

the design, pre-construction, construction, and post construction phases of the project. The Office of the Architect of the Capitol shall, within one year from the effective date of these regulations, develop a process with the General Counsel to identify potential barriers to access prior to the completion of alteration and construction projects that may include the following provisions:

- (1) Design review or approval;
- (2) Inspections of ongoing alteration and construction projects;
- (3) Training on the applicable ADA standards;
- (4) Final inspections of completed projects for compliance; and
- (5) Any other provision that would likely reduce the number of ADA barriers in alterations and new construction and the costs associated with correcting them.

§ 3.104 Reporting, estimating cost & time, and compliance date.

(a) **Reporting duty.** On a regular basis, at least once each Congress, the General Counsel shall prepare and submit a report to Congress containing the results of the periodic inspections conducted under § 3.103(a), describing any violations, assessing any limitations in accessibility, and providing the estimated cost and time needed for abatement.

(b) **Estimated cost & time.** Covered entities shall cooperate with the General Counsel by providing information needed to provide the estimated cost and time needed for abatement in the manner provided by § 2.103(b).

(c) **Compliance date.** All barriers to access identified by the General Counsel in its periodic reports shall be removed or otherwise corrected as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the report describing the barrier to access was issued by the General Counsel.

Recommended Method of Approval:

The Board has adopted the same regulations for the Senate, the House of Representatives, and the other covered entities and facilities, and therefore recommends that the adopted regulations be approved by concurrent resolution of the Congress.

Signed at Washington, D.C., on this 3rd day of February, 2016.

BARBARA L. CAMENS,
CHAIR OF THE BOARD, OFFICE OF
COMPLIANCE.

ENDNOTES

1. 28 C.F.R. § 36.201(b) reads as follows: "Landlord and tenant responsibilities. Both the landlord who owns the building that houses a place of public accommodation and the tenant who owns or operates the place of public accommodation are public accommodations subject to the requirements of this part. As between the parties, allocation of responsibility for complying with the obligations of this part may be determined by lease or other contract."

2. The DOJ's illustrations and descriptions in its Technical Assistance Manuals regarding compliance with Titles II and Title III by tenants and landlords make this clear. See, U.S. Dept. of Justice, ADA Title III Technical Assistance Manual § III-1.2000 (Nov. 1993) ("The title III regulation permits the landlord and the tenant to allocate responsibility, in the lease, for complying with particular provisions of the regulation. However, any allocation made in a lease or other contract is only effective as between the parties, and both landlord and tenant remain fully liable for compliance with all provisions of the ADA relating to that place of public accommodation."); U.S. Dept. of Justice, ADA Title II Technical Assistance Manual § II-1.3000 (Nov. 1993) (Both manuals are available online at www.ada.gov). Also see,

Gabreille P. Whelan, Comment, The "Public Access" Provisions of Title III of the Americans with Disabilities Act, 34 Santa Clara L. Rev. 215, 217-18 (1993).

3. Several commenters correctly noted that the NPRM contains a technical error because the year (2004) was omitted from the C.F.R. citation, which was a potential source of confusion because the regulation was removed from the C.F.R. in 2004 when the substance of the regulation became part of the ABA Guidelines at § F202.6. Fortunately, all of the commenters were sufficiently able to ascertain the subject matter of the proposed regulation to participate fully in the rule-making process by providing detailed comments about the proposed regulation, which is all that is required of a NPRM. See e.g., *Am. Iron & Steel Inst. v. EPA*, 568 F.2d 284, 293 (3d Cir. 1977); *United Steelworkers v. Marshall*, 647 F.2d 1189, 1121 (D.C. Cir. 1980); and *Am. Med. Ass'n v. United States*, 887 F.2d 760, 767 (7th Cir. 1989).

4. Under § F202.6 of the ABAAG, "Buildings or facilities for which new leases are negotiated by the Federal government after the effective date of the revised standards issued pursuant to the Architectural Barriers Act, including new leases for buildings or facilities previously occupied by the Federal government, shall comply with F202.6." F202.6 then proceeds to describe the requirements for an accessible route to primary function areas, toilet and bathing facilities, parking, and other elements and spaces. The ABAAG became the ABA Accessibility Standards ("ABAAS") on May 17, 2005 when the GSA adopted them as the standards. See 41 C.F.R. § 102.76.65(a) (2005).

5. These features include at least one accessible route to primary function areas, at least one accessible toilet facility for each sex (or an accessible unisex toilet facility if only one toilet is provided), accessible parking spaces, and, where provided, accessible drinking fountains, fire alarms, public telephones, dining and work surfaces, assembly areas, sales and service counters, vending and change machines, and mail boxes.

RESEARCH EXCELLENCE AND ADVANCEMENTS FOR DYSLEXIA ACT

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be discharged from further consideration of H.R. 3033 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title. The senior assistant legislative clerk read as follows:

A bill (H.R. 3033) to require the President's annual budget request to Congress each year to include a line item for the Research in Disabilities Education program of the National Science Foundation and to require the National Science Foundation to conduct research on dyslexia.

There being no objection, the Senate proceeded to consider the bill.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Lee-Murray amendment, which is at the desk, be agreed to; I ask that the bill, as amended, be read a third time and passed and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3279) was agreed to, as follows:

(Purpose: To amend the National Science Foundation program on research on the science of dyslexia.)

Strike section 4 of the bill and insert the following:

SEC. 4. DYSLEXIA.

(a) IN GENERAL.—Consistent with subsection (c), the National Science Foundation shall support multi-directorate, merit-reviewed, and competitively awarded research on the science of specific learning disability, including dyslexia, such as research on the early identification of children and students with dyslexia, professional development for teachers and administrators of students with dyslexia, curricula and educational tools needed for children with dyslexia, and implementation and scaling of successful models of dyslexia intervention. Research supported under this subsection shall be conducted with the goal of practical application.

(b) AWARDS.—To promote development of early career researchers, in awarding funds under subsection (a) the National Science Foundation shall prioritize applications for funding submitted by early career researchers.

(c) COORDINATION.—To prevent unnecessary duplication of research, activities under this Act shall be coordinated with similar activities supported by other Federal agencies, including research funded by the Institute of Education Sciences and the National Institutes of Health.

(d) FUNDING.—The National Science Foundation shall devote not less than \$5,000,000 to research described in subsection (a), which shall include not less than \$2,500,000 for research on the science of dyslexia, for each of fiscal years 2017 through 2021, subject to the availability of appropriations, to come from amounts made available for the Research and Related Activities account or the Education and Human Resources Directorate under subsection (e). This section shall be carried out using funds otherwise appropriated by law after the date of enactment of this Act.

(e) AUTHORIZATION.—For each of fiscal years 2016 through 2021, there are authorized out of funds appropriated to the National Science Foundation, \$5,000,000 to carry out the activities described in subsection (a).

SEC. 5. DEFINITION OF SPECIFIC LEARNING DISABILITY.

In this Act, the term "specific learning disability"—

(1) means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations;

(2) includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia; and

(3) does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 3033), as amended, was passed.

ORDERS FOR THURSDAY,
FEBRUARY 4, 2016

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Thursday, February 4; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the

two leaders be reserved for their use later in the day; that following leader remarks, the Senate then resume consideration of S. 2012; finally, that the time until 11 a.m. be equally divided between the two managers or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M.
TOMORROW

Ms. MURKOWSKI. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:23 p.m., adjourned until Thursday, February 4, 2016, at 10 a.m.