

Chester County Prison ADA Investigation



JC-PA-006-001

U.S. Department of Justice
Civil Rights Division
Disability Rights Section
P.O. Box 66738
Washington, DC 20035-6738

SETTLEMENT AGREEMENT BETWEEN

THE UNITED STATES OF AMERICA

AND

THE PRISON OF CHESTER COUNTY, PENNSYLVANIA

DEPARTMENT OF JUSTICE COMPLAINT NUMBER

204-62-70

This matter was initiated by a complaint filed under Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12131-12134, with the United States Department of Justice (Department of Justice) against the Chester County Prison (Prison). The complainant, a young man who is deaf, alleges that he was not provided with a sign language interpreter or other means of effective communication during individual and group counseling sessions while he was incarcerated at the Prison from May through October 1993. Further, the complainant alleges that he was denied an interpreter for a disciplinary hearing on October 7, 1993.

In addition, the complainant's mother, who is mobility-impaired, alleges that the only way that she was able to reach the Prison's visiting room to see her son, other than going down two flights of stairs, was to use an elevator located in the inmates' area. She alleges that she was denied access to this elevator when she came to visit her son, and that there is no official policy outlining when it can be used by individuals with mobility impairments.

The Department of Justice is authorized under 28 C.F.R. Part 35, Subpart F, to investigate the allegations of the complaint in this matter to determine the compliance of the Prison with Title II of the ADA and the Justice Department's implementing regulation. It is also authorized to issue findings, and, where appropriate, negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized under 42 U.S.C. § 12133, to bring a civil action enforcing Title II of the ADA should the Department of Justice fail to secure voluntary compliance pursuant to Subpart F.

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The parties to this Agreement are the United States of America and the Prison. In consideration of the terms of this Agreement as set forth below, the Attorney General agrees to refrain from undertaking further investigation or from filing civil suit in this matter. The parties hereby agree as follows:

1. The ADA applies to the Prison because it is a public entity as defined in the Department of Justice's regulation implementing Title II. 28 C.F.R. § 35.104.

2. The subjects of this Settlement Agreement are the Prison's provision of auxiliary aids and services to ensure

effective communication with individuals who are deaf and hard of hearing and the accessibility of the elevator to the visiting area. This Agreement resolves the complaints alleged herein.

3. In order to ensure effective communication with inmates who are deaf or hard of hearing in the Prison's programs, activities, and services, the Prison agrees to adopt the following policy:

The Chester County Prison will provide appropriate auxiliary aids and services, including qualified interpreters, when necessary upon the request of an inmate with a hearing impairment, to afford that inmate an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the Prison. Specifically, the Prison shall provide qualified interpreters or other appropriate auxiliary aids and services during disciplinary hearings, individual and group counseling sessions, classes, and medical appointments, and during any other Prison programs, activities, and services where it is necessary to ensure effective communication. Auxiliary aids and services include qualified interpreters, written materials, assistive listening devices, and transcription services.

The Prison will give primary consideration to the requests of the inmates with hearing impairments in determining what type of auxiliary aid or service is necessary, unless the Prison can demonstrate that another effective means of communication is available, or that use of the means chosen would result in a fundamental alteration in the nature of its service, program, or activity or in undue financial and administrative burdens. The procedures for receiving and acting on requests for auxiliary aids and services shall be as follows:

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Any inmate requiring an auxiliary aid or service for a prison activity, program, or service should submit a request slip to his or her counselor at least 24 hours prior to the date he or she requires the use of the aid or service. If it is not possible to submit the request 24 hours in advance of the activity, program, or service, (i.e., because the reason for which the aid or service is required was not scheduled or made known to the prisoner within such time period), the prison will make the best possible attempt to fulfill the request. The inmate shall specify the particular aid or service he or she requires. Within 24 hours of receipt of the request, the counselor shall inform the inmate whether or not the request will be granted based upon the guidelines set forth in this Agreement.

4. Copies of the written policy and procedures required by paragraph 3 will be provided to inmates upon request, in orientation materials, and prominently posted in the library and on bulletin boards around the Prison.

5. Beginning on the effective date of this Agreement, the Prison will instruct all of its officials or employees who are in any way responsible for the provision of appropriate auxiliary aids and services, including the Warden, corrections officers, and other officials who provide services to or work with inmates, about the policy and procedures required by paragraph 3 and shall

instruct all personnel to comply with the provisions of this Agreement.

6. The Prison shall insure that the elevator leading to the visiting area is made readily available for the use of visitors with mobility impairments at all times that visitors are permitted in the facility. Within 30 days of the date of this Agreement, the Prison will post signage at the elevator leading to the visiting area to notify individuals with mobility impairments that it is the accessible path of travel to the visiting area. The signage shall comply with section 4.30 of the ADA Standards for Accessible Design ("the Standards"). The signage shall include information describing any additional procedures that are required for an individual to gain access to the elevator, such as who to contact to unlock the elevator.

7. Within 60 days of the effective date of this Agreement, the Prison shall submit a report to the Department of Justice describing the actions it has taken to comply with the preceding provisions and photographs of the signage required by paragraph 6.

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8. This Agreement is a public document. A copy of this document or any information contained in it, may be made available to any person. The Prison will provide a copy of this Agreement to any person on request.

9. The Department of Justice may review compliance with this Agreement at any time. If the Department of Justice believes that this Agreement or any requirement thereof has been violated, it may institute civil action seeking specific performance of the provisions of this Agreement in an appropriate Federal court.

10. Failure by the Department of Justice to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein will not be construed as a waiver of its right to enforce other deadlines and provisions of this Agreement.

11. The effective date of this Agreement is the date of the last signature below.

12. This Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Agreement, will be enforceable under its provisions. This Agreement is limited to the facts set forth in the first paragraph, and it does not purport to remedy any other potential violations of the Americans with Disabilities Act or any other Federal law. This Agreement does not affect the Prison's continuing responsibility to comply with all aspects of Title II of the ADA.

For the Chester County Prison:

For the United States:

(Signature) D. Edward McFadden

(Signature) Rob Wolfson

JOHN WODATCH, Chief
JOAN A. MAGAGNA, Deputy Chief
SHARON PERLEY, Attorney
ROBB WOLFSON, Investigator

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Date 9-9-96

Date 9/12/96

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