

REPORT OF THE
DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

**Study of State Agency
Compliance with the
Americans with Disabilities Act**

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA



SENATE DOCUMENT NO. 40

COMMONWEALTH OF VIRGINIA
RICHMOND
1994



COMMONWEALTH of VIRGINIA

Department for Rights of Virginians with Disabilities

James Monroe Building

101 N. 14th Street — 17th Floor

Richmond, VA 23219

(804) 225-2042

November 12, 1993

James A. Rothrock
Director

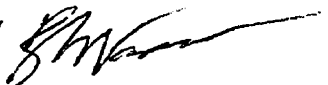
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MEMORANDUM

TO: The Honorable Lawrence Douglas Wilder

The Honorable Hunter B. Andrews
Chairman, Senate Finance Committee
Senate of Virginia

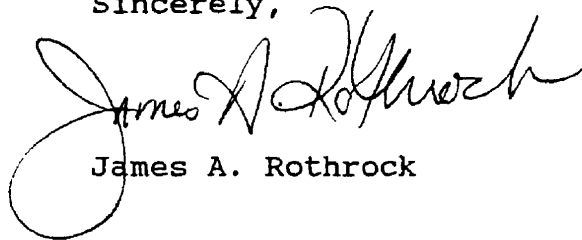
The Honorable Robert B. Ball, Sr.
Chairman, House Appropriations Committee
House of Delegates of Virginia

THROUGH: Howard M. Cullum, Secretary 
Health and Human Resources

SUBJECT: SJR 259 Study Report

As requested by Senate Joint Resolution 259 of the 1993 General Assembly, the Department for Rights of Virginians with Disabilities completed the enclosed study of state agency compliance with the Americans with Disabilities Act. The resolution also requested a study of strategies for state agencies to determine compliance with Title II of the ADA by entities that receive or benefit from state financial assistance.

Sincerely,


James A. Rothrock

enclosure

***AMERICANS WITH DISABILITIES ACT
STATE AGENCY COMPLIANCE STUDY***

SJR 259

PATRON SENATOR CHARLES L. WADDELL

LEAD STAFF: BONITA PENNINO
Department for Rights of Virginians with Disabilities
804/371-4962

Executive Summary

SJR 259 STATE AGENCY COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

Senate Joint Resolution 259 requested the Department for Rights of Virginians with Disabilities to determine state agency compliance with the Americans with Disabilities Act. The resolution also requested a study of strategies for state agencies to determine compliance with Title II of the ADA by entities that receive or benefit from state financial assistance.

Title II of the Americans with Disabilities Act of 1990, requires full and equal access for persons with disabilities to state programs, services and activities through the modification of policies and procedures, and the provision of reasonable accommodations and auxiliary aids. To ensure nondiscrimination on the basis of disability all state governments are mandated to comply with five administrative requirements.

The Department for Rights of Virginians with Disabilities studied two issues germane to the Commonwealth of Virginia's compliance with the Americans with Disabilities Act of 1990. The first issue was to determine state agency compliance with the five administrative requirements of the Americans with Disabilities Act. The second issue was to study strategies for state agencies to determine compliance with Title II of the ADA by entities that receive or benefit from state financial assistance.

Findings:

Of 158 state entities requested to submit documentation of ADA compliance, 120 submitted documentation.

Recommendations:

A thorough study of the issues resulted in the following recommendations:

1. A letter should be sent to all state entities which did not respond to the ADA compliance survey, reiterating their responsibility to comply with the Title II administrative requirements of the ADA and advising them of their possible exposure to liability.
2. The Division of Purchases and Supply, Department of General Services should continue to promote sound non-discrimination contracting practices.

AMERICANS WITH DISABILITIES ACT STATE AGENCY COMPLIANCE STUDY

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- III. FINDINGS
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 - B. ASSURING COMPLIANCE BY ENTITIES WHICH BENEFIT FROM STATE FINANCIAL ASSISTANCE
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 - A. STATE ENTITY COMPLIANCE
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 - B. ADA SURVEY
 - C. LIST OF AGENCIES COMPLETING SURVEY
 - D. LIST OF AGENCIES THAT DID NOT RESPOND TO SURVEY

BACKGROUND

In Virginia over 1,500,000 citizens have disabilities, and this number is increasing as medical technology improves and the population as a whole grows older. Historically, society has tended to isolate and segregate individuals with disabilities, and despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious, pervasive social and economic problem. Discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, telecommunications, recreation, health care, voting, and access to public services.

The 1985 session of the Virginia General Assembly enacted the Virginians with Disabilities Act (VDA) which stated "It is the policy of this Commonwealth to encourage and enable persons with disabilities to participate fully and equally in the social and economic life of the Commonwealth and to engage in remunerative employment." The VDA prohibits discrimination in employment, education, voting, places of public accommodation, housing, transportation and in programs or activities which receive or benefit from state financial assistance.

The United States Congress enacted the Americans with Disabilities Act of 1990, to establish a clear and comprehensive national mandate for the elimination of discrimination, and provide clear, strong enforceable standards addressing discrimination against individuals with disabilities. Like the VDA, the ADA prohibits discrimination in employment, places of public accommodation, transportation, telecommunications, and the services of state and local governments.

Title II of the Americans with Disabilities Act of 1990, requires full and equal access for persons with disabilities to state programs, services and activities through the modification of policies and procedures, and the provision of reasonable accommodations and auxiliary aids. To ensure nondiscrimination on the basis of disability all state governments are mandated to comply with the following ADA administrative requirements:

1. Conducting a Self-Evaluation or have reviewed and updated the Self-Evaluation required by the Rehabilitation Act of 1973,
2. Adopting grievance procedures to resolve complaints of discrimination based on disability,
3. Giving notice to applicants, participants, beneficiaries and other interested parties of their rights and protection afforded by the ADA,

4. Developing a transition plan (when necessary) detailing structural changes needed to achieve program accessibility, and
5. Designating an ADA Coordinator.

Senate Joint Resolution 259 (See Appendix A) passed by the 1992 General Assembly directed the Department for Rights of Virginians with Disabilities to conduct a study to determine compliance with the administrative requirements of Title II of the Americans with Disabilities Act and to study strategies for state agencies to determine compliance with Title II of the ADA by entities that receive or benefit from state financial assistance.

ISSUES

Based on anecdotal information from the disability community, there is a perception that not all state agencies and institutions, including hospitals, mental health facilities and institutions of higher education are aware of the full and equal access, and the administrative requirements of Title II of the ADA. Additionally, it is possible that they are unaware of their responsibility to ensure that their purchasing procedures and contractual agreements do not result in discrimination based on disability.

This lack of knowledge can result in inadvertent denial of individual civil rights, a violation of both the ADA and VDA laws, which may give rise to consumer complaints.

FINDINGS

STATE ENTITY COMPLIANCE

The Department for Rights of Virginians with Disabilities disseminated to all state agencies and institutions, including hospitals, mental health facilities and institutions of higher education a memorandum outlining the administrative requirements of Title II of the Americans with Disabilities Act of 1990 and solicited from each documentation of compliance (See Appendix B). The memorandum advised state entities of the technical assistance available from the Department for Rights of Virginians with Disabilities.

Of the 158 state entities that received a survey, 130 returned the completed documentation. Appendix C is a listing of the state entities who responded to the survey indicating their compliance with the administrative requirements of the ADA. Appendix D is a listing of those agencies which did not respond to the request.

ASSURING COMPLIANCE BY ENTITIES WHICH BENEFIT FROM STATE FINANCIAL ASSISTANCE

The Commonwealth currently employs various methods to ensure that those who benefit from state financial assistance are in compliance with the ADA. The Virginia Public Procurement Act requires all state entities to follow anti-discrimination policies, including non-discrimination on the basis of disability, when requesting written solicitation for procurement for goods and professional services.

Contractors are required to certify to the Commonwealth that they will conform to the provisions of several Civil Rights Laws, including the Virginians with Disabilities Act and the Americans with Disabilities Act of 1990. Included in every contract over \$10,000 is certification that the Contractor will not discriminate against any employee or applicant for employment because of a disability, state that they are an Equal Opportunity Employer in job announcements, and include anti-discrimination requirements in any subcontract or purchase order over \$10,000, so that the anti-discrimination provisions will be upon the subcontractor or vendor. These contract requirements provide assurance to state entities

that the recipients and beneficiaries of state financial assistance do not discriminate based on disability in employment.

In addition to the requirements in the Virginia Public Procurement Act, the Virginia Department of General Services, Division of Purchases and Supply annually sponsors the Public Procurement Forum. This forum provides in-service training for purchasing officers and brings them up-to-date on new state and federal purchasing requirements. The Department for Rights of Virginians with Disabilities will disseminate non-discrimination on the basis of disability information at the 1994 forum. The information will cover the responsibility of the Commonwealth to assure ADA compliance by entities that receive or benefit from state financial assistance. DRVD has also been invited to present information on assuring ADA compliance by entities which receive or benefit from state financial assistance at the Capitol Area Purchasing Association and the Virginia Association of Governmental Purchasing.

RECOMMENDATIONS

STATE ENTITY COMPLIANCE

A letter should be sent to all state entities which did not respond to the ADA compliance survey, reiterating their responsibility to comply with the Title II administrative requirements of the ADA and advising them of their possible exposure to liability.

ASSURING COMPLIANCE BY ENTITIES WHICH BENEFIT FROM STATE FINANCIAL ASSISTANCE

The Division of Purchases and Supply, Department of General Services should continue to promote sound non-discrimination contracting practices.

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APPENDIX A

SENATE JOINT RESOLUTION NO. 259

Requesting the Department for the Rights of Virginians with Disabilities to study compliance with the Americans with Disabilities Act by state agencies and to develop strategies for state agencies to determine compliance by entities receiving state funding.

Agreed to by the Senate, February 9, 1993
Agreed to by the House of Delegates, February 17, 1993

WHEREAS, some 1,500,000 Virginians have disabilities, and this number is increasing as medical technology improves and the population as a whole grows older; and

WHEREAS, historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social and economic problem; and

WHEREAS, discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, telecommunications, recreation, health care, voting, and access to public services; and

WHEREAS, the United States Congress enacted the Americans with Disabilities Act (ADA) of 1990, to establish a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities, and to provide clear, strong, enforceable standards addressing discrimination against individuals with disabilities; and

WHEREAS, all state governments and all entities that receive or benefit from state financial assistance are required to be in compliance with the requirements of Title II of the ADA; and

WHEREAS, Title II of the ADA requires covered entities to ensure full and equal participation of individuals with disabilities through the modification of policies and procedures, and the provision of reasonable accommodation; and

WHEREAS, all state governments are required to conduct a self-evaluation to determine compliance with Title II of the ADA; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Department for Rights of Virginians with Disabilities be requested to conduct a study to determine compliance with the administrative requirements of Title II of the Americans with Disabilities Act of 1990 by state agencies and institutions, including hospitals, mental health facilities and institutions of higher education; and to study and develop appropriate strategies for state agencies to determine compliance with Title II of the ADA by entities that receive or benefit from state financial assistance.

All agencies of the Commonwealth shall provide assistance as requested by the Department.

The Department shall present its preliminary findings and recommendations to the Secretary of Health and Human Resources, and shall submit its findings and recommendations to the Governor and to the 1994 Session of the General Assembly in accordance with the procedures of the Division of Legislative Automated Systems for processing of legislative documents.

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APPENDIX B



COMMONWEALTH of VIRGINIA

Department for Rights of Virginians with Disabilities

James Monroe Building

101 N. 14th Street — 17th Floor

Richmond, VA 23219

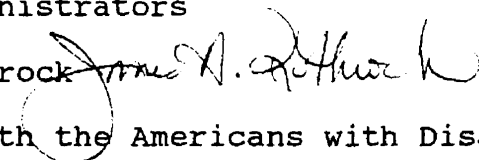
(804) 225-2042

James A. Rothrock
Director

Toll Free Assistance
1-800-552-3962
(TDD or Voice)
FAX (804) 225-3221

MEMORANDUM

To: State Agency Heads, College Presidents, and State Facility Administrators

From: James A. Rothrock 

Subject: Compliance with the Americans with Disabilities Act

Date: July 12, 1993

The 1993 General Assembly passed Senate Joint Resolution 259 directing the Department for Rights of Virginians with Disabilities (DRVD) to study compliance with the Americans with Disabilities Act of 1990 by state agencies.

To fulfill the mandate of this legislative study, DRVD is requesting documentation that the state entity you represent is in compliance with the administrative requirements of Title II of the ADA. The administrative requirements include:

1. Completing a Self-Evaluation to evaluate current services, policies and practices, and the effects thereof that do not or may not meet the requirements of the ADA,
2. Adopting and publishing grievance procedures that provide for the submission and resolution of complaints of discrimination on the basis of disability,
3. Designating a responsible employee to carry out agency responsibilities under Title II of the Americans with Disabilities Act,
4. Notifying the public served and employees of entity's intent not to discriminate in the provision of services on the basis of disability, and
5. Developing a Transition Plan if structural changes are needed to ensure program access.

Please complete and forward the attached form as documentation of compliance to Bonita Pennino at the Department for Rights of Virginians with Disabilities by September 1, 1993.

The Department for Rights of Virginians with Disabilities has provided assistance in complying with the administrative requirements of Title II of the ADA for numerous state agencies, and is available to provide additional technical assistance. If you have questions or need additional information, please contact Ms. Pennino at 804/371-4962 (Voice/TDD).

attachment

DOCUMENTATION OF COMPLIANCE WITH TITLE II OF THE
AMERICANS WITH DISABILITIES ACT OF 1990

name of entity

address

city state zip code

Name of ADA Coordinator

Area Code Telephone

To ensure compliance with Title II of the Americans with Disabilities Act of 1990, the above named agency has completed the following administrative requirements (indicate requirements completed by placing a check mark in the space provided):

- Conducted a Self-Evaluation or have reviewed and updated the Self-Evaluation required by the Rehabilitation Act of 1973.
- Adopted grievance procedures to resolve complaints of discrimination based on disability.
- Given notice to applicants, participants, beneficiaries and other interested parties of their rights and protection afforded by the ADA.
- Developed a transition plan (when necessary) detailing structural changes needed to achieve program accessibility.
- Designated an ADA Coordinator.

(name of entity) is in compliance with the Administrative Requirements of Title II of the Americans with Disabilities Act of 1990.

Agency Head

Date

APPENDIX C

ADA COMPLIANCE: AGENCY RESPONSES

Accounts, Department of
Administration, Office of the Secretary of
Alcoholic Beverage Control, Virginia Department of
Agriculture and Consumer Services, Department of
Attorney General. Office of the
Aviation, Department of
Blue Ridge Community College
Board for People with Disabilities, Virginia
Capitol Police, Division of
Center for Innovative Technology, Virginia's
Central State Hospital
Central Virginia Community College
Chesapeake Bay Local Assistance Department
Child Day Care and Early Childhood, Virginia Council on
Clinch Valley College
Commerce and Trade, Office of the Secretary of
Commonwealth, Office of the Secretary of
Commonwealth's Attorneys' Service Council
Community College System and Systems, Virginia

Corrections, Virginia Department of
Criminal Justice Services, Department of
Christopher Newport University
Dabney S. Lancaster Community College
Danville Community College
Deaf and Hard of Hearing, Virginia Department of
Division of Legislative Services

Eastern Shore Community College
Economic Development, Department of
Education, Office of the Secretary of
Education, Virginia Department of
Emergencies Services, Department of
Employee Relations Counselors, Department of
Employment Commission, Virginia
Environmental Quality, Virginia Department of
Finance, Office of the Secretary of
Fine Arts, Virginia Museum of
Forestry, Virginia Department of
Frontier Culture Museum of Virginia
Game and Inland Fisheries, Department of
George Mason University
Germanna Community College
Governor, Office of the
Governor's Employment Training Department
Gunston Hall, Board of Regents
Health and Human Resources, Secretary of
Health Services Cost Review Council, Virginia
Health, Virginia Department of
Health Professionals, Virginia Department
Higher Education, State Council on
Historic Resources
House of Delegates
Housing and Community Development, Department of
Housing Development Authority, Virginia

Human Rights, Council on
Information Management, Council on
Information Technology, Department of
Institute of Marine Sciences, Virginia
James Madison University
Jamestown-Yorktown Foundation
John Tyler Community College
Joint Legislative Staff Audit and Review Commission
Labor and Industry, Virginia Department of
Lieutenant Governor, Office of the
Local Government, Commission on
Longwood College
Lord Fairfax Community College
Lottery, Virginia
Marine Resources Commission
Mary Washington College
Milk Commission, State
Military Affairs, Department of
Mines, Minerals and Energy, Department of
Minority Business Enterprise, Department of
Motor Vehicles, Virginia Department of
Mountain Empire Community College
Museum of Natural History, Virginia Museum
Natural Resources, Office of the Secretary of
New River Community College
Norfolk State University
Northern Virginia Mental Health Institution

Northern Virginia Training Center
Old Dominion University
Parole Board, Virginia
Patrick Henry Community College
Paul D. Camp Community College
Personnel and Training, Department of
Piedmont Geriatric Hospital
Piedmont Virginia Community College
Planning and Budget, Department of
Port Authority, Virginia
Professional and Occupational Regulation, Department of
Public Defender Commission, Virginia
Public Safety, Office of the Secretary of
Racing Commission, Virginia
Radford University
Rail and Public Transportation, Virginia Department of
Rappahannock Community College
Rehabilitative Services, Department of
Retirement System, Virginia
Richard Bland College of the College of William and Mary
Rights of Virginians with Disabilities, Department for
Science Museum of Virginia
Social Services, Virginia Department of
Southeastern Training Center
Southside Virginia Community College
Southside Training Center
Southwestern Virginia Training Center

Southwest Virginia Community College
State Internal Auditor, Department of the
State Library and Archives, Virginia
State Police, Department of
State Corporation Commission
Supreme Court Of Virginia
Taxation, Virginia Department of
Thomas Nelson Community College
Transportation, Office of the Secretary of
Transportation, Virginia Department of
University of Virginia
University of Virginia- Southwest Center
Veterans Affairs, Department of
Virginia Commonwealth University
Virginia Credit Union, Incorporated
Visually Handicapped, Virginia Department for the
Virginia Highland Community College
Virginia Military Institute
Virginia Polytechnic Institute
Virginia Western Community College
William and Mary, The College of
Workers Compensation Commission
Wytheville Community College
Youth and Family Services, Department of

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APPENDIX D

ADA COMPLIANCE: AGENCIES THAT DID NOT RESPOND

Aging, Department of the
Agriculture Development Authority
Alcohol Safety Action Program, Commission on the Virginia
Arts, Virginia Commission for the
Auditor of Public Accounts, Office of the
Bar, Virginia State
Bar Examiners, Virginia Board of
Compensation Board
Conservation and Recreation, Department of the
Correctional Education, Department of the
Elections, State Board of
Fire Programs, Department of
General Services, Department of
House of Delegates of Virginia
Judicial Inquiry and Review Commission
J. Sargeant Reynolds Community College
Legislative Automated Systems, Division of
Liaison Office, Virginia
Medical Assistant Services, Department of
Mental Health, Mental Retardation and Substance Abuse Services
Northern Virginia Community College
Resources Authority, Virginia
Retirement System, Virginia
Senate of Virginia
Student Assistance Authorities, Virginia
Tidewater Community College

Veterans Care Center Board of Trustees, Virginia
Virginia State University