



February 5, 2018

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Majority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Steny Hoyer
Minority Whip
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Ryan, Leaders Pelosi and McCarthy, and Minority Whip Hoyer:

On behalf of the American Association of People with Disabilities (AAPD), I write to express our strong opposition to the ADA (Americans with Disabilities Act) Education and Reform Act (H.R. 620). This legislation would require a person with a disability to give notice to a public accommodation of an architectural barrier under the ADA and allow that accommodation time to cure the problem prior to being able to enforce his or her civil rights through the legal system. Requiring any type of notification scheme would lead businesses to delay ADA compliance, and result in decreased access to the built environment for our members and all people with disabilities.

A core part of AAPD's mission is to advocate for the civil rights of all Americans with disabilities. AAPD strongly supports the letter and spirit of the ADA. This crucial civil rights law, which is a model of compromise between the disability and business communities, creates comprehensive disability rights for all people with disabilities. Efforts to add notification and cure requirements to Title III of the ADA would only decrease accessibility and make the law's requirements more difficult to enforce.

The ADA Education and Reform Act would require a person with a disability to send a letter with very specific information notifying a business, regardless of its size, that it is out of compliance with the ADA. The business would then have 60 days to respond and 120 days to make "substantial progress" toward fixing the problem. Only if the business failed to acknowledge the notification or make substantial progress in fixing the violation, could the business be sued.

Although proponents of notification insist that it is needed to stop lawsuits, whether frivolous or not, AAPD believes that such a requirement would only serve to remove all incentive for



businesses to comply with Title III ADA requirements. There are no monetary damages available under Title III of the ADA, only injunctive relief. If a notification and cure requirement, such as that laid out in H.R. 620, became law, a business could simply employ a “wait and see” approach and continue to violate the law without any real fear of consequences.

Furthermore, it is hard to imagine how people with disabilities would even be able to find attorneys willing to help them with ADA architectural barrier cases against public accommodations. The possibility of receiving attorney’s fees would be a far off proposition that many attorneys would not be willing to take a chance on receiving. With the threat of a lawsuit rendered practically impotent, we would most likely see decreased access for people with disabilities.

As a nation, we need to focus on increasing compliance with the ADA, not tearing it down. Technical assistance is a powerful tool to help businesses understand their ADA obligations. The federally funded ADA National Network provides free technical assistance to governments, individuals, and businesses on ADA compliance. The Network includes ten regional ADA Centers that are located around the nation. Business owners who need assistance must seek the guidance and training that is available. There are even tax incentives to help businesses address identified barriers, including a small business tax credit.

Businesses have had enough time to comply. People with disabilities, including veterans and seniors, should not bear the burden of ensuring that businesses in their communities are meeting their ADA obligations. Instead, it is the responsibility of business owners and their associations to educate themselves about the law’s requirements.

AAPD is deeply disturbed by any efforts to gut the civil rights of Americans with disabilities. All people with disabilities must have equality of opportunity and access to their communities. ADA notification and cure efforts do not promote these crucial goals; therefore, they must fail. If you have any questions, please contact Zach Baldwin, Director of Outreach, at (202) 521-4310 or by email at zbaldwin@aapd.com.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Helena Berger', is positioned below the word 'Respectfully,'.

Helena Berger
President and CEO
American Association of People with Disabilities