

Promoting Equal Access for Persons With Disabilities

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Eighteen years after the Americans with Disabilities Act (ADA) was signed into law, access to retail stores, theatres, doctors offices, hotels, restaurants, museums, private schools and libraries is still not a guarantee for the 54 million persons living with a disability nationwide; nor is it for a certain percentage of the 170,000 of those whom reside in Westchester County. Although Title 111 of the ADA prohibits discrimination against individuals with disabilities in places of public accommodation, in many places, restroom doors are still too narrow, store and restaurant entrances have steps instead of ramps and examining tables in doctors offices are not adjustable to allow access for wheelchair users, to name just a few examples.

Until now, the only legal recourse for individuals facing ADA violations was to file a complaint with the U.S. Department of Justice and hope their case would be pulled amid its enormous backlog. However, a working initiative involving the **Westchester Human Rights Commission (WHRC)** and **Westchester Independent Living Center (WILC)** - a disability advocacy and referral agency in White Plains - is slated to dramatically change this scenario. Both agencies will be working with new legislation within New York State's Human Rights Law to not only ensure accessibility standards for persons with disabilities but to assist the business community toward compliance. In addition to focusing on public accommodation issues, WHRC and WILC will implement an Equal Access Campaign which will address the impacts of stigma and public attitudes on county residents with disabilities.

[In addition, WHRC now has countywide jurisdiction to process discrimination cases, which can also include public accommodation violations.]

The new state law went into effect on January 1 of this year, adding provisions to its Human Rights Law to be consistent with Title 111 ADA requirements concerning public accommodations. This amendment is significant as it now allows a state enforcement mechanism specifically for ADA violations. The new provisions added could have been *implied* from the existing language of the NY Human Rights Law, but the incorporation of *exact* ADA provisions currently leaves no room for differences in mistakes or interpretation.

The state Division of Human Rights will be working with both the disability community and business groups toward enforcing its new law, which will promote and implement reasonable accessibility changes without unnecessary litigation. A December 2007 letter generated by the Division to New York business entities states: "While the Division cannot limit a person's right to seek and receive individual redress under the Law, it will initially focus its own enforcement activities on assisting businesses in identifying and removing obstacles to equal access in places of public accommodation, in compliance with the new law."

In accordance with this objective, WHRC and WILC will assist interested local businesses and other commercial facilities with site assessments of their operations and offer compliance recommendations. “If you lease, own or operate a business that serves the public, you have compliance obligations under the ADA,” says WILC’s Executive Director, Joseph Bravo. Bravo points out that the “grandfathered in” reply oftentimes used by businesses when facing access violations is a myth. “Local building codes may or may not include a provision allowing facilities to be grandfathered, but the ADA does not,” he says.

The ADA requires existing places of businesses to remove barriers when it is readily achievable or easily accomplishable without excessive difficulty or expense to do so. New construction must meet more extensive access requirements under the ADA. “No matter how old a building is, it is not totally excused from complying with the ADA,” says Bravo, “but keep in mind also that access to improvements can open your business to a large customer pool previously shut out.”

The Equal Access Campaign will highlight a different disability issue each month for one year beginning in April and continuing through May 2009. Bravo says the overall objective of the campaign is to generate public awareness of the ongoing attitudinal issues that people with all types of disabilities face in their daily lives. He offers two examples: “Despite the discrimination protections under the ADA, people with psychiatric disabilities still experience stigma when looking for a job and sign language interpreters are still not made readily available in medical and other facilities for persons who are deaf.”

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