

**Written Testimony of John D. Uelmen, General Counsel, Office of Congressional Workplace Rights
Before the Select Committee on the Modernization of Congress
Re: Making the House More Accessible to the Disability Community
May 27, 2021**

Good Morning Chair Kilmer, Vice-Chair Timmons and other members of the Select Committee. My name is John D. Uelmen and I am the General Counsel for the Office of Congressional Workplace Rights. Thank you for the opportunity to speak with you today about Americans with Disabilities Act (ADA) access issues. One of my statutory responsibilities under Section 210 of the Congressional Accountability Act is to investigate ADA access issues in Congressional facilities. I have been working on ADA access issues on the Hill since 2009 when I started working for OCWR and improving accessibility has been a priority for me since being appointed as General Counsel by the OCWR Board of Directors in 2015.

I have been asked to speak to you about the report we jointly prepared with the Architect of the Capitol (AOC) and the House Sergeant at Arms pursuant to House Resolution 756 which was passed during the 116th Congress at the urging of this Committee. By way of background, under Section 210 of the Congressional Accountability Act (CAA), my office investigates accessibility issues in several different ways. First, we periodically and systematically inspect all facilities for ADA access issues. Since I joined the office, we have inspected the public spaces in the approximately 18 million square feet of building space we have here and the surrounding grounds which comprises approximately 460 acres. Second, we conduct special inspections regarding particular facility issues when requested to do so by a member of the public, an employee, or an employing office. Finally, we investigate charges of discrimination from persons who allege that they were denied access to a service, program, activity, or public accommodation because of a disability.

In the joint report we issued last year, we tried to provide you with the most recent information we have about barriers to access in the House. In general, our usual inspection approach involves identifying barriers to access and providing recommended solutions regarding removal of those barriers. We developed this approach with the assistance of our contractor, Evan Terry Associates (ETA), which is a leading national architectural firm involved in identifying and removing barriers to access. ETA has allowed us to use the database software it developed to assist in our inspections and record the results. Under this approach, the facilities are evaluated using the 2010 Standards for Accessible Design (the most recent version of the Standards), which are based on guidelines developed by the Access Board. These standards do not require that all existing buildings meet the current requirements. Instead, the idea behind the ADA and the Standards is that, as existing buildings are altered and refurbished, the buildings will be gradually transformed into compliance with the standards to the extent that this is feasible. In general, there should be a transition plan in place to eventually bring facilities into compliance.

What this means is that all barriers to access are not necessarily violations of the ADA. The reason we inspect for compliance with the 2010 Accessibility Standards is for planning purposes. We make the stakeholders aware of areas where there are deviations from the standards so that these access issues will be considered in future alteration and refurbishment plans.

In the database, we meticulously record the details regarding each barrier we have identified. These details include relevant measurements, photos accurately depicting the barrier, location information, an assessment of the severity of the barrier, and possible solutions that can be used to remove the barrier. The information in the database is regularly provided to the AOC and other employing offices. To assist in prioritizing barrier removal projects, we assess the severity of the barrier using the following codes:

- A: Safety Consideration
Potential safety consideration for people with disabilities.
- B: Blocks Access
Blocks access to a significant number of people with disabilities.
- C: Major Inconvenience
Major inconvenience to a significant number of people with disabilities.

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- G: Safe Harbor
“Safe Harbored” barrier because, while it does not meet the requirements of the 2010 ADA Standards, it does meet the requirements of the 1991 Standards.

In general, the severity of the barrier is determined by how much a deviation there is from the standard and whether the purpose of the element is safety related.

While the report itself is quite detailed regarding the barriers we found, the highlights can be summarized as follows:

- We found 1,632 barriers to access in House buildings
- 477 of these barriers are in Member offices and can be solved fairly easily by moving around furniture, placing literature and self-service items on racks within the required reach ranges, replacing conference tables that are too low, keeping both sides of a double leaf door open, etc.
- 532 of these barriers are in multi-user restrooms. Some of these can be solved by moving fixtures and dispensers to the correct height or adding door pulls. Others are more complicated and difficult, involving reconfiguring the design of the stalls or the layout of the fixtures within the room
- There are whole facility barriers that exist throughout all of the buildings such as door hardware that cannot be grasped easily with one hand or requires tight grasping.

In addition to providing you with information regarding barriers to access based on noncompliance with the 2010 Standards for Accessible Design, we provided you with an assessment of functional accessibility issues. These cover access issues that are not necessarily addressed by the 2010 Standards. For example, while the standards allow us to assess whether a multi-user restroom designated as accessible is in compliance, they do cover how many accessible restrooms should be in the facility or how they are distributed. Some of the functional accessibility issues that were identified included:

- The current distribution and number of accessible restrooms and family restrooms is not convenient for many users
- The current directional signage and directories are often confusing, difficult to read, or inadequate
- Access to the buildings is affected by the topography of the Hill, the drop off locations for taxis and cars, and the metro stop elevator leaving people at the bottom of the hill
- Moving between House buildings can be difficult for those with mobility impairments because the most accessible routes are usually outside and not well marked

In the Report, the AOC has provided a description of how its office is addressing the facility access issues that we identified. The AOC is committed to remediating all identified barriers to access. Barriers identified with an “A” severity code are prioritized and generally removed fairly quickly as are the barriers that are easily corrected. Removing the “B” and “C” barriers can often take more time, particularly if they involve extensive designing, planning, and funding. The AOC considers open ADA barriers in all of its current and future projects along with the accessibility requirements of the ADA, building codes and functional accessibility improvements. The AOC is also undertaking additional studies and reports, in an effort to maximum accessibility to the Capitol campus. This includes the current ongoing transportation study and security study.

Regarding any specific recommendations that I might have, I have reviewed this Committee’s final report from the 116th Congress which made three recommendations related to improving access to House

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websites and apps, House proceedings, and Capitol Hill grounds and facilities. One change you could consider that would address all of these concerns would be to create and staff an ADA Coordinator position for the House. Under the regulations implementing the Rehabilitation Act and Title II of the ADA, state and local governments and federal agencies are required to have someone serve in the position of ADA Coordinator. Generally, the ADA Coordinator is responsible for coordinating the efforts of the government entity to comply with the ADA. In the House, this could be a designated person who can be reached at a well-published phone number and email address who would assist: (1) persons with disabilities who have website, proceedings or facility access issues; (2) employing offices and employees who are looking for assistance with reasonable accommodation issues; (3) employing offices looking for assistance in improving access to websites, apps, and proceedings; and (4) committee staff and Members who are looking for other access information or the status of barrier removal efforts. Ideally, the ADA Coordinator serves as sort of “clearing house” for information and knows who to contact to help solve ADA access issues. For the House, there is a long list of offices who have staff involved in solving ADA access issues, including the CAO, AOC, OHEC, CHA, SAA, USCP, OCWR, and the Office of Congressional Accessibility Services (OCAS). In addition, there are often designated individuals in Member offices and on committee staffs that handle these issues. Exactly who does what is confusing to members of the public as well as to Members and staff. People in the disability community are generally familiar with the concept of an ADA coordinator and often the phone number for this person is listed on the outside of buildings and displayed prominently on websites and social media postings.

While the OCAS does provide some of these services, I believe that the House would greatly benefit from having its own designated ADA coordinator who would have a physical presence in the House and a virtual presence on Housenet, web pages, and social media. This would also complement and be consistent with the recent creation of other House offices such as the Office of Employee Advocacy and the Office of Diversity and Inclusion.

Thank you again for the opportunity to address this Committee. I am happy to address any specific questions that you may have.