



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO BOX 802
TRENTON, NJ 08625-0802

JON S. CORZINE
Governor

JOSEPH V. DORIA, JR.
Commissioner

February 2, 2009

Ms Carolyn Schwebel
Chair, Equalizers

Dear Ms. Schwebel:

Thank you for contacting the Department of Community Affairs with your question about the applicability of accessibility laws in New Jersey to commercial buildings, specifically to a building containing a doctor's office, a public accommodation.

There are several laws that address the accessibility of publicly used buildings in New Jersey. The Department of Community Affairs promulgates the Uniform Construction Code (UCC), of which the Barrier Free Subcode (BFSC), which contains the standards for accessible construction in New Jersey, is a part. The UCC does not require buildings to undergo retrofit. In other words, the UCC does not require that a building that was built before the accessibility laws were in effect to undergo an upgrade to meet accessibility requirements that came along later. However, in its Rehabilitation Subcode, the UCC does require that when a building undergoes improvement, the work that is done must comply with the UCC, including the BFSC.

Accessibility for existing buildings is also required by two civil rights laws: The Americans with Disabilities Act, which is a Federal law, and the New Jersey Law against Discrimination, which is a State law. As a Federal civil rights law, the Americans with Disabilities Act (ADA) established access to public buildings for people with disabilities as a civil right. Title III of the ADA requires that public accommodations and commercial facilities be accessible when they are newly constructed. The ADA also requires that access to existing facilities be improved as long as the improvement is readily achievable. Specific building improvements are not required by the ADA, but each business is required to improve accessibility consistently over time. In addition, the ADA requires that when a primary function space is altered, 20% of the cost of the project must be dedicated to improving the path of travel to the altered area. (The Rehabilitation Subcode has the same requirement.)



The enforcement of the Americans with Disabilities Act was not delegated to State or local governments or code enforcement officials. Enforcement was retained by the United States Department of Justice, which investigates complaints alleging non-compliance and discrimination. Complaints alleging discrimination against people with disabilities are filed with the Department of Justice at

United States Department of Justice
Civil Rights Division
950 Pennsylvania Avenue NW
Disability Rights NYAV
Washington, DC 20530.

If you would like to learn more about the ADA, there is an ADA Technical Assistance Center that serves residents of New Jersey from which you may obtain information about the ADA, its requirements, and its enforcement. The staff is knowledgeable and helpful and may be reached at a toll-free number, 1-800-949-4232.

The New Jersey Law Against Discrimination (NJ LAD) is enforced by the New Jersey Division on Civil Rights in the Department of Law and Public Safety. Like the Federal ADA, the NJ LAD requires that access be provided to public accommodations. Again like the ADA, no specific building improvements are required and evaluations of compliance are made through the investigation of a complaint alleging discrimination against people with disabilities. The Division on Civil Rights may be contacted at

Department of Law and Public Safety
Division of Civil Rights
Post Office Box 090
140 East Front Street
Trenton, New Jersey 08625
Telephone (609) 292-4605.

An additional discussion of the UCC and information regarding how to file a UCC complaint might also be helpful. The UCC establishes standards for all construction in New Jersey. Accessibility requirements for new construction are in the BFSC; accessibility requirements for existing buildings are based on the scope of the project being undertaken and are contained in the Rehabilitation Subcode. The UCC does not require a building owner to undertake a construction project, but when a project is undertaken, there are specific standards that must be met. If you know of a building where a construction project was undertaken and where accessibility was not improved, you may contact the Office of Regulatory Affairs in this Department. An investigation will be conducted.

Department of Community Affairs
Division of Codes and Standards
Office of Regulatory Affairs
Post Office Box 818
Trenton, New Jersey 08625.



The Department of Community Affairs also provides technical assistance. If you would like to talk to someone about the accessibility requirements and their enforcement in New Jersey, you may contact the Code Assistance Unit in the Division of Codes and Standards at (609) 984-7609.

In closing, I would like to respond to your observation that the Uniform Fire Code (UFC), which is also a State law, does require buildings to undergo retrofit for specific fire safety improvements. The UFC is separate from the UCC and is enforced by locally employed fire prevention officials. The UCC contains fire protection requirements for newly constructed buildings; it is enforced by the fire protection subcode official in the local code enforcement office.

In sum, the UCC and the BFSC do not require a building owner to undertake a construction project. The State (NJ LAD) and Federal (ADA) civil rights laws, on the other hand, require a building owner to improve accessibility consistently and over time to the extent that the improvements are "readily achievable" and these laws also require a building owner to make accommodations for people with disabilities. Should the projects triggered by the civil rights laws require a construction permit under the UCC, the standards of the UCC apply and are enforced by the local code officials in the local enforcing agency.

I trust this provides you with the information you were seeking. Should you have questions about the ADA or the NJ LAD, please contact the US DOJ or NJ DCR, respectively. Should you have questions about the UCC, please contact the Code Assistance Unit at (609) 984-7609.

Sincerely,



Emily W. Templeton
Division of Codes and Standards
Department of Community Affairs

