

PyeongChang Disability Forum 2021

Accessible Public Transportation: It's A Right

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The Basics

- Convention on the Rights of Persons with Disabilities
 - Article 3: Principles of the CRPD: Nondiscrimination and accessibility
 - Article 2: Nondiscrimination includes reasonable accommodation
 - Article 9 Accessibility includes roads, buildings, transportation:
Persons with disabilities shall have access to, on an equal basis with others:
 - Physical environment
 - Transportation
 - Information and communication

Principles for Transportation

- Need for a comprehensive approach, covering all forms of transportation, public and private
- Strong role for the central government and persons with disabilities
 - Establishing standards for building access and vehicle access
 - Providing strong enforcement: receiving, investigating, and resolving complaints and use of lawsuits to ensure access
 - Providing funds to achieve access
 - Providing public outreach and information (“Technical Assistance”)
 - Ensuring active, independent role for persons with disabilities

Americans with Disabilities Act

The US Approach

- All forms of transportation, public and private, must be accessible
 - Public: fixed route bus, complementary paratransit, all rail (Rapid, Light, Commuter), taxis, shuttles, water transportation, including ferries
 - Private: intercity rail (Greyhound, Megabus and others), private shuttles (hotels), taxis, monorails, trams
 - Coverage when public entity contracts with private entity to provide transit
- All transportation issues
 - Accessible buildings; vehicle design; policies to accommodate persons with disabilities; Effective communication for all; Service animals; accessible web sites

Issues: US Approach

- Stringent standards for new acquisition and new building construction and alterations (e.g., all new buses must be accessible)
- Address cost by providing longer time to meet full access (Amtrak example), not by weakening standards
- Lesser standard for retrofitting existing buildings
- Strong Federal enforcement role, including suing in court
- Funding to provide access (80% of city buses paid by Federal government)
- People with disabilities and their organizations can sue to achieve compliance

Settlement Agreement: Amtrak and US Department of Justice (December 2020)

- National Railroad Passenger Corporation (Amtrak) operates 500 railroad stations in 46 states
- ADA gave Amtrak 20 years to achieve access (2010)
- Department of Justice, in response to complaints from persons with disabilities, investigated compliance and determined Amtrak was operating in violation of ADA (Letter of Findings, June 9, 2015)
 - Justice found that the "overwhelming majority" of rail stations were inaccessible
 - Required changes and entered into substantive negotiations

Amtrak Settlement Agreement

- Nature of violations: Justice found violations in
 - Parking
 - Accessible route from parking to buildings
 - Building entrances
 - Waiting areas
 - Elevators
 - Toilet rooms
 - Signs
 - Route from building to passenger platforms
 - Passenger platforms
 - Track crossings

More on Amtrak

- Agreement requires Amtrak:
 - To build any new stations so they are fully accessible
 - To inform vendors and contractors that they must comply with the ADA
 - To fix 135 inaccessible stations within the next 10 years, giving priority to stations with the most problems and to stations with high ridership
 - To establish a fund of \$2.25 million to provide compensation to persons with disabilities who were denied services at the inaccessible stations since 2013
 - To have a robust training program for all staff
 - To have in place a process to receive, investigate , and address all complaints of inaccessibility
 - To hire appropriate staff to carry out these obligations and to report regularly to the Department of Justice

Crawford & US v. City of Jackson & City of Jackson Public Transportation Agency (March 2010)

- United States intervened in lawsuit brought by Disability Rights Mississippi, a US disability rights organization
- Lawsuit on behalf of Mississippi Coalition of Citizens with Disabilities and Jackson Chapter of Mississippi Council for the Blind
- Issues in lawsuit:
 - Failure to keep lifts in operating condition on city buses
 - Failure to provide alternative transportation when lifts failed
 - Failure to train staff so they can maintain accessible equipment and provide service to persons with disabilities in a “respectful and courteous” manner
 - Failure to provide complementary paratransit

Relief: Jackson Public Transportation Agency

- Operate accessible lifts on city buses and remove and replace any bus with an inoperable lift
- Institute program of preventative maintenance, including training staff and keeping daily records
- Train bus operators on appropriate conduct, including assisting wheelchair users, not bypassing persons in wheelchairs at stops, being courteous, stopping bus so wheelchair user can board
- Series of procedural requirements: appointing an ADA Coordinator, training all staff, having an effective complaint procedure, conducting public outreach so public knows of new changes

Resources

- Agreements and other information can be found at ada.gov, the Department of Justice website
- Additional information can be found at these websites:
 - Federal Transit Agency of the US Department of Transportation, transit.dot.gov (go to tab Civil Rights/ADA), and
 - The ADA National Network, adata.org
- John L. Wodatch: jlwodatch@gmail.com