

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

*Joint Committee for
Review of
Administrative Rules
(JCR-AR)*

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR_RCP_pt01a
- 97hrAC-EdR_RCP_pt01b
- 97hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤

➤ Clearinghouse Rules ... CRule

➤

➤ Committee Hearings ... CH

➤

➤ Committee Reports ... CR

➤

➤ Executive Sessions ... ES

➤ 97hr_JCR-AR_ES_pt13a

➤ Hearing Records ... HR

➤

➤ Miscellaneous ... Misc

➤

➤ Record of Comm. Proceedings ... RCP

➤

JCRAR March 31, 1998

SECTION 504 OF THE REHABILITATION ACT OF 1973

FACT SHEET

Handicapped Persons

Rights Under Federal Law

July, 1977



U. S. Department of Health, Education, and Welfare
Office of the Secretary
Office for Civil Rights
Washington, D.C. - 20201

"Today I am issuing a regulation, pursuant to Section 504 of the Rehabilitation Act of 1973, that will open a new world of equal opportunity for more than 35 million handicapped Americans--the blind, the deaf, persons confined to wheelchairs, the mentally ill or retarded, and those with other handicaps.

"The 504 Regulation attacks the discrimination, the demeaning practices and the injustices that have afflicted the nation's handicapped citizens. It reflects the recognition of the Congress that most handicapped persons can lead proud and productive lives, despite their disabilities. It will usher in a new era of equality for handicapped individuals in which unfair barriers to self-sufficiency and decent treatment will begin to fall before the force of law." (Statement by Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare on April 28, 1977.)

In September 1973, Congress passed a law that prohibits discrimination on the basis of physical or mental handicap in every federally assisted program or activity in the country. That law is Section 504 of the Rehabilitation Act.

Section 504 states that: "No otherwise qualified handicapped individual in the United States... shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

In April 1977, a final Section 504 regulation was issued for all recipients of funds from HEW, including elementary and secondary schools, colleges, hospitals, social service agencies, and in some instances, doctors. The Section 504 regulation will effect fundamental changes in many facets of American life, in the actions and attitudes of institutions and individuals toward handicapped persons.

The term handicap includes such diseases or conditions as speech, hearing, visual and orthopedic impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, diabetes, heart disease, mental retardation, emotional illness, and specific learning disabilities such as perceptual handicaps, dyslexia, minimal brain dysfunction and developmental aphasia.

In accordance with a formal opinion of the Attorney General of the United States, alcohol and drug addicts are also considered handicapped individuals. Physical or mental impairments do not constitute a handicap, however, unless they are severe enough to substantially limit one or more of the major life functions.

- 2 -

PROGRAM ACCESSIBILITY

The regulation provides that programs must be accessible to handicapped persons. It does not require that every building or part of a building must be accessible but the program as a whole must be accessible. Structural changes to make the program accessible must be made only if alternatives, such as reassignment of classes or home visits, are not possible. The intent is to make all benefits or services available to handicapped persons as soon as possible. Institutions are given three years to complete structural changes to their physical plants; nonstructural changes must be made in 60 days.

In meeting the objective of program accessibility, a recipient must take care not to isolate or concentrate handicapped persons in settings away from nonhandicapped program participants.

All buildings for which site clearance has begun after June 3, 1977, must be designed and constructed to be accessible to handicapped persons from the start. The design standards of the American National Standards Institute (ANSI) must be used to determine minimal requirements for accessibility.

PRESCHOOL, ELEMENTARY AND SECONDARY, AND ADULT EDUCATION

The basic requirements are:

--That every handicapped child is entitled to a free public education, regardless of the nature or severity of handicap.

--That handicapped students must not be segregated in public schools but must be educated with nonhandicapped students to the maximum extent appropriate to their needs.

--That evaluation procedures be improved in order to avoid the inappropriate education that results from misclassification.

--That procedural safeguards be established so parents and guardians can object to evaluation and placement decisions made with respect to their children.

--That state or local educational agencies locate and identify unserved handicapped children.

An appropriate education can be afforded by many different methods, including use of regular classes with or without aids, depending on need; in private or public homes or institutions, or through combinations of such methods so long as handicapped and nonhandicapped students are educated together to the maximum extent possible. The result should be to provide the education program best suited to the individual needs of handicapped people.

It should be emphasized that where a handicapped student is so disruptive that education of other students in the classroom is impaired, the student can be reassigned. A common sense rule of reason applies in such cases.

The regulation provides that school systems bear special responsibilities, in some instances, for transportation of handicapped people to and from education programs. Where placement in a public or private residential program is necessary, the school district has responsibility for the costs of the program, nonmedical care, room and board, and transportation.

POSTSECONDARY EDUCATION

In colleges and other postsecondary institutions, recruitment, admissions, and the treatment of students must be free of discrimination.

Quotas for admission of handicapped persons are ruled out, as are preadmission inquiries as to whether an applicant is handicapped. However, voluntary postadmission inquiries may be made in advance of enrollment concerning handicapping conditions to enable an institution to provide necessary services.

Higher education institutions must assure accessibility of programs and activities to handicapped students and employees. Architectural barriers must be removed where the program is not made accessible by other means. A university, however, is not expected to make all its classroom buildings accessible in order to comply with program accessibility standards. It may have to undertake some alterations, or it may reschedule classes to accessible buildings, or take other steps to open the program to handicapped students. Handicapped persons should have the same options available to others in selecting courses.

Other obligations of the institutions include:

--Tests which a college or university uses or relies upon, including standardized admissions tests, must not discriminate against handicapped persons. Tests must be selected and administered so that the test results of students with impaired sensory, manual or speaking skills are not distorted unfairly but measure the student's aptitude or achievement level, and not his or her disability.

--Students with impaired sensory, manual or speaking skills, must be provided auxiliary aids although this may often be done by informing them of resources provided by the government or charitable organizations.

--Colleges and universities must also make reasonable modifications in academic requirements, where necessary, to ensure full educational opportunity for handicapped students. Such modifications may include the extension of time for completing degree requirements, adaptation of the manner in which specific courses are conducted, and elimination of rules prohibiting handicapped persons from having tape recorders in class or dog guides on campus.

--Physical education must be provided in a nondiscriminatory manner and handicapped students cannot be unnecessarily segregated in physical education classes.

--Infirmary services must be provided handicapped students on a par with those offered others.

HEALTH, WELFARE AND SOCIAL SERVICES

The provisions for accessibility and reasonable accommodation that apply to other programs also apply to health, welfare, and social service institutions. Benefits and services may not be denied on the basis of handicap.

Providers of these services may find it necessary to remove barriers, make house calls, or meet handicapped people in offices that are accessible. Institutions with 15 or more employees must also provide auxiliary aids to their clients. Further, health and welfare providers must ensure that persons with impaired sensory or speaking skills are provided effective notice concerning the provision of benefits, waivers of rights and consent to treatment. Hospitals must make special arrangements for handling deaf patients.

Health, welfare and social services for handicapped people must be equal in quality to those in the institution's overall program, and equitable standards of eligibility are required.

GENERAL EMPLOYMENT PROVISIONS

Employers may not refuse to hire or promote handicapped persons solely because of their disability. Reasonable accommodation may also have to be made to the person's handicap, where needed.

For employees as well as students or patients, accessibility is a primary necessity. Examples of reasonable accommodations might include a cassette recorder for a blind employee, changes in the physical location of the task to be performed, or similar actions. Under certain circumstances, an employer might find it necessary to make more extensive changes. The size and type of employing agency and the cost involved are considerations in determining undue hardship.

Failure to employ or promote an employee who is unqualified or who cannot be helped by reasonable accommodation is not discrimination. However, an employer may not reject an applicant simply because reasonable accommodation is necessary.

Pre-employment physical examinations cannot be required and pre-employment inquiry cannot be made about a person's handicapping condition although employers may ask about an applicant's ability to perform job-related functions. Employers may make an offer of employment conditional on a medical examination as long as the examination is required of all employees and no one is disqualified on the basis of a physical condition that is not job-related.

ADDICTION

As noted earlier, drug and alcohol addiction are covered under the Section 504 regulation. The regulation, however, protects rights of "qualified" handicapped people and this term implies limitations on what is expected of employers or institutions providing services. In regard to addiction, an employer is not required to change its performance

or behavioral standards regarding past work performance, or disruptive, abusive or dangerous behavior, even if these actions stem from a person's alcoholism or drug addiction.

Nothing in the regulation prohibits a school from applying its rules concerning use of drugs and alcohol to students with addiction problems just as it would to other students, as long as the rules apply equally to all students. Schools or colleges, like other employers, may apply their standards of employment performance to alcohol and drug problems as they would apply them in any other case.

IMPORTANT DATES FOR SECTION 504 COMPLIANCE

April 28, 1977	Final regulation signed by HEW Secretary Joseph A. Califano, Jr.
May 4, 1977	Final regulation published in the <u>Federal Register</u> .
June 3, 1977	Regulation in effect.
July 5, 1977	Deadline for return of Assurance of Compliance (Form HEW 641) from all institutions receiving financial assistance from HEW.
August 2, 1977	Deadline for programs or activities in existing facilities to be made accessible (where structural changes are not required). See paragraph 84.22(d) in regulation.
September 2, 1977	HEW fund recipients that employ 15 or more employees shall, by this date, make initial notification that they do not discriminate on the basis of handicap in accordance with paragraph 84.8(a) of the regulation.

December 2, 1977

In the event that structural changes in existing facilities are necessary to make programs accessible, recipients of HEW funds shall, by this date, develop a transition plan outlining the steps needed to complete these changes. A copy of the transition plan would be made available for public inspection. See paragraph 84.22(e) of the regulation.

June 2, 1978

Deadline for HEW recipients to complete a self evaluation process in consultation with handicapped individuals and organizations. See paragraph 84.6(c) of the regulation.

September 1, 1978

Deadline for public elementary and secondary schools to provide to each qualified handicapped student a free appropriate education in accordance with paragraph 84.33(d) of the final regulation.

June 2, 1980

Deadline for structural changes to be made in existing facilities where necessary to achieve program accessibility.

HOW TO FILE A COMPLAINT OF DISCRIMINATION

Any person who has a complaint that discrimination on the basis of physical or mental handicap exists in any program funded by HEW may notify the Office for Civil Rights. A complaint should be filed by letter to: Director, Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C. 20201.

Letters of complaint should explain: who was discriminated against; in what way; by whom or what institution; when the discrimination took place; who was harmed by the discriminatory act; who can be contacted for further information; the name, address, and telephone number of the complainant; and as much background information as possible. These are suggestions, not requirements. However, the Office for Civil Rights can move more efficiently if it is well-informed. Citizens may ask the Office for Civil Rights for help in writing complaint.



Public Law 93-112
93rd Congress, H. R. 8070
September 26, 1973

REHABILITATION ACT OF 1973

NONDISCRIMINATION UNDER FEDERAL GRANTS

SEC. 504. No otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

SEC. 7. For the purposes of this Act:

(6) The term "handicapped individual" means any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services provided pursuant to titles I and III of this Act.



Public Law 93-516
93rd Congress, H. R. 17503
December 7, 1974

REHABILITATION ACT AMENDMENTS OF 1974

SEC. 111. (a) Section 7(6) of such Act is amended by adding at the end thereof the following new sentence: "For the purposes of titles IV and V of this Act, such term means any person who (A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment."

Registered for
Federal

WEDNESDAY, MAY 4, 1977

PART IV

RECEIVED

SEP 12 1977

U.S. GOVERNMENT PRINTING OFFICE



DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE

Office of the Secretary



NONDISCRIMINATION
ON BASIS OF
HANDICAP

Programs and Activities Receiving or
Benefiting from Federal Financial
Assistance

rately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 84.14 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 84.6 (a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 84.6(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, *Provided, That:*

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, *Provided, That:* (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

§§ 84.15—84.20 [Reserved]

Subpart C—Program Accessibility

§ 84.21 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 84.22 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirement of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of § 84.23, or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Small health, welfare, or other social service providers.* If a recipient with fewer than fifteen employees that provides health, welfare, or other social services finds, after consultation with a handicapped person seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible.

(d) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(e) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient

shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 84.23 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1-1961 (R1971)),¹ which is incorporated by reference in this part, shall constitute compliance with paragraphs (a) and (b) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

¹ Copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018



School District *of Cambridge*

P.O. BOX 27 • CAMBRIDGE, WISCONSIN 53523-0027

September 9, 1997

High School
Middle School
608-423-3261

Elementary School
608-423-3236

Business Office
608-423-4345

Fax
608-423-9869

Ms. Charlotte Thompson
State Building Inspector
Bureau of Field Operations
Safety and Buildings Division
P.O. Box 7969
Madison, WI 53707

Dear Charlotte:

On August 25, 1997, you visited our high school building site where we are rebuilding our high school physical education/athletic field complex. At that time, you directed me to stop the construction of the "press box" for two reasons:

1. It was not being built with state approved plans.
2. It does not have handicapped accessibility.

We have complied with your request, and no further construction has taken place. In the very near future, the bleachers will be used for certain activities. We are concerned with the safety of the "press box" construction as the facility can be entered and a person could easily fall out of an unfilled window. Additionally, there are exposed wires in the box that need to be covered. We are planning to put on the door, put in the windows and enclose the electrical wires. We plan on doing this on or before Saturday, September 20, as the community will be using the bleachers for a 150-year celebration on Sunday, September 21, 1997. Unless I hear differently from you, we will proceed to make our facility safe.

We are preparing plans for state approval, and they should be done very soon. We have some alternative plans for the handicapped accessibility that we will present at that time. We will be opening the building for rest room use whenever activities are being held in the athletic field.

Please contact me if you have questions.

Sincerely,

Monte K. Hottmann
District Administrator

cc: Louis Loeder, Building Inspector
Bob Rosen, High School Principal

INSPECTION PROGRESS REPORT

Re: GRANDSTAND
SCHOOL DISTRICT OF CAMBRIDGE
403 CHURCH ST
CAMBRIDGE
County: JEFFERSON
Volume: square feet
Supvr Prof, Bldg:
Supvr Prof, HVAC:

File #: 999999
Plan #: 97-04-0208-C
Insp Date Person Contacted
1. 08/26/97 Monte Hottman
2. _____
3. _____
Bldg Final _____
HVAC Final _____

✓ To: SCHOOL DISTRICT OF CAMBRIDGE
MONTE HOTTMANN DIST ADMIN
403 CHURCH ST
CAMBRIDGE WI 53523

Compliance Date: _____
Office Instructions
___ Voluntary Compliance
___ Process SB-2
___ Violations Explained to Owner

INSPECTION FINDINGS

/ Order Corrected
X Order Not Corrected
INSPECTIONS
1 2 3 FINAL

Items listed below should be corrected before the next inspection or final inspection. These items are violations of the Building Code Sections noted.

- X ILHR 50.12 - The approval of these bleachers did not include the press box. Press box plans shall be submitted to the department for review and approval.
- X ILHR 69.18 - The press box is required to be accessible for people with disabilities by means of a ramp or elevator.
- X ILHR 69.11 ADAAG 4.1.3 - Toilet facilities shall be provided. As the concession/toilet room bldg is not going to be built, what facilities and how many will be provided for the public? This information shall be submitted to the department.

~~Steve Gothard~~ *Charlotte Thompson*
Building Inspector
Mondays
(608) ~~839-9835~~ *884-4108*



Petition For Variance Application

PLEASE TYPE OR PRINT CLEARLY - The information you provide may be used by other government agency programs (Privacy Law, s. 15.04(1)(m)).

1. Owner Information		2. Project Information		3. Designer Information	
Name <u>School District of Cambridge</u>		Building Occupancy Chapter(s) and Use <u>Chapter 54</u>		Designer <u>Jim Beard</u>	
Company Name		Tenant Name (if any)		Registration # <u>97-03-0938</u>	
Number and Street <u>403 Church Road</u>		Project Location (number and street)		Design Firm <u>Stubenrauch Associates, Inc.</u>	
City, State and Zip Code <u>Cambridge, WI 53523</u>		<input type="checkbox"/> City <input checked="" type="checkbox"/> Village <input type="checkbox"/> Township of <u>Cambridge</u>		Number and Street <u>708 Erie Avenue</u>	
Contact Person <u>Monte Hottmann</u>		County of <u>Jefferson</u>		City, State and Zip Code <u>Sheboygan, WI 53082</u>	
Telephone Number <u>(608)423-4345</u>	Fax Number <u>(608)423-9869</u>	Prop. ID # (tax parcel # - contact county)		Contact Person <u>Jim Beard</u>	
4. Plan Review Status		<input type="checkbox"/> On hold		Telephone Number <u>(920)458-3526</u>	
Review By: <input checked="" type="checkbox"/> State <input type="checkbox"/> Municipality		<input type="checkbox"/> Preliminary design		Fax Number <u>(920)458-4659</u>	
Plan Number <u>9751651</u>		<input checked="" type="checkbox"/> Approved, requesting revision			
		<input type="checkbox"/> Submitted with petition		<input type="checkbox"/> Already built	
				<input type="checkbox"/> Built according to older code but must be brought into compliance with current code	
				<input type="checkbox"/> Plan will be submitted after petition determination	
				<input type="checkbox"/> Other	

- State the code section being petitioned and the specific condition or issue you are requesting be covered under this petition for variance. IHLR 69.18(2)(b) 2.a. As the press box and bleachers at the public school facility are government owned, vertical circulation to all floor levels by means of a full passenger elevator complying with with ADAAG4.10 is required.
- Reason why compliance with the code cannot be attained without the variance. An elevator is not part of the planned project, and the project was nearly complete before knowledge of the elevator requirement. We need a two year variance to delay installation of the elevator and resolve this issue.
- State your proposed means and rationale of providing equivalent degree of health, safety, or welfare as addressed by the code section petitioned. We do not have a solution at this time, and need the two year variance to have time to resolve the issue.
- List attachments to be considered as part of the petitioner's statements (i.e., model code sections, test reports, research articles, expert opinion, previously approved variances, pictures, plans, sketches, etc.)
None

Verification By Owner - Petition is valid only if notarized with affixed seal and accompanied by review fee (See Section IHLR 2.52 for complete fee information)

Note: Petitioner must be the owner of the building or project. Tenants, agents, designers, contractors, attorneys, etc., shall not sign petition unless Power of Attorney is submitted with the Petition for Variance Application.

Monte K. Hottmann
Petitioner's Name (type or print)

Monte K. Hottmann
Petitioner's Signature

being duly sworn, I state as petitioner that I have read the foregoing petition and I believe it to be true and that I have significant ownership rights in the subject building or project.

Subscribed and sworn to before me this date:
12-08-97

Notary Public
Patricia A. Herbich

My commission expires on:
05-30-99

Complete Other Side



Tommy G. Thompson, Governor
William J. McCoshen, Secretary

October 23, 1997

Plan number: 9751651

Page 2 of 2

ILHR 50.07(2) As the bleachers and press box are over 50,000 cubic feet, all plans and calculations submitted for review and approval shall bear the original seal and signature of the building designer.

ILHR 50.12(5) The SBD-118 Application for Approval form must bear the original signature of the building designer.

ILHR 50.12(4) The plan submittal did not include the required structural calculations. Submit signed and sealed structural calculations.

ILHR 63.01 As building envelope calculations have not been submitted showing compliance with the energy conservation provisions of ILHR 63, the press box addition has been reviewed as an unheated seasonal use building.

ILHR 69.18(2)(b)2.a. As the press box and bleachers at the public school facility are government owned, vertical circulation to all floor levels by means of a full passenger elevator complying with ADAAG 4.10 is required. Submit revised plans showing compliance. If the travel distance to the press box is 12' or less, it may be possible to install a platform lift instead of a full passenger elevator through the petition for variance process.

This review does not include lighting. Submit signed and sealed lighting plans and calculations/worksheets prior to installation.

10/23/97 SPD



SAFETY AND BUILDINGS DIVISION
1340 E Green Bay Street
Shawano WI 54166

Tommy G. Thompson, Governor
William J. McCoshen, Secretary

23-Oct-97

Paul Dinkins
Stubenrauch Architects Inc
708 Erie Ave
Sheboygan WI 53081

Cambridge School District
High School-pressbox
403 Church Street
Cambridge WI 53523

school, pressbox, add
403 Church St

Plan ID 9751651

Municipality of Cambridge
County of Jefferson

Inspector: Steve Gothard
(608) 839-9835

Building plans including the following element(s):
BUILDING

The submittal as described above has been reviewed for conformance with applicable Wisconsin Administrative Codes and Wisconsin Statutes listed in the regarding line above. The submittal is being returned DENIED.

This plan action is subject to the conditions listed on the following page(s).

If you wish to continue with this project, it must be resubmitted, in quadruplicate, and be accompanied by an Application for Submittal form and required fees. The resubmitted materials must be revised to show compliance with the items indicated below.

All of the data and statements submitted were considered. This decision will become final unless a written request for a hearing is received within four weeks from the date of this letter. A letter of request for a hearing should be sent to the Office of Legal Counsel, P.O. Box 7946, Madison, WI 53707 7946 within the time period stated.

Sincerely,

Steven P. Dobratz
Building Plan Reviewer
(715) 526-9019

Reasons for denial of approval are listed below



2601 CROSSROADS DRIVE • SUITE 185 • MADISON, WISCONSIN 53704-7923 • (608) 244-7150

November 7, 1997

NOV 17 1997

Richard Grobschmidt, Co-chair
Joint Committee for the Review of Administrative Rules
P.O. Box 8952
Madison, WI 53708-8952

Dear Senator Grobschmidt:

I am writing on behalf of the Wisconsin Grocers Association representing more than 1,500 independent grocers, retail grocery chain stores, warehouses and distributors, convenience stores, food brokers, suppliers and wholesalers. We are extremely concerned with Clearinghouse Rule 97-038, proposed by the Department of Agriculture, Trade and Consumer Protection, which would increase the fees in the Division of Food Safety from between 34% and 83%.

DATCP's justification for the need for additional program revenue is to remedy a projected deficit in the department's food safety budget. Increasing fees at this point will be a "short-term fix" and is not the approach that should be taken. Our industry should not be penalized for DATCP's inability to run the program at the current funding level. When a grocery store is in financial jeopardy, they need to buckle down and become more efficient, not raise the price of milk from \$2.10/gallon to \$4.50/gallon.

As Co-chair of JCRAR, it is our hope that you can help us to prevent these fee increases from promulgation by DATCP. The Assembly Committee on Agriculture held a hearing on this issue November 13, 1997 and heard nothing but opposition from the retailers and wholesalers that would be affected by the fee increases. However, the rule was not brought up for executive action by the committee.

Therefore, we are turning to you and your committee for assistance with this matter. The grocery industry is highly competitive and operates on very low profit margins. Because of this, a seemingly harmless increase of \$200 could impose serious financial difficulty on a small business operation. We need to help both the small, "mom & pop" grocery stores and the large, chain grocery stores.

At this point, Senator Grobschmidt, we need your assistance. The Assembly Agriculture Committee took no action on the rule, therefore sending it back to DATCP for implementation. We need to act fast to prevent the DATCP from sending an invoice to thousands of businesses.

Thank you in advance for your cooperation. We are available to speak with you regarding this rule by phone or in person. Please call (608) 244-7150 to discuss this further.

Sincerely,

Michelle Kussow
Manager of Government Affairs



STATE OF WISCONSIN
OFFICE OF STATE REPRESENTATIVE BARBARA GRONEMUS

NOV 18 1997

P.O. BOX 8952
STATE CAPITOL
MADISON, WISCONSIN 53708-8952
608-266-7015
TOLL-FREE HOTLINE: 800-362-9472
FAX: 608-266-7038

DISTRICT ADDRESS:
1634 WEST STREET, P.O. Box 676
WHITEHALL, WISCONSIN 54773-0676
715-538-4130

November 17, 1997

Senator Richard Grobschmidt
Co-chair
Joint Committee For Review of Administrative Rules
Room 404, Hamilton Senate Office Building
Madison, WI 53707

RE: Clearinghouse Rule 97-038

Mr. Chairman and Dear Rick:

The Assembly Committee on Agriculture had before it the above noted clearinghouse rule. On October 16th an Informational Briefing was held on the rule before the committee and on November 13th a formal public hearing was held on it. While it was evident by comments made by committee members that the vast majority of the committee members of both political parties objected to the rule, the committee chairman choose not to hold an Executive Session on the rule. By this action of the Assembly Committee on Agriculture, and previous "No Action Taken" by the State Senate Committee on Agriculture and Environmental Resources, the rule has been referred back to the Department of Agriculture, Trade and Consumer Protection for promulgation.

As the Ranking Minority Member of the Assembly Committee on Agriculture, I am requesting that once the department has promulgated CR 97-038 the Joint Committee For Review of Administrative Rules "Object To The Rule" and hold a public hearing on it. In addition, it is requested that you, and your Assembly Co-chair, Representative Grothman, send a letter to DATCP Secretary Ben Brancel advising him of the objection to the rule by the majority of the members of the Assembly Committee on Agriculture, and, hopefully, the intention of JCRAR to "Object To The Rule" and hold a public hearing. Representative David Ward, a majority party member of the Assembly Committee on Agriculture, is making similar requests to Co-chair, Representative Grothman.

Respectfully submitted,

BARBARA GRONEMUS
State Representative - 91st Assembly District
Ranking Minority Member - Assembly Committee on
Agriculture.

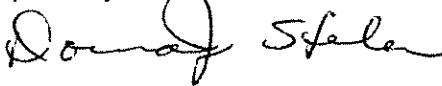
BG/wrc

STUBENRAUCH ASSOCIATES INC
January 8, 1998
Page 2

5. This petition for variance is only to allow up to two years to resolve this non-compliant condition. The owner is to realize that until this issue is resolved this building is in violation at the state level.

Reviewer's Recommendation: Conditional Approval

Prepared by: DonnaJean Stilen



Departmental Action:

Conditions of Approval:

1. This petition approval is granted with the understanding that all of the petitioner's statements included on the variance application form and any other documents submitted to the Department will be carried out. This variance is specific to the subject petition and cannot be used for any additional modifications.
2. The elevator shall be installed by January 8, 2000.
3. If any complaint is received during this two year extension, the school district will take appropriate action to satisfy the complaint and code requirement immediately.
4. This approval does not relieve the building owner from the responsibility for compliance with department rules not addressed in this petition.
5. This petition shall not be construed as having included any official action on behalf of the U.S. Department of Justice with respect to their requirements for compliance.

This decision will become final unless a written request for a hearing is received by the department within 30 days from the date of this letter. A request for hearing should be sent to the address shown on this letterhead, Attention: M. A. Rubio, Bureau of Integrated Services. The request for hearing should state the reasons for objecting to the department's decision, because a request for hearing may be denied if it does not present a significant question in fact, law or policy.

Departmental Signature: 

Date: 1-09-98

M. A. Rubio
Section Chief, Integrated Services Bureau



09-Jan-98

SAFETY AND BUILDINGS DIVISION

1340 E Green Bay Street
Shawano WI 54166

Tommy G. Thompson, Governor
William J. McCoshen, Secretary

Paul Dinkins
Stubenrauch Architects Inc
708 Erie Ave
Sheboygan WI 53081

Cambridge School District
High School-pressbox
403 Church Street
Cambridge WI 53523

CHAP 56,SCHOOL-ADD
403 Church St
Municipality of Cambridge
County of Jefferson

Plan ID 9751651
Inspector: Steve Gothard
(608) 839-9835

Building **plans including the following element(s):**
BUILDING A-I

The submittal described above has been reviewed for conformance with applicable Wisconsin Administrative Codes and Wisconsin Statutes. The submittal has been **CONDITIONALLY APPROVED**. The owner, as defined in chapter 101.01(2)(e), Wisconsin Statutes, is responsible for compliance with all code requirements.

Press box plans are approved subject to all conditions of the petition for variance.

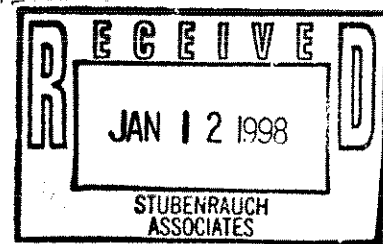
A copy of the approved plans, specifications and this letter shall be on-site during construction and open to inspection by authorized representatives of the Department. All permits required by the state or local municipality shall be obtained prior to commencement of construction/installation/operation.

This project is under the supervision of a state inspector. As inspection concerns arise feel free to contact the state inspector at the number listed. The inspector for this project is listed above.

Inquiries concerning this correspondence may be made to me at the telephone number listed below, or at the address on this letterhead. Please refer to Plan ID number listed at the top of this page when making an inquiry or submitting additional information.

Sincerely,

Steven P. Dobratz
Building Plan Reviewer
(715) 526-9019



08-Jan-98

STUBENRAUCH ASSOCIATES INC
JIM BEARD
708 ERIE AVE
SHEBOYGAN WI 53082

SCHOOL DIST OF CAMBRIDGE
MONTE HOTTMANN
403 CHURCH ROAD
CAMBRIDGE WI 53523

69.18
403 CHURCH RD
Municipality of CAMBRIDGE
County of Dane

Plan ID 9762700
Inspector: Steve Gothard
(608) 839-9835

Building plans including the following element(s):
PETITION
CODE SECTION: ILHR 69.18(2)(b)2.a.
REQUIREMENT: ELEV. REQ. TO ALL FLOORS IN GOVERNMENT BLDGS
VARIANCE: ALLOW A 2 YR EXTENSION FOR INSTALLATION OF ELEV.

Your petition for variance of the above section has been reviewed.

The intent of the code section petitioned is to provide elevator access to all occupiable floor levels of government owned or operated buildings regardless of the size of the building.

Your request is to have a petition for variance approved to allow a two year extension so that you may resolve this issue.

The petitioner submitted the following attached items to be considered in the petition analysis:

A notarized SB-9890 application form including the following number of additional page(s) of supporting documents ____.

Reviewer's Comments:

1. The intent is that an elevator be provided to all occupiable floor levels of government owned or operated buildings or facilities. This is for the public, employees and students who would be using the facility.
2. ILHR Chapter 69 incorporated the Federal "Americans with Disabilities Act Guidelines" as state requirements. It is the intent of the Department of Commerce to enforce the ILHR Chapter 69 requirements as close to the federal guidelines as possible.
3. The Federal ADAAG, ADA Title II and Title III requires government owned or operated buildings or facilities to have accessibility to all floors and areas. There is no elevator exemption allowed in these facilities. In talking to the US Department of Justice this was confirmed.
4. All new buildings shall comply completely with the new construction requirements of ILHR Chapter 69.

JAN 23 1998



School District of Cambridge

P.O. BOX 27 • CAMBRIDGE, WISCONSIN 53523-0027

High School/
Middle School
608-423-3261

Elementary School
608-423-3236

Business Office
608-423-4345

Fax
608-423-9869

January 19, 1998

Senator Richard Grobschmidt
Wisconsin Senate – State Capitol
P.O. Box 7882
Madison, WI 53707

Dear Senator Grobschmidt:

I am writing to you requesting help with a problem that is very significant to the School District of Cambridge and to other school districts in the State of Wisconsin. The School District of Cambridge passed a 16.51 million-dollar referendum on September 10, 1996. The project includes constructing a new elementary school, remodeling an old elementary school to be a middle school, conversion of a middle school/high school to a high school, and rebuilding the high school outdoor physical education and athletic field. The construction began in November 1996, with preparation of the site for the elementary school. In the spring of 1997, we started on the physical education and athletic field. The project includes new fields for soccer, football, softball and baseball, practice fields for soccer and football, an all-weather track, new lights for the main field, and new bleachers and press box. We recently were surprised when an inspector from the Department of Commerce stopped construction of our press box because it did not have a ramp or an elevator to provide handicapped accessibility. We built the press box with volunteer help, and the materials were provided at a cost of approximately \$5,000. It has been a wonderful community effort. It would cost in the area of \$40,000 to \$60,000 for an elevator to make the facility handicapped accessible. We feel this is a very unnecessary expense.

In its use, the press box is really not used for the press. It is really an electronic control center for the athletic fields. It provides a secure place for the scoreboard control, the public address system for announcing the activity, the electronic system to feed the live activity back to the public cable TV system, electrical outlets for video taping of the game and a telephone for emergency use. In our bleachers, we have three platform areas for the handicapped. By one of the platforms, we have planned electrical outlets and a telephone line to accommodate any handicapped person that may have a need to do the things that can be done in the electronic control center except for operating the scoreboard. Our district is very concerned about accessibility for the handicapped and we are updating our facilities throughout the district to meet that need. We feel the elevator to the electronic control center (press box) is very unreasonable for the following reasons:

1. The facility will never be occupied by more than six people at any time.
2. It will only be used 16 to 20 times per year for no more than three hours at a time for a total of 60 hours per year.

3. It is not used for more than six months of the year.
4. The cost of the elevator is eight times the cost of the facility to which it is to provide access.

When the Department of Commerce inspector told us to stop construction, I asked her where I could go in Wisconsin to view a press box with a ramp or an elevator. She told me there are none. My understanding of the situation is that the Wisconsin Administrative Code, Chapter ILHR69 – Barrier Free Design, is written to comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG-4.10). The interpretation of the state code and the federal guidelines is that any building or facility, regardless of size, shall have an elevator serving any non-accessible facility. This interpretation has not been applied uniformly in Wisconsin, and many press boxes have been built in the last several years without complying. Prior to us being caught up in this interpretation, the School District of Westfield was stopped in their construction of a press box for the same reason. We need your help in resolving this problem, as many other school districts will hope to build a press box in the future. We have received a variance (request and response enclosed) that will allow us two years to solve this problem. Westfield has less than a year to solve their problem. Please act quickly and expedite a change in the federal and state agencies' interpretation of the code.

I would be most pleased to meet with you or your representative in the near future to discuss the problem. The WIAA is also trying to help us with the problem. I am also communicating with other state and federal legislators about the problem. School districts work very hard to serve the handicapped and I believe they do a very good job. Taxpayers and the state spend a lot of money on schools. To spend \$40,000 to \$60,000 on an elevator to a press box does not seem to be a reasonable or necessary expenditure of funds. We need your help to solve this problem. Enclosed is some other material to help you see our situation. Please call me if you have questions.

Sincerely,



Monte K. Hottmann
District Administrator

Enclosures

**SCHOOL DISTRICT OF CAMBRIDGE
EXPLANATION OF FACILITY DEVELOPMENT
THE ELECTRONIC CONTROL CENTER FOR THE ATHLETIC FIELD**

September 10, 1996 - Referendum approved for 16.41 million for facility development to include redoing of the athletic field. We decided in the project to contract for the bleachers, and then put the press box in later on our own using volunteers.

October-December, 1996 – Old bleachers, field lights and toilet facility are removed to prepare for the changes in the field. The bleacher removal included the removal of the press box. The original intent was to save the press box, but it became too difficult to remove and save materials. It was demolished in the bleacher removal process.

June-July, 1997 – Excavation of the athletic field took place and the field was reshaped.

July-September, 1997 – Structures were installed including lights, goal posts, backstops, fencing and bleachers.

August 13, 1997 – We secured a local building permit. Because the structure was under 25,000 cubic feet, our understanding was that the facility did not require state-approved plans. We also believed that a local building permit was all that was necessary as the facility was not to be used by the general public. It primarily provided weather protection and security to electronic equipment used to operate the scoreboard, the PA system and the cable TV system. Its use was to be only by a few people who are usually paid employees of the district. The use occurs for not more than 20 times per year no more than three (3) hours at a time. Total use is about 60 hours per year.

August 16, 1997 – The construction began. We bid the products and got them at reduced cost for less than \$5,000. We used volunteer help in the project with two practicing carpenters as the construction leaders.

August 25, 1997 - Charlotte Thompson, State Building Inspector, visited our site and directed us to stop construction because:

1. It was not being built with state approved plans.
2. It did not have handicap accessibility.

August 25-September 12, 1997 – No construction took place.

September 9, 1997 – The District Administrator wrote to Charlotte Thompson explaining that the press box was unsafe in its partially completed state and that he planned to have the project completed to be safe unless he heard different from her. No response was received. The letter also explained that state plans were being prepared for submittal.

September –October, 1997 – Plans for the press box (Electronic Control Center) were submitted to the Wisconsin Department of Commerce by Stubenrauch Architects, Inc.

October 23, 1997 – A communication from the Wisconsin Department of Commerce was sent to the district that denied the plan. Four items causing denial of the plan were architectural cleanup items that are being completed by Stubenrauch:

1. ILHR 50.07(2) As the bleachers and press box are over 50,000 cubic feet, all plans and calculations submitted for review and approval shall bear the original seal and signature of the building designer.
2. ILHR 50.12(5) The SBD-118 Application for Approval form must bear the original signature of the building designer.
3. ILHR 50.12(4) The plan submittal did not include the required structural calculations. Submit signed and sealed structural calculations.
4. ILHR 63.01 as building envelope calculations have not been submitted showing compliance with the energy conservation provisions of ILHR 63, the press box addition has been reviewed as an unheated seasonal use building.

The fifth item stated that “as the press box and bleachers at the public school facility are government owned, vertical circulation to all floor levels by means of a full passenger elevator complying with ADAAG 4.10 is required”. The letter stated that an appeal hearing could be requested.

October-December, 1997 – The District Administrator has been in contact with many resources to try and solve this dilemma. A request for a variance for two years was made on December 8, 1997, which stated “we do not have a solution at this time, and need the two year variance to have time to resolve the issue”.

January 9, 1998 – The variance was approved by the Wisconsin Department of Commerce.

SENATOR RICHARD GROBSCHMIDT
CO-CHAIRMAN

Room 404 • Hamilton
Madison, WI 53707
Phone: 608-266-7505



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIRMAN

Room 125 West • State Capitol
Madison, WI 53703
Phone: 608-264-8486

February 10, 1998

**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

William J. McCoshen, Secretary
Department of Commerce
6th Floor
201 W. Washington Avenue
Madison, WI 53702

Dear Secretary McCoshen:

We are writing in hopes of obtaining information that will assist us in helping to resolve a concern about state building code regulations brought to our attention by the School District of Cambridge. Information provided by you will also help us respond to several inquiries we have had from our colleagues on this matter.

It is our understanding that the department's interpretation of provisions of chapter ILHR 69, Barrier-Free Design, will require the School District of Cambridge to install an elevator to provide access to a small press box being constructed as part of the district's rebuilding of its high school athletic field. We have enclosed a copy of correspondence sent to us by the School District of Cambridge that gives additional detail on the department's consideration of their project. We would appreciate your explanation of the department's interpretation of the ILHR 69.18(2)(b), Wis. Adm. Code, and specifically how a small press box at the top of the spectator bleachers meets the definition of a building subject to the Barrier-Free Access requirements.

We would also appreciate your commenting on what alternatives the School District of Cambridge can consider during the two-year variance period the department granted from the requirement. In a variance request on this code provision, the district requested a two year period of time to develop alternatives that might address this requirement. The department granted the variance but stated its expectation that after two years an elevator would be built. We would like to help the district in exploring other alternatives and would appreciate your assistance.

If our inquiry raises any questions not addressed by our letter or the attached correspondence, please do not hesitate to contact us.

Sincerely,

RICHARD GROBSCHMIDT
Senate Co-Chair

GLENN GROTHMAN
Assembly Co-Chair

RG:GG:js
Enclosure

Division of Food Safety,
Wisconsin Department of
Agriculture, Trade and
Consumer Protection

2811 Agricultural Drive, Box 8911,

Madison, WI 53708

FAX

Date:

2/10/1

Number of pages including cover sheet:

3

To:

John Semi

264-7483

From:

Steve Steinhoff

E-mail

steinsb@wheel.datcp.state.wi.us

Phone:

608/224-4701

Fax phone:

608/224-4710

REMARKS:

Urgent

For your review

Reply ASAP

Please comment

John -
Attached is the latest (mostly final?) draft
of the Food Safety Task Force recommendations
about the "Retail Issue".

Steve
Steinhoff

P.S. Recommendations changes are noted as follows:
- additions are italicized
- deletions are shown as strike throughs

Draft

Issue: Duplication in Retail Food Establishment Inspection

Tom

Currently, a food business which processes or sells food as a retail food establishment (grocery store) and serves and sells individual meals as a restaurant, must hold two licenses, pay two license fees and be inspected by both DATCP and DHFS. The same establishment is inspected under two different administrative codes which are organized differently and contain slightly different requirements.

Task Force Recommendations

Eliminate Duplication of Licensing and Inspection by DATCP and DHFS

The consensus of the Food Safety Task Force is to recommend that DATCP and DHFS work cooperatively to develop statutory language, administrative rules, policies, and procedures which will result in the following improvements for businesses engaged in both retail food and restaurant operations:

- issuance of a single license;
- payment of a single license fee;
- inspection by a single agency, DATCP (or its agent), or DHFS (or its agent);
- compliance with a single set of regulations.

The Food Safety Task Force further recommends that:

- a common administrative code based on federal standards be developed to ensure equal and uniform enforcement of food safety standards by DATCP, DHFS, and their agents; *seek legislation to provide authority to develop a single food safety code to be used by both departments.*
- *provide by statute that the licensing agency be determined based on which activity (retail versus restaurant) is the majority of the business' food sales volume; the percentage of retail food versus restaurant sales volume would be self reported by the license applicant, subject to verification as needed by either agency;*
- a method be developed to prevent duplication of ~~licensing~~ inspection for those business locations engaged in distinct but multiple operations (e.g., a Subway sandwich shop located on the same premise as a Kwik Trip convenience store);
- in the twelve months following July 1, 1999, there will be a transition period during which DATCP and DHFS will implement the changes needed to eliminate the duplication of licensing and inspection of retail food businesses;
- as part of the transition, in order to assure that all inspection staff have the knowledge and tools needed to effectively evaluate businesses' food safety practices, DATCP, ~~and~~ DHFS and local agents are to work cooperatively to provide training to agency and agent inspectors on the common administrative code and inspection methods used in the types of establishments each agency has

traditionally inspected; the agencies are to work cooperatively to insure that affected businesses are made aware of changes in rules and licensing and inspection policies:-

- all work necessary to accomplish the goal of elimination of duplication of licensing and inspection be completed by July 1, 2000.
- *The impact of the elimination of duplication will mean overall cost reductions to regulated businesses and overall savings to state government without compromising the quality of food safety inspection.*
-
-
-

February 20, 1998

Mr. John Wodatch, Director
U.S. Department of Justice
Division of Civil Rights
Office on the Americans with Disabilities Act
Washington, DC 20530

Dear Mr. Wodatch:

The Wisconsin Department of Commerce, Division of Safety and Buildings, is requesting a written opinion on the application of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) to ADA-Title II in the new construction of a press box located on a public school's or other public entity's property. Some of our state Legislators are requesting this Department for a detailed explanation of the intent of the state and federal codes relating to press boxes. We are asking for your written opinion on the following questions:

1. If a ramp is not provided to a press box area located at the top of outdoor bleachers or to a free-standing press box, is it the intent of 28 CFR Part 35, section 35.151 (c) to require an elevator to provide vertical access to these press box areas?

Yes: _____

No: _____

Rationale:

2. If a platform lift or limited-use elevator is used to provide vertical access to a new construction press box, does a platform lift or a limited-use elevator provide an equivalent method of vertical access to that of an elevator complying with ADAAG 4.10?

Yes: _____

No: _____

Rationale:

If you have any questions, please contact me at 608/266-8982 or fax 608/264-8795. Due to the involvement of our state Legislature, an expedient reply is requested. Thank you for your assistance, I look forward to your answer.

Sincerely,



Diane Meredith
Code Consultant

cc. Michael Corry

Americans with Disabilities Act Fact Sheet

Accessibility Requirements	Effective Date	Regulations and Enforcement
<p>Title I - Employment</p> <p>Employers with 15 or more employees may not discriminate against qualified individuals with disabilities.</p> <p>Employers must reasonably accommodate the disabilities of qualified applicants or employees, including modifying work stations and equipment, unless undue hardship would result.</p>	<p>July 26, 1992 - for employers with 25 or more employees.</p> <p>July 26, 1994 - for employers with 15 to 24 employees.</p>	<p>EEOC to issue regulations by July 26, 1991.</p> <p>Individuals may file complaints with EEOC. Individuals may also file a private lawsuit after exhausting administrative remedies.</p> <p>Remedies are the same as available under Title VII of the Civil Rights Act of 1964. Court may order employer to hire or promote qualified individuals, reasonably accommodate their disabilities, and pay back wages and attorney's fees.</p>

Abbreviations used in this chart:

ADA	Americans with Disabilities Act	EEOC	Equal Employment Opportunity Commission
ATBCS	Architectural and Transportation Barriers Compliance Board	FCC	Federal Communications Commission
DOJ	Department of Justice	MORAD	Minimum Guidelines and Requirements for Accessible Design
DOT	Department of Transportation	UFAS	Uniform Federal Accessibility Standards

U.S. Architectural and Transportation Barriers Compliance Board
 Suite 501, 1111 18th Street, NW
 Washington, DC 20036-5004
 TELEPHONE: 1-800-USA-ABLE (voice or TDD)
 The Access Board will provide an information package on the Americans with Disabilities Act.

Accessibility Requirements

Title II - Public Services

State and local governments may not discriminate against qualified individuals with disabilities.

Newly constructed state and local government buildings, including transit facilities, must be accessible.

Alterations to existing state and local government buildings must be done in an accessible manner.

When alterations could affect accessibility to "primary function" areas of a transit facility, an accessible path of travel must be provided to the altered areas and the restrooms, drinking fountains, and telephones serving the altered areas must also be accessible, to the extent that the additional accessibility costs are not disproportionate to the overall alterations costs.

New buses and rail vehicles for fixed route systems must be accessible.

New vehicles for demand responsive systems must be accessible unless the system provides individuals with disabilities a level of service equivalent to that provided to the general public.

One car per train must be accessible.

Existing "key stations" in rapid rail, commuter rail, and light rail systems must be accessible.

Effective Date

January 26, 1992 - unless otherwise noted below. (Recipients of Federal financial assistance are presently required to comply with similar requirements under Section 504 of the Rehabilitation Act of 1973.)

Ordered after August 25, 1990.

Ordered after August 25, 1990.

By July 26, 1995.

By July 26, 1993. Extensions may be granted up to July 26, 2010 (commuter rail) and July 26, 2020 (rapid and light rail) for stations needing extraordinarily expensive structural changes.

Regulations and Enforcement

DOJ to issue regulations except for public transportation by July 26, 1991.

DOT to issue regulations for public transportation by July 26, 1991.

ATCB to supplement MGRAD by April 26, 1991. DOJ and DOT regulations must be consistent with supplemental MGRAD and may incorporate the supplemental MGRAD.

UFAS to be used as interim accessibility standard for transit facilities if final regulations have not been issued and if a building permit has been obtained prior to issuance of final regulations, work begins within one year of receipt of permit, and is completed under the terms of the permit. If final regulations have not been issued one year after MGRAD has been supplemented, MGRAD to be used as interim accessibility standard.

(Most facilities constructed or altered with Federal funds are presently required to comply with UFAS under the Architectural Barriers Act of 1968. Facilities constructed or altered by recipients of Federal financial assistance are presently required to comply with UFAS under Section 504 of the Rehabilitation Act of 1973.)

Amtrak and commuter rail passenger cars must comply with MGRAD provisions for rail cars to the extent that they are in effect at the time the design of the cars is substantially completed, if final regulations have not been issued.

Accessibility Requirements

Effective Date

Regulations and Enforcement

Comparable paratransit must be provided to individuals who cannot use fixed route bus service to the extent that an undue financial burden is not imposed.

By January 26, 1992.

Individuals may file complaints with DOT concerning public transportation and with other designated Federal agencies concerning matters other than public transportation. Individuals may also file a private lawsuit.

All existing Amtrak stations must be accessible.

By July 26, 2010.

Remedies are the same as available under Section 505 of the Rehabilitation Act of 1973. Court may order entity to make facilities accessible, provide auxiliary aids or services, modify policies, and pay attorneys' fees.

Amtrak trains must have same number of seating spaces for individuals who use wheelchairs as would available if every car in the train were accessible to such individuals.

By July 26, 2000. Half of these seats must be available by July 26, 1995.

Title III - Public Accommodations

Restaurants, hotels, theaters, shopping centers and malls, retail stores, museums, libraries, parks, private schools, day care centers, and other similar places of public accommodation may not discriminate on the basis of disability.

January 26, 1992 - unless otherwise noted below.

DOJ to issue regulations except for privately operated transportation by July 26, 1991.
 DOT to issue regulations for privately operated transportation by July 26, 1991.
 ATBCB to supplement MGRAD by April 26, 1991.
 DOJ and DOT regulations must be consistent with supplemental MGRAD and may incorporate the supplemental MGRAD.

Physical barriers in existing public accommodations must be removed if readily achievable (i.e., easily accomplishable and able to be carried out without much difficulty or expense). If not, alternative methods of providing services must be offered, if those methods are readily achievable.

New construction in public accommodations and commercial facilities (non-residential facilities affecting commerce) must be accessible.

Facilities designed and constructed for first occupancy after January 26, 1993.

UFAS to be used as Interim accessibility standard if final regulations have not been issued and if a building permit has been obtained prior to issuance of final regulations, work begins within one year of receipt of permit, and is completed under the terms of the permit. If final regulations have not been issued one year after MGRAD has been supplemented, MGRAD to be used as Interim accessibility standard.

Accessibility Requirements

Alterations to existing public accommodations and commercial facilities must be done in an accessible manner. When alterations could affect accessibility to "primary function" areas of a facility, an accessible path of travel must be provided to the altered areas and the rest rooms, telephones, and drinking fountains serving the altered areas must also be accessible, to the extent that the additional accessibility costs are not disproportionate to the overall alterations costs.

Elevators are not required in newly constructed or altered buildings under three stories or with less than 3,000 square feet per floor, unless the building is a shopping center, mall or health providers office. The Attorney General may determine that additional categories of such buildings require elevators.

New buses and other vehicles (except automobiles) operated by private entities must be accessible or system in which vehicles are used must provide individuals with disabilities a level of service equivalent to that provided to the general public depending on whether entity is primarily engaged in business of transporting people; whether system is fixed route or demand responsive; and vehicle seating capacity.

New over-the-road buses (buses with an elevated passenger deck located over a baggage compartment) must be accessible.

Title IV - Telecommunications

Telephone companies must provide telecommunications relay services for hearing-impaired and speech-impaired individuals 24 hours per day.

Effective Date

Ordered after August 25, 1990 (February 25, 1992 for rail passenger cars and vans with a capacity of less than 8 persons when operated by an entity primarily engaged in the business of transporting people).

Ordered after July 26, 1996 (July 26, 1997, for small companies). Date may be extended by one year after completion of a study.

By July 26, 1993.

Regulations and Enforcement

On application by State or local government, Attorney General, in consultation with ATBCB, may certify that State or local building codes meet or exceed ADA accessibility requirements.

Individuals may file complaints with the Attorney General. Individuals may also file a private lawsuit.

Remedies are the same as available under Title II of the Civil Rights Act of 1964. Court may order an entity to make facilities accessible, provide auxiliary aides or services, modify policies, and pay attorneys' fees.

Court may award money damages and impose civil penalties in lawsuit filed by Attorney General but not in private lawsuit by individuals.

Small businesses with 25 or fewer employees and gross receipts of \$1 million or less may not be sued for violations occurring before July 26, 1992; and small businesses with 10 or fewer employees and gross receipts of \$5 million or less may not be sued for violations occurring before January 26, 1993. However, such small businesses may be sued for violations relating to new construction and alterations to facilities occurring after the effective date.

FCC to issue regulations by July 26, 1991.

Individuals may file complaints with the FCC.



MAR 02 1998

P. O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
William J. McCoshen, Secretary

February 25, 1998

Senator Richard Grobschmidt
Co-Chairman
Joint Committee for Review of Administrative Rules
Room 404
100 N. Hamilton
Madison, WI 53708

Representative Glenn Grothman
Co-Chairman
Joint Committee for Review of Administrative Rules
Room 125 West, State Capitol
Madison, WI 53708

Dear Senator Grobschmidt and Representative Grothman:

As you know, the Department adopted an emergency rule on October 24, 1997, amending section Comm 108.21(1)(f) relating to funding emergency grants under the Community Development Block Grant Program. The emergency rule took effect on November 1, 1997 and is currently in effect. The emergency rule will expire on April 1, 1998, unless an extension is granted.

In a letter dated January 23, 1998, we informed you of the progress that was being made towards promulgating a permanent rule (Clearinghouse Rule Number 97-156), and that the permanent rule was being filed for legislative review.

The Joint Committee for Review of Administrative Rules (JCRAR) requests that agencies make formal requests in advance prior to the expiration of an emergency rule. It appears that the legislative review of the subject rule will not be complete until March 3, 1998. Also, based on the current Revisor of Statutes printing schedule, the earliest date the permanent rule can be placed in effect will be May 1, 1998. Following the rulemaking process in ch. 227, Stats., the permanent rule cannot be adopted and placed in effect prior to the expiration of the emergency rule.

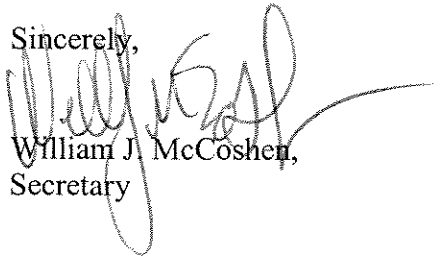
In light of these facts, we respectfully request an extension of the emergency rule under S. 227.24 (2), Stats., until the permanent rule takes effect in order to preserve the public peace and provide a smooth and orderly transition from the emergency rule to the permanent rule.

Page 2

Richard Grobschmidt
Glenn Grothman

If you have any questions regarding our progress to date or this request, please don't hesitate to contact us. Thank you in advance for your consideration of our request.

Sincerely,

A handwritten signature in black ink, appearing to read "William J. McCosher", with a long, sweeping horizontal line extending to the right.

William J. McCosher,
Secretary

**DEPARTMENT OF COMMERCE EMERGENCY RULE
RELATING TO THE FUNDING OF EMERGENCY GRANTS UNDER THE
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

Pursuant to Section 227.24, Stats., the Department of Commerce hereby adopts an emergency rule to amend Section Comm 108.21(1)(f), Wisconsin Administrative Code, relating to the emergency grants under the Community Development Block Grant (CDBG) program.

Finding of Emergency

The Department of Commerce (Commerce) finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

A closer examination of the revised rules to take effect on November 1, 1997 will not allow Commerce to award emergency grants to local governments experiencing a natural disaster or catastrophic event using other state or federal grant funds as match. Those rules do not specify a source for the match funds, and up to the present time, many of the emergency grants did use state and/or federal grants as match. The most recent example of an emergency is the tornado that devastated the Village of Oakfield. In that case, the Federal Emergency Management Administration (FEMA) and state Division of Emergency Management (DEM) funds were used as match for a CDBG emergency grant.

The floods that occurred in June 1997 in the Milwaukee area may generate some emergency requests for repair and remediation activities. Under the rules that take effect November 1, 1997, Commerce would not be able to use the FEMA and DEM grants as match for these emergency projects.

The nature of the emergency program makes it impossible to anticipate future applications for obvious reasons. Commerce must have a program in place and ready to respond on short notice when an emergency occurs. The emergency rule will allow the use of other grant funds as match. It is very important that Commerce be ready to respond in a timely manner to the needs of the citizens of this state in times of emergency.

Analysis of Rules

Statutory Authority: Ss. 16.54, 560.02(4) and 560.04(2)(j), Stats.

Statutes Interpreted: 42 USC 5301 to 5319.

Pursuant to section 560.02(4), Stats., the Department of Commerce has the authority to administer the federal CDBG funds awarded to the State of Wisconsin under 42 USC 5301 to 5319. Under applicable federal law, Commerce is authorized to award CDBG funds to any town, village or city with a population of less than 50,000 that is not eligible to apply for or participate in the federal block grant program, and to any county other than an urban county as defined by the United States Department of Housing and Urban Development ("HUD"). Historically, Commerce's rules have authorized eligible communities to use CDBG funds for

public facilities projects, public facilities projects to promote economic development, economic development projects, and emergency situations caused by natural disasters and other catastrophic events. Recent amendments to the applicable federal regulations authorize the use of CDBG funding for additional purposes including the prevention and elimination of slum and blight.

Section 560.04(2)(j), Stats., also gives Commerce the authority to adopt this order. This order amends ch. Comm 108, subch. VI of the Wisconsin Administrative Code, relating to emergency grants under the CDBG program. This order is made to assist and strengthen local, regional and state economic and community development in dealing with emergencies.

Under the revised rules that take effect on November 1, 1997, Commerce will not be allowed to award emergency grants to local governments experiencing a natural disaster or catastrophic event using other state or federal grant funds as match. Omitting the following language from section Comm 108.21(1)(f), Wisconsin Administrative Code, "other than grants from the federal or state government," is necessary so that Commerce will be able to respond to local community needs in times of distress, to do so in a timely manner, and to preserve the public peace, health, safety, and welfare of the community and its citizens.

Fiscal Estimate

This order will not have a fiscal effect on Commerce because it does not change Commerce's workload or the total amount of CDBG funding available to fund projects under the economic development, public facilities, public facilities for economic development and emergency grant programs. The total amount of funds available to local governments under the community development block grant program is not changed by this order because all federal funds and program income are and will be distributed as block grant funding to local governments..

Contact Person

Dennis W. Kozich, Chief Legal Counsel, Department of Commerce -- 608/266-3203.

ORDER

Pursuant to the authority vested in the Department of Commerce by Section 560.04(2)(j), Stats., the Department of Commerce hereby amends Section Comm 108.21(1)(f) of the Wisconsin Administrative Code relating to emergency grants under the Community Development Block Grant Program.

SECTION 1. Section Comm 108.21(1)(f) is amended to read:

Comm 108.21(1)(f) The local government will contribute at least 25% of the total cost of the project from other funding sources ~~other than grants from the federal or state government.~~

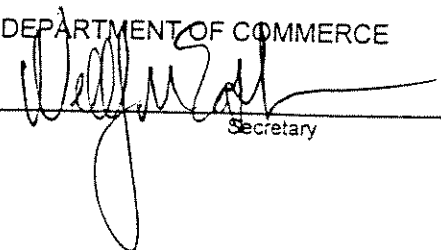
EFFECTIVE DATE

The emergency rule as ordered shall take effect on November 1, 1997 upon publication in the official state newspaper and filing with the Secretary of State and the Revisor of Statutes, as provided in §227.24.

Adopted at Madison, Wisconsin this

date: October 24, 1997

DEPARTMENT OF COMMERCE


Secretary

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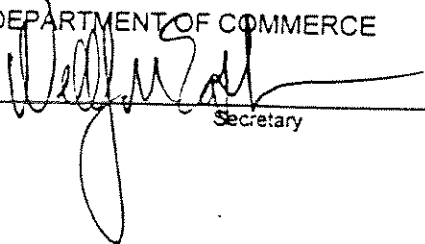
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DEPARTMENT OF COMMERCE


Secretary