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HANDICAPPED ACCESSIBILITY

A Personal Account

by Barbara G. Barton

PREFACE

In 1973, Section 504 of the Rehabilitation Act was enacted, guaranteeing to "handicapped" persons protection against discrimination under programs receiving federal financial assistance. The regulations promulgated by the Department of Health, Education, and Welfare in compliance with the Act and currently in force with respect to educational institutions state:

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.

According to a subsequent section of the regulations, however, the programs and activities offered by the school need not necessarily be structurally accessible to handicapped students, so long as the student can somehow benefit from the program to the same extent as other students. Facilities built and alterations made after the effective date of the regulations (June 3, 1977) must be designed and constructed so that the facility or part of the facility is readily accessible to and usable by handicapped persons. However, for facilities already in existence at the regulation's effective date, the *program* or *activity* when viewed in its *entirety* must be made available by the recipient to handicapped persons. The recipient is not required to make each of its existing facilities or every part of a facility accessible to or usable by handicapped persons, but each alteration made must, "to the maximum extent feasible," accommodate handi-

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capped persons.

The focus of this article is the accessibility to handicapped individuals of the State University of New York at Buffalo Law School, built, ironically, in 1973, the same year as enactment of Section 504 but four years prior to the effective date of the regulations. The author is currently a third-year law student who has, for the past two years, lived with the conditions described herein. She deals in successive sections with three major areas affecting handicapped law students: architectural accessibility, housing, and transportation. The article recounts her personal experiences and, thus, does not reflect the opinion of other handicapped students at UB or elsewhere in the SUNY system.*

I. ARCHITECTURE — THE LAW SCHOOL ITSELF

The SUNY at Buffalo Law School is no doubt more architecturally accessible than are others, simply because it is relatively new. This does not mean that it is ideal; in fact, architectural accessibility at the law school could be much improved.

Parking

One of the good qualities the Law School offers its handicapped students is an abundance of handicapped parking; most of the road directly adjacent to the school is reserved as handicapped parking. In addition, a real attempt is made by Public Safety to patrol these spots and ticket offenders. On the other hand, none of the parking spaces has been enlarged to accommodate a wheelchair van (and allow for the raising or lowering of a lift). Combined with this failure is the fact that all parking spaces are usually occupied first by staff and faculty. Handicapped students whose classes fall later in the day, then, are often precluded from parking near

*Editor's note: This article was written in the fall of 1982. It has subsequently been updated where necessary and an epilogue attached.

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the school. This might not be a major problem in good weather but can cause a great deal of difficulty in the winter, especially when piles of snow from passing plows accumulate along the curb, making those parking spaces unusable by owners of lift-equipped vans.

Solution: get to school early! Prioritizing parking spaces would cause difficult decision-making and probably a lot of resentment.

Inside the School

If the student is able to park in front of the school, the school itself is then easily accessible. The sidewalks are quite flat, and the school has a ground-level entrance. The foyer doors pull out and the pressure required to do so is minimal. The entranceway between the first and second set of doors is generous, and there is ample room for maneuverability, whether with wheelchair, guide dog, cane, etc.

Classrooms

Classrooms on the upper floors are small. Those on the second floor have tiered rows of desks, in front of which the wheelchair student must position herself; she therefore has no use of a desk as a writing surface (writing boards attached to a wheelchair are often bulky and interfere with the student's ability to transfer in or out of her chair). Because the student is in front of the entire class, there is a feeling of being "on display." This is a minor inconvenience and is balanced by the benefit of being able to clearly hear everything said.

If the law student is in her first year, however, most of her classes will be held in the large first-floor lecture halls. None of these halls is well-equipped for students in wheelchairs. (Note: The one exception to this seating arrangement occurs in Room 112; in the entrance-level row, one seat is missing, thus resulting in a space at the desk into which a person can wheel.) Each room consists of tiered rows. The wheelchair student must sit on the entrance-level row, at the top or back of the classroom; steps prevent her from sitting elsewhere. Her choice of the ten or so seats along this back row is limited to either of the ends—several chairs, or else the recent addition of an extra tier of seats, in most of the classrooms make movement along the back row into one of the center positions difficult. Moreover, unless a seat is missing from the final row, a person in a wheelchair cannot effectively position herself close to the desk surface to make comfortable use of it; she has to pull up behind the

seat and reach over it in order to write on the desk, a difficult task for those with limited motor coordination. For two years, all the classrooms except one posed this problem for the handicapped student. This year (fall 1983) in most, but not yet all, of the rooms a seat has been removed allowing for the accommodation of someone in a wheelchair. However, if more than two handicapped students were assigned to one classroom under the present arrangement, accommodating them would probably be impossible.

The Moot Courtroom is similar to these first-floor rooms, although larger. In the Moot Courtroom, there is at least space within which to maneuver a wheelchair and a number of wheelchairs could be accommodated. Additionally, the stage of the Moot Courtroom is accessible by a backdoor for those handicapped students wishing to participate in Moot Court.

Despite the small number of wheelchairs that can be accommodated in the first-floor classrooms, the inconvenience of the desks, and the requirement of always sitting in the back of the class, a court would probably not deem these factors to be unlawful; the student can get into the room and hear the lecture being presented, so she is essentially benefitting from the course to the same degree as the other students. It would be interesting to speculate on what would happen, however, if a professor in a wheelchair applied to teach a first-year course which, by virtue of the number of students, would necessitate the use of these first-floor rooms.

Solution: the removal of one fixed seat (B4) from each large classroom would aid currently enrolled handicapped students and could be quickly and easily handled by maintenance staff.

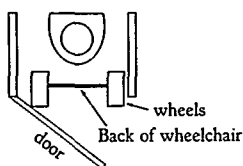
Restrooms

That part of the Law School which is the most blatantly inaccessible and unusable by handicapped persons is the restrooms. The restrooms on both the first and second floors of the Law School have undergone alterations, yet both are unusable for different reasons. On the first floor, accessible stalls were put into the existing restrooms; unfortunately, before going to the time and expense, no one thought about making the entrances accessible. There is so little turning space from the hallway to the restroom itself that a wheelchair simply cannot get into the restroom. On the second floor, the accessible stall in the ladies' room has been in a constant state of upheaval. For the majority of the academic year 1981-1982, there was no stall door, it was in the repair shop. Some time after that, for unknown reasons,

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the grab bars (essential for transfers from wheelchair to toilet) were removed; to this date they are still missing. A female handicapped law student, then, must leave the Law School in order to find an accessible, *usable* bathroom; men, hopefully, can use the second floor men's room.

This seems an appropriate place to point out what I believe are two widespread problems with the accessible stalls throughout the university system. In my quest to find a usable restroom, I think I have experimented with most of the available handicapped stalls, and all suffer from one or both of these problems: (1) the door is ill-fitting and consequently latches poorly or not at all; (2) the swing-out door does not swing back and close behind the person in the stall. The first problem occurs in at least half of the handicapped stalls, usually in combination with the second problem. On several occasions, I've been in the middle of a transfer (or in a more compromising position) when the slightest jar has caused the stall door to unlatch and swing open. I like my privacy as well as the next person and have therefore given up on using those stalls. The swing-out door that doesn't close with its own weight is extremely difficult for someone in a wheelchair to shut. This diagram may help clarify.



The person in a wheelchair enters the stall with her back to the door. Her wheels extend about a foot behind the back of her chair. Consider, too, that the person may have limited arm movement. She must reach behind with one hand and grab the door by the latch. (This is a feat in itself; latches are often small and hard to grasp, and, at the same time, the person's wheels strike the door pushing it farther out of reach.) If she can accomplish this, then with her other hand she must move her wheelchair far enough into the stall so that the wheels are within the threshold while she pulls the door shut and latches it. Remember that this must all be done while the student's back is to the door. If at any time the person lets go of the door, it will swing out and she will have to start all over again. It seems ridiculous to require someone to perform these gymnastics when, with just a screwdriver, these doors could be adjusted to close as the person enters.

Solution: In the Law School, scrap the first floor restrooms. Fixing them would require knocking out a wall, and there's no point in throwing good money after bad. Put the grab rails back in the second floor restroom and adjust the

door. Adjust the other doors throughout the university.

The Library

The Sears Law Library is, for the most part, accessible and usable by the handicapped.

Although upper bookshelves are difficult, if not impossible, for a student in a wheelchair to reach, library staff are eager to assist in that respect. There is no difficulty in maneuvering between the aisles of books.

An elevator in the rear of the library permits access between floors; its button panel has not been lowered, however, and buttons are difficult to reach.

Two carrels on upper floors have been modified. They have ample turning space and a desk high enough to permit comfortable use from a wheelchair. The library is firm in its policy that disabled students have priority in the use of these carrels.

The majority of the floors of the library boast a unisex bathroom. Unfortunately, none has been modified for wheelchair use; the handicapped student must leave the library in order to use the restroom.

Solution: most of the library bathrooms are large enough to accommodate a wheelchair, however the doors all open *in*, depriving the student of needed space. At least one bathroom door should be replaced with a door that opens out. A grab bar should also be added. Elevator buttons should be lowered or supplemented with buttons that can be reached.

Elevators

The Law School has two centralized elevators that service all floors of the school. The elevators are sufficiently large to accommodate wheelchair passengers, and the time lapse between the opening and closing of the doors permits comfortable ingress and egress. The elevator button panels on all floors as well as those within the elevator have not been modified and some are difficult or, depending on the student's impairments, impossible to reach. There are no braille markings from which floors may be differentiated by blind students.

When an elevator in the Law School breaks down, it is usually repaired within the same day. To my knowledge, there has not yet been a time when both elevators were not functioning.

Solution: lower panels of buttons should replace or supplement those now available on all floors as well as within

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each of the elevators. Braille markings should be added.

Telephones

Public telephones, including one accessible to the handicapped, are located on the second floor of the Law School. The lowered phone, of push-button style, is convenient to reach.

Solution: none needed.

In summary, architectural accessibility at the Law School is fairly good. Minor changes, from the standpoint of time and cost, if implemented would make the Law School very accessible. From a standpoint of legality, the only areas that I feel are not in compliance with the law are the restrooms; these should be changed accordingly.

II. HOUSING — AVAILABILITY AND ACCESSIBILITY

Section 84.45 of the HEW regulations requires that a school which "provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students. . . ."

On the Amherst Campus, three of the six quadrangles in the Ellicott Complex have accessible rooms. Each area has three such rooms, all located on the second floor. Of the three rooms on the floor, one is designated as belonging to the resident advisor on the premise that, if a disabled student has problems, she will be able to go to the R.A.'s room to discuss them.

Supposedly, as a fire safety measure, all of the accessible rooms are located on the second floor because an outside terrace connects all of the quadrangles in the complex on that level; a handicapped student ideally could leave the building without having to rely on an elevator. What in fact happens is that, during the winter, snow removal is so poor that, when the elevator breaks down, the student is stranded—that is, confined to her room. In my case, this has happened on at least two occasions for periods of two to three days. Thankfully, no fires broke out.

An accessible room, incidentally, means only that the room has a wide door with a door handle instead of a door knob. Neither the light switches nor the closet racks nor the towel bars is lowered; such changes must be requested by the student but are not quickly effected. I requested, in May 1981, that my closet racks be lowered to a four-foot height by the time of my arrival in August 1981. This request was not honored. Moreover, it took an additional six weeks after I settled in before the task was completed. (In

It would be interesting to speculate on what would happen, however, if a professor in a wheelchair applied to teach a first-year course which, by virtue of the number of students, would necessitate the use of these first floor rooms.

the meantime I had to pile all my clothes on the other bed.)

A similar incident took place concerning the floor's accessible bathroom. The toilet had been modified, as had the sink. The shower stall, however, had only a small triangular seat in the far rear corner—impossible to get to unless one could stand (which, indeed, the previous handicapped resident on my floor could do) and walk into the shower. After some disagreeable moments (the Housing Office thought it would be easier to move me than to modify the shower) and three months of waiting, a metal seat, which extends along one side of the shower and which permits an easy transfer, was put in.

This sort of adaptation, unless pre-existing, is apt to take some time before its completion, and the handicapped student, unfamiliar with University Housing, had better expect to live with inconvenience or to make other arrangements in advance for that help which she requires to offset these limitations.

Too often, little thought is given to making adaptations which will accommodate more than one type of disability. Even more distressing is the fact that those people making alterations do not consult a single handicapped person before they make changes. In the above example, a more farsighted person could have dispensed with the entire problem by installing a more suitable seat in the first place.

Types of Housing

Section 84.45 of the HEW regulations also provides that housing be "in sufficient quantity *and variety* so that the scope of handicapped students' choice of living accommodations be, as a whole, *comparable* to that of nonhandicapped students" (emphasis added). Achieving this variety and choice proves to be a full-scale war.

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All of the accessible areas on the Amherst Campus (as well as the one accessible area on the Main Street Campus) are located in undergraduate areas and, before September 1982, not designated as any particular type of housing.

University Housing offers "study halls" or quiet housing as an available choice of housing. Further, the Law School catalogue, for the past two years, has stated:

On the Amherst Campus, a section of Roosevelt Hall, which is part of the Governors Residence complex, has been set aside for graduate students. . . .

Law students who choose to live on campus are encouraged to live together. There is a special advantage when law students can share their knowledge, problems, and aspirations through daily contact with fellow law students.

Yet, neither quiet nor graduate housing has been available to handicapped students.

In reliance on the statements in the Law School catalogue, I signed up for quiet housing in Roosevelt Hall when I was accepted into the law school. Instead, I was assigned to one of the accessible areas and found myself living among freshmen undergraduates. Desperate to escape this living situation because of the unbearable noise level, I visited the University Housing Office and was told that there was no quiet housing that was accessible to the handicapped. According to the Housing Office, architectural changes in the Main Street quiet areas were impossible because the buildings were so old they didn't have elevators so that the cost of making these buildings accessible was prohibitive. The Governors Complex was also so badly inaccessible that no money was going to be spent to make any part of it accessible.

Fearing for my sanity and outraged at what I considered to be clear discrimination, I could not let the matter rest. Moving off campus was out of the question for me because I had no transportation myself and would not have been able to utilize the university's transportation service to go from an apartment to school.

I took my problem to everyone I could think of (at least ten faculty or administrative persons) in hopes that I'd find someone willing to take some action and stop passing the buck. Finally, with a copy of the HEW regulations in hand, I visited the Affirmative Action Officer who agreed to do what he could on my behalf. Due to his efforts, I was given an appointment with the Director of Housing.

After enumerating the problems which had been cited to me previously, the director asked me if I had a solution. The solution was simple, I told him: take an area that's

already accessible and designate it as a quiet area.

The decision to do just that was made in December 1981; yet, in March when the housing lottery was published, no mention was made that this new area was going to be set aside as quiet housing. Therefore, only a small number of persons who requested housing in this area were interested in quiet housing, yet were assigned to the area regardless. The noise problem, although better, continued. Moreover, I am convinced that, once I graduate, this area will revert to regular housing and that the next disabled student who wants quiet housing is going to have to go through the same struggles as I to get it.

As to graduate housing, the university maintains that it has no graduate housing. According to the Housing Office, Roosevelt Hall has a "preponderance" of graduate students. Interestingly, the Housing Office is the only entity that does not consider Roosevelt a graduate area; its reputation with everyone else at the State University of New York at Buffalo is that it's a graduate area. Too, it is unlikely that the Law School catalogue would print the statement it has without first having had some communication with the Housing Office.

Whether Housing considers Roosevelt a graduate area, notwithstanding, I would like to live there among my peers. The Housing Office made a tactical blunder this summer (1982) by announcing to Mr. Arthur Burke, director of the Office of Services to the Handicapped, that it was going to make alterations to Roosevelt to accommodate handicapped lawyers and judges who would be attending a conference at the university. When Mr. Burke questioned the fact that such alterations would be executed for lawyers and judges but not for the university's own students, the idea was abandoned.

Mr. Burke and I made a recent walkthrough of the Governors Complex to see how badly inaccessible it really is and to see if living there is possible for a handicapped student. The building is not the nightmare Housing would have had us believe. A sidewalk, complete with curb cuts, leads to a ground-level door so that entrance is easy (not to mention the fact that, because of Governors' proximity to school, students who so chose could go to and from school independently in fair weather).

The first floor has several rooms and there is a key-operated elevator which goes to other floors including the basement where laundry facilities are located. Living on the first floor could alleviate the handicapped student's present problems of being marooned when the elevator is malfunctioning. The first floor rooms, blissfully quiet, have self-contained bathrooms which would be a great convenience to the handicapped student.

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Even more distressing is the fact that these people making alterations do not consult a single handicapped person before they make changes.

The changes that would have to be made are relatively minor. The room's main door and bathroom door would have to be widened, the bathtub would have to be removed, and the toilet would have to be turned ninety degrees. These are all changes that can be easily handled by University Maintenance at no great cost. The university's current concern is that, if certain areas are made accessible for a few students, at a later date they will be held responsible for making the entire complex accessible. The absurdity of this position is that not all of *Ellicott* is accessible, and even those areas that have been made accessible comprise only a very small part of the entire building in which they are located.

In concluding this section, I point out that good housing is essential to a law student's academic well-being and is a need shared by the disabled and the able-bodied alike. No person who is paying for an education and who is genuinely interested in learning should be forced to live in an area where noise levels prevent her from studying, sleeping, etc. Real quiet areas, not sham set-ups, should be offered to the disabled just as they are offered to the able-bodied. In my estimation, the University Housing Office has not made, is not making, and will not make a good faith effort to comply with section 84.45 of the HEW regulations unless they are continuously harassed into doing so. Housing will offer accessible housing, but unless pressed will continue to refuse to offer its handicapped students a comparable choice in the variety of housing situations it has available.

III. TRANSPORTATION

Transportation, unless the student has her own, is a necessity for on-campus mobility, and the university provides transportation to both handicapped and nonhandicapped students.

One of the major differences between the transportation available to able-bodied students and that provided for the disabled is the hours of service: the former service runs

from 7:00 AM until 2:00 AM weekdays and weekends; while the latter service runs from 7:00 AM until 11:00 PM Monday through Friday, from 3:00 PM to 11:00 PM on Saturdays, and from 9:00 AM to 5:00 PM on Sundays.

According to Art Burke (director, Office of Services for the Handicapped), the transportation service for the handicapped is a "demand" service—service is requested as it is needed and should be provided within the same hours available to the nonhandicapped if requested.

There are several problems with operating under such a system. First, the students on campus have not been well-informed that such a service exists and do not know, therefore, that they can request service outside of the basic hours of which they have been informed. Second, those students who do know that the service is provided on a demand basis are too timid to request the service unless they have "a good reason." It is one thing to request a ride to class on a Saturday morning and quite another to request a ride for recreational purposes on a Sunday night.

An experience I had recently was proof in my own mind of this. On the Fourth of July, 1982, the campus bus service, Bluebird, was to be in operation for summer students. However, the director of busing decided not to offer service to the disabled students on campus; he didn't even bother to ask if any of the disabled students wanted or needed service. To protest what I felt was a capricious and discriminatory decision, I went around to the director of the Office of Service for the Handicapped. When the request came from this office rather than from me, personally, service was grudgingly provided. However, what I interpreted as subtle forms of punishment followed (for example, trips I had to make around the noon hour had to be rescheduled because of the drivers' lunch hours; prior to this incident the drivers had been re-arranging their lunch hours to accommodate a transportation request. Indeed, I had been told, "It doesn't matter when they eat."). Nothing serious was ever done, yet this incident has given me a mental block against requesting "special" rides. There have been many concerts or activities on Sunday evenings at the academic spine which I would have attended had there been an assigned driver. Because there has not been one, I have chosen to stay home rather than make waves.

Solution: students should be informed by authorities that they may request service within the same hours that Bluebird operates. Rides may be requested in advance, so that the need for a driver can be pre-determined.

Exactly where handicapped students may travel has been a source of never-ending confusion. According to Mr. Burke, in the Office of Services for the Handicapped, the wheelchair van is not restricted to those places where the

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Bluebird bus goes; he cited the fact that Wegman's, near the Boulevard Mall, is a site to which the handicapped van may go but that the Bluebird bus does not.

In 1981, the director of busing printed a list of locations, including "all area malls," to which a student could travel. University Plaza was traditionally included. This year, however, handicapped students can no longer be taken to the University Plaza. In 1981, students were allowed to go to the Boulevard and University Cinemas; this year, they are not. As a matter of fact, on November 17, 1982, the director of busing distributed a memorandum to his drivers informing them that they may transport students only to any university campus, Wegman's, Northtown Plaza, and the Boulevard Mall. No such memorandum has been delivered to students. Why changes have been or are made is unclear, so that a basis for contesting the changes would be difficult to arrive at.

If the university can only transport handicapped students to the same points as nonhandicapped students, then it is contradictory to presently include Wegman's as a destination. If destinations are based on "necessity" to the student, then I would argue that recreational activities are essential to the mental well-being of any student. If the university has broken away from the rigidity of a fixed-route type of service, realizing that it may not work well for the handicapped, then it seems possible to define a radius within which the bus may travel. This would allow students to participate in some recreational activities and to help alleviate the isolation of the Amherst Campus. Since the university is not operating a fixed-route type of service to the handicapped, it seems rather ridiculous to transport to a destination on one side of a street and not to one on the other.

IV. CONCLUSION

It is obvious that changes could be effected in all three of the major topic areas discussed within this paper. It is my opinion that handicapped issues, or concern for the handicapped, is not a critical consideration of administrators at the State University of New York at Buffalo; therefore it is left to the handicapped student to see that her rights are secure. This involves, however, not only a great deal of time but also a constant mental energy. Success in one ordeal may be followed by yet *another* trial, and the handicapped person, just to avoid endless hassles, lives with a number of minor inconveniences and several major ones.

This paper has examined many problem areas, and, because of its very consolidation, I have decided to present

a copy of it to the director of the Office of Services for the Handicapped in hopes that some of the suggestions herein can be effected. In such a way, perhaps future students to this Law School and university system will be assisted and be able to enjoy a comfortable, convenient academic term.

EPILOGUE

Almost one year has passed since the writing of this paper, with the following results.

In February 1983, I presented my paper to the director of the Office of Services to the Handicapped. In August, he told me he had "glanced" at it. Consequently, I still must leave the law school whenever I need to use a bathroom. Elevator buttons have not been lowered and are now harder to reach since I've lost muscle ability.

In March 1983, I filed a complaint, still pending, with the Office of Civil Rights.

In April 1983, I met with Law School Dean Thomas Headrick, who offered to have the law school pay to have two rooms in the Governors Complex made accessible to the handicapped. Just before leaving for Oxford, he received a letter stating that this would cost \$94,000.

In August 1983, the director of the Office of Services to the Handicapped told me that he thought living on the first floor of Governors (his idea, initially) was out of the question but that perhaps the second floor was a possibility. Not enthusiastic about living in an area where there is no way to exit in case of fire, fire drills, or elevator breakdowns, I declined. As a result, I remain where I've been located for the past two years, in an undergraduate dorm on a "quiet" floor that's been filled in with freshmen. I listen to the nocturnal screaming of people in the halls, to the inescapable din of stereos blasting, and I pay \$62 per office visit to a psychologist so that I can make it through law school in the face of a situation that has turned out to be utterly frustrating and which, finally, has caused me to consider dropping out. I dread taking the Bar exam under such circumstances but, at the moment, have no other option.

In short, since the writing of this paper, none of the solutions herein have been implemented. Thanks to such people as Alan Carrel, David Engel, Vivian Garcia, Joe Gerken, Dean Headrick, Paul Spiegelman, Charles Wallin, and Marcia Zubrow, I've been able to endure the frustration. In light of my own experiences, however, the outlook for handicapped students coming to this school in the future looks bleak indeed. The concern that they may garner from a few individuals in the law school itself will be eclipsed by members of a larger, impervious bureaucracy.