaints by those with visual impairments on DOT's one year time extension on the controversial tactile warning platform edge strip requirements of ADA, transit systems have not been the focus of much attention from groups representing persons with disabilities. Unlike the history of implementation problems incurred under DOT's predecessor section 504 transit accessibility regulations implementing the Rehabilitation Act of 1973, the transit industry and APTA have strongly supported this civil rights mandate. However, this may be the quiet before the storm. Disability groups may refocus their attention on transit if the operators of several key rail stations in major cities miss their ADA compliance deadlines, or if the progress in completing ADA paratransit services is not as good as expected, we may have to confront the following problems in the future:

Problems in Implementing ADA Mass Transit Regulations

. **Unfunded Federal Mandate.** ADA Paratransit Operating Cost--Local Funding Shortfall. As DOT's budget approaches full funding of the ISTEA authorized levels, we have been able to accommodate about 80 percent of the incremental capital costs of implementing the ADA. However, it is the annual \$600-\$700 million burden of ADA paratransit operating costs on state and local budgets that governors and local officials have labeled the true "unfunded Federal mandate" of the ADA. In defense conversion states like California, these operating costs have been added to huge current operating deficits at local transit authorities. Unless state and local budgets increase dramatically with the current economic expansion, it is expected that as many as 100 transit systems may file requests for a waiver (time extension) from meeting the six ADA paratransit service requirements on the basis of undue financial burdens.

Beginning in FY 1995, transit agencies' will have to absorb a 25 percent across-the-board reduction in Federal operating assistance funding.

. **Displacement of Elderly Patrons off Paratransit.** Both DOT and a March 1994 GAO report on ADA transit implementation have identified transit agencies' greatest challenge to be financing paratransit service requirements of ADA. It is clear from the agencies' ADA paratransit plans that provision of paratransit service is very expensive--between \$15 - \$30 per one-way van trip. In fact, it is so expensive that transit authorities across the nation are planning to reduce costs by eliminating current paratransit passengers and other specialized transportation services that are not specifically covered by ADA service mandates. Currently, existing paratransit service to able-bodied elderly patrons is planned to be virtually eliminated, setting up a potential rift between the elderly and those certified as eligible for ADA paratransit service. It is estimated that about 60 percent of all ADA paratransit eligible riders are elderly. The American Association of Retired Persons is studying this problem.

. **Client Shedding (Dumping) by Social Service Agencies.** In many localities, human resource agencies have stopped providing paratransit services to their clients because the ADA mandates public transit providers to provide such services. To date, we do not have a handle on the extent of dumping problem. Nationally, social service agencies funded by HHS provide at least 5 times the number of trips provided by all public transit. With current resources, there is no way all of these trips can be accommodated by the public transit system. DOT and HHS have met to try to identify their shared responsibilities and coordinate transportation services at the local level.

Problems in Implementing other Accessibility Requirements

Aviation. The fact that DOT has received an additional 233 consumer complaints subsequent to the Department December 28, 1993, report may be an indication that air carriers are not complying fully with the air Carrier Access Act (ACAA) requirements.

The Department continues to receive complaints about the availability of oxygen in air travel. The complaints concern (1) failure of some carriers to offer oxygen on their planes; (2) the high cost of oxygen provided by carriers; (3) lack of access to oxygen while waiting in

airports; and (4) failure of air carriers to permit travelers to bring their own oxygen onboard airplanes because of hazardous materials regulatory requirements.

Some persons with disabilities are being denied boarding on commuter-type airplanes because there is not yet a requirement that there be available suitable devices to assist them. Many air carriers and airport operators are awaiting issuance by the Department of a final regulation requiring them to purchase lifts, ramps, or other suitable devices not used for freight to assist persons with disabilities in boarding commuter-type airplanes.

Marine Passenger Vessels. A major problem in developing a regulation that would set forth accessibility standards for marine passenger vessels stems from the particular physical characteristics of vessels, and the care with which accessibility requirements must be coordinated with the Coast Guard's and international safety requirements, which include personnel capability and structural standards. A study, soon to be initiated, will provide background data for determining the technical and financial feasibility of designing and constructing marine passenger vessels to accommodate persons with disabilities.

Over-the-Road Bus (OTRB) Accessibility. Under the Americans With Disabilities Act (ADA), the Department must issue accessibility regulations concerning OTRBs, the vast majority of which are operated by private sector enterprises. In the course of developing the NPRM, we have developed three options: one requiring OTRBs to be equipped with integral lifts so passengers can use their own wheelchairs; one allowing the operator to provide accessibility by a variety of means, including station-based lifts and boarding chairs; and one that is a mix of the other two.

We expect that the OTRB ADA rule will be controversial because the cost impacts of all options on the industry are significant. The Greyhound company anticipating the ADA costs will impact significantly on company profits and has requested that DOT pursue legislation that would make available a Federal subsidy to assist in meeting accessibility requirements.

Concern about the cost of implementing ADA in OTRB service persuaded DOT staff to develop two papers requesting Secretarial assistance. Staff has developed an options paper requesting Secretarial decision on the notice of proposed rulemaking approach (NPRM) to be used to make OTRBs accessible to persons with disabilities.

Staff has also developed a subsidy paper requesting Secretarial decision on whether DOT should pursue legislation to establish a subsidy program for OTRB operators. Meanwhile, section 120 of a bill to amend title 23, United States Code (USC), to establish the National Highway System, provides authority for the Secretary to make section 3 capital subsidies to intercity bus operators.



United States Architectural and Transportation Barriers Compliance Board

1331 F Street, NW • Washington, DC 20004-1111 • 202-272-5434 (Voice) • 202-272-5449 (TDD) • 202-272-5447 (FAX)

PROGRAM BRIEFING PAPER

September 1993

This document presents the programs of the Architectural and Transportation Barriers Compliance Board (Access Board) which are carried out to meet its responsibilities under the Americans with Disabilities Act and the Architectural Barriers Act.

Since July 1990, when the ADA was signed into law, the Board's program priorities have been, and will continue to be:

- Developing the ADA Accessibility Guidelines (ADAAG)
- Providing Technical Assistance and Training on ADAAG
- Conducting research to support ADAAG
- Enforcing the Architectural Barriers Act

Beginning in fiscal year 1994, the Board will initiate two additional programs in support of its priorities. The Public Communications Program will coordinate and focus all of the Board's communications to its various customers. Additionally, the Board will embark on a Quality Improvement Program. By focusing on our customers and improving the quality of our services, we believe we can ultimately reduce our program and administrative costs.

Developing the ADA Accessibility Guidelines

The following is a history of the Board's ADAAG rulemaking and a discussion of our plans for future ADA rulemaking.

ADAAG for Buildings and Facilities (Sections 1-9)

Notice of Proposed Rulemaking Published	01/22/91
Public Comment Period Ended	03/25/91
Final Guidelines Published	07/26/91
Department of Justice Adopted Guidelines	07/26/91

ADAAG for buildings and facilities initially consisted of nine sections. Sections 1 through 4 contain general sections, scoping provisions, and technical specifications applicable to all types of buildings and facilities. The scoping provisions specify which and how many elements and spaces of a building or facility must be accessible (e.g., parking spaces, entrances, toilet

rooms). The technical specifications describe how to design the elements and spaces covered by the scoping provisions so that they are accessible to and usable by individuals with disabilities. Sections 5 through 9 contain additional scoping provisions and technical specifications for the following buildings and facilities: restaurants and cafeterias (section 5); medical care facilities (section 6); mercantile establishments (section 7); libraries (section 8); and hotels, motels, and transient lodging (section 9). The Department of Justice adopted sections 1 through 9 of ADAAG on July 26, 1991 as the standard for accessible design in its regulations for title III of the ADA.

ADAAG for Transportation Facilities (Section 10) and ADAAG for Transportation Vehicles

Notice of Proposed Rulemaking Published	03/20/91
Public Comment Period Ended	05/20/91
Final Guidelines Published	09/06/91
Department of Transportation Adopted Guidelines	09/06/91

This rulemaking added section 10 to ADAAG for buildings and facilities and contains additional scoping provisions and technical specifications for transportation facilities. A separate ADAAG was issued for transportation vehicles which covers the following vehicles and systems: buses and vans, rapid rail vehicles, light rail vehicles, commuter rail cars, intercity rail cars, over-the-road buses, automated guideway transit vehicles, high-speed rail cars, monorails, and trams and similar vehicles. The Department of Transportation adopted sections 1 through 10 of ADAAG for buildings and facilities and ADAAG for transportation vehicles on September 6, 1991 as the standard for accessible design in its ADA regulations.

ADAAG for State and Local Government Facilities (Sections 11-14)

Notice of Proposed Rulemaking Published	12/21/92
Public Comment Period Ended	03/22/93

This rulemaking will add four new sections to ADAAG for buildings and facilities and will contain additional scoping provisions and technical specifications for the following State and local government facilities: judicial, legislative and regulatory facilities (section 11); detention and correctional facilities (section 12); residential housing (section 13); and public rights-of-way (section 14). The final guidelines will be published in fiscal year 1994. The Department of Justice is preparing a notice of proposed rulemaking to adopt sections 1 through 14 of ADAAG as the standard for accessible design in its regulations for title II of the ADA.

ADAAG for Over-the-Road Buses

This rulemaking will establish additional accessibility guidelines to ensure over-the-road buses are accessible to individuals who use wheelchairs and other mobility aids. A notice of proposed rulemaking and final guidelines is planned to be published during fiscal year 1994.

ADAAG for Recreation Facilities and Outdoor Developed Areas

This rulemaking will establish accessibility guidelines for amusement parks; indoor and outdoor sports facilities; zoos and botanical gardens; playgrounds and related equipment; pools and other aquatic facilities; and parks, trails, and other outdoor developed areas. An advisory committee composed of representatives of disability organizations; the recreation industry; and Federal, State and local governments was established in July 1993 to advise the Board on issues related to making these facilities and areas readily accessible to and useable by individuals with disabilities. The advisory committee is expected to present a report to the Board in fiscal year 1994. The Board plans to publish a notice of proposed rulemaking in fiscal year 1995 with recommended guidelines based on the report.

ADAAG for Children's Environments

This rulemaking will establish accessibility guidelines for day care centers; nursery, pre-school, kindergarten, elementary and other school programs; children's museums; and other children's environments. The Board published an Advance Notice of Proposed Rulemaking on February 3, 1993, and the public comment period ended on June 1, 1993. A notice of proposed rulemaking is planned to be published during fiscal year 1994. In fiscal year 1995, the Board will analyze the public comments and plans to publish final guidelines.

ADAAG for Water Transportation

This rulemaking will establish accessibility guidelines for various forms of water transportation, including passenger ships, ferries, and docks. During fiscal year 1994, the Board plans to convene, in cooperation with the Department of Transportation, an Advisory Committee to provide the Board with a set of recommendations for accessibility guidelines. The Committee will be composed of representatives of the industry, organizations representing people with disabilities, and Federal agencies. We anticipate the Water Transportation Advisory Committee will meet during fiscal year 1995 and present a report to the Board.

ADAAG For Federal Use

During fiscal year 1994, the Board will begin revising its accessibility guidelines for Federally financed buildings and facilities covered by the Architectural Barriers Act to be consistent with ADAAG. The ADAAG is more complete and in many instances mandates a higher degree of accessibility than do the current Uniform Federal Accessibility Standards (UFAS). The Federal Government should be held to the same high accessibility requirements that are now imposed on public accommodations and State and local governments. On January 13, 1993, the Board passed a resolution urging other Federal agencies to adopt the ADAAG as their design standard. The General Services Administration has announced that it would use ADAAG for alterations and new construction. The Department of Justice has asked Federal agencies with regulations under Section 504 of the Rehabilitation Act to adopt ADAAG for compliance under that statute. To further the goal of uniform standards, the Board intends to use ADAAG as the accessibility guidelines for Federally financed facilities covered by the Architectural Barriers Act

of 1968 (42 U.S.C. 4151 et seq.) since the Federal government owns or operates many of the same type of facilities as State and local governments. Under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792), the Board is responsible for establishing guidelines for accessibility standards issued by other Federal agencies pursuant to the Architectural Barriers Act of 1968.¹ The Board anticipates initiating action to adopt ADAAG with special provisions as appropriate for Federal buildings (e.g., post offices, military facilities) in place of its current guidelines for Federally financed facilities. Standards issued by other Federal agencies pursuant to the Architectural Barriers Act must be consistent with the Board's guidelines. Those Federal agencies responsible for issuing accessibility standards under the Architectural Barriers Act must initiate separate rulemaking to adopt standards consistent with ADAAG as supplemented in place of UFAS. The Board anticipates that it will publish a Notice of Proposed Rulemaking on the Federal ADAAG in fiscal year 1995.

ADAAG Review

In fiscal year 1994, the Board will begin a rulemaking effort to coordinate ADAAG and the accessibility standards published by the American National Standards Institute, the ANSI A117.1-1992 standards. The ANSI standards for accessibility are incorporated into the model building codes and hence are the building code standards used by most state and local governments for new construction and alterations which would be covered under title III of the ADA. By coordinating ADAAG and ANSI standards, implementation of the accessibility requirements in titles II and III of the ADA for alterations and new construction will be much more effective. During fiscal year 1994, the Board will convene an advisory committee of representatives from the model code organizations, building code officials, product manufacturers, and organizations representing people with disabilities to coordinate ADAAG and ANSI. We anticipate that the committee will submit an analysis and report to the Board during fiscal year 1995, and that the Board will publish a NPRM early in fiscal year 1996.

Technical Assistance and Training

Several studies have documented that the lack of information about the ADA's requirements has inhibited implementation of the Act.² The Board's Technical Assistance and

¹ UFAS was developed by the General Services Administration, Department of Defense, Department of Housing and Urban Development, and the United States Postal Service to implement the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.) which requires certain Federally financed buildings to be accessible. Most Federal agencies reference UFAS in the accessibility standards for buildings and facilities constructed or altered by recipients of Federal financial assistance for purposes of section 504 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 794).

² United States General Accounting Office, "Americans With Disabilities Act, Initial Accessibility, Good But Important Barriers Remain," GAO/PEMP-93-16, (May 19, 1993). National Council on Disability, "A Report to the President and Congress On Progress Implementing the Americans With Disabilities Act," (April 5, 1993).

Training Program has become a very important part of the Government's overall effort to inform the public about the ADA. The Board has concentrated its efforts on architects, the design and construction industry, designers of public transit systems and facilities, and State and local government officials.

In previous years the Board has prepared a series of technical manuals, technical bulletins, videos, and an ADAAG Checklist. Additionally, as the following table shows, as of mid-fiscal year 1993 the Board has responded to over 50,000 technical assistance telephone calls, mailed out over 30,000 packets of information, and has provided 188 training sessions.

TECHNICAL ASSISTANCE AND TRAINING						
	FY 91	FY 92	FY 93 To Date	FY 93 Estimated	FY 94 Estimated	FY 95 Estimated
Telephone Calls	16,000	19,000	15,600	18,700	20,000	22,000
Information Packets	9,600	10,500	10,500	12,600	14,000	15,000
Training Sessions	55	62	68	75	80	90

The Board expects the demand for technical assistance and training to increase in fiscal years 1994 and 1995. In fiscal year 1994, the Board plans to publish four new sections for ADAAG containing additional scoping provisions and technical specifications for State and local governments covering judicial, legislative and regulatory facilities; detention and correction facilities; residential housing; and public rights-of-way. Many of the provisions in these sections, particularly public rights-of-way, present completely new accessibility concepts. We anticipate a very high demand for technical assistance and training on these new guidelines. From our experience, we expect to respond to approximately 22,000 telephone calls, send out approximately 15,000 information packets, and provide about 90 training sessions in fiscal year 1995. We will also develop additional technical bulletins, training materials, and are planning a technical assistance manual covering public rights-of-ways.

Research

The Board now selects research projects for each fiscal year based on several considerations, including public comment in response to rulemaking; the need for technical information for future rulemaking; and our technical assistance program needs.

During the initial ADAAG rulemaking in 1991, the public identified 31 areas that are in need of further study before new or additional accessibility guidelines could be developed. In May 1992, the Board published a notice in the Federal Register requesting further public input to assist the Board in prioritizing these areas. The Board's research priorities for fiscal years 1993 and 1994 are largely based on public response to the Federal Register notice.

The Board also considers the need for technical information for future rulemaking when selecting research projects. For example, in fiscal year 1991 the Board contracted for a study on accessibility standards for children in anticipation of developing future guidelines in this area. The study was completed in fiscal year 1992 and the Board published a notice in the Federal Register in February 1993 notifying the public about the availability of the study and requesting comments on several critical issues related to the rulemaking.

In addition, the Board also considers its technical assistance program needs when selecting research projects. For example, the Board receives many requests about where to purchase various accessibility products such as devices to convert doorknobs to lever controls which do not require twisting or turning. The Board has previously contracted to have an accessibility products file developed to meet this technical assistance need. The file is constantly updated. We do not endorse specific products but make the information available to the public.

The Board has successfully used these criteria to choose its fiscal year 1993 and 1994 research projects, which are:

Fiscal Year 1993

- Detectable Warnings. This project will research several issues related to detectable warning surfaces. The project will begin with an extensive international literature review to identify research that has already been conducted regarding detectable warning surfaces. Secondly, it will examine whether there is a need for detectable warning surfaces. If detectable warnings are needed, the research will examine where they are needed and the technical specifications for the warnings.

- Ramp Slope and Landings. This twelve-month project will research and make recommendations regarding ramp slope and landing requirements for new construction and alterations. The project will study the adequacy of the 1:12 maximum slope and 30 foot maximum length for today's population of individuals with mobility impairments. The research project will evaluate existing research and conduct human subject testing focused on individuals with mobility impairments that have not been the subject of previous study.

Fiscal Year 1994

- Space and Reach Range Requirements for Persons Using Power Wheelchairs and Three-Wheeled Scooters and Interior Circulation in Transportation Vehicles. This project will make recommendations for technical specifications for reach ranges, clear floor space, and turning and maneuvering spaces for persons using power wheelchairs and three-wheeled scooters. The project will also study whether additional specifications for interior circulation in transportation vehicles are needed. Specifically, it will address space limitations at fare boxes in buses and light rail vehicles, and whether fare boxes in such vehicles could be made smaller or placed differently.

- Public Information for Persons with Cognitive Disabilities. This project will produce technical assistance materials about providing public information and wayfinding information for persons with cognitive disabilities in buildings, transportation facilities and outside areas. The study will examine the symbols and signage that can be used to meet the needs of that population.

- Regulatory Impact Analysis. The regulatory impact analysis will be a limited project to provide data for a cost benefit analysis of the proposed guidelines for recreation facilities and outdoor developed areas.

As soon as the Board completes its current rulemaking on ADAAG sections for certain State and local government facilities, it will begin the process of selecting research projects for fiscal years 1995 and 1996. During December 1993 and January 1994 we will review the issues from our rulemaking that need research, and we will identify additional "tools" needed for the technical assistance program. We plan to publish a Federal Register Notice in February or March 1994 to solicit public comment on our research agenda. We plan a Board vote on the fiscal year 1995 and 1996 research projects in July 1994.

ABA Enforcement

As the table below illustrates, the number of complaints the Board has received under the Architectural Barriers Act (ABA) has been declining. We expect the number of complaints to level out in fiscal years 1994 and 1995 to some where between 90 and 100. The ABA has been effect for 23 years, and the Board has had the enforcement responsibilities for 20 years. Perhaps, the message of accessibility is being heard, and those entities constructing building and facilities with Federal funds are making them accessible. We have found that entities seem much more willing to take corrective action to remove barriers to accessibility. Even with a reduced case load, the Board plans to keep the same resources allocated to the Compliance and Enforcement program as it has in the past. We do not intend to allow a back log of cases to develop as happened in the 1985 to 1989 time period.

ARCHITECTURAL BARRIERS ACT ENFORCEMENT					
Number of New Cases Received					
FY 91	FY 92	FY 93 To Date	FY 93 Estimated	FY 94 Estimated	FY 95 Estimated
153	145	90	100	100	100

Quality Improvement

The Board is planning to implement a total quality program. We believe such a program is necessary for the Agency. We keep statistics, for example, on the number of phone calls we receive, the number of training courses we provide, and the number of cases

we resolve. However, we do not have any measure of the quality of our services. The Board seems to be a prime agency to implement a quality program. Our size allows us to be less bureaucratic, we are organizationally flat, and we have easily identifiable services and customers. The Board has made a strong commitment to quality. Beginning in October 1992, we have sent all unit directors and the administrative officer to total quality management training. During the summer of 1993, we have visited other Federal agencies that have implemented a quality program to learn about their success and mistakes. We have met with consultants, and staff from the Federal Quality Institute. We have reviewed a number of survey instruments other agencies have used to survey their internal and external customers.

We have begun instituting quality oriented changes. We have had numerous complaints from technical assistance customers that our toll-free lines were always busy. A volunteer team of Board staff took the lead in developing the hardware and software specifications and the menu options for a new telephone system. The telephone system is now in place with real time reports available to monitor line usage. Additionally, for the first time, we are using an advisory committee made up of people who will be the customers using our accessibility guidelines for recreation to recommend guidelines for the Board to consider. The response and work of the members of the advisory committee have exceeded our expectations.

During fiscal year 1994, we plan to provide all the Board staff with training in the quality approach, measurement techniques, and team problem solving. The staff and Board members will together develop a vision statement for the Board and specific goals. We plan to conduct a survey of both external and internal customers of the Board. By fiscal year 1995, we will have a quality approach to our programs and services at the Board. We do not anticipate any additional fiscal year 1995 funds will be necessary for this effort.

Public Communications

The Public Communications program will coordinate efforts to provide information to the Board's publics and customers, to assess customer needs for specific data or products, and to develop ways to address those needs through technical assistance, training, publications, and video and audio presentations. The program will also increase access to information through a variety of channels including a recorded news and information telephone line, a computer bulletin board, expanded and refined mailing lists for reaching specific publics or customers with information pertinent to their needs or to notify them of issues of interest. In addition, the Public Communications program will foster working together collaboratively with outside groups in order to develop closer ties with other Federal agencies, State and local governments, and such customer groups as architects, designers, public works officials, and building and construction managers.

**NATIONAL INSTITUTE ON DISABILITY
AND REHABILITATION RESEARCH**

400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-2572
202/205-8134

**DBTAC TOLL FREE NO. - 1-800-949-4232
(VOICE/TDD)**

The National Institute on Disability and Rehabilitation
Research's (NIDRR's) Americans with Disabilities Act (ADA)
Technical Assistance Initiative

History: In the fall of 1991, the Senate Report accompanying NIDRR's Appropriation bill directed NIDRR to fund "technical assistance related to the implementation of the ADA" and the House report directed NIDRR to fund "...up to ten new regional centers on disability." In response to these directives, NIDRR established an ADA technical assistance initiative with the following five components.

Five Components:

- (1) Regional Disability and Business Technical Assistance Centers (DBTACs)
- (2) National Training Projects (NTPs)
- (3) Materials Development Projects (MDPs)
- (4) ADA Grant Coordination Contractor
- (5) Interagency Collaboration

Project Model:

NIDRR's technical assistance program is designed to develop and support a network of technical assistance providers that operates at a regional, State, and local level. Each of the regional DBTACs has established a network of State affiliates. In the next five year cycle, a network of local affiliates will be established by the State affiliates.

ADA Grants and Contracts History:

October 1991

- 10 DBTACs - 5 Year Grants
- 2 NTPs - 3 Year Grants
 - (1) Independent Living Centers
 - (2) Peer and Family Networks
- 3 MDPs - 2 Year Grants
 - (1) Public Accommodations and Accessibility
 - (2) Employment
 - (3) Employment
- 1 ADA Grant Coordination Contractor - 3 Years

October 1994

- 10 DBTACs (continued)
- 6 NTPs - 3 Year Grants
 - (1) Independent Living Centers
 - (2) Family Organizations
 - (3) School Districts
 - (4) State and Local ADA Coordinators and Policymakers
 - (5) Hispanics with Limited Proficiency in English
 - (6) Standards for Accessible Design
- 1 ADA Grant Coordination Contractor - 3 Years

Average Annual Budgets: (1) DBTACs: \$450,000; (2) NTPs: \$250,000;
(3) MDPs: \$250,000; (4) ADA Contractor: \$300,000.

The DBTACs and State affiliates are administered by a wide range of agencies:

	DBTACS	State Affiliates
Independent Living Centers	1	16
Disability Organizations	2	9
Disability Coalitions		8
Governors' Committees on Disability	1	8
State Disability Agencies		13
Disability-related Business-based programs	2	7
Disability-related University-based programs	4	7

Note: The number of State affiliates exceeds 50 because some of the larger States have more than one affiliate.

Accomplishments:

(1) Regional Disability and Business Technical Assistance Centers

a. Receive 6,000 per month on 800# that automatically routes caller to the DBTAC serving the area code of the caller.

b. Train over 60,000 persons per year on all parts of the ADA using a variety of methods and formats:

1. Business ----- 29%
2. Government ----- 27%
3. Individuals with Disabilities- 24%
4. Service Providers ----- 12%
5. Other ----- 8%

c. Distribute 540,000 documents per year at no cost or cost of shipping and duplication. All materials distributed by the DBTACs are either produced by the Department of Justice (DOJ) or the Equal Employment Opportunity Commission (EEOC) or reviewed by them for legal sufficiency.

d. Provided 80,000 instances of technical assistance per year. Technical assistance defined to include: making referrals, answering technical questions, and providing on-site consultation, making TV/radio appearances, and writing newspaper and magazine articles.

e. All of the grantees share information with each on a daily basis using a electronic bulletin board housed at the University of West Virginia. The EEOC and Access Board are participants on the bulletin board.

f. Special Initiatives: The DBTACs have undertaken a wide range of special initiatives in addition to their core functions. Some of these special initiatives are:

1. A Minority Outreach Project in Los Angeles that began with \$25,000 from the Region IX DBTAC and grew to \$120,000 with matching grants from the local and State agencies. The outreach is targeted to minority community organizations, consumers, and disadvantaged business enterprises.

2. A Hispanic Outreach Project in Texas that developed new ADA materials in Spanish and piloted the use of mass media as a means of reaching persons who are Hispanic and have limited proficiency in English.

3. The development of materials about the implications of the ADA for persons who with mental retardation. Note: A similar project was undertaken by one of NIDRR's field-initiated research projects regarding persons with psychiatric disabilities.

4. The development of TV and radio PSAs about the ADA in English and Spanish.

5. The development of a pilot curriculum about the ADA and disability awareness for elementary and secondary school students.

6. Each of the DBTACs makes \$50,000 available to the Independent Living Centers in the region to promote the implementation of the ADA through technical assistance activities.

(2) National Training Projects (NTPs)

The Peer and Family Training Project trained approximately 2,400 person per year on all aspect of the ADA.

The Independent Living Center Training Project trained approximately 75 persons per year on all aspects of the ADA. This training was intensive and intended to enable the trainee to train other persons associated with Independent Living Centers.

(3) Materials Development Projects (MDPs)

The MDPs developed over 60 products including videos, self-evaluation instruments, fact sheets, facility surveys, PSAs, and slide shows. These materials were distributed by the DBTACs and publishing houses and were reviewed by the DOJ and the EEOC for legal sufficiency.

(4) ADA Grant Coordination Contractor

The Coordination Contractor convened semi-annual 3 day meetings of all of the Project Directors, facilitated the distribution of materials from other Federal agencies to the DBTACs, and collected and compiled monthly evaluation data on all of the grantees.

(5) Interagency Collaboration

a. NIDRR has provided funding to the DOJ and EEOC to defray costs of publishing their ADA materials and sponsored a joint meeting of the NIDRR-DOJ technical assistance grantees.

b. At each of the Project Directors' meetings, representatives of all relevant Federal agencies update the grantees on the status of their technical assistance and enforcement activities and answer technical questions.

c. NIDRR has cooperated with the Office for Civil Rights with the Department of Education to develop and publish self-evaluation guides for schools, universities and public libraries.

d. There are staff liaisons at the EEOC, DOJ, and Access Board with each of the DBTACs to assist them to answer technical questions accurately and in a timely manner.



April 4, 1994

Enforcing the ADA

A Status Report from the Department of Justice

INSIDE...

ADA Litigation.....	2-5
Formal Settlement Agreements	5-8
Other Settlements	8-12
Certification.....	13
Technical Assistance	13-14
Other Sources of Information	15
How to File a Complaint	16

The Americans with Disabilities Act (ADA) is a comprehensive civil rights law for people with disabilities. The Department of Justice enforces the ADA's requirements in three areas --

Title I: Employment practices by units of State and local government

Title II: Programs, services, and activities of State and local government

Title III: Public accommodations and commercial facilities

I. Enforcement

Through lawsuits and both formal and informal settlement agreements, the Department has achieved greater access for individuals with disabilities in over 200 cases. Under general rules governing lawsuits brought by the Federal Government, the Department of Justice may not file a lawsuit unless it has first unsuccessfully attempted to settle the dispute through negotiations. As a result, most complaints filed with the Department will be resolved before a lawsuit becomes necessary. Many cases are settled after an on-site investigation.

A. Litigation

The Department may file lawsuits in Federal courts to enforce the ADA and may obtain court orders including compensatory damages to remedy discrimination. Under title III the Department may also obtain civil penalties of up to \$50,000 for the first violation and \$100,000 for any subsequent violation.

1. Ongoing lawsuits

The Department has initiated, or intervened in, the following pending lawsuits.

Title I

U.S. v. State of Illinois -- The Department sued the State of Illinois, the City of Aurora, and its police and fire pension funds for excluding police officers and firefighters from its pension funds on the basis of disability. Under the challenged system, police officers and firefighters are required to undergo separate physical examinations, after they are hired, to determine eligibility for retirement and disability benefits. The Department's investigation resulted from the complaint of an Aurora police officer who was ruled ineligible for pension benefits because he has diabetes.

Title III

U.S. v. Morvant, Louisiana and *U.S. v. Castle Dental Center, Texas* -- The Department filed lawsuits against a dentist in New Orleans and a dental center in Houston alleging that they had violated title III of the ADA by refusing to provide dental treatment to individuals who had tested positive for HIV. The Department asserts that there is no scientific or medical justification for excluding persons with HIV or AIDS from dental or orthodontic treatment solely on the basis of their HIV+ status. Both cases are in the early stages of litigation.

In *Morvant* the court denied the defendant's motion to dismiss. The court ruled that compensatory damages may be awarded on behalf of a deceased individual who suffered discrimination because of his positive HIV status. The court also held that the defendant dentist may be sued in his individual, as well as his corporate, capacity.

U.S. v. Becker CPA Review, Inc., District of Columbia -- The Department sued Becker CPA Review for failing to take appropriate steps to communicate effectively with students who have hearing impairments. Becker, the nation's largest CPA review course, prepares over 10,000 students a year to take the national certified public accountant exam. The

Ongoing Lawsuits

Department is seeking (1) a permanent change in Becker's policy so that sign language interpreters and other auxiliary aids are provided to those who need them; (2) civil penalties; and (3) damages for the original complainant, several other people with hearing impairments who have reported that they were not accommodated, and any others who may have had similar experiences. Trial is scheduled for July 5, 1994.

Pinnock v. International House of Pancakes (IHOP), California -- Upon notice by the Federal district court that the constitutionality of a Federal law was being challenged, the Department intervened in this case to defend the constitutionality of title III of the ADA. The suit had been filed by a private individual asserting that the California pancake restaurant had failed to undertake readily achievable barrier removal and to provide auxiliary aids and services. The court adopted the Department's views and upheld title III's constitutionality. The defendant has appealed the court's ruling.

Posner v. Central Synagogue, New York -- In a private lawsuit involving alleged discrimination by a nursery school, the Department intervened, upon notice by the Federal district court, to defend the constitutionality of the exemption for religious organizations under title III of the ADA. The court has not yet issued a ruling.

2. Consent decrees

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

Title III

U.S. v. Allright Colorado, Inc., Colorado -- The Department entered into a consent decree resolving its lawsuit against Allright Colorado, a company that owns or operates over 100 parking lot facilities in Denver. Under the agreement, Allright will add well over 400 accessible parking spaces to its facilities and will instruct parking attendants to monitor the slots and ticket cars that are improperly parked in accessible spaces. Allright paid a \$20,000 civil penalty to the United States because of the alleged delay in moving toward compliance.

U.S. v. Venture Stores, Inc., Illinois -- The Department entered into a consent decree resolving its lawsuit against Venture Stores, Inc., a St. Louis, Missouri, firm that operates more than 90 discount department stores in eight states. Venture agreed to modify its policy of permitting only customers with drivers' licenses to pay for merchandise with a personal check, and will now permit individuals who do not drive because of a disability to pay by check if they have a non-driver state ID card. Venture also agreed to make payments to four individual complainants.

3. Amicus briefs

The Department files briefs in selected ADA cases in which it is not a party in order to guide courts in interpreting the ADA properly.

Title II

Kinney v. Yerusolim, Pennsylvania -- In agreement with an amicus brief filed by the Department of Justice, the U.S. Court of Appeals for the Third Circuit ruled that the ADA requires cities to install curb ramps when they resurface streets. This title II lawsuit was brought against the city of Philadelphia by a group of people with mobility impairments.

Lakes Region Consumer Advisory Board v. City of Laconia, New Hampshire -- The City of Laconia denied the Lakes Region Consumer Advisory Board's application for a permit to operate a facility providing services to persons with mental illness. The Advisory Board sued, alleging that the denial violated title II of the ADA and section 504 of the Rehabilitation Act. The Department filed an amicus brief supporting the Advisory Board's position that zoning decisions are subject to review under title II of the ADA and section 504 of the Rehabilitation Act. No ruling has yet been issued.

Medical Society of New Jersey v. New Jersey State Board of Medical Examiners, New Jersey -- The Medical Society of New Jersey filed suit challenging certain questions on the State medical board's application for renewal of medical licenses. The Department filed an amicus brief arguing that broad questions pertaining to a history of psychiatric illness or a history of drug or alcohol abuse, not drawn to focus on current impairments of a physician's fitness to practice medicine, are discriminatory under title II of the ADA. In a procedural ruling, the Federal district

court agreed that a licensing process that places greater burdens on individuals because of positive responses to the challenged questions would likely violate title II.

Galloway v. Superior Court of the District of Columbia, District of Columbia -- A blind individual filed a lawsuit in Federal district court charging that the District of Columbia Superior Court's policy of categorically excluding blind persons from jury service violates title II of the ADA and section 504 of the Rehabilitation Act of 1973. The Federal district court judge agreed, and awarded the plaintiff \$30,000 in damages. The Department of Justice argued in support of the plaintiff's view that compensatory damages are available remedies under both the ADA and section 504.

Livingston v. Guice, North Carolina -- A person who uses a wheelchair filed a lawsuit in Federal district court against the State of North Carolina and a State court judge charging that they had violated title II of the ADA by preventing her from entering a courtroom through the only accessible entrance known to her. The Department argued in an amicus brief that States may be sued for damages under title II. The court has not yet issued a ruling.

Rosenthal v. State Board of Law Examiners, New York -- A law school graduate with learning disabilities filed a lawsuit charging that the New York State Board of Law Examiners had refused to make reasonable adjustments in its procedures to give her an equal opportunity to pass the State bar exam. In settling the case the State Board agreed to let her take the exam in a separate room, take twice the usual amount of time, and have the assistance of a person to transcribe her answers onto the multiple choice answer sheet. During the litigation the Department of Justice filed an amicus brief arguing that both title II and

Amicus Briefs

title III of the ADA require reasonable modifications in policies, practices, and procedures when necessary to avoid discrimination in testing.

Title III

Cohen v. Boston University, Massachusetts -- A person who has Tourette Syndrome filed a lawsuit against Boston University charging that it violated title III of the ADA by refusing to readmit her to its graduate school of social work because of her disability. The Department filed a brief in support of the plaintiff arguing that the court should not grant summary judgment for the University, because facts concerning the University's actions remain in dispute. The court has not yet issued a decision.

B. Formal settlement agreements

The Department has resolved a number of cases without filing a lawsuit by means of formal written settlement agreements.

Title II

Philadelphia, Pennsylvania -- The City of Philadelphia entered an agreement resolving a complaint alleging that emergency medical technicians (EMT's) of the Philadelphia Fire Department had refused to assist an individual when they learned that he had HIV. The City agreed to conduct mandatory training of the Department's 2,300 EMT's and firefighters regarding universal precautions to prevent the transmission of HIV/AIDS, as well as to provide HIV/AIDS sensitivity training. The City will also develop and publicize a written policy stating that individuals with disabilities shall be given the opportunity to benefit fully from its emergency medical services. The policy will include disciplinary measures for any individual

who fails to follow the City's guidelines. In addition, the City will provide \$10,000 in compensatory damages and a written apology to the individual denied services.

Hickman County, Kentucky -- Hickman County agreed to develop a compliance plan to provide access to the services, programs, and activities conducted in its courthouse, thus resolving a complaint alleging that a man using a wheelchair was unable to enter the circuit clerk's office to renew his driver's license because the doors were too narrow.

Van Buren County, Arkansas -- Van Buren County agreed to relocate County court activities to an accessible site upon request; develop a self-evaluation and a transition plan; adopt a grievance procedure; and place public notices of its nondiscrimination policy and responsibilities under the ADA on County bulletin boards and in local newspapers.

Harris County (Houston), Texas -- Harris County agreed to make all of the programs offered in each of its 106 courtrooms and jury assembly rooms accessible, to furnish the auxiliary aids necessary to achieve effective communication in all of the county's programs, and to provide staff training.

Formal Settlement Agreements

Scott County, Arkansas -- Scott County agreed to renovate the county courthouse in order to make it readily accessible to individuals with disabilities. Specifically, the county agreed to renovate the courthouse's entrances, restrooms, door hardware, and drinking fountains.

City of Fargo, North Dakota -- The City of Fargo agreed to resolve complaints against its sports stadium and general entertainment facility, the Fargodome. The City will adopt a formal policy

that provides for ticket prices for individuals with disabilities who need special seating to attend events in the Fargodome that are equivalent to ticket prices charged to others. The City also agreed to publicize its new policy, appoint an ADA coordinator for the Fargodome, develop an ADA grievance procedure, and conduct an evaluation of its policies and practices as required by title II.

Norwood, Ohio -- The City of Norwood agreed to develop a written plan and timetable for making the services, programs, and activities offered at the Norwood City Hall accessible for persons with mobility impairments; submit architectural plans to the Department for review if the City determines that structural changes are needed; and make the agreement available to the public.

Madison County, Florida -- The Board of Commissioners of Madison County agreed to install an elevator, widen doors, renovate toilet facilities and water fountains, and install appropriate signage to make its programs at the Madison County Courthouse accessible for persons with mobility impairments. The County also will submit an interim plan for making its programs accessible until the renovations are completed.

Pinellas County, Florida -- The Sixth Judicial District of Florida entered into an agreement requiring the courts in that district to establish a written policy on providing qualified interpreters for participants, including parties, witnesses, jurors, and spectators, who are deaf or hard of hearing; secure the services of a qualified interpreter when necessary to ensure effective communication; notify the public about the policy; and inform and instruct all appropriate district court officials to comply with the policy.

Salt Lake City, Utah -- The complaint alleged that a State district court in Salt Lake City disqualified or otherwise excluded from jury service individuals who are deaf unless they bring their own interpreters. The agreement with the Utah State Administrative Office of the Courts committed the courts in Utah to provide appropriate auxiliary aids and services, including qualified interpreters, when necessary to provide an individual with a disability an opportunity to serve as a juror. The agency will establish a written policy on jury duty and the provision of interpreting services; notify the public about the new policy; inform and instruct all appropriate district court officials to adhere to the policy; and conduct at least four regional training seminars.

Clearwater, Florida -- The complaint alleged that the police department had failed to provide an interpreter in the arrest of an individual who is deaf. The Clearwater police department agreed to establish and publicize a written policy for providing interpreters whenever necessary for effective communication.

Paulding County, Ohio -- In response to a complaint 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 request, if the request is made in a reasonable period of time before the scheduled court date. The County board also agreed to publicize its new policy.

Formal Settlement Agreements

Title III

Educational Testing Service, New York, New York -- The Educational Testing Service (ETS) and the College Entrance Examination Board agreed to provide additional opportunities for students with disabilities to take the new version of the Scholastic Assessment Text (SAT-I) in the spring of 1994. Students had complained that the testing schedule set up by ETS and the College Board prevented students with disabilities from taking the SAT-I in May or June 1994 even though virtually all other students were given those opportunities. Approximately 2,600 students with disabilities took an old version of the SAT in March 1994. Under the agreement, ETS will notify them of the opportunity to cancel those scores and take the new SAT-I in June 1994.

Motorcycle Mechanics Institute, Phoenix, Arizona -- A Phoenix trade school agreed to pay \$16,000 to an individual with a vision impairment who had been denied admission to the program. The school also agreed to change its policy of requiring persons with disabilities to submit additional documentation regarding their career goals and proof of employability.

Omaha Zoological Society, Omaha, Nebraska -- The Omaha Zoological Society, a nonprofit corporation that operates and manages the Henry Doorly Zoo, Lied Jungle indoor rainforest, and its Treetops Restaurant, agreed to remove architectural barriers and to provide auxiliary aids and services. Under the agreement the Society will install a wheelchair lift in the Treetops Restaurant; continue to make electric scooters available to persons with mobility impairments to provide access to the Jungle floor path; remove barriers on the Jungle's path; and make modifications to restrooms. In addition, the society will provide a

variety of auxiliary aids and services, including audiotape recordings of the Lied Jungle Trial Guide and information about the rainforest contained on signs located throughout the jungle. Staff will be available to serve as guides to visitors with visual impairments upon request.

Empire State Building, New York, New York -- The owners and operators of the Empire State Building agreed to take wide-ranging measures to ensure access to public areas of the building. The agreement mandates changes to the lobby, entrance, observation decks, restrooms and telephones, but does not cover any privately leased office space in the building. The complaint alleged that the Empire State Building was operating in violation of the ADA because its owners and operators failed to remove architectural barriers where such removal was readily achievable.

Formal Settlement Agreements

Emerald Lanes, Greenwood, South Carolina -- The owners of Emerald Lanes, a bowling center, agreed to construct a ramp and a new door at the front entrance; build a new, accessible unisex restroom and vestibule leading to it; and add accessible parking. The agreement resolved a complaint from an individual who uses a wheelchair for mobility who could not watch his children participate in a bowling league and banquet because the facility was inaccessible.

Marquee Video, Lacey, Washington -- Marquee Video of Lacey, Washington, agreed to modify its policy of permitting only customers with drivers' licenses to rent videotapes and videotape players. It will now permit people who do not drive because of a disability to rent videotapes and tape players if they have a non-driver State ID card.

Sardi's Restaurant, New York, New York --
Sardi's Restaurant in New York City agreed to resolve a complaint that the restaurant's restrooms were inaccessible for persons who use wheelchairs or other mobility devices. Sardi's will install an accessible unisex restroom and signage indicating the location of the restroom.

Quality Hotel Downtown, Washington, D.C. --
Staff of the Quality Hotel Downtown in Washington, D.C., had not permitted a guest to use a motorized scooter as a mobility device to get to his room. The hotel agreed to pay the complainant \$10,000 in damages and to train all employees on the requirements of the ADA.

Formal Settlement Agreements

Inter-Continental Hotel, New York, New York --
The Department entered a wide-ranging formal settlement agreement with the Inter-Continental Hotel in midtown New York, a member of a chain of prestigious hotels in major cities. The hotel will make numerous changes to its 691-room facility and procedures over the next five years, including removing physical barriers in public areas such as the front entrance, lobby, and ballroom, as well as in 21 guest rooms; providing television decoders, telephone handset amplifiers, visual smoke alarms, and visual door knock and telephone indicators in 35 guest rooms; making elevator modifications to provide access for persons with vision impairments; and modifying reservation and room assignment policies to ensure that accessible rooms are made available to those who request them.

Municipal Credit Union, New York, New York --
A branch office of the Municipal Credit Union in New York City was inaccessible to people with mobility impairments. The Credit Union agreed

to install a ramp at the entrance, to notify its customers of the ramp, to post appropriate signs, and to instruct the staff to provide assistance when requested by an individual with a disability.

C. Other settlements

The Department resolves numerous cases without litigation or a formal settlement agreement. In some instances, the public accommodation or commercial facility promptly agrees to take the necessary actions to achieve compliance. In others, extensive negotiations are required. Following are some examples of what has been accomplished through informal settlements.

Title II

Access to facilities

- A Missouri county agreed to install an elevator and make other structural modifications to make its courthouse accessible. In the interim, it will provide alternative means for providing services to individuals with disabilities.
- A Tennessee city agreed to move all city meetings from the inaccessible second floor of the town hall to the city's accessible library. It also built ramps at two entrances to the town hall and remodeled restrooms in the town hall and library.
- Various cities and towns in the East and Midwest agreed to install elevators in their city halls/courthouses and to undertake other structural actions, such as adding ramps and remodeling restrooms and entrances, or to make these buildings accessible by moving their programs (e.g., town meetings and services) to alternative accessible locations.

- A Washington county installed an intercom on the first floor of its courthouse annex so that persons can contact offices located on the second floor when they need to have the services provided on the first floor.
- A New England town agreed to build a roof over the ramp leading to its 150-year-old town hall to ensure that the ramp does not become blocked by snow.
- A small town in Oklahoma agreed to formulate and enforce a written policy prohibiting the misuse of accessible parking spaces at its town hall by nondisabled town officials.
- In Iowa, a board of elections agreed to move a polling place to an accessible location.

Effective communication

- A western State department of corrections agreed to provide a sign language interpreter for a deaf inmate's parole hearing.
- A Michigan State district court agreed to provide an assistive listening device for an upcoming court date for an individual who is hard of hearing.
- A city in Texas agreed to provide additional microphones during city council meetings to ensure more effective communication with persons who have hearing impairments.
- A committee of bar examiners of a west coast State agreed to allow a severely visually impaired individual to use a personal computer with a high resolution monitor to take the bar exam.

Policies and procedures

- A Texas police department agreed to change its policies and procedures on public contact after an individual with severe physical disabilities was treated in a demeaning manner at the scene of an automobile accident.

The police officer involved received a reprimand and was required to attend sensitivity training.

Other Settlements

- A State board of law examiners agreed to allow an individual extra time (time and one-half over two days) to take the State bar examination as an accommodation for his learning disability.
- A west coast State board of behavioral science examiners agreed to provide extra time (time and one-half) for an individual with a learning disability taking the oral examination for licensed clinical social worker.
- An Arizona police department agreed to allow an individual with a mobility impairment to use his motorscooter on roads and sidewalks within city limits anywhere that conventional wheelchairs are allowed.
- A State department of corrections agreed to relocate an inmate with a disability to a facility 400 miles closer to his mother's home so that his mother could visit him and monitor his medical condition.
- Two midwest State prisons agreed to modify security and visitation procedures to allow wives with disabilities to visit their inmate husbands.
- A county in Washington State agreed to include individuals with disabilities in developing its self-evaluation and transition plans.

- A Pennsylvania county court agreed to provide accommodations for an individual with a learning disability, including daily transcripts and extra time to ask questions, during court proceedings.
- A Louisiana fast food restaurant, a Texas grocery store, a health care facility, a shopping mall, an Oregon shopping center, and a retirement community have all agreed to provide accessible parking in their parking lots. The grocery store and shopping center also agreed to install the curb ramps that a person who uses a wheelchair needs to get from the parking lot to the front door.

Employment

- A Tennessee county agreed to separate its medical and personnel records, as required by the ADA.
- A city in Illinois agreed to reinstate an individual with epilepsy to his position as custodian.
- Two other fast food restaurants agreed to relocate their accessible parking spaces to make them closer to the front door.

Title III

Other Settlements

Access to facilities

- A California convenience store of a well-known franchise agreed to make three of its checkout aisles, including one express lane, accessible for people who use mobility devices.
- A Utah bank, an Illinois bowling center, an office building, and a Maryland cable television company have all agreed to install ramps to make their entrances accessible for people who use mobility devices. The bowling center, office building, and cable TV company also agreed to provide accessible parking in their parking lots.
- A credit union agreed to lower an ATM machine to make it accessible for persons who use wheelchairs.
- An Illinois bank agreed to install automatic doors at its front entrance to make it easier for people with visual, manual, and mobility impairments to gain access.
- A health club agreed to install a lift to enable a wheelchair user to participate in an arthritis rehabilitation program in the club's swimming pool.
- A national retail chain agreed to provide accessible parking at its stores nationwide, and a major rental car company agreed to provide accessible parking at a major metropolitan airport and to institute valet parking service when needed by customers with disabilities.
- A 12-theater complex in Colorado agreed to provide additional seating throughout its theaters for people who use wheelchairs.
- A California department store agreed to make its restrooms and fitting rooms accessible for people with manual or mobility impairments, to lower the height of its public telephones and drinking fountains to make them accessible for people who use wheelchairs, and to upgrade its elevators and install signage to make the store accessible for people who have vision impairments.

- A motel in Louisiana agreed to provide accessible parking, to make its front desk and lobby restrooms accessible, and to make six guest rooms accessible for guests with mobility impairments, including converting to roll-in showers in two of the rooms.
- A Louisiana steamboat company agreed to improve accessibility for passengers with mobility impairments on two of its boats. It eliminated access barriers in its dining and entertainment areas and made its restrooms accessible.
- Organizers of the Mississippi Delta Blues Festival, which draws some 10,000 to 20,000 spectators each year, took a number of steps to make its parking, seating, restrooms, and festival grounds accessible for people with disabilities when the 1993 festival was held in Greenville, Mississippi.
- A baseball stadium agreed to make its ticket counters, seating, restrooms, and concessions accessible for people who have mobility impairments.

Other Settlements

- A hospital agreed to change its policy of providing sign language interpreters only for patients and not for family members. It provided an interpreter for a man who is deaf so that he could attend his wife's Lamaze classes and serve as her coach during the birth of their child.
- Several movie theaters in Florida have agreed to provide assistive listening devices for patrons who have hearing impairments.
- A famous entertainer, who was performing in New York, allowed a man with a hearing impairment to move closer to the stage so that he could read the entertainer's lips during the concert and provided him with printed lyrics for all of the songs to be performed.
- An Arizona hotel agreed to purchase additional TDD's and closed-captioning decoders and to implement a better system for responding to guests with hearing impairments who request the use of this equipment during their stay in the hotel.

Effective communication

- A variety of public accommodations, including a practicing attorney in California, a midwife service, a psychiatric hospital in New York, a famous entertainer, an alcohol and drug counseling program in Washington, D.C., and a program to reduce domestic violence in Colorado, have agreed to provide sign language interpreters to communicate effectively with clients who are deaf or hard of hearing.

Policies and procedures

- A North Carolina mortgage company agreed to pay damages to a complainant who alleged that the company rejected his application for refinancing his mortgage loan because of his disability. The mortgage company paid to the complainant direct expenses that were sustained as a result of refinancing his mortgage elsewhere, and other damages, with a total payment of \$6,000.
- A national rental car company revised its policy relating to cash qualifications for rental car customers. Previously, customers who did not have credit cards could only rent a car with cash if they had a verifiable em-

ployment history. A person with a disability who was unemployed due to the disability, and who did not have a credit card, was denied service altogether. Now customers may complete a written application that includes disability-related income as an alternative to employment information.

- A Texas movie theater that had prevented a woman from bringing a box of cookies into the theater for her diabetic child agreed to modify its policy against outside food and beverages by making an exception in the case of medical necessity.
- A bar in Illinois agreed to modify its policy of refusing to serve alcohol to customers who appear to be drunk based on the way they walk. A customer who has Parkinson's disease had been refused service because staff assumed he was drunk due to his unsteady gait associated with his disability.
- A drugstore chain agreed to modify its policy against permitting animals in its stores by making an exception in the case of service animals such as guide dogs.
- A famous restaurant in New York City that had turned away a customer who was wearing sneakers due to a mobility impairment agreed to modify its dress code by making an exception when necessary to provide service to a person with a disability.
- A Nevada hotel agreed to offer its barrier-free rooms at the same rate as its other rooms, including at those times when promotional or special rates are offered.

Other Settlements

D. Investigations

The Department is currently investigating over 900 complaints against public accommodations and commercial facilities under title III.

In addition, the Department is currently investigating nearly 800 complaints against units of State and local government under title II. Seven other Federal agencies are also investigating title II complaints and may refer cases to the Department of Justice for litigation.

The Department also has a number of investigations underway under title I against public employers. (Enforcement of title I against private employers is handled by the EEOC.)

II. Certification of State and Local Building Codes

The ADA authorizes the Department to certify State or local laws or building codes that meet or exceed the ADA's accessibility requirements. This is a voluntary program in which States and localities can choose to participate. In a jurisdiction whose law or code has been certified, when a new public accommodation or other commercial facility is built, or an existing facility is altered or expanded, compliance with the local regulations will give the building owner and other responsible parties rebuttable evidence of compliance with the ADA if the building's accessibility is later challenged under the ADA.

On May 20, 1993, the Department of Justice issued its first response to a request for certification of a state accessibility code. The letter to the State of Washington provided a side-by-side analysis of the State's standards and the ADA standards as a means of providing technical

assistance to the State in identifying minor areas of discrepancy. It was not a formal preliminary determination of equivalency or nonequivalency with the Federal accessibility standards.

Other requests for certification have been received from the City of New York, the State of New Mexico, the State of Utah, and the State of Florida.

The Department has also responded to a request for technical assistance from the State of New Hampshire and is reviewing requests for technical assistance from the Council of American Building Officials (CABO) on behalf of the American National Standards Institute (ANSI) A117.1 committee, the Building Officials and Code Administrators International (BOCA), and the National Parking Association.

III. Technical Assistance

The ADA requires the Department of Justice to provide technical assistance to entities and individuals with rights and responsibilities under the ADA. The Department encourages voluntary compliance by providing education and technical assistance to business, industry, government, and members of the general public through a variety of means.

ADA telephone information line

The Department of Justice now provides toll-free "800" service for both voice and TDD callers who have questions about title II and title III of the ADA, including the Standards for Accessible Design. Under its expanded hours of operations, operators may be reached from 11:00

a.m. to 5:00 p.m. (EDT), Monday through Friday (except Thursdays, 1:00 p.m. to 5:00 p.m.). The system has been upgraded to accommodate a larger number of callers simultaneously and to provide Spanish language service. Callers may hear recorded information and order materials at any time, day or night. The information line numbers are:

Nationwide
1-800-514-0301 (voice)
1-800-514-0383 (TDD)

Washington, D.C., area
202-514-0301 (voice)
202-514-0383 (TDD)

Grants

ADA technical assistance grants are awarded primarily to target specialized information to specific audiences. To date, \$6.5 million in grant funds have been awarded for ADA technical assistance projects to 30 organizations.

Publications

Copies of the Department of Justice's regulations for titles II and III of the ADA, the ADA Questions and Answers booklet, the ADA Handbook (limited quantities available), and information about the Department's technical assistance grant program can be obtained by calling the telephone number listed above or writing to the address listed below. These materials are available in standard print, large print, Braille, audio-tape, and computer disk.

U.S. Department of Justice
Civil Rights Division
Public Access Section
Post Office Box 66738
Washington, D.C. 20035-6738

These materials are also available through the Department of Justice's ADA electronic bulletin board at 202-514-6193.

Copies of the Department of Justice's Technical Assistance Manuals for titles II and III can be obtained by subscription from the Government Printing Office. The subscription for the Title II Manual, which includes annual supplements through 1996, costs \$24. The subscription for the Title III Manual with supplements through 1996 costs \$25. Call the ADA information line to obtain an order form.

Copies of legal documents and settlement agreements mentioned in this publication can be obtained by writing to:

Freedom of Information/Privacy Act
Branch
Room 7337
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

IV. Other Sources of ADA Information

The Equal Employment Opportunity Commission offers technical assistance to the public concerning title I of the ADA.

For ordering documents
1-800-669-3362 (voice)
1-800-800-3302 (TDD)

For questions
1-800-669-4000 (voice)
TDD: use relay service

The U.S. Department of Transportation offers technical assistance to the public concerning the public transportation provisions of title II and title III of the ADA.

ADA documents and general questions
202-366-1656 (voice)
202-366-2979 (TDD)

ADA legal questions
202-366-9306 (voice)
202-755-7687 (TDD)

Nat'l Easter Seal Society
"Project Action" grant
202-347-3066 (voice)
202-347-7385 (TDD)

Air Carrier Act questions
202-376-6406 (voice)

The Federal Communications Commission offers technical assistance to the public concerning title IV.

ADA documents and general questions
202-632-7260 (voice)
TDD: use relay service

ADA legal questions
202-634-1808 (voice)
202-632-6999 (TDD)

Hearing Aid Compatibility
Act (HACA) questions
202-634-7150 (voice)
TDD: use relay service

The U.S. Architectural and Transportation Barriers Compliance Board, or "Access Board," offers technical assistance to the public on the ADA Accessibility Guidelines.

ADA documents and questions
800-872-2253 (voice & TDD)
202-272-5434 (voice)
202-272-5449 (TDD)

The National Institute on Disability and Rehabilitation Research (NIDRR) of the U.S. Department of Education has funded Disability and Business Technical Assistance Centers (DBTAC's) in ten regions of the country to provide technical assistance to the public concerning title I, title II, and title III of the ADA.

ADA technical assistance
(800) 949-4232 (voice & TDD)

V. How to File Complaints

Title I

Complaints about violations of title I (employment) by units of State and local government or by private employers should be filed with --

Equal Employment Opportunity Commission
Program Development and Technical Assistance Division
Office of Program Operations
1801 "L" Street, N.W.
Washington, D.C. 20507

Title II

Complaints about violations of title II by units of State and local government should be filed with --

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

Title III

Complaints about violations of title III by public accommodations and commercial facilities should be filed with --

U.S. Department of Justice
Civil Rights Division
Public Access Section
Post Office Box 66738
Washington, D.C. 20035-6738

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U.S. Department of
Transportation

Office of the Secretary
of Transportation

Memorandum

Subject Department of Transportation
Activities in Improving Transportation
Accessibility (Update)

Date JUN 3 1994

From Joseph Canny *Joseph Canny*
Deputy Assistant Secretary for
Transportation Policy

Reply to
Attn of

To Stanley Herr
Domestic Policy Council

In response to your request to Deputy Secretary Mortimer Downey, enclosed is an updated version of the Department of Transportation's (DOT) memorandum to you of December 28, 1993, on what has been accomplished in removing barriers to persons with disabilities who wish to use the Nation's transportation system and the Department's future directions in this area. The new material added to the December 28 memo is highlighted by its placement under "Update" headings. Also enclosed is an addendum describing DOT's effort to inform and involve persons with disabilities and industry representatives about Departmental programs and requirements for improving transportation services for persons with disabilities. The addendum includes some discussion as well as problems encountered in complying with accessibility rules.

I trust you will find this information helpful.

Enclosures

Department of Transportation Activities
in Improving Transportation Accessibility (Update)

The following is an update of the Department of Transportation's (DOT) December 28, 1993, memorandum--together with an addendum--on what has been accomplished in removing barriers to persons with disabilities who wish to use the Nation's transportation system.

ACCESSIBILITY GOALS

The following goals are drawn from our governing statutes and implementing regulations:

- . to work towards a barrier-free environment for all who desire to travel, that will foster increased employment and educational and social opportunities for some 40 million Americans with disabilities;
- . to ensure that travelers with disabilities will be treated without discrimination;
- . to ensure or encourage the training of all transportation employees who have contact with the public so that they can provide needed services to passengers in an appropriate way;
- . to work with public and private providers of transportation services, professional organizations and consumers in improving accessibility to transportation for the disability community; and
- . to ensure that DOT enforces national transportation accessibility regulations and standards and makes its own facilities and services accessible.

INTRODUCTION

The Department's activities in this area are governed by the Americans With Disabilities Act (ADA) of 1990, the Air Carrier Access Act (ACAA) of 1986 and section 504 of the Rehabilitation Act of 1973 (section 504). These statutes also provide a basis for technical standards that define accessible facilities and vehicles.

The following provides a brief overview of what has been accomplished to date.

- . In aviation, disabled travelers can use the air transportation system with much less difficulty than was true 10 years ago. Airports are far more accessible and new aircraft must have features such as movable armrests on aisle seats, special wheelchairs to permit easy boarding and movement in the cabin, and, in some cases, accessible lavatories.

- . In mass transit, every Federally subsidized system provides some type of service usable by disabled and elderly passengers. Accessibility improvements are appearing rapidly, in the form of bus lifts, vehicle ramps, and door-to-door paratransit vans for persons unable to use fixed-route service. Rail transit systems are upgrading their key stations and buying railcars with accessible devices. The Federal Transit Act requires any fixed-route transit system receiving Federal operating assistance to charge elderly and disabled passengers one-half the standard fare in non-peak periods.
- . Intercity rail service is becoming generally accessible; one car per train must be accessible by 1995, and Amtrak's existing stations must be modified by 2010. Elderly and disabled passengers travel at a 25 percent discount, subject to certain restrictions.
- . For streets and highways, new Interstate and other rest areas funded with Federal aid must be accessible. Streets and highway pedestrian facilities being constructed, renovated and altered with Federal aid are being brought into conformance through installation of curb cuts that will accommodate wheelchairs.
- . Intercity buses currently have few accessibility features, and the Department is developing a proposed regulation to establish accessibility requirements for intercity, charter and other non-mass transportation bus services. The DOT rule will take effect by the ADA deadlines of 1996 and 1997.
- . In the maritime area, the Department is planning preparatory research, to gather data that will assist in the development of a rule establishing accessibility standards. The Department expects to begin rulemaking in 1995 that would implement ADA requirements for accessible marine vessels (ranging from ferry boats to cruise ships) and facilities.

The Department provides information and interpretation of DOT's accessibility regulations to travelers with disabilities and responds to complaints about non-compliance on a continuing basis. As a statutory member of the Architectural and Transportation Barriers Compliance Board (Access Board), the Department participates in formulating policy and standards for accessibility requirements. It also provides information and technical assistance on the special transportation needs of persons with disabilities to planners, architects, designers, and providers of transportation services.

Although much work has been accomplished, the task is far from complete.

AVIATION

Status - In the Nation's air transportation system, many barriers to persons with disabilities have now been eliminated:

- Airport Facilities - Federally assisted airports and all air carrier-operated terminal facilities being built or altered must be made accessible. Required accessibility features pertain to such items as accessible parking, baggage services, signage, water fountains, bathrooms, ticket counters, and information/telecommunications devices. There must be an accessible path from the front door of the terminal to each boarding gate, including loading ramps, boarding bridges, lifts or mobile lounges to all aircraft with 30 or more seats. All Federally assisted airports are generally in compliance with DOT's requirements. Places of public accommodation within the airports are covered under Department of Justice (DOJ) ADA Title III regulations.
- Aircraft - DOT's ACAA rule requires new aircraft delivered after April 5, 1992, to have the following accessibility features:
 - Movable aisle armrests: required on 50 percent of aisle seats in new and refurbished aircraft with 30 or more seats. We estimate that, by the end of 1993, 400 to 800 new and refurbished aircraft had roughly 6,500 to 13,000 such armrests installed, about 10 to 20 percent of the fleet. All such aircraft should be so equipped by the year 2000. Very few aircraft with less than 30 seats have armrests.
 - Aisle wheelchairs: required on aircraft with 60 or more seats and an accessible lavatory, or upon passenger request. Just about all such aircraft are now equipped with on-board wheelchairs.
 - Cabin stowage: space for at least one passenger's folding wheelchair required on all new aircraft with over 99 seats. We estimate about 200 such new aircraft have cabin stowage space large enough for one folding wheelchair. Many existing aircraft also have adequate space for a wheelchair in a coat closet or other areas.
 - Accessible lavatories: required on twin-aisle aircraft (typically 200+ seats). We estimate only a few new twin-aisle aircraft were delivered with fully accessible lavatories by the end of 1993. A DOT Federal Advisory Committee, which completed most of its work last year, has circulated for internal committee comment a draft report on the feasibility and costs (\$20,000 to \$150,000) of installing accessible lavatories on single-aisle aircraft with over 100 seats.

- **Passenger Services** - All carriers, upon request, must now provide disabled passengers with special assistance in boarding, deplaning, and connecting with flights (including hand-carrying onto aircraft larger than 30 seats, if no other means of boarding exists). In the cabin, passengers' wheelchairs and other assistive devices are given priority stowage over carry-on baggage. Passengers with battery-powered wheelchairs are routinely accommodated (with few exceptions due to baggage compartment limitations or safety), and spillable batteries are placed in hazardous materials packages at no charge. Carriers are required to designate Complaints Resolution Officials to resolve complaints and respond to inquiries by persons with disabilities. Some carriers, but not all, have chosen on a voluntary basis to provide requesting passengers with medical oxygen, stretchers, incubators, or respirators on their aircraft, at an additional charge in some cases.
- **Training** - DOT's ACAA rule requires all carriers operating aircraft with more than 19 seats to provide carrier and contract employees having contact with the public with sensitivity training, as well as education to proficiency about DOT's accessibility regulations and proper and safe operation of equipment for travelers with disabilities.
- **Consumer Guidance on ACAA Regulations** - Since January 1992, about 35,000 copies of a booklet, "New Horizons for the Air Traveler with a Disability," developed by DOT to help disabled travelers understand their rights to accessible air travel, have been mailed to advocacy groups, the air travel industry and the public. The Department also distributes a two-page fact sheet summarizing these regulations.

Update: Between January 1 and May 31, 1994, the Department has distributed an additional 2500 copies of New Horizons and 287 more copies of the fact sheet.

Compliance - The Department monitors air carrier compliance through complaints. (DOT staff takes complaints from the public on airline service issues and conducts follow-up investigations with carriers.) Between April 5, 1990 (the effective date of DOT's ACAA rule) and the end of August 1993, 678 complaints have been filed with DOT. These include such issues as improper handling or packaging of wheelchairs and their batteries, denial of boarding assistance, refusal of some airlines to provide oxygen aboard their planes (not required by our regulations), and carrier personnel who are not trained adequately to comply with the various provisions of the ACAA regulations.

Update: Between August 1993 and May 31, 1994, DOT has received an additional 233 complaints.

In each instance, DOT verifies that the carrier has responded and taken appropriate corrective action, where necessary. Such complaints are also routinely reviewed to determine the extent to which carriers are in compliance with the regulations. The Department also uses these complaints to track trends or spot areas of concern which may warrant further action with carriers in the future. Cases in which serious or recurrent violations of the regulations are found are referred to the Department's enforcement office. Since the enactment of the regulations, the Department has taken enforcement action against four major airlines for violations of the rules. DOT also receives about 10 complaints per year alleging that some part of an airport facility does not comply with accessibility regulations, and DOT conducts follow-up investigations with airports and carriers to resolve such complaints.

Coming Initiatives - When DOT issued its 1990 ACAA regulations, there was no safe, efficient way for wheelchair passengers to board and leave small commuter aircraft (primarily those with 19 to 30 seats). As a result, the ACAA regulation does not require boarding assistance for those aircraft, if hand-carrying is the only form of assistance available. This has resulted in instances of disabled travelers being denied boarding assistance on commuter flights.

Private sector firms have now developed a series of external lifts that have tested satisfactorily on most (but not all) commuter aircraft in the 19 to 30 seat range. These devices range in cost from \$13,000 to \$37,000. In September 1993, DOT published a proposed rule to jointly require commuter air carriers and operators of roughly 545 airports to acquire lift devices or other equipment to board passengers with mobility impairments onto such aircraft by 1997. DOT expects to publish a final rule by summer 1994. Currently, we estimate about 50 airports have voluntarily purchased lift devices for these aircraft. The lifts are not designed for aircraft with below 19 seats, but the proposed rule would require their use on such aircraft where feasible.

Update: DOT extended the comment period on its NPRM for commuter aircraft boarding equipment, in response to a request from the Paralyzed Veterans of America. This delayed the spring 1994 target date for final rule publication. Approximately 500 comments were received on this NPRM, and reviewed, analyzed and categorized by issue category. FAA's Airport Improvement Program (AIP) grants office is surveying regional offices for updated estimates on the number of lifts purchased or requested by airports using AIP funding. Next Steps: Evaluation of major issues and drafting of final rule. Problem: Special cost analysis of impacts of rule on small entities requested by OMB may delay this rulemaking further.

The Department must also determine how it will resolve problems for passengers requiring medical oxygen. FAA regulations prohibit airline passengers from carrying their own supply of medical oxygen on board aircraft. It is provided by some airlines, at costs ranging from \$50 to \$75 per flight. The apparatus must be surrendered, however, at the gate upon arrival. If passengers must lay over at an airport, medical oxygen is generally not available for use in the terminal. While airlines and terminals are not required to provide oxygen, many such travelers needing it feel they are unfairly being denied access to the Nation's air transportation system. The Department has asked for comments in a recent NPRM about how better to serve the needs of those who require medical oxygen, as well as about the handling of wheelchair batteries.

Update: Roughly 200 docket comments were received on the citizen's petition for rulemaking concerning exorbitant costs and other issues related to medical oxygen provision by airlines and airports. DOT staff met with a member of the National Association of Medical Directors of Respiratory Care to discuss alternatives to carriers' provision of oxygen and related safety and hazardous materials regulations. DOT is considering conduct of a regulatory negotiation during FY 1995 to discuss issues and draft regulations.

Cost - The Department estimated industry compliance cost to meet its ACAA rule's aircraft accessibility and training requirements at roughly \$19.7 million per year (1990\$). Estimates of total additional costs to the aviation industry to provide boarding equipment for commuter aircraft (19-30 passenger seats) would range from \$1.0 million to \$8.3 million (1993\$) per year (based on alternative assumptions about the number of lifts and boarding chairs needed per airport).

MASS TRANSIT

Status - In accordance with DOT's ADA regulations issued September 6, 1991, every Federally subsidized transit system currently provides some type of accessible service usable by passengers with disabilities. The phased-in implementation of the ADA is on schedule, and no major problems have been encountered. The transit industry has held thousands of meetings with persons with disabilities, involving them in their system planning and fostering a new community of trust.

- Accessible Vehicles - Under the ADA, all new, used and refurbished transit buses, vans with over 16 seats, and railcars for which a solicitation for purchase was made after August 25, 1990, must be accessible. In demand responsive

service (e.g., dial-a-ride), an operator can provide equivalent service in lieu of acquiring all new accessible vehicles.

- Buses: Out of a total active fleet of about 52,500 fixed-route buses in excess of 24 seats, operated by 458 Federally assisted transit agencies in urbanized areas (over 50,000 population), roughly 50 percent, or 26,000 buses, are now lift-or ramp-equipped, versus 35 percent prior to the ADA. DOT estimates the fleet will be 100 percent accessible in 405 urbanized areas by 2001.
- Railcars: Under ADA, rapid, light and commuter rail operators must provide one accessible car per train by 1995. As of year-end 1991, the total transit rail fleet consisted of 8,106 rapid railcars, 811 light railcars, and 3,989 commuter railcars. Currently, all rapid railcars are accessible to wheelchair users, though many do not satisfy ADA requirements for accessible features to facilitate use by persons with vision and hearing impairments (e.g., exterior speakers). There are greater accessibility problems with many current light and commuter rail systems.
- Paratransit - DOT has completed review of plans required from transit agencies covering a 5-year phase-in of paratransit services, for persons with disabilities unable to use fixed-route systems. Despite the effect of the recession being experienced at that time on local tax revenues, only two of the 540 systems submitting paratransit plans to the DOT in the first year requested a waiver due to undue financial burden (Richmond, VA and Suffolk County, NY), and are being denied. However, waiver requests are expected to increase significantly as we approach the end of the phase-in period in 1996.

By year-end 1993, the second year of the phase-in period, over 100 of the 540 ADA paratransit areas have indicated that they are planning to be in full compliance. The remaining 440 areas are expected to complete paratransit system implementation by year-end 1996. It is still too early in the implementation timetable to determine whether lack of funding for paratransit will prove a major problem in transit agencies, all of which are dependent on existing Federal, state and local funds. Many paratransit systems are encountering problems because they now find they may have to deny service to able-bodied elderly patrons previously served on the basis of age, but who are no longer required to be eligible under ADA guidelines.

- **Key Rail Stations** - A key station is one that has particular importance to users (e.g., because it is a transfer point between lines, generates a high volume of demand, or interfaces with other transportation modes). We estimate about 500 of the 708 key stations are now wheelchair accessible.

Time extensions beyond ADA's required July 1993 compliance date have been granted by DOT for 284 key rail stations. Some key station extensions run until 1999; others extend up to 2020; and some dates are still being determined. As key station implementation proceeds, lack of funding to accommodate major modifications may be a problem, because rail operators must stretch existing Federal, state and local funds for regular transit service to cover ADA station improvements. Aside from granting time extensions authorized by ADA for extraordinary key station expenses, DOT also proposed to nearly fully fund authorized levels for the FY 95 mass transit program, in part to help remedy some of the ADA funding concerns.

The Department has decided to extend the deadline for installation of detectable warning strips on rail platforms from July 1993 to July 1994. DOT explicitly recognized the safety importance of detectable warnings to visually impaired passengers, but believed that rail systems needed additional time to solve practical problems concerning the installation and maintenance of such strips.

Cost - Over the FY 1995-FY 1999 period, ADA costs to the Nation's public fixed-route operators should total about \$900 million annually, or about four percent of all public transit costs. Annual costs are then expected to drop to \$800 million following the year 2000 after most key rail stations are made accessible (the one-time capital cost estimates are \$907 million for 12 rapid rail operators, 10 commuter rail systems, and 14 light rail systems for 708 key stations). Recurring capital and operating costs of complementary paratransit service are estimated to be \$700 million per year. Lifts on buses and vans cost about \$50 million per year, and railcar modification costs are estimated at about \$15 million per year. In the 1991-2000 decade total costs for ADA mass transit compliance are estimated at \$7.3 billion.

Compliance - The Department denied 115 key station time extension requests, on the basis that the rail operators' requests did not meet the \$225,000 cost threshold established by FTA guidance to satisfy the ADA criterion of "extraordinary expensive structural change". These 115 key stations were in probable non-compliance with the ADA July 1993. They have been referred to FTA's Office of Civil Rights.

Update: FTA, in consultation with groups representing persons with disabilities, are working out voluntary agreements, with reasonable timetables for rail transit operators to reach compliance. For example, in Boston, the FTA asked local groups to review and comment on the voluntary compliance agreement between the FTA and the Massachusetts Bay Transit Authority (MBTA), the local transit provider. This agreement sets forth a reasonable timetable for key station compliance for rail stations that were denied time extensions under the cost threshold levels in the regulation. This agreement was crafted to meet the needs of the FTA, the MBTA, and persons with disabilities in the Boston area.

INTERCITY RAIL SERVICE

Status - Amtrak's service is becoming accessible, providing where necessary station-based lifts to accommodate wheelchairs from the platform onto the car and accessible features within railcars. Amtrak is purchasing new railcars and expects to meet the requirement of one accessible car per train by ADA's July 1995 deadline.

Update: As of May 31, 1994, Amtrak has received 47 accessible Superliner cars.

Amtrak stations must undergo major alterations to bring them into conformance with DOT's ADA standards, which call for full accessibility at all Amtrak stations as soon as possible, but no later than July 2010. In October 1992, the Amtrak Board of Directors approved a plan to modify eight Amtrak-owned joint use stations that have been designated as key stations and requested that DOT extend its July 1993 deadline for installation of warning edge stripping on train platforms and other substantial improvements. Extensions were granted into 1994 and 1995 for five of the stations, but Amtrak has since requested extensions on these stations to July 1997.

Cost - The total cost of modifying the eight key Amtrak stations is estimated at \$9.3 million.

STREETS AND HIGHWAYS

Status - All Interstate highway rest areas were made accessible a number of years ago because of previous legislation affecting persons with disabilities. Other street and highway-related facilities are covered by the DOJ's ADA Title II regulations affecting state and local facilities. Under Title II, whenever pedestrian facilities or bus stops and shelters are provided in conjunction with new street or highway construction, curb cuts must be included. For existing crosswalks on highways with curbs in downtown areas, state and local governments with 50 or more employees were required by July 1993, to include in their

transition plans a schedule for providing curb cuts, ramps, or other sloped areas, giving priority to walkways serving state and local government offices, facilities, transportation, public accommodations, and employers.

In order to eliminate state to state inconsistencies concerning parking for persons with disabilities, the Department issued a set of nonbinding regulatory guidelines for establishment of a uniform system for such parking in 1989.

Coming Initiatives - DOJ will soon amend its Title II regulation expanding coverage to everything within public rights-of-way (e.g., signage, street furniture, emergency road-side call boxes).

Compliance - Complaints affecting streets and highways received by DOJ under Title II are being forwarded to DOT for investigation. A significant number of these complaints are premature as the alleged violations cannot yet be viewed as such under the state's transition plan requirements.

MARITIME

Status - The Department is in the process of planning preparatory research and anticipates issuing a proposed rule and cost/benefit analysis by year-end 1995. An ANPRM would begin the process of establishing ADA accessibility regulations and standards for marine passenger vessels (ranging from ferry boats to cruise ships) and facilities. This project must be coordinated with the Access Board's issuance of related accessibility guidelines.

Update: Work is expected to begin in two weeks on a study to provide background data for determining the technical and financial feasibility of designing and constructing marine passenger vessels to accommodate persons with disabilities.

PRIVATE TRANSPORTATION

Status - Unlike previous statutes, the ADA requires private as well as public transportation vehicles, services, and facilities to be accessible, whether or not they receive Federal funds. The ADA requirements for private transportation vary, depending on whether the operator is or is not primarily involved in the transportation business, operates demand-responsive or fixed-route service, and uses large or small vehicles. Generally, most private transportation operators must either acquire accessible vehicles or provide equivalent service to disabled passengers. Over-the-road buses are a special case under the ADA and are discussed next.

INTERCITY, CHARTER, AND TOUR BUSES

Status - The ADA requires the Department to promulgate a final rule by mid-May 1994, implementing accessibility requirements for over-the-road buses (OTRB) and related facilities in the intercity, charter and tour bus industries. These requirements are to be effective in July 1996 for large carriers and July 1997 for small carriers, although the President may delay implementation for up to one year to reduce excessive cost burdens.

Currently, there are 3,500 private companies operating a total fleet of 25,000 OTRBs, ranging in size from Greyhound with 1950 fixed-route regular service buses to small companies with fewer than one-half dozen buses. Most of the OTRB fleet is inaccessible, as are most terminals and flag stops (gas stations, grocery stores, etc.). The OTRB industry provides a variety of services, including fixed-route buses linking some 6,000 communities; charter and tour services; and commuter, airport and other services. For a number of reasons, since 1982, the OTRB ridership base has shrunk from 130 million annual passengers to 37 million passengers in 1990.

Currently, 26 OTRB operators provide about 350 lift-equipped buses under contract to public agencies, and almost all such buses have been purchased with the aid of public monies. Few passengers have used the lifts. In October 1993, DOT issued an ANPRM to explore legal, technical and operational issues involved in developing OTRB accessibility requirements. The Department and the Access Board held a joint workshop on October 21-22, 1993, where key issues with all parties affected by this rulemaking were discussed. Major issues to be addressed in this rulemaking concern (1) the potential compliance costs on a struggling industry; (2) how to provide accessible restroom services; and (3) how to frame ADA-mandated accessibility requirements to minimize economic disruption of the industry, and reduce the risk that OTRB services will be cancelled in rural areas where they are especially needed.

Costs - Based on OTA's report to Congress, the estimated cost of equipping an OTRB with lift and related equipment ranges from \$7,000 to \$35,000. There are also costs from foregone revenue resulting from the loss of seating and baggage capacity to accommodate lifts and wheelchair securement spaces.

Update: The cost impacts of the various options under consideration for making OTRB service accessible to persons with disabilities has resulted in the development of an options paper seeking Secretarial guidance on which option to propose and on whether the Department should also pursue legislation to authorize a Federal subsidy to assist the OTRB industry in meeting ADA accessibility requirements.

CONCLUSION

Much has been accomplished in removing barriers to persons with disabilities in the Nation's transportation system. The Department has kept up reasonably well in developing, promulgating, and implementing its regulations within the timetables mandated by the ADA, the ACAA, and section 504. In many cases, enforcement procedures are still evolving, as new rules go into effect and we gain experience with their implementation. In addition, the Department is working to ensure that its own programs and facilities are fully consistent with requirements for non-discrimination on the basis of disability.

APPENDIX A

STATUTES AND REGULATIONS AFFECTING PERSONS WITH DISABILITIES

Many programs and activities of the Department are affected by the following laws pertaining to persons with disabilities.

- ° The Architectural Barriers Act of 1968, as amended, requires that certain buildings financed with Federal funds be designed and constructed to be accessible to the physically handicapped.
- ° Section 16 of the Federal Transit Act, as amended, sets forth a policy that elderly and persons with disabilities have the same right to utilize Federally-subsidized mass transportation facilities and services as other persons.
- ° Section 165(b) of the Federal Aid Highway Act of 1973, as amended, requires that certain transportation projects receiving Federal funds under the Act be planned, designed, constructed, and operated to allow effective utilization by elderly and handicapped persons.
- ° Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of handicap in all Federally assisted and conducted programs.
- ° The Air Carrier Access Act of 1986 prohibits discrimination on the basis of handicap in air travel.
- ° Section 161 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 directed the Secretary of Transportation to conduct a study on parking for handicapped persons.
- ° The Americans With Disabilities Act OF 1990 (ADA) gives civil rights protection to individuals with disabilities similar to those given to individuals on the basis of race, sex, national origin and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services and telecommunications. The Department issued a final rule in 1990 implementing many provisions of the ADA.

APPENDIX B

ADA TECHNICAL ASSISTANCE

The Federal Transit Administration (FTA) has produced the following ADA guidelines and reference reports:

Handbook on Preparation of ADA Paratransit Plan.

Guidelines for Improvement of Transit Accessibility for Persons with Disabilities.

Update of 1986 FTA-Sponsored "Guidelines for Active and Passive Wheelchair Lifts, Ramps and Securement Devices."

Guidelines on Rail Car Gaps and High Platform Safety.

Guidelines on Wheelchair and Three Wheel Scooters use in Public Transit.

Guidelines on Transportation Needs of Persons with Visual, Hearing, and Cognitive Impairments.

Strategies for Implementing a Standee-on-Lift Program for Fixed-Route Bus Service.

Accessibility Handbook for Transit Facilities.

Handbook and Course on Public Participation in Transportation Planning.

Americans With Disabilities Act Paratransit Eligibility Manual and Course of Study.

Independent Locking Securement System for Mobility Aids in Public Transportation Vehicles.

FTA is also supporting accessibility demonstration projects in 25 cities, which are being conducted under the auspices of the National Easter Seal Society.

During fiscal year 1994, FTA's technical assistance activities will continue to focus on the technology requirements to overcome mobility barriers and will address additional accessibility needs with regard to buses, bus stops, rail cars, and transit facilities. Special emphasis will be placed on problems of safety (adequacy of securements for wheelchairs and other mobility aids in vehicles and protective devices for standees on lifts), and on the communications needs of persons with visual, hearing, and other physical or mental impairments.

DOT's OUTREACH TO INDUSTRY OPERATORS OF ACCESSIBLE TRANSPORTATION SERVICES AND PERSONS WITH DISABILITIES

DOT's National ADA Mass Transit Outreach Efforts

. **Project ACTION.** DOT's most significant direct effort to involve persons with disabilities in ADA implementation is our \$2 million annual funding of the National Easter Seals' Project ACTION, which serves as a forum to bring together all key decisionmakers in implementing the ADA including: the DOT, Access Board members, transit providers and equipment manufacturers, and, most importantly, major groups representing persons with disabilities. Project ACTION developed many technical publications and films for use in training transit agency personnel and disabled riders in using fixed-route accessible services. On June 6-7, Project ACTION will host a national conference in Washington, DC, where every major national disability group will offer DOT their inputs and recommendations on facilitating ADA implementation, solving problems, and improving transit access.

. **Technical Assistance.** The next most significant DOT effort to assist in ADA implementation is our funding of technical assistance to the transit industry on making vehicles and stations accessible. DOT's technical assistance program includes ongoing research projects and technical bulletins on accessible vehicle standards, lift maintenance, driver sensitivity training in reaching out to passengers with different types of disabilities, vehicle and station audio and visual communication systems for persons with visual and hearing impairments, accessible facility requirements, tactile warning strips at the edge of platforms for blind persons, wheelchair securement safety, etc.

. **National Transit Institute.** DOT's most significant direct effort to educate transit operators on all aspects of the ADA is concentrated in the newly created National Transit Institute at Rutgers University, in New Jersey. Our recent course on determining ADA Paratransit Eligibility was an overwhelming success; about 300 transit professionals were trained at 10 courses held across the Nation. The FTA and NTI are currently preparing a new course on implementing ADA.

. **Enforcement.** Nationally, persons with disabilities were involved in drafting and commenting on DOT's transit accessibility regulations, and we continue to seek their inputs in issuing new and amended ADA rules. But, beyond the rulemaking stage, we also involve local disability groups in ADA enforcement/compliance actions across the Nation.

. **National Clearing House.** Since ADA enactment, DOT and the American Public Transit Association have conducted four training-seminars for transit operators nationwide concerning their obligations under the Act. We continue in this education role, and also serve as a national clearing house and authority on all aspects of ADA transportation implementation for the general public, including private taxi services and other private transportation providers (e.g., hotel and airport shuttles, church and company owned buses and vans).

Amtrak's National ADA Consumer Outreach Efforts

. The National Railroad Passenger Corporation (Amtrak) has a system-wide policy of offering passengers with disabilities and elderly patrons a 25 percent discount on one-way ticket purchases.

Amtrak, with appropriate prior notification to its reservation offices, provides special food service to accommodate passengers with diet restrictions, telecommunications devices for handling reservations for hearing impaired persons, special equipment handling, provision of wheelchairs, and assistance in boarding and debarking passengers. Amtrak operates a Special Services Desk seven days a week that assists passengers with special needs in obtaining tickets and transportation. Persons may request these services through Amtrak's toll free special service desk number at 1-800-USA-RAIL. They also may inform their travel agents or station ticket agents of their need for assistance at the time they book their reservations, or call the railroad station in advance of their travel.

More than 150,000 senior citizens, mobility-impaired and other persons with disabilities sought assistance from the Special Services Desk during 1993, and thousands of other disabled and elderly persons traveled on Amtrak unassisted. Amtrak works each year with a number of organizations representing persons with disabilities and elderly persons in planning large special moves of passengers needing assistance.

Local ADA Outreach Efforts through DOT's Mass Transit Grantees

Through public participation requirements set forth in the Department's ADA rules, DOT requires significant outreach efforts by its grantees to their customers who are disabled.

. **Key Rail Stations.** In developing local ADA plans to identify and make key rail stations accessible, transit agencies also are required by DOT to hold public hearings and incorporate the comments of persons with disabilities into their plans. More than elevators, bricks and mortar are required to make stations accessible to riders with disabilities; both public transit and train schedules are published in accessible formats, and special audio/visual systems are being installed in stations to communicate public announcements to persons with visual and hearing impairments.

. **Accessible Bus Systems.** An ADA accessible bus requires more than a lift or a ramp. ADA accessibility requires communication systems to provide riders with sensory impairments with sufficient information to board and navigate the fixed-route bus system. Bus schedules must be in accessible formats. Transit providers are providing travel mobility training to persons with disabilities and are reaching out to high schools to train disabled students in how to use fixed-route systems. A spillover benefit of many accessible communication systems required by DOT is that buses are now easier to use by all riders, not just persons with disabilities.

. **Paratransit & Outreach.** In developing their initial plans for DOT on provision of ADA supplementary paratransit services, transit providers had to survey all local disability groups, independent living centers, local social service agencies, etc. in an attempt to identify all persons whose disabilities might qualify them for ADA paratransit service and to inventory all paratransit service provided in the region. Transit providers were required to establish ongoing advisory groups composed of persons eligible for paratransit to consult with them on planning and implementing acceptable services. These groups often meet monthly with over 500 fixed-route transit operators across the nation to review service progress. Service and route changes are routinely directed through these groups and networked to riders with disabilities. DOT attributes much of the success in ADA paratransit implementation to these local groups.

. **Updates of ADA Paratransit Plans.** During the allowable 5-year phase-in period for ADA paratransit service, local providers' plans to provide ADA paratransit services must be annually updated and must pass muster at annual public hearings. Comments of persons with disabilities must be addressed. DOT must review over 500 transit provider plan

updates each year. Failure to meet the public participation requirements has resulted in plan disapproval by DOT, and could jeopardize future Federal funding assistance if not corrected.

Consumer Feedback. DOT sponsored a recent consumer survey in Pittsburgh to query transit riders on the quality of service. Other surveys are being planned.

Assessment of ADA Transit Implementation Problems, to Date

Implementation of the ADA in Public Transit. The ADA was enacted almost four years ago, and implementation of accessible public transit services appear to be on schedule, with fewer complaints than expected to date. Other than the complaints by those with visual impairments on DOT's one year time extension on the controversial tactile warning platform edge strip requirements of ADA, transit systems have not been the focus of much attention from groups representing persons with disabilities. Unlike the history of implementation problems incurred under DOT's predecessor section 504 transit accessibility regulations implementing the Rehabilitation Act of 1973, the transit industry and APTA have strongly supported this civil rights mandate. However, this may be the quiet before the storm. Disability groups may refocus their attention on transit if the operators of several key rail stations in major cities miss their ADA compliance deadlines, or if the progress in completing ADA paratransit services is not as good as expected, we may have to confront the following problems in the future:

Problems in Implementing ADA Mass Transit Regulations

Unfunded Federal Mandate. ADA Paratransit Operating Cost--Local Funding Shortfall. As DOT's budget approaches full funding of the ISTEA authorized levels, we have been able to accommodate about 80 percent of the incremental capital costs of implementing the ADA. However, it is the annual \$600-\$700 million burden of ADA paratransit operating costs on state and local budgets that governors and local officials have labeled the true "unfunded Federal mandate" of the ADA. In defense conversion states like California, these operating costs have been added to huge current operating deficits at local transit authorities. Unless state and local budgets increase dramatically with the current economic expansion, it is expected that as many as 100 transit systems may file requests for a waiver (time extension) from meeting the six ADA paratransit service requirements on the basis of undue financial burdens.

Beginning in FY 1995, transit agencies' will have to absorb a 25 percent across-the-board reduction in Federal operating assistance funding.

Displacement of Elderly Patrons off Paratransit. Both DOT and a March 1994 GAO report on ADA transit implementation have identified transit agencies' greatest challenge to be financing paratransit service requirements of ADA. It is clear from the agencies' ADA paratransit plans that provision of paratransit service is very expensive--between \$15 - \$30 per one-way van trip. In fact, it is so expensive that transit authorities across the nation are planning to reduce costs by eliminating current paratransit passengers and other specialized transportation services that are not specifically covered by ADA service mandates. Currently, existing paratransit service to able-bodied elderly patrons is planned to be virtually eliminated, setting up a potential riff between the elderly and those certified as eligible for ADA paratransit service. It is estimated that about 60 percent of all ADA paratransit eligible riders are elderly. The American Association of Retired Persons is studying this problem.

Client Shedding (Dumping) by Social Service Agencies. In many localities, human resource agencies have stopped providing paratransit services to their clients because the ADA mandates public transit providers to provide such services. To date, we do not have a handle on the extent of dumping problem. Nationally, social service agencies funded by HHS provide at least 5 times the number of trips provided by all public transit. With current resources, there is no way all of these trips can be accommodated by the public transit system. DOT and HHS have met to try to identify their shared responsibilities and coordinate transportation services at the local level.

Problems in Implementing other Accessibility Requirements

Aviation. The fact that DOT has received an additional 233 consumer complaints subsequent to the Department December 28, 1993, report may be an indication that air carriers are not complying fully with the air Carrier Access Act (ACAA) requirements.

The Department continues to receive complaints about the availability of oxygen in air travel. The complaints concern (1) failure of some carriers to offer oxygen on their planes; (2) the high cost of oxygen provided by carriers; (3) lack of access to oxygen while waiting in

airports; and (4) failure of air carriers to permit travelers to bring their own oxygen onboard airplanes because of hazardous materials regulatory requirements.

Some persons with disabilities are being denied boarding on commuter-type airplanes because there is not yet a requirement that there be available suitable devices to assist them. Many air carriers and airport operators are awaiting issuance by the Department of a final regulation requiring them to purchase lifts, ramps, or other suitable devices not used for freight to assist persons with disabilities in boarding commuter-type airplanes.

Marine Passenger Vessels. A major problem in developing a regulation that would set forth accessibility standards for marine passenger vessels stems from the particular physical characteristics of vessels, and the care with which accessibility requirements must be coordinated with the Coast Guard's and international safety requirements, which include personnel capability and structural standards. A study, soon to be initiated, will provide background data for determining the technical and financial feasibility of designing and constructing marine passenger vessels to accommodate persons with disabilities.

Over-the-Road Bus (OTRB) Accessibility. Under the Americans With Disabilities Act (ADA), the Department must issue accessibility regulations concerning OTRBs, the vast majority of which are operated by private sector enterprises. In the course of developing the NPRM, we have developed three options: one requiring OTRBs to be equipped with integral lifts so passengers can use their own wheelchairs; one allowing the operator to provide accessibility by a variety of means, including station-based lifts and boarding chairs; and one that is a mix of the other two.

We expect that the OTRB ADA rule will be controversial because the cost impacts of all options on the industry are significant. The Greyhound company anticipating the ADA costs will impact significantly on company profits and has requested that DOT pursue legislation that would make available a Federal subsidy to assist in meeting accessibility requirements.

Concern about the cost of implementing ADA in OTRB service persuaded DOT staff to develop two papers requesting Secretarial assistance. Staff has developed an options paper requesting Secretarial decision on the notice of proposed rulemaking approach (NPRM) to be used to make OTRBs accessible to persons with disabilities.

Staff has also developed a subsidy paper requesting Secretarial decision on whether DOT should pursue legislation to establish a subsidy program for OTRB operators. Meanwhile, section 120 of a bill to amend title 23, United States Code (USC), to establish the National Highway System, provides authority for the Secretary to make section 3 capital subsidies to intercity bus operators.



United States Architectural and Transportation Barriers Compliance Board

1331 F Street, NW • Washington, DC 20004-1111 • 202-272-5434 (Voice) • 202-272-5449 (TDD) • 202-272-5447 (FAX)

PROGRAM BRIEFING PAPER

September 1993

This document presents the programs of the Architectural and Transportation Barriers Compliance Board (Access Board) which are carried out to meet its responsibilities under the Americans with Disabilities Act and the Architectural Barriers Act.

Since July 1990, when the ADA was signed into law, the Board's program priorities have been, and will continue to be:

- Developing the ADA Accessibility Guidelines (ADAAG)
- Providing Technical Assistance and Training on ADAAG
- Conducting research to support ADAAG
- Enforcing the Architectural Barriers Act

Beginning in fiscal year 1994, the Board will initiate two additional programs in support of its priorities. The Public Communications Program will coordinate and focus all of the Board's communications to its various customers. Additionally, the Board will embark on a Quality Improvement Program. By focusing on our customers and improving the quality of our services, we believe we can ultimately reduce our program and administrative costs.

Developing the ADA Accessibility Guidelines

The following is a history of the Board's ADAAG rulemaking and a discussion of our plans for future ADA rulemaking.

ADAAG for Buildings and Facilities (Sections 1-9)

Notice of Proposed Rulemaking Published	01/22/91
Public Comment Period Ended	03/25/91
Final Guidelines Published	07/26/91
Department of Justice Adopted Guidelines	07/26/91

ADAAG for buildings and facilities initially consisted of nine sections. Sections 1 through 4 contain general sections, scoping provisions, and technical specifications applicable to all types of buildings and facilities. The scoping provisions specify which and how many elements and spaces of a building or facility must be accessible (e.g., parking spaces, entrances, toilet

rooms). The technical specifications describe how to design the elements and spaces covered by the scoping provisions so that they are accessible to and usable by individuals with disabilities. Sections 5 through 9 contain additional scoping provisions and technical specifications for the following buildings and facilities: restaurants and cafeterias (section 5); medical care facilities (section 6); mercantile establishments (section 7); libraries (section 8); and hotels, motels, and transient lodging (section 9). The Department of Justice adopted sections 1 through 9 of ADAAG on July 26, 1991 as the standard for accessible design in its regulations for title III of the ADA.

ADAAG for Transportation Facilities (Section 10) and ADAAG for Transportation Vehicles

Notice of Proposed Rulemaking Published	03/20/91
Public Comment Period Ended	05/20/91
Final Guidelines Published	09/06/91
Department of Transportation Adopted Guidelines	09/06/91

This rulemaking added section 10 to ADAAG for buildings and facilities and contains additional scoping provisions and technical specifications for transportation facilities. A separate ADAAG was issued for transportation vehicles which covers the following vehicles and systems: buses and vans, rapid rail vehicles, light rail vehicles, commuter rail cars, intercity rail cars, over-the-road buses, automated guideway transit vehicles, high-speed rail cars, monorails, and trams and similar vehicles. The Department of Transportation adopted sections 1 through 10 of ADAAG for buildings and facilities and ADAAG for transportation vehicles on September 6, 1991 as the standard for accessible design in its ADA regulations.

ADAAG for State and Local Government Facilities (Sections 11-14)

Notice of Proposed Rulemaking Published	12/21/92
Public Comment Period Ended	03/22/93

This rulemaking will add four new sections to ADAAG for buildings and facilities and will contain additional scoping provisions and technical specifications for the following State and local government facilities: judicial, legislative and regulatory facilities (section 11); detention and correctional facilities (section 12); residential housing (section 13); and public rights-of-way (section 14). The final guidelines will be published in fiscal year 1994. The Department of Justice is preparing a notice of proposed rulemaking to adopt sections 1 through 14 of ADAAG as the standard for accessible design in its regulations for title II of the ADA.

ADAAG for Over-the-Road Buses

This rulemaking will establish additional accessibility guidelines to ensure over-the-road buses are accessible to individuals who use wheelchairs and other mobility aids. A notice of proposed rulemaking and final guidelines is planned to be published during fiscal year 1994.

ADAAG for Recreation Facilities and Outdoor Developed Areas

This rulemaking will establish accessibility guidelines for amusement parks; indoor and outdoor sports facilities; zoos and botanical gardens; playgrounds and related equipment; pools and other aquatic facilities; and parks, trails, and other outdoor developed areas. An advisory committee composed of representatives of disability organizations; the recreation industry; and Federal, State and local governments was established in July 1993 to advise the Board on issues related to making these facilities and areas readily accessible to and useable by individuals with disabilities. The advisory committee is expected to present a report to the Board in fiscal year 1994. The Board plans to publish a notice of proposed rulemaking in fiscal year 1995 with recommended guidelines based on the report.

ADAAG for Children's Environments

This rulemaking will establish accessibility guidelines for day care centers; nursery, pre-school, kindergarten, elementary and other school programs; children's museums; and other children's environments. The Board published an Advance Notice of Proposed Rulemaking on February 3, 1993, and the public comment period ended on June 1, 1993. A notice of proposed rulemaking is planned to be published during fiscal year 1994. In fiscal year 1995, the Board will analyze the public comments and plans to publish final guidelines.

ADAAG for Water Transportation

This rulemaking will establish accessibility guidelines for various forms of water transportation, including passenger ships, ferries, and docks. During fiscal year 1994, the Board plans to convene, in cooperation with the Department of Transportation, an Advisory Committee to provide the Board with a set of recommendations for accessibility guidelines. The Committee will be composed of representatives of the industry, organizations representing people with disabilities, and Federal agencies. We anticipate the Water Transportation Advisory Committee will meet during fiscal year 1995 and present a report to the Board.

ADAAG For Federal Use

During fiscal year 1994, the Board will begin revising its accessibility guidelines for Federally financed buildings and facilities covered by the Architectural Barriers Act to be consistent with ADAAG. The ADAAG is more complete and in many instances mandates a higher degree of accessibility than do the current Uniform Federal Accessibility Standards (UFAS). The Federal Government should be held to the same high accessibility requirements that are now imposed on public accommodations and State and local governments. On January 13, 1993, the Board passed a resolution urging other Federal agencies to adopt the ADAAG as their design standard. The General Services Administration has announced that it would use ADAAG for alterations and new construction. The Department of Justice has asked Federal agencies with regulations under Section 504 of the Rehabilitation Act to adopt ADAAG for compliance under that statute. To further the goal of uniform standards, the Board intends to use ADAAG as the accessibility guidelines for Federally financed facilities covered by the Architectural Barriers Act

of 1968 (42 U.S.C. 4151 et seq.) since the Federal government owns or operates many of the same type of facilities as State and local governments. Under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792), the Board is responsible for establishing guidelines for accessibility standards issued by other Federal agencies pursuant to the Architectural Barriers Act of 1968.¹ The Board anticipates initiating action to adopt ADAAG with special provisions as appropriate for Federal buildings (e.g., post offices, military facilities) in place of its current guidelines for Federally financed facilities. Standards issued by other Federal agencies pursuant to the Architectural Barriers Act must be consistent with the Board's guidelines. Those Federal agencies responsible for issuing accessibility standards under the Architectural Barriers Act must initiate separate rulemaking to adopt standards consistent with ADAAG as supplemented in place of UFAS. The Board anticipates that it will publish a Notice of Proposed Rulemaking on the Federal ADAAG in fiscal year 1995.

ADAAG Review

In fiscal year 1994, the Board will begin a rulemaking effort to coordinate ADAAG and the accessibility standards published by the American National Standards Institute, the ANSI A117.1-1992 standards. The ANSI standards for accessibility are incorporated into the model building codes and hence are the building code standards used by most state and local governments for new construction and alterations which would be covered under title III of the ADA. By coordinating ADAAG and ANSI standards, implementation of the accessibility requirements in titles II and III of the ADA for alterations and new construction will be much more effective. During fiscal year 1994, the Board will convene an advisory committee of representatives from the model code organizations, building code officials, product manufacturers, and organizations representing people with disabilities to coordinate ADAAG and ANSI. We anticipate that the committee will submit an analysis and report to the Board during fiscal year 1995, and that the Board will publish a NPRM early in fiscal year 1996.

Technical Assistance and Training

Several studies have documented that the lack of information about the ADA's requirements has inhibited implementation of the Act.² The Board's Technical Assistance and

¹ UFAS was developed by the General Services Administration, Department of Defense, Department of Housing and Urban Development, and the United States Postal Service to implement the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.) which requires certain Federally financed buildings to be accessible. Most Federal agencies reference UFAS in the accessibility standards for buildings and facilities constructed or altered by recipients of Federal financial assistance for purposes of section 504 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 794).

² United States General Accounting Office, "Americans With Disabilities Act, Initial Accessibility, Good But Important Barriers Remain," GAO/PEMP-93-16, (May 19, 1993). National Council on Disability, "A Report to the President and Congress On Progress Implementing the Americans With Disabilities Act," (April 5, 1993).

Training Program has become a very important part of the Government's overall effort to inform the public about the ADA. The Board has concentrated its efforts on architects, the design and construction industry, designers of public transit systems and facilities, and State and local government officials.

In previous years the Board has prepared a series of technical manuals, technical bulletins, videos, and an ADAAG Checklist. Additionally, as the following table shows, as of mid-fiscal year 1993 the Board has responded to over 50,000 technical assistance telephone calls, mailed out over 30,000 packets of information, and has provided 188 training sessions.

TECHNICAL ASSISTANCE AND TRAINING						
	FY 91	FY 92	FY 93 To Date	FY 93 Estimated	FY 94 Estimated	FY 95 Estimated
Telephone Calls	16,000	19,000	15,600	18,700	20,000	22,000
Information Packets	9,600	10,500	10,500	12,600	14,000	15,000
Training Sessions	55	62	68	75	80	90

The Board expects the demand for technical assistance and training to increase in fiscal years 1994 and 1995. In fiscal year 1994, the Board plans to publish four new sections for ADAAG containing additional scoping provisions and technical specifications for State and local governments covering judicial, legislative and regulatory facilities; detention and correction facilities; residential housing; and public rights-of-way. Many of the provisions in these sections, particularly public rights-of-way, present completely new accessibility concepts. We anticipate a very high demand for technical assistance and training on these new guidelines. From our experience, we expect to respond to approximately 22,000 telephone calls, send out approximately 15,000 information packets, and provide about 90 training sessions in fiscal year 1995. We will also develop additional technical bulletins, training materials, and are planning a technical assistance manual covering public rights-of-ways.

Research

The Board now selects research projects for each fiscal year based on several considerations, including public comment in response to rulemaking; the need for technical information for future rulemaking; and our technical assistance program needs.

During the initial ADAAG rulemaking in 1991, the public identified 31 areas that are in need of further study before new or additional accessibility guidelines could be developed. In May 1992, the Board published a notice in the Federal Register requesting further public input to assist the Board in prioritizing these areas. The Board's research priorities for fiscal years 1993 and 1994 are largely based on public response to the Federal Register notice.

The Board also considers the need for technical information for future rulemaking when selecting research projects. For example, in fiscal year 1991 the Board contracted for a study on accessibility standards for children in anticipation of developing future guidelines in this area. The study was completed in fiscal year 1992 and the Board published a notice in the Federal Register in February 1993 notifying the public about the availability of the study and requesting comments on several critical issues related to the rulemaking.

In addition, the Board also considers its technical assistance program needs when selecting research projects. For example, the Board receives many requests about where to purchase various accessibility products such as devices to convert doorknobs to lever controls which do not require twisting or turning. The Board has previously contracted to have an accessibility products file developed to meet this technical assistance need. The file is constantly updated. We do not endorse specific products but make the information available to the public.

The Board has successfully used these criteria to choose its fiscal year 1993 and 1994 research projects, which are:

Fiscal Year 1993

- Detectable Warnings. This project will research several issues related to detectable warning surfaces. The project will begin with an extensive international literature review to identify research that has already been conducted regarding detectable warning surfaces. Secondly, it will examine whether there is a need for detectable warning surfaces. If detectable warnings are needed, the research will examine where they are needed and the technical specifications for the warnings.

- Ramp Slope and Landings. This twelve-month project will research and make recommendations regarding ramp slope and landing requirements for new construction and alterations. The project will study the adequacy of the 1:12 maximum slope and 30 foot maximum length for today's population of individuals with mobility impairments. The research project will evaluate existing research and conduct human subject testing focused on individuals with mobility impairments that have not been the subject of previous study.

Fiscal Year 1994

- Space and Reach Range Requirements for Persons Using Power Wheelchairs and Three-Wheeled Scooters and Interior Circulation in Transportation Vehicles. This project will make recommendations for technical specifications for reach ranges, clear floor space, and turning and maneuvering spaces for persons using power wheelchairs and three-wheeled scooters. The project will also study whether additional specifications for interior circulation in transportation vehicles are needed. Specifically, it will address space limitations at fare boxes in buses and light rail vehicles, and whether fare boxes in such vehicles could be made smaller or placed differently.

- Public Information for Persons with Cognitive Disabilities. This project will produce technical assistance materials about providing public information and wayfinding information for persons with cognitive disabilities in buildings, transportation facilities and outside areas. The study will examine the symbols and signage that can be used to meet the needs of that population.

- Regulatory Impact Analysis. The regulatory impact analysis will be a limited project to provide data for a cost benefit analysis of the proposed guidelines for recreation facilities and outdoor developed areas.

As soon as the Board completes its current rulemaking on ADAAG sections for certain State and local government facilities, it will begin the process of selecting research projects for fiscal years 1995 and 1996. During December 1993 and January 1994 we will review the issues from our rulemaking that need research, and we will identify additional "tools" needed for the technical assistance program. We plan to publish a Federal Register Notice in February or March 1994 to solicit public comment on our research agenda. We plan a Board vote on the fiscal year 1995 and 1996 research projects in July 1994.

ABA Enforcement

As the table below illustrates, the number of complaints the Board has received under the Architectural Barriers Act (ABA) has been declining. We expect the number of complaints to level out in fiscal years 1994 and 1995 to some where between 90 and 100. The ABA has been effect for 23 years, and the Board has had the enforcement responsibilities for 20 years. Perhaps, the message of accessibility is being heard, and those entities constructing building and facilities with Federal funds are making them accessible. We have found that entities seem much more willing to take corrective action to remove barriers to accessibility. Even with a reduced case load, the Board plans to keep the same resources allocated to the Compliance and Enforcement program as it has in the past. We do not intend to allow a back log of cases to develop as happened in the 1985 to 1989 time period.

ARCHITECTURAL BARRIERS ACT ENFORCEMENT					
Number of New Cases Received					
FY 91	FY 92	FY 93 To Date	FY 93 Estimated	FY 94 Estimated	FY 95 Estimated
153	145	90	100	100	100

Quality Improvement

The Board is planning to implement a total quality program. We believe such a program is necessary for the Agency. We keep statistics, for example, on the number of phone calls we receive, the number of training courses we provide, and the number of cases

we resolve. However, we do not have any measure of the quality of our services. The Board seems to be a prime agency to implement a quality program. Our size allows us to be less bureaucratic, we are organizationally flat, and we have easily identifiable services and customers. The Board has made a strong commitment to quality. Beginning in October 1992, we have sent all unit directors and the administrative officer to total quality management training. During the summer of 1993, we have visited other Federal agencies that have implemented a quality program to learn about their success and mistakes. We have met with consultants, and staff from the Federal Quality Institute. We have reviewed a number of survey instruments other agencies have used to survey their internal and external customers.

We have begun instituting quality oriented changes. We have had numerous complaints from technical assistance customers that our toll-free lines were always busy. A volunteer team of Board staff took the lead in developing the hardware and software specifications and the menu options for a new telephone system. The telephone system is now in place with real time reports available to monitor line usage. Additionally, for the first time, we are using an advisory committee made up of people who will be the customers using our accessibility guidelines for recreation to recommend guidelines for the Board to consider. The response and work of the members of the advisory committee have exceeded our expectations.

During fiscal year 1994, we plan to provide all the Board staff with training in the quality approach, measurement techniques, and team problem solving. The staff and Board members will together develop a vision statement for the Board and specific goals. We plan to conduct a survey of both external and internal customers of the Board. By fiscal year 1995, we will have a quality approach to our programs and services at the Board. We do not anticipate any additional fiscal year 1995 funds will be necessary for this effort.

Public Communications

The Public Communications program will coordinate efforts to provide information to the Board's publics and customers, to assess customer needs for specific data or products, and to develop ways to address those needs through technical assistance, training, publications, and video and audio presentations. The program will also increase access to information through a variety of channels including a recorded news and information telephone line, a computer bulletin board, expanded and refined mailing lists for reaching specific publics or customers with information pertinent to their needs or to notify them of issues of interest. In addition, the Public Communications program will foster working together collaboratively with outside groups in order to develop closer ties with other Federal agencies, State and local governments, and such customer groups as architects, designers, public works officials, and building and construction managers.

**NATIONAL INSTITUTE ON DISABILITY
AND REHABILITATION RESEARCH**

400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-2572
202/205-8134

**DBTAC TOLL FREE NO. - 1-800-949-4232
(VOICE/TDD)**

The National Institute on Disability and Rehabilitation
Research's (NIDRR's) Americans with Disabilities Act (ADA)
Technical Assistance Initiative

History: In the fall of 1991, the Senate Report accompanying NIDRR's Appropriation bill directed NIDRR to fund "technical assistance related to the implementation of the ADA" and the House report directed NIDRR to fund "...up to ten new regional centers on disability." In response to these directives, NIDRR established an ADA technical assistance initiative with the following five components.

Five Components:-

- (1) Regional Disability and Business Technical Assistance Centers (DBTACs)
- (2) National Training Projects (NTPs)
- (3) Materials Development Projects (MDPs)
- (4) ADA Grant Coordination Contractor
- (5) Interagency Collaboration

Project Model:

NIDRR's technical assistance program is designed to develop and support a network of technical assistance providers that operates at a regional, State, and local level. Each of the regional DBTACs has established a network of State affiliates. In the next five year cycle, a network of local affiliates will be established by the State affiliates.

ADA Grants and Contracts History:

<u>October 1991</u>	<u>October 1994</u>
10 <u>DBTACs</u> - 5 Year Grants	10 <u>DBTACs</u> (continued)
2 <u>NTPs</u> - 3 Year Grants	6 <u>NTPs</u> - 3 Year Grants
(1) Independent Living Centers	(1) Independent Living Centers
(2) Peer and Family Networks	(2) Family Organizations
3 <u>MDPs</u> - 2 Year Grants	(3) School Districts
(1) Public Accommodations and Accessibility	(4) State and Local ADA Coordinators and Policymakers
(2) Employment	(5) Hispanics with Limited Proficiency in English
(3) Employment	(6) Standards for Accessible Design
1 <u>ADA Grant Coordination Contractor</u> - 3 Years	1 <u>ADA Grant Coordination Contractor</u> - 3 Years

Average Annual Budgets: (1) DBTACs: \$450,000; (2) NTPs: \$250,000;
(3) MDPs: \$250,000; (4) ADA Contractor: \$300,000.

The DBTACs and State affiliates are administered by a wide range of agencies:

	DBTACS	State Affiliates
Independent Living Centers	1	16
Disability Organizations	2	9
Disability Coalitions		8
Governors' Committees on Disability	1	8
State Disability Agencies		13
Disability-related Business-based programs	2	7
Disability-related University-based programs	4	7

Note: The number of State affiliates exceeds 50 because some of the larger States have more than one affiliate.

Accomplishments:

(1) Regional Disability and Business Technical Assistance Centers

a. Receive 6,000 per month on 800# that automatically routes caller to the DBTAC serving the area code of the caller.

b. Train over 60,000 persons per year on all parts of the ADA using a variety of methods and formats:

1. Business ----- 29%
2. Government ----- 27%
3. Individuals with Disabilities- 24%
4. Service Providers ----- 12%
5. Other ----- 8%

c. Distribute 540,000 documents per year at no cost or cost of shipping and duplication. All materials distributed by the DBTACs are either produced by the Department of Justice (DOJ) or the Equal Employment Opportunity Commission (EEOC) or reviewed by them for legal sufficiency.

d. Provided 80,000 instances of technical assistance per year. Technical assistance defined to include: making referrals, answering technical questions, and providing on-site consultation, making TV/radio appearances, and writing newspaper and magazine articles.

e. All of the grantees share information with each on a daily basis using a electronic bulletin board housed at the University of West Virginia. The EEOC and Access Board are participants on the bulletin board.

f. Special Initiatives: The DBTACs have undertaken a wide range of special initiatives in addition to their core functions. Some of these special initiatives are:

1. A Minority Outreach Project in Los Angeles that began with \$25,000 from the Region IX DBTAC and grew to \$120,000 with matching grants from the local and State agencies. The outreach is targeted to minority community organizations, consumers, and disadvantaged business enterprises.

2. A Hispanic Outreach Project in Texas that developed new ADA materials in Spanish and piloted the use of mass media as a means of reaching persons who are Hispanic and have limited proficiency in English.

3. The development of materials about the implications of the ADA for persons who with mental retardation. Note: A similar project was undertaken by one of NIDRR's field-initiated research projects regarding persons with psychiatric disabilities.

4. The development of TV and radio PSAs about the ADA in English and Spanish.

5. The development of a pilot curriculum about the ADA and disability awareness for elementary and secondary school students.

6. Each of the DBTACs makes \$50,000 available to the Independent Living Centers in the region to promote the implementation of the ADA through technical assistance activities.

(2) National Training Projects (NTPs)

The Peer and Family Training Project trained approximately 2,400 person per year on all aspect of the ADA.

The Independent Living Center Training Project trained approximately 75 persons per year on all aspects of the ADA. This training was intensive and intended to enable the trainee to train other persons associated with Independent Living Centers.

(3) Materials Development Projects (MDPs)

The MDPs developed over 60 products including videos, self-evaluation instruments, fact sheets, facility surveys, PSAs, and slide shows. These materials were distributed by the DBTACs and publishing houses and were reviewed by the DOJ and the EEOC for legal sufficiency.

(4) ADA Grant Coordination Contractor

The Coordination Contractor convened semi-annual 3 day meetings of all of the Project Directors, facilitated the distribution of materials from other Federal agencies to the DBTACs, and collected and compiled monthly evaluation data on all of the grantees.

(5) Interagency Collaboration

a. NIDRR has provided funding to the DOJ and EEOC to defray costs of publishing their ADA materials and sponsored a joint meeting of the NIDRR-DOJ technical assistance grantees.

b. At each of the Project Directors' meetings, representatives of all relevant Federal agencies update the grantees on the status of their technical assistance and enforcement activities and answer technical questions.

c. NIDRR has cooperated with the Office for Civil Rights with the Department of Education to develop and publish self-evaluation guides for schools, universities and public libraries.

d. There are staff liaisons at the EEOC, DOJ, and Access Board with each of the DBTACs to assist them to answer technical questions accurately and in a timely manner.