Office of Congressional Workplace Rights

Office of the General Counsel

ADA PUBLIC ACCESS ISSUES: RECENT DEVELOPMENTS
FEBRUARY 22, 2023

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I. Introduction

The Congressional Accountability Act of 1995 (CAA), 2 U.S.C. §§ 1301 *et seq.*, applies the rights and protections established by the employment and public access provisions of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12112 *et seq*. The ADA is unique among the laws applied by the CAA because it affords protections to both employees and members of the public. The rights and protections for the public are found in section 210 of the CAA, which incorporates Titles II and III of the ADA. 2 U.S.C. § 1331(b). These public access provisions, as applied by the CAA, require that employing offices make their services, programs, and activities for the public, as well as the facilities where these services, programs, and activities are provided, accessible to all, including individuals with disabilities.

Section 210(b) of the CAA provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Titles II and III (sections 201 through 230, 302, 303, and 309) of the Americans with Disabilities Act of 1990,

42 U.S.C. §§12131-12150, 12182, 12183, and 12189, shall apply to the following entities: (1) each office of the Senate, including each office of a Senator and each committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Office of Congressional Accessibility Services; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Botanic Garden); (8) the Office of the Attending Physician; (9) the Office of Congressional Workplace Rights; and (10) the Library of Congress. 2 U.S.C. §1331(a).

Title II of the ADA provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132. Title III prohibits discrimination "on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation…" 42 U.S.C. § 12182(a).

II. Legislative Branch Process

Public Accessibility Enforcement in the Legislative Branch

Public accessibility enforcement in the legislative branch is unique for a number of reasons. First, the substantive laws from which public access rights and protections are derived are different than in other settings. The executive branch is covered by Title V of the Rehabilitation Act and the Architectural Barriers Act, rather than the ADA, for disability rights purposes.[1] The legislative branch, on the other hand, is covered by the ADA as applied by the CAA. While CAA section 201 does apply certain employment anti-discrimination provisions of the Rehabilitation Act in addition to ADA employment anti-discrimination provisions, for public access purposes, the CAA only applies the ADA. *Compare* 2 U.S.C. § 1311(a)(3), *with* 2 U.S.C. § 1331(b)(1).

Second, both Titles II and III of the ADA apply to the legislative branch through the CAA. These titles traditionally govern two different arenas: state and local governments (Title II) and privately owned places of public accommodation and commercial facilities (Title III). Congress applied both titles to the legislative branch in order to provide to individuals with disabilities the greatest amount of access to public services, programs, activities, and accommodations available under the law. 162 Cong. Rec. H557, H558 (daily ed. Feb. 3, 2016); 162 Cong. Rec. S624, S625 (daily ed. Feb. 3, 2016). To clarify what this dual application means in practice, the Board of Directors ("Board") of the Office of Congressional Workplace Rights ("OCWR") has explained that covered offices "must at all times provide services, programs and activities that are in compliance with Title II of the ADA and, when those services, programs, activities or accommodations are provided directly to the public (as in places of public accommodations), they must also comply with Sections 302, 303 and 309 of Title III of the ADA." *Id*.

[1] The Rehabilitation Act does, however, apply the same standards as those used under the ADA to determine disability discrimination in employment and public access.

As discussed in more detail below, the regulatory landscape is another unique feature of public accessibility enforcement in the legislative branch.

Finally, there is no private right of action for alleged violations of the ADA public access provisions applied by the CAA, and individuals may not file claims (as that term is defined by the CAA) with the OCWR. The General Counsel enforces these provisions and has exclusive authority to file ADA public access complaints with the OCWR. 2 U.S.C. § 1331(d).

General Counsel Enforcement Process

Individuals alleging a violation of the ADA public access provisions as applied by the CAA may file a request for inspection with the General Counsel. If the request is filed by an individual with a disability, it will be treated as an ADA charge of discrimination. Upon receipt of such requests and charges, the General Counsel conducts an investigation. For charges of discrimination, if, after investigating, the General Counsel believes that a violation has occurred and that mediation may be helpful in resolving the dispute, the General Counsel can request mediation; if that is unsuccessful, or if the General Counsel believes that mediation would not help resolve the dispute, the General Counsel can file a complaint with the OCWR. 2 U.S.C. § 1331(d)(3). The complaint is submitted to a hearing officer for a decision. This decision is subject to OCWR Board review, and the decision of the Board is subject to judicial review by the U.S. Courts of Appeals for the Federal Circuit. 2 U.S.C. §§ 1331(d)(3), (d)(4). For ADA requests for inspection not treated as charges of discrimination, the General Counsel may issue a report documenting the investigation findings and identifying necessary corrective actions.

The General Counsel also conducts biennial ADA public access inspections of facilities of legislative branch offices. 2 U.S.C. § 1331(f)(1). Results of these inspections are published in a report that is submitted to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol, or other entity responsible for correcting any violations. 2 U.S.C. § 1331(f)(2).

ADA Coordinator

Under 28 C.F.R. § 35.107, which, as described below, is currently in effect under 2 U.S.C § 1411, "a public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under [Part 35], including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by [Part 35]. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph." State and local governments traditionally refer to this role as the "ADA Coordinator," although the use of that term is not required by law. The OCWR recommends that employing offices with fewer than 50 employees still designate at least one person to coordinate their ADA public access compliance efforts.

The Board has adopted 28 C.F.R. § 35.107 and, as reflected in the regulations adopted in 2022, modified it to better fit the needs of the legislative branch.

III. ADA Regulations Under the CAA

Section 210(e) of the CAA directs the OCWR Board, pursuant to section 304 of the CAA, to issue regulations implementing section 210, and provides that such regulations "shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) [of section 210 of the CAA] except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1331(e).

History and Current Landscape

In 1997, when the OCWR was called the Office of Compliance, the Board adopted and published regulations after a notice and comment period. No congressional action was taken, and thus these regulations were not issued and did not become effective. In 2016, the Board adopted and published revised regulations after a notice and comment period. Again, no congressional action was taken, and thus these regulations were not issued and did not become effective. In July 2022, the Board proposed modifications to the regulations adopted in 2016. The comment period closed in August 2022. The Board considered the comments, made certain changes to the regulations pursuant to them, and adopted regulations in late 2022. As of the date of this presentation, the OCWR is working to publish the Notice of Adoption in the *Congressional Record*.

All of the OCWR's substantive regulations, pending and final, can be accessed here: https://www.ocwr.gov/the-congressional-accountability-act/rules-and-regulations/ While the ADA regulations are pending, they can be found here: https://www.ocwr.gov/the-congressional-accountability-act/rules-and-regulations/pending-substantive-regulations/americans-with-disabilities-act-pending-substantive-regulations/ As discussed above, as of the date of this presentation, the Board's 2022 adopted regulations have not yet been published in the *Congressional Record*, so they are not yet available on the website. For your information, an advance copy of the text has been distributed with this outline.

Currently Applicable Executive Branch Regulations

Substantive regulations adopted by the Board to implement the CAA must be approved by Congress and issued by publication in the *Congressional Record* in order to become effective. 2 U.S.C. § 1384 (c)-(d). The CAA provides that, while the CAA rulemaking procedure is underway, the corresponding executive branch regulations are to be applied in proceedings to enforce the CAA:

> In any proceeding under section 1405, 1406, 1407, or 1408 of this title . . . if the Board has not issued a regulation on a matter for which this chapter requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

2 U.S.C § 1411. This makes plain that ADA public access regulations are presently in force. "[T]he most relevant substantive executive agency regulation[s]" are the Department of Justice

("DOJ") and Department of Transportation ("DOT") ADA public access regulations, 28 C.F.R. Parts 35 and 36 and 49 C.F.R. Parts 37 and 38. The full text of these regulations can be found at the following links:

- https://www.ecfr.gov/current/title-28/chapter-I/part-35
- https://www.ecfr.gov/current/title-28/chapter-I/part-36
- https://www.ecfr.gov/current/title-49/subtitle-A/part-37
- https://www.ecfr.gov/current/title-49/subtitle-A/part-38

IV. Recent Case Law

When adjudicating claims and complaints filed under the CAA, the OCWR Board and hearing officers typically look to decisions of the U.S. Courts of Appeals for guidance. Below is a selection of cases from the past few years in which the Circuit Courts have discussed key legal principles or analyzed interesting fact patterns under Titles II and III of the ADA.

Definition of Disability

The ADA at 42 U.S.C. § 12102(1) defines "disability" with respect to an individual as:

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

This definition applies to all three Titles under the ADA. More details and examples are found in the DOJ regulations at 28 C.F.R. §§ 35.108 and 36.105.

Some recent cases addressing what constitutes a disability under the ADA include:

- *Ramsay v. Nat'l Bd. of Med. Exam'rs*, 968 F.3d 251 (3d Cir. 2020), *cert. denied*, 141 S. Ct. 1517 (2021) – The Third Circuit affirmed a grant of preliminary injunction requiring the National Board of Medical Examiners ("Board") to provide testing accommodations to Plaintiff, a medical student with dyslexia and ADHD. Regarding the likelihood of success on the merits of her ADA claim, the court considered the issue of whether Plaintiff had a disability that entitled her to an accommodation, and held that since ADA regulations provide that the "substantially limits" inquiry "should not demand extensive analysis," 28 C.F.R. § 36.105(d)(1)(ii), and that "[t]he comparison of an individual's performance of a major life activity to the performance of the same major life activity by most people in the general population usually will not require scientific, medical, or statistical evidence," *id.* § 36.105(d)(1)(vii), the District Court's reliance on evidence that Plaintiff's reading, processing, and writing skills were abnormally low by multiple measures provided a sufficient comparison of her abilities to those of the general

population to support the finding of disability.

In response to the Board's argument that the district court wrongly believed that the statute and regulations compelled it to defer to experts who met with and tested Plaintiff, the court held that, while the district court viewed Plaintiff's experts more favorably and found the Board's experts unpersuasive, there was no indication that the Court believed that it was compelled to defer to Plaintiff's experts. Rather, the Court discounted the Board's experts because they never met with Plaintiff, engaged in too demanding an analysis of whether she had a disability, and focused too much on her academic achievements. Thus, the district court's reasoning was within its discretion and supported by the regulations.

- *Hamilton v. Westchester Cnty*., 3 F.4th 86 (2d Cir. 2021) – While incarcerated at Westchester County Jail, plaintiff dislocated his knee and tore his meniscus, causing him to require crutches for walking and standing, and to experience excruciating pain. The district court dismissed his subsequent failure-to-accommodate claim on the basis that he had not plausibly alleged a qualifying disability under Title II of the ADA because temporary disabilities, such as his injuries, did not trigger the protections of the ADA. The appeals court did not reach the question of whether plaintiff plausibly alleged a qualifying disability under the ADA, but held that plaintiff's claim could not be dismissed as a matter of law simply because the injury causing these limitations was temporary. In doing so, it joined other circuits that have held that, under the ADA Amendments Act (ADAAA), a short-term injury can qualify as a disability.

- *Williams v. Kincaid*, 45 F.4th 759 (4th Cir. 2022), *reh'g denied,* 50 F.4th 429 (4th Cir. 2022), *petition for cert. filed* (U.S. Jan. 5, 2023) (No. 22-633) – In this § 1983 action by a formerly incarcerated individual against the Sheriff and others, a Fourth Circuit majority held, as a matter of first impression in the federal appellate courts, that gender dysphoria resulting from physical impairment is a disability under the ADA and Rehabilitation Act. Because gender dysphoria is distinct from, and narrower than, gender identity disorders as originally defined by the ADA (42 U.S.C. § 12211(b)), it does not fall under the ADA's exception for gender identity disorders. At the time of the ADA's enactment, the medical community had not acknowledged gender dysphoria, for which a diagnosis is concerned primarily with clinically significant distress and other disabling symptoms, while the now-obsolete diagnosis of gender identity disorder focused on cross-gender identification.

  Additionally, the majority pointed to constitutional avoidance principles to support its interpretation of the ADA. Because laws that discriminate against transgender people are subject to intermediate scrutiny, and because "[o]ne need not look too closely to find evidence of discriminatory animus toward transgender people in the enactment of § 12211(b)," constitutional avoidance principles supported rejecting a reading of § 12211(b) that would exclude gender dysphoria from the ADA's protections.

Title II Claims

Generally, to establish a claim under Title II, a plaintiff must show that:

1. The plaintiff is a qualified individual with a disability;

2. The plaintiff was excluded from participation in, or denied the benefits of, a public entity's services, programs, or activities, or otherwise discriminated against by the public entity; and

3. The exclusion, denial of benefit, or discrimination was by reason of the plaintiff's disability.

Some recent Title II cases include:

- *Geness v. Admin. Off. of Pennsylvania Cts*., 974 F.3d 263 (3d Cir. 2020), *cert. denied*, 141 S. Ct. 2670 (2021) – Plaintiff Geness, who had a psychiatric disability, was detained for nearly a decade before the homicide charge against him was ultimately dismissed because he would never be competent to stand trial and substantial evidentiary issues impaired the Commonwealth's prosecution. He brought an action against the Administrative Office of Pennsylvania Courts (AOPC) and other state entities alleging that they violated the ADA and the Fourteenth Amendment. The Third Circuit considered the District Court's denial of AOPC's motion to dismiss based on sovereign immunity. As part of the analysis of whether Congress validly abrogated sovereign immunity for a Title II claim against a state or state entity, courts must consider whether a plaintiff states a plausible Title II claim. The District Court found that Plaintiff had stated a viable Title II claim because AOPC allegedly failed to take some unspecified action to expedite his case and failed to take initiative to report the status of his case to the Pennsylvania Supreme Court. The Third Circuit disagreed, reasoning that the "services, programs, or activities" at the foundation of Plaintiff's Title II claim were not ones that AOPC actually provided. AOPC was tasked with facilitating an efficient and expeditious judicial system, not with policing potential civil rights violations in particular cases, and even if AOPC had reported the delay with Plaintiff's criminal case to the Supreme Court, it remained the exclusive power of courts to actually do something about the delay. Because judicial decision-making is not a service AOPC provides to either disabled or nondisabled individuals, the Third Circuit reasoned, Plaintiff was not excluded from this service based on his disability. Though the "service, program, or activity" requirement under Title II is extremely broad in scope and includes anything a public entity does, the "service, program, or activity" must be one that the entity actually provides. Further, a Title II claim requires not only that a public entity exclude a disabled individual from a service it provides, but also that such an exclusion was by reason of disability, and there was no allegation or argument before the court regarding how AOPC's alleged failure to contact the Supreme Court connected to Plaintiff's disability.

- *Brooklyn Ctr. for Indep. of the Disabled v. Metro. Transp. Auth.*, 11 F.4th 55 (2d Cir. 2021) – Plaintiffs alleged that, by failing to maintain NYC subway station elevators and provide reasonable accommodations during outages, the MTA violated Title II of the ADA and the Rehabilitation Act. In vacating and remanding the district court's denial of

Plaintiffs' motion for partial summary judgment and grant of summary judgment in favor of the MTA, the Second Circuit held that, though there was no genuine dispute of material fact with respect to the subway system considered as a whole, which (as the district court concluded) affords access that is meaningful as a matter of law, the district court did not consider Plaintiffs' evidence that individuals with disabilities who rely on certain subway stations experience appreciable hardship during elevator outages. Plaintiffs argued that to consider the subway system as a whole is to miss the point: they claimed that elevator outages were disproportionately frequent at especially inconvenient stations, at especially inconvenient times. With this framing in mind, there were genuine disputes of material fact as to whether the subway system presented barriers to meaningful access.

Summary judgment would nonetheless have been proper if reasonable accommodations were provided during elevator outages. The district court did not reach the issue of reasonable accommodations – namely, whether MTA's buses provided meaningful access to the subway system when station elevators were broken.

- *Gustafson v. Bi-State Dev. Agency*, 29 F.4th 406 (8th Cir. 2022) – A blind plaintiff sued the municipal bus system alleging a violation of Title II of ADA after buses drove by him three times within an eight-month period. The plaintiff had otherwise ridden buses on the defendant's system 50 to 100 times per year. The District Court granted summary judgment in favor of bus system, finding that the plaintiff was not denied meaningful access. The Eighth Circuit affirmed, finding that these were "frustrating, but isolated incidents," which did not, without more, establish a violation of the ADA. Three drive-by incidents in evidence did not show that Gustafson was "denied an opportunity to access the same services as non-disabled riders."

- *Guerra v. W. Los Angeles Coll.*, 812 F. App'x 612 (9th Cir. 2020) – Discontinuation of shuttle service resulted in denial of meaningful access to services, in violation of ADA Title II. The plaintiffs were students with disabilities who attended West Los Angeles College (WLAC) and relied on the campus shuttle to access WLAC's programs and services. The college argued that they could still access those programs and services using scooters or on foot, but the record showed that one plaintiff was still waiting to be provided with a scooter and the other plaintiff had no way to transport his scooter between his home and the WLAC campus; as the court noted, "Access that is contingent on the occurrence of uncertain future events is not currently meaningful." Further, the plaintiffs' disabilities made them unable to access all relevant parts of the campus by walking. Therefore, having terminated the shuttle service, the school was required to provide the plaintiffs with a reasonable accommodation that would give them meaningful access to the school's programs and services.

- *Fishman v. Off. of Ct. Admin., N.Y. State Cts.*, No. 20-1300, 2021 WL 4434698 (2d Cir. Sept. 28, 2021), *cert. denied,* 142 S. Ct. 1452 (2022) – A reasonable accommodation must be effective, but need not be a perfect accommodation or the one most strongly preferred by the individual. Here, the Second Circuit affirmed the district court's dismissal for failure to state a claim of Plaintiff Fishman's Title II and Rehabilitation Act claims against the New York State Unified Court System and its Office of Court

Administration. Plaintiff, who was involved in family court proceedings, claimed that the defendants refused to provide him with reasonable accommodations when they denied his request for computer-assisted real-time transcription (CART) services because they provided CART only as an aid for individuals with hearing impairments. Plaintiff's request for CART services was premised on his assertion that he had difficulty remembering the oral instructions of the court due to cognitive disabilities. In addition to the general availability of written transcripts after hearings, the court gave Plaintiff alternative accommodations during its proceedings, including permission to have his ADA advocate present at hearings and permission to use a neutral, non-witness notetaker. Plaintiff did not allege that the absence of CART services or CART-produced transcripts affected his ability to participate effectively in proceedings. In light of the alternative accommodations granted or offered by the defendants, the Second Circuit concluded that Plaintiff had not plausibly alleged that the denial of CART services by itself constituted unlawful discrimination.

Title III

To establish a claim under Title III, a plaintiff generally must show that:

1. The plaintiff is an individual with a disability within the meaning of the ADA;

2. The defendant is a place of public accommodation; and

3. The defendant discriminated against plaintiff by denying plaintiff full and equal opportunity to enjoy the goods and services it provides.

Some recent Title III cases include:

- *Langer v. Kiser*, 57 F.4th 1085 (9th Cir. 2023) – In reversing the district court judge's verdict in favor of a restaurant on a wheelchair user's Title III ADA claim based on a lack of van-accessible parking, the court first determined that the restaurant parking lot was a "facility of a place of public accommodation" and therefore subject to Title III. The court then noted that the bounds of whether a facility is open or closed to the public was a matter of first impression in the Ninth Circuit, and held that "courts must rely upon the actual usage of the facility in question to determine whether it is 'in fact' open to the public. Absent information about actual usage, considerations such as the nature of the entity and the facility, as well as the public's reasonable expectations regarding use of the facility, may further guide a court's analysis."

  Applying this newly-articulated standard, the court held that the district court erred in giving controlling weight to the terms of the restaurant's lease agreement, which prohibited businesses from using the lot for customer parking, rather than testimony regarding the actual use of the parking lot. Indeed, the Ninth Circuit found that "Overwhelming evidence at trial showed that the parking lot was, in fact, open to customers" of the restaurant. Not only did customers "routinely and indiscriminately" park in the lot, but the restaurant owner actually encouraged them to do so if spots were

available, installing signs directing customers where to park and how to find the restaurant from the parking lot. Therefore, the court held that the lot should have been accessible to the disabled plaintiff, and remanded the case with instructions to enter judgment in his favor.

- *A.L. by & through D.L. v. Walt Disney Parks & Resorts U.S., Inc.*, 50 F.4th 1097 (11th Cir. 2022) – A.L. alleged Disney's program for disabled guests (Disability Access Service program, or DAS) which permitted guests with disabilities to wait in an attraction's line "virtually," but did not permit guests to go on rides without any waiting or in the order they wanted, violated Title III of the ADA. A.L. requested, as an accommodation under the ADA, unlimited access to the park's attractions via the park's expedited lines or through passes that permitted bypassing lines. The Eleventh Circuit affirmed the district court's judgment for Disney, holding that A.L.'s requested modifications were neither necessary nor reasonable for his full and equal enjoyment of Disney's services. Though he tended to have "meltdowns" when his routine was disrupted and had difficulty perceiving time, he could wait in line for a limited time, could defer gratification, and had gone on many family vacations prior. The DAS program therefore provided A.L. a like experience to that of other guests. A.L.'s requested modification was also not reasonable, as it would have lengthened wait times for all other riders, and it had the potential to lead to fraud and abuse, similar to that which existed under park's prior system, which required a complete overhaul due to misuse.

- *Johnson v. Rehman*, 830 F. App'x 215 (9th Cir. 2020) – A wheelchair user brought a Title III claim against a store, alleging that there was no accessible parking and that the knob on the front door was noncompliant. The district court granted summary judgment in favor of the plaintiff, and on appeal the Ninth Circuit affirmed. The building's owner made several arguments, all of which the court rejected: just because he was in compliance with applicable city codes did not absolve him of his responsibility to comply with Title III of the ADA; even though he hadn't made structural alterations to the building after he purchased it, he was still obligated to remove existing barriers if to do so would have been readily achievable, which it indisputably would have been in this case; and the non-compliant elements requiring removal were not "insignificant" because the plaintiff showed that he "encountered barriers not faced by individuals without his physical limitations and that these barriers deterred him from patronizing [the store], and caused him difficulty, embarrassment, discomfort, and frustration" thereby denying him full and equal enjoyment of the store's services.

- *Lopez v. Catalina Channel Express, Inc.*, 974 F.3d 1030 (9th Cir. 2020) – A wheelchair user sued the operator of a passenger vessel under Title III for failure to widen the restroom door to accommodate wheelchair users. The operator argued that widening the door was not "readily achievable" because it would potentially impact the stability of the vessel, and would also require relocating the handle, which could increase the likelihood of passengers injuring themselves on the door because of the vessel's movements. The district court granted summary judgment for the operator, but the Ninth Circuit reversed. The court examined (1) whether removal of the architectural barrier was readily achievable, and (2) whether a restroom could have been made available to the plaintiff

through alternative methods without much difficulty or expense.

With respect to the first question, the court applied a burden-shifting analysis in which "plaintiffs have the initial burden at summary judgment of *plausibly showing* that the cost of removing an architectural barrier does not exceed the benefits under the particular circumstances" and then the burden shifts to the defendant "to negate that showing and prove that the removal is *not* readily achievable." However – and potentially relevant for many legislative branch buildings – the court noted that the analysis is different when the issue involves removal of architectural barriers in "historic facilities." The court cited its previous decision in *Molski v. Foley Ests. Vineyard & Winery, LLC*, 531 F.3d 1043, 1048 (9th Cir. 2008), in which it explained: "The defendant sought the *historical designation* in this case. Thus, the defendant possesses the best understanding of the circumstances under which that designation might be threatened. The defendant is also in the best position to discuss the matter with the Santa Barbara County Historic Landmarks Advisory Commission and to request an opinion on proposed methods of barrier removal. As a result, the defendant is in a better position to introduce, as part of its affirmative defense, detailed evidence and expert testimony concerning whether the *historic significance* of a structure would be threatened or destroyed by the proposed barrier removal plan."

In this case, the court affirmed the district court's decision that the plaintiff failed to carry his burden to show that removal was readily achievable. But the court remanded the case to the district court to evaluate whether the vessel operator had made the restroom available to the plaintiff through alternative methods, which the court had not done before issuing its summary judgment decision

- *Szwanek v. Jack in the Box, Inc.*, No. 20-16942, 2021 WL 5104372 (9th Cir. Nov. 3, 2021) – A restaurant's policy of closing its indoor seating at night, and making food available only to customers in motor vehicles at the drive-thru window, was facially neutral because it did not distinguish between blind pedestrians (like the plaintiffs) and other non-disabled plaintiffs who do not have access to motor vehicles, and it did not impact disabled individuals more than those non-disabled individuals. Therefore the Ninth Circuit affirmed the district court's dismissal of the putative class action under ADA Title III.

Futile Gestures

Two recent cases from the U.S. District Court for the District of Columbia addressed the concept that ADA plaintiffs are not required to engage in "futile gestures" in order to establish standing to sue under Title III. This concept comes from the statutory provision on Title III enforcement, which states that "Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this subchapter does not intend to comply with its provisions." 42 U.S.C. § 12188(a)(1).

- *Equal Rts. Ctr. v. Uber Techs., Inc.*, 525 F. Supp. 3d 62 (D.D.C. 2021) (Judge Ketanji Brown Jackson) –The District Court denied Uber's motion to dismiss the claim of a civil

rights organization, the Equal Rights Center (ERC), that Uber systematically discriminated against disabled individuals who used non-foldable wheelchairs in violation of Title III. ERC claimed associational standing based on its member, Heidi Case, who it alleged had standing in her own right. Uber argued that associational standing was unavailable because Case did not download the Uber app or attempt to use Uber's services. Case averred knowledge of Uber's unreliable and often unavailable services for those who used motorized or non-folding wheelchairs, based on hearing from many wheelchair users of their unsuccessful attempts to use Uber and being present on multiple occasions where someone had difficulty calling an accessible Uber. She asserted she would download the Uber app if Uber became a viable, reliable transportation option for wheelchair users. Since the ADA does not require a person with a disability to engage in a futile gesture if that person has actual notice that a person or organization covered by Title III does not intend to comply with its provisions, the court was persuaded that requiring Case to take steps toward actually using Uber's services (such as by downloading the app) would amount to the type of "futile gesture" that is not required to pursue a claim under the ADA.

The court discussed a Seventh Circuit opinion, *Access Living of Metro. Chicago v. Uber Techs., Inc.*, 958 F.3d 604 (7th Cir. 2020), that reached the opposite conclusion, suggesting that the plaintiff had to plead "particular facts and circumstances illustrating how she would personally experience unequal access" if she ordered an accessible Uber because "[i]t is too attenuated to conclude that the mere act of downloading Uber's app and opening an account—without more—would subject her to harm from discrimination." *Id*. at 615. This court wrote that such heightened pleading requirements conflicted with the ADA's futile gesture doctrine and the Supreme Court's analysis in *Int'l Bhd. of Teamsters v. United States*, 431 U.S. 324 (1977), a Title VII race discrimination case that Congress expressly relied upon when it enacted the ADA, in which the Supreme Court explained that, in order to suffer a cognizable injury, a person need not submit an application for and be denied a particular position when he is aware of the employer's discriminatory hiring practices.

- *Breeze v. Kabila Inc.*, 575 F. Supp. 3d 141 (D.D.C. 2021) (Judge John D. Bates) – A wheelchair user was unable to access a restaurant because of a step that presented a barrier to entry, and he could not locate a ramp or communicate with the staff. After informing the owner about the issue, Breeze returned to the restaurant but encountered the same barriers to access. Additionally, Breeze's attorney hired a third-party inspector to evaluate the premises, and the inspector identified numerous barriers to access inside the restaurant, including various deficiencies related to dining tables and the men's restroom. Breeze subsequently sued under Title III of the ADA, among others, and the restaurant owner moved to dismiss based on lack of standing, mootness, and failure to state a claim.

  First, the court held that the owner's assertion that the restaurant already had a portable wheelchair ramp did not moot the claim, because he did not produce evidence that the ramp existed at all, let alone that it was ADA-compliant; nor did the fact that the owner had subsequently installed a doorbell and signage render the case moot, because lack of a doorbell or signage was not an allegation in the complaint, and in any case, both the

doorbell and sign could easily be removed. Importantly, the court explained that although it is possible for removal of a barrier to moot an ADA accessibility case, "only structural or permanent changes to a facility are generally sufficient to satisfy defendant's 'formidable' burden of showing that the violations could not reasonably be expected to recur."

The court also held that Breeze had standing to bring his claims, because he had sufficiently alleged a past injury-in-fact (i.e., his inability to access the restaurant both times he visited it) as well as a plausible intent to return. Even though he had not personally encountered the interior barriers, the court concluded that he had still sufficiently alleged standing; surveying opinions from other courts, Judge Bates concluded that "a plaintiff need not personally encounter each ADA violation within a facility in order to seek its removal. Rather, it is sufficient that a plaintiff (1) know about the ADA violations inside the defendant's facility and (2) be deterred from visiting the facility because of that knowledge." (internal quotations and citations omitted). He further explained that "This rule is an application of the 'futile gesture doctrine,' which has its roots in the text of the ADA itself: 'Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this subchapter does not intend to comply with its provisions.' 42 U.S.C. § 12188(a)(1)." He went on to explain that "An individual with a disability who is deterred from patronizing a restaurant because he knows it is not accessible suffers the same injury as an individual who actually visits the establishment but finds his way blocked: each is denied access to the facility due to his disability. Although one form is direct and physical while the other is indirect and psychological, both are discrimination, and both constitute 'concrete and particularized' injuries cognizable in federal court." (internal citation removed)

Judge Bates described certain limits that apply to this rule, at least in D.C. federal courts: a plaintiff can sue only regarding violations known to him at the time he files the complaint, and only regarding "violations that could affect him or someone with his disability"; also, he "must still allege a real and immediate threat of future injury by plausibly showing that he intends to visit the accommodation if the barriers are removed." He then engaged in a lengthy and detailed analysis under the futile gesture doctrine and concluded that Breeze had established both that he had actual knowledge of the interior barriers and that the knowledge of those barriers had deterred him from patronizing the restaurant.

After concluding that the complaint stated sufficient factual allegations to state a plausible claim for relief, the judge denied the restaurant owner's motion to dismiss.

Notable Fact Patterns

Service Animals

- *Mayle v. City of Chicago*, 803 F. App'x 31 (7th Cir. 2020) – A plaintiff with bipolar disorder sued the City of Chicago after the city barred him from entering public places

with his emotional-support hog, which he had trained to ease his anxiety and massage him. The ADA regulations define a service animal as a "dog" or "miniature horse." The plaintiff challenged the regulation as an unconstitutional violation of his right to equal protection. The Seventh Circuit upheld the regulation under rational basis review. The pleadings demonstrated that the plaintiff's hog caused significant disturbances, and the court held that the government has a legitimate interest in maintaining social order and public safety. Also, the government has an interest in giving the public a predictable group of species they may encounter in urban spaces.

- *C. L. v. Del Amo Hosp., Inc.*, 992 F.3d 901 (9th Cir. 2021) – The plaintiff (who was indisputably an individual with a disability, as she had PTSD) sued a treatment center at Del Amo Hospital (which was indisputably a place of public accommodation) under Title III of the ADA after the treatment center refused to allow her dog Aspen to accompany her inside the facility. After a bench trial, the district court judge found in favor of the hospital because Aspen did not qualify as a service dog under the ADA; the plaintiff testified that she had trained the dog herself to perform certain tasks designed to ameliorate the effects of her PTSD, but the district court judge relied on the testimony of a professional trainer who opined that Aspen would not qualify to receive a certification as a service dog. The Ninth Circuit reversed, holding that "the district court erred by effectively imposing a certification requirement for C.L.'s dog to be qualified as a service animal under the ADA. We vacate and remand for the district court to reconsider whether Aspen was a qualified service dog at the time of trial, and if Aspen is a service dog, whether Del Amo has proved its affirmative defense of fundamental alteration." The court explained that "the ADA prohibits certification requirements for qualifying service dogs for three reasons: (1) the ADA defines a service dog functionally, without reference to specific training requirements, (2) Department of Justice ("DOJ") regulations, rulemaking commentary, and guidance have consistently rejected a formal certification requirement, and (3) allowing a person with a disability to self-train a service animal furthers the stated goals of the ADA, for other training could be prohibitively expensive. Thus, the district court erred by imposing a heightened requirement on Aspen that is inconsistent with the ADA."

Law Enforcement

- *King v. Hendricks Cnty. Comm'rs*, 954 F.3d 981 (7th Cir. 2020) – Police shot and killed a man with paranoid schizophrenia who was holding a large knife. The man's family sued, alleging among other things that the police violated Title II when they were "deliberately indifferent" to the man's disability. The Seventh Circuit affirmed the district court's dismissal of the allegations, finding that there was no evidence that the police would have acted differently if the decedent did not have a mental illness. The court held that the decedent was denied access to medical services because he was violent, not because he was disabled.

  In reaching its holding, the Seventh Circuit assumed without deciding that Title II applied to the interactions between the police and the decedent. The court noted that there is a nuanced Circuit split on the issue. The Fifth Circuit holds that Title II does not apply to officers' responses to "disturbances or other similar incidents . . . prior to the officer's

securing the scene." The Fourth, Tenth, and Eleventh Circuits have held that Title II applies in some circumstances. The First and Seventh Circuits have assumed, without explicitly deciding, that Title II applied to "ad hoc police encounters" and that "exigent circumstances may shed light on the reasonableness of an officer's actions."

- *Montgomery v. Dist. of Columbia*, No. CV 18-1928 (JDB), 2022 WL 1618741 (D.D.C. May 23, 2022) – D.C. police arrested and interrogated a murder suspect who had schizophrenia and other mental health issues. During the interrogation, the suspect was speaking to voices in his head, experiencing hallucinations, and exhibiting bizarre socially unacceptable behavior, but never requested an accommodation, and the police did not provide him with one. The police allegedly used coercive and deceptive interrogation techniques that are inappropriate for a suspect with a mental illness. The suspect was held without trial for five and a half years and eventually found not guilty. The suspect sued D.C., alleging that the police violated his rights under Title II of the ADA. The court denied D.C.'s motion for summary judgment, holding that the police had an obligation to provide the plaintiff with a reasonable accommodation and that a jury was likely to find that the police violated Title II when they were deliberately indifferent to the suspect's rights.

Effective Communication

- *Bax v. Drs. Med. Ctr. of Modesto, Inc.*, 52 F.4th 858 (9th Cir. 2022) – In this Rehabilitation Act case concerning effectiveness of auxiliary aids in communicating with deaf hospital patients, the Ninth Circuit affirmed the district court's judgment for the hospital, DMC. It found no error in the district court's evaluation of the effectiveness of DMC's communication methods based on a day-by-day factual context and conducting an exhaustive, totality-of-the-circumstances review of the communications between the Baxes and DMC. Indeed, this was precisely the sort of fact-intensive exercise that precedent required. Additionally, the hospital's use of a video remote interpreter (VRI) system with occasional technical glitches did not violate the Rehabilitation Act: while the relevant regulation requires that VRI systems generally produce clear, high-quality, real-time images, the Court rejected the notion that isolated technical glitches necessarily establish ineffective communication.

COVID-19

- *G.S. by & through Schwaigert v. Lee*, No. 21-5915, 2021 WL 5411218 (6th Cir. Nov. 19, 2021) – Parents of public school students with disabilities sued the State of Tennessee to enjoin an executive order allowing students to opt out of masking requirements. The district court issued a preliminary injunction ordering the school district to enforce its mask mandate for all students without exception. The Sixth Circuit declined to stay the preliminary injunction, therefore requiring that the school district enforce the mask mandate without exception. The court held that the plaintiffs demonstrated that "without reasonable accommodations to mitigate the risk of contracting COVID-19," they will not be able to obtain a public education, and that universal mask wearing was a reasonable accommodation. The court emphasized that Tennessee offered no evidence of alternative reasonable accommodations to universal masking.

- *E.T. v. Paxton*, 41 F.4th 709 (5th Cir. 2022) – Public school students with disabilities sued the State of Texas to enjoin the Attorney General's enforcement of an executive order prohibiting school districts from imposing mask mandates. The plaintiffs were children with disabilities who carried an increased risk of hospitalization or death if they contracted COVID-19. The court held that the plaintiffs lacked standing to sue. First, they could not show an injury-in-fact; the court found that the plaintiffs' evidence was too speculative, and contained too many unaccounted variables, to demonstrate that the elimination of universal masking would cause a "certainly impending" injury. Moreover, the plaintiffs could still request any other reasonable accommodations, they just could not request universal mask mandates. Finally, the court emphasized that the plaintiffs were effectively requesting "mobile mask mandates that go where plaintiffs go and require everyone around them to wear masks," which the court was unwilling to grant.

- *L.E. by & Through Cavorley v. Superintendent of Cobb Cnty. Sch. Dist.*, 55 F.4th 1296 (11th Cir. 2022) – Students with respiratory disabilities sued their Georgia school district under ADA Title II and section 504 of the Rehabilitation Act, based on the school district's alleged refusal to provide reasonable accommodations for access to in-person schooling. The students had chosen the option of in-person schooling rather than virtual learning for the 2021-22 school year, based on assurances from the district that it would adhere to certain policies such as mandatory masking, social distancing, frequent cleaning and sanitizing of classrooms, and strict quarantine requirements. However, before the school year began, the district ended many of those safeguards, making masking voluntary and loosening the social distancing and quarantine requirements. The students' parents removed them from in-person schooling and filed a complaint alleging that unless the district reimplemented certain safety measures, the students would be unable to attend in-person school and would suffer irreparable harm; they also filed a motion for a temporary restraining order and preliminary injunction, which the district court denied.

  First the Eleventh Circuit rejected the school district's argument that the appeal was moot, because, contrary to the school district's assertion, the students were actually asking for more than just a mask mandate – they were actually asking for an order requiring the school district to comply with all CDC requirements, including guidance for accommodating students with disabilities, which the school district was refusing to do. The court then reversed and remanded the district court's denial of the motion for a TRO and PI. The district court had found that the students were unlikely to succeed on the merits under either a failure to accommodate or disparate treatment theory of discrimination; however, the Eleventh Circuit held that the district court erred in its analysis, because it essentially redefined the scope of the program for which the students were seeking accommodation. The district court had found that the school district's option of virtual learning sufficiently accommodated the students' disabilities and provided them with meaningful access to education. But the students had not alleged they were denied full and equal access to education *generally* – the specific "service, program, or activity" to which they allegedly were denied access was *in-person* education. The district court failed to consider whether virtual schooling can constitute a reasonable accommodation to provide the benefits of in-person schooling. The district court had also erred in failing to consider the theory of "unjust isolation" advanced by the students.

V. Website Accessibility

Currently, there are no executive branch regulations governing the accessibility of websites or mobile apps for individuals with disabilities. Blind or visually impaired persons who rely on screen-reading software, and those who are deaf or hard of hearing who require captions on videos, are among those who may face barriers to using these online services.

Website Accessibility Under Title II

There is little doubt that websites of public entities are within the category of "services, programs, and activities" under Title II, and that those sites must therefore be accessible. Because Title II applies to all covered employing offices under the CAA, those offices should ensure that their websites are fully accessible to individuals with disabilities.

The DOJ has announced plans to issue regulations for website accessibility under Title II. The Notice of Proposed Rulemaking is scheduled to be published in the *Federal Register* in May 2023, with public comments due in July 2023. Information can be found at https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202210&RIN=1190-AA79.

In the meantime, the DOJ offers guidance for website accessibility, available at https://www.ada.gov/resources/web-guidance/.

Website Accessibility Under Title III

There is disagreement among the courts regarding the extent to which Title III applies to websites and mobile apps. The Supreme Court has declined to weigh in on the matter thus far, so the courts have been left to answer the question of whether – and if so, under what circumstances – inaccessibility of online content to individuals with disabilities can be considered a violation of Title III. Below are a few cases from the Circuit Courts of Appeals addressing this question.

- *Robles v. Domino's Pizza, LLC*, 913 F.3d 898 (9th Cir. 2019), *cert. denied*, 140 S. Ct. 122 (2019) – A blind plaintiff alleged that he could not order pizza through the Domino's web site or mobile app because they did not work with his screen-reading software. Focusing on the nexus between the Domino's website and app and its physical restaurants, the court held that the Title III of the ADA applied to the online ordering system because the web site and app "facilitate access" and "connect customers" to the physical restaurants, which are indisputably places of public accommodation.

- *Earll v. eBay, Inc.*, 599 F. App'x 695 (9th Cir. 2015) – The court affirmed dismissal of the plaintiff's ADA Title III claim, holding that eBay is not subject to the ADA because its services are not connected to any "actual, physical place."

- *Haynes v. Dunkin' Donuts LLC*, 741 F. App'x 752 (11th Cir. 2018) – A blind plaintiff stated a plausible claim under Title III based on the incompatibility of Dunkin' Donuts' website with screen-reading software, because the website facilitates the use of Dunkin' Donuts' shops, which are places of public accommodation.

- *Gil v. Winn-Dixie Stores, Inc.*, 993 F.3d 1266 (11th Cir. 2021), *opinion vacated on reh'g*, 21 F.4th 775 (11th Cir. 2021) – Departing from the Ninth Circuit's 2019 decision in *Robles* (see above), the Eleventh Circuit held that a web site is not a "place of public accommodation" under Title III of the ADA. The case involved a sight-impaired customer who relied upon screen-reading software and was unable to access Winn-Dixie's web site. The district court found that the web site had a sufficient nexus with Winn-Dixie's physical stores to qualify it as a place of public accommodation, because it was "heavily integrated" with the physical stores and operated as a "gateway" to physical store locations. That holding was consistent with the rulings of other district courts within the Eleventh Circuit as well as other Circuit Courts that have considered the issue. However, the Eleventh Circuit reversed, after analyzing the "unambiguous and clear" language defining "place of public accommodation" in Title III and concluding that "pursuant to the plain language of Title III of the ADA, public accommodations are limited to actual, physical places. Necessarily then, we hold that websites are not a place of public accommodation under Title III of the ADA." Further, the court held that because nothing prevented the plaintiff from shopping at the physical Winn-Dixie store – which he had in fact done for many years – Winn-Dixie's web site did not constitute an "intangible barrier" to his ability to access and enjoy fully and equally the services of Winn-Dixie's services. (Note: this opinion was vacated on procedural grounds.)

VI. COVID-19 in the District Courts

Although relatively few cases involving COVID-19 under ADA Titles II and III have made their way through the U.S. Courts of Appeals thus far, many have been filed in the federal district courts. Below is a sample of district court opinions that might be of interest to legislative branch employing offices and covered employees.

Title II

At the time of writing, there were over 700 district court opinions involving Title II and COVID-19. Some cases of possible interest to the legislative branch include:

- Remote participation in state and local governing bodies:
    - *Silver v. City of Alexandria,* 470 F. Supp. 3d 616 (W.D. La. 2020)
    - *Chew v. Legislature of Idaho*, 512 F. Supp. 3d 1124 (D. Idaho 2021)
    - *Selene v. Legislature of Idaho*, 514 F. Supp. 3d 1243 (D. Idaho 2021)
    - *Palmer v. Michigan*, No. 1:22-CV-90, 2022 WL 908966 (W.D. Mich. Mar. 29, 2022)
- Communications access to state emergency briefings:
    - *Martinez v. Cuomo*, 459 F. Supp. 3d 517 (S.D.N.Y. 2020)
    - *Yelapi v. DeSantis,* 487 F. Supp. 3d 1278 (N.D. Fla. 2020)

Title III

At the time of writing, there were nearly 200 district court opinions involving Title III and COVID-19. Some cases of possible interest to the legislative branch include:

- Modification of a public accommodation's mask policy as a reasonable accommodation for people with disabilities that prevent them from wearing a mask (there are many such opinions; these are just a few):
    - *Giles v. Sprouts Farmers Mkt., Inc.*, No. 20-CV-2131-GPC-JLB, 2021 WL 2072379 (S.D. Cal. May 24, 2021)
    - *Emanuel v. Walt Disney Co.,* No. 5:20-CV-04639, 2021 WL 2454462 (E.D. Pa. June 16, 2021)
    - *Hernandez v. W. Tex. Treasures Est. Sales, LLC*, No. EP-21-CV-00096-FM, 2021 WL 4097148 (W.D. Tex. Aug. 19, 2021), *appeal filed*, No. 22-50048 (5th Cir. Jan. 25, 2022)
    - *Ames v. Washington Health Sys. Foot & Ankle Specialists, Inc.*, No. 2:20-CV-887-NR, 2021 WL 4594673 (W.D. Pa. Oct. 6, 2021)
    - *Witt v. Bristol Farms,* No. 21-CV-00411-BAS-AGS, 2021 WL 5203297 (S.D. Cal. Nov. 9, 2021), *appeal filed*, No. 22-55724 (9th Cir. July 29, 2022)
    - *Pletcher v. Giant Eagle Inc.,* No. CV 2:20-754, 2022 WL 17488019 (W.D. Pa. Dec. 7, 2022)
    - *Hernandez v. El Pasoans Fighting Hunger*, No. 22-50240, 2022 WL 18019437 (5th Cir. Dec. 30, 2022)
    - *Abadi v. Target Corp.*, No. 22-CV-2854, 2023 WL 137422 (E.D. Pa. Jan. 9, 2023), *appeal filed*, No. 23-1050 (3d Cir. Jan. 11, 2023)
- Modification of nasal swab COVID testing policy as a reasonable accommodation:
    - *Corrigan v. Bos. Univ.*, No. 22-CV-10443, 2022 WL 11218108 (D. Mass. Oct. 19, 2022), *appeal filed*, No. 23-1003 (1st Cir. Jan. 6, 2023)

VII. Best Practices

The following tips can help you address accessibility issues:

- *Anticipate issues and be familiar with accommodation solutions.* Brainstorm possible accommodation requests that your office may receive and develop a plan of action to address them. Research available technology and accommodation alternatives.

- *Designate an individual in the office to handle public access compliance issues.* As noted earlier, certain employing offices are required to appoint an ADA Coordinator. Other offices might not be subject to this requirement, but those offices will still benefit from assigning someone to oversee the office's efforts to comply with the ADA public access requirements. That person would become familiar with the most common access issues that might arise for that office; be responsible for liaising with OCAS and other possible providers of resources and guidance; and serve as a contact person for individuals with disabilities who have questions or are seeking accommodations.

- *Be clear about timelines*. If accommodation requests should be submitted in advance, advertise this clearly.

- *Contact the Office of Congressional Accessibility Services (OCAS)*. The OCAS can assist with procuring specific accommodations and services for individuals with disabilities, such as sign language interpreting and adaptive tours.

- *Stay up to date with accessibility guidance and tips*. Visit the OCWR website for resources on accessibility.

VIII. Resources

Please see the following for more information:

- 2019 OCWR ADA Public Access Brown Bag outline: https://www.ocwr.gov/publications/general-counsels-brown-bag-outlines/public-access-provisions-of-ada-titles-ii-and-iii-under-the-caa/

- OCWR Training and Education: https://www.ocwr.gov/training-and-education/

- OCWR ADA Inspection Tutorial: https://www.ocwr.gov/videos/ada-inspection-tutorial

- Preventing Disability Discrimination in the Congressional Workplace – Senate version: https://www.ocwr.gov/homepage/preventing-disability-discrimination-in-the-congressional-workplace-senate-version/

- Preventing Disability Discrimination in the Congressional Workplace – House version: https://www.ocwr.gov/homepage/preventing-disability-discrimination-in-the-congressional-workplace-house-version/

- OCWR ADA Biennial Inspection Reports: https://www.ocwr.gov/ada-public-access/ada-biennial-inspection-reports

- OCWR Tips for Improving Office Accessibility: https://www.ocwr.gov/sites/default/files/adarevised.pdf

- The Office of Congressional Accessibility Services (OCAS) provides a variety of services for individuals with disabilities, both staff and visitors, including adaptive tours of the Capitol building, wheelchair loans, and sign language interpreting services: https://www.aoc.gov/accessibility-services

- OCWR's regulations, pending and final, including ADA public access regulations: https://www.ocwr.gov/the-congressional-accountability-act/rules-and-regulations/