

MUSEUMS AND DISABILITY RIGHTS: THE ROAD FROM THE
REHABILITATION ACT OF 1973 TO THE AMERICANS WITH DISABILITIES
ACT OF 1990

by

Colleen H. Cawthon, B.A.

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Committee Members:

Ruby Oram, Chair

Louie Dean Valencia

Justin Randolph

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DEDICATION

This thesis is dedicated to my parents, Janette and Daniel Cawthon, who always pushed me to pursue my passion for history with so much love and support and to my grandmothers, Mary Cawthon and LaVerne Zbasnik, who never got a chance to read my research but encouraged me on from the other side.

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I. INTRODUCTION

The first major legislative achievement of the Disability Rights Movement was the passage of the Rehabilitation (Rehab) Act of 1973. The Rehab Act marked a crucial moment for the movement as the first federal law that extended rights to Americans with disabilities. This Act ensured that all federal agencies, as well as institutions that received federal funding, were legally required to provide accessibility accommodations. The Rehab Act provided a legal foothold for the federal government to push for an expansion of equality and human rights regarding accessibility within society and spurred national discussions on the proper implementation of accessibility.

Despite the significance of the Rehab Act, the majority of current research on disability rights focuses on the American with Disabilities Act (ADA) of 1990.¹ The ADA prohibited discrimination against individuals with disabilities in all aspects of public life which expanded the initial legal sanctions of accessibility under the Rehab Act. John P.S. Salmen ascertains, in his publication *Everyone's Welcome: The Americans with Disabilities Act and Museums*, that even though the “disability movement has been less well publicized than other civil rights movements,” the ADA was a culmination of

¹ New Mobility. “ADA: A People’s History,” July 1, 2015. <https://newmobility.com/ada-a-peoples-history/>; Ari Ne’eman, “Disability Politics: Liberals, Conservatives, and the Disability-Rights Movement,” *The New Atlantis*, no. 24 (2009): 112–16; John P. S. Salmen, *Everyone’s Welcome: The Americans with Disabilities Act and Museums* (American Association of Museums, 1575 Eye St, 1998); “Museums and the Americans with Disabilities Act at 25: Progress and Looking Ahead,” accessed April 3, 2022, <https://www.arts.gov/stories/blog/2015/museums-and-americans-disabilities-act-25-progress-and-looking-ahead>; Richard K. Scotch, “‘Nothing about Us without Us’: Disability Rights in America,” *OAH Magazine of History* 23, no. 3 (2009): 17–22; Richard K. Scotch, “Politics and Policy in the History of the Disability Rights Movement,” *The Milbank Quarterly* 67 (1989): 380–400; Valarie Blake, “Rethinking the Americans with Disabilities Act’s Insurance Safe Harbor,” *Laws* 6, no. 4 (December 2017); William D. Goren, *Understanding the Americans with Disabilities Act*, (United States: American Bar Association, 2006); John P. S. Salmen ed., *Everyone's Welcome: The Americans with Disabilities Act and Museums*, (United States: The Association, 1998); Howard Paul Scott, *The Museum as an Inclusive Community: A Blueprint for Moving Forward*, (Washington, Central Washington University, 2014); Lauren J. Garnese, *Achieving Access: Designing a Museum Accessibility Consulting Firm*, (MA thesis, University of San Francisco: 2016).

legal and advocacy efforts to improve “the ability of people with disabilities to enjoy the same rights and responsibilities that society affords to others.”² He goes on to include a quick recap of how Section 504 covered federal institutions without implicating how the Rehab Act and Section 504 influenced the ADA.³ Similarly Heather Pressman and Danielle Shulz discussed the legal requirements of museums and addressed that both the Rehab Act and the ADA had a goal “to ensure that visitors with disabilities could navigate any museum with ease and be able to safely interact,” in *The Art of Access: A Practical Guide for Museum Accessibility*. However, when discussing how accessibility audits support the proper implementation of accessibility, the authors only analyze the ADA even though the Rehab Act is still an active legal sanction.⁴ Furthermore, current scholarship within public history focused on how accessibility legislation and discussions impacted inclusive design within museums during the twenty-first century rather than efforts throughout the twentieth-century.⁵

Most scholarship follows a similar pattern as Salmen, Pressman, and Shulz by focusing on the ADA. That being said, Doris Fleischer and Frieda Zames devoted a large

² Salmen ed., *Everyone's Welcome*, 8-9.

³ Salmen ed., *Everyone's Welcome*, 9.

⁴ Heather Pressman and Danielle Shulz, *The Art of Access: A Practical Guide for Museum Accessibility*, (UK: Rowman & Littlefield Publishers, 2021): 45-52.

⁵ Kathleen McLean, “Museum Exhibitions and the Dynamics of Dialogue,” *Daedalus* 128, no. 3 (1999): 83–107; Alison Griffiths, “Media Technology and Museum Display: A Century of Accommodation and Conflict,” *MIT Communications Forum*, accessed April 3, 2022, <https://web.mit.edu/comm-forum/legacy/papers/griffiths.html#16>; Grace Fisher Ramsey, “The Development, Methods and Trends of Educational Work in Museums of the United States” (PhD diss., New York University: 1938); Lonnie Bunch and Janice Majewski, “The Expanding Definition of Diversity: Accessibility and Disability Culture Issues in Museum Exhibitions,” *Curator: The Museum Journal* 41, no. 3 (1998): 153–60; Natalie Sandstrom, “VoCA Journal Museums and the ADA at 30,” *VoCA Journal*, accessed April 25, 2022, <https://journal.voca.network>; Nina Sobol Levent and Alvaro Pascual-Leone, *The Multisensory Museum Cross-disciplinary Perspectives on Touch, Sound, Smell, Memory, and Space*, (UK: Rowman and Littlefield, 2014); Jonathan P. Bowmen, Kristen Hearn, Eleanor Linsey, and Maria Zedda, “Museums and Technology: Being Inclusive Helps Accessibility for All,” In *Curator: The Museum Journal* 56, no. 3 (July 2013).

section in their research *The Disability Rights Movement: From Charity to Confrontation* on the Rehab Act and Section 504. Their research draws upon the advocacy efforts that pushed for the Rehab Act, the legal work that preceded its passage, and how the public responded to the law.⁶ While Fleischer and Zames' work was not on museums specifically, their understanding of the Rehab Act largely influenced this research and provided valuable insight, in conjunction with the actual legal language, on the overall impact of the Rehab Act. While the ADA was influential, relevant, and a more recent piece of legislation, the Rehab Act itself was also influential and impacted museum standards as well. This thesis contributes to the scholarship on the Disability Rights Movement by providing a thorough history and analysis of the Rehab Act, which laid the groundwork for the ADA and raised important questions about ability and access within museums.

By analyzing the Rehab Act, this thesis draws attention to the reforms of the 1970s and how museum professionals' responses to the Rehab Act impacted the ADA. This research relies on a close analysis of disability legislation to understand direct implementation of federal laws, as well as national trade forums and panel discussions to analyze how museums and museum professionals across the nation responded to the Rehab Act and ADA. These trade sources coupled with case studies of Texas museums demonstrate how accessibility efforts evolved in the late twentieth century.

This thesis relies on the terms "impairment," "disability," and "handicapped" to address the need for different forms of accessibility. There are degrees to what disability, handicap, and impairment mean in the medical and legal sense. According to a study by

⁶ Doris Fleischer and Frieda Zames, "Groundbreaking Disability Rights Legislation: Section 504," In *The Disability Rights Movement: From Charity to Confrontation*, (Temple University Press, 2011): 49-70.

Emory University School of Medicine, impairments, disabilities, and handicaps are connected but not the same. Impairments often concern the loss of specific physical or mental abilities.⁷ “Disability” refers to how impairments limit one’s capacity to perform certain functions, and handicaps are disadvantages that limit one’s ability to fulfill a role in comparison to others due to current social or environmental barriers.⁸ A clear definition of disabilities or impairments are not always outlined in literature on museum studies. Instead, these terms are “viewed more as a status or group that anyone can join at any time and that can be temporary or permanent.”⁹ The Smithsonian takes this understanding to heart in their guidelines for museums concerning accessibility by stating: “People with disabilities are not suffering from, victims of, or afflicted by their disabilities. People with disabilities do not have special needs, but do require certain accommodations to make the best use of museums—programs, exhibitions, and facilities.”¹⁰ By understanding that “Disability does not equate with growing old and becoming useless. [Or that] disability does not mean people who are a burden to the world,” museum professionals and scholars can move toward promoting inclusive and universal design so that, “we begin to see ourselves as the diverse society we are.”¹¹

Furthermore, the terms handicap and disability are used to describe individuals with impairments throughout this thesis to reflect the language used in my primary sources. Using the same language and terms as the Rehab Act, the ADA, the Federal Register, and

⁷ Sheena L. Carter, “Impairment, Disability and Handicap,” Emory School of Medicine, accessed March 1, 2023, <https://med.emory.edu/departments/pediatrics/divisions/neonatology/dpc/impairment-mx.html>.

⁸ Carter, “Impairment, Disability and Handicap.”

⁹ Caroline Braden, “Welcoming All Visitors: Museums, Accessibility, and Visitors with Disabilities,” *Working Papers in Museum Studies*, (University of Michigan: 2016): 3.

¹⁰ Smithsonian Accessibility Program, *Smithsonian Guidelines for Accessible Exhibition Design*, (Washington D.C.: Smithsonian Institute n.d.): 94.

¹¹ Lonnie Bunch and Janice Majewski, “The Expanding Definition of diversity: Accessibility and Disability Culture Issue in Museum Exhibitions,” *The Curator* 41, no. 3 (Sept 1998): 159.

trade journals offers cohesion when discussing the history of the Disability Rights Movement. That being said, the term impairment is used more extensively than disability and handicap throughout this study in order to be inclusive of various stages of impairments as well as the individuals themselves.

The right to accessibility in museums began with disability rights activism that culminated in federal support in the 1970s and 1990s. The Disability Rights Movement led to legislation, the Rehab Act and the ADA, that impacted how society accommodates accessibility needs in certain aspects of everyday life, including modes of education such as museums. By analyzing the Disability Rights Movement and the impact accessibility brought to museums specifically, this thesis demonstrates how the Disability Rights Movement affected essential cultural spaces – museums – and members of the public beyond the movement itself.

II. THE ROAD TO THE REHABILITATION (REHAB) ACT OF 1973

In 1971, representatives Charles Vanik and Senator Hubert Humphrey introduced an amendment to the Civil Rights Act (CRA) of 1964 that would include an anti-discriminatory statute for Americans with physical and mental disabilities. Vanik stated in the Remarks for the Federal Register for December of 1971 that he believed his “proposed legislation will insure equal educational and employment opportunities for the handicapped by making discrimination illegal in federally assisted programs and activities.”¹² The proposed bill, S. 3044, was presented on January 20th, 1972. The bill, presented in conjunction with Vanik’s H.R. 12154, proposed to insert physical or mental handicap “immediately after color” within Section 601 of the CRA. In addition, the bill would create a new Section 606 to define the terms of physical or mental handicap.¹³ The proposed bill was referred to the Senate Committee on the Judiciary. The committee ultimately blocked this amendment.¹⁴ While the statute did amend the CRA of 1964, the concept and desire to implement federal statutes to protect the individuals with impairments from discrimination continued on in its own movement.

The legislative successes of the Civil Rights Movement helped outline how the Disability Rights Movement pushed for equality and anti-discrimination after 1964. The Civil Rights Movement worked through a combined effort of local, regional, and national activists’ groups with the help of national leaders, federal legislation, and protests. The efforts of the CRA would help guide the Disability Rights Movement. The Disability

¹² Charles A. Vanik, Extensions of Remarks, “The Right of Handicapped Citizens to Participate in Federal Programs,” *Federal Register* 117, no. 35 (December 9, 1971): 45974-45975.

¹³ Hubert Humphrey, Congressional Record – Senate, “Statements on Introduced Bills and Joint Resolutions,” *Federal Register* 118, no. 1 (January 20, 1972): 526.

¹⁴ Richard K. Scotch, “Politics and Policy in the History of the Disability Rights Movement,” *The Milbank Quarterly* 67 (1989): 390.

Rights Movement furthered the push for equalities procured from the Civil Rights Movement for all individuals with different levels of impairment through the use of similar tactics of leadership, peaceful protests, and sit-ins. Like the Civil Rights Movement, activists for disability rights also relied on aid from national activist groups and worked with prominent leaders in Congress.¹⁵

Senator Harrison Williams (D-NJ) was one prominent leader of the Disability Rights Movement whose 30 years in office were dedicated to social issues relating to worker's rights, civil rights, and education. Democrats led by Senator Williams and lobbying groups such as the National Rehabilitation Association worked to establish a bill that would extend rights to the disabled.¹⁶ Williams and his team attempted to pass the Rehab Act in 1972. However, President Richard Nixon vetoed it twice due to his belief that the reforms the law would require would be too expensive. There were various responses to Williams' correspondence with organizations concerning the Rehab Act of 1972's veto. Professionals in vocational rehabilitation and disability organizations stated their agreement concerning the surprise and dismay of the proposal not being passed. The National Rehabilitation Association thanked Williams "for what [he] did in helping to get this legislation through."¹⁷ Similarly, the Boulder River School and Hospital expressed in a letter "thanking [Williams] for the leadership [he] exercised in favor of the handicapped throughout the years."¹⁸

¹⁵ Mark Newman, "Prerequisites for Change," in *The Civil Rights Movement* (Scotland: Edinburgh University Press, 2004): 3.

¹⁶ United States Government, *Rehabilitation Act, 1973 Hearings, Ninety-third Congress, First Session, on S. 7. January 10 and February 6, 1973*, (U.S. Government Printing Office: Washington, 1973): 1-229; Williams' subcommittee included Alan Cranston, Jennings Randolph, Claiborne Pell, Edward M. Kennedy, Walter F. Mondale, William D. Hathaway, Robert T. Stafford, Robert Taft, Richard S. Schweiker and J. Green Beall Jr..

¹⁷ United States Government, *Rehabilitation Act, 1973 Hearings*, 237.

¹⁸ United States Government, *Rehabilitation Act, 1973 Hearings*, 231.

Williams' dedication in protecting the rights of individuals with impairments pushed him and his subcommittee on the Handicapped to draft the Rehab Act of 1973. The language of the bill was based upon the CRA and recently passed Title IX, a federal law to prohibit discrimination based on sex. Though activists did not have a hands-on role in drafting the Rehab Act, activists did support the provisions it extended for disability rights and the idea of making those rights protected by law for the first time.¹⁹ It is this extension created by Williams' team to pass the Rehab Act again that enabled the prohibition of discrimination towards individuals with disabilities, thus expanding equal access. The work William's team produced established The Rehab Act of 1973, but work regarding the implementation of the statute was not yet done.

The Rehab Act, signed and passed by President Nixon on September 26th of 1973, played a pivotal role in the development of accessibility rights. This legal sanction promoted the development of rehabilitation services; outlined requirements for providing access to government-funded agencies; and endorsed employment, housing, health, and transportation in order to promote full integration of accessibility in order to prohibit discrimination based on one's abilities. Notably, Section 504 of the Rehab Act of 1973 called for accessibility for individuals with disabilities in federal buildings and federally-funded institutions. The Act also required those in charge of federally-funded institutions such as museum directors to establish protections, research, and training programs "with respect to handicapped individuals."²⁰ The law placed the responsibility of providing programs with respect to handicapped individuals on the Secretary of Health, Education, and Welfare (HEW). These sanctions provided a legal standing that promoted the right to

¹⁹ Fleischer and Zames, *The Disability Rights Movement*, 49.

²⁰ *Rehabilitation Act of 1973*, Public Law 93-112, HR 8070 (1973).

accessibility for those with impairments or disabilities on a national level and promoted the discussion of accessibility and non-discriminatory practices towards individuals with disabilities.

Section 504 of the Rehab Act in particular had the potential to radically transform federally-funded museums. Without Section 504, the Rehab Act was simply a sanction focused on better developing skills and programs to aid the handicapped rather than calling out and focusing on the heart of discrimination and prejudices that are causing the inequality. According to Frieda Zames and Doris Fleischer, authors of *The Disability Rights Movement: From Charity to Confrontation*, Section 504 reflected the language of the Civil Rights Act of 1964 and Title IX of the 1972 Education Amendments to the Act.²¹ According to Section 504 of the Act:

No otherwise qualified handicapped individual in the United States... solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.²²

This subsection of the Rehab Act can be linked to Title VI's Section 601 of the CRA:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."²³

The CRA made discrimination a federal priority by ensuring that federally funded agencies and departments pursued and enforced a policy of nondiscrimination and

²¹ Fleischer and Zames, *The Disability Rights Movement*, 50.

²² *Rehabilitation Act of 1973*, Public Law 93-112, HR 8070 (1973).

²³ *The Civil Rights Act of 1964*, Public Law 88-352; 78 Stat. (1964): 252.

allowed the federal government to financially penalize institutions that did not integrate non-discriminatory policies.²⁴ Section 504 was similarly based on these principles.

The Rehab Act did not outline a specific plan of enforcement. The law simply stated it was the responsibility of David Mathews, the Secretary of HEW, to coordinate the implementation of the Act. Full implementation of Section 504 and the Rehab Act would have required undiluted support across Congress, as well as air-tight language concerning legislation and regulations that would not have allowed for personal interpretation of the law. Further, full implementation would have required museums to provide support for individuals with a large array of different disabilities, not just those that aid the visually impaired. Title VI of the CRA's Section 504 was framed in a way that could have enabled Congress and agencies to provide support to all individuals no matter their needs, however Section 504 did not work as instantaneously due to the need for large amounts of funding that was needed to facilitate change. In May of 1976, Mathews proposed a notice of intent to publish proposed rules that resulted in comments from multiple recipients of federal funds that Section 504 affected. Ultimately these groups "objected to the financial burden of compliance through waivers."²⁵ Continued objections to the cost of compliance and attempts to lobby against Section 504 was a result of both the lack of available funding as well as proper enforcement of the law dictated by Section 504.

Just as some organizations lobbied against Section 504, others fought for the establishment of better enforcement and proper regulations to uphold the accessibility

²⁴ Richard Scotch, *From Goodwill to Civil Rights: Transforming Federal Disability Policy*, (Temple University Press, 2001): 27.

²⁵ Scotch, *From Goodwill to Civil Rights*, 94.

efforts that were supposed to be protected by the legal policies of the Rehab Act and Section 504. Lobbying efforts by established organizations and groups of individuals with disabilities, such as the 504 sit-ins that mirrored the CRA sit-ins of peaceful protests, continued to push the Disability Right Movement forward by making changes to laws protecting Disability Rights. Citizens such as James Cherry believed that the degree to which Mathews communicated such implementation of Section 504 to the public was lacking.²⁶ Cherry would go on to sue HEW concerning the implementation of regulations. Regulations would ensure the proper enforcement and implementation of the intent of laws and statutes. Without regulations, the standard of protection established concerning disability rights in the Rehab Act remained too ambiguous for law enforcement to uphold.

Regulations for the Rehab Act were pushed by protest groups and individuals such as James Cherry. The District Court of Columbia would hear *Cherry v Mathews* during the summer of 1976 and motioned that “the statute's discrimination prohibitions were certainly not intended to be self-executing.”²⁷ The judge’s ruling resulted in changes to section 504 that provided legal protections. HEW proposed two federal regulations, F.R.20296 on 17 May 1976 and F.R. 29548 on 16 July 1976.²⁸ Actual regulations for the Rehab Act and Section 504 did not come until 1977. After 26 days of 504 sit-ins from disability activists HEW Secretary Califano signed Federal Regulation 22677 that provided proper regulations concerning the enforcement of Section 504 of the

²⁶ Fleischer and Zames, *The Disability Rights Movement*, 50-51.

²⁷ *Cherry v. Mathews*, 419 F. Supp. 922 (D.D.C 1976).

²⁸ Department of Health, Education, and Welfare Office of the Secretary, Proposed Rules, “Nondiscrimination on the Basis of Handicap [45 CFR Part 84],” *Federal Register* 41, no. 96 (May 17, 1976): 20296-20311.

Rehab Act. The summary of Federal Regulation 22677 found in the federal register as expressed by Califano reads:

The regulation, which applies to all recipients of federal assistance from HEW, is intended to ensure that their federally assisted programs and activities are operated without discrimination on the basis of handicap. The regulation defines and forbids acts of discrimination against qualified handicapped persons in employment and in the operation of programs and activities receiving assistance from the Department... As providers of services, recipients are required to make programs operated in existing facilities accessible to handicapped persons, to ensure that new facilities are constructed so as to be readily accessible to handicapped persons, and to operate their programs in a non- discriminatory manner.²⁹

This text of the regulation makes clear that institutions that received assistance from federal funds were required to adhere to providing accessibility and operating in a non-discriminatory manner. Non-adherence to the regulation was a violation of federal law.

The regulation that Cherry championed was divided into 7 subparts detailing how the Rehab Act would be enforced in various departments from administrative requirements to education and museums.³⁰ Subpart C of the regulation covered program accessibility and declared “no qualified handicapped person shall, because a recipients' 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.” This subpart also delineated methods, a period of implementation, transition plans for existing facilities, as well as design and construction requirements for new facilities.³¹ Such facilities needed to make changes to

²⁹ Department of Health, Education, and Welfare Office of the Secretary, “Nondiscrimination on the Basis of Handicap [45 CFR Part 84],” 22676.

³⁰ Department of Health, Education, and Welfare Office of the Secretary, “Nondiscrimination on the Basis of Handicap [45 CFR Part 84],” 22677; Subparts of FR 22677 include: Administrative requirements' for small recipients; Employment Practices; Employment criteria; Program Accessibility; Preschool, Elementary, and, Secondary Education; Postsecondary Education; Health, Welfare, and Social Services.

³¹ Department of Health, Education, and Welfare Office of the Secretary, “Nondiscrimination on the Basis of Handicap [45 CFR Part 84],” 22681.

be in compliance with accessibility within six months of the effective date of the regulation. Further, any aid needed to establish changes or create new accessible facilities could be provided technical assistance from the Department of HEW, and waivers to bypass such accessibility requirements will not be granted.³² This regulation advanced the Disability Rights Movement advanced forward once again by ensuring the legal sanctions of the Rehab Act was a protected and enforceable legal right for all Americans with impairments.

Grass-roots organizations, Congressmen like Harrison Williams, and individuals like James Cherry shaped new groundbreaking legislation in the form of the Rehab Act of 1973. The efforts of these individuals produced the first federal law that extended the protection of rights for individuals with disabilities to be upheld in different federal institutions across the United States. Through this statute, and the regulations that went into effect to support the new law, non-discrimination practices and accessibility efforts would be enforced in different aspects of society. One such way this can be seen is through the changes produced within museums.

³² Department of Health, Education, and Welfare Office of the Secretary, "Nondiscrimination on the Basis of Handicap [45 CFR Part 84]," 22690.

III. THE REHAB ACT OF 1973 AND MUSEUMS

The Rehab Act did not explicitly address accessibility within museums. However, the Rehab Act did state that those with handicaps cannot be excluded from federally funded programs and activities, including those that are produced using federal funding. Museums are education-centered institutions that generally receive federal grants and funding for much of their programming. Due to this use of federal funds, museums that provide public programming were thus required to provide accessibility as stated in the Rehab Act and Section C of the Act's regulation. Some museums addressed access to visitors with disabilities earlier in the twentieth century. After 1973, all federally funded museums were required by law to participate in accessibility programming.

The United States government did not provide federal aid to arts and humanities programs in the first half of the twentieth century. Theodore Roosevelt established the Council of Fine Arts in 1909 whose objective was to "advise upon the character and design of all public works of architecture, painting, sculpture; all monuments, parks, bridges, and other works of which the art of design forms an integral part; and to make recommendations for the conservation of all historic monuments," though it did not last long as President Taft abolished the program because of a lack of funds.³³ The next year Taft signed a bill that established a Commission of Fine Arts which pushed for the same concepts but was, in the words of Roger Stevens, "not as ambitious as the original proposal."³⁴ The commissioners focused on the creation of monuments, statues, and

³³ Roger L. Stevens, *The First Annual Report the National Council on the Arts 1964-1965*, (Washington D. C.: National Council on the Arts, September 28, 1965): 5; Sue Kohler, "The Commission of Fine Arts: Implementing the Senate Park Commission's Vision," In *Designing the Nation's Capital: The 1901 Plan for Washington D.C.*, (Washington, D.C. : U.S. Commission of Fine Arts, 2006).

³⁴ Stevens, *The First Annual Report*, 5.

parks, and provided advice on the architectural design of the nation.³⁵ Taft's new commission aligned with the goals of the American City Beautiful Movement of the time which focused on improving the nation's role as a cultural leader.³⁶ The commission began the concept of federal funding for museums and gallery spaces. This early form of federal funding to museums was not a consistent practice, though, this would change. Elite philanthropists, and some state-level government support, provided individual grants to finance museums in the 1930s and 1940s. By the mid-1960s the federal government began to provide more significant funding to museums due to available finances.³⁷ This government gave these funds in the form of the National Endowments for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.³⁸

The National Foundation on the Arts and the Humanities Act of 1965 established these endowments "to promote progress and scholarship in the humanities and the arts in the United States" through the support of research, education, and public programs.³⁹ William S. Moorehead, a democratic house of representative for Pennsylvania, pushed for the passage of the National Endowment for the Humanities, arguing that these funding efforts are needed to keep up with the changing attitudes toward intellectual and cultural life in America personified by the Kennedy and Johnson administrations.⁴⁰ In

³⁵ Commission of the Fine Arts, "History of the Commission of Fine Arts," Accessed May 5, 2022, <https://www.cfa.gov/about-cfa/history>.

³⁶ Commission of the Fine Arts, "History of the Commission of Fine Arts."

³⁷ Victoria D. Alexander, "A Delicate Balance: Museums and the Market-place," *Museum International* 51, no. 2 (1999): 29.

³⁸ Sir John Hale, Anne Hawley, and Andrew Oliver, "The Museum and the Government," In *The Economics of Art Museums*, ed. Martin Feldstein, (University of Chicago Press, 1991), 91-106.

³⁹ *National Foundation on the Arts and the Humanities Act of 1965*, Public Law 89-209; 79 Stat. 845 (1965): 845.

⁴⁰ William S. Moorehead, "A National Foundation for the Humanities," *The Journal of General Education* 17, no. 1 (1965): 31.

discussing his support for the National Endowment Moorhead argued that federal support for education was not a new concept citing the Morrill Land-Grant Act of 1862.⁴¹ He contended that the National Endowment Act would be a natural continuation of the federal government supporting education, just as the Morrill Act provided federal aid for rural state colleges.

The National Endowment Foundation provided federal funds and grants to museums. These federal funds enabled laws such as Section 504 of the Rehab Act to be applied to museums to ensure accessibility and inclusive design. The law as stated by the Rehab Act required that federally funded institutions provide programming for protected classes under the law. Section 7.6 of the 1973 Act identifies as the protected classes those who have “a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.” Section 7.12 defines a severe handicap as a “disability which requires multiple services over an extended period of time and results from [a wide range of causes], and any other disability specified by the secretary in regulations he shall prescribe.”⁴² The Act includes blindness and vision impairment as disabilities or “handicaps” protected by the law. The language of the Act thus outlines museums are required to provide accessibility to blind and visually impaired individuals within their programming.

The Rehab Act, then, required that museum programs and spaces provide proper inclusion for individuals with handicaps. Since museums and exhibits are often presented as a highly visual component, museum education and programming departments were

⁴¹ The Morrill Land-Grant Act enabled states to create universities in America through ‘land-grants. These funds were allocated from selling federal land which often came from land obtained through treaties from indigenous populations.

⁴² *Rehabilitation Act of 1973*, Public Law 93-112, HR 8070 (1973).

now responsible for creating activities for use as an addition to the content provided within the galleries and exhibit spaces for all, including those with visual impairments. An example of establishing such an exhibit was the New York Metropolitan Museum of Art's "To Touch and Hear" created in 1977. This exhibit showcased pieces from the Musical Instrument Department's collection, instruments that "are meant to be appreciated by hands and ears as well as eyes."⁴³ The exhibit used "mounts that permit handling, tape-recorded guides that include unusual musical examples, braille labels" and a format that allowed individuals with visual impairments, as well as those without visual impairments, to enjoy the instruments and exhibit.⁴⁴ Inclusive exhibit design is possible, it just requires those in charge to think of ways to express concepts with more than one sense.

The Rehab Act had several shortcomings concerning accessibility and disability rights both within federal programs outlined by the act as well as within society. The National Council on the Handicapped, under the leadership of Houstonian Executive Director Lex Frieden, released a report to Congress in 1986 titled *Toward Independence: An Assessment of Federal Laws and Programs Affecting Persons with Disabilities - With Legislative Recommendations*. The report highlighted persistent issues concerning accessibility and disability rights affected by current federal policies such as the Rehab Act. This report called for attention to federal programs such as equal opportunity laws, employment, housing, education, and transportation. Frieden and his council called out the existing federal legislation for their lack of coverage arguing that while the Rehab Act

⁴³ Laurence Libin, *To Touch and Hear: Department of Musical Instruments*, (Metropolitan Museum of Art: 1975): 1.

⁴⁴ Libin, *To Touch and Hear*, 1.

does prohibit discrimination on the basis of handicap in programs and activities, “is not nearly as broad as laws prohibiting discrimination on the basis of race, color, sex, religion, or national origin... handicap nondiscrimination laws fail to serve the central purpose of any human rights law-providing a strong statement of a societal imperative.”⁴⁵ Other issues the council found involved “statutory language, the lack of specificity or standards concerning nondiscrimination, and inconsistencies in interpretation and application of the statutes.” These issues would ultimately help shape the Americans with Disabilities Act (ADA) of 1990.⁴⁶ While the Rehab Act did have legal issues concerning scope and implementation, it still spurred a nationwide discussion concerning accessibility efforts in the United States and impacted museum professionals nationally.

⁴⁵ National Council on the Handicapped, *Toward Independence: An Assessment of Federal Laws and Programs Affecting Persons with Disabilities - With Legislative Recommendations*, (University of Michigan: 1986): 18. <https://ncd.gov/publications/1988/jan1988>.

⁴⁶ National Council on the Handicapped, *Toward Independence*.

IV. THE MUSEUM RESPONSE TO THE REHABILITATION ACT OF 1973

In 1973, museum professionals organized a panel to discuss the “invisible problem” of the handicapped in Washington, D.C. museums.⁴⁷ The panel discussion took place a few months before the president signed the Rehab Act into federal law. Lobbying efforts for the Rehab Act and equal rights for the handicapped could have been an impactful purveyor of the roundtable panel and shows how current politics influence policies of institutions. Panel members included curators and directors along with key advocates for the disabled, such as Cynthia Mathis, the former program director of United Cerebral Palsy, and Yetta Galiber, the executive director of the Information Center for the Handicapped. Galiber and Mathis were not museum professionals or directors, but they were advocates for those with impairments. Their presence provided the roundtable with a wider range of shareholders that allowed the discussion to provide content with more standing as the actual needs of the handicapped were advocated for by individuals who knew their needs and limitations. They emphasized the “need for museums to give special consideration to the handicapped” while also ensuring that with appropriate activities, children with different access needs would be able to interact in a safe and comfortable environment without instigating emotional stress.⁴⁸

The panelists of Museum Education Roundtable (MER) members and representatives from area groups for the handicapped agreed that special consideration for the handicapped needed to be taken into account in relation to program planning, education, and field trips so that an equal opportunity of supplementary educational

⁴⁷ Sue Hoth and Alan Levitt, “Museums and the Handicapped,” *Roundtable Reports* (July 1973): 1.

⁴⁸ Hoth and Levitt, “Museums and the Handicapped,” 2.

experiences could be provided.⁴⁹ The concept was emphasized by their argument that “fewer than half the planned museum field trips for the handicapped are actually undertaken, largely because of architectural barriers,” which aid individuals in entering a space such as ramps.⁵⁰ This demonstrates how schools and groups that aid those with different forms of disabilities wanted to incorporate public programs and were actively seeking out field trips. These trips were planned and contacted, but the physical limitations and lack of accessibility acted as a barrier concerning many of the group’s ability to engage in the field trip experience at museums and the learning objectives those experiences would have brought. In the end, the panelists agreed that the conversation and interpretation of accessible programming needed to continue on an ongoing basis. Conversations on best practices for educational programming is an important way to brainstorm for the implementation of new standards concerning inclusive design. Through discussion techniques can be evaluated on what is needed, how to best execute new procedures, and determine what does or does not work.

The panelists were individuals and specialists who were devoted to the care and education of individuals with impairments. These specialists, such as the previously mentioned Mathis and Genevieve Sheridan (a reading teacher at the Stephen Knowles School for the Handicapped), saw a need for improvement regarding inclusive programming and making individuals with impairments “more visible in society.”⁵¹ Some of the immediate recommendations brought forward involved how to properly plan programming. This entailed reaching out to various schools for those with disabilities as

⁴⁹ Hoth and Levitt, “Museums and the Handicapped,” 2.

⁵⁰ Hoth and Levitt, “Museums and the Handicapped,” 2.

⁵¹ Hoth and Levitt, “Museums and the Handicapped,” 1.

well as a necessity to consult the *Directory of Services for Handicapped Children*, to create appropriate activities and concrete experiences that would provide meaningful learning opportunities. One thing that all panelists believed was that “one-time visits do little to encourage the handicapped to return regularly to museums.” In order for a long-term relationship between student’s groups with impairments and institutions like museum to exist, the institutions themselves had to command change and establish accessible programming.

Before the panel meeting, the National Aquarium and the National Park Service’s Lightship project, enabling the students to embark on a short cruise on explore one of the few remaining mobile lighthouses, facilitated an experimental program in which two groups of students went on a field trip, one with physical impairments and one with mental impairments. Personnel from both the Aquarium and Lightship realized they needed to better prepare the type of information, and how much information to provide, for groups who have different needs.⁵² These proposed inclusive design and activities were not as successful as they originally believed. This revelation was not uncommon during the 1970s, as museums across the nation began integrating accessibility standards within their institutions to fit the requirements of Section 504. Experimental programs enabled institutions to see the extent of how accessibility worked, or didn’t work, within specific institutions. They allowed education departments to troubleshoot and rework programs to better serve the public. In identifying and responding to the need for inclusive design within public history institutions the panelists anticipated common topics

⁵² Hoth and Levitt, “Museums and the Handicapped,” 2.

among museum curators and directors which can be seen in future *Roundtable Report* publications.

The summer of 1976 saw to the ruling of the *Cherry v Mathews* lawsuit concerning the establishment of regulations to enforce Section 504 of the Rehab Act, regulations that were not in place previously with the Act's original passage. Increased press coverage and pressure on institutions to ensure Section 504 requirements resulted in academics once again banding together to find a solution on how to best extend programming and access to visitors with disabilities. The *Roundtable Report* concerning Museum Programs for the Handicapped, written by Dr. R. Lynn Bondurant the director of the NASA Office of Educational Programs, revisited this issue of how to properly provide aids to students with impairments while upholding Section 504. The report reaffirmed that concerns over access were ongoing and actively in the minds of museum directors as they tackled the implementation of programming. Museum educators dealt with a multitude of questions concerning programs such as techniques on guided tours, how to create special classes, or how to convey information to those with visual impairments or mental challenges.⁵³

Bondurant argued the need to establish national museum guidelines to promote universal design of programs and exhibits. The Bureau of Education for the Handicapped grant led to the publication of the Smithsonian's *Museums and Handicapped Students: Guidelines for Educators*. The Smithsonian study, published in December of 1977, revealed that there was a significant amount of evidence that museum staff and volunteers "do not always understand the needs of those possessing specific handicaps"

⁵³ R. Lynn Bondurant, "Museum Programs for Handicapped Students - A Need for Guidelines," *Roundtable Reports*, (Summer 1976): 1.

and thus could not provide the necessary services to ascertain accessibility.⁵⁴ By using analysis and interviews on groups within the study which included museum educators, special education teachers, and consumer groups with disabilities the study was able to produce guidelines that could be implemented in museums nationally to advance accessible programs. Michael Collins, director of the National Air and Space Museum, asserted that the study was a culmination of “a national effort to close a formidable gap which we have unwittingly placed between ourselves and those whose perceptions or mobilities are impaired.”⁵⁵ Whether the gap in accessibility was unwittingly placed or not, this study showed that during the 1970s museums primarily focused on mobility issues instead of providing aids for a range of different impairments. The most common and available aids were large door frames, ramps, floor coverings, lower water fountains, and elevators while over half of museums had no programs for the blind.⁵⁶ A gap in accessibility was highly apparent throughout museums nationally.

Funding for programming was a large issue concerning the availability of accessible aids in museums. Many museums had adopted an understanding that the responsibility for providing accessible programming was on large urban museums as they “are usually endowed with large staff and budgets that allow for flexibility and innovation in their projects.”⁵⁷ Of 637 museums 68% had budgets that were too small to accommodate desired accessible programs, and 30% believed the handicapped population in their area was too small to worry about establishing such programs.⁵⁸ The

⁵⁴ Smithsonian Institute, *Museums and Handicapped Students: Guidelines for Educators* (Washington D.C.: Bureau of Education for the Handicapped, 1977), 157.

⁵⁵ Smithsonian Institute, *Museums and Handicapped Students*, V.

⁵⁶ Smithsonian Institute, *Museums and Handicapped Students*, 154.

⁵⁷ Smithsonian Institute, *Museums and Handicapped Students*, 4.

⁵⁸ Smithsonian Institute, *Museums and Handicapped Students*, 43

programming established by these large urban museums had a positive reaction concerning the available programs for the visually impaired. This positive reaction “[made] it clear that blind persons can and should be integrated into ordinary museum programs that serve the general public.”⁵⁹ The Smithsonian report provided tangible guidelines that could be implemented in museums across the nation that would provide integrated accommodations. These programs and aids would be created with assistance of consultants and individuals with disabilities so institutions can make innovative changes whether they are a large urban museum or a smaller historical society.⁶⁰

The Smithsonian survey provided information on how museum directors sought to make their institutions accessible and the extent to which they succeeded. Of 637 museums on the official Museum Directory of the AAM for 1977, 50% had tape recorders available, 34% had wheelchairs, 14% provided headsets, and 4% obtained braille typewriters.⁶¹ These results imply that few museums offered a variety of accommodating equipment for the visually impaired, however even the higher percentages of aids for mobility and tape recorders is still dismal when considering the larger whole.⁶² While a reporting of 50% of tape recorders with audio guides does seem promising, knowing that only over a third of museums responded to the survey, 637 out of 1,525, the reported 50% seems lacking. Based off this interpretation reasoning suggests that nationally 50% of museums might not have provided this form of equipment. Conversely, 50% of museums did not provide tape recorders, which meant individuals with a visual impairment had at most a 50/50 chance, if not less, of being able

⁵⁹ Smithsonian Institute, *Museums and Handicapped Students*, 4.

⁶⁰ Smithsonian Institute, *Museums and Handicapped Students*, VII.

⁶¹ Smithsonian Institute, *Museums and Handicapped Students*, 25.

⁶² Smithsonian Institute, *Museums and Handicapped Students*, 25.

to go to an institution with available accommodations. The fact that there was a 50% chance or less of someone not being able to participate, learn, and experience museum institutions proved that inclusion and accessibility was in dire need of change and revitalization.

The survey addressed that the availability of accessibility aids were not available while also showcasing that museum professional responses indicated that a high percentage of museum directors understood their importance: 82% concerning wheelchairs, 79% concerning tape recorders, 53% concerning headsets, 25% concerning braille typewriters.⁶³ Since understanding of the equipment's need and use was more prevalent than the available equipment itself it implies that budgets and funding often took precedent before equipment for access.⁶⁴ By 1977 the continued issue regarding funding had not only become a barrier for museums but a barrier for accessibility and equality. Even with grants from private entities, the National Endowment for the Arts, and private sectors funding was the main focal point when trying to expand programming.

In the 1970s a lack of proper personnel to carry out accessible programming was a nation-wide issue, for both rural small towns and larger metropolises. When comparing responses of the 10 largest cities and cities smaller than the largest 50 cities concerning available staff to run programs for individuals with disabilities, there are two striking pieces of information that come forward. First, that there was a large percentage of museums that do not have any staff responsible to provide and run programs for individuals with disabilities: 52% of the largest where N = 97, and 56% of the smallest

⁶³ Smithsonian Institute, *Museums and Handicapped Students*, 25.

⁶⁴ Smithsonian Institute, *Museums and Handicapped Students*, 27.

where N = 323.⁶⁵ Second, there were very few museums who planned to hire staff or consultants to run programs for those with disabilities: 2% of the largest where N = 97, and 1% of the smallest where N = 323.⁶⁶ Over 50% of the museums in this focal study did not have trained staff to handle inclusive programming and most did not intend on changing this conundrum with hiring new specialists.

This lack of proper personnel almost counteracts the *Roundtable Reports* efforts to establish a universal call-to-action regarding support for inclusive aides within museums. While staffing and proper personnel produces a convincing reason on lack of accessibility implementation, the differences detected between the smaller and larger city museums further pushes that funding could be a root problem regarding the ability to hire individuals to specifically handle accessibility. Smaller cities and towns did not have the same budget or means as larger ones and with the lack of a budget comes the inability to spend on projects or new hires. This dichotomy between museum staffing based on city size could be seen again by comparing that 28% of museums in the 50 largest cities had accessibility staff while only 17% of museums in cities smaller than the largest 50 had the same personnel.⁶⁷ Ultimately, during the 1970s museums in larger cities had a higher chance of offering accessible programming; however, even though the availability had a higher chance it by all means was not a given.

The Smithsonian report argued that museums could make learning accessible to blind and visually impaired visitors by training museum guides, having dual audio-visual presentations, thermoform drawings, cassette or audio tours, scale models, as well as

⁶⁵ Smithsonian Institute, *Museums and Handicapped Students*, 28-29.

⁶⁶ Smithsonian Institute, *Museums and Handicapped Students*, 28-29.

⁶⁷ Smithsonian Institute, *Museums and Handicapped Students*, 29.

literature on the museum and labels produced through cassette or audio tools, braille, or large type letters.⁶⁸ These tools are all physical, except for the use of trained museum guides which provided a personal mode of accessibility who could help with specific individual based needs. The success concerning the use of docents to aid those with visual impairments can be confirmed by Mary Lou Luff's experience as a docent at the Air and Space Museum in DC as published in a Roundtable Report in 1976. Luff and Susan R. Pierce worked with individuals with visual impairments to determine the best course of action to make visits to their institution a worthwhile experience for those with visual impairments. Together they created tactual models of exhibits, braille labels, and thermoform to produce images with raised lines, which are all listed in the Smithsonian's guidelines as proper forms of aids. As a docent, Luff aimed "to be a bridge between [the visitor] and what the museum has to offer," which is generally what all docents strive for no matter one's abilities or disabilities.⁶⁹ Museum educational staff are an integral part of facilitating what works best with their audiences as they are the ones who experience and see the discomfort when issues or inaccessibility arises. This was evident concerning the experimental program at the National Aquarium and Lightship project, as well as here with Luff and Pierce at the Air and Space Museum.

Another point of contention was the timing and space considerations to provide accessibility. Museum professionals reiterated that accessibility efforts should be an integrated effort rather than a separate form of programming. Enforcing a separation of programming would have ultimately led to further alienization of individuals with disabilities and aided in solidifying the barrier of societal stigma towards individuals with

⁶⁸ Smithsonian Institute, *Museums and Handicapped Students*, 128-131.

⁶⁹ Mary Lou Luff, "Docents and the Handicapped," *Roundtable Reports* (1976): 1-2.

impairments or disabilities. The idea of separate but equal was deemed unconstitutional by the Supreme Court in 1954 in response to the case *Brown v. Board of Education*. This was a landmark case for the Civil Rights Movement to end racial segregation in public schools. It also provides a similar standing for the Disability Rights Movement. Having separate programming would have furthered what Hoth and Levitt termed the “invisible issue” discussed previously and broadened issues of inequality. The Smithsonian’s study and guidelines believed that integration within the usual programming aided in providing attitudinal accessibility to promote a welcoming environment rather than one that led to the habit of othering which individuals with disabilities have experienced over the years.⁷⁰ Aside from the aspect of ensuring that those with disabilities are not alienated or isolated, providing integrated experiences also enables museums “appeal to a greater number of visitors, especially to families and groups with members who have disabilities,” as well as the average person who prefers different modes when taking in information.⁷¹ Galiber, Mathis, and Sheridan promoted that inclusive design would have positive impacts on their advocate groups. They understood that programming and design had to include the tools necessary to provide meaningful content and access to those with impairments while also ensuring that those with impairments were able to enjoy the same experience as everyone else, to allow them a more visible role within society. Promotion of inclusive design also answered Bondurant’s questions of how museums could extend to handicapped students the same experience as other children and students, by providing the same experience and layout but with the addition of tools to bridge accessibility needs.

⁷⁰ Smithsonian Institute, *Museums and Handicapped Students*, 127 & 131.

⁷¹ Salmen ed., *Everyone's Welcome: The Americans with Disabilities Act and Museums*, 4.

Some government-funded museums received grants to create new accommodations after the Rehab Act. If providing certain equipment resulted in undue hardship or financial strain, then buying tape recorders or braille labels might not be feasible as long as other accommodations were established. The “undue hardship” clause of the Rehab Act is why accommodating equipment was not very widespread after 1973. Having high-tech accessibility aids was often more expensive, and many museum professionals chose instead to create simple aids and tools to address the current accessibility needs.⁷²

Many museum workers wanted to provide better access to museums despite limited funding. The example of the docent Luff mirrors work by other museum personnel such as those who attended a Smithsonian led three-day workshop, *Museum Programs for the Handicapped*, where attendees discussed how museum staff attitudes influence the museum experience and the need to “understand the special needs of handicapped visitors, without losing sight of the common humanness that transcends disability.”⁷³ A review of the workshop done by the Coordinator of Programs for the Handicapped Carnegie Museum of Natural History Museum, Theodore Harding, highlighted the importance of such workshops and the influence the Smithsonian has in promoting understanding for accessible programming. He concludes, “improving the workshop will thus serve to increase the cultural and recreational opportunities generally available to handicapped people,” which shows a commitment by him and other museum personnel in continuing such workshops to promote better integration of accessible

⁷² Smithsonian Institute, *Museums and Handicapped Students*, V-IV.

⁷³ Theodore Harding, “Museum Programs for the Handicapped a Smithsonian Workshop,” *Roundtable Reports* (Winter 1978): 11.

programming.⁷⁴ These types of workshops and conversations were vitally necessary in establishing groups and connections with other like-minded museum academics that pushed each other towards the goal of accessibility. This particular workshop was held by the Smithsonian in 1977, four years after the Rehab Act was passed pushing widespread accommodation and accessibility in institutions. Four years had passed yet specific examples of what types of accommodation needed to be implemented and how docents and visitor staff should handle patrons with accommodation needs were still being figured out.

The Rehab Act did not solve museum accessibility in the 1970s and museum professionals continued to fine-tune and evaluate inclusive design. An example of this long-term commitment to accessibility was the Spindletop Museum in Beaumont, Texas. This museum opened to the public in 1976 during the height of conversation regarding accessibility in museum and received a Museum Assessment Program grant in 1985 to assess the museums technical presentation, appeal, and accessibility as well as other factors in order to become an accredited American Association of Museums member. In 1978, the Texas State Commission for the Blind published a Program Evaluation and Program Development Division to ensure visual impairments were addressed in state institutions. They asserted “program evaluation is a federal requirement and thus federal reporting is not only important but also considerable in terms of numbers of reports required.”⁷⁵ They went on to discuss that statewide studies were needed. As a result, the

⁷⁴ Harding, “Museum Programs for the Handicapped a Smithsonian Workshop,” 18.

⁷⁵ Program Evaluation and Program Development Division Attachment #3: 1 In *Texas State Commission for the Blind Board Meeting Notes*, Date Unknown, Box 318-5, Legislation, Administrative files and public relations files, 1937-1982, Texas Commission for the Blind records, Archives and Information Services Division, Texas State Library and Archives Commission.

Commission produced annual reports that delineated programs, funding, and achievements concerning State organizations. These examples demonstrate that the Rehab Act not only impacted museum professionals at federal institutions like the Smithsonian, but the state and local levels as well as can be seen by the Museum Assessment Program done in 1985 at the Beaumont Spindletop Museum.⁷⁶

⁷⁶ “Museum Provides Oil Boom Memorabilia,” *The North Texas Daily* (Denton) 68, no. 85, March 12, 1985, University of North Texas Libraries, The Portal to Texas History, <https://texashistory.unt.edu>; crediting UNT Libraries Special Collections.

V. THE AMERICANS WITH DISABILITIES ACT (ADA) OF 1990 AND MUSEUMS

Some of the recommendations presented by Lex Frieden in *Toward Independence* included enacting a more comprehensive law concerning equal opportunity, clear enforcement standards for implementation, and prohibition of discrimination by the federal government, all employers, all public accommodations covered under Title II of the Civil Rights Act, as well as states, counties, and local governments.⁷⁷ These recommendations would directly correlate into what we see written into the passed ADA, not just in content, but also the proposed name: Americans with Disabilities Act. After this report was presented, Senator Lowell Weicker of Connecticut and Senator Tom Harkin of Iowa introduced the ADA of 1988 S. 2345, followed by Representative Coelho of California and Silvio Conte of Massachusetts with H.R. 4498, beginning the legislative process for the Act. Next up in the advocacy of the ADA was yet another Texan, Justin Dart an appointed member of the National Council on Disabilities. To help gather support and awareness for the new proposed legislation, Dart took it upon himself to travel to all 50 states in order to meet with individuals and accumulate first-hand testimony and evidence of the discrimination and difficulties individuals with disabilities face on a day-to-day basis, an effort that's known as the discrimination diaries and led Dart to being titled the Father of the ADA.

The ADA was signed in 1990, thirty-two years after the Rehab Act. While both the ADA and the Rehab Act emphasized accessibility for those with disabilities, the two Acts differ significantly. A considerable difference is the language used within the two

⁷⁷ National Council on the Handicapped, *Toward Independence*.

Acts and how they define disabilities. In the Rehab Act of 1973, the definition of disabilities was exact and differentiated different disabilities with a continuation clause to include multiple examples of impairments that inhibit function. The ADA of 1990 took a different approach. The Act simply states that a disability “means, with respect to an individual (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual (B) a record of such an impairment; or (C) being regarded as having such an impairment.”⁷⁸ The ADA built upon Section 504 of the Rehab Act and aimed to fully enforce the federal call for accessibility. Like the Rehab Act, the ADA also directly impacted accessibility standards in American museums.

Title II and Title III of the ADA had the most direct impact on museums, as these titles covered program and public interaction with facilities and accommodations. Title II focused on state and local governments that provided a public service. Museums that were agencies of a state or local government were required to provide equal opportunity to participate in and “benefit from services, programs, and activities offered to the public.”⁷⁹ While equal participation was the overall goal of the ADA, some separate programing was permitted and necessary. As a result, museum professionals had to ensure this separation or additional programing was not instigated in a segregated manor but as an addition to ensure equal opportunity.⁸⁰ State and local government agencies did not receive federal funding and thus were outside the scope of Section 504 of the Rehab Act, however Title II of the ADA protected the right to accessible programs in a non-discriminatory manner at all levels of society. In fact, the ADA worked in tandem with

⁷⁸ *Americans with Disabilities Act of 1990*, Public Law 101-336, 104 Stat. (1990): 329-330.

⁷⁹ Salmen ed., *Everyone's Welcome: The Americans with Disabilities Act and Museums*, 21.

⁸⁰ Salmen ed., *Everyone's Welcome: The Americans with Disabilities Act and Museums*, 21.

other federal or State laws concerning disabilities and required those laws to be upheld alongside the ADA.⁸¹ Through the ADA, state and local laws that protected rights for individuals with disabilities were held at an either equal or higher standard. The goal of the ADA, and the Rehab Act before it, was to ensure the end of ability-based discrimination. The requirements under the ADA were based on those delineated under the Rehab Act, as such the ADA was able to extend its reach by ensuring non-discriminatory requirements to all activities of state and local governments not just federal. Title II promoted the right to participate, need for certain modifications when necessary, and ability to benefit from programming in all levels of government.

Title II ensured enforcement of non-discriminatory requirements for institutions funded by all levels of government. The ADA was able to push those rights into society as a whole through the parameters of public accommodations. The use of public accommodation is the identifier of how ADA regulations can be implemented in all sectors of society under both Title II and III. One would assume, without reading the Act, that public accommodation would only cover specific public entities and not include those areas within the private sectors. While this can be thought of in lay terms it does not go to the heart of what public accommodation means concerning the law. Public accommodation within a legal setting refers to facilities that are used widely by the general public at large, whether they are publicly or privately owned. According to the text of the ADA, public or private entities such as “a museum, library, gallery, or other place of public display or collection” are denoted as accepted public accommodations.⁸²

⁸¹ U.S. Department of Justice, Civil Rights Division, Public Access Section, *Americans with Disabilities Act: ADA Title II Technical Assistance Manual Covering State and Local Government Programs and Services*, CRT-1315371, (Washington D.C., 1993): II-1.4200.

⁸² *Americans with Disabilities Act of 1990*, 354.

Title III of the ADA clearly states that disability-based discrimination was prohibited at any entity of public accommodation.⁸³ Based on the legal definition of public accommodations within the ADA, museums within both public and private entities are required by federal law to promote accessibility and prohibit disability-based discrimination.

The Rehab Act of 1973 focused specifically on promoting disability-based equality within institutions and entities that received federal funding. The ADA was able to extend the reach of the Rehab Act by including the prohibition against discrimination within State or local governments, as well as locations of large access and use by the public, known as public accommodations. Title II of the ADA details the prohibition against discrimination within public services, which include any State or local government and “any department, agency, special purpose district, or other instrumentality of a State or local government.”⁸⁴ Any museum run by state or local governments, no matter the size or funding, must adhere to regulations and titles set forth by the ADA thus “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of” the public entity in question. These provisions can be seen in Order No. 1512-91 of the Federal Register that stated:

Subtitle A (Public Law 101-336) protects qualified individuals with disabilities from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. It extends the prohibition of discrimination in federally assisted programs established by section 504 of the Rehabilitation Act of 1973 to all activities of State and local governments, including those that do not receive Federal financial assistance, and incorporates

⁸³ *Americans with Disabilities Act of 1990*, 353-365.

⁸⁴ *Americans with Disabilities Act of 1990*, 337.

specific prohibitions of discrimination on the basis of disability from titles I, III, and V of the Americans with Disabilities Act.”⁸⁵

Title II mirrored Section 504 by adopting the general prohibitions of discrimination, but ultimately pushed further for the adoption of providing equal care and access to all individuals whether it be in local, state, or federal levels. Now supported by two separate federal regulations, which promote and solidify the national government's commitment to the elimination of discrimination against individuals with disabilities, museums of any level were required to promote accessible accommodations.

Just as Title II ensured accessibility and participation in state and local government entities, Title III used the same concept of public accommodation to ensure that accessibility and participation are enjoyed equally even in the private sector. As previously expressed, private museums were still considered public facilities in the ADA because they serve the public. As such, they were also required to maintain ADA compliancy after 1990. Public accommodation and services operated by private entities are filed under Title III of the ADA in which section 302 clearly outlines:

no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.⁸⁶

Private museums must provide the same requirements as federal, state, and local entities which include promotion of the right to participate for all, need for certain modifications when necessary, and ability to benefit from programming.

⁸⁵ Department of Justice, Rules and Regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” *Federal Register* 56, no. 144 (July 26, 1991): 35694.

⁸⁶ *Americans with Disabilities Act of 1990*, 355.

Both Title II and Title III dictated that museums, as public accommodations, must adhere to protocols and policies in order to eliminate and prevent discrimination based on disability. Museums were required to provide accommodation in order to integrate and provide programming. There are multiple ways to provide integrated programming that cater to different levels of physical and mental abilities. For those who are blind or with low vision there are also an array of options to provide aids. The key is understanding that sight is not the only sense individuals could use to learn and understand. The use of auxiliary aids has been a great way to establish necessary modifications to programming and services. These forms of aids were integral in providing reasonable modifications. Within Title III section 302 regarding prohibition of discrimination by public accommodations 2Aiii discrimination includes:

failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden.⁸⁷

Failure to provide a form of auxiliary aid is a form of discrimination according to the guidelines of Title III of the ADA. There is a clause that states accommodations are required unless it will result in an undue burden, however, if there is undue burden then the entity or museum in question still has an obligation to establish an alternative form of auxiliary aid in order to ensure the initial call for a modification to provide access is upheld.

Being required to provide accommodations is part of the battle for accessibility. The other half is understanding what forms of accommodations are out there and how to

⁸⁷ *Americans with Disabilities Act of 1990*, 356.

choose aids that correspond with the institution. The Department of Justice released Title III Regulations Supplementary Information in 2010 which breaks down and further expands thoroughly on multiple sections of the ADA. Under § 36.303 Auxiliary aids and services, the DOJ addressed examples of auxiliary aids and other forms of effective communication modifications which consisted of:

Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision.⁸⁸

This detailed list of examples was a source that museums could look through and create auxiliary aids that would best fit their programs. The most useful way in determining what auxiliary aids best suited the needs of museum guests was through outreach. After the passage of the ADA many museum professionals, such as employees of Space Center Houston, incorporated aspects of outreach and public response to garner the success or limitations of programs while also aiding in ways to better establish inclusive design and accommodations.

⁸⁸ Department of Justice, *Americans with Disabilities Act Title III Regulations: Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*, 28 CFR Part 36 (Washington D.C. 2010): § 36.303(b)2.

VI. THE MUSEUM RESPONSE TO THE ADA

Space Center Houston, the official museum of NASA Johnson Space Center in Houston, opened in 1992 shortly after the passage of the ADA. As a museum servicing the public it was required to uphold obligations under the ADA as stated under Title III of a public accommodation. Even though Space Center Houston was built after the passage of the ADA with clear guidelines on how to be accessible and was “built to exceed the ADA guidelines relative to ADA accessibility accommodation for the mobility impaired and safety requirements for the mobility impaired, the deaf/hearing impaired and the blind/visually impaired,” they were facing issues on providing more than just physical accommodations for mobility impairments.⁸⁹ In order to improve guest experiences and avoid a Title III complaint Vance Ablott, the first General Manager of Space Center Houston, implemented new policies and pushed for more modifications for sensory impairments. The result was the introduction of closed captioning, printed scripts of videos in large font, braille menu, employee training, and development of tactile displays.⁹⁰ These are preferred, and recommended accommodations, listed by both research of the Rehab Act as well as iterated in the ADA. Though these aids have been marked as preferred devices, the Space Center did not initially implement them with the initial plans of construction or design of the institution. Whether it was an oversight due to focus on mobility accommodations or an error in planning, Ablott took responsibility and brought about proper revisions to comply.

⁸⁹ Lynn Hopin Elms, “Comparison of Customer and Employee Perception of Physical and Sensory Accessibility for persons with disabilities at Space Center Houston” (PhD diss., University of Chicago, 2013), 14.

⁹⁰ Elms, “Comparison of Customer and Employee Perception,” 15.

Museums still struggled to effectively provide proper accessibility aids for patrons with impairments even after the ADA. In 1996, Lynn Hopin Elms wrote a dissertation on the Space Center, a *Comparison of Customer and Employee Perception of Physical and Sensory Accessibility*, to ascertain how patrons with disabilities and the employees of Space Center Houston condoned or perceived the museums efforts to comply with ADA accommodations and determine what the museum needed to improve upon. Looking at this study and viewing Elms' data provides the ability to see how well a museum implemented ADA modifications. Within the 20-question study survey item #9 asked whether auxiliary or assistive aids were available, devices that are highly beneficial for those with visual impairments. The recorded answer to this question varied: Mobility Impairment group responded 58.43% extremely accessible, 10.11% not accessible, and 13.48% do not know; the Hearing Impairment group responded 15.91% highly beneficial, 27.27% not accessible and 43% did not know, the Visual Impairment group 16.6% highly accessible, 30.55% not accessible and 36.11% did not know.⁹¹ The responses for Space Center Employees were equally spread out on the perception of positive use of auxiliary aids: the management group responded 31.0% highly accessible, 5.47% not accessible, and 15.50% did not know; the floor staff group responded 33.33% highly accessible, 12.18% not accessible, and 5.38% did not know.⁹²

In this survey, the difference in response between those with sensory impairments is telling. These visitors were drastically aware of the lack of this type of aid while those who did not rely on this aid, such as staff and those with mobility impairments, did not realize how inaccessible the issue really was. Without a case study to ascertain the reality

⁹¹ Elms, "Comparison of Customer and Employee Perception," 85.

⁹² Elms, "Comparison of Customer and Employee Perception," 85.

of the Space Center Houston's accessibility efforts, their employees would have continued to believe their efforts for providing accessibility were more effective than they were.

The perception of accessibility and the realities of provided accommodations towards various groups of individuals with impairments were completely deviated and once again showed how essential feedback from shareholders and target groups were in understanding the delivery of information in exhibits. Space Center Houston employees' perceptions of accommodations for the hearing impaired and visually impaired did not compare with how those specific disability groups perceived the space as guests.⁹³ This disconnect between available aids and the needs of the community provides evidence that even with the Rehab Act and the ADA, the implementation of modification and accommodation was not a solved issue. Lawsuits on compliancy, and internal efforts to produce more effective accessibility standards, were still ongoing by the late 1990s and 2000s. This study on the Space Center Houston showed that though the institution strived to uphold the current accessibility standards from its inception, it still needed time to implement inclusive design more widely. While providing answers for Space Center Houston the study also conversely provided other institutions and museum personnel awareness that efforts towards accessibility require feedback from groups that utilize accessibility tools to fully ascertain their level of effectiveness. These types of studies are important for museums to identify internal issues that might not be overtly noticeable.

Redesigning exhibit galleries and programs to fit ADA requirements takes time and resources in order to determine what changes to be made and how to make them. In a

⁹³ Elms, "Comparison of Customer and Employee Perception," 103.

1993 publication of *MER News*, formerly known as the *Roundtable Reports*, Patricia Ann McDermott recounts attending “Shades of Gray” a workshop with 110 museum educators to discuss the impact of the ADA. In an afternoon session workshop members and panelists “concluded that access must be comprehensive, shaping exhibition budgets and content as well as physical design,” not merely an after-thought.⁹⁴ Exhibits and programs that are established with the understanding of ADA requirements and needed accommodations first allow for more thorough and inclusive experiences. An example of this is the Mary Duke Biddle Gallery for the Blind in North Carolina that opened in 1961 with the mission to “acquire, preserve, and exhibit works of art and conduct programs of education, research, and publication designed to encourage an interest in and an appreciation of art” for the people of North Carolina.⁹⁵ Lyn Rivers Wilbanks, the assistant curator of the Mary Duke Biddle Gallery, stated that “The Gallery is designed for the blind visitor to be completely self-sufficient once he arrives at the door.” The Mary Duke Biddle Gallery for the Blind was a monumental showcase of how accessibility could be implemented within exhibit design because it established its exhibits and galleries with the focal point of how to best serve those with visual impairments. The design of exhibits should be visualized with the Rehab Act and ADA requirements in mind.

Museums in the 1990s and early 2000s began experimenting with multi-modal forms of sensory engagement to accommodate different types of disabilities. In 1996, a program called Stimulating the Senses introduced Janett Cardiff’s “Louisiana Walk” at

⁹⁴ Patricia Ann McDermott, “Shades of Gray: Where Accessibility and Exhibition Design Meet,” in *MER News* Vol 18 (Winter 1993): 22.

⁹⁵ Bill Finger and Michael Matros, “The North Carolina Museum of Art at a Crossroads,” *NC Insight* 5, no. 4 (Feb 1983): 29.

the National Gallery of Canada. The program centered the use of sound as the primary component of available programming that would later reflect in American museums.⁹⁶ The exhibit allowed individuals to sit and listen to audio “walks” of a soundscape to transport listeners into a reproduction of sound so they could visualize themselves in the space in real time and was created to bring together those with and without visual impairments.⁹⁷ As the participants discussed their experiences, they shared how exploring art through senses other than sight shaped their perception of art and the museum space itself. This use of sound within museums, and as an extension of art itself, would shape many other museums and exhibits such as Thomas Trummer’s installation called *Voice & Void* at the Aldrich Contemporary Art Museum in Connecticut in 2007. The exhibit focused on the effects of replacing the senses in focus and were “more about listening than looking.”⁹⁸

Voice & Void promoted multiple illustrations of artists focusing on sound to create experiences, one of which included a piece by Janett Cardiff. Her installation, *Opera for a Small Room*, showcased a room full of speakers and amplifiers. As the lights in the room dimmed sound from the speakers would start to play and get louder till the room was solely filled with operatic recordings “until seeing became hearing.”⁹⁹ Programs like *Stimulating the Senses* and *Voice & Void* pushed participants with sight to enter a space solely dependent on their other senses. While at times uncomfortable and challenging, Elizabeth Sweeney, author of *Meaningful Museum Experiences with*

⁹⁶ Elizabeth Sweeney, “Walking with Janet Cardiff, Sitting with Massimo Guerrera, and Eating Apples with R. Murray Schafer: Meaningful Museum Experiences with Participatory Art for Visitors with and without Visual Impairments,” *The Journal of Museum Education* 34, no. 3 (Fall 2009): 238 – 241.

⁹⁷ Sweeney, “Walking with Janet Cardiff,” 239-240.

⁹⁸ Benjamin Genocchio, “Listening Rooms,” *New York Times*, September 23, 2007.

⁹⁹ Benjamin Genocchio, “Listening Rooms,” *New York Times*, September 23, 2007.

Participatory Art for Visitors with and without Visual Impairments, observed that “participants reported being thankful for the opportunity” regarding programs that challenged perceptions and reliance on differing senses.¹⁰⁰ These programs, and others like it, were a direct result of museum professionals attempting to use other modes of senses to approach accessible design following the ADA in 1990.

¹⁰⁰ Sweeney, “Walking with Janet Cardiff,” 239-246.

VII. CONCLUSION

The Rehab Act was a groundbreaking piece of legislation that provided federal rights for individuals with disabilities to be accommodated in federal institutions. The legislation had pitfalls concerning enforcement and the limited extent of where the law was applicable. Yet the Rehab Act impacted many museums across the nation due to federal funds such as the National Endowment for Humanities. The Act also led to real-time discussion among museum professionals on how to best care for their patrons and the establishment of proper guidelines to ensure a fair and consistent mode of accessibility among all museums if used and implemented. Even though there was open dialogue and discussion, many museum professionals still struggled to effectively uphold Section 504 even with the Smithsonian's guidelines. This struggle was partly due to funding and partly from the lack of understanding of how to properly provide aid for different modes of impairment. This first iteration of disability rights legislation was groundbreaking, yet the second iteration in the form of the ADA pushed the boundaries of where accessibility could be demanded. An almost unlimited boundary thanks to the definition of public accommodation in Title II and III.

The museum discussion that surrounded the Rehab Act and the ADA continues to take place today. Inclusive design is at the forefront of thought in many museum boards and discussion panels, with various museums that have implemented practices that have been honed since the earlier twentieth century such as the use of tactile touch tours, trained docents, and audio guides that are continually improving due to new technologies. Current Texas museums such as the Houston Museum of Natural Science (HMNS), and the Amon Carter Museum of American Art in Fort Worth (The Carter) have integrated

inclusive programs designed to bridge the gap of accessibility. For example, HMNS currently offers a range of accessible programming and provides online resources, guides, and planners to help families facilitate their experiences while visiting the museum. For the blind and low vision community HMNS offers free touch tours every other month, docents who are trained in the use of detailed verbal descriptions and hands-on objects, large-print labels of exhibit halls, partial audio guides, and have recently secured a grant with Tactile Images and 3DPhotoworks to create a tactile representation of King Tut's coffin.¹⁰¹

The Carter currently has various aids and programs for those with visual impairments. Same as HMNS, Carter provides visual description and touch tours arranged to cover the entire collection or concentration on specific objects or themes. Peggy Speir, Manager of Access Programs and Resources at the Carter, worked with Visual Aid Volunteers (VAV) and Lighthouse for the Blind Fort Worth to better assist those with visual impairments.¹⁰² Staff also provide tactile tool kits that include objects such as 3D-printed items, raised-line drawings, and sensory objects to work in tangent with guided tours.¹⁰³ Throughout the museum there are specified audio stops for patrons to hear more about the art, artists, museum staff, and community as well as assistive listening devices.¹⁰⁴ While these accommodations reflect HMNS very similarly, Amon Carter has also partnered with Tarrant County College's Sign Language Program to offer

¹⁰¹ Matti Wallin, Email to author, September 1, 2022.

¹⁰² Peggy Speir, "Other Ways to See Art," *Carter ARTicles*, October 1, 2021.

¹⁰³ Amon Carter Museum of Modern Art, "Visit: Accessibility," accessed February 9, 2023. <https://www.cartermuseum.org/plan-your-visit/accessibility>.

¹⁰⁴ Amon Carter Museum of Modern Art, "Visit: Accessibility," accessed February 9, 2023.

interpretive ASL when asked in advance and currently offers EnChroma glasses to be checked out to offer those with color-blindness.

The HMNS and Carter are prime examples of museums that have produced stellar examples of accessibility accommodations over the years. Even though they are already high in ADA accommodations, there is always room for improvement. These museums have expanded accessibility aids rather than staying content with their current standards. HMNS have utilized tactile models for those who are blind or have low vision impairments for many years. Recently they received a grant through Tactile Images and 3DPhotoworks that will hopefully help expand on their available physical aids.¹⁰⁵ The same goes for HMNS's digital aids. While the museum does actively provide digital audio aids for certain galleries it is not wide spread yet. Matti Wallin, Accessibility Programs Manager Co-Chair, and her team are actively working to expand digital aids throughout the museum to offer more independent museum experiences for this community.¹⁰⁶ The Carter is also continuing their efforts concerning accessibility through their website using alt-text, which enables screen readers to describe the appearance or function of an image on a webpage.¹⁰⁷ Their in-person accessibility accommodations encompass a large range of accommodations. By focusing on their digital footprint as well the Carter is able to provide a fuller comprehension for patron.

These Texas museums are prime examples of how museum professionals have taken the information garnered from the Disability Rights Movement to establish inclusive design and should be a blueprint to implement across the state. HMNS and The

¹⁰⁵ Matti Wallin, Email to author, September 1, 2022.

¹⁰⁶ Matti Wallin, Email to author, September 1, 2022.

¹⁰⁷ Tim Deakin, "Making websites accessible: adventures in alt text with the Amon Carter Museum of American Art," *Museum Next*, March 16, 2023.

Carter are not alone in their commitment to accessibility. Museums in states across the nation have implemented similar counts of accessibility, however accessibility efforts still need to be implemented more widely. The Rehab Act provided the first form of legislation to promote the Disability Rights Movement. While the Act started the process of accessibility and equality, it was not the final solution. Regulations were enacted to better support the Rehab Act, and then later in 1990 the Americans with Disabilities Act was passed to extend accessibility to private and public institutions, not just federal. Both the Rehab Act and the ADA pushed for changes in how society sees and accommodates those with certain disabilities or impairments. Just as the Rehab Act needed continued innovation and advancement in legislation over time, so does the ADA. While accessibility in museums has improved since the legislative achievements of the 1970s, there is still more work to be done concerning equal access. With understanding the history, struggle, and ongoing fight for accessibility rights we as academics and professionals of our field can see both how accessibility has come a long way, but still has a long way to go.

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