CCDA | California Commission on Disability Access

2016 Annual Report
to the
California State Legislature

January 31, 2017

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Honorable Senate President Pro Tempore
Kevin de León
State Capitol
Room 205
Sacramento, California 95814

Honorable Senator Hannah-Beth Jackson
Chair, Senate Standing Committee on Judiciary
State Capitol
Room 2032
Sacramento, California 95814

Honorable Speaker of the Assembly
Anthony Rendon
State Capitol
Room 219
Sacramento, California 95814

Honorable Assembly Member Mark Stone
Chair of the Judiciary Committee
1020 N Street
Room 104
Sacramento, California 95814

Honorable Members of the California State Legislature:

The California Commission on Disability Access is pleased to provide the 2016 Annual Report to the California State Legislature in compliance with Government Code Sections 8299.07 (a) and 8299.08 (d). The purpose of the report is to outline the Commission's ongoing effort to implement Government Code Sections 8299.05 and 8299.06 and to provide tabulated data on Americans with Disabilities (ADA) construction-related physical access violations alleged, demand letters and complaints filed in Federal and State courts, and the outcome of those cases. In 2016, the Commission continued to make strides towards achieving the nine goals set forth in our Strategic Plan (Appendix J) developed at the end of 2014 through the creative and thoughtful input from the disability community, government, business, non-governmental organizations, partners and affiliates. With the growing number of ADA lawsuits in California, the Commission's activities in 2016 focused on education, outreach, training and partnerships that facilitate access compliance.

Sincerely,

Commissioner Guy A. Leemhuis
Chair

Commissioner Douglas Wiele
Vice Chair

Angela Jemmott
Executive Director

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SUMMARY

California Commission on Disability Access (CCDA) Annual Report to the California State Legislature in compliance with Government Code Sections 8299.07 (a) and 8299.08 (d).

Preventing or minimizing problems of compliance through ongoing education and outreach to the small business community, as directed in Government Code 8299.05 (b.1), remains a priority for the Commission. In 2016, the Commission conducted a number of outreach efforts. The Commission partnered with the Division of State Architect (DSA) and our newly formed partner, the California Capital Access Program (CalCAP), to make presentations at two California Governor's Office of Business and Economic Development (GO-Biz) business events both held in rural cities in northern California where our data collection indicates there is a growing number of construction-related access violations. Recognizing that preventing or minimizing problems of compliance can be achieved through the development of new curricula around accessibility design and construction (goal #1 in our Strategic Plan), the Commission, in 2016, began exploring this strategy by reaching out to the educational community for input.

The launching of the first phase of the Consumer Guide was conducted in 2016 with the creation and distribution of the Consumer Access Tool Kit, "*Accessibility Compliance for Businesses, Myths and Misconceptions*" guide, first launched at Senator Roth's Americans with Disabilities (ADA) Small Business Workshop in Riverside. In 2016, the Checklist Committee identified a need to develop "industry specific" educational modules and will work towards this vision in 2017. The industry crafted educational module will address the unique business standards and access challenges associated with a particular industry (i.e. restaurant, hotel/lodging, gas station, hospital, entertainment, casino, etc.). CCDA has gathered access professionals and representatives from various organizations to ensure the highest quality of expertise to meet this charge.

Legislative collaboration continued to be a priority for the Commission in 2016, as we worked to build upon the alliance with legislative members that began in 2015. The Executive Director, Chairman of the Board, and a few of the members of the Commission met throughout the year to share thoughts and recommendations on pending legislation. Many of the authors used actual CCDA data findings to assist in drafting the language of their bills. The Commission expects to continue to build upon the legislative alliances formed in 2015 by hosting periodic Town Hall meetings. These meetings will be designed to bring together the disability and business communities to better understand each other's values and issues and work together to find workable solutions that will benefit both communities.

Limited Resources/CCDA Budget Merger with DGS. A critical key to achieving a more robust program for the Commission clearly rests with the availability of resources. The Commission will literally run out of office space in 2017 to accommodate our approved staffing allocation. The manual processes used by the Commission to track, analyze, and report on alleged American with Disabilities (ADA) violations and case outcomes results in cumbersome management of paper records. Volunteer staffing and support is heavily relied upon to achieve critical components of our mission. The Governor's Proposed Budget (Fiscal Year 2017-18), released in January 2017 reflects the Commission's budget will be merged with the Department of General Services (DGS) effective July 1, 2017. Discussions are underway with DGS staff to plan the budget merger. The Commission is hopeful discussions will lead to a resolution of some of our space needs and budgetary concerns previously reported on.

Report available online at **http://www.ccda.ca.gov/Reports.htm or by calling (916) 319-9974**

1.0

Introduction

HISTORY

In 2008, the California State Legislature concluded that in many instances persons with disabilities continued to be denied full and equal access to public facilities even though that right was provided under State and Federal law. The Legislature further concluded that businesses in California have the responsibility to provide full and equal access to public facilities as required in laws and regulations, but that compliance may be impeded, in some instances, by conflicting State and Federal regulations resulting in unnecessary litigation.

The Legislature passed Senate Bill (SB) 1608 (Corbett) establishing the California Commission on Disability Access (CCDA) under Government Code Sections 8299 – 8299.11 with a vision of developing recommendations that will enable persons with disabilities to exercise their right to full and equal access to public facilities and that will facilitate business compliance with the applicable laws, building standards and regulations to avoid unnecessary litigation, as well as addressing many other reforms related to access compliance. In 2012, SB 1186 (Steinberg) established additional review and reporting of demand letters by the Commission. In October 2015, AB 1521 (Committee on Judiciary) was signed into law as an urgency measure with the requirement for the Commission to additionally collect and study case outcomes. In September 2016, SB 1406 (Mendoza) was enacted establishing review and reporting of educational entities to our already review of public facilities. Also, AB 54 (Olsen) was enacted giving the Commission the authority to establish a standard report format for receiving complaints and demand letters.

MISSION

The mission of CCDA is to promote disability access in California through dialogue and collaboration with stakeholders including but not limited to the disability and business communities and all levels of government. In order to achieve this mission CCDA is authorized to act as an information resource; to research and prepare advisory reports of findings to the Legislature on issues related to disability access, compliance inspections and continuing education; to increase coordination between stakeholders; to make recommendations to promote compliance with Federal and State laws and regulations; and to provide uniform information about programmatic and architectural disability access requirements to the stakeholders.

VISION

CCDA, together with key partners, adopted a vision Statement to reflect the ideal future State when the agency's mission is accomplished.

An Accessible, Barrier-Free California
= Inclusive and Equal Opportunities and Participation for All Californians!

PURPOSE OF REPORT

GOVERNMENT CODE SECTIONS 8299.07 (A)

This report outlines the ongoing efforts of the Commission to implement Government Code Sections 8299.05 and 8299.06. In general these sections cover provisions of information to businesses on compliance with disability access requirements; recommending programs to enable persons with disabilities to obtain full and equal access to public facilities; providing information to the Legislature on access issues and compliance, and the development and dissemination of educational materials and information to promote and facilitate disability access compliance.

GOVERNMENT CODE SECTION 8299.08 (D)

This report provides tabulated data including:

- the various types of construction-related physical access violations alleged in demand letters and complaints;
- the number of claims alleged for each type of violation;
- a list, by type, of the 10 most frequent types of accessibility violations alleged;
- the numbers of alleged violations for each listed type of violation;
- the number of complaints filed in State or Federal court; filing frequencies; and location frequencies;
- the zip codes of complaints filed;
- the percentage of attorney and plaintiffs filings; and
- top litigants and the resolution reached on cases submitted.

2.0

Committee Accomplishments and Path Forward

EXECUTIVE COMMITTEE

The Executive Committee continues to meet monthly to address operational needs and establish the Commission's agenda. The Executive Committee is made up of the standing committee's chairs and Commissioners from our legislative body or their representatives. Currently, the Executive Committee does not have an actual member of the legislative body as in previous years; however, the Executive Committee has been frequently supported by representatives of the legislative body. Thus, their support, when called upon, has been keenly insightful and fruitful for the Executive Committee on a number of issues.

The board, under the leadership of the Executive Director and Executive Committee, saw great strides in reaching many of its 2014-2019 Strategic Goals set by the Commission.

The Commission's Vice Chair Doug Wiele transitions the Full Commission Meeting on to Commission's Strategic Plan. During this meeting stakeholders from around the state weighed in on CCDA 5 year goals and strategies.

Highlights of 2016 goal accomplishments:

Goal 3: Create training programs for targeted constituencies. This goal seeks to address the lack of opportunities for businesses, nonprofits, schools, professionals in the planning, design, property, construction and other sectors to learn about and to engage with resources around access issues and find support to make accommodation modifications. The Checklist Committee sought out to promote cultural competency regarding disability and program access through the creation of industry targeted consumer tool kits. The Committee first launched the *Accessibility Compliance for Businesses, Myth and Misconceptions* guide which intersect all industries.

Goals 4 & 5 are targeted in identifying financial incentives and/or revenue streams to fund access needs and compliance. These goals speak to the need to identify and secure revenue streams in efforts to mitigate accommodation costs and incentivize access compliance. In reaching our goal, CCDA served Assembly Member Jimmy Gomez's office with some of the technical language of AB 1230, which passed in 2015. This bill created the California Americans with Disabilities Act Small Business Compliance Finance Authority to provide loans to small businesses in need of financing to retrofit existing facilities to comply with access projects. To further support this effort, in 2016 CCDA created a new alliance through the partnership of California Pollution Control Authority – CA State Treasurer's Office (CALCAP). CCDA linked activities conducted by CALCAP on the website and participated as a technical support in CALCAP regional webinars.

Goal 8: Maintain data on status of access compliance**.** The purpose of this goal is to provide relevant information and data on the status of access compliance throughout California. While CCDA heavily relies on volunteer staffing to manage the manual data base process, CCDA consistently communicates the top ten alleged violations at outreach events and via our website.

One of CCDA original partners from the Strategic Planning Committee, Attorney Pamela Cohen from Disability Rights of California continues to offer her expertise as a public member on the Education and Outreach Committee.

Matthew Hargrove from the California Building Property Association shares his thoughts regarding opportunities for CCDA.

Executive Director Angela Jemmott shares strategies with agency partner - Division of State Architect , Dennis Corelis, Deputy State Architect.

EDUCATION AND OUTREACH COMMITTEE

The Education and Outreach Committee is responsible for the dissemination of information and educational materials to promote and facilitate disability access awareness. It supports the work and products of all the Commission's subcommittees. For example, the Education and Outreach Committee supported the Checklist Committee and Legislative Committee by sharing the *Accessibility Compliance for Businesses, Myths and Misconceptions* guide that was first launched this year at Senator Roth's ADA Small Business Workshop in Riverside. It also supported the Legislative Committee in their efforts to plan a Legislative Town Hall meeting in 2016 and form new legislative partners that would help extend our dissemination of materials and raise awareness of accessibility issues. However, the Legislative Town Hall meeting was postponed due to budget constraints.

Through our partnership with GO-Biz, the Commission participated in multiple ADA workshops that targeted small businesses, including those in the rural cities of Sonora and Eureka. Outreach to rural areas was a first for the Commission. The Education and Outreach Committee is also working towards identifying accessibility information for inclusion on GO-Biz business portal in the upcoming months.

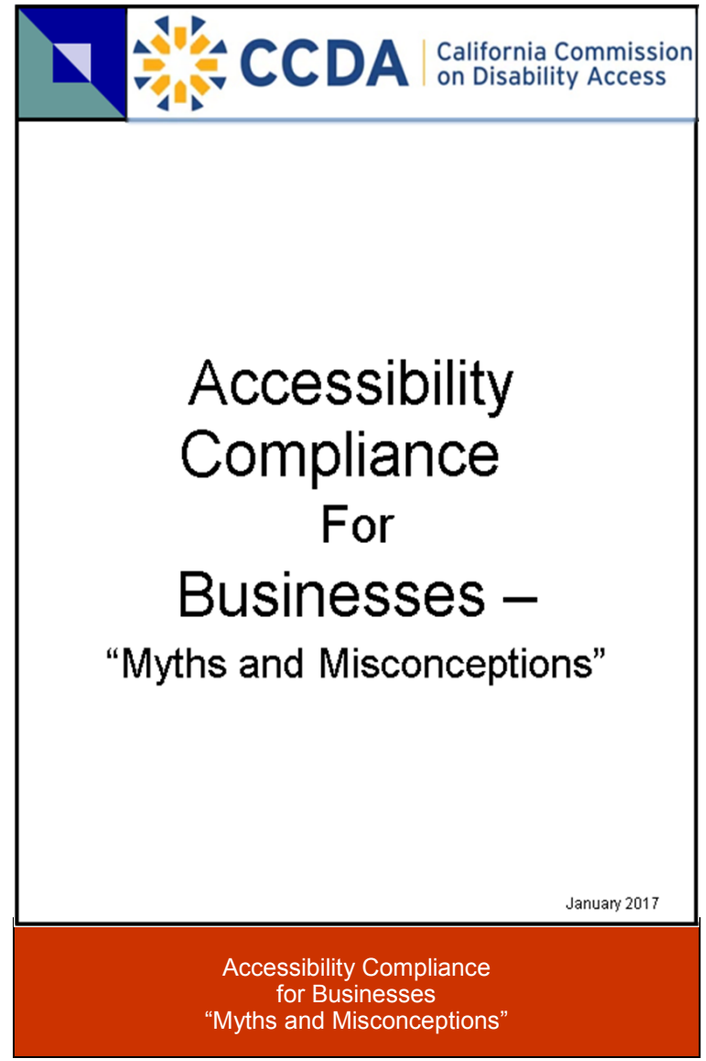
Jesse Torres, Deputy Director, CA Small Business Advocate from the California Governor's Office of Business and Economic Development (GO-Biz) facilitates a powerful panel discussion by Renee Webster-Hawkins, Executive Director, California Pollution Control Authority – CA State Treasurer's Office, Angela Jemmott, Executive Director of CCDA, and Terry McLean a Certified Access Specialist (CASp) and board member of the Certified Access Specialist Institute. Commissioner Senator Richard Roth hosted this event as an ADA workshop for small businesses and disability advocates in Riverside.

CHECKLIST COMMITTEE

In 2015 the Checklist Committee created the *Accessibility Construction Inspection Checklist* which is used primarily by building inspectors. In 2016, the Checklist Committee launched the *Accessibility Compliance for Businesses, Myths and Misconceptions guide*, which intersect all industries. This was a major undertaking in collaboration with several partners.

Through surveying of its constituents, the Checklist Committee recognized the need to develop individualized tool kits unique to each industry (e.g. hotel, entertainment, restaurants, gas stations, hospitals, etc.); as access issues tend to vary by industry.

CCDA's Checklist Committee is represented by various organizations including the City of San Diego, Certified Assess Specialist Institute, California Hotel & Lodging Association, the California Chamber of Commerce, the Division of State Architect, California Business Official and City of Orville, Department of Rehabilitation, California Asian Pacific Chamber of Commerce, American Institute of Architects, California Council, Restaurant Association, City of San Francisco, Department of Housing and Community Development, Californians for Disability Rights, and Buildings Standards Commission.



LEGISLATIVE COMMITTEE

Legislative collaboration continued to be one of the Commission's main focal points in 2016. Legislative Commissioners, led by Asm. Tom Lackey, supported by Asm. Tony Thurmond and Sen. Richard Roth, hosted a Legislative Staff Briefing. It was an extremely productive meeting drawing non-partisan attendance.

In late 2015, the Legislative Committee began working towards more collaborative efforts and began the development of Town Hall Meetings to bring the disability and business communities together. The objective is to better understand each community's mission and values, discuss urgent issues, and find workable solutions that would be mutually beneficial to both communities. The Legislative Committee hoped to conduct the first Town Hall Meeting in 2016 but had to postpone the event due to budget constraints. However, that effort still remains a priority for this committee and the Commission. As the Commission moves forward, the Legislative Committee will continue to provide insight on proposed legislation and will seek out opportunities to partner with legislative members

During CCDA Legislative Staff Briefing (Capitol) hosted by Assemblyman Tom Lackey, the Legislative Chair M. Paravagna exchanged thoughts along with Legislative Committee member Commissioner C. McGuinness regarding potential collaborations with Field Director of Senator Pan, Joe Debbs.

RESEARCH COMMITTEE

AB 54 (Olsen), chaptered in September 2016, addresses CCDA staff and the Research Committee continuous concerns about the efficacy of data collection operations and the current diagnostics process of the data. AB 54 requires that information about the demand letter and the complaint be submitted to the Commission in a standard format specified by CCDA on the Commission's Website. This is a huge step forward for the Commission because it provides the opportunity to refine and streamline the complaint intake process. With the passing of this legislation, the Commission is able to track cases from beginning to end; thus creating the platform for more substantive information for legislators and interested stakeholders to evaluate.

Commissioner McGuinness Vice of the Research Committee along with member of Research and Vice Chair of Education and Outreach Commissioner Downey prepares for items to consider for their role in the Data Base Enhancements project.

SB 1406 (Mendoza) was also passed in September 2016. This bill, with specified exceptions, would also require an attorney who provides pre-litigation letters, complaints alleging a construction-related accessibility claim, and the case resolutions for educational entities to submit a copy to the Commission within five business days for statistical analyses and reporting to the Legislature. This vote of confidence in the Commission's ability to serve legislators and interested stakeholders with timely, unbiased, and reliable measurements is encouraging. If the Commission did not provide this information, the State would have to rely on personal or media created anecdotal assessments of State and Federal court cases. Nevertheless, it places a greater demand on the need for automated analytical tools. The workload associated with both legislative bills are to be absorbed within the Commission's current budget allocation.

PATH FORWARD

Throughout 2016, the Commission spent valuable time and resources identifying committee specific targeted objectives, establishing benchmarks, and creating measurable outcomes derived from the Commission's Strategic Plan developed in 2014.

Launched in December 2016 was the *Accessibility Compliance for Businesses*, *Myths and Misconceptions* portion of the Consumer Guide. The Commission expects to unite with our legislative partners in the continued distribution of this insightful tool in 2017. In 2016, the Commission became an active participant of the GO-Biz business portal, thus creating additional marketing opportunities for CCDA educational tools and communications. The Commission is optimistic that with the strategy of eliminating long held access myths and misconceptions within the business community, great paths forward for the disability and business communities will be gained.

The passing of AB 1521 (Committee on Judiciary, 2015) and AB 54 (Olsen, 2016) created the platform for the Commission to gain more substantive information within the data collection efforts by adding the role of reviewing case resolutions along with the intake of demand letters and complaints. The Commission has kept a close eye on the pressure points of operating a volunteer heavily supported manual data collection system. The Commission began the preliminary groundwork with the anticipation of appropriate funding for a database automation project. It is resolved, regardless of the process (manual or automated), the Commission continues in the effort to provide stronger and more insightful data finds.

The Commission can see the end road towards a more exhaustive diagnostic analytics approach as the true educational instrument for CCDA, our strategic partners, and our legislative supporters who share in the goal of an "Accessible California For All".

Checklist Committee Chair S. Dolim, Education and Outreach Chair B. Wilson, and Research Chair L. Yoo continue to lead their committees to assist in meeting the challenges to come in 2017.

Commissioner Attorney Tony Seferian representing the Attorney General's Office and Sarah Couch, Legislative Director for Assemblyman Tom Lackey offers their expertise toward CCDA 2014-2019 Strategic Plan and paths forward.

3.0

Claims and Demand Letters Data Collection

OVERVIEW

This report provides detailed tabulations for State/ Federal construction-related physical access complaints and demand letters received during 2016. During the 12 months of data collection, the Commission received 3,340 records of court filings and demand letters (see Appendix A). This is an 13.4% increase over the 2,946 records received in 2015. Between 2013 through 2016, the Commission received and processed 12,346 cases.

2013 - 2016 Complaints & Demand Letters Filed			
	Cases Filed	Demand Letters	Total
2016	2,569	771	3,340
2015	2,323	623	2,946
2014	2,944	234	3,178
2013	2,555	327	2,882
Total	**10,391**	**1,955**	**12,346**

It should be noted that the Commission is unable to verify whether all Title III American with Disabilities (ADA) complaints filed have been submitted. For example, an out-of-State attorney submitted 268 cases that were filed in California between 2015 - 2017 to the Commission this week following a Public Records Request by another attorney. The ability to randomly verify court filings would require additional staff and financial resources.

2016 TABULATED DATA

ALLEGED CONSTRUCTION-RELATED PHYSICAL ACCESS VIOLATIONS

A total of 11,468 construction-related physical access violations were alleged in 2016 (see Appendix B). The types of violations were categorized using 51 key codes consistent with Title 24 of the California Code of Regulations (see Appendix C). The below chart indicates the number of violations is steadily increasing since 2013. Violations filed in 2016 increased by 1,825 (15.9%) in comparison to 2015.

Alleged Violations	
2016	11,468
2015	9,643
2014	10,407
2013	8,649
TOTAL	**40,167**

PLACE OF PUBLIC ACCOMMODATION

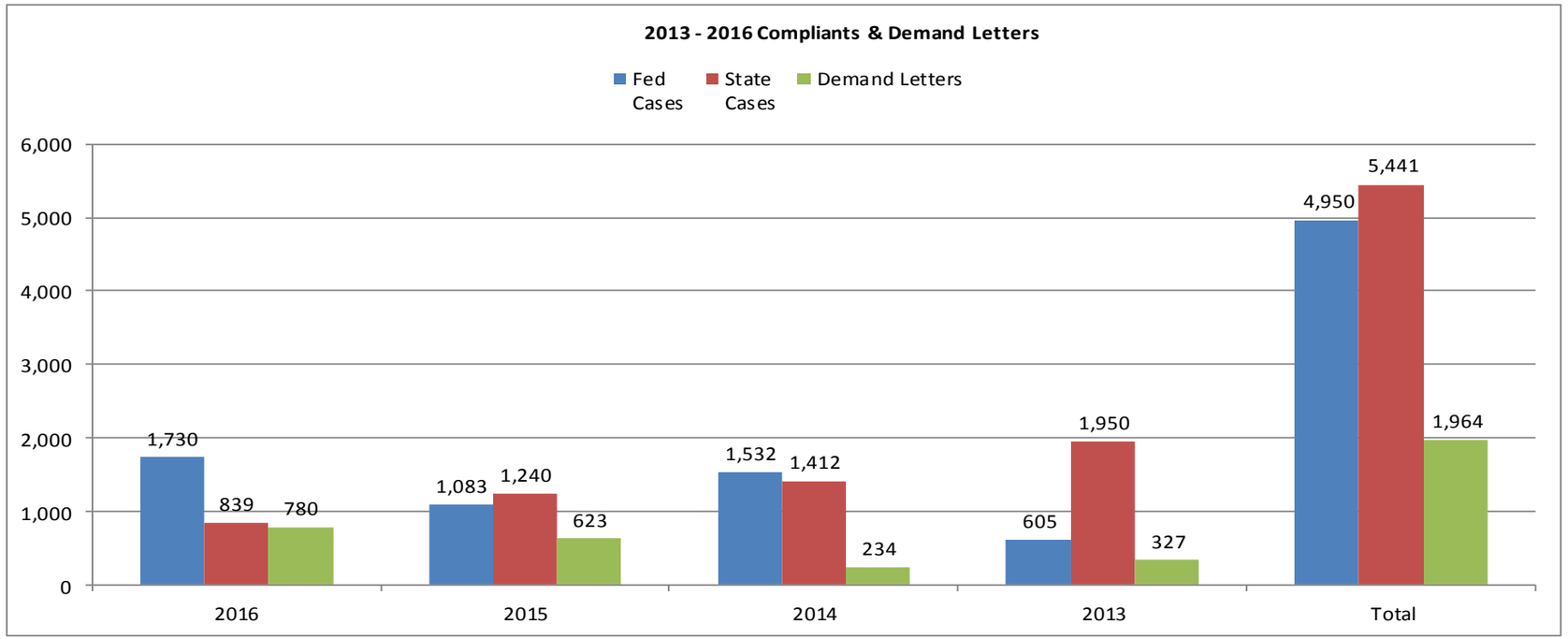
The Commission uses 12 location categories taken from the “Place(s) of Public Accommodation” in the ADA Title III Technical Assistance Manual. In 2016, the top three places of public accommodation where violations occurred included: Sales/Rental establishments (e.g. bakeries, grocery stores, shopping centers) (41%); Food or Drinks establishments (e.g. restaurants, bars) (27%); and Service establishments (e.g. laundromats, banks, gas stations, professional offices) (26%). These location categories are consistent with 2015 reported violations. (See Appendix F.)

TRENDS

COMPLAINTS FILED

In 2016, the Commission received 3,340 Federal and State complaints and demand letters alleging construction-related physical access complaints. The average number of monthly complaints and demand letters filed increased slightly from 246 per month in 2015 to 278 per month in 2016. In 2016, Federal and State alleged complaints comprised approximately 77% of filings and demand letters approximately 23%. Demand letters have more than doubled since 2014 when they accounted for 8% of the filings; however, in 2016, they accounted for 24% of the filings. The reason for the increase is unknown.

The law require attorneys to submit complaints and demand letters within five business days of filing. The data reveals complaints are submitted within five business days of filing, with a few exceptions.



COURTS

The number of Federal complaints continues to grow and substantially outnumber State complaints. For example, in 2016, Federal complaints accounted for 52% of the case filings in comparison to 37% in 2015, 48% in 2014, and 21% in 2013. At this time the Commission is unable to ascertain the factors that are contributing to the growth in federal cases. Additional staff and resources would be needed to undertake the necessary research to determine the factors contributing to the increase.

ATTORNEYS AND PLAINTIFFS

Of the 3,340 Federal and State complaints submitted in 2016 (this number does not include demand letters), 1,928 (57%) were filed by three law firms. Six law firms filed 81% of the 3,340 complaints received in 2016. There was a slight change in the attorneys/law firms that comprised the top firms that file complaints.

Of the 3,340 Federal and State complaints filed in 2016, 311 (9%) were from high frequent litigants (HFL) as defined in the Government Code.

In 2016, plaintiffs involved in 10 or more complaints during the year averaged 75% of the cases filed (annual average). This is slightly higher than 2015 which was 70%.

(See Appendix D for the data pertaining to attorney and plaintiff filings).

TOP TEN ALLEGED VIOLATIONS

TEN MOST FREQUENT TYPES OF ALLEGED CONSTRUCTION-RELATED ACCESS VIOLATIONS

The Commission organized alleged constructed-related violations into six categories:

Toilet Rooms and Bathrooms
Parking
Accessible Route and Entry
Access within Public Facility
Equipment within Public Facility and
General Alleged Violations

The Top 10 violations totaled 8,589, or 75% of the 11,468 alleged violations claimed in 2016. They fell within two categories:

Parking (44%)
Accessible Route and Entry (31%)

Parking and Access Route and Entry violations have been on the Top 10 list since July 2014. Examples of parking violations include: the minimum number of disabled parking stalls is non-compliant, non-existent van-accessible parking, and non-compliant signage in parking lot. Examples of accessible route and entry violations include non-compliant ramps, non-accessible routes and entry doors.

The Top 10 violations (see Appendix E), for a six month period, are posted on the Commission's website twice a year, as required by law.

4.0

Case Resolutions

BACKGROUND

In October 2015, AB 1521 (Chapter 755/2015) was enacted as an urgency measure requiring the Commission to collect, study and report on construction-related physical access case outcomes.

2016 TABULATED DATA

Case Resolutions

In 2016, the Commission received 2,058 case resolutions. The majority were submitted within five business days as required by law.

2015 - 2016 Case Resolutions	
2016	2,058
2015*	538
Total	**2,596**

2016 Case Resolutions		
Federal	1,391	67.6%
State	483	23.5%
Not Stated	184	8.9%
Total	**2,058**	

*Case resolutions became law in October 2015
** Attorney did not answer

Attorneys use the Case Resolution Report (CRR 001), prepared by the Commission, to report the date and manner of resolution, whether the plaintiff received injunctive relief or another favorable result. The CRR 001 includes optional questions such as whether the plaintiff received damages or monetary settlement and a description of the “other” favorable result. (See Appendix H for a summary of the answers to the questions).

The manner of resolution could be settlement, judgment or dismissal. Settlements are reached 79% of the time, dismissal 14%, and judgment 7% (see Appendix H).

5.0

Challenges and Solutions

The Commission has identified two major challenges and solutions to the collection, management, and analysis of reporting the required data.

Challenge: It is projected by 2017 the Commission literally will run out of physical space in which to operate. Because the Commission receives data in various formats, the management thereof is not efficient. The Commission has the authority to regulate the format of complaint and demand letter submissions with the passing of AB 54 (Olsen, September 2016) which could reduce the excessive paper copies format and the labor-intensive manual process of data management, however, this will require a funding outside CCDA's current budgetary authority to produce.

Solution: With appropriate funding, the Commission could employ software to digitize past and future data. This would partly resolve the lack of physical space as well as create a much more manageable process by which the Commission retrieves data. In addition to collecting, managing, and analyzing data the Commission is frequently responding to Public Records Act requests. Without the technology to digitally search for and locate data, our response time can be months.

Challenge: With the passing of AB 1521 (Committee on Judiciary, October 2015), the collection of case resolution data, along with the synthesis of resolutions with the initial complaints, requires additional staffing to assist in performing this task. Currently, the Commission relies on college students and/or clients of Department of Rehabilitation volunteer program to execute this mandate. This is a two folded challenge because the lack of physically space in our current location and the overall budget constraints of CCDA to hire permanent staffing solutions.

Solution: While CCDA is currently utilizing Retired Employees to address the budget limitation for FY 16-17, it is the hope of the board in within the FY 17-18 proposed budget realignment into DGS robust budgetary operations, the physical space and staffing solutions can be addressed appropriately.

APPENDIX A: FEDERAL/STATE CASES AND DEMAND LETTERS FILED

	Category	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total	Percent
2016	Federal	99	158	150	131	159	134	160	167	144	133	163	132	1,730	52%
	State	56	65	100	77	90	75	39	66	67	54	57	93	839	25%
	Demand*	6	128	162	65	7	83	71	61	105	8	77	7	780	23%
	Total	**161**	**351**	**411**	**272**	**256**	**292**	**269**	**290**	**314**	**195**	**297**	**232**	**3,340**	

	Category	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total	Percent
2015	Federal	138	67	128	76	61	74	83	66	67	112	116	95	1,083	37%
	State	140	79	124	65	154	82	106	67	106	131	104	82	1,240	42%
	Demand*	15	17	58	93	55	70	19	78	17	62	13	126	623	21%
	Total	**293**	**163**	**310**	**234**	**270**	**226**	**208**	**211**	**190**	**305**	**233**	**303**	**2,946**	

	Category	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total	Percent
2014	Federal	128	85	96	154	109	79	76	80	97	268	260	100	1,532	48%
	State	127	82	128	167	111	112	104	159	112	84	153	73	1,412	44%
	Demand*	31	30	5	9	10	16	21	24	48	19	6	15	234	8%
	Total	**286**	**197**	**229**	**330**	**230**	**207**	**201**	**263**	**257**	**371**	**419**	**188**	**3,178**	

	Category	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total	Percent
2013	Federal	15	29	35	48	57	54	52	60	77	44	70	64	605	21%
	State	67	74	92	229	245	123	337	197	239	137	77	133	1,950	68%
	Demand*	30	14	19	23	5	12	11	20	14	45	70	64	327	11%
	Total	**112**	**117**	**146**	**300**	**307**	**189**	**400**	**277**	**330**	**226**	**217**	**261**	**2,882**	

* The Commission is unable to ascertain whether demand letters resulted in an actual case being filed in Federal or State court.

APPENDIX B: FEDERAL/STATE COMPLAINTS AND DEMAND LETTERS FILED BY CATEGORY

The Commission has organized alleged constructed-related access violations into six categories. As indicated by the below table, parking-related violations is the highest category and represented 44% of the 11,468 alleged violations in 2016; and 42% of the 9,643 violations in 2015.

	Category	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total	Percent
2016	Toilet Rooms and Bathrooms	126	190	208	151	165	130	129	113	96	88	172	188	1,756	15%
	Parking	184	657	650	412	352	486	445	457	544	186	447	227	5,047	44%
	Accessible Route and Entry	91	351	319	268	139	214	210	311	244	209	269	176	2,801	24%
	Access within Public Facility	60	102	212	83	127	67	99	105	86	83	92	98	1,214	11%
	Equipment within Public Facility	1	17	20	15	19	14	13	24	9	38	16	33	219	2%
	General Alleged Violations	11	43	58	34	21	43	35	63	24	17	51	31	431	4%
	Total	**473**	**1,360**	**1,467**	**963**	**823**	**954**	**931**	**1,073**	**1,003**	**621**	**1,047**	**753**	**11,468**	

	Category	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total	Percent of Total
2015	Toilet Rooms and Bathrooms	254	167	249	76	74	95	91	76	105	153	186	155	1,681	17%
	Parking	455	284	468	393	260	154	225	374	265	409	211	539	4,037	42%
	Accessible Route and Entry	298	184	304	271	119	86	148	161	109	212	111	207	2,210	23%
	Access within Public Facility	197	131	296	57	144	59	110	37	48	53	50	74	1,256	13%
	Equipment within Public Facility	16	9	23	1	10	7	10	9	6	20	28	8	147	2%
	General Alleged Violations	69	44	104	25	5	8	10	5	13	13	9	7	312	3%
	Total	**1,289**	**819**	**1,444**	**823**	**612**	**409**	**594**	**662**	**546**	**860**	**595**	**990**	**9,643**	

APPENDIX B: FEDERAL/STATE COMPLAINTS AND DEMAND LETTERS FILED BY CATEGORY

Continued

	Category	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total	Percent of Total
2014	Toilet Rooms and Bathrooms	258	130	152	166	187	181	136	180	240	245	216	121	2,212	21%
	Parking	383	366	355	327	285	256	215	332	406	384	362	255	3,926	38%
	Accessible Route and Entry	216	201	125	152	177	193	209	156	201	244	152	180	2,206	21%
	Access within Public Facility	124	111	79	102	94	105	113	89	128	151	93	87	1,276	12%
	Equipment within Public Facility	26	24	19	35	19	16	27	9	5	28	30	7	245	2%
	General Alleged Violations	26	18	52	20	16	20	6	25	36	139	125	59	542	5%
	Total	**1,033**	**850**	**782**	**802**	**778**	**771**	**706**	**791**	**1,016**	**1,191**	**978**	**709**	**10,407**	

	Category	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total	Percent of Total
2013	Toilet Rooms and Bathrooms	74	71	154	194	256	133	178	109	209	260	65	202	1,905	22%
	Parking	160	168	200	297	276	241	517	319	652	301	106	315	3,552	41%
	Accessible Route and Entry	59	87	98	159	146	91	322	116	240	190	56	166	1,730	20%
	Access within Public Facility	31	84	76	106	103	68	89	75	112	128	26	101	999	12%
	Equipment within Public Facility	14	34	37	10	29	40	32	12	25	45	6	12	296	3%
	General Alleged Violations	7	9	12	20	12	13	19	6	19	20	5	25	167	2%
	Total	**345**	**453**	**577**	**786**	**822**	**586**	**1,157**	**637**	**1,257**	**944**	**264**	**821**	**8,649**	

APPENDIX C: ADA VIOLATION CODES LIST

The types of ADA alleged violations have been categorized using 51 key codes consistent with Title 24 of the California Code of Regulations

Category	Key Code	Description
Toilet Rooms and Bathrooms	**1**	Entry doors are not accessible or not on an accessible route.
	2	Clear Floor Space. Non-accessible fixtures and controls or insufficient turn around space.
	3	Doors [Toilet stalls]. Non-accessible doors to toilet stalls.
	4	Door space is not compliant.
	5	Lavatories and mirrors are not accessible.
	6	The location/height of toilets, urinals, flush controls, or toilet paper dispensers is not compliant.
	7	Grab Bars. Grab bars in bathroom are non-existent, or existing grab bars are not compliant.
	8	Insufficiently covered, coat racks too high, light switch too high.
	9	Faucets. Non-accessible lever-operated, push-type, or electronically controlled mechanisms.
	10	Bathtubs or showers are not accessible.
	39	Toilet seat cover dispenser not accessible.
	40	Hand sanitizer, liquid soap or paper towel dispenser not accessible.
	46	Lack of unisex ADA bathrooms or any accessible bathrooms.
Parking	**11**	Number of spaces. Parking lot does not contain minimum number of accessible parking spaces.
	12	Parking Spaces. Existing parking spaces are not compliant.
	13	No sign showing the symbol of accessibility.
	14	Loading zones/van access aisles are not compliant or non-existent.
Accessible Route and Entry to Public Facility	**15**	Routes to and from parking lot or public right of way are not accessible. May include uneven surfaces.
	16	Ramps. Curb ramps or entrance ramps are not compliant or non-existing.
	17	General. Entry doors are not accessible or missing sign/symbol of accessibility.
	18	Door Hardware. Thresholds, handles, pulls, latches, locks, or other operating devices are not accessible.
	45	Accessible path is too far away or path is not clear for the accessible route.
Access within Public Facility	**20**	Access aisles within building are not accessible, e.g., dining or work surfaces are not on an accessible route.
	21	Maneuvering Clearances at Doors. Required clearances are not compliant.
	22	Stairs or Guardrails. Stairs are not compliant or lack guardrails.
	23	Handrails non-existent or not accessible.
	24	Route with inadequate signage.
	25	Wheelchair spaces in assembly areas are non-existent or not compliant.
	26	Access Height. Heights of surfaces such as counters, bars, or tables are not compliant.
Equipment within Public Facility	**27**	Audible signals.
	28	Public telephones are not wheelchair accessible.
	29	Public telephones do not have accessible volume control.
	30	General Public Equipment. Gas pumps, automatic teller machines, or fare machines are not compliant.
	37	General Pool. Pool lifts, sloped entries, transfer walls, transfer systems, and pool stairs are not accessible.
	38	Drinking Fountains and water coolers are not accessible.
General Violations	**31**	Dressing, fitting, or locker rooms are not compliant.
	32	Sleeping rooms, units or suites are not accessible or insufficient number of accessible guest rooms.
	33	Patient bedrooms or baths are not accessible.
	34	Audible and visual alarms and notification appliances are not compliant.
	35	Amusement rides are not accessible.
	36	Bus stop, bus stop pad, station, terminal, building or other transportation facility is not accessible.
	41	Service dog not allowed in building.
	42	Lamp not accessible.
	43	Shuttle van/bus not accessible.
	44	Accessible features not maintained.
	47	Website does not offer ADA options or is not accessible.
	48	Lack of separate call button.
	49	Insufficient documentation/lack of ADA access issue.
	50	Lack of temporary hand controls to test drive vehicles.
	51	Staff provided barrier to access.

APPENDIX D: ATTORNEYS AND PLAINTIFFS FILINGS

This chart shows the percent of plaintiffs, per month, who filed a 10 or more State and/or Federal complaint in 2016. For example, 66% of the plaintiffs involved in legal complaints in January 2016 filed 10 or more complaints that month alleging construction-related accessibility violations. The bottom Complaints Filed by Law Firms chart shows the percentage of top six attorneys/law firms who filed the most complaints per month (please note that this calculation will not total 100% because it only references the top six in the data collection).

	Plaintiffs Involved in 10 or More State and Federal Cases (Excludes Demand Letters)	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
		66%	75%	68%	81%	73%	77%	80%	77%	86%	80%	72%	68%
2016	**Complaints Filed by Law Firms in Order of Frequency (From 1 to 6)**	**JAN**	**FEB**	**MAR**	**APR**	**MAY**	**JUN**	**JUL**	**AUG**	**SEP**	**OCT**	**NOV**	**DEC**
	1	22%	35%	34%	15%	28%	29%	42%	33%	31%	35%	24%	28%
	2	12%	23%	14%	17%	12%	26%	26%	18%	30%	16%	24%	28%
	3	11%	11%	14%	12%	8%	11%	8%	10%	6%	15%	10%	10%
	4	11%	9%	8%	11%	7%	7%	4%	9%	4%	8%	6%	7%
	5	11%	5%	6%	11%	7%	5%	4%	7%	4%	7%	5%	7%
	6	9%	3%	4%	6%	5%	4%	3%	5%	4%	6%	4%	4%
	Total	**76%**	**87%**	**80%**	**72%**	**68%**	**83%**	**88%**	**81%**	**78%**	**86%**	**73%**	**84%**

APPENDIX E: 2016 TOP 10 VIOLATIONS

Rank #	Key Code	Violation Description	Total Number of Violations	Percent of Total
1	12	**Parking**: the existing parking spaces are not compliant	1,495	13.0%
2	13	**Parking**: signage in parking lot is non-compliant. For example, spaces need to be designated as reserved by a sign showing the symbol of accessibility	1,385	12.1%
3	11	**Parking**: parking lot does not contain the minimum number of accessible parking spaces	1,305	11.4%
4	15	**Accessible Route and Entry**: routes to and from the parking lot or public right-of-way are not accessible	1,193	10.4%
5	14	**Parking**: van-accessible parking, van access aisles and/or loading zones are non-compliant or non-existent	862	7.5%
6	16	**Accessible Route and Entry**: curb ramps or entrance ramps are non-compliant or non-existent	779	6.8%
7	26	**Access within Public Facility**: heights of surfaces such as counters, bars, and tables, for example, are non-compliant	581	5.1%
8	17	**Accessible Route and Entry**: entry doors are not accessible or are missing the sign / symbol or accessibility	336	2.9%
9	20	Access within Public Facility: access aisles or path of travel within building are not accessible	336	2.9%
10	18	**Accessible Route and Entry**: Handles, pulls, latches, locks, or other operating devices are not accessible	324	2.8%

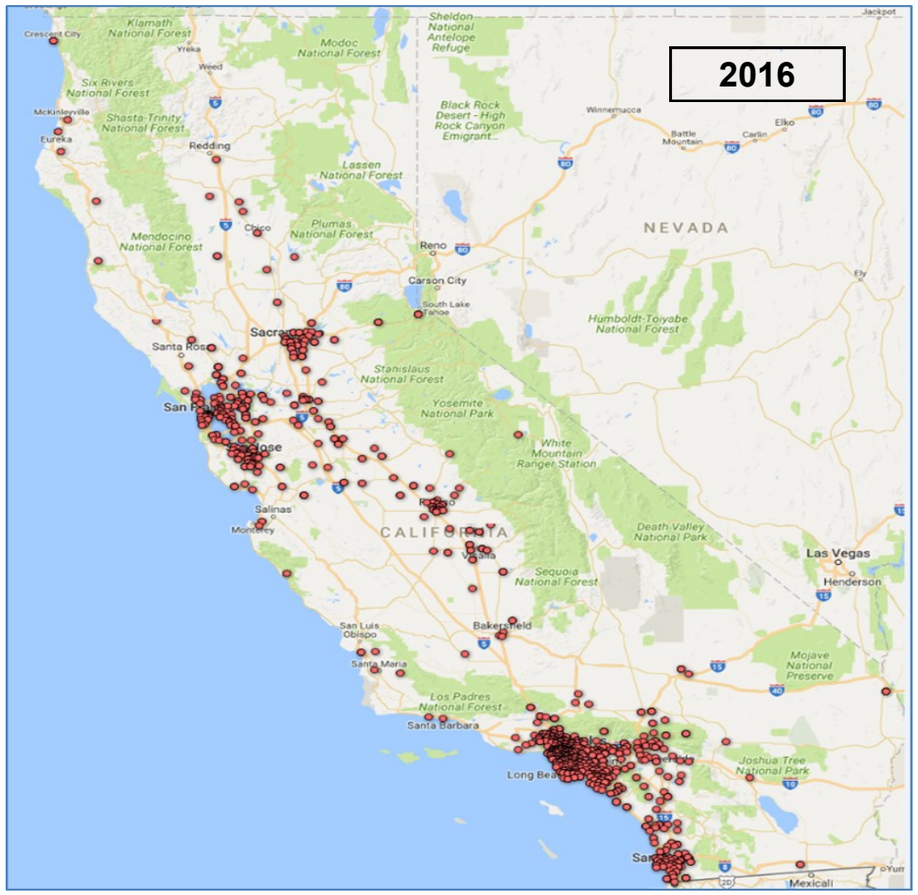
APPENDIX F: COMPLAINTS/DEMAND LETTERS BY PLACE OF PUBLIC ACCOMMODATION

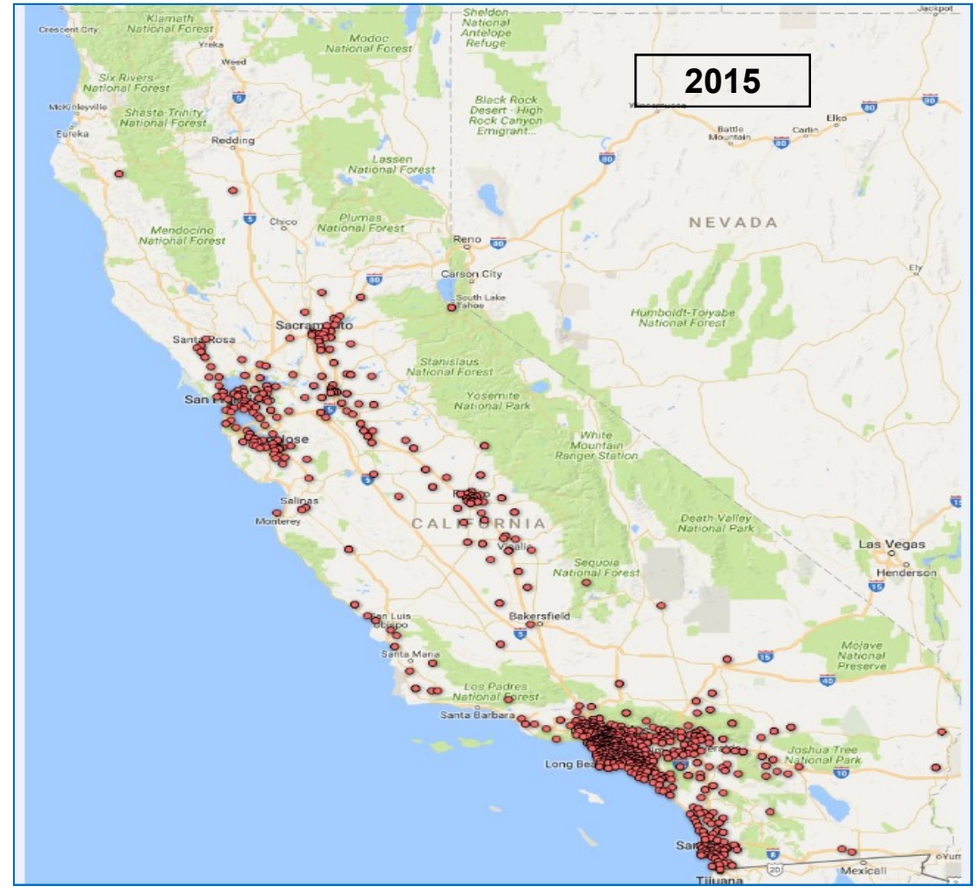
This chart demonstrates the frequency by which various types of businesses were alleged to be in violation. In 2016 the top three places of public accommodation, as defined in ADA Title III, Technical Assistance Manual, where violations occurred included: Sales/Rental Establishments such as bakeries, grocery stores, hardware stores, shopping centers (41%); Food or Drinks Establishments such as restaurants and bars (27%); and Service Establishments such as laundromats, dry-cleaners, banks, funeral homes, gas stations, professional offices, beauty shops (26%). These location categories are consistent with the 2015 reported violations.

	2016		2015	
Public Location Category	**Total**	**%**	**Total**	**%**
1. Places of Lodging	135	4.0%	113	3.8%
2. Establishments Serving Food or Drink	888	26.6%	810	27.5%
3. Places of Exhibition or Entertainment	13	0.4%	3	0.1%
4. Places of Public Gathering	3	0.0%	1	0.0%
5. Sales or Rental Establishments	1,355	40.6%	1,240	42.1%
6. Service Establishments	853	25.5%	657	22.3%
7. Public transportation terminals, depots, or stations	26	25.5%	50	1.7%
8. Places of Public Display or Collection	3	0.1%	4	0.1%
9. Places of Recreation	22	0.7%	34	1.2%
10. Places of Education	4	0.1%	10	0.3%
11. Social Service Center Establishments	6	0.2%	4	0.1%
12. Places of Exercise or Recreation	32	1.0%	20	0.7%
Total	**3,340**	**100%**	**2,946**	**100%**

APPENDIX G: ZIP CODE LOCATION OF COMPLAINTS/DEMAND LETTERS

The below maps depict the various zip codes where alleged violations have occurred. In 2016, the number of cases filed remain heavily concentrated in urban areas. Southern California had the highest number of filings, followed by Northern California (Bay Area). This is consistent with 2015 filings. Central Valley region ranked third, followed by Sacramento region. The 2016 data also revealed that the number of cases filed in rural cities is growing, particularly in Northern California, above Sacramento.





APPENDIX H: CASE RESOLUTIONS

In 2016, the Commission received 2,058 Case Resolution Reports (CRR 001). The data reveals that 79% of the cases filed resulted in a settlement, 14% in dismissal, and 7% in judgment.

2016 Case Resolutions														
Manner of Resolution	**JAN**	**FEB**	**MAR**	**APR**	**MAY**	**JUN**	**JUL**	**AUG**	**SEP**	**OCT**	**NOV**	**DEC**	**Total**	**Percent of Total**
Settlement	121	194	156	110	144	140	133	140	117	149	133	81	1,618	79%
Judgment	5	8	18	15	28	15	8	12	24	9	1	2	145	7%
Dismissal	21	24	38	16	34	21	35	39	16	25	13	9	291	14%
N/A	0	0	0	0	0	0	3	0	0	0	1	0	4	0%
													2,058	

2015 Case Resolutions*														
Manner of Resolution	**JAN**	**FEB**	**MAR**	**APR**	**MAY**	**JUN**	**JUL**	**AUG**	**SEP**	**OCT**	**NOV**	**DEC**	**Total**	**Percent of Total**
Settlement										96	121	212	429	80%
Dismissal										22	39	28	89	17%
Judgment										6	11	3	20	4%
N/A										0	0	0	0	0%
													538	

*Data includes October-December 2015 only.

APPENDIX H: CASE RESOLUTIONS

(CONTINUED)

2016 Case Resolution Report Questions				
Questions	**Yes**	**Percent Yes**	**No**	**Percent No**
Defendant requested an early evaluation conference	42	2%	1,997	98%
Defendant requested a site inspection	33	2%	2,011	98%
Plaintiff received injunctive relief	1,222	73%	447	27%
Another favorable result was achieved	766	47%	869	53%
Plaintiff received damages or monetary settlement	734	58%	522	42%

2015 Case Resolution Report Questions*				
Question	**Yes**	**Percent Yes**	**No**	**Percent No**
Defendant requested an early evaluation conference	0	0%	516	100%
Defendant requested a site inspection	0	0%	520	100%
Plaintiff received injunctive relief**				
Another favorable result achieved**				
Plaintiff received damages or a monetary settlement	143	30%	330	70%

* Data includes October-December 2015 only

** Question was not asked in 2015

APPENDIX I: COMMISSIONER ROSTER AND COMMITTEE NAMES

Name	Represents	Original Appointment	Current Appointment	Appointed By
Celia McGuinness	Public/Disability	2/6/2015	1/1/2016 - 1/1/2019	Governor
Douglas Wiele (Vice Chair)	Public/Business Properties Association	9/19/2013	1/1/2017- 1/1/2020	Governor
Stephen Dolim	Public/General Business	12/10/2013	1/13/2015 - 1/1/2018	Governor
Laurie Cohen Yoo	Public/General Business	10/8/2014	1/1/2016—1/1/2019	Governor
R. Michael Paravagna	Public/Disability	9/19/2013	1/1/2017 - 1/1/2020	Governor
Betty Wilson	Public/Disability	5/26/2009	1/1/2016 - 1/1/2019	Governor
Christopher Vaughn Downey	Public/Disability	9/19/2013	1/13/2015 - 1/1/2018	Governor
Guy A. Leemhuis (Chair)	Public/Disability	5/8/2013	1/7/2015 - 1/1/2018	Senate
Vacant	Public/General Business			Senate
Lillibeth Navarro	Public/Disability	10/16/2009	1/1/2014 - 1/1/2017	Assembly
Walter Hughes	Public/General Business	3/3/2016	3/3/16—2/1/18	Assembly

APPENDIX I: COMMISSIONER ROSTER AND COMMITTEE NAMES

(CONTINUED)

Name	Represents	Original Appointment	Current Appointment	Appointed By
Tom Lackey	Assembly/Ex-Officio	2/29/2015	NA	
Tony Thurmond	Assembly/Ex-Officio	1/30/2015	NA	
Richard Roth	Senate/Ex-Officio	9/2/2015	NA	
Vacant	Senate/Ex-Officio		NA	
Anthony Seferian	Attorney General's Office/Ex-Officio	5/26/2009	NA	
Chester Widom	Division of the State Architect/ Ex-Officio	12/6/2009	NA	

APPENDIX I: COMMISSIONER ROSTER AND COMMITTEE NAMES

(CONTINUED)

Guy Leemhuis **Board Chair**		**Doug Wiele** **Board Vice Chair**
Committee Name	**Committee Chair**	**Committee Vice Chair**
Executive	Guy Leemhuis	Doug Wiele
Legislative	Michael Paravagna	Lillibeth Navarro
Research	Laurie Cohen Yoo	Celia McGuinness
Education/Outreach	Betty Wilson	Christopher Downey
Checklist	Steve Dolim	

APPENDIX J: SUMMARY OF STRATEGIC GOALS

Goal	Purpose
1: Advocate for access curricula for all school programs	To raise awareness of and increase training around accessibility design and construction
2: Increase disability access awareness	To raise awareness of access issues and the tools available to assist businesses, nonprofits, schools, and the community to support changes to the built environment
3: Create training programs for targeted constituencies	To address the lack of opportunity for businesses, nonprofits, schools, professionals in the planning, design, property, construction and other sectors to learn about and to engage with resources around access issues and find support to make accommodation modifications
4: Create and identify revenue streams to fund access needs (subject to increased CCDA staffing)	To identify and secure a revenue stream to support efforts to mitigate accommodation costs and incentivize access compliance
5: Create financial and other incentives for access compliance	To support and encourage access compliance through new and creative incentive programs
6: Explore the development of a State level Americans with Disabilities Act (ADA) Access office	To address the disparate levels of resources and information at various State offices by providing a single access point that can guide people in the process of access mitigation and compliance
7: Advocate to hold authorities having jurisdiction accountable for the built environment (both public and private) to avoid passive non-compliance for architectural and program access	To seek out ways to educate and support public and private entities on their responsibilities for access compliance
8: Maintain data on status of access compliance	To provide relevant information and data on the status of access compliance throughout California
9: Expand methods of identification, obligation, and enforcement of barrier removal in the built environment	To facilitate awareness of current and potential gaps and inconsistencies in policy at the State and local levels

A viewing of the full Five-Year Strategic Plan can be found at: www.ccda.ca.gov

APPENDIX K: ACRONYMS / ASSOCIATED LINKS

ADA – Americans with Disability Act / www.ada.gov

ADA Title III Technical Assistance Manual / www.ada.gov/taman3.html

CalCAP – California Pollution Control Financing Authority / www.treasurer.ca.gov/cpcfa/calcap

CALIF – Communities Actively Living Independent & Free / www.calif-ilc.org

CASp – Certified Access Specialist / www.apps2.dgs.ca.gov/dsa/casp/casp_certified_list.aspx

CCDA – California Commission on Disability Access / www.ccda.ca.gov

DSA – Division of the State Architect / www.dsa.ca.gov/dsa/home

DOR – Department of Rehabilitation / www.dor.ca.gov

MALDEF – Mexican American Legal Defense and Educational Fund / www.maldef.org

APPENDIX L: GLOSSARY OF TERMS AND DEFINITIONS

ADA Coordinator

This position is required for State and local government entities that have 50 or more employees. Initially, position was envisioned to coordinate the grievance process. The national trend is that this position is now used to coordinate a variety of matters relative to ADA implementation and administration. Caution must be exercised concerning an appropriate separation of duties. It is inappropriate to have the ADA Coordinator engaged in both providing reasonable accommodations through the interactive process, and investigating issues concerning the accommodations that have been provided or denied.

ADA Grievance Procedure

A grievance process that is published, within State or local government and capable of addressing issues that may arise from access policies that impact the delivery of programs, services and activities. The grievance procedure must be widely disseminated, offer a second level review, notify the grievant of the outcome, State the ADA coordinator's name and contact information and offer assistance to a person with a disability who may not be able to complete the grievance document independently due to their disability.

Auxiliary Aids and Services

These are measures provided to ensure that appropriate access to programs and services and activities is in place upon request. Auxiliary aids and services include, but are not limited to providing documents in an alternative format such as Braille, providing sign language interpreting services, note takers, real-time captioning services or assistive listening devices.

California Relay Service

The California Relay Service was created by ADA, Title IV. It is a free service to facilitate effective telephone communication between persons who are deaf and hard of hearing and persons who are hearing. This is done via a relay operator who uses both a teletype devices and a telephone. The California Relay service may be reached at 711.

Note: *Some entities have chosen to include "California Relay Service 711" on business cards and letter heads to facilitate communication.*

APPENDIX L: GLOSSARY OF TERMS AND DEFINITIONS

(CONTINUED)

CASp

The Certified Access Specialist Program (CASp) is a program administered by the State of California, Division of the State Architect. CASp members have been tested and certified related to physical access requirements within the State of California. CASp members are often retained by a business to evaluate the physical access status of the sites from which good and services are sold. To obtain more information or locate a CASp member, visit https://www.apps2.dgs.ca.gov/dsa/casp/casp_certified_list.aspx

Definition of Disability

Under California State law, Government Code Section 12926, a person with a disability is:

A person having a physical or mental impairment that limits a major life activity. This limitation must be considered in the unmitigated status. This means that the determination of whether the limitation exists would be considered in terms of how the individual would function without the use of medication, personal devices or habits that have been formed to mitigate the disability.

A person who has a record of a disability, such as described in number one.

A person who is regarded as having a disability, such as described in number one.

Note: *This is an abridged definition of disability under California State law. For further information, please see California Government Code 12926. The California definition of disability is being used, as it is more stringent then the definition found under the Americans with Disabilities Act of 1990 or the Americans with Disabilities Amendments Act of 2008.*

Direct Threat

Direct threat is a significant risk of substantial harm that cannot be mitigated through policy modification or reasonable accommodation. The danger must be real and not speculative or remote.

APPENDIX L: GLOSSARY OF TERMS AND DEFINITIONS

(CONTINUED)

Interactive Process

The interactive process is required in the State law and Federal case law, yet neither defines it clearly. Problems have occurred when disputes have arisen and the employer has not clearly documented the interactive process. For that reason, the following steps are recommended:

The employer becomes aware that there is a disability that impacts elements of the employment relationship.

The employer and employee/applicant meet to discuss the barrier in question and potential resolutions. In this stage, if needed, data is gathered from medical providers, consultants or the Jobs Accommodation Network.

After giving primary consideration to what the employee/applicant is requesting, the employer makes a prompt decision regarding what effective accommodation will be provided. Or, if the accommodation in question would result in an undue hardship the employer is not obligated to provide said accommodation.

The employer promptly implements the reasonable accommodation.

The employer initiates follow up discussions with the recipient of reasonable accommodation to ensure that the accommodation was in fact effective.

Note: *The reasonable accommodation process is ongoing and may need to be revisited at any point in the employment relationship, as disabilities and technology may change.*

Maintenance of Accessible Features Policy

This relates to the requirement set by 28 CFR 35.133 and 28 CFR 36.211 in which an entity must maintain accessible features. Policy and procedure in this area is designed to give staff guidance unifying, repairing or reporting issues within access elements on sites where programs, services and activities are conducted.

APPENDIX L: GLOSSARY OF TERMS AND DEFINITIONS

(CONTINUED)

Medical Inquiry

Medical inquiry is the acquisition of pertinent medical information to determine whether a bona fide legal disability exists and what limitations it may present that necessitates a reasonable accommodation. Medical inquiry should be limited in scope. Data related to genetic characteristics should not be solicited, obtained or retained. Medical information may not be lawfully stored in an employee's personnel file.

Notice of ADA Compliance

A Notice of ADA Compliance is a widely disseminated notice, within State or local government, that provides information concerning the elements of ADA compliance that the entity has in place. I t is recommended that the notice of ADA compliance be accompanied by a dissemination plan.

Policy Modification Request and Fundamental Alteration

A qualified person with a disability may request that an entity modify its policies to create an appropriate level of access. A system must be in place for entertaining these requests and determining whether said request would result in a fundamental alteration of the programs, services and activities impacted. Should there be an inability to grant the initial request, other measures must be considered, if available, to address the access issue in question. Should it be determined that the request results in the fundamental alteration, a senior official should expeditiously sign off on the determination.

Program Access

A designated alternative manner in providing programs, services and activities in order to ensure that appropriate access is in place. For example, accessible meeting space may be secured on the ground floor of the building to hold meetings with people who have mobility impairments, who are not able to go to the second floor because of the absence of an elevator.

Qualified Person with a Disability

A qualified person with a disability has a disability as described above and is qualified to receive the programs, services or activities of the entity in question.

APPENDIX L: GLOSSARY OF TERMS AND DEFINITIONS

(CONTINUED)

Reasonable Accommodation

Reasonable accommodation technically refers to the employment relationship. It is an adjustment that provides the employee or applicant an opportunity to participate in: the performance of essential functions of the job, the selection process or to receive benefits and privileges offered to other employees in the work situation. Reasonable accommodation solutions often vary widely. Accommodation request must be handled through an "interactive process".

Self - Evaluation

A comprehensive evaluation of all programs, services and activities, required by Title II, to ensure that access for qualified persons with disabilities is in place. The self-evaluation must be vetted with interested stakeholders. The self- evaluation was due in 1993.

Service Animal

A service animal is a dog or miniature horse that has specifically been trained to perform tasks for a person with a disability that they are not able to perform for themselves due to their disability.

Note: *This is a subject that generates the highest number of complaints received by the US Department of Justice.*

Transition Plan

A physical access evaluation, required by Title II, of all sites from which programs, services and activities are provided. The transition plan contains four parts:

1. A list of physical barriers
2. A Statement of method to be utilized for mitigation of barriers
3. A Statement regarding the schedule of barrier mitigation
4. The designation of an official who is responsible for the administration of the transition plan. The transition plan was due in 1992. The transition plan must be vetted with interested stakeholders.

Note: *The intent was to create access within facilities that were online in 1992 and that new construction or remodels would be accessible.*

APPENDIX L: GLOSSARY OF TERMS AND DEFINITIONS

(CONTINUED)

Undue Hardship

An undue hardship would be the provision of a reasonable accommodation that is extensive, disruptive, fundamentally alter the nature of the program or is unduly expensive. It is important to note that the expense issue is extremely difficult for a State or local government entity to use as a defense. In doing so, one would need to consider the total budget of the entity in question. For business, one would look at the resources of the business. Other resources should also be explored if applicable.

Video Remote Interpreting (VRI)

VRI is permitted in the 2010 Title II ADA regulations. It provides a system in which sign language interpreting can be conducted via video with the interpreter offsite. Caution needs to be exercised to ensure that the technical quality of the system is sufficient to appropriately transmit the information being communicated.

CCDA | California Commission on Disability Access

California Commission on Disability Access
721 Capitol Mall, Suite 250
Sacramento, CA 95814
(916) 319-9974
www.ccda.ca.gov

Report available online at: http://www.ccda.ca.gov/reports.htm
or by ca[illegible] 319-9974