

June 28, 2011

Ms. Allison Nichol

Chief
Disability Rights Section - NYA
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

RE: ADA Title II: National Council on Independent Living/Idaho State Capitol Building

Dear Ms. Nichol:

I am Executive Director of the National Council on Independent Living (NCIL), a membership organization which advances independent living and the rights of people with disabilities through consumer-driven advocacy. NCIL envisions a world in which people with disabilities are valued equally and participate fully in society.

Recently, the state of Idaho renovated and built additions to its state Capitol Building, but failed to incorporate modifications in its remodeling to allow equal access to persons with disabilities. According to its website (<http://www.capitolcommission.idaho.gov/restoration/restoration.html>), the Capitol Building's interior restoration work included:

- restore and refinish windows
- repair marble flooring
- repair decorative plaster
- restore wood floors
- refinish wood doors and restore hardware
- replace/refurbish light fixtures
- upgrade electrical
- complete smoke and fire detection system
- install fire sprinkler system throughout
- improve exterior lighting
- add emergency power generator
- install new HVAC system
- replace sewer piping
- replace hot water system
- improve exiting from basement
- provide vertical circulation cores from the Legislative chambers level to the new garden-level wings
- safer access to roof domes
- add egress hardware

- provide accessible toilet rooms
- install accessible elevator (gurney size)

In addition, the Capitol constructed an addition of two one-story underground “Garden-Level Wings” providing:

- approximately 25,000 square feet on each side of the Capitol
- larger Legislative hearing rooms
- opportunities to move various functions out of the Capitol Building (such as large mechanical spaces, data centers, kitchens, and dining facilities)

The renovation also added a new permanent exhibit in the Garden Level rotunda.

Members of the Idaho disability community, including the Idaho Task Force on the Americans with Disabilities Act, the Idaho State Independent Living Council and the Consortium for Idahoans with Disabilities made recommendations to the Idaho Capitol Commission on how to make the Capitol Building accessible to all, but little progress has been made. Accessibility barriers that remain in spite of the renovation include:

Gallery Seating:

- There have been no renovating measures taken to modify the existing seating arrangements in the House and Senate Galleries to provide for accessible seating space for members of the public whose use wheelchairs or other mobility devices. Despite recommendations to do so were made prior to renovations being made.
- A portion of concrete of the extended “riser” at both ends of the seating should be removed to allow for wheelchair seating space.
- The removal of a display board did not change the view to the floor.

Doorways and entrances:

- Interior doors, especially those at restrooms, hearing rooms and other public spaces, and those in the path of travel to reach the elevators, requiring greater than 5 pounds of force to open the door (on 01/05/10 several doors were measured and found to require up to 15 pounds of force to open).
- Doors on the 4th floor meeting rooms have antique-style doorknobs rather than accessible lever handles. Notably, the desire to appear historic does not provide an exception to accessibility requirements if the door handles are not, in fact, historic. These door handles could be made accessible by the addition of clamp-on style lever handles if the existing antique-style doorknobs are hoped to be preserved.
- Lack of an automatic or power assisted door to the main entrance to the garden level located at the west side of the entrance.(current building code requires 60% of entrances be accessible)

Path of Travel:

- Route to Garden Level
 1. There is a separate route for people who use wheelchairs to access the Garden Level. This separate route is not only segregating, but it is complicated, confusing and one takes you through staff work areas. Even with the added signage people with disabilities are still confused.
 2. Doors leading to the elevators to the lower level require greater than 5 pounds opening force. These doors may need to be converted to automatic doors or removed. The policy put in place to keep the doors open did not prove to be effective. It has been reported that many times during the last legislative session the doors did not remain open.
- There are new larger more accessible elevators but those elevators are designated for staff and legislators only and visitors, including visitors with disabilities are prohibited from using them.

Restrooms:

- Large trash cans are placed in the restrooms, obstructing the necessary clear floor space for maneuvering, and blocking the doors from opening fully. Ongoing training for staff and cleaning needs to occur.

Communication Barriers:

- Historical and interpretive displays lack audio description or other methods of communicating exhibit content to visitors who are blind or have low vision
- Although there are signs present in some hearing rooms indicating the availability of assistive listening devices, the location of, or process for obtaining, assistive listening devices is not clear.
- Signs designating permanent rooms and spaces are evident in some locations, but not all.

Areas of Rescue Assistance:

- It is indicated that the areas outside the exits at the west and east ends of the Garden Level are to be used as areas of refuge or rescue assistance in the event of an emergency. These areas must be clearly designated by accessible signage, and an effective procedure for alerting emergency personnel that individuals may have sought safety in these spaces need to be in place.
- There should be an evacuation chair located on floors where there is no area of rescue.

The Idaho Capitol Building is a public entity, and, therefore, required under Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131-§ 12165, to be physically accessible to persons with disabilities, and to allow equal access to its programs and services. In alterations, all altered areas are required to be fully accessible to the maximum extent feasible. In addition, if the altered area is a primary function area, the path of travel to the altered area must be made

accessible to the maximum extent feasible, unless the cost is disproportionate to the cost of the alteration.

Because of the lack of accessibility, many persons with physical disabilities cannot easily and independently access the building or freely move about inside. Individuals who are blind or low vision cannot explore the historical and interpretative displays. Members of the public with mobility impairments cannot be seated in the House and Senate galleries. Individuals who are deaf or hard of hearing cannot observe public hearings.

Contact information for the Idaho Capitol Building is below:

Andrew Erstad
Commission Chairman
Idaho Capitol Commission
Idaho State Capitol Building
700 West Jefferson St
Boise, Idaho
208-332-1826

For these reasons, we request that the Department of Justice, Civil Rights Division investigate the Idaho State Capitol Building and Idaho Capitol Commission under Title II of the ADA and any other applicable laws. We request that the Department require that the Idaho Capitol Commission ensure that the Capitol Building and its programs, activities, and services will be fully accessible to persons with disabilities as soon as possible.

Please feel free to contact me with any concerns.

Sincerely,

Kelly Buckland
Executive Director
202-207-0334
Kelly@NCIL.org