

# The Action Letter Portfolio: Writing Advocacy Letters that Work!

By

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& Dorothy E. Nary



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# CHAPTER 1

## ***HOW TO WRITE AN ADVOCACY LETTER***

by Richard Thomson & Rajasekhar Allada

### ***Introduction***

People with disabilities face a variety of disability concerns that must be addressed to allow greater personal dignity, choice, and independence. The passage of the Americans with Disabilities Act (ADA) of 1990 and the Fair Housing Amendments Act of 1988 (FHAA) have given people with disabilities valuable tools to make needed changes. But, in order for the ADA and other such laws to be effective tools for change, people with disabilities must bring their concerns to the attention of those who can effect change. While many of these concerns can be addressed by advocacy groups at the local, state, and national levels, individuals with disabilities can also make their voices heard to effect significant changes in their own neighborhoods and communities. In order to bring about change more quickly and efficiently, consumers with disabilities should develop and improve their personal advocacy skills.

To develop and improve personal advocacy skills, it is essential to understand what the law requires. For example, laws such as the ADA specifically outline what must be done to comply with the law in order to accommodate people with disabilities. Chapter 5, Part I, of this manual provides an outline of the major components of this law. In order to familiarize yourself with the ADA and other relevant disability laws, you may want to browse through Chapter 5 first. A free copy of the regulations can be obtained by calling one of the government agencies listed in Chapter 6. The Americans with Disabilities Act Accessibility Guidelines can also be downloaded via the Internet at this URL location: [www.usa.net/ada\\_infonet/adaag.htm](http://www.usa.net/ada_infonet/adaag.htm). All regulations are available in regular print, large print, braille, on audiotape, or on computer disk. Don't be intimidated by the legal language. After reviewing the regulations they will be easier to understand. You may also

seek assistance from advocates who may be more familiar with disability law. As you begin to understand the law better, you will be much more successful in effecting change.

Let's examine how one individual handled his own disability concern.

***A CASE EXAMPLE:***

On March 5, Mark went to the newly built West Side Diner for supper. He had a hard time getting into the restaurant as there was no curb cut and he had difficulty getting up the six-inch curb. After being seated in the smoking section, despite requesting non-smoking seating, Mark needed to use the bathroom. The door was too narrow for Mark's wheelchair to enter the bathroom. The restaurant staff stated that there was no other bathroom available. Mark decided to wait to use the bathroom until he reached home, so he returned to his table where he endured slow service and poor food. After paying the bill that included an automatic 15% gratuity, Mark was angry and asked to speak with the manager. He explained to the manager that it was bad enough that the service was poor, but he found it intolerable that the new restaurant's restrooms were inaccessible for wheelchair users. The manager stated that Mark was treated no differently than the restaurant's other customers, and no one else had ever complained. Mark found out from the manager that the owner's name was James Smith.

The preceding vignette is an example of an occurrence that many people with disabilities encounter in their day-to-day lives. Title III of the Americans with Disabilities Act requires that newly built public accommodations to be barrier-free according to the architectural specifications of the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Mark has many options open to him, but first he must clearly identify the problem and bring it to the attention of the proper authorities. The quickest way to resolve the problem is to try to convince the restaurant owner to recognize the problem and voluntarily make the appropriate change, instead of legally forcing him to do it. In order to do this, Mark must either personally meet with the owner or correspond by telephone or letter. In keeping with the purpose of this manual, we will follow a step-by-step process as Mark writes a letter to the owner of the restaurant. This will help to illustrate an effective way of writing an advocacy letter.

## **1. Conduct a task analysis of the problem.**

Mark will perform a task analysis to be sure that he fully comprehends the disability issue (e.g., concern or obstacle encountered by the individual with a disability). In addition, this analysis will help him to break it down into a clearly stated singular issue that he can defend and win. A task analysis can be used to see what the real problem is and to determine if there are ways to solve the problem for personal benefit, or for the benefit of a whole group. A task analysis is also the first step in preparing an outline for the letter. By answering the five questions, Mark will have an idea of whom to write, why he is writing, and what he is going to write. Before Mark begins to write a letter, he needs analyze the problem by asking himself these five important questions:

1. What was the key disability concern? This is the important question in determining exactly what disability concern the writer will address in the letter.
2. How did the problem directly affect me? This is important in determining the focus of the letter. An action letter becomes more credible when the disability concern has a direct affect on the individual writing the letter. This is not to say that group advocacy is not effective, or that only those who personally experience a disability concern can take action to address it.
3. Who or what is the cause of the problem? The answer to this question will help the writer to determine who will be targeted in the letter. Chapter 2 goes into more detail on exactly what information should be emphasized when selecting the primary target.
4. Does this problem occur regularly or did unusual circumstances cause it to happen this time? This question may not always be relevant. When it is, however, it will enable the writer to determine whether this is something that happened "just this once and may not possibly happen again," or whether it is something that requires advocating for change.
5. Is there a law or regulation I can use to effect a desired change? The answer to this question will help the writer to develop solid rationales as to why a change should be made. One rationale people cannot ignore is that "the law requires" the change.

Now let's answer the five questions in Mark's case:

1. What was the key disability concern? Mark endured several problems that evening. However, in order to clearly state his case without a lot of distracting and irrelevant details, Mark should specifically focus on those problems related to his disability concern. Mark's advocacy should focus on inappropriate behaviors, policies, or practices that can be changed through a number of ways: 1) a personal appeal, 2) information to educate, 3) adherence to requirements of the law, 4) tax credits, and 5) benefits to business. The primary problem Mark faced that evening was one of lack of accessibility.
2. How did the problem directly affect Mark? First of all, Mark had a difficult time getting up the curb to go into the restaurant. Secondly, Mark could not use the restroom due to its narrow doorway. Mark was greatly inconvenienced by both barriers. He could have faced social embarrassment and humiliation in a situation where he could not have waited to use the restroom.
3. Who or what caused the problem for Mark? The restaurant owner would be the primary cause of Mark's problem. Other potential targets include the architects who designed the building, and the building inspector who signed off on acceptance of the building. The environment in and surrounding the restaurant was not wheelchair accessible, which was the central problem.
4. Does this appear to be a regularly occurring problem or did unusual circumstances cause it to happen this time? This is a permanent problem in the built environment and will be present each time Mark visits the restaurant until the building's restroom and the outside curbing are made accessible.
5. Is there a law or regulation I can use to effect a desired change? Yes, Section III of the ADA requires that all newly constructed public accommodations must be accessible.

Now that Mark has answered these questions, he should have a better understanding of the key disability concern. In Mark's case, the main issue is that of wheelchair accessibility. However, in order to be effective and address a concern for a constructive change, Mark will develop a list of specific changes needed in order to remove the barriers.

First, a curb cut with a 1:12 ratio slope should be made for wheelchair users to gain easy access to the sidewalk from street level. Second, the restaurant must install a wheelchair-accessible bathroom so all patrons can utilize the facilities when needed. The

accessibility modifications should be made according to ADA Accessibility Guidelines (ADAAG), which are architectural specifications that meet ADA requirements.

Now that Mark has completed the task analysis, his next step is to write the letter. Mark will write a letter to the owner detailing his personal disability concern and offer suggestions on how to resolve the problem. Before we begin to write a letter, we will first review the components of an effective letter.

## **2. Components of the letter.**

An advocacy letter is one that clearly outlines a specific concern and a request for an action to address the concern. The letter may be written for a personal disability concern or for the benefit of a group with disabilities. An effective advocacy letter should be organized in a way that is easy to read and understand. The following list will briefly describe each step of the letter as it should be developed:

- A: Date your letter.** You should address disability issues on a timely basis. That is, as soon as possible after the disability concern is identified. The date will show the parties involved that you are documenting when you formally addressed your disability concern. It also starts the clock ticking as to the time in which you expect a response.
- B: Inside address.** Place the name of the targeted reader to receive the letter along with his or her title and the address at the beginning of the letter. You should always use the name, and the title if possible, of the individual with whom you are corresponding.
- C: Salutation.** This is the greeting of the letter and should be addressed appropriately to the individual you wish to receive the letter. It should be directed towards the individual addressed in the “inside address.” For example, if you were mailing the letter to John Doe, City Manager, Anywhere, USA, you would open the letter with “Dear Mr. Doe.”
- D: Introducing yourself.** Use the first two or three lines of the letter to tell the addressee who you are and to give a brief statement of why you are writing.

**E: Introducing the problem.** Explain the nature of the problem in detail, how it affected you, when it occurred, all parties involved, and any actions you may have already undertaken.

**F: Body of the letter.** Provide a rationale of why there is a problem. You should provide evidence that this is a problem that has to be acted upon (the Facts and Figures Section will aid you in this endeavor). Cite any laws that apply to the situation you are presenting. Show the reader convincing evidence and rationales regarding why something should be done to resolve your specific disability concern. If appropriate, you could also include possible suggestions about how to address the disability concern.

**G: Closing.** Close the letter cordially with a quick review of the problem and your expectation that they will address your concerns. After doing this, add your signature. A "Sincerely," or "Sincerely Yours," expresses to the targeted reader your strong interest concerning this disability concern.

**H: Note that you are sending copies to other important and relevant people.** A copy of your letter should be MAILED to secondary targets who will be interested in or able to help resolve your disability concern. For example, right under your signature you should add:

cc: Sally Ford, Director of Public Housing, Anytown  
Paul Martin, City Councilman, 2nd District

**I: Mailing the letter.** Before mailing the letter make sure that you:

- Proofread the letter (e.g., check for spelling and grammatical errors, and neatness).
- Check for correct address and postage.
- Consider showing your letter to a friend for his feedback.
- **Make a copy to keep for your records** (the copy may be very important for later advocacy actions).

### 3. Writing an advocacy letter: Mark's example.

Now that we know the components of an advocacy letter, let's take Mark's problem and address each component of the letter as he chose to do.

**A: Date your letter.** Mark's letter should be dated sometime after March 5, the date his incident occurred. Mark will date his letter:

*March 7, 1999*

**B: Write the inside address.** Mark will address his letter to the owner at the business address.

*Mr. James Smith, Owner of Westside Diner*

*1600 Gerard Street*

*Anywhere, USA. 66066*

**C: Salutation.** Mark is going to address his letter to the owner of the Westside Diner. Mark identified the owner's name so his salutation will read:

*Dear Mr. Smith:*

**D: Introducing yourself.** Mark will introduce himself and give pertinent information as to why he is writing:

*My name is Mark Post. I am 28 years old and have been using a wheelchair for the past four years due to a spinal cord injury. I continue to lead an active life, which includes in many fine restaurants. The reason I am writing this letter is to discuss some problems I encountered while dining at your restaurant.*

**E: Introducing the problem.** Mark should relate the time of the problem and what occurred. The previous introduction of himself should lead naturally into the problem.

*On March 5, I went to your restaurant on Gerard Avenue and had a difficult time getting from the parking lot onto the sidewalk in front of your restaurant because there is no curb cut to allow persons using wheelchairs to access the sidewalk.*

*After spending some time in the restaurant, I found it necessary to use your restroom. However, because the door is too narrow (24.5 inches), I could not get into the restroom. At the time of the incident, I discussed my concern with Ms. Pam Barker, the shift manager, and did not receive satisfactory responses to any of the problems I discussed with her.*

**F: Body of the letter.** Mark will now give supportive evidence and rationales as to why this is an important problem that needs to be resolved. Mark will remember that when stating evidence and rationales he should not sound “preachy.”

*It can be frustrating for a wheelchair user, like myself, to have several difficulties in one place of business. The Americans with Disabilities Act (ADA) includes a provision that all newly constructed public businesses be accessible. My experience with the Westside Diner was disappointing because the curb cut and the restroom are not accessible.*

*Perhaps you are not aware of how many wheelchair users there are in this town. The physical barriers I have identified may be causing your business to lose potential customers with disabilities. Even more importantly, the lack of restroom facilities and curb cut is not only an inconvenience, it does not comply with the Americans with Disabilities act. These necessary renovations to your restaurant would make it accessible to all individuals whether or not they can walk. I am willing to provide you with ideas to make your restaurant more accessible and to provide information on how to obtain tax credits for making these access changes.*

**G: Closing.** Mark will close the letter by reviewing the main points and stating his expectation that the owner address his accessibility concerns. He will sign the letter, type his name, and add his address under his name if not using letterhead.

*In closing, I would like to emphasize that your restaurant needs to be accessible for all people, including wheelchair users. The addition of a 1:12 ratio slope curb cut and the renovation of your restroom to make it wheelchair accessible will help you comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG). It will also increase your business. I look forward to seeing the changes in your restaurant so that my friends and I may enjoy frequent visits in the future.*

*Sincerely,*

**H: Note that you are sending copies to other important and relevant people.**

Mark is going to send a copy of his letter to his city council representative and to the executive director of the local independent living center.

*cc: Hal Jones, Chief Code Inspector, Anytown*

*Betty Smith, Executive Director, Tri-County Independent Living Center*

**I: Mailing the letter.** Mark is now ready to proofread his letter, show it to a friend, make the necessary changes, make and keep a copy, check for correct address, affix postage, and mail the letter to the appropriate people. Please see the next page for Mark's finished letter.

March 7, 1999

Mr. James Smith, Owner of Westside Diner  
1600 Gerard Street  
Anywhere, USA. 66066

Dear Mr. Smith:

My name is Mark Post. I am 28 years old and have been using a wheelchair for the past four years due to a spinal cord injury. I continue to lead an active life, which includes dining out in many fine restaurants. The reason I am writing this letter is to discuss some problems I encountered while dining at your restaurant.

On March 5th, I went to your restaurant on Gerard Avenue and had a difficult time getting from the parking lot onto the sidewalk in front of your restaurant because there is no curb cut to allow persons using wheelchairs to access the sidewalk. After spending some time in the restaurant, I found it necessary to use your restroom. However, because the door is too narrow (24.5 inches), I could not get into the restroom. At the time of the incident, I discussed my concern with Ms. Pam Barker, the shift manager, and did not receive satisfactory responses to any of the problems I discussed with her.

It can be frustrating for a wheelchair user, like myself, to have several difficulties in one place of business. The Americans with Disabilities Act (ADA) includes a provision that all newly constructed public business be accessible. My experience with Westside Diner was disappointing because the curb cuts and the restroom are not accessible.

Perhaps you are not aware of how many wheelchair users there are in this town. The physical barriers I have identified may be causing your business to lose customers with disabilities in this town. Even more importantly, the lack of restroom facilities and curb cut is not only an inconvenience, but it does not comply with the Americans with Disabilities Act. These necessary renovations to your restaurant would make it accessible for all individuals regardless of whether or not they can walk. I am willing to provide you with ideas to make your restaurant more accessible, and provide information on how to get tax credits for making these access changes.

In closing, I would like to emphasize that your restaurant needs to be accessible for all people, including wheelchair users. The addition of a 1:12 Ratio Slope curb cut and the

renovation of your restroom to make it wheelchair accessible will help you comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG). It will also increase your business. I look forward to seeing the changes in your restaurant so that my friends and I may enjoy frequent future visits.

Sincerely,

Mark Post

1300 Brown St.

Anywhere, USA 55501

cc: Hal Jones, Chief Code Inspector, Anytown

Betty Smith, Executive Director, Tri-County Independent Living Center

### **3. Practice writing an advocacy letter.**

Now that you have observed the steps involved in writing an advocacy letter, it is your turn to practice writing one on your own. For this practice letter, you will use the following vignette that will provide necessary details. When writing your practice letter, use the current date and make up addresses for Barb and the individuals who are targeted to receive the letter.

Barb Davis is a 23 year-old recent college graduate with epilepsy. She controls her seizures with medication and leads an active life. On September 22, she applied for and obtained a job as an Inventory Control Specialist for The Morgan Company, a small appliance manufacturing plant with 30 employees that does subcontracting work for White & Decker. Her job involves maintaining an accurate count of the inventory of materials used by the plant workers to assemble small appliance products. Barb's job performance in her position has been satisfactory and she will receive her 3-month probation review on December 20th.

Barb is called in for a meeting with Mr. Hector Lopez from the Personnel Department on November 20th. Barb is excited because she thinks that the meeting's purpose is to take her off probation early because of the excellent job she has been doing. However, Mr. Lopez delivers the bad news---the plant is discharging her. Apparently after talking with Mr. Ira Miser, the plant's Director of Operations, there is excessive concern that Barb will have one of her "fits" and hurt herself during a fall to the floor. Repeated incidents of these "fits" may likely drive up the costs of the plant's group insurance plan. Barb goes home devastated after cleaning out her desk at work.

Barb formulated her plan of response to the firing. She obtained the addresses of her legislative representative, John F. Smith, Representative 8th District, 800 10th Street, Topeka, KS, 66611. She also made contact with a Ms. Adrienne Tuttle, Region VII Information Officer for the Equal Employment Opportunity Commission located in Kansas City, Missouri. Barb also will mail a copy of her letter to Mr. Reginald Farnsworth, the CEO of the White & Decker Corporation. Finally, Barb obtained the address of the National Epilepsy Foundation located in Washington, DC.

Now that you have the information, imagine yourself in Barb's place and write the letter. An example of how the questions below could have been answered is at the end of the chapter.

Remember the first step in writing an advocacy letter is to perform the task analysis.

**Task analysis:**

1. What is Barb's main disability concern?

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2. How does the problem directly affect Barb?

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3. Who or what is the cause of the problem?

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4. Does this problem occur regularly or did unusual circumstances cause it to happen this time?

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5. Is there a law in existence that can be used to effect a desired change?

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**A: Date your letter.** You should address disability issues on a timely basis. The date will show the parties involved that you expect them to respond in a timely manner.

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(Date Here)

**B: Place the inside address.** Write the name of the targeted reader, his/her title and address.

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**C: Salutation.** This is the greeting of the letter and should be addressed appropriately to the individual you wish to receive the letter.

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**D: Introducing yourself.** Use the first two or three lines to tell your addressee who Barb is and why she is writing.

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**H: Note that you are sending copies to other important and relevant people.** Add a cc: with the names of the people to whom Barb has decided to send a copy of her letter.

cc: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Now that this exercise is done, you should feel more confident in writing your own advocacy letter. Remember to use the facts supplied in the Chapter 5 Facts and Figures, when writing your letter. This will help you to use supporting evidence to strengthen your disability concern. A checklist is provided on the next page to help you remember the critical components of an effective advocacy letter when you address a disability concern of your own.

## ADVOCACY LETTER CHECKLIST

### I. TASK ANALYSIS: Answer the five questions

1. What was the problem?
2. How did the problem directly affect me?
3. Who or what caused the problem?
4. Does this problem occur regularly or did unusual circumstances cause it to happen this time?
5. Is there a law or regulation I can use to effect change?

### II. COMPONENTS OF THE LETTER

- A: Is your **letter dated**?
- B: Did you **include an inside address** with correct name, title and address?
- C: Did you use the appropriate name and/or title of the targeted individual in **your opening salutation**?
- D: Did you **introduce yourself**, giving pertinent information and briefly telling why you are writing?
- E: Did you clearly **introduce the problem**, tell how it affected you and when it occurred, and name all parties involved in any of the processes you may have completed already?
- F: Did the **body of the letter** present a convincing argument that a problem exists, and did you present the reader with convincing evidence that something should be done?
- G: Did you **close the letter** cordially with a quick review of the problem and the hope that the reader will address your concerns, and did you **sign the letter**, and add your address under your signature?
- H: Did you notify the reader of any other persons to whom you **sent a copy of your letter**?
- I: Did you remember to **proofread for errors**, make your changes, and make a hard and/or electronic file **copy for your record before mailing the letter**?

Now that we have reviewed the advocacy letter checklist, let's review Barb's advocacy letter response concerning her dismissal from The Morgan Company.

**Task analysis:**

1. What was Barb's main disability concern?

Barb's main disability concern was that she had epilepsy and was going to be fired for having a disabling condition.

2. How did the problem directly affect Barb?

Barb was going to lose her job based on her disability and not on her performance. Barb would suffer not only a financial loss but one of personal humiliation based on the company's decision that she was not qualified for a job because of her disability, and not because of a problem with her job performance.

3. Who or what is the cause of the problem?

The cause of the problem in Barb's case is the plant manager, Ira Miser. Although Mr. Lopez was the person who gave her news of the dismissal, it was Mr. Miser's decision to have her terminated. In this case, Barb would want to write to Mr. Miser about her unjustified termination.

4. Does this problem occur regularly or did unusual circumstances cause it to happen this time?

While there is not enough evidence to determine whether or not this is a regularly occurring problem, the evidence indicates that the decision is based on financial concerns, with little respect for the individual or the law regarding discrimination. Therefore, Barb should treat this situation as though it is the company's standard practice, and she should advocate to get her job back and for changes in the company's policies.

5. Is there a law in existence that can be used to effect a desired change?

The company has violated Title I of the Americans With Disabilities Act which prohibits discrimination in all hiring practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. It is quite clear that Barb was terminated because of her disability, not because of her job performance.

Now that we have identified Barb's specific disability concern, let's start to write the actual action letter.

**A: Date your letter.** When you write a letter to address a disability issue, it should be done on a timely basis. The date will show the parties involved that you are responding in a timely manner, and expect them to respond promptly.

November 21, 1999

**B: Place the inside address.** Write the name of the targeted reader, his/her title and address.

Mr. Ira Miser, Director of Operations

The Morgan Company

1212 Main St.

Anywhere, USA. 67676

**C: Salutation.** This is the greeting of the letter and should be addressed appropriately to the individual you wish to receive the letter.

Dear Mr. Miser:

**D: Introducing yourself.** Utilize the first two or three lines to tell your addressee who Barb is and why she is writing.

My name is Barb Davis and I have worked at your plant for the last two months as an Inventory Control Specialist. I have a college degree relevant to the area of inventory control and have been doing excellent work. I also happen to have epilepsy, which is controlled by medication and which is not relevant to the area of inventory control or to my current job.

**E: Introducing the problem.** Explain, in detail, the exact nature of the problem, how it affected Barb, when it occurred, and all parties involved in any of the processes Barb may have already undertaken.

On November 20th, I was called into Mr. Lopez's office in the Personnel Department and informed that I was to be terminated. I was extremely upset to learn that you had based the decision to terminate me on my epilepsy and not my performance. Mr. Lopez explained to me that you were concerned I would have "fits" which could drive up the rates of the Morgan Company's employee health insurance. I understand your concern for my personal safety and for the financial management of the company; however, as stated above, my epilepsy is controlled by medication.

**F: Body of the letter.** Provide a rationale as to why the targeted reader should work to resolve the problem and make suggestions about how to change the situation. Give evidence that this is a problem that has to be acted upon (the facts and figures section will aid you in this endeavor). Show the reader convincing evidence that something should be done.

I don't believe you will ever really comprehend how I felt when I was told that I was to be terminated. I actually believed that I was being called into Mr. Lopez's office to be told that my probation period was ending early due to the quality of work I had demonstrated. I truly feel that if you discuss with Mr. Lopez the quality of my performance, you would realize that you have just let go a valuable employee and would immediately wish to address my concerns. My epilepsy has not interfered with my job performance at any point in my academic or professional career. For you to base your decision on my epilepsy is not only wrong and unfounded, it is also illegal.

The Americans with Disability Act (ADA) specifically states in Title I that all hiring and "firing" practices are prohibited based on discrimination due to disabilities. What you have done is discriminate against me based on my disability, which is a violation of the ADA. I am in the process of retaining a lawyer and starting the necessary proceedings to get my job back. However, I am writing this letter hoping that you will realize your mistake and rehire me because I am a valuable employee who has performed my job beyond company expectations. With regard to the insurance premiums, I think that you will find that the type of seizures I have will not place me, other employees, or the facility in any immediate risk of harm.

**G: Closing.** Close the letter cordially with a quick review of the problem, and request that the addressee take prompt action to address your concerns. After doing this, add Barb's signature. A "Sincerely" expresses to the addressee your strong interest regarding this disability concern.

In closing, I hope that you understand that this letter is an attempt to avoid an unnecessary lawsuit. I enjoyed the work that I performed for your company and felt that I had found a job that could last a "lifetime." I would be happy to return to work, and would be willing to forget this "unfortunate" incident. However, if you still feel that I present a risk to my own safety, and place the company in an awkward fiscal position, then I will have no alternative but to obtain legal assistance not only for myself but for any other individual with a disability that you may treat as you have treated me. I hope that you will reconsider your decision and that we can settle this amiably without my having to take legal action.

Sincerely,

Barb Davis

1515 Downtown Ln.

Anywhere, USA. 67676

**H: Note that you are sending copies to other important and relevant people.** Add a cc: with the names of the people to whom Barb has decided to send a copy of her letter.

cc John F Smith, Representative, 8th District

Adrienne Tuttle, Region VII EEOC Information Officer

Reginald Farnsworth, CEO, White and Decker

## CHAPTER 2

### ***WRITING YOUR PERSONAL CONCERN ACTION LETTER***

by Glen W. White

#### ***Introduction***

By now you have completed Chapter One that described how to write an effective advocacy letter. The chapter provided an opportunity for you to practice writing an action letter to Mr. Miser.

So, what do you do now? First, you need to study and become familiar with the ADA and other disability rights laws. Second, you need to assess your strengths. Recognize and celebrate that you are knowledgeable about disability rights. You, as a person who has personal experience with a disability, are uniquely suited to identify relevant issues that do or could potentially affect you and/or other people with disabilities. In this section, we will describe how you can personalize your action letter to increase the likelihood of achieving your objectives.

#### **1. Identifying a disability issue of personal concern.**

When preparing to write an action letter, it is important to clearly define the issue you wish to address. This is not as easy as it might seem. Some issues are very large and complex--such as the discrimination against people with disabilities by potential employers. Where does one start with such a general and overwhelming issue? At the other end of the spectrum, some issues such as the lack of lever-type faucet handles on a bathroom sink may seem rather insignificant and frivolous. Yet, in each case, such issues will undoubtedly be of concern to some people with disabilities. This section will identify several criteria you can use to identify an appropriate personal concern that can be a candidate for action.

1. Identify an issue which is either very serious or irritating, and which occurs on a frequent basis. For example, a serious issue might be the inaccessibility of a

newly-constructed government building, while a frequently irritating issue might be the lack of enforcement of accessible parking regulations. Whether the issue is a serious one, or a less serious one that looks as if it will continue if not addressed, it may very likely be an issue that should be targeted for change. (It should be noted that not all issues are negative in nature. Some action letters might be aimed towards supporting a positive program that should be continued in spite of a lack of funding.)

2. Determine whether this is a personal or systems advocacy cause. Some disability concerns may be personal in nature and may only affect a specific person in a specific situation. For example, a person with a disability applies for a job and is discriminated against when the job is given to a non-disabled person who is less qualified than the person with a disability. In this case, the individual would advocate by using the enforcement mechanisms established by the ADA to address a personal concern. On the other hand, a deaf individual advocating to have telecommunication device for the deaf (TDD) capabilities for a local 911 number would exemplify systems advocacy because other deaf people could also use and benefit from successful results of this advocacy. In addition, several deaf individuals could also advocate as a group in requesting this change to the 911 system. In some cases, the distinction between personal and systems advocacy is not always so clear. Consider a situation in which a wheelchair user signs up for a weight loss program and cannot use the standup scales to be weighed each week. In this case, the person is advocating for a personal cause, but the results of the advocacy action could benefit other people with disabilities as well.
3. Clarify your concern and break it down into a "can win" situation. Some disability concerns may be large and complex. Review the particular disability concern and break it down into smaller units that can be more easily addressed. Analyze your concern and determine which units are most important. Ask yourself, "Have I identified a specific disability concern in which action could be taken?", "Have I identified specific actions that can be taken to address this issue?", and "Is this something the person or organization I am writing to can do something about?" If the answer to these questions is yes, chances are you have a potential "can win" action issue.

## **2. Inserting convincing and accurate information in your letter.**

Once you have identified the disability concern you wish to address, compose the text portion of your letter. Strategies for writing your advocacy letter have already been discussed in Section II and will not be addressed in detail here.

One important component in your letter worth repeating is the use of rationale as to why you are addressing this issue to the targeted person or organization. Additionally, the letter should include any relevant municipal, state, and federal laws that support your position. In some cases, the organization or person may be unaware that your disability concern is even a concern. On the other hand, the individual or organization may be unwilling to take any more action to address a disability concern than what they absolutely have to take.

It is useful to point out specific laws with which they must comply because it alerts them to a situation that could result in legal action. For your convenience, we have developed a section entitled "*Facts and Figures*" (Chapter 5). This chapter provides information on laws and regulations that you can include in your letters to make them more powerful. Your letters will also serve as an important "paper trail" as you undertake advocacy efforts to resolve your personal disability concern. Your letters will also serve as evidence if your advocacy efforts eventually lead to legal actions. By keeping copies of all letters that you send to your targeted reader, you can show a trend of continued non-compliance. This will make your advocacy case much stronger.

When writing your letters, designate as the primary target the person who has the authority to make your requested change. Additionally, it is a good strategy to send copies of your advocacy letters to other important and relevant people for their information and to increase the likelihood of a response from your primary target. The next section will identify primary and secondary targets to whom you should send your action letters.

## **3. Selecting the most appropriate targets for your action letter.**

### Primary Targets

1. Identify the person with whom you have the most leverage. This point makes common sense. Sometimes a problem can be easily addressed when you send

your action letter to a person with whom you have developed a good relationship. Or, perhaps, you may have contacts to the primary target through a mutual friend you can refer to in your letter.

2. Go to the top whenever you can. When you cannot send your action letter to a person whom you know you can personally influence, start at the top of the organization. The upper level staff of an organization are more likely to have the authority to change things and therefore, may be more flexible in interpreting and implementing policies. Staff at the lower levels of an organization are often not given the authority to make changes and decisions that do not comply with organizational policies, even when those policies don't seem to make sense in some situations. Your time and resources are precious. Use them where they will do the most good---start at the top!
3. Select for empathy. When selecting your primary targets, try to find individuals who personally have experience with a disability. This may be a personal disability, or contact with family, associates, or friends who have some type of disability. Frequently, such experiences tend to sensitize the individual to the needs of people with disabilities. This may make your job easier in persuading her/him to address your disability concern.
4. Think systematically. Have you captured the big picture in identifying your primary target? For example, if you are working with a local franchise (one business that is part of a larger chain) about a disability concern, contact the local manager to get your point across. You might also want to contact the regional manager, and send a copy of your action letter to the corporate (highest level) office of the business. Officials in these offices want all of the businesses under them to be the same, and also wish to maintain a positive community image. Thus, your actions at this level may trickle down in the form of orders from the executive offices for a local franchise to make specific changes. The telephone becomes your most effective tool when trying to find the names of the individuals you wish to target. Do not be afraid to call the manager and ask for the name and business address of the owner. It may take some investigative work to find the individual who will be most effective in helping you bring about the necessary changes; however, the time that it takes to research the information will be worth

it in the long run. Targeting the right person often accomplishes necessary changes in a shorter period of time.

### Secondary Targets

When writing to your main target, consider copying your letter to other influential secondary targets. By doing this, you let the person or organization with whom you have a disability concern know that others are advised of your request. These secondary targets are likely to be interested in the action or non-action that the primary target takes to address your disability concern. This simple act of sending copies of your letters to secondary targets increases the accountability of the targeted individual or organization to make a timely and positive response to your request. Depending upon the severity of the disability concern, you may wish to copy the letter to two, three, or four different individuals or organizations. When copying to another person, *be sure to indicate their position and organization* so that the primary target will know who else is advised of the matter. See the example below:

cc: Dr. R. Gutierrez, Director, Hispanic Health Coalition for the Rio Grande Valley  
J.C. Lopez, Project Director, Latino Health Enterprises

***Cautionary note:*** If you are writing a letter to a primary target that is of a personal nature and could be potentially interpreted as slanderous (i.e., injurious to the reputation of the person you are writing) you may wish to seek legal counsel as to whether you should send copies to or not.

**3. To whom should I send a copy of my letter?**

1. Government Entities: Potential secondary targets for this category include, but are not limited to:

<b>FEDERAL</b>	<b>STATE</b>	<b>COUNTY AND LOCAL</b>
President	Governors	County Executive or Administrator
Senators	State Legislature Members	County Commission Members
House Members	Secretary of State	District Attorney
Congressional Staff Members	State Attorney General	Mayors or City Administrators
National Council on Disability (NOD)	State Budget Director	Mayoral Disability Committee Members
President's Committee on Employment of People with Disabilities	State Director of Vocational Rehabilitation Services	Human Rights Commissioners
Department of Justice (DOJ)	Human Rights Commissioners	Building Inspectors
Department of Transportation (DOT)	Department of Social Services Commissioners	Municipal ADA Coordinators
Department of Commerce	State ADA Coordinators	
Office of Civil Rights		
Equal Employment Opportunity Commission (EEOC)		
Architectural and Transportation Barriers Compliance Board (ATBCB)		
Federal Aviation Administration (FAA)		

2. Businesses: Potential secondary targets for this category include, but are not limited to, Better Business Bureau, Chamber of Commerce, Corporate Headquarters, District Managers, Professional Trade Groups or Guilds of which the business may be a member.

3. Medical: Potential secondary targets for this category include, but are not limited to, Council on Accreditation of Rehabilitation Facilities (CARF), State Medical Examiners, American Medical Association, State Medical Associations, and specific Medical Specialty Organizations (e.g., American College of Surgeons).  
Disability Advocacy Organizations: Potential secondary targets for this category include, but are not limited to

Independent Living Centers	ADA Disability Business Technical Assistance Centers
State Developmental Disability Agencies	Protection and Advocacy Organizations
Client Assistance Programs	Paralyzed Veterans of America (PVA)
People First	National Council on Independent Living
Statewide Independent Living Councils	The ARC
ADAPT	ACLU

#### 4. Sending your letter.

Sending your letter to your intended addressee seems easy enough; however, you should be aware of advantages and disadvantages of the different methods of sending your letter. Each will be discussed briefly below.

- A. First Class Mail. This is the most common method of sending mail. If you are not in a hurry and the disability concern you are writing about is not critical, sending your letter by first class mail is a low-cost and effective choice.
- B. Certified Mail. This method virtually insures that the person to whom you are sending your action letter will receive it. There is a ticket with an identification number placed across the back of your envelope. The recipient of your letter must sign the ticket to receive your envelope. A copy of the ticket with the recipient's signature is then returned to you for your records. This method is strongly recommended if you want to ensure that your letter gets to its intended reader by a specific date.
- C. Registered Mail. Registered mail is very similar to certified mail, except that it also includes an option to purchase insurance in case the contents of the letter or package are destroyed or lost.
- D. Federal Express. Federal Express (FedEx) or United Parcel Service (UPS) is another way to get your letter and several accompanying documents to the

addressee in a low-cost and timely manner. These services are more reasonably priced than they used to be and are well worth the cost if you are sending over eight ounces of documents along with your action letter.

- E. Telegram. This method, due to its cost and lack of convenience, is becoming a less popular method of communicating. The telegram can be an effective means of getting your message across to the White House and Congress on particular issues when there is a short timeline. The Western Union Telegram service is discounted for those wishing to send messages to the federal government in Washington, DC. The downside to this method is that the sender pays by the number of words that are included in the telegram. If you have a complicated disability concern that would take several paragraphs to explain, the cost of using this method would be prohibitive.
- F. Facsimile (FAX). This is one of the fastest and most widely used technologies available today. Many computers are outfitted with FAX modems and software to run them. Most offices will usually have at least one FAX machine to serve its workers. FAX machines are very flexible in that they allow graphics, tables, and text to be sent across the phone lines to the intended receiver. The transmission is immediate and the sender is notified if the FAX message did or did not get through to the receiver. You should always follow up your FAX message with a "hard copy" (the original letter) of your letter sent via surface mail.

**Cautionary Note:** Sending a FAX is a less formal approach that should be carefully considered before initiating. This method does not guarantee confidentiality of your letter's content. As a general rule, letters of this nature are not sent via FAX, unless it is a very serious problem that needs immediate attention.

- G. Electronic Mail (E-MAIL). This is rapidly becoming a useful way to communicate with others. More and more people are gaining access to the Internet through Dimenet, CompuServe, and other networks. Your message transmission is again very immediate. However, there are some down sides to this method of communication. First, you need to know the electronic address of your intended target. Second, you are not always assured that the intended target has received your message, nor when the target will read your e-mail message. This is a very informal method of communication. Should you choose to use e-

mail, you may wish to also send a "hard copy" of your letter to your intended target. The plus of this method is that your intended target can quickly provide an initial response to your disability concern. Using the "electronic highway" is also an inexpensive method of communicating with others.

Now you will have a chance to write your own Action Letter to address a specific disability concern you have. Please use the following worksheet to develop a draft of your Action Letter. Remember that the first step in writing an advocacy letter is to perform the task analysis. If you need some assistance with this, turn back to section one and this chapter again.

**Task analysis:**

1. What is your disability concern?

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2. How does the problem directly affect you?

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3. Who or what is the cause of the problem?

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4. Does this problem occur regularly or did unusual circumstances cause it to happen this time?

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5. Is there a law in existence that can be used to effect a desired change?

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**A: Date your letter.** Any time you address a disability issue, you should do it on a timely basis. The date will show the parties involved that you are responding in a timely manner and expect a prompt response.

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**B: Place the inside address.** Write the name of the targeted reader, his/her title and address.

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**C: Salutation.** This is the greeting of the letter and should be addressed appropriately to the individual you wish to receive the letter.

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**D: Introducing yourself.** Utilize the first two or three lines to tell your targeted reader who you are and why you are writing.

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## Check List For Action Letters

**The letter should...**

- Begin with the date.**
- Contain an inside address and salutation.**
- Identify the person to whom the letter is written, including the person's title.**
- Be written in a polite manner.**
- Introduce the writer.**
- Identify the problem.**
- Describe in detail all of the relevant aspects of the problem, including when and where the problem occurred.**
- Tell who was or was not helpful in the situation.**
- Cite relevant laws (ADA, Fair Housing, etc.).**
- Tell what needs to be done/offer a solution.**
- Contain an appropriate closing.**
- Include the writer's address if not using letterhead.**
- Advise that copies of the letter are being sent to relevant persons.**

**Additional comments:** \_\_\_\_\_

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# CHAPTER 3

## *ACTION LETTER FOLLOW UP*

by Rajasekhar Allada

### *Introduction*

At this point, you are likely to have a better understanding of how to write an action letter. Learning to follow-up on your action letter is almost as important as writing it. After you have written and sent the action letter, there are three possible outcomes: **1)** a positive response in addressing your disability concern, **2)** a negative response denying or postponing action, or **3)** no response.

#### **1. What do you do when you receive a favorable response?**

When you receive a response from the targeted reader, you need to determine how adequately it addresses your original request. Ask yourself the following questions:

- Does the response correctly and completely address my concern?
  - What action(s) will be taken to correct the situation?
  - Who will be responsible for the action(s)?
  - When will the action(s) be completed?
  - Where will the person perform the action(s)?
- How will the action(s) be carried out and in what time frame?
- Does the response meet minimum legal standards (e.g., accessibility codes, etc.)?

Let's review the contents of the response letter sent to you. Does it address your request to remedy your disability concern and answer any and all questions you may have? It is very important to determine how well the letter has responded to your questions. If the letter has failed to properly address your request, try to determine why. When dealing with a large organization, letters can take a long time to reach your targeted reader. Since many of the big corporations have bureaucracies and chains of command, responses may take longer.

Sometimes the organization will respond with a vague open-ended answer with no commitments. Be very careful to ensure that commitments to remedy your specific disability concern are being made. Scan the two letters, your original one and their response, carefully. After comparing the two letters, you will know how well the responder's letter has answered your request. Now, let's answer the questions we identified earlier. After completing this exercise, you will have a clearer understanding about how to follow-up on your letter. Since action letters can have multiple requests or multiple actions, these questions can be used several times for one letter. It is better, however, to focus your letter on only one or two specific issues.

***Does the response correctly and completely address my concern?***

To determine how well the response has addressed your concern, you need to ask yourself four questions: who, what, when, and where.

*1) Who will carry out the action (s)?*

In response to your requests for specific actions, identify who will complete each of these actions. Sometimes, the organization will not give specific names of who will carry out the actions. It is very important to secure the name of a person at the highest level who has responsibility for overseeing the action so you can monitor the progress made in addressing the disability concern. Otherwise, you might find yourself getting the run-around each time you try to contact a person to find out what progress is being made. Along with the name, request the correct title, phone number and address for this individual. This information will be very useful for future contacts.

*2) What action(s) will be taken to correct the situation?*

If the agency has made commitments to perform certain actions to meet your disability concerns request, list each action clearly in the blank space labeled *action* on the advocacy letter action form (see page 50). Use a different form for each of the actions. This will help you to be more organized and allow for an easier follow-up at a later time.

*3) When will the action (s) be completed?*

Write down the date that the action is expected to be completed. This information is very important. If you know when the action is to be completed, you can quickly prompt the organization to take the promised actions, if the agreed upon

date passes without any progress on your request. If you initiate follow-up too early, the agency may feel that you are being pushy and aggressive. If you initiate follow-up too late, you might be losing valuable time and a window of opportunity. Some actions rely on the promptness of the response. In those situations, you have to pay close attention to your original request and ultimate goal.

*4) Where will the action take place?*

The final piece of necessary information is where the action will take place. In some cases, the place of the action is very important. If that place is accessible to you, you can monitor the progress of your request directly. By now you have a clear understanding about the details of the response. You have been able to analyze the completeness or *quantity* of the response. Now we hope that the following questions will help you get a better understanding about the *quality* of the response. The final decision is yours. Do you feel that progress is being made? How much?

***How much of all the required action (s) will be carried out?***

In some cases, a request has several different sub-actions that need to be completed before the response is properly carried out. By now you have a list of the actions to which the agency, business, or organization has indicated it will or will not respond. Look at the list of the actions and see if you feel that your request will likely be fulfilled by the organization. How much of your request can be fulfilled? Not all situations can be completely remedied. You have to determine what is realistic and what is non-realistic. You are the final judge of the follow-up strategies to pursue. If you feel that the response does not satisfactorily meet your request, follow-up and advocate for more appropriate changes.

***Does the response meet minimum legal standards?***

Although the organization may meet your request, always keep in mind it also has to meet specified minimum legal standards. The organization must comply with federal, state, county, and local legal minimum standards regarding covered disability concerns. Use the requirements of federal, state and local laws and regulations that cover people with

disabilities to set your goals for change. Some organizations might not know about the minimum legal standards so you have to educate them.

Once you have answered these questions, you will have a good idea about the content of the response you have received.

## **2. What do you do when you receive a negative response, denying or postponing requested action?**

When you receive a response that does not meet your request, determine what action needs to be taken to correct the problem. The organization may have some internal or external barrier that prevents it from being able to carry out your request. So, ask yourself the following questions to better understand the reasons for the denial:

- What requested action was unable to be carried out?
- Who was unable to carry out the requested action?
- Why did the person not carry out the requested action?
- Can the person carry out any alternate actions for you?

### *1) What requested action (s) was unable to be carried out?*

If the requested action(s) was not carried out, find out why. In the *Advocacy Letter Response/Progress Form* (at the end of this chapter), fill out the requested actions and the reasons why they were not carried out. Frequently, organizations will give you a negative response even if only one part of the requested action cannot be completed. Find out more about the nature of your denied request so that you can develop other strategies and approaches to advocate with the organization.

### *2) Which person was unable to carry out the requested action?*

When you receive a negative response, identify who took action on your request and what position they have within the organization they are representing. If you know the person's name who denied the request, write down any relevant information about the person for later contacts with him or her. This person could be the same one from whom you requested action, or it could be another person. Since these corrective actions can take a long time, be thorough when filling out the form to help you track the response to your disability concern. This will allow you to access the information at a later time, rather than relying on memory. In some cases, your request will not reach the administrative staff level and is denied

at the support staff level. If this occurs, follow through and appeal the decision to someone at a higher level.

*3) Why did the person not complete your requested action?*

In all cases, the person should have a reason for not being able to complete the action. Assess the nature of the reason and write it down on the *Advocacy Letter Response/Progress Form* (found at the end of this chapter). When you revise your action letter to address the individual's response, his/her reason will provide the foundation from which to build your counter response and rationale for addressing your original goal or modified request for a policy change, service, or other accommodation.

*4) Can the person carry out any alternate actions for you?*

If the letter is complete, the denial is usually explained carefully with rational reasons which are probably business-related. On the other hand, you may find the business to be very cooperative and the person in charge may offer suggestions or alternate actions to correct the situation. Alternate actions can be expressed in terms of mediation where both parties attempt to create a win-win solution. There may need to be some compromise from both sides. Don't be surprised if you get this kind of a response. Review the suggestions carefully and follow through with the ones you think are appropriate. In some cases, the suggested alternate actions could be very discouraging. Consider whether the suggested alternate action is leading you in an unacceptable direction. There are some disability rights and principles which you cannot compromise. Hold fast to them! Also, an alternate action may be adequate for you but not for other people with other or different degrees of disabilities. Always consider whether an alternate response will comply with accessibility codes, etc.

**3. No response.**

Waiting for a response may be one of the toughest aspects of the whole process of advocacy. You are unsure whether the organization will honor the request or whether your request will get stuck in the bureaucratic processes. Factors that affect this include the nature and complexity of the problem, the number of people involved, the strength of your stated case, and the potential legal consequences for the organization. If all these factors are in your favor, the whole process might just take days to weeks. If not, you might find yourself

engaged in the advocacy process for several months to even years. In some cases, the organization will try to wait it out to see if you will lose motivation and interest, and will drop the request. You have already put a lot of time and effort into a very important issue. You must decide whether you wish to stick with it and pursue a resolution to your disability concern. Your action could potentially affect many people with disabilities, as well as yourself. When determining the status of your letter, ask yourself the following questions:

- How long should I wait before following up with a letter or a phone call?
- Who should I contact when making the follow-up letter or phone call?
- Who can help me take action if I am not getting any response?
- How and why do I need to monitor and track the actions that occur?

*1) How long should I wait before following up with a letter or a phone call?*

The best way to determine if you are ready to follow-up with a letter or a phone call is to consider the type of request. If the request is a simple one, you should probably have to wait only several days. If the request is large and complex, you should still receive a letter that acknowledges your original letter. However, you may have to wait a few months for the organization to plan and execute a course of action. Sometimes, it is a good idea to send a self-addressed postcard attached to a registered letter. The postcard can be mailed back to you letting you know they received the letter and are processing it. This would clear up any misunderstanding as to whether the letter has arrived at its destination or not. It is also acceptable to call them once in a while to check on the progress of your request.

*2) Who should I contact when making the follow-up letter or phone call?*

It is best to approach the person to whom you have written the letter regarding your disability concern. He or she would be best able to advise you on the status of your request. If your request has been directed to someone else, he or she can advise you of that person's name, address, and phone number.

*3) Who can help me take action if I am not getting any response?*

Depending on the type of problem you are encountering, there are many different people who can help you if you reach a dead end. One of the best sources of help may be your local independent living center (ILC). ILC staffs are equipped to advise you in your advocacy efforts. In some cases, they may even agree to assist

you. An authoritative figure or established organization can sometimes add power to a request.

Agencies such as Vocational Rehabilitation and legal service organizations may also be of help to you. If an organization fails to provide a satisfactory response, you can approach a potential helper or a mentor. These potential helpers could be: personnel higher up in the organization, government officials, disability advocates, consumer protection agencies, and local human relations departments. Recruiting additional support can increase the likelihood of success. Another strategy is to get a group of consumers to write letters on the same issue, creating power in numbers.

4) *How and why do I need to monitor and track the actions that occur?*

Because you have determined that this issue is important to you and because you have already devoted time to the problem, it is very important to carry out each step in a professional manner. This will increase your likelihood of achieving your goal. Monitoring and tracking the actions that occur will keep you organized and well informed and contribute to timely follow-up actions that keep the issue alive and current. Again, the *Advocacy Letter Response/Progress Form* at the end of this chapter will assist you in tracking progress on your concern.

Remember to be very organized and prompt about each step you take. The skills outlined in this section can be developed or improved utilizing the guidelines provided. They will strengthen and increase your effectiveness as an advocate, and as a member of the larger disability community. Go for it!!

**Advocacy Letter  
Response/Progress Form**

Issue:
Date of my letter:
Targeted reader, including name, title, organization, address, and phone number:
Action requested in the letter:
Positive Response: How, when, where and by whom will the problem be addressed?
Negative Response: Why was the request denied?
Progress notes: Date:

# CHAPTER 4

## ***EXEMPLARY LETTERS***

by Dot Nary and Katherine Froehlich

### ***Introduction***

Now that you have reviewed the section on “How To Write An Advocacy Letter,” we will use this chapter to provide some models for developing your own *Action Letter*. These letters were based on actual letters written by consumers and disability advocates from across the country. You may find an example that is relevant to your needs. Our intention is not necessarily for you to copy these letters, but rather to use them as guides in writing your own action letter.

### ***How To Use This Section***

We have identified 14 categories of advocacy letters. These include:

- Disability Policy
- Education
- Employment
- Handicapped-designated (Accessible) Parking
- Health Care
- Housing
- Insurance Issues
- Media Portrayal of People with Disabilities
- Personal Assistance Services
- Public Access
- Social Services
- Telecommunications
- Transportation
- Vocational Rehabilitation Services

You should be able to find a category that addresses your particular topic of concern, or one that is similar and could be applied to your issue. As Chapter One suggested, you should begin by identifying your specific topic of concern. We have included a good letter for each category listed. You may find it helpful to reflect on what others have written.

***Identify Your Topic***

Once you have identified your specific disability concern, find a category that is the same or similar. For example, if you have a concern about the accessibility of an entrance to a local restaurant, look in the "Public Access" category. Or if you are concerned about not being able to use public transportation in your area, turn to the category "Transportation." It may be encouraging to know that many people with disabilities have brought about change that began with advocacy letters. With the passage of the ADA and Fair Housing Amendments Act of 1988, people with disabilities and the general public are becoming much more aware of civil rights laws that cover people with disabilities at the local, state, and federal levels. Many people are using these laws to create a more equitable and accessible society.

It is also vitally important to your success as an advocate to understand the applicable laws and regulations and how they apply to your situation before you confront the storeowner, employer, or other person who can respond to your request. Be precise about what the problem is and what law or regulation applies to the situation. It might be a good idea in the beginning to obtain assistance from experienced advocates, such as independent living center staff, who can share their knowledge of relevant laws with you.

If you are asking for something more than what the law requires, be honest about this and make a strong case for what is needed and why.

***Practice Your Own Writing***

It's a good idea to write a few practice letters. You may find it helpful and even healthful to write an angry letter to start with. Don't hold back, just get your anger out on paper. You will probably realize that, even though it feels good, it is not what you want the final product to look like. Once you have been able to demonstrate your anger on paper, you should begin a first draft of your action letter. You should still let your feelings be heard, but instead of stomping on someone, you will be "standing up" for your rights as a citizen. That's really what you want anyway, isn't it?

Once you have prepared a draft of your letter, do some comparing with the model letters included here. There is also a checklist at the end of this section which reviews the major elements of an advocacy letter. Refer to this checklist while writing your letter to be certain that it contains all of the important elements. Then, refer to it again once you have completed your letter to do a final check. This is a good way to shape an advocacy letter.

***Celebrate Your New Skills***

It's important to acknowledge your increased skill in writing advocacy letters. You may actually discover that you are having fun as you acquire these skills. Many people report a heightened or renewed sense of accomplishment when they learn new ways to be assertive and to advocate for their rights. You may be one of those people. We encourage you to begin and to allow yourself the enjoyment of success in writing your own advocacy letters. The following letters are labeled regarding category of issue, and may help you in shaping your own letters.

March 22, 1996

June Graham, Councilwoman  
1029 Worthington Street  
Westham, Anystate 10002

*Disability Policy  
Example*

Dear Ms. Graham:

I am the parent of an adult with mental retardation and other developmental disabilities. My son will be affected by the proposed zoning changes involving rental properties in the city of Westham that you supported at last night's city council meeting. I want to advise you of the difficulties that these changes will create for a significant number of citizens.

As I'm sure you are aware, there has been a movement to improve housing arrangements for persons with developmental disabilities in the last decade. This movement has fostered the development of homes and apartments integrated throughout the community, instead of the larger group homes and institutions which create segregation and stigma. For the last 18 months, my son, John, has shared an apartment near the downtown area with another man with whom he works. These two men receive social support and supervision from a local agency, Community Supports. For the first time in his life, John has been free to do the things that he enjoys when he wants to do them, an opportunity he did not have when he lived in a group home with seven other adults.

Because of this housing change, John has improved his productivity at Pizza Hut, where he maintains the salad bar. He has been getting along better with his roommate, his support staff, his friends, and his family. He has also gotten to know some of his neighbors, who have been very friendly and helpful to him. In short, he has been a much happier and satisfied person since his living arrangements have allowed him the same privacy and choices that most other adults in society enjoy.

Unfortunately, due to the proposed zoning changes, rental of housing in John's neighborhood may be severely restricted. John may have to leave the apartment which is comfortable, affordable, and which is close enough to his job for him to walk to work. Because of the zoning change, John and others needing similar living arrangements are likely to have difficulty finding affordable, convenient housing. I fear that it may force many of these people to return to the group homes and institutional living arrangements that were so detrimental to their happiness and integration in the community.

Please reconsider your support for the zoning changes and consider those who need to rent apartments in these areas and who have worked so hard to become contributing citizens of this community. A policy that restricts safe, affordable housing for lifelong residents who have overcome many societal barriers cannot be a good one for the community. I look forward to receiving your response and to discussing this important issue with you.

Sincerely yours,

Marion Kaye  
1110 Mason St.  
Westham, Anystate 10002

cc: Larry Donnelly, Director, State Developmental Disability Council  
Mary Black, Director, Anytown ARC

October 16, 1993

*Education  
Example*

Ms. Susan Sandford, Director of Special Education  
Anytown County School District  
5674 Brown Road  
Anytown, Anystate 11001

Dear Ms. Sandford:

My son, Frederick Sutton, is a student at East Junior High School and has been classified as learning disabled for the past year. As his parent, I am very concerned that Frederick get a good education so that he can succeed in the future. My son enjoys school and especially enjoys being involved in the chorus and in sports.

As stated in his Individualized Education Plan, which was approved and adopted last May and which was to be implemented at the start of this school year, Frederick should have access to a computer each day during the time he spends in the resource room. He was to use this equipment to get help with his assignments in English Composition.

As of this date, he has not had access to a computer in the resource room and neither his teacher, Mrs. Abbott, nor the principal, Mr. Smith, can tell me when a computer will be available for his use. He is falling behind in his English Composition class, and I am afraid that it will become harder and harder for him to catch up with the other students in the class if he does not gain access to the computer specified in the IEP.

I am requesting that my son be given daily access to a computer in his resource room upon your receipt of this letter. I believe that his rights under his IEP are currently being violated by the school district, and I have been advised by an advocate from Schools Are For Everyone (SAFE), Meg Ferguson, that I should notify the Special Education Bureau of the State Department of Education if the problem is not resolved immediately.

I hope that you will work with me in this very important matter to ensure my son's continued education.

Sincerely,

Paul Sutton  
4411 Boone Ave.

Anycity, Anystate 11001

cc: Meg Ferguson, Schools Are For Everyone (SAFE)  
Brian Brown, Legal Services of Anytown County

February 5, 1995

Mr. Todd Rice, Manager  
Curley's Chicken Coop  
1005 Grandview Avenue  
Anytown, Anystate 44001

*Employment  
Example*

Dear Mr. Rice:

Today I visited your restaurant in response to your advertisement in the newspaper announcing an opening for a part-time bookkeeper. I have an associate's degree in bookkeeping, several years of experience, and excellent references. I would like to work about 20 hours per week, so I thought that this opening might be a great opportunity for me to contribute to your organization. I also happen to have a traumatic brain injury due to a car accident that occurred two years ago.

Unfortunately, my application for the position was refused. After filling it out, I met briefly with the employment secretary, Mary Sanders, who asked several questions about my physical appearance, my energy level, and my ability to get to work each day. Despite receiving my completed application and my resume outlining my qualifications for the job, she asked no specific job-related questions and focused only on personal issues that she seemed to feel would prohibit me from performing well in the workplace. Finally, she explained that she could not accept my application because it was very small office and no one else would be available to do my work if I were absent.

I am writing to inform you that I view this as a very clear example of job discrimination due to my traumatic brain injury. I do not believe that a non-disabled applicant would have been asked the personal questions that were asked of me. Had Ms. Sanders been interested in my qualifications, she would have learned that, in addition to the items outlined in my resume, I had an excellent attendance record at my last job and my energy level has never been a problem at work, neither before or after my injury. While my hemiplegia seemed to cause her concern, she should know that it is illegal to discriminate against a qualified applicant simply because she is uncomfortable with his or her appearance.

Please be advised that, unless I am given the same opportunity to be considered for this job as other qualified applicants, I will file a discrimination complaint against your business with the Equal Opportunity Employment Commission, the Department of Justice, and with the Any County Human Rights Division.

I look forward to discussing my qualifications for this position with you, and to having my application for this position accepted for consideration.

Sincerely yours,

Donna Wright

2221 Main St.

Anycity, Anystate 44001

cc: Edward Dulles, Anycounty Human Rights Division

November 20, 1994

Mr. Robert Bruce, Manager  
Public Department Store  
322 Main Street  
Anytown, Anystate 33011

*Handicapped-designated  
(Accessible) Parking  
Example*

Dear Mr. Bruce:

I am a longtime customer and credit card holder at your store. I have always found excellent merchandise at a fair price at Public Department Store and, until recently, have always enjoyed good service. However, when I visited your store with my daughter yesterday, an extremely upsetting incident occurred.

My 10-year-old daughter, Lori, uses a wheelchair and I drive a van with a side entry lift to accommodate her needs. Because your parking lot lacks designated handicapped parking spaces, I usually park diagonally across two parking spaces to ensure that we will not be blocked in on the passenger side so that she can reenter the van when we finish shopping. Although I have spoken with store employees at the customer service desk several times in the past about the need for handicapped parking in your lot, nothing has been done so I have felt justified in taking up two parking spaces to accommodate my daughter's needs.

Yesterday when we emerged from the store, we found a store security guard waiting at our van to inform us that he would call the police if it wasn't moved immediately. Apparently, he was angry because the parking lot was full and we were taking up two spaces. My daughter and I tried to explain our reasoning to him, but he became more loud and rude, and finally told us that "my crippled daughter was not the store's problem." Upon hearing this, we got into the van and left as I did not want my daughter exposed to any more of this disgusting behavior.

I am writing to demand three things. First, a written apology from your store on behalf of this employee, who refused to give his name. Second, an assurance that you will provide your staff with disability awareness training to prevent incidents like this from happening again. Third, evidence of when Public Department Store plans to comply with the Americans with Disabilities Act by designating handicapped parking spaces as required by law. If this modification is not prioritized and completed promptly, I will file a complaint with the U.S. Department of Justice and will work with advocates at Central Independent Living Center to publicize your employee's lack of sensitivity and your store's lack of adherence to the law.

I look forward to your prompt response regarding this very serious matter.

Yours truly,

Janet Best  
3322 Flower St.  
Anycity, Anystate 33011

cc: Joe Brown, Central Independent Living Center  
Susan Scott, Anytown ADA Coordinator

*Health Care  
Example*

September 6, 1995

Ms. Susan Westin, Consumer Relations Coordinator  
Blue Cross and Blue Shield  
Managed Care Plan  
295 Commerce Plaza  
Anytown, Anystate

Dear Ms. Westin:

I am a new enrollee of the Blue Cross and Blue Shield Managed Care Plan who happens to be a quadriplegic. My health is very important to me, and I work very hard to maintain it. As an active person, I fulfill a variety of roles at home and in the community: wife, employee, board member, sports enthusiast, and church choir member. I am able to maintain this level of activity despite my disability because I take care of myself and because I choose medical providers who can assist me in these efforts by providing support, guidance, and up-to-date research-based information on best practices.

The reason for this letter is that my request to have a physiatrist serve as my primary care provider (PCP) under your health care plan was recently denied. As my policy states that specialists may serve as primary care providers "at the discretion of the plan," I am writing to point out the benefits, both for the plan and myself, of having a physiatrist, or rehabilitation specialist, direct my care. Please consider this letter a formal request for an appeal of this denial.

Several years ago, I was seeing a general practitioner as my PCP. I began to find reddened areas on my buttocks, but was assured by the PCP that "everyone who uses a wheelchair has them" and that as long as I didn't sleep in my chair overnight, I wouldn't have a problem. Three weeks later, I was in the hospital with a grade 3

pressure ulcer, missing three months of work and incurring over \$55,000 in medical charges.

I later learned that my provider had never treated a quadriplegic in his practice before, and that he knew very little about secondary conditions, such as pressure ulcers and urinary tract infections, that can plague people with spinal cord injuries if they do not safeguard their health with correct information, practices, and treatment. I am not saying that he was a bad doctor. I am simply stating that he shouldn't have been directing care for someone with a condition about which he knew very little, and both I and my health insurance carrier paid the price for his lack of judgment.

Since that time, I have been seeing a provider who specializes in issues of people with disabilities and chronic conditions. She is knowledgeable about the problems of people with paralysis, keeps current on the latest research findings, and helps me to stay exceptionally healthy and active. Because of this, I believe that she has saved me and my former insurance company many thousands of dollars in medical costs and produced better outcomes.

Therefore, as a new enrollee in your health plan, I request that I be allowed to choose a specialist as my primary provider. I am enclosing a supporting statement from my former physiatrist to demonstrate further the merit of my request. Should you need more information, please do not hesitate to contact me.

My thanks for your time and attention in this urgent matter.

Yours truly,

Julie Wright  
1177 Monroe St.  
Anycity, Anystate

Encl.

cc: Cindy White, Central Independent Living Center

Joseph Jackson, Office of the Insurance Commissioner

November 13, 1995

*Housing  
Example*

Mr. Jerome Travette  
Travette Rental Realty  
560 College Avenue  
Anytown, Anystate

Dear Mr. Travette:

I am writing regarding some information that I received from one of your rental agents, Mr. Bob Stearns, earlier today. I was recently transferred to the Anytown office of my employer, Brooks, Inc., and I contacted your agency to search for an apartment. As a person who experiences post-polio syndrome and who ambulates using forearm crutches, I am seeking housing that will meet my accessibility needs, is affordable, and is located within a few miles of my workplace.

Upon being shown an apartment at 104 Magee Street that is both affordable and conveniently located, I was dismayed to learn from Mr. Stearns that he would consider it a problem if I leased the apartment and subsequently install a hand rail at the front entrance at my own expense. Mr. Stearns would not give a reason for this denial, but made it clear that I could not make this minor alteration to increase accessibility.

As one of the largest rental firms in the area, I am sure that you must be familiar with the Fair Housing Amendments Act of 1988. In addition to prohibiting discrimination in housing, this federal law prohibits landlords from refusing to let tenants make reasonable modifications for accessibility at their own expense. I am sure that a railing on a set of steps would be considered a reasonable modification by anyone charged with enforcing this law.

Therefore, I would like to meet with you at your earliest convenience to discuss this situation and your rental policies in general. I have asked a representative of the local Fair Housing Board to join us and to provide reference material. I am hopeful that we can work cooperatively to resolve this issue, and to ensure equal housing for citizens with disabilities through your firm in the future. I look forward to hearing from you.

Respectfully yours,

Jill South

5512 Green St.

Anycity, Anystate

cc: Mr. Ernest Frey, Fair Housing Board of Anycounty

Ms. Julie James, Independence for All, Inc.

Ms. Cynthia Sweet, HUD Regional Office

July 22, 1996

Mr. Robert Fernwood  
Fernwood Insurance Agency  
22 Dayton Avenue  
Anytown, Anystate

*Insurance Issues  
Example*

Dear Mr. Fernwood:

Yesterday I called your agency about auto insurance for my vehicle. I have an excellent driving record and have never had difficulty obtaining insurance coverage in the past. However, as a person with epilepsy who has recently been given medical clearance to drive again, I believe that I was treated in a discriminatory manner.

I requested that your agent, Mr. Burns, quote me a price for one year of liability insurance for my 1990 Dodge Caravan. When he asked what company had issued my current policy, I explained why I had not needed coverage during the last year. Upon learning about my epilepsy, Mr. Burns insisted that any liability policy that I purchased would have a surcharge because of my increased potential for accidents. Although I explained that I had been given medical clearance to drive because I had been free of seizures for the required period of time, your agent insisted that my policy would cost more.

My call to the state insurance commissioner's office today confirmed that it is illegal and discriminatory to charge a qualified driver more for an insurance policy simply because he or she has a disability.

Please contact me at your earliest convenience to assure me that your agents have been given accurate information about auto insurance rates for people with disabilities and that they will no longer attempt to discriminate on the basis of disability. Perhaps when this serious issue has been resolved, we might be able to discuss my insurance needs.

I can be reached at 999-799-2652 most days.

Sincerely yours,

James Carver  
4466 North St.  
Anycity, Anystate

cc: Jane Brown, State Insurance Commissioner

March 3, 1997

Ms. Bonnie Shelton, News Director  
WBZY  
221 Maine St.  
Anytown, Anystate

*Media Portrayal of People  
with Disabilities  
Example*

Dear Ms. Shelton:

As a person with the psychiatric disability of bipolar disorder, I am very concerned about the way people with such conditions are portrayed in the media. Too often we are negatively and collectively stereotyped, rather than accurately portrayed as individuals who might be your family member, your neighbor, or your co-worker. Unfortunately, your Monday evening program contributed to this negative stereotype of persons with psychiatric disorders.

In reporting that a woman had been reported to the police as missing by her family, the reporter stated that she was a patient at the state hospital "and could be dangerous." As no other information or evidence of violent tendencies on the part of the missing woman was given, I suspect that this warning was a product of the reporter's own misperceptions and ignorance regarding psychiatric disabilities.

This is distressing in and of itself, but when one considers the power of the media in shaping public opinion, it is a very serious problem. Media professionals have a responsibility to report the news fairly and accurately; the type of uninformed editorializing very likely represented by this reporter's statement does a tremendous disservice to those of us who live with psychiatric disabilities and must contend daily with stigma associated with these conditions.

Please remind your staff of their responsibilities in reporting on people with disabilities, and arrange for some awareness training if it is warranted. Central Independent Living Center or the local mental health association provides these services. I look forward to observing a higher level of professionalism at WBZY in reporting on disability issues in the future.

Sincerely,

Nancy Willets  
8803 12<sup>th</sup> St.  
Anycity, Anystate

cc: Karen Robinson, Central Independent Living Center

July 22, 1994

Julie Randolph, Executive Director  
United Home Health Agency  
41 Delta Way  
Anytown, Anystate

*Personal Assistance  
Services Example*

Dear Ms. Randolph:

My name is Mark Simons, and I have been using the services of your agency for the last five months. As a person living with AIDS, I try very hard to preserve my health and to enjoy life day-by-day. Lately, this has been more difficult than usual because, after four months of very good homemaker services provided by United Home Health, the services during the last three weeks have been very unsatisfactory.

When I first signed a contract with United to provide services covered by Medicaid, I worked with your social worker, June Farrell, to develop a homemaking task plan that would be used by the aides. This plan worked very well from March to June as the aides sent were extremely professional and conscientious about performing the tasks in the plan as requested.

Beginning this month, however, I was assigned two new aides who have not performed adequately. Problems have occurred in housecleaning, including failing to wet mop the bathroom floor on a weekly basis; in shopping, such as purchasing foods that are not on the shopping list and to which I have an allergy and cannot eat; and preparing foods, such as frying foods that I requested be broiled for health reasons.

Although I have discussed the problems with the aides themselves, and also reported them to the Manager of Homemaker Services, Anita Held, the situation has not improved. I was advised by June Farrell to contact you and to formally request, as provided for in my contract, that I be assigned different aides who will follow the homemaking task plan more closely.

I would appreciate hearing from you at your earliest convenience that my request will be addressed within the next two weeks. Because of the excellent service that I have received in the past, I prefer to continue with your agency and work cooperatively to address this issue. Thank you for your time and attention in this very important matter.

Sincerely yours,

Mark Simons

7902 Maryland Ave.

Anycity, Anystate

cc: Jerome Berger, Area Medicaid Manager

Ann Burton, Anycounty AIDS Resource Center

June 30, 1992

Sam Bigelow, Airport Operations Manager  
Aviation Department  
Anycity International Airport  
Anycity, Anystate

***Public Access  
Example***

Dear Mr. Bigelow:

Like other business people in this area who travel frequently, I pass through Anycity International Airport several times each month. As a wheelchair user, I have been pleased to note recent improvements in handicapped parking.

However, I continue to be concerned and frustrated with the lack of accessibility in the public restrooms. While the soap dispensers have been lowered to make them reachable by people in wheelchairs, the handicapped-designated toilet stalls remain unsafe and unusable by many people with disabilities. The width of the stall, the placement of grabbars, and the height of the toilets themselves do not comply with state and federal accessibility regulations, and this lack of compliance constitutes a hardship for those who need these features. When one considers that many people with disabilities have come from or are headed to aircraft which have inaccessible restroom facilities, the need for accessible toilet stalls is very clear.

Specifically, I would like to know the timeliness and plan of action that will be taken to make the stalls accessible. I understand from previous conversations that you must put contracts for these modifications out for bid. I understand also that such modifications constitute a large expense for an airport with so many terminals. However, it would make sense to begin the process by modifying restrooms located near the busiest gates, such as those used by Delta, USAir, and American Airlines.

I would appreciate hearing how you plan to address this problem in the near future. As always, I and staff members of several local independent living centers are ready to provide

technical assistance upon request, and have included some accessibility information on restroom access with this letter. If I do not hear from you within the next two weeks, I will feel that it is necessary to file a complaint with the Architectural and Transportation Barriers Compliance Board (ATBCB).

I look forward to working with you to remedy this urgent problem.

Sincerely,

Greg Black  
3388 NW 20<sup>th</sup> St.  
Anycity, Anystate

Encl.

cc: John Quinn, Central Independence Center, Inc.  
Diane Post, Anytown International Airport  
Jennifer Kelly, Office for People with Disabilities

December 2, 1993

Mark West, Commissioner of Social Services  
Anycounty Department of Social Services  
5129 Route 9  
Anytown, Anystate

***Social Services  
Example***

Dear Mr. West:

I am a 62 year old widow who has bad vision and emphysema. I live alone. My food stamps were recently cut off. I am writing because this decision is wrong.

Earlier this year, my son spent three months living with me. At this time, my food stamps were stopped because his income raised my household income too high to receive food stamps. When he left in early June, I called my caseworker to report the change in my income. My caseworker said okay, and I had my food stamps back in July.

About two months ago, my son came to visit me for just one week. My caseworker stopped by during this time and decided to stop my food stamps again. However, my son was just visiting, not living here, and he didn't give me any money. He has not been here since the first week of October, yet I am still without food stamps and am having a hard time making ends meet.

My case number is D456093 and I would like a fair hearing on this issue. Please check into my problem as soon as possible and help me to get my food stamps back. As I have no phone at the present time, you can contact me by mail.

Thank you,

Mrs. Alma Jones  
8855 Lily Lane  
Anycity, Anystate

cc: Mr. Kevin White, Action for Older Persons

March 23, 1995

Mr. John Holt, General Manager  
Mega Motor Corporation  
2203 Iowa Street  
Anytown, Anystate

*Telecommunications  
Example*

Dear Mr. Holt:

I am a deaf person who has bought two cars from your company. I bring my cars to you for servicing most of the time. Last week one of my cars was not running well and I had to bring it in to your garage, since it has a warranty. My car is now fixed and I am happy with it, but that is not the problem.

I called your service department to make the appointment and talked for a long time with the service manager. He asked me many questions about what was wrong with the car and I tried to explain the problems. He used some words about auto mechanics that I did not know, and he explained the meaning to me. Our call would have been easier and faster if you had a TTY in your office. A TTY is a device that deaf people use to talk by phone. I called your company through the relay service run by the phone company. But it takes longer to talk on the phone when a third person, the relay operator, has to be in the middle. Also, I called the relay service three times before I was able to get a relay operator to help me because they were so busy with many calls.

So I would like you to buy a TTY for your company. It would cost less than \$200 and you could have deaf customers call you with no problem.

Also, the Americans with Disabilities Act is about equal access and a TTY would give deaf people equal access to your company.

Please call me if you would like to know about buying a TTY. Deaf Services at the independent living center (295-4562) can help also. I thank you for your time.

Sincerely,

Mary Rockland  
1002 Brooklyn St.  
Anycity, Anystate

cc: Joseph Smith, Independence for All, Inc.

January 12, 1995

Mr. George Hall, Consumer Services Manager  
Bell County Consolidated Transportation Program  
1246 Power Road  
Anytown, Anystate

*Transportation  
Example*

Dear Mr. Hall:

I am a legally blind person who relies on the Bell County Consolidated Transportation Program on most days to travel to work, to recreational sites and medical providers, and to other destinations in the community. I feel fortunate to live in an area with adequate transportation that helps me get around to do most of the things I want to do despite my vision impairment.

This week, however, I have had difficulty in accessing buses at my usual bus stop, which is at the corner of Main and Westbrae. Today and yesterday, the shelter at this stop has been filled and surrounded by snow that was pushed there when the road was plowed by the city. As a result, I was not able to get close to the curb where I usually wait for the bus. The bus driver apparently did not see me and, supposedly, with no other riders waiting, did not stop to pick me up. When this happened yesterday, I waited quite a while and then was fortunate to get a ride from a neighbor who happened to see me on his way to work. I called your office and reported the problem and was assured that the shelter would be cleared and that both the city maintenance department and that driver would be told of the incident. However, with another snowfall last night, the same thing happened this morning.

I am now registering a formal complaint with your office and asking that you address this issue immediately as I feel that it violates my civil right to equal access in transportation. I realize that snow can create a problem in many ways for transportation systems. However, I feel that if I can manage as a blind person to get to the stop, then the transportation system should be able to figure out a way to pick me up. Since the bus stop has never been snowed in before, I think that someone in your office needs to connect with someone in the city maintenance division to work out a different plowing pattern so that the shelter and bus stop remain usable for those who need to be picked up there.

Please contact me at your earliest convenience to let me know that the problem has been resolved so that I can plan to get to work on time in the future. I look forward to hearing from you that the transportation system is again equally accessible to all.

Sincerely yours,

Harry Helmut  
3541 McGee St.  
Anycity, Anystate

cc: John Monroe, Bell County ADA Coordinator  
Janet Bartholmew, Central Independence Center

May 10, 1994

Mr. John Smith, Area Manager  
Anystate Department of Vocational Rehabilitation  
10 Main Street  
Anytown, Anystate

***Vocational Rehabilitation  
Services Example***

Dear Mr. Smith:

My name is Jane Johnson and I am a client of your office of the Anystate Department of Vocational Rehabilitation. I am a C4 quadriplegic who is successfully pursuing a graduate degree at the University of Anystate, and who has received financial support from DVR toward this goal. I am currently trying to acquire an accessible vehicle so that I can fulfill my educational requirements. Recently I received a denial from your office for my request for adaptive driving equipment, and I am writing to request a fair hearing of this decision.

First, let me point out that the federal Rehabilitation Services Administration (RSA), which oversees your agency, issued a regulatory memo several years ago which states that, "Van modifications are a rehab technology service, and are no longer to be considered as transportation services issues." In other words, the decision to fund this technology must rest on the individual's need for the technology, not on the person's access to alternate transportation. Your letter states that funding for the purchase of driving equipment is not "economically feasible," as you had made a phone call and found out that the university has accessible transportation services available for one dollar per ride. This decision clearly conflicts with federal policy. The RSA policy also states that cost is not to be a factor in determining whether or not to approve an item such as driving equipment. Again, my request should have been approved according to the federal policy which governs your agency.

Second, I must also emphasize that my future educational and employment success depends on my access to transportation. As a student and research assistant, I must be able to collect data and attend meetings at several research sites in neighboring cities in the evenings and on weekends, as well as on weekdays. I must also be able to travel to conferences in and out of state, which can mean travel to conference sites within driving distance, or to and from the airport. Without question, my ability to acquire research skills and to earn my degree depends on my ability to access the same opportunities as other graduate students and research assistants, which will not occur if I have to rely on transportation available only in a limited area and only on weekdays. As my educational level and skills increase, I have increased need for personal transportation so that I may fulfill the increased responsibilities that I am expected to assume in my department.

Please consider this letter to be a formal request for a fair hearing of the above decision. I look forward to prompt notice of the date, time, and place. I have appreciated the vocational assistance that I have received and will continue to receive from your agency, and the excellent relationship that I have experienced with my counselor, Bob Brook. I look forward to obtaining my own accessible transportation so that I can successfully complete my education and become a self-supporting member of society.

Many thanks for your prompt attention in this important matter.

Sincerely yours,

Jane Johnson  
6600 Zimmer Ct.  
Anycity, Anystate

cc: B.W. Simmons, Client Assistance Program

# CHAPTER 5

## *FACTS AND FIGURES*

by Kenneth J. Golden and Richard Thomson

### *Introduction*

The material in this chapter was interpreted and simplified from many sources, including original law, government supplied pamphlets, informational packets, and through interpretations in journals and newspaper articles. The main points of the laws have been outlined and simplified; in other words, we have attempted to remove the legal jargon whenever possible. The laws that have been targeted are: The Americans with Disabilities Act (ADA), The Fair Housing Amendment Act (FHAA) of 1988, The Rehabilitation Act Amendments of 1992, and The Air Carrier Access Act (ACAA). We have also provided information concerning Home and Community Based Supports (HCBS) Waivers and Social Security's Plans for Achieving Self Support (PASS).

As stated in Chapter One, the more familiar you are with the laws that protect you, the stronger your personal advocacy skills will become. While these overviews will familiarize you with the law, it would benefit you greatly to obtain a copy of the original law and read it or to consult with someone more familiar with it, such as an experienced advocate. Part VI of this chapter will give you the addresses and phone numbers of governmental agencies that can provide you with information about the laws or copies of the original legislation.

## PART I

### THE AMERICANS WITH DISABILITIES ACT (ADA)

**The Americans with Disabilities Act (ADA) of 1990 prohibits discrimination against people with disabilities in employment and in local and state government programs, activities and services, public and private transportation, public accommodations and telecommunications services. The following information will highlight the important points of each of the three titles of the ADA.**

#### **Title I: Employment**

- Title I employment provisions apply to private employers, state and local governments, employment agencies, and labor unions.
- Businesses that have 15 or fewer employees are exempt from ADA Title I. However, some state and local laws may be more stringent than the ADA.
- The ADA prohibits discrimination in all hiring practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment.
- Employment discrimination is prohibited against “qualified individuals with disabilities.” The law protects people who have a physical or mental impairment that substantially limits at least one major life activity (e.g., such as walking, seeing, hearing, speaking, breathing, learning, working, doing manual tasks, caring for oneself), have a record of such impairment (e.g., doctor records noting the disability, such as HIV/AIDS), or are regarded as having an impairment (e.g., a person with a severe facial disfigurement).
- A "qualified individual with a disability" is an individual who meets legitimate skill, experience, education, or other requirements of an employment position that they hold or seek, and who can perform the "essential functions" of the position with or without reasonable accommodation. "Essential functions" assures that an individual with a disability will not be considered unqualified simply because of inability to perform marginal or incidental job functions. A written job description prepared in advance of advertising or interviewing applicants for a job can be considered as evidence, although not conclusive, of the essential functions of the job.

- An employer does not have to give preference to a qualified applicant with a disability over other applicants.
- An employer may not ask or require a job applicant to take a medical examination before making a job offer.
- An employer cannot make any pre-employment inquiry about a disability or the nature or severity of a disability.
- An employer can ask questions about the ability to perform specific job functions and may, with certain limitations, ask an individual with a disability to describe or demonstrate how they would perform these functions.
- A medical examination or medical inquiry may be required before a job is offered if this is required of all entering employees in the same job category.
- If a person is not hired because a post-offer medical examination or inquiry reveals a disability, the reasons for not hiring must be job related and consistent with business necessity. The employer must show that no reasonable accommodation could be made, that the accommodation would impose an undue hardship, or that the individual would impose a "direct threat" in the workplace (e.g., a significant risk of substantial harm to the health or safety of the individual or others).
- **Reasonable accommodations** are any modifications or adjustments to a job or work environment that will enable a qualified applicant or employee with a disability to participate in the application process or perform essential job functions.
- An employer is required to make reasonable accommodations for all qualified applicants or employees with a "**known**" disability unless doing so would impose an undue hardship on the employer.
- Employees with disabilities shall be afforded or given equal access to whatever health insurance coverage the employer provides to other employees. Employers do not have to offer additional or extra coverage and they are not responsible for pre-existing condition clauses even if they do adversely affect individuals with disabilities.
- Employers must post a notice describing the provisions of the ADA. It must be made accessible in alternate formats, as needed, for individuals with disabilities.

- All employment discrimination charges must be filed with the Equal Employment Opportunity Commission within **180 days** of the alleged discriminatory act.

## **Title II: State and Local Governments**

- Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of **public entities**. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of state or local governments.
- A state or local government must eliminate any eligibility criteria for participation in programs, activities, and services that screen out or tend to screen out persons with disabilities, unless it can establish that the requirements are necessary for the provision of the service, program, or activity.
- The state or local government must perform a self-evaluation and develop a transition plan with input from people with disabilities.
- The state or local government may adopt legitimate safety requirements necessary for the safe operation if they are based on real risks, not on stereotypes or generalizations about individuals with disabilities.
- A public entity does not have to make a modification of its service if it can demonstrate that the modification would fundamentally alter the nature of the service, program, or activity.
- All public entities are prohibited from discriminating in employment against qualified individuals with disabilities. All applications of Title I apply for public entities.
- A public entity must ensure that individuals with disabilities are not excluded from services, programs, and activities because existing buildings are inaccessible. If the facilities are not accessible, they have several options open including: altering existing facilities, acquiring or building new facilities, relocating a service or program to an accessible facility, or providing services at alternate accessible sites.
- All structural changes needed to make a program accessible should be made as expeditiously as possible, but no later than January 26, 1995.

- All new buildings constructed by a state or local government must be accessible. Any alterations or renovations to existing facilities must make the altered portions accessible.
- State and local agencies that provide emergency telephone services must provide "direct access" to individuals who rely on TDD or computer modem for telephone communication. A separate seven-digit line for the exclusive use of nonvoice callers in addition to providing direct access for such calls to its 911 line will be permitted.
- Telephone emergency services are only required to be compatible with the Baudot Format.

### **Title III: Public Accommodations**

- A public accommodation is a private entity that owns, operates, leases, or leases to, a place of public accommodation. Places of public accommodation include a wide range of entities, but must fall in one of the following 12 categories: places of lodging, establishments serving food or drinks, places of public gathering, sales or rental establishments, service establishments, stations used for specified public transportation, places of public display, places of exhibition or entertainment, places of recreation, places of education, social service centers, and places or exercise of recreation.
- Both landlords and tenants are subject to the Title III regulations and should allocate responsibility for compliance in their lease or contract.
- Commercial facilities (e.g., factories, warehouses, office buildings and wholesale establishments) must comply with the requirements for new construction and alterations.
- Private clubs and religious organizations are exempt from public accommodation requirements, except in cases where the facilities are used for events or services open to the general public, such as for bingo games or day care.
- A public accommodation may not discriminate against a person with a disability by refusing service or denying participation in an activity. Services, goods, and activities must be provided in the most integrated setting possible. Individuals with disabilities cannot be required to accept separate or special services.
- Physical barriers in existing facilities must be removed if removal is readily achievable (i.e., can be easily accomplished and carried out without much difficulty or expense).
- Barrier removal process should follow these priorities to increase accessibility: 1) access to the facility; 2) access to the area in which goods and services are available; 3) access to restroom facilities; and 4) other necessary measures.
- Examples of steps to remove barriers include the following actions: providing accessible parking spaces; installing ramps or curb cuts at entrances, widening doors, using accessible door hardware, and removing high-pile, low-density carpeting; positioning shelves, display racks, and furniture to provide access to goods and services; accessible signage; installing visible and audible alarms; and designing toilet stalls with increased space and grab bars, sinks with accessible faucets and adequate clearance.

- Public accommodations must provide an alternative method of providing services and goods if they cannot remove barriers, and if the alternatives are readily achievable (e.g., curbside service, home delivery, a clerk to retrieve merchandise from an inaccessible location).
- Public accommodations must provide auxiliary aids and services to ensure effective communication with individuals with disabilities, unless it can be proven to be an undue burden.
- Public accommodations are not required to provide personal devices such as wheelchairs, individually prescribed devices such as prescription glasses or hearing aids, or personal services, including assistance with eating or dressing.
- Public accommodations are not required to alter its inventory to include accessible goods, unless it makes special orders in its normal course of operation.
- Modifications in policies, practices, and procedures must be made where necessary to avoid discrimination. For example, public accommodations that do not permit animals must modify that policy to allow people with disabilities to use service animals.
- All new construction in public accommodations and commercial facilities must be accessible. Elevators are not required in buildings under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center, mall, professional office of a health-care provider or a transportation terminal or depot.
- Alterations in public accommodations and commercial facilities begun after January 26, 1992, must be accessible.
- All design and construction of new facilities or alterations in existing facilities must comply with the ADA Accessibility Guidelines (ADAAG) as established by the Architectural and Transportation Barriers Compliance Board.
- Public accommodations that provide transportation services must acquire vehicles that are accessible to people with disabilities unless they can demonstrate that the transportation, when viewed as a whole, is accessible.
- Rail systems must have one accessible car per train by July 26, 1995.
- Main stations offering rapid, commuter and light rail services must be made accessible (time extensions may be granted up to the year 2020).
- Intercity rail stations must be accessible by July 26, 2010.

- Remodeled areas of facilities must be made accessible.
- Special transportation services must be provided in certain cases without additional charges to the individual (e.g., a person who cannot get to a bus stop might require door-to-door service).
- All public buses and rail cars purchased or leased after August 26, 1990, must be accessible to people with disabilities.
- Privately owned buses purchased or leased after July 26, 1996, must be accessible.
- All new transportation facilities (e.g., bus and rail stations, depots) must be accessible.

## **PART II**

### **THE FAIR HOUSING ACT**

**The Fair Housing Act prohibits discrimination in housing because of disability, race, national origin, religion, gender, or familial status. This Act covers most types of housing except for: 1) buildings with no more than four units in which the landlord resides; 2) single family housing sold or rented without the use of a broker, unless the owner owns or has an interest in more than three additional single family houses at a time; and 3) housing operated by organizations or private clubs that limit occupancy to its members.**

**The Act prohibits the following practices based on disability in the sale or rental of housing:**

- Refusing to rent or sell housing.
- Refusing to negotiate for housing.
- Making housing unavailable.
- Denying a dwelling as available, when it really is.
- Setting different terms, conditions, privileges for sale or rental of dwelling.
- Providing different services or facilities.
- Falsely denying that housing is available for sale or rental.

**The Fair Housing Act also prohibits discriminatory practice in mortgage lending such as:**

- Refusing to make a mortgage loan.
- Refusing to provide information concerning loans.
- Imposing different terms on a loan.
- Discriminating in appraising property.
- Refusing to purchase a loan.
- Setting different terms or conditions for purchasing a loan.

**Additionally, no one may threaten, coerce, intimidate, or interfere with anyone exercising a fair housing right or assisting others who exercise that right. No one may advertise or make any statement that indicates a limitation based on disability, race, national origin, religion, gender, or familial status.**

**Persons with disabilities have additional protection if you or someone associated with you:**

- Have a physical or mental disability that substantially limits one or more life activities.
- Have a record of such a disability.
- Are regarded as having such a disability.

**Your landlord may not:**

- Refuse to let you make reasonable modifications to your dwelling or common use areas, at your expense. However, you may have to agree to restore the property to its original condition when you move.
- Refuse to make reasonable accommodations in rules, policies, or services if necessary for the person using the housing.
- Ask you questions about your disability, ask you for general information about yourself, such as whether “it is all right for you to be living alone,” or ask any questions that are not asked of non-disabled applicants.

**Explanation of "reasonable modification":**

Housing providers must make reasonable accommodations in their rules, policies, practices, or services to give a person with a disability an equal opportunity to use and enjoy a dwelling unit or common space. Here are some examples of reasonable accommodations:

- A landlord with a "first come, first served" parking policy makes an exception by creating a reserved parking space for a tenant who has difficulty walking and needs to park close to the building.
- An apartment manager agrees to call or visit when the rent is due to remind a person with mental retardation who needs oral reminders to remember to pay the rent.
- A landlord makes an exception to the building's "no pets" rule for people with disabilities who use guide dogs or other “service animals.”

**Requirements for new buildings: Buildings that are ready for first occupancy after March 13, 1991, and have an elevator and four or more units are required to have:**

- Public and common areas accessible to persons with disabilities.
- Doors and hallways must be wide enough for wheelchairs.
- Dwelling units must have: 1) an accessible route to and through the unit, 2) accessible light switches, electrical outlets, thermostats, etc., 3) reinforced bathroom walls to allow grab bar installation if needed, and 4) kitchens and bathrooms that can be used by wheelchair users.

**Buildings ready for first occupancy after March 13, 1994 that have four or more units, but no elevator, must have the accessible features in the ground floor units and in public and common areas.**

**Unless a building or a community qualifies as housing for older persons, it may not discriminate based on familial status (one or more children under the age of 18 living with a parent or legal custodian).**

- However, housing for older adults is **exempt** from this prohibition and may discriminate against familial status if the housing: 1) is specifically designed for elderly persons and is under a federal, state, or local program, 2) is occupied solely by persons who are 62 or older, or 3) houses at least one person who is 55 or older in at least 80 percent of the occupied units; has significant services and facilitates for older persons; and adheres to a published policy of housing only older adults who are 55 or older.

**If you feel that your rights to fair housing have been violated, you may file a complaint with the U.S. Department of Housing and Urban Development (HUD). However, you have only one year after the alleged violation to file the complaint. So file as soon as possible.**

- Before you contact HUD, make sure that you have the date(s) of the alleged violation and a description of the violation.
- Use HUD's Housing Discrimination Complaint Form.
- Send the complaint form to the HUD regional office that is nearest to you or to:

Office of Fair Housing and Equal Opportunity  
U.S. Department of Housing and Urban Development  
Room 5204  
Washington, DC 20410-2000

OR you may call:

1-800-669-9777 (in Washington, D.C. call 708-0836)

1-800-927-9275 (in Washington, D.C. call 708-0836) for TDD

**When you file your complaint, it is illegal for anyone to coerce or threaten you so that you will drop the complaint. HUD may authorize the Attorney General to issue temporary relief.**

**HUD will notify you when it receives your complaint form.**

**HUD will investigate your complaint and may refer your complaint to a state or local agency that must work on it within 30 days after receiving it.**

**If your complaint results in an administrative hearing or goes to federal district court, there is no cost to you.**

## **PART III**

### **REHABILITATION ACT AMENDMENTS OF 1992**

**Title I (the Basic Program of Vocational Rehabilitation Services) must be carried out in a manner consistent with the following principles, among others:**

- Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment in integrated settings.
- Individuals must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals, objectives, and services.
- Accountability measures must facilitate and not impede the accomplishment of the program.

**Eligibility:**

- In general, an individual is eligible if he or she is an individual with a disability (determined under Titles II and XVI of the Social Security Act or by other agencies) and requires vocational rehabilitation services to prepare for, enter into, engage in, or retain gainful employment.
- It is presumed that an individual can benefit from vocational rehabilitation services unless the designated state agency can demonstrate, by clear and convincing evidence, that such an individual is incapable of benefiting in terms of an employment outcome.
- The state agency must make eligibility determinations within 60 days, unless exceptional and unforeseen circumstances exist that are beyond the control of the state agency, and the individual agrees with the extension or an extended evaluation is required.

**Individualized Written Rehabilitation Program (IWRP)**

- When a determination has been made that an individual is eligible, the state agency must complete a comprehensive assessment (goals, objectives, and services that are to be provided).
- The IWRP must be jointly developed, agreed upon, and signed by the agency and the individual.
- The IWRP must be designed to achieve the employment objectives of the individual, consistent with his or her strengths, priorities, abilities, and capabilities. The IWRP must include: statement of goals and objectives (including intermediate), specific services to be provided, an evaluation procedures, terms and conditions under which goods and services are provided, identification of those that will provide the services, and include a statement by the individual in his or her words describing how he or she was informed about and involved in choosing among alternative goals objectives, services, service providers, and the methods used to provide or procure such services.
- The IWRP must provide reasons an individual is no longer eligible and the rights and remedies available to the individual.
- The individual must be provided with a copy and any attached amendments.
- Services from a Client Assistance Program (CAP) are available to consumers of vocational rehabilitation services in each state. CAP staff are familiar with federal and state vocational rehabilitation regulations, and can serve as information providers and advocates for those wanting to access vocational rehabilitation services. Vocational rehabilitation counselors must provide consumers with information on the CAP agency serving that consumer's area. This information can also be obtained from an independent living center.

## PART IV

### AIR CARRIER ACCESS ACT

**In 1986, Congress passed the Air Carrier Access Act (ACAA), enabling people with disabilities to receive consistent and nondiscriminatory treatment when travelling by air. The law allows that no air carrier shall discriminate against any otherwise qualified individual with a disability, by reason of disability alone, in the provision of air transportation. This section will highlight some of the important items in this law.**

#### **Aircraft Accessibility**

- New aircraft ordered after April 5, 1990, or delivered after April 5, 1992, must achieve a higher degree of accessibility than those previously in service. Aircraft in service as of April 5, 1990, are not required to be retrofitted, but any aircraft that undergoes replacement of cabin interior elements, lavatories, or seats must meet these requirements.
- Aircraft with 30 or more passenger seats will have movable armrests on at least one half of aisle seats, which will be made available to passengers with mobility impairments.
- Aircraft with 100 or more passenger seats shall have a priority space in the cabin for stowage of at least one folding wheelchair.
- Aircraft with more than one aisle must have at least one accessible lavatory.
- Aircraft with more than 60 passenger seats with an accessible lavatory will carry an on-board wheelchair.
- Aircraft with more than 60 passenger seats will have an on-board wheelchair available on request for access to an inaccessible lavatory.

## **Air Carrier Policies**

- Carrier personnel may not refuse transportation to any passenger with a disability except on the basis of safety, nor may they limit the number of passengers with disabilities on a flight.
- A carrier may require up to 48 hours advance notice and one hour advance check-in ONLY for the following reasons:
  - Transportation for an electric wheelchair on an aircraft with fewer than 60 seats.
  - Provision by the carrier of hazardous materials packaging for a wheelchair battery.
  - Special situations or accommodations (e.g., oxygen, incubator, hook-up for respirator or accommodation for a passenger who must travel by stretcher).
  - Accommodation for a group of ten or more individuals with disabilities travelling as a group (e.g., a sports team).
  - Provision for an on-board wheelchair on an aircraft without an accessible lavatory.
  - Carriers may not require a passenger to travel with an attendant except in very limited circumstances. If the airline requires the use of an attendant despite the individual's objection, it may designate the attendant but cannot charge for his or her transportation.
  - Carriers may not exclude any qualified individual with a disability from any seat except in order to comply with FAA safety regulations.
  - Service animals shall be permitted to accompany the passenger on the flight. If a service animal cannot be accommodated at the passenger's assigned seat, the carrier shall offer to move the passenger to an alternative seat that can accommodate the animal.
  - Carriers shall provide assistance to passengers with disabilities in boarding, deplaning, making flight connections, and transporting between gates.
  - Personnel on aircraft with less than 30 seats that cannot accommodate lifts or boarding chairs are not required to hand carry a passenger onto the plane.
  - Assistance with eating, medical services, or in the bathroom is not required.
  - Passengers using personal ventilators or respirators are permitted to use their own equipment on board the aircraft.
  - Assistive devices may be stored in overhead compartments and under seats consistent with carry-on baggage rules. If a passenger chooses to pre-board and the on-board

stowage area will accommodate a collapsible wheelchair, the passenger's wheelchair may be stored with priority over other passengers' carry-on baggage.

- Wheelchairs and other assistive devices will be checked and returned as close as possible to the door of the aircraft and have priority over other luggage in the baggage compartment.
- Battery-powered wheelchairs shall be accepted as baggage where compartment size permits. Batteries are not to be separated from wheelchairs unless necessary to meet DOT hazardous materials rules. Carriers will provide battery packaging upon request.
- Assistive devices are to be returned to the passenger in the same condition in which they are received. Airlines cannot require an individual to sign a waiver for damage or loss of wheelchair or assistive device, nor can they limit liability to less than twice the liability established for lost or damaged luggage.
- Carriers shall furnish any general information provided within the terminal to passengers with disabilities, including those with vision or hearing impairments. Carriers shall make available on request, information about the ACAA regulations and the accessible features or limitations of the aircraft.
- Carriers shall make available, without charge, a TDD during the same hours telephone service is available to the general public.
- Safety briefings shall be accessible to persons with hearing impairments by means of captioned or signed video presentation where possible.
- Carriers shall provide a private screening upon request unless technology is available that does not necessitate a physical search of the passenger.

## **PART V**

### **MEDICAID WAIVERS**

The information presented in this section is based upon information obtained from the Kansas Department of Social and Rehabilitation Services. Waivers have to be obtained from the federal government by each individual state. When states apply for federal grant money, each state must outline and describe how they will delegate and spend the money among specified target populations. Therefore, the following information is pertinent for the state of Kansas. If you have any questions about any of the described services in a State other than Kansas, contact your local Medicaid agency or the nearest independent living center.

#### **Home and Community - Based Services (HCBS)**

The following section will describe the guidelines for the Home and Community - Based Services (HCBS) waivers and the specific populations they serve. The services may be provided in either a non-institutional (e.g., own home, adult family home, etc.) or institutional (e.g., residential facility) setting and may be either medical and/or non-medical in nature. The HCBS services were developed to reduce the number of individuals mandated to institutional settings due to debilitating circumstances and to provide independence and community access for all individuals with a wide range of disabilities. Services are geared to eligible persons who would otherwise require institutionalization in a nursing facility, hospital, or intermediate care facility for the mentally retarded.

After the individual is assessed and found in need of nursing facility care, chooses to receive HCBS services, and has a plan of care established, then eligibility will be determined under one of the following waivers: Nursing Facility Waiver, Technology-Assisted Children Waiver, Waiver for Individuals with Mental Retardation or Other Developmental Disabilities, Physical Disability Waiver, or Waiver for Individuals with Head Injuries.

### **Nursing Facility Waiver (HCBS/NF)**

- This waiver serves individuals who are elderly or physically disabled who meet the criteria for nursing facility care and are 16 years of age or older.
- Persons who are assessed and found in need of nursing facility care will be offered HCBS services if available and if the plan of care is less expensive than the cost of nursing facility services.
- Designated local social service staffs serve as case managers and must develop and maintain a plan of care to meet the individual's needs.

### **Technology-Assisted Children Waiver (HCBS/TA)**

- This waiver serves children under age 16 who meet the following criteria:
  1. Require the level of care provided in a hospital;
  2. Require substantial and ongoing care by a nurse; and
  3. Are dependent at least part of each day on mechanical ventilators for survival, or require prolonged intravenous administration of nutritional substances or drugs, or need some other medical device to compensate for the loss of a vital body function.
- A Medical/Nursing Functional Assessment form will be completed by the Division of Medical Services to determine eligibility based upon the three criteria described above.
- Ongoing case management will be provided by nurse providers who will be monitored by Medical Services Staff.

### **Waiver for Individuals with Mental Retardation or Other Developmental Disabilities (HCBS/MR)**

- This waiver serves individuals who are five years of age or older and have mental retardation or are otherwise developmentally disabled and who meet the criterion for Intermediate Care Facilities/Mental Retardation (ICF/MR) level of care as determined by screening assessments submitted by recognized Community Mental Retardation Centers (CMRCs) and their affiliates.

- A Plan of Care must be developed by the serving agency in conjunction with the area CMRC and approved by the state social agency.
- Ongoing case management will be provided by the local CMRCs and their affiliates.

### **Physical Disability Waiver**

- This waiver serves individuals between the ages of 16 and 64 who have a physical disability and who need assistance with tasks that cannot be completed independently, such as bathing, grooming, and dressing.
- Services are provided through independent living centers and an independent living counselor works with consumers to develop an annual care plan that meets the consumer's needs and to serve as an advocate.
- The PD Waiver offers a self-directed care option through which consumers may select, hire, train, and supervise attendants, to encourage personal choice of providers and living arrangements.
- Equipment or hardware (e.g., technology assistance devices such as shower grab bars, or environmental modifications such as ramps and lifts) may be substituted for some or all attendant services if proven cost-effective.

### **Waiver for Individuals with Head Injuries (HCBS/HI)**

- This waiver serves individuals who are between the ages of 18 and 55 years old and have a traumatically acquired head injury which has caused structural brain damage resulting in residual deficits and disabilities and who would otherwise require care in a rehabilitation facility.
- Screening assessments developed by the Division of Medical Services must be performed by a qualified individual to determine whether the individual meets criteria as established by the Division of Medical Services.
- Ongoing case management will be provided by independent qualified professionals. The individual being served has the right to terminate the services of the case manager and hire a new one at any time for any reason.

- The case manager is responsible for developing and maintaining the plan of care, and notifying the state agency in any changes in the individuals living arrangements.

## PART VI

### PLANS FOR ACHIEVING SELF-SUPPORT (PASS) WHILE RECEIVING SUPPLEMENTAL SECURITY INCOME

- A PASS is a Social Security work incentive program that lets you set aside money and/or other things you own to help you reach your goal of self-support while you are receiving Supplemental Security Income (SSI). For example, you can set aside money to start a business or to go to school or to get training for a job.
- If you're already getting SSI, having a PASS means you'll be able to keep more of your SSI payment each month. If you don't get SSI because your income or resources are too high, setting up a PASS may help you qualify.
- Under regular SSI rules, your SSI check is reduced by other income you have. But the income you set aside for a PASS **doesn't** reduce your SSI check. This means you can get a higher SSI benefit when you have a PASS. But you can't get more than the maximum SSI benefit for the state where you live.
- Money you save or things you own such as property or equipment that you set aside for a PASS won't count against the resource limit of \$2,000 (or \$3,000 for a couple). Under regular SSI rules, you wouldn't be eligible for SSI if your resources were above \$2,000. But with a PASS, you may set aside some resources so you would become eligible for SSI.
- You are eligible for a PASS if you get SSI (or can qualify for SSI) because of a disability and have or expect to receive income (other than SSI) and or resources to set aside toward a work goal.
- A PASS will pay for just about any expense that will help you reach your work goal. Expenses will be determined by your goal. A PASS will pay for such things as supplies to start a business, tuition, fees, books, and supplies needed for school or training; supported-employment services, including payments for a job coach; attendant care or child care expenses; equipment and tools to do the job; transportation to and from work; and uniforms, special clothing, and safety equipment.
- All plans must be submitted in writing, signed, and dated by the individual, and approved by Social Security. A plan should include
  - ◆ A well-defined work goal.
  - ◆ An estimated amount of time to reach that goal. A plan should not last longer than 3 years, but if your plan involves school or training, it may be as long as 4 years.
  - ◆ A description of tools or items needed to achieve your goal.
  - ◆ An explanation and accounting of the cost of the items needed to achieve your goal.
  - ◆ A proposed savings amount to be set aside each month in order to pay for the items listed.
  - ◆ A plan for keeping the PASS money separate from any other money you may have.

- A PASS may be set up by any individual with help from any outside source (e.g., a vocational rehabilitation counselor, an organization that helps people with disabilities, an employer, a friend or relative) or from personnel at your local Social Security office.
- After a PASS is submitted, Social Security will review the plan to make sure it is complete, decide on appropriateness of the goal, recommend and discuss any needed changes to meet your goal, and send you a letter to tell you of approval or denial.
- If a PASS is denied you have the right to appeal the decision or submit a new plan to Social Security.
- Changes in the PASS must be submitted in writing and approved before the changes are made or put into action.
- If you cannot complete your plan, you may set up a new plan with a new work goal. If you don't set up a new plan, any money or other resources set aside under the original plan **may** begin to count toward the \$2,000 resource limit. Social Security will also begin to count the income you were setting aside under the plan.
- Notify the Social Security office immediately when you discover you will not be able to complete your plan. This will alleviate any repayment of any extra SSI you received while you were following the plan. **Delays in notification may result in you having to make back payments to SSI.**

**Note:** Writing a PASS is complex, and getting it approved by Social Security can be difficult. Consult with your local center for independent living to be sure you have the latest information.

## CHAPTER 6

### *RESOURCES ON DISABILITY AND ADVOCACY*

**American Civil Liberties Union AIDS Project**

132 West 43rd Street  
New York, NY 10036  
(212) 549-2500

**American Council of the Blind**

1115 15th Street NW  
Suite 720  
Washington, DC 20005  
(202) 467-5081 (voice only)  
(800) 424-8666 (Monday-Friday, 3-5:30 EST only)  
NCRABB@access.DIGEX.NET (e-mail)

**American Foundation for the Blind**

15 West 16th Street  
New York, NY 10011  
(212) 502-7600  
(212) 502-7777 (fax)

**Architectural and Transportation Barriers Compliance Board (ATBCB)**

1331 F Street, NW, Suite 1000  
Washington, DC 20004-1111  
(800) USA-ABLE  
(800) 993-2822 (TDD)  
<http://www.access-board.gov> (website)

\*A federal agency charged with developing standards for accessibility in federal facilities, public accommodations, and transportation facilities as required by the Americans with Disabilities Act and other federal laws. Provides technical assistance, sponsors research, and distributes publications. Publishes a quarterly newsletter, "Access America." Free. Publications available in standard print, large print, braille, audiocassette, and computer disk.

**Civil Rights Division**

Office on the Americans with Disabilities Act  
U.S. Department of Justice  
P.O. Box 66118  
Washington, DC 20035-6118  
(800) 514-0301 (voice)  
(800) 514-0383 (TDD)

**Commission on Mental and Physical Disability Law**

American Bar Association  
740 15th Street NW, 9th Floor  
Washington, DC 20005-1009  
(202) 662-1570  
(202) 662-1012 (TTY)  
(202) 662-1032 (FAX)  
cmpdl@abanet.org (e-mail)  
<http://www.abanet.org> (website)

\*Operates a Disability Legal Research Service, which provides searches of databases of laws, legal cases, and recent developments in the field of disability. Provides technical consultations on rights, enforcement, and other issues related to the Americans with Disabilities Act. Fee for service.

**Department of Transportation (DOT)**

400 Seventh Street SW  
Room 10424  
Washington, DC 20590  
(202) 366-9306  
(202) 366-4018 (TDD)  
[http://www.gov.nb.ca/dot/Send Mail.htm](http://www.gov.nb.ca/dot/SendMail.htm) (website)

**Disability Rights Education and Defense Fund (DREDF)**

2212 Sixth Street  
Berkeley, CA 94710  
(510) 644-2555 (voice)  
(510) 644-2626 (TDD)  
(800) 466-4232 (voice and TDD)  
[dredf.org](http://dredf.org) (e-mail)

\*Provides technical assistance, information, and referrals on laws and rights; provides legal representation to people with disabilities in both individual and class action cases; trains law students, parents, and legislators. Publishes "Disability Rights News" monthly, available in standard print and audiocassette. Free. ADA Hotline provides information on the Americans with Disabilities Act.

**Employment Law Center**

1663 Mission Street  
Suite 400  
San Francisco, CA 94103  
(415) 864-8848 (voice only)  
<http://www.afj.org/emplc.html> (website)

**Equal Employment Opportunity Commission (EEOC)**

1801 L Street NW  
Washington, DC 20507  
(800) 669-EEOC  
(800) 800-3302 (TDD)  
[www.eeoc.gov](http://www.eeoc.gov) (website)

\*Responsible for developing regulations and enforcing the employment section of the ADA. Copies of its regulations are available in standard print, large print, braille, computer disk, and on audiocassette. Provides guidance to federal agencies in their affirmative action programs for hiring and promoting people with disabilities and processes complaints filed by individuals.

**Federal Communications Commission (FCC)**

1919 M Street NW  
Washington, DC 20554  
(202) 418-0190  
(202) 418-2555 (TDD)  
[fccinfo@fcc.gov](mailto:fccinfo@fcc.gov) (e-mail)  
<http://www.fcc.gov> (website)

\*Responsible for developing regulations related to telephone relay services and other requirements of the ADA as it applies to telecommunications.

**Internal Revenue Service (IRS)**

(800) 829-1040  
(800) 829-4059 (TTY)  
[telnet fedworld.gov](mailto:telnet.fedworld.gov) (e-mail)  
<http://www.irs.ustreas.gov> (website)

\*The IRS provides technical assistance about tax credits and deductions related to accommodations for disabilities. To request Publication 502, "Medical and Dental Expenses," call (800) 829-3676; (800) 829-4059 (TTY).

**Legal Action Center**

153 Waverly Place  
New York, NY 10014  
(212) 243-1313 (voice only)  
lacinfo@lac.org (e-mail)  
<http://www.busdir.com/legalacio/index.html> (website)

**Legal Action Center**

236 Massachusetts Avenue NE  
Suite 505  
Washington, DC 20002  
(202) 544-5478 (voice only)

**National Alliance of the Mentally Ill**

200 N Glebe Road, Suite 1015  
Arlington, VA 22203-3754  
(703) 524-7600 (voice only)  
(800) 950-6264 (voice)  
(703) 950-6264 (TDD)  
hwinfo@healthy.net (e-mail)

**National Association of Protection and Advocacy Systems**

900 Second Street NE  
Suite 211  
Washington, DC 20002  
(202) 408-9514 (voice)  
(202) 408-9521 (TDD)

**National Association of the Deaf**

814 Thayer Avenue  
Silver Spring, MD 20910-4500  
(301) 587-1788  
(301) 587-1791 (fax)

**National Center of Law and the Deaf**

800 Florida Avenue NE  
Room 326 Ely Center  
Washington, DC 20002  
(202) 651-5373 (voice and TDD)

**National Council on Disability (NCD)**

1331 F Street, NW, 10th Floor  
Washington, DC 20004  
(202) 272-2004  
(202) 272-2074 (TTY)  
(202) 272-2022 (FAX)

<http://www.ncd.gov> (website)

\*An independent federal agency mandated to study and make recommendations about public policy for people with disabilities. Holds regular meetings and hearings in various locations around the country. Publishes newsletter, "Focus," available in standard print, large print, or on audiocassette. Free.

**Legal Action Center**

236 Massachusetts Avenue NE  
Suite 505  
Washington, DC 20002  
(202) 544-5478 (Voice)

**National Council on Independent Living**

1916 Wilson Blvd., Suite 209  
Arlington, VA 22201  
(703) 525-3406 (Voice)  
(703) 525-4153 (TTY)  
(703) 525-3409 (FAX)

**National Federation of the Blind**

1800 Johnson Street  
Baltimore, MD 21230  
(410) 659-9314

**National Head Injury Foundation**

1140 Connecticut Avenue NW  
Suite 812  
Washington, DC 20036  
(202) 296-6443 (voice only)  
(800) 444-6443 (families, consumers, voice only)

**National Mental Health Consumers' Association**

311 South Juniper Street, Room 902  
Philadelphia, PA 19107  
(215) 735-2465 (voice only)  
(215) 735-1273 (TDD)  
(800) 688-4226 (voice only)

**National Mental Health Law Project**

1101 15th Street NW  
Suite 1212  
Washington, DC 20005  
(202) 467-5730 (voice)  
(202) 467-4232 (TDD)

**National Rehabilitation Information Center (NARIC)**

8455 Colesville Road  
Suite 935  
Silver Spring, MD 20910-3319  
(301) 588-9284 (voice and TDD)  
(800) 346-2742 (voice and TDD)  
naric@capaccess.org (e-mail)  
<http://www.naric.com/naric> (website)

\*A federally funded center that responds to telephone and mail inquiries about disabilities and support services. Maintains "REHABDATA," a database with publications and research references. Some NARIC publications are available on the World Wide Web.

**Office of Civil Rights**

Department of Education  
300 C Street, SW  
Washington, DC 20202  
(202) 205-5413  
(800) 358-8247 (TTY)  
(202) 205-9862 (FAX)  
<http://www.ed.gov/offices/OCR> (website)

\*Responsible for enforcing laws and regulations designed to protect the rights of individuals in educational institutions that receive federal financial assistance. Individuals who feel their rights have been violated may file a complaint with one of the ten regional offices located throughout the country.

**Office of Civil Rights**

Department of Health and Human Services (HHS)  
330 Independence Avenue, SW (Cohen Building)  
Washington, DC 20201  
(202) 619-0585  
(202) 863-0101 (TTY)  
(202) 619-3437 (FAX)  
<http://www.os.dhhs.gov/progorg/ocr/ocrhmpg.html> (website)

\*Responsible for enforcing laws and regulations that protect the rights of individuals seeking medical and social services in institutions that receive federal financial assistance. Individuals who feel their rights have been violated may file a complaint with one of the ten regional offices located throughout the country.

**Office of Fair Housing and Equal Opportunity**

Department of Housing and Urban Development (HUD)  
451 7th Street, SW  
Washington, DC 20410  
(800) 669-9777  
(800) 927-9275 (TTY)

\*Enforces the Fair Housing Act and distributes publications that explain the Act and how to file a housing discrimination complaint.

**Paralyzed Veterans of America (PVA)**

801 18th Street NW  
Washington, DC 20006  
(202) 872-1300 (voice only)  
(800) 424-8200 (voice)  
<http://www.va.gov/vso/pva.htm> (website)

\*A membership organization for veterans with spinal cord injury. Advocates and lobbies for the rights of paralyzed veterans and other disabled persons, and sponsors research.

**Public Interest Law Center of Philadelphia**

125 South Ninth Street  
Seventh Floor, Suite 700  
Philadelphia, PA 19107  
(215) 627-7100 (voice only)

**Rehabilitation Services Administration**

U.S. Department of Education  
Mary E. Switzer Building  
330 C Street SW, Room 3028  
Washington, DC 20202-2531  
(202) 205-5482

**Social Security Administration**

Office of Disability  
Altimeyer Building  
6401 Security Boulevard, Room 545  
Baltimore, MD 21235  
(800) 772-1213 (voice)  
(800) 325-0778 (TDD)  
[http://www.ssa.gov/SSA\\_Home.html/](http://www.ssa.gov/SSA_Home.html/) (website)

**Western Law Center for Disability Rights**

919 South Albany Street  
Los Angeles, CA 9001  
(213) 736-1031