APPENDIX

Editor§ note. In June 1993, the Synod of the Christian Reformed Church (CRC) in

North America went on record to "heartily recommend full compliance with

the provisions of the Americans with Disabilities Act (PL lill-336) and its

accompanying regulations in all portions of the CRC located in the US and

Canada."

Synod also accepted "in principle" a January 29, 1993, supplementary report

prepared by the Committee on Disability Concerns (CDC) and instructed

"CDC to review and revise the [report] to reflect the intent [of Synod's recommendation] as a tool in guiding the church and its agencies in implementing the

provisions of the ADA:' Synod also requested that "references to Christian

schools and other non-CRC church agencies" be removed.

The report that follows reflects synods wishes and intent.

TOWARD FULL COMPUANCE WIlli THE PROVISIONS

OFlliE AMERICANS WITH DISABIliTIES ACT

IN THE CHRISTIAN REFORMED CHURCH IN NORTH AMERICA

A Report to Synod 1993

January 29, 1993

Revised

July 12, 1993

The Committee on Disability Concerns

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EXECUTNE SUMMARY

The Committee on Disability Concerns (CDC) is pleased to submit to synod

its report calling for full compliance with the provisions of the Americans with

Disabilities Act (ADA) of 1990 in the Christian Reformed Church (CRC) in

North America. The purpose of the ADA is "to provide a clear and comprehensive mandate for the elimination of discrimination against individuals-with

disabilities" and to provide clear and consistent guidelines as to the IeveJs of

accommodation thatboth the private and public sectors are expected to provide

for people with disabilities in all spheres of public life.

Although the ADA is an American law; the CDC recommends that its

provisions also serve as a framework for the CRC in Canada. Canadian disability rights legislation currently lacks the comprehensiveness of the ADA.

However, the CDC, comprised of both Canadians and Americans, found that

federal and provincial legislation is clearly moving in the direction of the ADA

and includes many of the principles and concepts that govern the ADA.

Churches and religiOUS organizations in the United States are largely, but not

entirely, exempt from the ADA in deference to the historic separation of church

and state in American public life. However, the American wing of the denomination must already comply with Title I of the act, which provides equal

employment opportunities for people with disabilities. While the American

church is largely exempt from most other ADA provisions, the report calls for

full compliance with the provisions of the ADA in the life of the church,

particularly ADA!; Title III, which addresses issues of architectural and program

accessibility.

Thus, if implemented, the ADA!; provisions would serve as a framework in

which the denomination would meet its obligations to members, worshipers,

and others with disabilities. The ADA would also provide the standard by

which people with disabilities could establish their need for accommodations;

CDC has determined that the u.s. church's partial exemption from the ADA

did not make the act any less relevant to the life of the church. The report notes

that "the principles and values that gave rise to the ADA are in accord with the

principles and values that spring from the church's own faith commitment and

belief system." The report observes that the church should not be held to a lower

standard of accommodation than that of the secular world.

If adopted by synod, the ADA framework would become effective in the

CRC over a two- to four-year period except for the ADA!; employment provisions, which are already applicable under federal law in the United States. The

ADA!; privisions would become applicable to all CRC congregations, agencies,

and facilities and to all programs supported by denominational ministry shares.

The CDC found that, while the act is not clear in all instances, "the ADA is

generally straightforward, internally consistent, flexible, and quite forgiving to

those entities that would face 'undue hardship' in attempting to comply with

the act." It is neither a "quota act" nor is it "affirmative action." Persons with

disabilities who promoted the act did not want to be perceived as less qualified

or less worthy because of a quota or because they were given special consideration. They simply wanted the same opportunity to participate, to compete, and

to contribute.

The report recommends several steps to facilitate smooth and timely

compliance with provisions of the ADA in the CRe. These steps include an

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education program, the formation of an interagency implementation task force,

agency and local church self-evaluation, the provision of technical assistance,

financial assistance for small churches, and the development of guidelines when

the law does not adequately address those issues that may be idiosyncratic to

theCRe.

The report also anticipates tha,t there may be times when disputes arise. The

report encourages that these disputes be resolved through negotiation, arbitra·

tion, and the existing grievance procedures of CRC agencies and organizations.

When such mechanisms do not suffice, the report recommends that the CRC'f;

Judicial Code (Article 30(c)) be used as a last resort.

Finally; the report recommends that CDC monitor compliance with the

provisions of the ADA in the CRe. The CDC is to prepare an interim report to

Synod 1995 and a final report to Synod 1996 on progress related to the compliance with the ADA!; provisions.

Full compliance with the provisions of the ADA in the CRC enables the

church to tie into a set of accessibility standards that have developed over many

years and are widely underst.ood within the disability community and among

professional groups such as architects and human-resource professionals. CDC

views the compliance with the ADA!; provisions as an opportunity to advance

significantly synod!; 1987 mandate to CDC calling for the elimination of "those

barriers which hinder the full participation of persons who have disabilities in

the life of the church .... "

ACKNOWLEDGMENTS

The Committee on Disability Concerns and its Subcommittee on the ADA

wish to thank all those in the CRC who provided careful review and detailed

comments. In addition, the committee wishes to acknowledge those from

outside the CRC who also reviewed this report. In particular, the committee

acknowledges Ms. Ginny Thornburgh, director of the National Organization on

Disability!; Religion and Disability Program in Washington, o.c. Mr. Andrew

Batavia, formerly White House Fellow in the Office of the Attorney General, U.S.

Department of Justice; and Ms. Carolyn Gray; an attorney with the firm of

Epstein, Becker, and Green, of Washington, o.c. The views expressed in this

document do not necessarily reflect the views of these individuals or the views

of the organization they represent.

Committee on Disability Concerns

Subcommittee on the ADA

Gerben Dejong, Chairperson

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January 2~ 1993

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TOWARD FULL COMPLIANCE WITH PROVISIONS

OF THE ADA IN THE CRC

This report calls for full compliance with provisions of the Americans with

Disabilities Act (ADA) of 1990 (PL 101-336) in the Christian Reformed Church

(CRC). The ADA is the most comprehensive national disability-rights legislation

of its kind in North America today.

This report summarizes the principles and concepts underlying the ADA,

notes the requirements of the law and their possible implications for the CRC,

outlines steps for compliance with provisions of thelaw in the CRC, proposes a

timetablef notes the ecclesiastical procedures for appropriate resolution of

potential disputes, and proposes ways of monitoring CRC progress in complying with the ADM> provisions.

The report proposes that provisions of the ADA serve as a guide for the CRC

in both Canada and the United States until similar comprehensive legislation

becomes available in Canada. At this time, comparable legislation in Canada

exists in a much more fragmented form at both the federal and provincial levels.

BACKGROUND

The ADA was signed into law by the President of the United States on July

26, 1990. The ADA represents a new chapter in American public policy regarding the status and well-being of people with disabilities. The act provides that

people with disabilities will be afforded equal opportunity and access to

employment, state and local government services, transportation, communication services, and to all public accommodations such as stores, restaurants,

hotels, and health-care facilities.

The principles and concepts that motivated the ADA will also be used in

coming years as the standard by which American society measures all programs, policies, and services directed to people with disabilities (Dejong and

Batavia, 1990a & 1990b). Thus, the ADA!; impact is likely to be pervasive and will

materially redefine the role of people with disabilities in American society.

ADA as a Model for Other Nations

Many other nations are looking to the ADA as a potential model for their

own disability-rights legislation. At the present time, Canada does not have

comparable detailed disability-rights legislation at the national level.' However,

Canada or its individual provinces aTe expected to adopt comprehensive

disability-rights legislation comparable to the ADA (Black, 1992). In June 1992,

the Canadian Parliament took a step in this direction when it adopted Bill C-78,

an omnibus act amending several pieces of existing legislation affecting the

lives of disabled people in areas such as elections, transportation, and immigration policy. Further legislation at the federal level is anticipated. In Ontario, for

lUnlike the US. Constitution, the Canadian Charter of Rights and Freedoms adopted in

1982 does recognize people with disabilities (§15(2)) as a protected class and requires that the

federal government take positive steps to assure the rights of people with disabilities. Moreoveli

in Canada, more of the responsibility for the well-being of individual citizens is delegated to

provincial governments. Accordingly, one cannot ignore the potential role of individual

provinces in spelling out the rights of people with disabilities.

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example, disability-rights supporters are advocating an Ontarians with

Disabilities Act modeled after the ADA.'

The applicability of the ADA to Canada proved to be a vexing issuefor CDC.

The committees chairperson and one-third of CDCs members are Canadian.

On the one hand, CDC wanted to be sensitive to the separate political \dentity

which Canadian churches bring to the denomination. Also, CDC wanted to

recognize the different approaches that Canada has taken to major social-policy

issues.' On the other hand, the committee believes that the CRC is one church,

undivided by national boundaries. Moreover, as noted above, Canadian

legislation at both the federal and provincial level is moving in the direction of

the ADA. Finally, the principles and concepts that define the ADA are generalizable to other Western cultures such as Canada that value human freedoms,

equal opportunity, and societal ac;commodation.

ADA's Exemption for Religious Organizations

Except for Title I, its employment provisions, the ADA specifically exempts

religious organizations from its purview in deference to the American constitutional separation of church and state. Because this exemption hinges on a legal,

not a moral, question, CDC feels that the CRC should give full consideration to

the ADA and its implications for the life and governance of the church at both

the local and denominational levels. While the CRC in the U.S. may be legally

exempt from most of the acts provisions, the principles and values that gave rise

to the ADA are in accord with the principles and values that spring from the

church's own faith commitment and belief system.

ADA and the Church's Faith Commitment

Complying with the appropriate provisions of the ADA as a framework for

the conduct of the church's own affairs with respect to people with disabilities is

very much in keeping with synods 1985 Resolution on Disabilities and with

synods 1987 enlarged mandate to CDC calling for the elimination of "those

barriers which hinder the full participation of persons who have disabilities in

the life ofthe church ... :'

The motivation to include people with disabilities has its roots in Scripture,

where one can observe a noticeable progression in how people with disabilities

are viewed: from a protected group at the margins of society in the Old

Testament to the center of Gods kingdom in the New Testament. In the Old

Testament, diseases and "defects" were symbols of spiritual problems and

disqualified people from participating in some religious rites. However, the

nation of Israel adopted special laws that protected disadvantaged and disabled

2As of this writing, an equal-rights bill, Bill C -79, is pending in the Ontario Parliament.

People with disabilities are one of the groups recognized in the proposed legislation.

3For example, the ADA reflects the long-standing American commitment to individual

betterment and individual civil rights while Canadian social policy has emphasized principles

of social justice. As a result, Canadian social policy is inherently more redistributive as

reflected, for example, in higher levels of funding for income and health-care benefits for its

citizens with disabilities. Nonetheless, leaders in the Canadian disability-rights movement see

ADA-type legislation as an important complement to existing programs directed to the wellbeing of Canadians with disabilities.

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people by prohibiting their mistreatment and by providing for their basic needs

through tithing, gleaning, emancipation, and inheritance.

In the New Testament, disadvantaged and disabled people were central in

Jesus' ministry:

The spirit of the Lord is on me; therefore he has anointed me to preach good news

to the poor. He has sent me to proclaim freedom for the prisoners and recovery of

sight for the blind, to release the oppressed . .. . Today this scripture is fulfilled in

your hearing (Luke 4:18-21),

Likewise, when John the Baptist asked from prison, 'i\re you the one who was

to come, or should we expect someone else" (Luke 7:19)? Jesus answered:

Go back and report to John what you have seen and heard: the blind receive Sight,

the lame walk, those who have leprosy are cured, and the deaf hear, the dead are

raised and the good news is preached to the poor.

(Luke 7:22-23)

These words of Jesus, and many others like them throughout the entire New

Testament, make it plain that people with diseases, disabilities, and disadvantages are not only included in, but are at the center of, his kingdom. Those who

want to serve in his kingdom must concur with him in his purpose to incorporate people with disabilities into his kingdom service

In adopting the 1985 resolution, synod specifically noted that people with

disabilities are also a part of Gods covenant community and that the inclusion

of people with disabilities is in accord with the vision of I Corinthians 12, in

which all persons in the covenant community are deemed members of one

interdependent body.'

This vision of the covenant church community is reflected in the many

efforts of the CRC to address the needs of persons with disabilities. Historically;

the CRC community has helped to build one of the finest networks of private

agencies and institutions in North America to address the needs of people with

disabilities. This is reflected in CRCE long-standing support of outstanding

organizations such as Pine Rest Hospital, Elim Christian School, the Eastern

ChildrenE Retreat, and other institutions directed to the well-being of people

with disabilities. However, with the creation of CDC in the mid 1980s, the CRC

signaled that its vision of the covenant community was incomplete and that it

was time to mainstream people with disabilities into the everyday life of the

church. This enlarged vision was also reflected in the development of the wellreceived Friendship Series, a Christian education curriculum directed to

persons with intellectual impairments.

Progress has also been made at the local level. Based on self-report data from

the annual CRC survey reported in Yearbook 1992, 538 or 57 percent of the CRCE

944 congregations report that they are "fully accessible" and another 196 or 21

percent report that they are "partially accessible," meaning that some areas are

accessible and that persons with mobility impairments are urged to call before

coming. See Table 1 and Figure 1. It is not always easy for individual congregations to make an adequate self-assessment of these matters. For example, CDC

has been advised of instances where churches report that they are fully accessi4The apostle Pauls use of the human body as a metaphor for the interdependent character

of the Christian community has special irony for disabled persons, who experience one or

more limitations in various parts of the mind or body.

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ble though they are carrying wheelchair-using members up stairs.' Despite the

progress already made, the CRC has a long way to go if it is to meet the expectations set by its own synodical resolutions.

By choosing to comply with proviSions of the ADA the CRC will demonstrate

its convictions not only about disabilities but also about society and government. By its voluntary compliance with appropriate provisions of this law, the

CRC will indicate that it regards all legitimate government as being from God

and for the good of all society. It will also indicate that it regards itself as a

responsible participant in society, that is, as being in the world even though not

of the world. If the CRC willingly applies to itself the same standards it proclaims and supports for the rest of society; it will powerfully reinforce its

message about the supreme worth of all Gods imagebearers, no matter how

disabled, and about the full range of privileges and responsibilities all of them

have in his covenant community.

Societal Consensus

Finally, it should be noted that the passage of the ADA in the US. Congress

reflected a high level of consensus about the rights of disabled people in

American society. In the US. Senate the vote was 91-6 and in the US. House of

TABLEl

Degree of Accessibility in the CRC

by Size of Congregationl

Degree Size of Congregation (in families)

of Total

Accessibility 550 51-100 101·150 151-200 ~ 201 (N~944)

(N~386) (N~261) (N~163) (N~96) (N~38)

Fully

accessible 44% 60% 67% 74% 84% 57%

Partially

accessible 21 20 23 23 13 21

Inaccessible 35 20 10 3 3 22

Total 100 100 100 100 100 100

IIncludes both organized (N =852) and emerging (N =92) congregations. Almost all emerging congregations

are in the smallest family-size category (:s: 50 families).

Source: Self-report data as reported in the 1992 CRC Yearbook. Data for table

compiled by Barbara Heerspink.

5People who use wheelchairs find it most unacceptable to be carried up or down stairs or

anywhere else. Moreover, many who assist in such practices are often unfamiliar with the

risks to the wheelchair user, to themselves, and to the wheelchair itself.

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FIGURE 1

Degree of Accesssibility in CRC

by Size of Congregation (in Families)

~ 50 51-100 101-150 151-200

Number of Families

O!: 201

ffiJ Fully Ace .• Partially Ace .• Inaccessible

Source: Table 1

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Representatives it was 337-28.6 A similar consensus is emerging in Canada and

other Western societies. Should the CRC fail to accommodate people with

disabilities as effectively as the surrounding society, it risks sending a powerful

signal to persons with disabilities and to society at large that the church is not

fully prepared to do what the larger society must do. This would be unfortunate

given that these provisions are in accord with many of the values that motivate

the CRC); commitment to church life and human-rights issues.

RECOMMENDATION

CDC requests that synod heartily recommend full complianoe with the

provisions of the ADA (PL 101-336) and its accompanying regulations in all

portions of the CRC located in the US and Canada. As comprehensive disability-rights legislation is adopted in Canada, local CRC congregations and

facilities in Canada should be guided by such national and provincial disabiIityrights laws. It is the hope of this report that ADA provisions will serve as a basic

standard for the entire CRC of North America.

CDC recognizes that local CRC churches and congregations enjoy considerable freedom in organizing and managing their own affairs. It is not the intent

of this report that the ADA provisions and regulations be applied without

regard to local circumstances and needs. Instead, it is the intent of this report

that the ADAS provisions should serve as a framework in which church agencies

and local congregations can meet their obligations to people with disabilities

and as a framework in which individual church members and others with

disabilities can establish their need for accommodation.

Applicability of the Recommended Provisions

This recommendation is applicable to all CRC congregations, agencies,

facilities and all programs supported in whole or in part by denominational

ministry shares.' They are also appropriate to facilities and programs owned,

operated, or directly controlled by CRC congregations and agencies.

~ome have sought to undermine this consensus by arguing that organizations face large

costs in hiring people with disabilities, in making their facilities accessible, and in litigating

"frivolous" and expensive law suits springing from the act. These claims are put forth by

some organizations in the business of providing ADA compliance training to human~

resource managers, corporate attorneys, and others. These claims sometimes appear in their

marketing brochures to induce companies to cough up large sums for seminar registration

fees and training materials, some of which are free from the federal government.

CDC has examined the ADA at great length. The committee finds that the ADA is

straightfol"W"ard, internally consistent, flexible, and quite forgiving to those entities that would

face "undue hardship" in attempting to comply with the act. While the size of the federal

regulations implementing the ADA may appear intimidating at first glance, they too are

remarkable in tenns of their consistency and flexibility. Many of the regulations are-in the

form of guidelines.

?'fhis indudes Calvin College and Calvin Seminary. However, since Calvin College is a

recipient of federal funds, it must already comply with the requirements of Section 504 of the

1973 Rehabilitation Act, a precursor to the ADA. Accordingly, this policy should also apply to

Calvin College except in those instances where the policy may deviate from federal law. For

example, the timetable for implementation of the ADA in the CRC lags behind the original

ADA timetable by two to three years. Howevet:. Calvin College is required to comply with the

original timetable spedfied under law.

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CRC facilities and programs located outside the U.S. and Canada should be

guided by the disability-rights legislation, if any, in their host countries. In the

absence of substantial disability-rights legislation in the host country, CRC

facilities and programs should be guided, to the extent feasible, by ADA

provisions and regulations, taking into account local conditions and customs.

GROUNDS

1. Though American churches and religious organizations are largely exempt

from the requirements of the ADA in keeping with the American tradition of

separation of church and state, the principles underlying the ADA and the

regulations implementing the ADA are as appropriate to the organized

church as to the rest of society given the church's historic commitment to

nondiscrimination, integration, and inclusivity. Since the CRes commitment

to these values stems from a higher authority, its willingness to comply with

the ADA provisions should be greater than that of the secular world.

2. This recommended full compliance is in harmony with the historic Christian

faith, which views all people, disabled and nondisabled alike, as imagebearers of God and views the church as a covenant community of persons

with mutual obligations toward one another. Moreover, this compliance is in

accord with the biblical charge to share the Good News with all people. The

church cannot fulfill its biblical mandates without making itself architecturally, intellectually, and programmatically accessible. Moreover, Scripture is

replete with examples, concepts, and metaphors that speak to our need to

break down barriers and incorporate people with disabilities into the life of

the church. To be effective, the church must also find ways in which it can

function and have meaning in the lives of people with disabilities.

3. The ADA and its accompanying regulations offer a set of national standards

that will greatly facilitate making all institutions in our respective societies

more accessible. By following these standards, the CRC will be using

standards and criteria, in areas such as employment and architecture, that

have been carefully crafted and are becoming operational in the secular

world. The church will be wise to guide itself by these regulations in

furthering its goal to make church life more accessible to people with

disabilities.

4. Full compliance with the provisions of the ADA is in accord with earlier

synodical statements and resolutions in 1985, 1986, and 1987 about the need

for the church to respond to the needs and concerns of people with disabilities. These statements preceded the passage of the ADA in 1990 and thus did

not take the ADA into account. Nevertheless, the provisions of the ADA will

help the CRC implement synods 1985 Resolution on Disabilities.

5. Despite great strides made by many churches in recent years, many local

CRC churches still remain inaccessible - architecturally, programmatically,

or attitudinally - to persons with disabilities. Some churches and agencies

consider themselves fully accessible but are really only marginally accessible

or not accessible at all upon closer examination. Recommending compliance

with these provisions will help churches become better informed and more

accessible.

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6. There is a high level of societal consensus about disability rights in the

United States as reflected by the overwhelming bipartisan support for the

ADA in the U.S. Congress, its enthusiastic embrace by the President, and

vigorous implementation by the U.S. government. A similar consensus is

emerging in Canada, as reflected in its Charter of Rights and Freedoms and

by proposed legislation. The church is in fundamental harmony with this

consensus because the principles underlying such disability-rights legislation are congruent with the church's own values and commitments.

7. Many people with disabilities in our respective nations remain unchurched.

An accessible church, in the full sense of the term, will project a powerful

message that people with disabilities have an integral place in the Body of

Christ and in his kingdom. Full compliance with ADA provisions will

strengthen the church's outreach efforts to those who have traditionally been

excluded, or made to feel excluded, from organized religion.

PRINCIPLES, CONCEPTS, AND STANDARDS UNDERGIRDING THE ADA

The ADA does not anticipate every possible contingency, and, since churches

are exempted as public accommodations, the ADA overlooks factors that are

idiosyncratic to churches both as buildings and as institutions. HoweverI the

church in complying with this recommendation can adapt ADA provisions to

its own life by using one or more of the five main principles or concepts that aTe

either explicit or implicit in the ADA:

1. Person primary, disability secondary

This principle means that we consider the individual person as primary

and the disability as only secondary.

2. Equal opportunity

This principle means that we structure our communal life in a way that

allows people with disabilities to have the same choices other people have for

personal development, economic well-being, independent living, and

participation in institutions of their choice. In the church persons with

disabilities should have the same opportunities for spiritual growth and

development as persons without disabilities.

3. Nondiscrimination, integration, and inclusivity

This principle means that we do not discriminate on the basis of impairment or disability, that we integrate people with disabilities into the mainstream of our cornrnunallife, and that we view people with disabilities as

integral to the well-being of our respective communities and organizations,s

4, Accessibility and barrier-free environment

This principle means that we make the building, environment, and our

programs barrier free and accessible. It means that we make the architectural

and organizational infrastructures that undergird our communal life

inclusive.

8Thls principle is also embraced in Canadian legislation. See for example, the Ontario

Human Rights Code and similar legislation in other provinces.

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5. Reasonable accommodation

This principle requires that an employer, provider, or organization makes

accommodations in a timely fashion within the scope of existing resources.

In the ADA, reasonable accommodation is more than a guiding principle but

is also a specific legal standard used in Title I, the acts employment-related

provisions, to define an employers obligation to a job applicant or an employee

with a disability. In Title I, the principle of reasonable accommodation is

operationalized through the derivative concept of "undue hardship;' which is

defined as "an action requiring significant difficulty or expense" (§lm(lO)(a)).

This concept recognizes that there may be a limit beyond which the cost of

accommodation may significantly exceed the anticipated benefit and may result

in economic distress for a given organization. See Chart 1.9

Very closely related to the terms "reasonable accommodation" and "undue

hardship" are the terms "reasonable modification" and "undue burden." These

tenns are used in the ADA to outline the level of accommodation expected of

state and local governments in Title II and the level of accommodation expected

of private entities that provide public accommodations in Title III. "Reasonable

modification" is also operationalized by the notion of "fundamental alteration."

A public or private entity is not required to make changes in policies, procedures, or practices that "would fundamentally alter" the primary purpose of the

program or the nature of the goods or services being rendered.

The U.S. Congress decided that private entities would be subject to a lower

standard of accommodation under Title III when removing barriers in existing

facilities. Such barriers must be removed if doing so would be "readily achievable:' The term "readily achievable" refers to those accommodations that are

"easily accomplishable and able to be carried out without much difficulty and

expense" (§301(9)).

In short, at the risk of some overSimplification, the ADA provides essentially

two levels of accommodation. The first level is the reasonable accommodation

or modification standard as operationalized through concepts such as undue

hardship, undue burden, and fundamental alteration. The second level is the

readily achievable standard. See Chart l'

The ADA also recognizes that what constitutes a reasonable accommodation

(or modification) or is readily achievable will depend on the size and resources

of the affected organization that is expected to make the accommodation.

Generally speaking, larger organizations with a larger resource base are

expected to do more. In short, these standards are somewhat elastic and may

vary somewhat with the circumstances of each organization. Moreover, they are

likely to vary over time and become more defined as various disputes are

resolved in our respective legal systems.

The principle of reasonable accommodation and its corollary concepts

recognize that there are costs in making existing structures and organizations

accessible to employees, patrons, customers, clients, and the general public. The

principle recognizes that as a society we sometimes have to make difficult

choices when weighing benefits and costs.

"The Ontario Human Rights Code also uses the same or similar concepts and terms such

as "reasonable reqUirement" and "undue hardship."

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Accommodation

Standard

Level I

Reasonable

accommodation

Chart 1

Standards of Accommodation Required Under the AOA

Definition or Source Applicability

undue hardship ", .. an action requiring slgnlfi- Title I

Reasonable

modification

undue burden;

undue financial

and administrative burden

fundamental

alteration to

policies. practices, or procedures

Levell!

Readily achievable

cant difficulty or expense when Employment

considered in the light of factors

set forth ...• below.

(§101 (10)(a)(b))

Analogous to undue hardship.

28 CFR§35.150

Modification required unless it "would

fundamentally alter the nature of such

goals, services. facilities, privileges,

advantages, or accommodations."

(§302(b)(2)(A)Q;)(m)

"easily accomplishable and able to be

carried out without much difficulty

or expense. In determining whether

an action is readily achievable,

factors to be considered ... " are

outlined below. (§301 (4))

Title I!

State &. Local Gov't

Title II

State & Local Gov't

and

Title III

Public accommodatIons

Title III

Public accommodations

(barrier removal In

existing facilities)

Factors to be considered in determining whether an accommodation constitutes an

"undue hardship" or Is "readily achievable":

1. "the nature and cost of the accommodation needed under this Act;

2. 'he overall financial resources of the facility or facilities involved In the provision of the

reasonable accommodation; the number of persons employed at such facility; the effect

on expenses and resources, or the impact othelWise of such accommodation upon the

operation of the facility;

3. "the overall financial resources of the covered entity; the overall size of the business of a

covered entity with respect to the number of its employees; the number, type, and

location of Its facilities; and

4. "the type of operation or operations of the covered entity, including the composition,

structure, and functions of the Workforce of such entity; the geographic separateness,

administrative, or fiscal relationship of the facility or facilities in question to the covered

entity."

Source: §101(10)(b) and §301(9)(A)(B)(C)(D)

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Claims of "undue hardship" and "not readily achievable" should not be

made frivolously as excuses to avoid making needed accommodations. It should

be noted that concepts such as IIreasonable accommodation" and "readily

achievable" shift the burden of proof from the person with a disability to the

employer, provider, or organization to show that a particular accommodation is

unusually burdensome or not readily achievable and beyond its resources,

including the resources of a parent organization.

ADAPTING ADA PROVISIONS TO THE CRC

The ADA consists of five titles:

Title I

Title II

Title III

Title IV

Title V

Employment

Public services rendered by state and local government and public

transportation

Accommodations and services rendered to the public by private

entities

Telecommunications

Miscellaneous

As noted earlier, Title I is already applicable to churches and church agencies.

Title II applies to public agencies at the state and local level and to public

transportation and has legal application to American eRe facilities only to the

extent to which CRe facilities are used to render publicly funded services such

as day-care services. Title III has no legal application to the eRe, but its provisions are the most relevant since churches are akin to organizations providing

public accommodations. Title IV applies mainly to the telecommunications

industry such as telephone companies. Title V includes several provisions

related to the implementation of the ADA, and some of these can serve as a

model for the CRe in its compliance with the ADM provisions.

Title I Employment

Title I of the ADA provides for equal opportunity of employment for qualified persons with disabilities. If necessary, an employer shall make "reasonable

accommodation" for an employee with a disability unless it should cause

"undue hardship" for the employer (see earlier discussion on PRINCIPLES,

CONCEPTS, AND SThNDARDS UNDERGIRDING THE ADA) or be a direct

threat to the individual or to others. Title I also prescribes the terms under

which an employer may inquire about the severity of a prospective employees

disability, excludes persons who engage in the illegal use of drugs, and describes

the process for making reasonable accommodation.

Title I becomes effective in two stages. Starting July 26, 1992, Title I applies to

all organizations with twenty-five or more employees. On July 26, 1994, Title I

coverage threshold will drop, and Title I will apply to all organizations with

fifteen or more employees.

Unlike other portions of the ADA, Title I does apply to religious organizations.

Thus, Title I of the ADA is already applicable to the eRe in the U.S. The ADA

does allow a religious organization to give preference in employment to

individuals of a particular religion and "may require that all applicants and

employees conform to the religious tenets of such organization" (§I03(c)).

uHowever, a religious entity may not discriminate against a qualified individCommittee on Disability Concerns Appendix 395

ual, who satisfies the permitted religious criteria, because of his or her disability" (29 CFR §163U16 (a)).

CDC wishes to highlight three issues with respect to CRC compliance with

Title I and adaptation of its provisions: (1) the size of the employing organization; (2) the nomination, election, and appointment of persons to church offices,

teaching positions, leadership positions, and other unpaid positions; and (3) the

timetable for implementation.

Size

As ofJuly 26,1994, Title I will apply to employers with fifteen or more

employees. Some denominational agencies in the U.S. have fifteen or more

employees and thus do fall within the thresholds established by Title I. See

Chart 2. Clearly, most local congregations have fewer than fifteen employees

and are therefore beyond the intended scope of Title I. This is not because they

are religious entities but because as employers they are too small.

While most local churches are outside the thresholds set by Title i, CDC

recommends that, in keeping with the spirit of full compliance, local churches

identify, recruit, and hire persons with disabilities when employment opportunities become available.

Volunteers, Unpaid Leaders, and Others

Much of a churchs activity and governance is conducted by volunteers,

unpaid leaders, and persons who receive compensation for their services in a

capacity other than as an employee. While Title I does not address volunteers

and unpaid leaders, CDC recommends that churches and church agencies

identify, recruit, nominate or appoint qualified members with disabilities to

leadership and volunteer positions at the local, classical, and denominational

levels using the same "reasonable-accommodation" and "undue-hardship"

standards that would apply in the case of paid employment.

Timetable

As noted above, the timetable for implementation of the ADM; employment

provisions is spelled out in the act. This applies to larger CRC entities in the US.

(See Chart 2.) In the interest of developing a more uniform set of employment

policies within CRC agencies in both Canada and the US., CDC recommends

(as suggested by the CRC executive director of ministries) that the implementation dates in Canada and the US be concurrent and that agencies in Canada

begin on July 26, 1994, with the fifteen-or-more employee threshold that

becomes effective in the US. on that date.

With respect to positions filled by persons serving in volunteer, unpaid, or

another nonemployee capacity, CDC proposes January 26, 1995, as the target

date for full compliance with the spirit of Title i in all churches and churchsupported organizations in both the US. and Canada.

Title II Public Services

This title applies mainly to state and local government and to public transportation and thus would appear to be beyond the concern of religious organizations. However, if a church facility provides a service, such as day-care or a

senior-citizen service program paid with public funds, it does corne under TitIe

"of the ADA and must meet the "undue burden" standard of accommodation.

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Tifle III Public Accommodations

This title prohibits discrimination on the part of private organizations that

provide services or accommodations to the public. It covers entities such as

transportation companies; lodging facilities; restaurants; public gathering places

such as auditoriums and stadiums; retail stores; entities providing services such

as banking, hair care, laundry, legal, and health care services; museums;

libmriesj parks; zoos; schools; social-service organizations; and places of

recreation. Title III exempts n, •• religious organizations or entities controlled by

religious organizations, including places of worship" (§307).

Despite this exemption of religious organizations, CDC believes that significant portions of Title III remain very relevant to churches and church-related

organizations and requests that synod recommend full compliance with its

provisions. Like the entities enumerated above, churches and church-related

organizations are public gathering places, provide health and social services,

and operate or support schools and places of recreation.

Title III defines discrimination to include the outright denial of participation;

participation which results in unequal benefit; and participation which is

different, separate, or not integrated unless there are compelling reasons to the

contrary.

Title III calls for the removal of architectural barriers if "readily achievable"

(see earlier discussion and Chart 1). Federal regulations implementing Title III

are accompanied by a series of graphically illustrated accessibility guidelines.

Chart 2

Effective Dates for Full Compliance

Within the Provisions of the ADA

ADA Provision or Effective Dates in ADA Proposed Effective Dates for CAC

Proposed CAC Policy

Title I Employment

Employers :<!; 25 employees July 26, 1992 July 26, 1992

Employers:<!; 15 employees July 26, 1994 July 26, 1994

Persons In volunteer or July 26, 1995

unpaid positions

Title II Public Service January 26, 1992 January 26. 1992 (not Canada)

Title III Public Accommodations January 26, 1992 January 26, 1995

Title IV Telecommunications July 26, 1993 July 26, 1996

Proposed Self-evaluations by ---- January 26, 1995

CAC agencies and churches

CDC interim report to Synod ------ June 1995

CDC final report to Synod .\_- June 1996

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These guidelines are based in large part on the time-honored guidelines

developed by the American National Standards Institute (ANSI)." Requirements with respect to barrier removal depend on whether the physical structure

is new construction, a major renovation, or an existing structure.

Title III also calls for the provision of auxiliary aids and services t~ accommodate persons with hearing, vision, or speech impairments. Examples of auxiliary aids and services include qualified interpreters and readers, computeraided transcription services, assistive listening headsets, television captioning

and decoders, open and closed captioning, telecommunication devices for deaf

persons (commonly known as TDDs),u video text displays, audio recordings,

brailled materials, and large-print materials (28 CFR §36.303). An auxiliary aid

or service is to be provided unless it fundamentally alters the nature of the good

or services being provided or results in an "undue burden" (see earlier discussion and Chart 1).

CDC wishes to highlight three issues with respect to the adaptation of Title

III to the CRC: (1) size of the affected organization and (2) accommodations for

people with hearing impairments (telecommunications), and (3) the timetable

for implementation.

Size

The ADA notes that the size of the affeeled organization is material to the

expectations of what is readily achievable (§301(9)). U Similarljl in the case of

churches, larger congregations and agencies are likely to have more members

with disabilities or are likely to serve more persons with disabilities. They are

also likely to have a larger resource base from which to make accommodations.

Accordingljl CDC recommends that more should be expected of larger congregations and agencies. However, smaller churches should comply with the

provisions of the ADA as best they can.

Telecommunications

Telecommunications, particularly those that meet the needs of people with

hearing impairments, are addressed in both Titles III and IV. Title IV requires

the telecommunications industry to provide, throughout its service area,

telecommunication relay services that will enable people with speech and

hearing impairments who use TDDs to relay their messages by voice, with the

assistance of a relay operator, to their intended recipients. Title IV provides a

three-year period for the implementation of this requirement.

Title IV is aimed at the telecommunications industry, not at entities such as

hotels, stores, theaters, banks, physician offices, or their functional equivalents,

such as churches. Earlier versions of the act required that such entities use

JOIn Canada, the National Building Code is the basis for architectural standards. Provincial

and mUnicipal reqUirements are loosely based on this building code. In Ontario, for example,

architectural acceSSibility is addressed in §3.7 of the Building Code.

n A TOO is a device with a keyboard that allows a person with a hearing or speech

impairment to send and receive written messages using conventional telephone lines.

9>rior to its passage of the ADA, the U.S. Congress carefully took into account the

concerns of the small~business community, which had expressed numerous concerns about

the reqUirements of the act. In response, Congress crafted a number of reqUirements to take

into account the needs and concerns of small businesses (Burgdorff, 1991).

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roDs to facilitate communication; earlier versions did not require relay

services. The abandonment of the TDD requirement and its replacement with

the relay-service requirement was a concession to small businesses, which

considered the costs of TDDs too burdensome even though TDDs are relatively

inexpensive.13

Partly because of the availability of telecommunication relay services under

Title IV, Title III regulations (28 CFR§36.303(d)(2)) do not require an organization that provides a public accommodation also to provide roD services unJ,ess

it offers its' customers, clients, patients, or participants the opportunity to make

outgoing telephone calls on more than an incidental basis. According to the U.S.

Department of Justice in its accompanying analysis of the regulations, this

means that places such as retail stores, physician offices, and. restaurants are not

reqUired to have TDDs since communication is facilitated tluough relay services

authorized under Title IV. Places of lodging such as hotels and hospitals that

ordinarily provide "nondisabled individuals the opportunity to make outgoing

calls on more than an incidental convenience basis, must provide a TDD on

request" (U.s. Department of Justice, 1990:35567).

A church typically does not provide telephone services to members on more

than an incidental convenience basis. Nonetheless, if the church is to communicate effectively with people who have significant hearing or speech impairments, it will not be able to rely entirely on relay services, which can have

significant limitations." Accordingly, CDC recommends that larger church

agencies and larger churches, those with more than one hundred families,

install TDDs, as they would facsimile machines or modems, as part of their

everyday telecommunication capacity..15

Timetable

Title III became effective on January 26, 1992, eighteen months following the

enactment of the ADA. For purposes of CRC compliance, CDC recommends

that churches and agencies try to have these provisions in effect by January 26,

1995, approximately eighteen months following synod's action on this report.

TiUe IV Telecommunications

As noted in the discussion of telecommunications under Title III, Title IV is

largely aimed at the telecommunications industry and therefore is not relevant

to organizations such as churches. However, there is one small provision in Title

IV (§402) which requires any television public-service announcement produced

with federal funds to include closed captioning. By analogy, CDC recommends

that videos and television broadcasting material funded in whole or in part by

the denomination or its churches provide ways in which persons with hearing

impairments can view the verbal content in video material.

13 A good unit can be purchased for about $200.

14 For example, relay services are sometimes backlogged, are often not fast enough to leave

messages on answering machines, and are sometimes a barrier to confidential conversations.

15This recommendation is more in keeping with federal regulations implementing Title II,

which extends the ADA to state and local government. In its analysis of federal regulations

implementing Title 11(28 CFR §35161), the u.s. Department of Justice (1991:35712) does not

make the use of TDDs mandatory partly because of the availability of relay services under

Title IV. However, it "encourages those entities that have extensive telephone contact with the

public ... to have TDDs to insure more immediate access:'

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Title IV is effective July 26, 1993, tluee years after the enactment of the ADA.

CDC recommends that denominationally supported video material be made

accessible to people with hearing impairments by July 26, 1996, approximately

three years after synods action on this report.

IMPLEMENTATION AND TITLE V

Title V addresses several miscellaneous issues including issues of implementation. It addresses issues of interpretation, provides for the resolution of

potential disparities within and between federal and state law, delegates various

tasks to federal agencies for the implementation of the act, extends coverage to

the legislative branch of government, and provides for dispute resolution. Whlle

most of these provisions are specific to the manner in which the U.S. government conducts the publics business, there are many analogues to the manner in

which the church conducts its own affairs. In proposing compliance with the

provisions of the ADA in the communal life of the church, we need to consider

the following:

1. Educational opportunities for both clergy and laity;

2. Interagency capacity for implementation;

3. Self-evaluation by local churches;

4. Technical assistance to local churches and church agencies;

5. Guideline development to assist local churches and church agencies;

6. Financial assistance to small churches;

7. Mechanisms for the resolution of potential disputes;

8. Application to the legislative branch of ecclesiastical government, i.e.,

synod; and

9. Monitoring of implementation of proposed policy.

Each of these items is considered below.

Education

Education is important for the churchs compliance with the spirit and intent

of ADA provisions and for the minimization of potential disputes. Given the

recommended two- to four-year window for compliance with these provisions

in the CRC as outlined in this report (see Chart 2), there should be ample time to

launch a vigorous educational effort outlining the rights and responsibilities of

church members with disabilities and the rights and responsibilities of CRC

churches and agencies.

The CDC recommends that overall leadership and coordination of the

educational program rest with CDC and its staff. The CDC is prepared to

develop an overall educational strategy, prepare and assemble the necessary

educational materials, and, to the extent possible, work through existing CRC

agencies and ecclesiastical structures. CDC requests that CRC Publications

make its resources and periodicals readily available to CDC to assist in this

campaign to help local churches comply with the provisions as outlined in this

report. CDC may need temporary additional staff in conducting the CRC\;

educational campaign for the implementation of the ADA.

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Interagency Implementation Thsk Force

The CDC recommends that a CRC interagency task force be assembled to

determine how best to facilitate the recommended compliance as described in

this report within CRC agencies and institutions (including Calvin College and

Calvin Seminary). The task force could be chaired by the executive director of

ministries or the CDC director. CDC recommends that each CRC agency

designate an implementation coordinator who will serve on the task force. This

coordinator should be responsible for learning the appropriate provisions of the

ADA and working with his or her respective agency or institution in complying

with the provisions of the ADA as recommended in this report.

Self-evaluation

The CDC recommends that to achieve the recommended compliance with

ADA provisions in the CRC, each agency and congregation should complete a

self-evaluation report. The self-evaluation report should be based on a checklist

to be developed by CDC and the interagency task force identified above. The

self-evaluations should be completed by January 26, 1995. The completion of the

self-evaluation checklist should include the participation of at least one person

with a disability in each congregation and agency. If a qualified person with a

disability is not immediately available from the ranks of an individual congregation or agency, the church or agency could seek assistance from a disabled

person from outside its immediate membership or staff.

The federal government has found that agency self-evaluation has proven to

be valuable in implementing the requirements of §504 of the 1973 Rehabilitation

Act, the precursor to the ADA, and has therefore made it a requirement (28 CFR

§35.l05) for the implementation of ADM Title II, which extends the requirements of §504 to state and local governments.

Technical Assistance

Many congregations and eRe agencies will need technical assistance in

complying with provisions of the ADA within their organizations. For example,

matters relating to employment policy and architectural accessibility require

explanation and assistance from persons informed about such matters. Such

technical assistance will be offered by CDC commensurate with the resources

available to it. However, lay members (especially those with disabilities),

architects, lawyers, human-resource managers, and others who are knowledgeable about the ADA should be encouraged to identify themselves and make

their expertise available to local churches and church agencies. CDC (and the

proposed interagency task force) will develop a registry of such experts that can

be made available to local churches and church agencies seeking technical

assistance.

Guideline Development

In complying with the provisions of the ADA, there will be instances when

the law or regulations may not be clear or may not apply well to the circumstances faced by local churches or church agencies. For such instances, the CDC,

in collaboration with the proposed interagency task force, can be responsible for

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the development of guidelines that can be used by local churches and agencie,

in complying with ADA provisions.

Financial Assistance for Small Churches

According to the ADA, the size of an organization and its financial resources

are material to determining what might constitute an Ifundue hardship" or what

might be considered "readily achievable" when fulfilling its obligations «§lffi

(10); §3ffi (9)). (See earlier discussions and Chart 1.) Similarly, smaller CRC

churches often do not have adequate resources to provide the same level of

accommodation as is often possible with larger churches that can spread the

cost of an accommodation over a larger membership base.

When an organization is part of a larger entity, the law provides that the

geographic, administrative, and fiscal relationship of the organization to the

larger entity is material in determining whether an undue hardship exists or

whether something is readily achievable (§lffi (lO)(B)(iv); §3ffi (9)(D))." In the

case of the eRe it is difficult to ascertain the actual degree of administrative and

fiscal separateness between local congregations, classis, and the denomination

as a whole. Individual congregations are incorporated organizations run by

councils elected from their respective memberships. This characterization

would suggest that local congregations have a high level of independence from

the larger denomination. However, local congregations are accountable to c1assis

and the denomination. Moreover, smaller churches often receive financial

assistance from Home Missions or the denomination's Fund for Smaller

Churches.

It is beyond the scope of this report to delineate the exact degree of responsibility that individual classes and the denomination have in making accommodations at the local level. Instead, CDC wishes to frame the matter positively

and indicate that there is a larger principle at stake here, namely, that larger

entities with larger resource bases should help facilitate the ability of smaller

entities in meeting their ADA responsibilities.

To this end, CDC and the above-mentioned interagency task force should

identify and implement ways in which the denomination and classes can assist

local congregations in financing and providing a more adequate level of

accommodation for people with disabilities. For starters, the Fund for Smaller

Churches and the Loan Fund, which provides loans to churches for capital

improvements, could be made available to support requests from local churches

seeking to make their facilities more accessible to people with disabilities.

Dispute Resolution

Sound education, expert technical assistance, well-reasoned guidelines, and

financial assistance will help make compliance with ADA provisions a cooperative venture involving members with and without disabilities and should make

the process nonadversarial. However, should there be times when disputes

arise, procedures will be needed for their timely and expeditious resolution. If this

occurs, such disputes should be resolved whenever possible through negotia16The corresponding regulations to these provisions in the act include 29 CFR 163D.2(p)(2)

and 28 CFR 36104 respectively.

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tion and arbitration." If not possible, the resolution of the dispute should be

governed by Article 30 of the Church Order and its various supplements. The

Judicial Code (Article 30(c)) may be invoked should formal adjudication

become necessary. In some instances, eRe institutions and agencies have their

own grievance procedures, hearings-and-appeals processes, or judicial codes. In

such instances, disputes should be resolved through these processes before

Article 30 is invoked. None of these procedures, including Article 30, should be

used to cause undue delay.

Furthermore, should disputes arise, it is advisable that members with

disabilities be involved in the dispute resolution process and that, when

resolution panels are convened under the auspices of local councils, dassis,

synod, or individual church agencies, there should be at least one panel member

with a disability who is likely to have encountered barriers similar to those the

plaintiff encounters. Members of CDC and its staff can be brought in as expert

witnesses on behalf of either party to the dispute or on behalf of the panel

seeking resolution of the dispute.

Application to Synod and Gasses

The U.S. Congress has sometimes exempted itself from its own laws.'

However, §509 of the ADA provides that provisions of the ADA are to apply to

the legislative branch of government, i.e., Congress, as well. In keeping with this

intent, CDC recommends that the provisions of the ADA should also be

honored by synod and individual classes when they conduct their business.

This implies, for example, that meetings, including committee-level meetings,

should be held in architecturally accessible facilities and that accommodation

should be made for disabled persons who are synodical or classical representatives or who simply wish to observe synodical or classical proceedings.

Monitoring of Implementation

The CDC recommends that it be responSible for monitoring the recommended compliance with ADA provisions in the CRe. Such monitoring might

include surveys as well as personal contacts. The CDC should prepare an

interim report to Synod 1995 and a final report to Synod 1996 on progress in

compliance with the ADA provisions. These reports should be based, in part, on

the results of the self-evaluation checklist introduced above.

CDC plans to maintain an updated computer registry of all CRC churches

and facilities noting the extent of their acceSSibility and overall compliance as

outlined in this report. All churches and facilities should also be queried each

year through the use of the annual survey conducted for the compilation of the

denominational '&arbook. The current survey questionnaire should be upgraded

to reflect more completely the church's or facilitys overall state of accessibility.

This information should be reflected in the denominational '&arbook and

17This approach to dispute resolution is very much encouraged under §513 of the ADA:

. the use of alternative means of dispute resolution, induding settlement

negotiations, condliation,. fadlitation,. mediation, minitrials, and arbitration is

encouraged to resolve disputes arising under this act.

18Congress sometimes exempts itself from its own legislation in the interest of maintain~

ing a dear separation of powers between the legislative and executive branches.

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reported in CDCs annual report to synod. They would serve as a basis for

determining the denomination's overall degree of accessibility.

INCLOSING

Synod's hearty recommendation of full compliance with the provisions of the

ADA will go a long way in making the ministry of the CRC substantially mor,

accessible to its members with disabilities and to persons who might otherwise

be discouraged from looking to the CRC as their church home.

One noteworthy outcome of the ADA and its regulations has been the need

to think carefully about how best to operationalize the acts key principles and

concepts through the development of uniform national architectural standards

and other accessibility criteria. The ADA should not be viewed grudgingly as a

secular imposition on church life but as a welcomed opportunity that will

facilitate the accessibility of churches and agencies in keeping with a single set

of standards that are widely understood. In recommending full compliance

with ADA provisions as a benchmark for its own churches and agencies, the

CRC will enhance opportunities for those individuals who previously were

denied full benefit of church life.

REFERENCES

Black, Bill

1992 "What an Ontarians with Disabilities Act Is and Isn't About." Arch. Type

10 (July), No. 4(a) 8-10.

Burgdorf, Robert L.

1991 "Equal Access to Public Accommodations:' The Americans wilh

Disabilities Act: From Policy to Practice, jane West, ed. New York: Milbank

Memorial Fund.

Burgdorf, Robert L.

1991 "'Equal Members of the Community': The Public Accommodations

Provisions of the Americans with Disabilities Act." Temple Law Review

64 (Summer) No.2, 551-81.

Burgdorf, Robert L.

1991 "The Americans with Disabilities Act: Analysis and Implications of a

Second-Generation Civil Rights Statute." Harvard Civil Rights and Civil

Liberties Law Review 64 (Summer), No.2, 413-522.

De jong, Gerben, and Andrew l. Batavia

1990 "Next Step for People with Disabilities:' The Washington Post, 113 (July

28), A-19.

De jong, Gerben, and Andrew l. Batavia

1990 "The Americans with Disabilities Act and the Current State of U.S.

Disability Policy." Journal of Disability Policy Studies, 1(3), 65-75.

Scott, Kimberly

1990 "The Americans wi th Disabilities Act: An Analysis." Silver Spring,

MD: Business Publishers, Inc.

U.S. Department of justice, Office of the Attorney General

1991 "Section-by-Section Analysis and Response to Comments." Federal

Register 56 (July 26) No. 144, 35546-92. This analysis accompanies the

promulgation of the Department of justices regulations implementing

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Title III of the ADA (28 CFR Part 36). The section-by-section analysis

can also be found in the Americans with Disabilities Act Handbook published by the US. Equal Employment Commission and the US.

Department of Justice.

US. Equal Employment Opportunity Commission

1992 A Technical Assistance ManUilI on the EmpWyment Provisions (Title I) of the

Americans with Disabilities Act. Washington, DC: US. Government

Printing Office. January.

US. Equal Employment Opportunity Commission and US. Department of

Justice

1991 Americans with Disabilities Act Handbook. Washington, DC: US. Equal

Employment Opportunity Commission and US. Department of Justice

(October).

West, Jane, ed.

1991 The Americans with Disabilities Act: From Policy to Practice. New York:

Milbank Memorial Fund.

Regulations implementing the ADA

Part I 29 CFR 1630 Regulations to Implement the Equal Employment

Provisions of the Americans with Disabilities Act

(Title I). Issued by the US. Equal Employment

Part II 36 CFR 1191

Part III 28 CFR 36

Part IV 28 CFR 35

Opportunity Commission.

Americans with Disabilities Act AcceSSibility

Guidelines for Buildings and Facilities. Issued by

the Architectural and 'fransportation Barriers

Compliance Board.

Nondiscrimination on the Basis of Disability by

Public Accommodations and in Commercial

Facilities (Title III) Issued by the Us. Department of

Justice.

Nondiscrimination on the Basis of Disability in

State and Local Government Services (Title 11).

Issued by the US. Department of Justice.

Canadian Legislation Relevant to Disability Rights (examples)

Canadian Charter of Rights and Freedoms (1982)

Canadian Human Rights Act (1976-77)

Canadian Employment Equity Act (1986)

Ontario Human Rights Code (1981)

Saskatchewan Human Rights Code (1989)

Canadian National Building Code

Ontario Building Code Reg. 413/90 (1986)

Ontario Employment Equity Act (Bill C-79)