

NTEF Cites NV's Attorney General for Ignoring ADA Discriminatory Policies

Source: NTEF

Dated: Jul. 06, 2015

LAS VEGAS -- On June 5th, the National Toxic Encephalopathy Foundation (NTEF) sent a demand letter to Adam Laxalt, Nevada's newly elected, Attorney General, regarding the state's chronic refusal to address accessibility deficiencies for all disabilities.

In January, 2015, Assistant Attorney General Wesley Duncan also failed to respond to ADA non-compliance issues, especially the complete absence of FEMA-mandated protocols for emergencies.

"Nevada state agencies 'cherry pick' which disabilities they will "acknowledge and accommodate," which contradicts the letter and spirit of the ADA", said Angel De Fazio, President of the NTEF, who is also a discriminated resident.

Jane Gruner, Division Director of Aging and Disability at the Nevada Department of Health and Human Services, recently admitted her agency had no idea there were disabled persons with toxic encephalopathy. Her response: "Let me look into it and see what we can do." No response has been forthcoming. No one on her board has knowledge of this disability.

Attorney General Laxalt has proceeded to resolve claims of Federal ADA violations by delegating the issue to his Communications Director, Patty Cafferata. Ms. Cafferata incorrectly asserted that "the state open meeting law is not subject to the ADA" on June 29th.

When any state receives Federal funding and state law is less rigorous than Federal law for the same subject, Federal law supersedes state law.

Here's what Federal law has to say on the subject:

II-5.0000 PROGRAM ACCESSIBILITY

Regulatory References: 28 CFR 35.149-35.150

II-5.1000 General: *A public entity may not deny the benefits of its programs, activities and services to individuals with disabilities because its facilities are inaccessible. A public entity's services, programs or activities, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as "program accessibility," applies to all existing facilities of a public entity. Public entities, however, are not necessary required to make each of their existing facilities accessible.*

II-8.1000 General: *Title II requires that public entities take several steps designed to achieve compliance. . .public entities with 50 or more employees. Determining the number of employees will be based on a government wide total of employees, rather than counting the number of employees of a subunit, department or division of the local government. Part-time employees are included in the determination.*

II-9.1000 General: *Many public entities are subject to Section 504 of the Rehabilitation Act as well as Title II. Section 504 covers those public entities operating programs or activities that receive Federal financial assistance. Title II does not displace any existing Section 504 jurisdiction. The substantive standards adopted for Title II are generally the same as those required under Section 504 for Federally*

assisted programs. In those situations where Title II provides greater protection of the rights of individuals with disabilities, however, the funding agencies will also apply the substantive requirements established under Title II in processing complaints covered by both Title II and Section 504.

Even NRS 241.020(2) clearly states: Wrongful exclusion of any person or persons from a public meeting is a misdemeanor offense.

"July 26th marks the 25th Anniversary of the ADA's enactment. Nevada needs to demonstrate consistent concern for the rights afforded every disabled resident and visitor," said De Fazio.

As the only entity concerned with denying disabled persons their civil rights, the NTEF and its President Angel De Fazio will soon file a complaint with the U.S. Department of Justice, Office of Civil Rights seeking relief from the repeated violations by Nevada state government.

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