



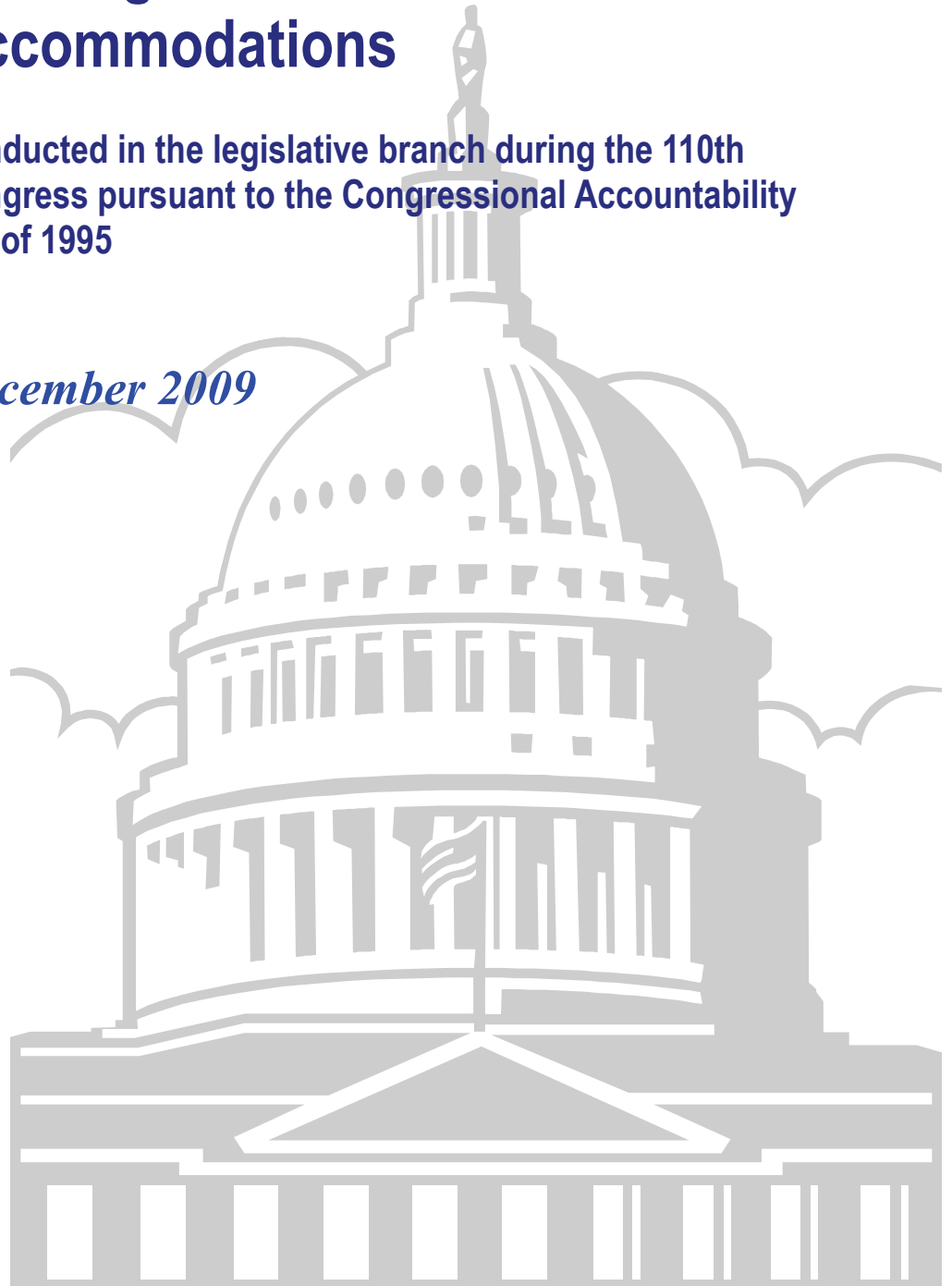
## *Office of Compliance*

*advancing safety, health, and workplace rights in the legislative branch*

# **Report on Americans with Disabilities Act Inspections Relating to Public Services and Accommodations**

**Conducted in the legislative branch during the 110th  
Congress pursuant to the Congressional Accountability  
Act of 1995**

*December 2009*



December 2009

The Honorable Robert Byrd  
President Pro Tempore of the Senate  
United States Senate  
S-128 Capitol Building  
Washington, D.C. 20510

The Honorable Nancy Pelosi  
Speaker of the House  
United States House of Representatives  
H-232 Capitol Building  
Washington, D.C. 20515

Dear President Pro Tempore Byrd and Speaker Pelosi:

Enclosed is the General Counsel's Report on Americans with Disabilities Act Inspections Relating to Public Services and Accommodations conducted during the 110<sup>th</sup> Congress. As provided in § 210(f) of the Congressional Accountability Act, 2 U.S.C. § 1331(f), at least once each Congress, the General Counsel of the Office of Compliance shall inspect the facilities of the covered entities in the legislative branch for compliance with the public services and accommodations provisions of the Americans with Disabilities Act. On the basis of each periodic inspection, the General Counsel shall, at least once every Congress, prepare and submit a report containing the results of the inspection, describing any steps necessary to correct any violation, assessing any limitations in accessibility to and usability by individuals with disabilities associated with each violation and the estimated cost and time needed for abatement. 2 U.S.C. § 1331(f)(2)(B). The enclosed report notes many improvements made during the 110<sup>th</sup> Congress in public access for individuals with disabilities and makes suggestions for future improvements. Please contact me if you or your staff desire a briefing on this Report.

Looking forward, the Office of Compliance will continue to work cooperatively with each of the covered offices to efficiently and effectively plan for the removal of barriers to access wherever they may exist. To assist the offices, our plan for activities during the 111<sup>th</sup> Congress includes the following:

- Comprehensive evaluations and inspections of facilities scheduled for major renovations so that barriers to access are adequately identified and removed in the renovation plans as provided in the Americans With Disabilities Act Accessibility Guidelines (ADAAG);

- Inspections of existing facilities to identify barriers whose removal is readily achievable and to assist in developing a transition plan for each facility that contains solutions (both interim and permanent) for each barrier;
- Ongoing technical guidance for each covered office that will assist the office in the identification of barriers to access in the programs, activities, services and accommodations being provided and in the development of transition plans to address these barriers; and
- Educational programs and interpretive guidance respecting the ADA requirements that apply to legislative branch offices.

We intend to continue to improve access within existing budget constraints by working with the covered offices to identify, plan and set priorities for access projects. The overall goal is to provide the most access consistent with available resources. We believe that, with the continued support of the covered offices, this goal is readily achievable.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter Ames Eveleth". The signature is fluid and cursive, with the first name "Peter" being the most prominent.

Peter Ames Eveleth  
General Counsel

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## INTRODUCTION

The Congressional Accountability Act of 1995 (CAA), 2 U.S.C. § 1301, *et seq.*, applies the Americans with Disabilities Act (ADA) to the legislative branch. Under the CAA, the Office of Compliance (OOC), an independent legislative branch agency, enforces the ADA. 2 U.S.C. §§ 1311 & 1331. Title I of the ADA, prohibiting employment discrimination because of disability, is enforced through the OOC's counseling, mediation and hearing procedure. See, CAA, 2 U.S.C. §§ 1401-1406.

The OOC's General Counsel enforces Titles II and III of the ADA, providing for access to public services and accommodations by individuals with disabilities. See CAA, 2 U.S.C. § 1331. The General Counsel conducts biennial inspections of the legislative branch to ascertain compliance with the ADA and reports his findings to Congress. 2 U.S.C. § 1331(f)(1). This Report to Congress, and to the entities responsible for correcting violations, presents the findings of the inspection conducted during the 110<sup>th</sup> Congress.

## SUMMARY

Persons with disabilities are guaranteed access to the public services and accommodations

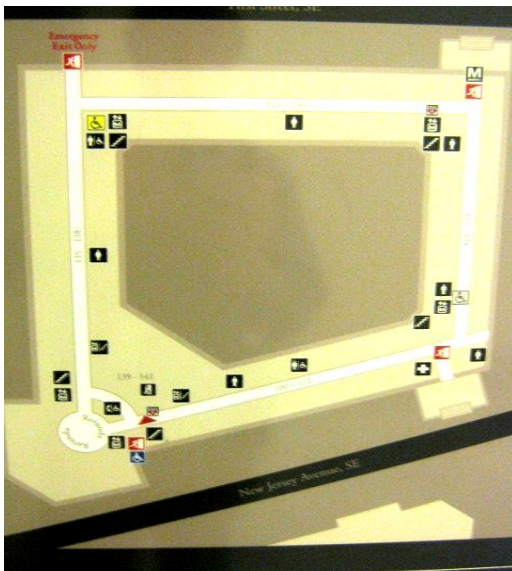
provided by the legislative branch. This right to access includes access to the buildings and facilities where these services and accommodations are provided and access to the representatives, committees, and staff who provide these services and accommodations. Under the ADA, the right to access also includes the right to be included in the evacuation procedures for legislative buildings and facilities. During the 110<sup>th</sup> Congress, planning for the prompt evacuation of individuals with mobility impairments and providing appropriate signage were priorities. In all public buildings on Capitol Hill, employees and visitors with mobility impairments will now be directed to designated staging areas during an emergency. From these staging areas, individuals with mobility impairments will be guided to safety by trained employees.

Further, while additional work needs to be done, steady progress has been made installing visual alarms in public areas and providing hallway signage with egress information in braille. These changes will assure prompt notification and evacuation of employees and visitors with vision and hearing impairments.

The first part of this Report summarizes the findings set forth in the Individual Building Charts, attached at Appendix A. Comments from the inspected entities are attached at Appendix B.

## PUBLIC ACCESS & ACCOMMODATION PROVISIONS OF THE ADA RELEVANT TO COVERED LEGISLATIVE BRANCH ENTITIES

The Americans with Disabilities Act (ADA) was enacted by Congress in 1990. This law establishes comprehensive rights and protections for people with disabilities. The original law applied only to state and local governments and private entities; executive branch agencies had been prohibited from discriminating against those with disabilities since the enactment of the Rehabilitation Act of 1973. In 1995, Congress extended the protections to individuals with disabilities who were employed by, visitors to,



Example of Posted Evacuation Route

or received services or accommodations from legislative branch offices by enacting the Congressional Accountability Act (CAA), which applies basic provisions of the ADA to the following Legislative Branch offices:

- each office of the Senate,
- each office of the House,
- each Committee,
- each Joint Committee,
- the Office of Congressional Accessibility Services,
- the United States Capitol Police,
- the Congressional Budget Office,
- the Office of the Architect of the Capitol,
- the Office of the Attending Physician, and
- the Office of Compliance.

### **Quick & Easy Guide to the ADA Access Provisions**

While the access provisions of the ADA can sometimes be confusing, legislative entities covered by the CAA can comply with the ADA by understanding a few basic concepts. The ADA essentially guarantees access to individuals with disabilities. The ADA principle of access is as follows:

- **Access MEANS eligibility.** A person with a disability cannot be deemed ineligible for a service or accommodation because of the disability. For example, if an office usually provides a service to constituents, that service cannot be denied to a constituent with a disability because of the disability.
- **Access MEANS providing meaningful participation.** A person with a communication impairment (such as limited hearing, seeing, or speaking abilities) must be furnished with an auxiliary aid if needed to provide meaningful participation by and

interaction with the individual. For example, furnishing constituent services to a deaf person whose principal language is American Sign Language (“ASL”) will often require that an ASL interpreter be provided to facilitate face-to-face communication.

- **Access MEANS physical access.** Physical access to an accommodation or a service will often require removal of structural barriers. Structural barriers can include manually operated doors, narrow doorways, stairs without ramps, sidewalks without curb cuts, and other obstacles to physical access. The regulations regarding removal of structural barriers are different depending upon whether the barrier exists in an existing building or in new construction. For the distinction, see the following section on structural barriers.
- **Access DOES NOT MEAN** that the nature of a service must be changed for a person with a disability. For instance, if an office provides services exclusively to constituents residing within a particular voting district, the office need not provide those services to an individual with a disability not residing in the voting district merely because the individual has a disability.

**Structural barriers** are obstacles that impede access for individuals with disabilities to services and accommodations. Whether removal of a structural barrier is required to comply with the ADA is often dependent upon whether the barrier is in an existing building or in new construction (including alterations).

- In existing buildings, removal of structural barriers is required if such removal is “readily achievable.” Examples of “readily achievable” barrier removal include installing ramps, making curb cuts in sidewalks and entrances, and widening doors.

- In new construction, facilities must comply with the requirements promulgated by the United States Access Board (<http://www.access-board.gov>) which provide full access for individuals with disabilities. Alterations to a facility -- including remodeling, renovations, rearrangements of structural parts, and changes or rearrangements of walls and full-height partitions -- must, to the maximum extent feasible, also comply with the requirements promulgated by the Access Board.



- Normal maintenance tasks -- such as reroofing, painting, wallpapering, asbestos removal, and changes to electrical and mechanical systems -- are not “alterations” unless they affect “usability.” So, for example, changing electrical wiring is not an “alteration” unless outlets are being relocated. Location of a new outlet can affect usability by a person in a wheelchair because the person will be unable to reach an outlet placed too low; consequently, this change to an electrical system would be an alteration that must comply with the reach requirements in the regulations.

### Technical/ Legal Description of ADA Access Provisions

**General Overview.** The Congressional Accountability Act (CAA) applies several provisions of the ADA to the following Legislative Branch offices: each office of the Senate, each office of the House, each Committee, each Joint Committee, the Office of Congressional Accessibility Services, the United States Capitol Police, the Congressional Budget

Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance. CAA § 210(a), 2 U.S.C. § 1331(a).

First, the CAA incorporates the prohibitions against employment discrimination contained in Title I of the ADA. CAA § 201(a)(3), 2 U.S.C. § 1311(a)(3). Discrimination under Title I is defined as including “not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee.” 42 U.S.C. § 12112(5)(A). Reasonable accommodations can include “making existing facilities used by employees readily accessible to and usable by individuals with disabilities.” 42 U.S.C. § 12111(9)(A). Under the CAA, Title I of the ADA is enforced through the counseling, mediation and complaint procedures specified in the CAA §§ 401-416, 42 U.S.C. §§ 1401-1416.

Second, the CAA applies to covered offices of the Legislative Branch the full protections of Title II of the ADA; Title II prohibits the exclusion from participation in or denial of the public services of these offices to a qualified individual with a disability by reason of such disability. CAA § 210(b)(1), 2 U.S.C. § 1331(b)(1) (incorporating rights protected by sections 201 through 230 of the ADA, 42 U.S.C. §§ 12131-12150). Entities covered by Title II are required to:

- ensure that qualified individuals with disabilities are not excluded from participation in, or denied the benefits of public services, programs or activities because facilities are inaccessible or unusable by them, 28 C.F.R. § 35.149;
- make reasonable modifications to policies, practices and procedures as necessary to afford “the benefits of the services” to those with disabilities, 28 C.F.R. §§ 35.130(a) & (b)(7); and



- take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others which include furnishing appropriate auxiliary aids and services to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the covered entity, 28 C.F.R. §§ 35.160(a) and (b)(1).<sup>1</sup>

Finally, the CAA extends the protections of Title III of the ADA to the covered offices of the Legislative Branch. CAA § 210(b)(1), 2 U.S.C. § 1331(b)(1). Under the applicable provision of Title III, “[n]o individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the ... services, ... or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.” With respect to new construction, Title III specifically defines discrimination as including:

“a failure to design and construct facilities for first occupancy . . . that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this subchapter.”

42 U.S.C. § 12183(a)(1).

With respect to existing facilities, discrimination is defined as including “a failure to remove architectural barriers, and

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<sup>1</sup> See section below on “Website Accessibility” for information on how this requirement affects website design.

communication barriers that are structural in nature, in existing facilities . . . where such removal is readily achievable.” 42 U.S.C. § 12182(b)(2)(A)(iv). By applying Title III to the Legislative Branch, Congress has manifested a legislative intent to define broadly “places of public accommodation” to include at least all places open to constituents and visitors. See CAA § 210(g); 2 U.S.C. § 1331(g); 42 U.S.C. § 12209(6) (creating a remedy for employees, visitors, guests and patrons subject to ADA access discrimination by the Government Accountability Office, the Government Printing Office, and the Library of Congress).

Additional guidance for interpreting the phrase “places of public accommodation” can be found in the regulations promulgated by the Department of Justice that serve as a basis for any regulations and interpretations issued under the CAA. See CAA §§ 210(e)(2) & 411; 2 U.S.C. §§ 1331(e)(2) & 1411. Under 28 C.F.R. § 36.104, “places of public accommodations” are facilities which provide the following:

- lodging (such as dormitories and other transitory lodging places);
- food or drink (such as cafeterias and restaurants);
- exhibition or entertainment (such as theaters and concert halls);
- public gatherings (such as lecture halls, hearing rooms, and auditoriums);
- sales or retail shops (such as gift stores and food shops);
- commercial or professional services (such as banks; barber and beauty shops; drycleaners; travel agencies; shoe cleaning and repair shops; and medical, accounting and legal offices);
- public transportation (such as terminals and stations);
- public displays or collections (such as libraries, galleries and museums);
- recreation (such as parks and gardens);
- education (such as nursery, elementary, secondary, undergraduate, and postgraduate schools);
- social services (such as day care and senior citizen centers); and

- exercise or recreation (such as pools, gymnasiums and health clubs).

***New Construction and Alterations.*** When examining new construction and alterations of existing facilities affecting usability, the access requirements of all Titles of the ADA applicable to the covered offices of the Legislative Branch under the CAA must be considered. The Capitol Visitor Center is an example of new construction; the recent remodeling of the Botanic Garden is an example of an alteration affecting usability.

While Title I of the ADA does not specifically address access in work spaces contained within new construction and alterations, the legislative history of the ADA clearly indicates that the new construction and alterations requirements of Title III were intended to ensure accessibility of new facilities to all individuals, including employees. 28 C.F.R. Part 36, App. B § 36.401 “Work Areas” (July 1, 1994). Appendix A to the regulations implementing Title II and Title III (ADA Accessibility Guidelines or ADAAG), which define how to achieve accessibility in new construction, explicitly provide that “areas that are used only as work areas shall be designed and constructed so that individuals with disabilities can approach, enter, and exit the areas.” 28 C.F.R. Part 36, App. A, § 4.1.1(3) (July 1, 1994). A similar advisory is contained in the proposed modifications to the ADAAG. Advisory 203.9 provides that “[d]esigning employee work areas to be more *accessible* at the outset will avoid more costly retrofits when current employees become temporarily or permanently disabled, or when new employees with disabilities are hired.”

Titles II and III of the ADA require that new facilities be designed and constructed in such manner that the facility be “readily accessible to and usable by individuals with disabilities.” 42 U.S.C. § 12183(a)(1); 28 C.F.R. § 35.151 (Title II), 28 C.F.R. § 36.401 (Title III). The ADA specifically requires the Architectural and Transportation Barriers Compliance Board (“Access Board”) to issue minimum guidelines for accessible design that comply with the requirements of Title II and Title III. 42 U.S.C. §

12204(a).<sup>2</sup> New and remodeled facilities must be built in strict compliance with the ADAAG to be considered “readily accessible to and usable by individuals with disabilities.” 28 C.F.R. § 36.406;<sup>3</sup> U.S. Dept. of Justice, *ADA Title II Technical Assistance Manual* § II.-6.1000 (Nov. 1993);<sup>4</sup> U.S. Dept. of Justice, *ADA Title III Technical Assistance Manual* § III.-5.1000 (Nov. 1993).<sup>5</sup>

***Existing Buildings: Readily Achievable Removal of Barriers.*** Title III of the ADA requires that architectural barriers, including communication barriers that exist on signage, must be removed from places of public accommodation in existing buildings if such removal is “readily achievable.” 42 U.S.C. § 12182(b)(2)(A)(iv), 28 C.F.R. § 36.304. The phrase “readily achievable” means “easily accomplishable and able to be carried out without much difficulty or expense.” 42 U.S.C. § 12181(9); 28 C.F.R. § 304(a). Examples of “readily achievable” steps for removal of barriers include: installing ramps; making curb

<sup>2</sup>The Access Board’s proposed modifications to the ADAAG are still under consideration by the Department of Justice. The current guidelines can be found at 28 C.F.R. Part 36, App. A (July 1, 1994). Additional information is available at <http://www.access-board.gov>.

<sup>3</sup>28 C.F.R. § 36.406(a) reads as follows: “New construction and alterations subject to this part shall comply with the standards for accessible design published as appendix A to this part (ADAAG).”

<sup>4</sup>§ II-6.1000 reads as follows: “*What is ,readily accessible and usable?*” This means that the facility must be designed, constructed, or altered in strict compliance with a design standard.” While the regulations give state and local governments the choice of using the Uniform Federal Accessibility Standards (“UFAS”) or the ADAAG, covered entities under the CAA do not have this choice and must use the ADAAG because the UFAS only applies to entities covered by the public access provisions of the Rehabilitation Act of 1973 that were not incorporated into the enforcement provisions of the CAA.

<sup>5</sup> § III-5.1000 reads as follows: “*What is ,readily accessible and usable?*” This means that the facilities must be built in strict compliance with the Americans with Disabilities Act Accessibility Guidelines (ADAAG). There is no cost defense to the new construction requirements.”

cuts in sidewalks and entrances; repositioning shelves, furniture, vending machines, displays, and telephones; adding raised markings and elevator control buttons; installing visual alarms; widening doors; installing accessible door devices; rearranging toilet partitions to increase maneuvering space; raising toilet seats; and creating designated accessible parking spaces. 28 C.F.R. § 304(b).

There exist “readily achievable” steps that can be taken in the Capitol Hill complex to remove existing architectural and structural barriers. These steps include installation of visual alarms in rooms and spaces open to the public, replacement of non-compliant signage, correction of non-compliant sidewalk slopes and ramps, and replacement of door hardware or installation of accessible door devices when the force required to open a door is too great. While the OOC cannot order that these steps be taken absent the filing of a formal charge by an employee, a visitor or a constituent with a disability, the OOC notes that it would be prudent to take these steps proactively to improve accessibility.

***Existing Buildings: Alternative Methods Readily Achievable.*** If a covered entity can demonstrate that complete removal of a barrier is not “readily achievable,” Title III of the ADA requires the covered entity to provide the goods, services, facilities, privileges, advantages, and accommodations through alternative methods if such methods are “readily achievable.” 42 U.S.C. § 12182(b)(2)(A)(v). Alternative methods can include measures that do not fully comply with the specified requirements. For example, an office could provide a ramp with a steeper slope or widen a doorway to a narrower width than mandated by the alteration requirements. 28 C.F.R. § 36.304(d)(2). No measure can be taken, however, that poses a significant risk to the health and safety of individuals with disabilities or others. 28 C.F.R. § 36.304(d)(2).

***Alterations.*** Any change to a building or facility that “affects or could affect the usability

of the building or facility or any part thereof” is considered an “alteration” within the meaning of the ADA. 28 C.F.R. § 35.151(b); 28 C.F.R. § 36.402(b). Alterations include remodeling, renovation, rehabilitation, reconstruction,



historic restoration, changes or rearrangement of structural parts or elements, and changes or rearrangements in the plan configuration of walls and full-height partitions. 28 C.F.R. § 36.402(b)(1). Normal maintenance, reroofing, painting, wallpapering, asbestos removal, or mechanical and electrical system changes are not alterations unless they affect the usability of the building or facility. 28 C.F.R. § 36.402(b)(1).<sup>6</sup>

Alterations must be made so that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by persons with disabilities in accordance with the ADAAG. 28 C.F.R. § 35.151(b); 28 C.F.R. § 36.402(a); U.S. Dept. of Justice, *ADA Title II Technical Assistance Manual* § II.-6.1000 (Nov. 1993); U.S. Dept. of Justice, *ADA Title III Technical Assistance Manual* § III.-6.1000 (Nov. 1993). The phrase “to the maximum extent feasible” applies to the occasional case where the nature of an existing facility makes it “virtually impossible” to comply fully with the

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<sup>6</sup> As noted above, electrical rewiring would not be an alteration unless outlets are relocated. If outlets are relocated, the rewiring would affect the usability of outlets by an individual in a wheelchair and therefore the new outlet locations would have to meet the ADAAG reach requirements.

ADAAG through a planned alteration. 28 C.F.R. § 36.402(a).

A modification is “technically infeasible” if it would require removing or altering a load-bearing member which is an essential part of the structural frame or because other existing physical or site constraints prohibit modification. 28 C.F.R. Part 36 App. A § 4.1.6(j). When technical infeasibility exists, the alteration must provide the maximum physical accessibility that is feasible, which means that any altered feature that can be made accessible shall be made so and that access shall be provided even if it is limited to individuals with only certain disabilities (such as access can be provided for those using crutches or who have impaired vision or hearing, but not for those in wheelchairs). 28 C.F.R. § 36.402(c). Cost is not to be considered when determining whether adding accessibility features to an alteration is technically feasible. U.S. Dept. of Justice, *ADA Title III Technical Assistance Manual* § III.-6.1000 (Nov. 1993).

When alterations are made to an area of a facility that contains “a primary function,” the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area must also comply with the ADAAG. 28 C.F.R. § 36.403(a); 28 C.F.R. Part 36, App. A, § 4.1.6(2) (July 1, 1994). Any area where a major activity takes place is considered a “primary function” area. This includes reception lobbies, meeting rooms, offices, dining spaces in cafeterias, and work areas. It does not include mechanical rooms, supply storage closets, entrances or restrooms. U.S. Dept. of Justice, *ADA Title III Technical Assistance Manual* § III.-6.2000 (Nov. 1993); 28 C.F.R. § 36.403(b). In addition, certain minor alterations in “primary function areas” -- such as modification or replacement of windows, hardware, controls, electrical outlets and signage -- do not trigger the “path of travel” obligation even though the alteration itself must comply with the ADAAG. 28 C.F.R. § 36.403(c)(2). If the cost of modifying the path of travel to the altered primary function area (including the costs of modifying restrooms, telephones and drinking fountains) exceeds 20% of the cost of

the alteration to the primary function area, it is “disproportionate to the overall alteration” and the path of travel must be made accessible to the extent that it can be made without incurring disproportionate costs. 28 C.F.R. §§ 36.403(f) & (g).

For example, replacement of flooring is considered an alteration because it can affect whether or not an individual in a wheelchair can travel along the surface. The new flooring must comply with the ADAAG. If the flooring is located in a primary function area, the path of travel to the altered area and the restrooms, telephones and drinking fountains serving the altered area must also be modified to comply with the ADAAG to the extent that those modifications do not exceed 20% of the total cost of the floor replacement. On the other hand, replacement of room number signs is also an “alteration” because it can affect usability by an individual who is blind. The new signs must comply with the ADAAG. Even if the signs are in a primary function area, the “path of travel” obligation is not triggered because sign replacement is in the list of alterations that will never trigger this requirement. See *ADA Title III Technical Assistance Manual* § III.-6.2000 (Nov. 1993).

Under certain circumstances, exceptions do exist to the requirement of strict compliance with the ADAAG when alterations are being made to qualified historic buildings. When compliance with the requirements for accessible routes (exterior and interior), ramps, entrances, or toilets would threaten or destroy the historic significance of a building or facility, there are alternative requirements that can be used for the accessible feature. 28 C.F.R. Part 36, App. A, § 4.1.7(3) (July 1, 1994). When a proposed accessibility alteration may threaten or destroy the significance of a building, there should be consultation with those interested in historic preservation as well as those interested in accessibility, including compliance officials and members of the public who are disabled. 28 C.F.R. Part 36, App. A, §§ 4.1.7(2)(b) & (c) (July 1, 1994). Generally, at a minimum, alterations to historic buildings must provide: at least one accessible route from a site access

point to an accessible entrance; at least one accessible entrance; at least one accessible toilet facility; accessible routes from the accessible entrance to all publicly used spaces on at least the level of the entrance (and to all other levels whenever practical); and displays, signage and exhibits at a height level that can be seen by a seated person. 28 C.F.R. Part 36, App. A, § 4.1.7(3).

***Reasonable Modifications to Policies, Practices and Procedures.*** Both Title II and Title III, as modified by the CAA, require covered entities to make reasonable modifications to policies, practices and procedures as necessary to afford the benefits of the public services and accommodations of the covered entity to persons with disabilities unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the services or accommodations. 28 C.F.R. § 35.130(b)(7); 42 U.S.C. § 12182(b)(2)(A)(ii). For example, an entity would have to modify a policy prohibiting animals in its facilities to accommodate visually impaired individuals using guide dogs. On the other hand, a covered entity providing constituent services for individuals exclusively residing in a particular geographical area would not have to make those services available to visually impaired individuals residing outside of this area just because they are disabled.

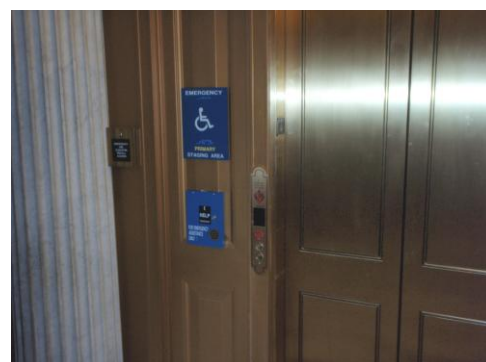
***Auxiliary Aids and Services to Ensure Effective Communication.*** Both Title II and Title III also require a covered entity to provide auxiliary aids and services to communication-impaired persons when necessary for them to obtain the benefits of the public services and accommodations being offered. 42 U.S.C. §§ 12131(2) & 12182(b)(2)(A)(iii); 28 C.F.R. § 35.160(b)(1); 28 C.F.R. § 36.303(a). Entities covered by Title II are required to “take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.” 28 C.F.R. § 35.160(a). Covered entities are required to “furnish appropriate auxiliary aids and services where necessary to afford an individual with a

disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the entity.” 28 C.F.R. § 35.160(b)(1). Auxiliary aids and services include qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments; qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments; acquisition or modification of equipment or devices; and other similar services and actions. 42 U.S.C. § 12102(1). When a covered entity communicates by telephone with applicants and beneficiaries, telecommunication devices for the deaf (TDD's) or equally effective telecommunication systems must be used to communicate with individuals with impaired hearing or speech. 28 C.F.R. § 35.161.

## **IMPROVEMENTS MADE DURING 110<sup>TH</sup> CONGRESS**

There has been significant progress in improving accessibility and safety throughout the Capitol Hill complex.

***Push-To-Talk Devices.*** A “Push-to-Talk” device is an electronic communication aid used primarily by individuals with mobility and communication impairments. This device provides a direct link to the United States Capitol Police and identifies the specific location of the person activating the device. The



**Push-To-Talk Device**

initial installation of ADA emergency communication devices in the staging areas of the U.S. Capitol Building and the Capitol Visitor Center is now complete. These push-to-talk devices are mounted within 48 inches of the floor to assure easy access. Each device has a unique location address that goes to the USCP communications center so that even those who are mute can communicate their location to the police. (See above photo). These devices are also being installed in other areas of the campus as funds become available. See 28 CFR Part 36 Appendix A, § 4.1 (Minimum requirements); 4.3.11.4 (Two-Way Communication); 4.10.14 (Emergency Communications); Appendix A1 Section A4.3.10 (Egress); A4.3.11.4 (Two-Way Communication); A4.10.14 and (Emergency Communications)

**Signage.** ADA signage for emergency staging areas and wayfaring has been much improved in the House Office buildings. Emergency evacuation staging areas for persons with disabilities are now being displayed on wall maps in House Office buildings. These wall maps show both primary and secondary staging areas as well as other pertinent ADA information. Room signs and exit stairways have appropriate braille text. These signs have been or are being mounted at a uniform height using Grade 2 braille. It is expected that ADA signage will be standardized by AOC in all campus buildings in the coming years. See 28 CFR Part 36 Appendix A, §4.1 (Minimum requirements); 4.3.11.5 (Identification); 4.1.2 (Accessible Sites and Exterior Facilities: New Construction); (7) (Building Signage); 4.1.6 (1) (General); (Accessible Buildings: Alterations); Appendix A Section 4.30 (Signage); Appendix A1 Section A4.30 (Signage); NFPA 101-2000 Edition, Section 7.10.1.3 (Exit Stair Door Tactile Signage); 7.10.2. (Directional Signs) and 29 CFR § 1910.35 (Compliance with NFPA 101-2000, Life Safety Code)

**Improved Egress.** The House of Representatives implemented a hallway policy in all of the House buildings on April 17, 2008. This policy has improved ADA access in the hallways as well as egress in the event of an

emergency. The policy prohibits permanent placement in the hallways of items such as large laminated signs, easels, electronic kiosks and sign-in tables. Flags are no longer displayed using floor stands but are placed in wall-mounted holders adjacent to the main door of member and committee offices. The policy also limits temporary placement in the hallways of items that are being moved at the beginning of each congress or in transit to permanent storage locations. The policy further requires that all signs, pull stations, fire extinguishers and other emergency equipment be kept clear of blockages by items that could interfere with access and safe passage during emergencies. Keeping hallway floors clear of furniture, easels, flags, boxes, and other items allows easier passage through hallways for those using crutches, walkers and wheelchairs and permits ready access to braille signs and doorways. See 28 CFR Part 36 Appendix A, Sections 4.3 (Accessible Routes) and 4.4 (Protruding Objects), 29 C.F.R. 1910.35 (Compliance with NFPA 101-2000, Life Safety Code) and 29 CFR § 1910.37 (a)(3) (Means of Egress)

## SUGGESTIONS FOR FUTURE IMPROVEMENTS

Although there have been significant improvements in the 110<sup>th</sup> Congress, there are still areas that require additional work in order to comply with the ADA.

**Enhanced Accessibility.** Changes and improvements are being made to enhance the accessibility of Capitol Hill buildings and parking areas for persons in wheelchairs. New



Curb Cut Outside of Marked Cross Walk

ramps have been installed at the U.S. Capitol, Jefferson, Madison, Longworth and other buildings on campus; however, some of the new ramps and curb cuts, as well as some of the existing ones, have slopes that exceed the specifications contained in the ADA regulations. There exist other curb cuts which have been placed outside of the marked crosswalks contrary to the ADA regulations. Additional efforts are now being made to enhance safe access to Capitol Hill buildings for those using wheelchairs by correcting sidewalk and curb-cut slopes and other non-compliant accessibility features. In an effort to better map accessible routes for individuals with disabilities and to otherwise encourage improvement of exterior accessibility features, as part of the biennial inspection during the 111<sup>th</sup> Congress, the Office of Compliance will be inspecting sidewalks, curb cuts, and parking garages throughout the



**Level Measuring Curb Cut Slope at 14.8%**

campus and will be reporting its findings in the biennial report. See 28 CFR Part 36 Appendix A Sections 4.7.2 & 4.8.2 (Curb Ramp Slopes), and Section 4.7.9 (curb ramp location at marked crossings).

**Emergency Action Plans.** The Office of Compliance has worked cooperatively with the Senate Office of Security and Emergency Preparedness (OSEP); the House Office of Emergency Planning, Preparedness and Operations (OEPPPO); the U.S. Capitol Police's Emergency Management Division; the Architect of the Capitol's (AOC) staff; and others to develop Emergency Action Plans (EAP) for the

protection of legislative branch employees. For the benefit of all legislative branch employees and visitors to the Capitol Hill campus, improvements have been made in planning, training, facilities and equipment. Emergency-preparedness measures have been implemented to address all potential emergencies on the Capitol grounds whether they are man-made, accidental or natural. Both building evacuation and shelter-in-place procedures for each major campus building has been established. Training for new employees regarding the plans and duties applicable to them is continuing. Additional refinements to emergency plans, procedures and facilities are also continuing for those with special needs to better address their requirements. See 29 CFR § 1910.38 (Emergency Action Plans).

**Signage.** The House and Senate offices have made progress installing signs that are in compliance with ADA requirements for height and placement and for the use of Grade 2 braille with numeric indicators. The House has been leading the efforts to standardize accessibility signage. All member offices in the House and Senate are in compliance; however, the signs that lead to other offices, shops, and storage are currently not compliant. Additional work needs to be done to ensure that signs are adjusted to the right height, are not blocked by items placed near the signs, and contain an accurate braille translation with the numeric indicator. The House office buildings have installed signs containing the International Symbol of Accessibility indicating that assisted listening systems are available for the hearing impaired.

The Senate office buildings have small signs in some places; however, several of the rooms with available devices do not have adequate signage. The Capitol is in the process of using contractors to improve accessibility signage throughout the building. Other buildings on the campus are considering similar improvements. See 28 CFR Part 36 Appendix A, Sections 4.1 (Minimum requirements); 4.1.2 (Accessible Sites and Exterior Facilities: New Construction); 4.1.2(7) (Building Signage); 4.1.6 (1) (General); (Accessible Buildings: Alterations); 4.3.11.5 (Identification)(Areas of Rescue Assistance);

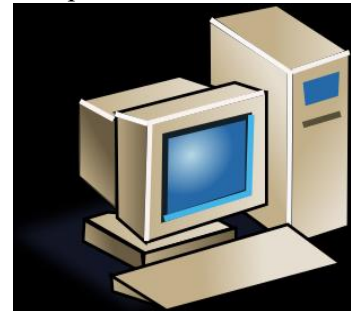
4.30 (Signage); NFPA 101-2000 Edition, Section 7.10.1.3 (Exit Stair Door Tactile Signage); 7.10.2. (Directional Signs) and 29 CFR § 1910.35 (Compliance with NFPA 101-2000, Life Safety Code)

**Website Accessibility.** The CAA does not specifically mandate compliance with Sec. 508 of the Rehabilitation Act (29 U.S.C. § 794d) pertaining to website accessibility; nevertheless, it would be prudent for legislative offices to make their websites accessible.

The circuit courts are currently split as to whether “public accommodations” under Title III are limited to services or products provided at physical structures or whether they include services and products provided via such intangible locations as the worldwide web, mail, or telephone. *Cf., Carparts Distribution Ctr., Inc. v. Automotive Wholesalers Assoc. of New England, Inc.*, 37 F.3d 12, 19-20 (1st Cir.1994) (holding that a provider of services such as an insurance company is a place of “public accommodation” even if its services are provided by telephone or correspondence because the phrase encompasses more than actual physical structures); *Doe v. Mutual of Omaha Ins. Co.*, 179 F.3d 557, 559 (7th Cir. 1999) (where Judge Posner, writing for the majority, states that “[t]he core meaning of this provision, plainly enough, is that the owner or operator of a store, hotel, restaurant, dentist’s office, travel agency, theater, Web site, or other facility (whether in physical space or in electronic space . . .) that is open to the public cannot exclude disabled persons from entering the facility and, once in, from using the facility in the same way that the nondisabled do.”); and *Rendon v. Valleycrest Productions*, 294 F.3d 1279 (11th Cir. 2002) (finding that the automated telephone system used to select contestants for *Who Wants to Be a Millionaire* was covered under Title III even though it was an intangible barrier to access) *with Parker v. Metro. Life Ins. Co.*, 121 F.3d 1006 (6th Cir. 1997) (holding that benefit plan offered by an employer is not a “good” offered by a “place of public accommodation”); *Weyer v. Twentieth Century Fox Film Corp.*, 198 F.3d 1104, 1114 (9th Cir. 2000) (holding that places of public

accommodation are “actual, physical places” and that an insurance company administering an employer provided disability policy is not a “place of public accommodation” under Title III); and *Ford v. Schering-Plough Corporation*, 145 F.3d 601 (3rd Cir. 2002) (holding that the provision of disability benefits by MetLife through an employer-sponsored plan did not constitute a public accommodation under Title III).

District courts have also reached different conclusions regarding Titles II and III. In *National Federation of the Blind v. Target Corporation*, 582 F.Supp.2d 1185 (N.D. Cal. 2007), the court certified a class action proceeding against a department store chain on the basis that the chain’s website was not accessible to the blind, thereby denying to the blind the store discounts and other benefits available



exclusively from the website. After this decision, the case settled under terms which included a \$6 million fund for payments to those who were denied access and a redesign of the website to provide for accessibility. Similarly, in *Martin v. Metropolitan Atlanta Rapid Transit Authority*, 225 F.Supp.2d 1362 (N.D. Ga. 2002), the court held that lack of accessibility to a transit authority’s website’s was one of the reasons for finding a violation of Title II because the blind were denied access to scheduling information available to the sighted population. On the other hand, in *Access Now, Inc., v. Southwest Airlines, Co.*, 227 F.Supp.2d 1312 (S.D. Fla. 2002), *appeal dismissed*, 385 F.3d 1324 (11th Cir. 2004) the court held that Southwest Airline’s website was not a “place of public accommodation” under Title III of the ADA because it was not a “physical, concrete place.”

Although the Department of Justice (DOJ) does not currently have any specific regulations applying Titles II or III to internet sites, the DOJ



has taken the position that the ADA does apply to the internet. In 1996, the Department responded to a congressional inquiry by stating that entities covered by Titles II “that use the Internet for communications regarding their programs, goods, or services must be prepared to offer those communications through accessible means as well.” Letter from Deval L. Patrick, Asst. Attorney General, Civil Rights Div., to Tom Harkin, U.S. Senator (September 9, 1996) (<http://www.usdoj.gov/crt/foia/tal712.txt>). The Department has also filed at least one amicus brief arguing that services provided over the internet are covered by Titles II and III. See *e.g.*, Amicus Brief filed in *Hooks v. OKBridge, Inc.*, Case NO. 99-50891 (5th Cir. 1999) (<http://www.usdoj.gov/crt/briefs/hooks.htm>). Similarly, after hearing testimony, the House Judiciary Committee concluded that the Department of Justice has interpreted the ADA accessibility’s requirements as applying to Internet web sites and services. \_H.Rept. 106-1048, at 275 (2001).



Several recent articles have discussed the applicability of Titles II and III to the internet. See *e.g.*, Nancy Lee Jones, *The Americans with Disabilities Act: Application to the Internet*, CRS REPORT FOR CONGRESS (3/17/2009);<sup>7</sup> Katherine Rengel, *The Americans with Disabilities Act and Internet Accessibility for the Blind*, 25 JOHN MARSHAL J. OF COMPUTER & INFORMATION LAW 543 (2008); Ali Abrar and KerryJ. Dingle, Note, *From Madness to Method: the Americans with Disabilities Act Meets the Internet*, 44 HARV. C.R.-C.L. L. REV. 133 (2009);<sup>8</sup> Isabel Arana DuPree, *Websites as “Places of Public Accommodation”*: *Amending the Americans with Disabilities Act to the Wake of National Federation of the Blind v. Target Corporation*, 8 NC J. L. & TECH. 273 (2007);<sup>9</sup> Jeffrey Bashaw,

*Applying the Americans with Disabilities Act to Private Websites after National Federation of the Blind v. Target*,” 4 SHIDLER J. L. COM. & TECH. 3 (2008);<sup>10</sup> Nikki D. Kessler, Comment, *Why the Target “Nexus Test” Leaves Disabled Americans Disconnected: A Better Approach to Determine Whether Private Commercial Websites Are “Places of Public Accommodation”*, 45 HOUS. L. REV. 991 (2008); and Diane Murley, *Web Site Accessibility*, 100 LAW LIBR. J. 401 (2008).<sup>11</sup>

Guidance on designing accessible web sites is available from numerous public and private sources. The CAO provides assistance to House offices and will actually build an accessible web site for any member requesting one. For information on how to make a website compliant with Sec. 508 of the Rehabilitation Act see <http://www.access-board.gov/sec508/guide/1194.21.htm> and <http://www.section508.gov/index.cfm>. Information regarding the Website Accessibility Initiative (“WAI”), which has developed international guidelines pertaining to website accessibility for persons with disabilities, can be found at <http://www.w3.org/WAI/gettingstarted/Overview.html>. A list of website accessibility evaluation tools is available at <http://www.w3.org/WAI/ER/tools/complete>.

<sup>7</sup> [http://ipmall.info/hosted\\_resources/crs/R40462090319.pdf](http://ipmall.info/hosted_resources/crs/R40462090319.pdf).

<sup>8</sup> [http://www.law.harvard.edu/students/orgs/crcil/vol44\\_1/133-172.pdf](http://www.law.harvard.edu/students/orgs/crcil/vol44_1/133-172.pdf).

<sup>9</sup> [http://jolt.unc.edu/sites/default/files/273-302\\_dupree-voliss2.pdf](http://jolt.unc.edu/sites/default/files/273-302_dupree-voliss2.pdf).

<sup>10</sup> <http://www.lctjournal.washington.edu/Vol4/a10Bashaw.html>.

<sup>11</sup> [http://www.aallnet.org/products/pub\\_llj\\_v100n02/2008-21.pdf](http://www.aallnet.org/products/pub_llj_v100n02/2008-21.pdf).

## ACKNOWLEDGMENTS

The OOC inspection of facilities and procedures was conducted from February 1, 2007 through September 30, 2008. Inspections were conducted by Thomas Seymour, Fire Protection Engineer; David Thompson, Environmental Health Specialist; George Maze, Occupation Safety and Specialist; Luis Guzman, Occupational Safety and Health Specialist; Mark McGowan, Occupational Safety and Health Specialist; Terry Wigfall, Occupational Safety and Health Specialist; Victor Ontiveros, OOC intern; and David Young, Management Program Analyst. The inspectors received invaluable guidance and assistance from Earlene Sesker, Accessibility Specialist with the Architectural and Transportation Barriers Compliance Board.

John D. Uelmen, Senior Attorney with the OOC, is the primary author of the Report, assisted by David Young. Kate Tapley, former Senior Attorney with the OOC oversaw the inspection of facilities and procedures. Editorial assistance was provided by Stephen Mallinger, CIH, who serves as Special Assistant to the OOC General Counsel and Susan Green, Deputy General Counsel. Production assistance was provided by Kathy Schluter, Administrative Assistant to the General Counsel.

The inspection and writing teams appreciate the cooperation of the covered entities during the inspection process. They particularly note the assistance and time given by the employees of the AOC.



Peter Ames Eveleth  
General Counsel  
Office of Compliance

Dated: December 2009

## APPENDIX A: BUILDING CHARTS

The findings listed below reflect the Office of Compliance ADA Public Access findings recorded in the OOC Facilities Management Assistant Database during the 110<sup>th</sup> Congress. For further details regarding findings recorded in prior Congresses, see past OOC ADA biennial inspection reports.

The findings describe a variety of barriers to access. These barriers to access generally fall into the following categories:

***Accessible Building Entrances.*** Accessible building entrances must be available so that visitors who use a wheelchair or have other mobility impairments may freely enter the building. Accessible means compliant with the ADA Standards for Non-Discrimination on the Basis of Disability promulgated by the U.S. Department of Justice and published at 28 C.F.R. Parts 35 and 36. Sidewalk curb cuts must have a maximum slope of 8.33% to be accessible. A slope of between 5% and 6.25% is preferred. 28 C.F.R. Part 36 Appendix A § 4.8.2.

***Emergency Procedures.*** Emergency procedures must be provided so that visitors with disabilities have an equal opportunity to safely evacuate the building, or reach a designated shelter-in-place location (on a higher floor if appropriate) in the event of a drill or an actual emergency. A second accessible exit from the building is required by the National Fire Protection Association codes. NFPA 101-2000 § 39.2.4.2. See also Occupational Safety and Health Act (OSHA) requirement at 29 C.F.R. § 1910.36(b)(1) respecting covered employing office employees. Staging areas are part of the accessible egress route for buildings on Capitol Hill.

***Signage.*** Signage indicating accessible areas and services must be provided. All signage designating permanent building spaces must have brailled, raised and contrasting characters and be mounted at 60 inches to the center line above the floor. 28 C.F.R. Part 36 Appendix A §§ 4.3.3(16), 4.30.2, 4.30.3, 4.30.5. See also NFPA 101-2003 § 7.2.2.5.4.1 and ADA-ABA Accessibility Guidelines § 216.4. Tactile signage must be mounted on the latch side of the door, 60 inches above the floor, and so that a person may approach within 3 inches of signage without encountering protruding objects. 28 C.F.R. Part 36 Appendix A § 4.30.6.

***Equal Access to Services, Programs and Activities.*** Individuals with qualified disabilities must have equal access to the services, programs and activities of each of the covered entities. This can involve providing auxiliary aids to facilitate communication and furnishing accessible entrances, seating and tables in offices and hearing rooms where services, programs, and activities are provided.

***Restrooms and Other Facilities.*** Restrooms and other facilities in the building must be readily available to and usable by individuals with disabilities. The force needed to open the door must be 5 lbs or less. 28 C.F.R. Part 36 Appendix A §4.13.11(2)(b). To be accessible, the route to the location must be at least 36 inches wide, except at doorways where it may be 32 inches wide. 29 C.F.R. Part 36 Appendix A §4.3.2(2), 4.3.3. To be considered accessible, tables must have sufficient knee clearance for wheelchair users. 28 C.F.R. Part 36 Appendix A §4.27.4.

Covered entities can look to 28 C.F.R. § 36.04(c) for guidance regarding how to prioritize barrier-removal efforts. The recommended order of priorities is as follows:

1. ***Access to the building from public sidewalks, parking or public transportation.*** These measures include installing entrance ramps, widening entrances and providing accessible parking spaces.

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2. ***Access to those areas of a building where services and goods are provided to the public.*** These measures include adjusting the layout of display racks, rearranging tables, providing brailled and raised character signage, widening doors, providing visual alarms, and installing interior ramps.
3. ***Access to restroom facilities.*** These measures include removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls and installation of grab bars.
4. ***Other measures to provide access to the services, facilities, goods, privileges, advantages, or accommodations provided in the building.*** These measures include adjusting the height and location of telephones, water fountains, and automatic teller machines.

**CANNON HOUSE OFFICE BUILDING**

<b><i>Feature</i></b>	<b><i>Description of Current Barriers to Accessibility</i></b>	<b><i>Comments, Plans to Remedy, Estimated Cost and Completion Date</i></b>
Staging Areas	3 <sup>rd</sup> floor staging area is not ADA compliant -EAP was not properly implemented, no USCP officer was available to operate the staging area elevator to assist wheelchair- bound employee to evacuate the building and wheelchair- bound employee used the staging elevator himself to get down to the basement level and then to the Cannon garage ramp to evacuate building during a drill – ramp on this route is not compliant as it is too steep, does not have level landings, has unprotected edges, and has non-compliant handrails	AOC maintains that this is a USCP problem. The EAP will need to be modified if no USCP officer is available.  AOC also contends that persons in wheelchairs should not exit through the garage exit. OOC maintains that this is marked as an exit and there is no signage directing occupants to an accessible exit. See ADAAG § 4.1.2(7)(c). Cannon is scheduled for remodeling and the southeast entrance should be made accessible as part of the remodeling. This entrance is the route used by the general public because it is only a few feet away from the Capitol South Metro station. See ADAAG § 4.3.2(1).
Signage	Rooms 210, 334, 340, – signage does not indicate whether an assistive listening system is available for this hearing room  Room C5 – Judiciary committee door tactile/high contrast signage is not mounted with the centerline height of at least 60 inches.	Proper signage has been posted for Room 334. Rooms 210 and 340 do not have assistive listening devices.  The AOC contends that the proper room number is 517. The sign at this location has been remounted.
Access to Offices and Hearing	An affixed meeting/witness table	The CAO reports that it will

Rooms	lacks knee clearance that is at least 27 inches high, 30 inches wide, and 19 inches deep	elevate the table if notified that there is an individual in need of accommodation. The OOC maintains that fixed tables should comply with ADDAG § 4.32.
Access to Public Restrooms	<p>Rooms C1aB1, C1D1, C2D1, C4AD1, C4D1, – restrooms have a heavy door force (greater than 5 lbs) making the designated ADA restroom inaccessible since no automatic door opener is provided</p> <p>Room C2AD1 – clearance entrance to second door does not clear a 32 inch wide opening to enter the restroom</p> <p>Room C3CD1 – restroom does not have accessible sink as the accessible sink has exposed hot water and/or drain pipes</p> <p>Room CBCD1 – towel dispensers are not mounted with a possible side reach height of 9 to 54 inches, or a forward reach of 15 to 48 inches</p> <p>Rooms CBCD1, CBCD2 – stall door opening to accessible toilet stall is less than 32 inches wide</p>	<p>AOC reports that project to renovate public restrooms is ongoing. The project will continue until all are completed. Funding is pending.</p> <p>AOC reports that correction has been made.</p> <p>AOC contends this restroom is not advertised as accessible, but will be renovated as funds become available.</p> <p>AOC reports that correction has been made.</p> <p>AOC reports that the stall doors are now in compliance.</p>

**FORD HOUSE OFFICE BUILDING**

<i>Feature</i>	<i>Description of Current Barriers to Accessibility</i>	<i>Comments, Plans to Remedy, Estimated Cost and Completion Date</i>
Access to Hearing Rooms and Offices	Room H2-350 (New Committee Chief Clerks Area) – a written EAP was not developed and kept at the workplace and made available for employee review, an employee alarm system which complies with 29 CFR 1910.165 was not established as part of the EAP	A plan is being developed.
Access to Public Restrooms	Room H2-3A1 – mirrors in	AOC reports that a new mirror

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	<p>restroom are not lower than 40 inches (lowest one is 51 inches)</p> <p>Room H2-3A1 – sink intended to be accessible does not provide knee clearance at least 27 inches high, 30 inches wide, and 19 inches deep</p>	<p>has been installed in accordance with ADA requirements.</p> <p>AOC reports that sink is to be replaced during FY 2010.</p>
Emergency Communication	Lack of visual alarm	Fire alarm system has been upgraded to include visual strobe alarms. AOC plans to design a new fire alarm system and begin construction if funding is available in 2010 with the target for completion at the end of 2013.

**LONGWORTH HOUSE OFFICE BUILDING**

<b><i>Feature</i></b>	<b><i>Description of Current Barriers to Accessibility</i></b>	<b><i>Comments, Plans to Remedy, Estimated Cost and Completion Date</i></b>
Access to Public Buildings	ADA access at Independence Avenue ramp and door is impeded – designated accessible building entrance has an automatic door opener or other equipment to make the entrance accessible, but the equipment does not work and slope of exterior ramp is greater than 8.3% or 1:12.	AOC reports that door opener has been repaired. AOC is aware of the ramp issue but will not repair it because the cost is too high in relation to the degree of variation from the standard. The ramp has two sections separated by a landing. Only the lower section is not in compliance. The slope is 8.8% which exceeds the standard by more than 6%. This deviation exceeds conventional building industry tolerances for field conditions. See ADAAG § 3.2. A ramp slope of 5-6% is preferable because it is usable by most people in wheelchairs; many people cannot make it up a ramp with even an 8.3% slope.
Access to Hearing Rooms and Offices	Room 1102 – entry door to committee office requires more than 5 lbs opening force. Room 1102 – operation of entry door handle or knob requires	AOC reports that door remains open or staff is available to open door.

	<p>tight grasping, pinching, or wrist twisting</p> <p>Room 1136 – continuous clear width of passage with a publicly accessible room is less than 36 inches</p> <p>Rooms 1310, 1324, 1334A – an affixed meeting/witness table lacks knee clearance that is at least 27 inches high, 30 inches wide, and 19 inches deep</p>	<p>When notified, the CAO is available to move furniture and equipment to help clear a path and ensure entrance into the hearing rooms as needed.</p> <p>The CAO reports that it will elevate the table if notified that there is an individual in need of accommodation. The OOC maintains that fixed tables should comply with ADDAG § 4.32.</p>
<p>Signage</p>	<p>Rooms 1300, 1310, 1324, 1334A, 1539 – signage does not indicate whether an assistive listening system is available for this room</p> <p>Room 1324 – signage lacks braille</p> <p>Rooms 1539, L7D5 – tactile/high contrast signage is not mounted so its centerline is at least 60 inches</p>	<p>The AOC &amp; CAO have reported that rooms 1300, 1310, 1324, 1334A &amp; 1539 now have assisted listening devices and signage to indicate the same. Room 1334 does not have an assisted listening device because it has not been renovated yet.</p> <p>AOC reports that braille has been added to sign.</p> <p>AOC reports that signage has been re-mounted at correct height.</p>
<p>Access to Public Restrooms</p>	<p>Room L3 – no accessible restroom for men on this floor – signage indicated that there is one on another floor</p> <p>Rooms L3B4, L4B7, LBA3, LBA6, LBB1, SB243, SB245 – heavy door force (greater than 5 lbs) makes the designated ADA restroom inaccessible since no automatic door opener is provided</p> <p>Rooms SB243, SB245 – sink intended to be accessible has exposed hot water/drainage pipes</p>	<p>AOC reports that plan is to renovate restrooms until all are completed. Plan is dependent upon funding.</p> <p>AOC reports that plan is to renovate restrooms until all are completed. Plan is dependent upon funding.</p> <p>AOC reports that pipes have been insulated.</p>

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## RAYBURN HOUSE OFFICE BUILDING

<i>Feature</i>	<i>Description of Current Barriers to Accessibility</i>	<i>Comments, Plans to Remedy, Estimated Cost and Completion Date</i>
Signage	Rooms 2118, 2123, 2128, 2141, 2154, 2172, 2175, 2200, 2203, 2216, 2218, 2222, 2226, 2237, 2247, 2253, 2255, 2257, 2261 – signage does not indicate whether an assistive listening system is available for this Committee room	AOC reports that 2222 is a committee staff office and that no signage is necessary. 2128 has sign installed. Signs are only placed outside hearing rooms that have a system in place. If there is no signage, the room is not equipped.
Access to Hearing Rooms and Offices	<p>Rooms 2118, 2128, 2141, 2154, 2200, 2203, 2216, 2218, 2226, 2247, 2253, 2255, 2257, 2360 – an affixed meeting/witness table lacks knee clearance that is at least 27 inches high, 30 inches wide, and 19 inches deep</p> <p>Room 2359 – no assistive listening device is installed in a hearing room which accommodates more than 50 people</p> <p>Room B334 – brochures and materials on display racks are inaccessible because there is not sufficient room for a wheelchair to approach and are outside of wheelchair reach</p>	<p>When notified that there is an individual in need of accommodation, the CAO will assist the Committee staff in making the table wheelchair accessible by elevating the table.</p> <p>The CAO reports that there is now an assisted listening device in this room. AOC reports renovations are ongoing.</p>
Egress	<p>Rooms 2120, 2167, 2172, 2175, 2257, 2318, B320, B322, B324, B325, B328, B330, B332 – bulletin board in hallway between 27 and 80 inches above the floor protrudes more than 4 inches into the corridor</p> <p>Basement by rooms: B307, B377, B311, B373, HOB Floor 1L by rooms: 2188, 2111, 2184 Floor 2L by rooms: 2214, 2259, 2208, 2265 Floor 3L by rooms: 2364, 2310, 2369 Floor 4L by rooms: 2409, 2466 Subbasement by rooms: SB397,</p>	<p>Knobs on bulletin boards have been modified at the following locations: 2172, 2175, 2257, B320, B322, B324, B328, B330, B332 – 2/28/2009. AOC reports that the remaining bulletin boards have been replaced.</p> <p>AOC has argued that the drinking fountains are mounted in a way that complies with the existing regulations. Please see Appendix B for the full text of this argument. Portions of the water fountains are more than 27 inches above the floor while other</p>



	SB316 – parts of drinking fountain mounted between 27 and 80 inches above the floor protrude more than 4 inches into a walkway	portions are less than 27 inches from the floor. They all protrude more than 4 inches from the wall. Water fountains protruding more than 4 inches from the wall and mounted more than 27 inches from the floor pose a hazard to cane users. ADAAG § 4.4.1. Water fountains mounted less than 27 inches from the floor have insufficient knee clearance for wheelchair users and are also inaccessible to those who have difficulty bending. ADAAG § 4.15.5 See also proposed ADAAG (2004) § 602.7 (drinking fountains for standing persons).
Access to Public Areas	Rooms 2128, 2138, 2141, 2154, 2157, 2165, 2170, 2172, 2216, 2218, 2222, 2226, 2255, 2360, 2424, 2460, B300, B307, B318, B346, B352, B353, B372, B376, B377, R1A3, R1A5, R2C2, R3A3, R3A5, R3C4, R4C2, R4C4, RSBA3 – entry door to room requires more than 5 lbs opening force	For the committee hearing rooms and staff offices, doors either remain open or committee staff is available to assist visitors during regular business hours or hearings. For the public restrooms, a project is in place to renovate restrooms and will continue until all are completed – funding dependent.
Emergency Communication	Rooms 2222, B300, B318, RSBA3 – room lacks visual alarm (publicly accessible)	AOC reports that visual alarms have been installed in B318 & RSBA3 as they are publicly accessible. However, 2222 & B300 are Committee office areas and not publicly accessible. Alarms will not be installed unless need is indicated by a staffer with a disability.
Access to Public Restrooms	Room R4D5 – door opening to accessible toilet stall is less than 32 inches wide  Room R4D5 – door opening to publicly accessible restroom is less than 32 inches  Rooms R4D5, RSBA3 – sink intended to be accessible has exposed hot water and/or drainage pipes	AOC reports that restroom is not a fully equipped accessible restroom. Accessible restroom sign has been removed.  Restroom is not a fully equipped accessible restroom. Sign has been removed.  AOC reports that pipes have been insulated.
Access to Public Building	West House Underground	AOC reports that it is designing a

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	<p>Garage Ramp by Rayburn – designated accessible building entrance is not accessible because slope of exterior ramp is greater than 8.3% or 1:12</p> <p>Main Lobby – storm mats create a trip hazard as they curl and bunch up</p>	<p>solution. ECD unknown.</p> <p>AOC reports that mats have been replaced.</p>
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**DIRKSEN SENATE OFFICE BUILDING**

<i>Feature</i>	<i>Description of Current Barriers to Accessibility</i>	<i>Comments, Plans to Remedy, Estimated Cost and Completion Date</i>
Signage	<p>Rooms SD366, SD406 – signage indicated assistive listening system is missing the International Symbol of Accessibility for Hearing Loss sign</p> <p>Room SDGW3 – signage for indicating accessible feature of bathroom is missing the International Symbol of Accessibility</p>	<p>AOC will comply by installing temporary signage. Permanent signage will be installed under the wayfinding program (ECD 12/2009)</p> <p>AOC will comply by installing temporary signage. Permanent signage will be installed under the way-finding program (ECD 12/2009)</p>
Emergency Communication	Room SDBM2A – location needs a visual alarm signaling device	AOC asked OOC to clarify location. On 6/23/09, OOC verified location is as stated and found that visual alarm signal had been installed.
Access to Public Areas	Room SDBM2A – door opening force is greater than 5lbs	AOC asked OOC to clarify location. On 6/23/09, OOC verified location is as stated and found that automatic door opener had been installed.
Access to Public Restrooms	Room SDGM3, SDGW3 – sink intended to be accessible has exposed hot water and/or drain pipes	AOC reports that it will comply by insulating pipes. Est. Cost: \$100

**HART SENATE OFFICE BUILDING**

<i>Feature</i>	<i>Description of Current Barriers to Accessibility</i>	<i>Comments, Plans to Remedy, Estimated Cost and Completion Date</i>
Emergency Communication	Whole building – emergency alerting system is not adequate for those who cannot see or hear the alarm	Visual & audible alarms will be installed as part of the Phase II: Hart Building Fire Alarm system Replacement Project. (ECD FY2017). Funding will be included in a \$15.95 budget request for FY2017.
Signage	Whole building – tactile/high contrast signs are not mounted with centerline at least 60 inches (now all are at 62 inches)	Wayfinding signage will be installed throughout the Hart Building as part of the interior wayfinding program (ECD 12/2009). Funding is included in \$400K budget for program.
Access to Public Building	Ramp to Constitution Avenue – slope is greater than 8.3% or 1:12	AOC has argued that the current regulations do not require correction of the slope on this ramp. Please see Appendix B for the full text of this argument. Since correcting the slope of this ramp is “readily achievable,” under 28 C.F.R. § 36.304, the ramp should be altered or replaced to comply with the slope requirements.
Access to Public Restroom	All restrooms need visual alarm signaling device Rooms SH8, SH901, SH902 – the sink intended to be accessible has exposed hot water and/or drainage pipes	Visual & audible alarms will be installed as part of Phase II: Hart Building Fire Alarm System Replacement Project (ECD FY2017). Funding will be included in a \$15.95 budget request for FY2017. AOC reports that it will add insulation to the pipes.
Access to Public Areas	Rooms SH1CM, SH1CW, SH2AM, SH2CW – door force is greater than 5 lbs	Automatic door openers were installed on SH1CM, SH1CW, SH2AM and SH2CW (ACD 9/2008). Cost \$25K
Egress	Room SH231B – passageway is less than 36 inches and/or clear for 36 inches	SCCE reports that office is working with AOC to modify the passageway.  AOC reports that it will comply by reconfiguring the passageway.

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## RUSSELL SENATE OFFICE BUILDING

<i>Feature</i>	<i>Description of Current Barriers to Accessibility</i>	<i>Comments, Plans to Remedy, Estimated Cost and Completion Date</i>
Egress	<p>Whole Building – 2 accessible discharge points from the building are not provided – SW point of exit from the building which is accessible is locked after 6pm</p> <p>Room SRB307 – water fountain between 27 and 80 inches above the floor protrudes more than 4 inches into the corridor</p>	<p>AOC reports that a second discharge point has been installed with delayed egress locks tied into fire alarm/security system.</p> <p>AOC reports that it needs further clarification from OOC but there are plans to remedy.</p>
Signage	<p>Whole Building – signs do not have raised characters and braille and are not mounted so that centerline height is at least 60 inches</p> <p>Room SR301 – signage indicating assistive listening system is missing the International Symbol of Accessibility for Hearing Loss sign</p>	<p>Wayfinding signage will be installed throughout the Russell Building as part of the Interior wayfinding program (ECD 12/2009). Est. cost for the entire program: \$400K</p> <p>AOC reports that it will comply by installing temporary signage. Permanent signage will be installed under the wayfinding program (ECD 12/2009). Est. cost for the entire program: \$400K</p>
Access to Public Areas	<p>Rooms SR1M2, SR1M4, SR1W3, SR1W4, SR2M1, SR2M3, SR2W1, SR2W3, SR2W2, SR2W4, SR3M2, SR3M3, SR3M4, SR3W4, SRBM3 – door weight is more than 5lbs</p>	<p>AOC reports that automatic door openers have been installed on all public restroom doors. Electricity still needs to be routed to each door opener.</p>
Emergency Communication	<p>Rooms SR2W1, SRB62C – location needs visual alarm signaling device</p>	<p>AOC reports that visual alarms will be added as fire alarm capacity permits.</p>
Access to Public Restrooms	<p>Room SRBM3 – sink intended to be accessible has exposed hot water and/or drainage pipes</p>	<p>AOC reports that it will comply by adding insulation to the pipes.</p>

**CAPITOL BUILDING**

<i>Feature</i>	<i>Description of Current Barriers to Accessibility</i>	<i>Comments, Plans to Remedy, Estimated Cost and Completion Date</i>
Access to Public Buildings	North Portico ramp is too steep	AOC has no current plans to modify this ramp because there are other accessible entrances to the Capitol. Non-compliant ramps are often unusable and can be hazardous to users with disabilities. Ramps should be constructed and maintained in compliance with the slope requirements. 28 C.F.R. §§ 35.133 & 36.211; ADAAG § 4.8.2.
Sidewalks and Curb Ramps	Newly installed curb cuts on the north side of the building are too steep	AOC reports that this is being remedied in the perimeter security program being implemented.
Emergency Communication	Rooms H327, H122 - no visual alarm  No two-way communication at staging areas.	AOC reports that visual alarm has been installed in H122. AOC reports that H327 is a staff office with no hearing-impaired employees and therefore no visual alarm is required. OOC has determined that visual alarm is not required here at this time because staff who can hear are always available to assist those with hearing impairments when visitors are in the office.  Push-to-talk devices have been installed in all staging areas.
Signage	There are no signs or wall maps in the building indicating accessible exit routes including accessible exits and staging areas.  Characters on exit signage are not brailled, raised and contrasting  Restroom signage is not properly mounted and does not contain	AOC reports that signs have been installed on floors 1-4 and that basement signs were to be completed by the end of FY 2009.  AOC reports that appropriate signage has been installed.  AOC reports that appropriate signage has been installed.

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	brailled, raised and contrasting characters	
Access to Public Restrooms	Door opening force is too great in rooms HB10M, HT28A, HT28B, S423, S424, ST32M & S232W	AOC reports that door openers have been installed at these locations.

## Other Entities and Buildings

**Congressional Budget Office.** The Congressional Budget Office has distributed a flyer on its intranet to inform staff of the accommodations available to visitors with disabilities. The flyer describes emergency evacuation procedures and identifies who to contact for accessible reading materials and listening devices. This flyer enables Congressional Budget Office employees to make all materials and information readily available to anyone who requests it.

**Office of Compliance.** The Office of Compliance is located in the Adams Library of Congress Building. The Office of Compliance conducted ADA inspections only in those portions of Library of Congress buildings where covered entities, such as the Office of Compliance, are located. During the 109<sup>th</sup> Congress, the Office of Compliance found incomplete and inaccurate building signage in the area where the Office of Compliance is located and in the restroom areas closest to the Office of Compliance. During the 110<sup>th</sup> Congress, the Architect of the Capitol began the process of renovating restrooms in these areas to make them more accessible. These facilities will be inspected during the 111<sup>th</sup> Congress and the finding will be reported in the 111<sup>th</sup> Congress ADA Report.

**Botanic Garden.** The building was recently renovated and will be inspected during the 111<sup>th</sup> Congress for both ADA and OSHAct compliance. The ADA inspection findings will be reported in the 111<sup>th</sup> Congress ADA Report.

**Capitol Visitor Center.** Beginning in February of 2008, the Office of Compliance began conducting pre-inspections of the Capitol

Visitor Center for ADA public access compliance pursuant to Congressional request. The Office of Compliance will fully inspect the Capitol Visitor Center for both ADA and OSHAct compliance during the 111<sup>th</sup> Congress Biennial ADA Inspection. The ADA inspection findings will be reported in the 111<sup>th</sup> Congress ADA Report.

**District and State Offices.** District and State offices were not inspected during the 110<sup>th</sup> Congress. The Office of Compliance is working with the House and the Senate to provide information to District and State offices about accessible emergency egress and notification. Additionally, the Office of Compliance has requested funds to create a self-certification program and questionnaire for District and State offices regarding their compliance with the ADA and the OSHAct.

## APPENDIX B

Attached Letters from Covered Entities