

# 2019 Annual Report to the Legislature

## 10-Year Anniversary Edition

(2009-2019)



January 31, 2020



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## Summary Highlights

This California Commission on Disability Access (Commission) Annual Report to the California State Legislature is submitted in compliance with Government Code Sections 14985.7 (a) and 14985.8 (d). This year's report highlights include the following activities aligned with the Commission's legislative mandates.

**Preventing or minimizing problems of compliance** through ongoing education and outreach to promote and facilitate disability access compliance: As directed in Government Code 14985.6, the Commission, with support from external partners, conducted the final two of three restaurant industry-focused outreach events in the Northern California and Southern California regions, respectively. The Commission participated in outreach events held by state and local government partners: two workshops to educate businesses and professionals about disability access compliance topics, and a diversity and disability awareness fair during National Disability Employment Awareness Month (October). The Commission also partnered with the Small Business Development Center of Northern California to pilot an Americans with Disabilities Act mentorship program.

**Recommending programs to enable persons with disabilities to obtain full and equal access to public facilities:** As directed in Government Code 14985.5, the Commission provided information and referrals to more than 240 public inquiries with various levels of complexity. The Commission also maintained an internal process of tracking public inquiries received. This process was newly implemented in 2018.

**Developed and launched electronic claim system** for submission of construction-related accessibility legal documents collected by the Commission pursuant to statute. This claim system is phase two of a three-phase plan begun in 2018. In 2019, the Commission developed and implemented the Electronic Data Collection Project to make the submission process more efficient and environmentally friendly, and to promote better data analysis. Phase two of the project allows the legal community to submit claims electronically to the Commission through a secure database and web-based forms.

**Completed a strategic planning process** through collaboration between an external consultant, staff, and commissioners to reprioritize and affirm the Commission's goals and objectives over the next five years.

**Utilized legal research and geographic information systems tools** to better understand alleged complaints and data in 2019. This has improved the Commission's ability to more efficiently and effectively track, analyze, and report on prelitigation letters, complaints and case outcomes. The Commission

also utilized these tools in response to complex public inquiries, which uncovered key policy issues such as website accessibility and other pressing topics facing our stakeholders, as well as potential construction-related accessibility claims filed by *pro se* litigants.

## Introduction

### History

In 2008, the California State Legislature concluded that in many instances, persons with disabilities continued to be denied full and equal access to public facilities even though that right was provided under state and federal law. The Legislature further concluded that businesses in California have the responsibility to provide full and equal access to public facilities as required in laws and regulations, but that compliance may be impeded, in some instances, by conflicting state and federal regulations, resulting in unnecessary litigation.

Senate Bill (SB) 1608 (Corbett, Chapter 549, Statutes of 2008) established the California Commission on Disability Access (Commission) with a vision toward developing recommendations to the Legislature. These recommendations would help enable persons with disabilities to exercise their right to full and equal access to public facilities while facilitating business compliance with applicable laws, building standards and regulations to avoid unnecessary litigation.

In September 2012, SB 1186 (Steinberg, Chapter 383, Statutes of 2012) revised and recast the Commission's duties by making it a priority to develop and disseminate educational materials and information to promote and facilitate disability access compliance. SB 1186 also established annual reporting of prelitigation letters and complaints to the Legislature by the Commission.

In October 2015, Assembly Bill (AB) 1521 (Committee on Judiciary, Chapter 755, Statutes of 2015) was signed into law as an urgency measure and required the Commission to collect, study, and report on case outcomes.

In September 2016, SB 1406 (Mendoza, Chapter 892, Statutes of 2016) added review and reporting on prelitigation letters and complaints served on educational entities to the Commission's existing obligation to review those served on public accommodations. Also, AB 54 (Olsen, Chapter 872, Statutes of 2016) was enacted, giving the Commission the authority to establish a standard report format for receiving complaints and prelitigation letters.

On July 1, 2017, the Commission became part of the Department of General Services (DGS), resulting in the Commission's initial governing statutes, Government Code (GC) § 8299 – 8299.11, being replaced by GC § 14985 – 14985.11 (AB 111, Committee on Budget, Chapter 19, Statutes of 2017).

The Commission currently has five authorized personnel and comprises 17 members: 11 public members and six ex-officio non-voting members, comprised of the State Architect, the Attorney General, and four members of the California Legislature. The Commission's total operating budget is \$806,000 for fiscal year (FY) 2019-20.

### **Mission**

The mission of the Commission is to promote disability access in California through dialogue and collaboration with stakeholders, such as the disability and business communities, and all levels of government. In order to achieve this mission, the Commission is authorized to act as an information resource; to research and prepare advisory reports of findings to the Legislature on issues related to disability access, compliance inspections, and continuing education; to increase coordination between stakeholders; to make recommendations to promote compliance with federal and state laws and regulations; and to provide uniform information about programmatic and architectural disability access requirements to the stakeholders.

### **Vision**

The Commission, together with key partners, adopted a vision statement to reflect the ideal future state when the Commission's mission is accomplished:

*An Accessible, Barrier-Free California  
= Inclusive and Equal Opportunities and Participation for All Californians!*

### **Reporting Requirements**

This report outlines the Commission's ongoing efforts to implement Government Code § 14985.5 and 14985.6. In general, these sections obligate the Commission to provide information to businesses on compliance with disability access requirements; recommend programs to enable persons with disabilities to obtain full and equal access to public facilities; provide information to the Legislature on access issues and compliance; and develop and disseminate educational materials and information to promote and facilitate disability access compliance.

This report also provides tabulated data, including:

- The various types of ADA construction-related physical access violations alleged in prelitigation letters and complaints.
- The number of complaints alleged for each type of violation.
- A list, by type, of the 10 most frequent types of accessibility violations alleged.
- The numbers of alleged violations for each listed type of violation.
- The number of complaints received that were filed in state or federal court.
- Filing frequencies and location frequencies.
- The ZIP codes of complaints received.
- The percentage of attorney, plaintiff, and defendant filings.
- The resolution reached on complaints submitted.

## **Accomplishments and Path Forward**

### **Accomplishments**

During 2019, under the leadership of the executive director and the executive committee, the Commission moved forward in its efforts to provide much-needed information, education, outreach and training targeted at making the state accessible for all its citizens, including over 4 million Californians who have a disability and/or provide support for this community. The Commission celebrated 10 years of commitment to a barrier-free California with support from stakeholders, commissioners, and legislative partners. Additionally, the Commission completed a strategic planning process and the California Community Gathering outreach series, and developed a survey of state accessibility compliance.

### **Celebrating 10 Years of Commitment to a Barrier-free California**

In October 2019, the Commission highlighted the 10-year anniversary of its creation by the Legislature in 2009 by celebrating significant resolutions recognizing the Commission's leadership and service. The Commission received resolutions from the California State Senate and California State Assembly applauding its 10 years of service in addressing the complexities of disability access as well as its focus on developing recommendations that will enable persons with disabilities to obtain full and equal access to public facilities.



*Marisol Ibarra (center), representative from the Office of Senator Melissa Hurtado, presenting a resolution from the California State Senate to Commission Executive Director Angela Jemmott (left) commending Commission on 10 years of service.*



*Charles Dulac (far right), representative from the Office of Assembly Member Jim Frazier, with (from left to right) Commission Executive Director Angela Jemmott, Commission Vice Chair Douglas Wiele, and Commission Chair Guy Leemhuis. Mr. Dulac presented a resolution from the California State Assembly commending Commission on 10 years of service.*

The 10-Year anniversary event, held at CalChamber in downtown Sacramento, was well attended by stakeholders, commissioners and legislative partners. The Commission would like to extend gratitude to the following event sponsors for their support and contributions: Senator Jeff Stone, Assembly Member Jim Frazier, Bobrick Washroom Equipment Inc., Clayscott Insurance Agency, Inc. and the California Business Properties Association.

The Commission's executive director Angela Jemmott, Commission Chair Guy Leemhuis and Commission Vice Chair Douglas Wiele gave a Lifetime Achievement Award to Commissioner Betty Wilson for her outstanding contributions and involvement throughout the 10 years of her appointment as a founding commissioner. The Commission executive director, chair and vice chair also gave an Outstanding Leadership and Excellence in Service Award to former Commissioner Stephen J. Dolim for his leadership in creating the Accessibility Construction Checklist in 2015.



*Commissioner Betty Wilson (seated) with (from left to right) Commission Chair Guy Leemhuis, Commission Executive Director Angela Jemmott and Commission Vice Chair Douglas Wiele presenting Ms. Wilson with a Lifetime Achievement Award in recognition of outstanding contributions and involvement throughout the 10 years of her appointment.*



Former Commissioner Stephen J. Dolim (front center) with Commission Executive Director Angela Jemmott, Commission Chair Guy Leemhuis and Commission Vice Chair Douglas Wiele. Mr. Dolim received recognition of Outstanding Leadership and Excellence in Service for the Accessibility Construction Inspection Checklist.

Lastly, the entire board received recognition certificates from Assembly Member Mark Stone, Chair of the Assembly Judiciary Committee, for their service and commitment to the CCDA in ensuring a barrier-free California.



From left to right: Assembly Judiciary Committee Chief Counsel Alison Merrilees, Commission Executive Director Angela Jemmott, Commission Chair Guy Leemhuis, Commissioner Christopher Downey, Commission Vice Chair Douglas Wiele, Commissioner Ida Clair, Commissioner Scott Lillibridge, former Commissioner Stephen J. Dolim and Commissioner Betty Wilson (seated).

## A Look Back on CCDA's 10-Year Accomplishments

As documented in the Commission's Annual Reports to the Legislature, below is a summary highlighting notable accomplishments over the past 10 years.

- ❖ 2009
  - The Commission was established and was assisted by the California Building Standards Commission to support the upstanding of the first board of directors.
- ❖ 2010
  - The Commission hired its first executive staff and secured facilities through a partnership with the Department of Rehabilitation.
  - The newly formed board of directors set the standard of fully accessible meetings to ensure full participation of all stakeholders.
- ❖ 2011
  - The executive staff secured critical administrative support in order to establish the Commission's direction of holding fully accessible public meetings.
  - The Commission created and adopted bylaws.
- ❖ 2012
  - The Commission developed subcommittees and invited strategic partners to participate on these committees as a vehicle to execute the mandates created by legislation.
  - Executive staff created an internship program to address legislative mandates and produced the Commission's first legislative report.
- ❖ 2013
  - Appointed a new executive director, relocated to permanent offices and recruited to fill staff vacancies.
  - Posted training videos on Commission website addressing the top 10 access violations in collaboration with the Department of Rehabilitation.
  - Redesigned the Commission's website to better serve educational needs and began tracking website usage.
  - Implemented data collection project in response to SB 1186 (Steinberg, Chapter 383, Statutes of 2012).
  - Initiated a strategic planning process to be completed in 2014.
  - Partnered with the Department of Rehabilitation and the Division of the State Architect to host a meeting on the topic of disability access with a member of Australia's Parliament.
- ❖ 2014
  - Completed strategic planning process and developed five-year plan of goals and objectives.
  - Received an additional analyst position from FY 2014-15 budget.
  - Produced the first Community Stakeholder Gathering event in

- partnership with the Mexican American Legal Defense and Educational Fund (MALDEF).
  - o Began development of the Accessibility Construction Inspection Checklist.
- ❖ 2015
  - o Created Spanish version of "Boost Your Business" manual and video series in collaboration with the Department of Rehabilitation.
  - o Participated in outreach events with Office of Senator Richard Roth and the Modesto Chambers Alliance.
  - o Attended the DGS California Construction Exposition for the first time in Long Beach, California.
  - o Completed and released for statewide use the Accessibility Construction Inspection Checklist.
  - o Implemented case resolution reporting form in response to AB 1521 (Committee on Judiciary, Chapter 755, Statutes of 2015).
- ❖ 2016
  - o Completed and released Myths and Misconceptions Guide for statewide use.
  - o Provided recommendations to Office of then-Assembly Member Jimmy Gomez resulting in legislation to create the California Americans with Disabilities Act Small Business Compliance Finance Authority.
  - o Created new partnership with the California Pollution Control Authority at the State Treasurer's Office.
  - o Participated in multiple workshops for small businesses in partnership with the California Governor's Office of Economic Development.
  - o Held legislative staff briefing hosted by Assembly Member Tom Lackey and supported by then-Assembly Member Tony Thurmond and Senator Richard Roth.
- ❖ 2017
  - o The Commission transitioned to DGS.
  - o Conducted first Listening Forum on the topic of the Department of Motor Vehicles' Disabled Parking Placard Program.
  - o Developed information for the State Bar to include in its educational materials regarding SB 1406 (Mendoza, Chapter 892, Statutes of 2016).
  - o Participated in Los Angeles Abilities Expo for the first time.
  - o Developed and conducted first survey of state Americans with Disabilities Act (ADA) Coordinators.
  - o Supported the State Architect in creating the Access Code Collaborative.
  - o Developed new partnerships with Lighthouse for the Blind and City & County of San Francisco Mayor's Office on Disability.
  - o Began website redesign project with DGS Office of Public Affairs.

❖ 2018

- Held second Listening Forum event on Disabled Parking Placard Program.
- Held first statewide restaurant industry-focused outreach event supported with funding from the State Architect.
- Developed and distributed first draft of the disability access toolkit for the restaurant industry.
- Implemented an internal process improvement to maintain log of public inquiries received.
- Began implementation of technology projects to support the Commission's review of accessibility-related litigation documents.
- Commission fully staffed at 5.0 position level.
- Launched ADA Business Mentorship Program.
- Held meeting with statewide ADA Coordinators at Sierra Health Foundation.

### **Commission Operations**

The Commission maintained its membership through welcoming new commissioners from the Legislature: Senators Melissa Hurtado and Jeff Stone. The Commission's membership is further outlined in Appendix F.

The Commission expanded its partnership with the Department of Rehabilitation's Workability Program to bring volunteer support for data collection efforts. The Commission also partnered with local colleges, universities and high schools to provide students with learning opportunities and exposure to state civil service. The volunteers provided tremendous support to the Commission in maintaining the electronic document management system (EDMS) and preparing for the development of the electronic database and web portal.

Under the direction and supervision of the operations manager, these volunteers helped prepare and pack over 10,000 paper files to be transferred to the Office of State Publishing (OSP) for inclusion in the EDMS so the files would no longer occupy physical space in the Commission's office. Volunteers also supported Commission staff at the February 2019 Northern California Community Gathering restaurant industry outreach event, which gave them exposure to delivering public educational programs to the business and disability communities. Due to the current staff configuration, part-time volunteers have been an important component of the Commission and provide much-needed support.



*Volunteers and Commission staff participating in lunch thanking them for their service (left to right): Volunteer Blake Holloway; Administrative Analyst Joshua Morrell; Data and Research Analyst Dave Chung; UC Davis Volunteer David Manzo; and Marketing and Outreach Analyst Taylor St. Mary.*



*Volunteers participating in Northern California Community Gathering event in Elk Grove (seated left to right): Sacramento City College Volunteer Kendra Ward; UC Berkeley Volunteer Marcos Gaeta; and Cosumnes River College Volunteer Bryan Lester.*

Lastly, the Commission completed a strategic planning process to reprioritize and affirm the Commission's goals and objectives over the next five years. During July 2019, Commission staff and Strategic Planning Consultant Renee Taylor developed a brief survey for commissioners to provide feedback on how well the Commission is fulfilling its strategic goals, including opportunities for improvement. Responses received helped guide discussions and planning for the Commission's revised strategic direction starting in 2020.

During August 2019, CCDA Executive and Legislative Committees met and completed an exercise using the SOAR (Strengths, Opportunities, Aspirations and Results) methodology to further develop proposed goals and objectives for the next five years.



*From left to right: David Manzo and Joshua Morrell look on as Consultant Renee Taylor, Commission Executive Director Angela Jemmott, Legislative Committee Chair Commissioner Michael Paravagna and Legislative Committee Member Scott Lillibridge participate in August SOAR discussions.*

During October 2019 at the full Commission meeting, Renee Taylor presented the culmination of goals and objectives developed based on commissioner feedback from the survey results, phone interviews and the August 2019 meetings. The goals reflect the most important strategic issues for the Commission as a whole, and while the goals are realistic and achievable, they

also seek to stretch and challenge the Commission. The Commission's finalized strategic goals for 2020-2024 are further outlined in Appendix H.

### **Ongoing Maintenance of Electronic Document Management System**

The Commission partnered with OSP to maintain the EDMS in 2019. Ongoing maintenance included preparation to transfer more than 4,000 complaints and prelitigation letters received in 2018 and more than 6,000 case resolution reports received between 2015-2018. Maintaining the EDMS helped ensure electronic records of case files received between 2012-2018 were ready for incorporation into the electronic database and web portal.

### **Developed Electronic Claim System**

In support of the Commission's legislative mandate to compile and report data with respect to any demand letter<sup>1</sup> or complaint sent to the Commission pursuant to Section 55.32 of the Civil Code, the Commission began phase two of its data collection project by partnering with DGS' Enterprise Technology Solutions (ETS) to create a secure database and a web-based form that allows the legal community to submit claims electronically to the Commission. Commission staff met with ETS and contractors on a weekly basis over an 11-month period to define business needs, develop a project charter and scope, identify technical requirements, build the electronic system using the ServiceNow platform, conduct user acceptance testing, and deploy the system on December 3, 2019. Commissioners and external customers from the legal community were given the opportunity to test the system and provide valuable feedback to improve the system's performance in 2020. This electronic data collection system will make the Commission's intake and review processes more efficient and environmentally friendly. Prior to December 2019, Commission staff reviewed and analyzed claims received manually through management of paper files. The implementation of an electronic system will phase out this manual process and promote better data analysis by having all records available in one system.

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<sup>1</sup>Throughout the data collection section of the report, the Commission will refer to demand letters as "prelitigation letters."



*Operations Manager LaCandice Ochoa (seated center) and Data & Research Analyst Dave Chung (standing center) pictured with DGS Database Team lead by Kellie Finley and Bob Summers (far right) at cake celebration for launch of new system.*

### **Developed a Survey of State Accessibility Compliance**

The Commission partnered with a research university, Mount Saint Mary's University in 2019 to develop and conduct a survey of state government operations and the effectiveness of Americans with Disabilities (ADA) coordinators with regard to disability access. From July-September 2019, Commission staff conducted research to develop a list of statewide ADA Coordinators by agency and department. Commission staff provided graduate student researchers at Mount Saint Mary's the list of ADA Coordinators for distributing the survey.

In September 2019, Commissioner Michael Paravagna gave a lecture to graduate students in Mount Saint Mary's Health Policy and Management Program, providing an overview of federal and state laws pertaining to ADA Coordinators, grievance procedures and transition plans. From October-December 2019, the graduate students administered the survey, compiled data and completed their final research and data analysis. As a result of their efforts, the Commission received a report of survey results informing state government operations on opportunities to improve accessibility compliance and coordination, as well as a final roster of statewide ADA Coordinators. [This roster](#) developed as a result of the research effort is published on the Commission's website: <https://www.dgs.ca.gov/CCDA/Resources>.

On December 12, 2019, the Commission invited ADA Coordinators to participate in a conversation about statewide coordination efforts. Participants in the

conversation received results from the research effort completed by Mount Saint Mary's and discussed opportunities to support ADA Coordinators in their roles. Key recommendations based on the research effort were:

- Future ADA Coordinators should receive one to two days' formal training for their role, and should receive a training manual.
- Coordinators should be given resources and contacts in case they have questions or difficulty with any of their duties.
- ADA Coordinators should be provided a job description for the ADA Coordinator role and guidelines that can be followed in fulfilling duties.

### **Held Educational Outreach Events**

In support of the Commission's legislative mandate to prevent or minimize problems of compliance through ongoing education and outreach, the Commission completed the final two regional restaurant industry "California Community Gathering" outreach events in February 2019 (Northern California) and June 2019 (Southern California).

The Commission conducted widespread outreach event marketing with support from over 20 partners statewide. The Commission partnered with DGS, the Office of Senator Richard Roth, the city of Elk Grove, the city of San Diego, the California Restaurant Association, California building officials, Xperience of Service, League of California Cities, Department of Rehabilitation, Sierra Health Foundation, Golden Gate Restaurant Association, Small Business Development Center, Hatmaker Law Group, Stepping Thru Accessibility and local Chambers of Commerce (e.g., CalChamber, Sacramento Metro Chamber of Commerce, and Greater Riverside Chambers of Commerce) to promote each regional event. Commissioners personally attended each event. Further, each event featured a welcome video developed by the Commission in partnership with the California Restaurant Association.

*California Restaurant Association's Sharokina Shams (left) and Commission Executive Director Angela Jemmott reviewing welcome video script.*





*Draft Restaurant Industry Toolkits made available at Northern California Community Gathering events.*

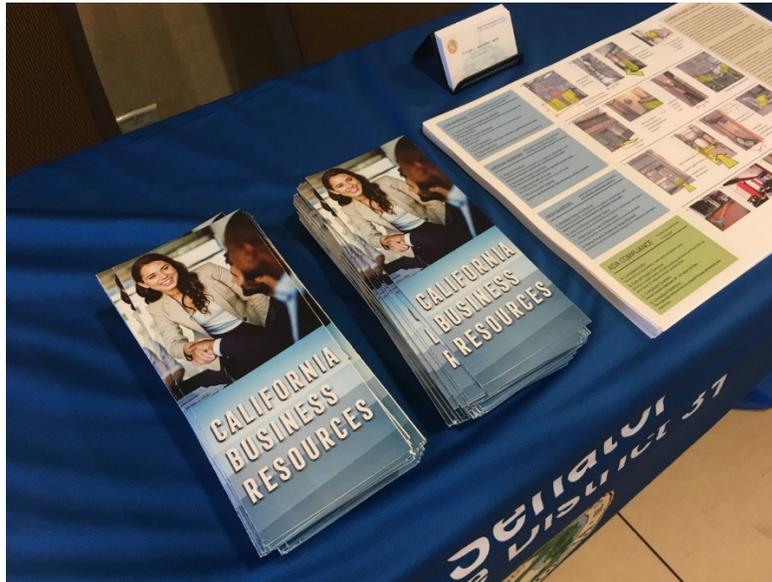
The California Community Gathering events included diverse panel groupings. Panel participants included experts on Americans with Disabilities Act funding, representatives from the legal community, local building officials, representatives from the disability community and a representative from the Division of the State Architect (also part of DGS). The Northern California Community Gathering, held at The Falls Event Center in Elk Grove, featured panel members from the Division of the State Architect, California Pollution Control Financing Authority, Gordon & Rees Law Firm, Sutter Health, City of Vacaville, American Institute of Architects, Northern California Small Business Development Center Finance Authority, Department of Rehabilitation, Disability Rights California and the State Independent Living Center. This event was livestreamed to participants in San Francisco and Eureka.



*Northern California Community Gathering panel members offer their perspective during the*

event.

The Southern California Community Gathering, held at the Hyatt Place Riverside Downtown, featured panel members from Blake Law Firm of San Diego, Vaughan & Associates Law Firm, Gordon & Rees Law Firm, the Division of the State Architect, California Pollution Control Financing Authority, South San Diego Small Business Development Center, Communities Actively Living Independent & Free, the State Independent Living Center and Language People. This event also featured an informational table and opening remarks from the Office of Senator Richard Roth. The event was livestreamed to participants in San Diego.



*Table of materials for businesses, organized by the Office of Senator Richard Roth.*



*Participants at Southern California Community Gathering event in Riverside.*



Overall, 389 individuals registered to participate in the community gathering events. Of those individuals, 126 (32 percent) attended one of the three events in person while another 93 individuals (24 percent) participated via livestream or from a remote location in each region (Porterville – Central; San Francisco and Eureka – Northern; and San Diego – Southern). In total, 32 business representatives, including 22 from the restaurant industry, attended the California Community Gatherings. These 32 representatives are responsible for over 40 business locations throughout the state.

### **Partnered with Small Business Development Center of Northern California**

During 2019, the Commission partnered with the Small Business Development Center (SBDC) of Northern California to expand the ADA Business Mentorship program. This program aims to create access to free subject matter experts and connect business owners with mentors to assist them in implementing their Certified Access Specialist report, thereby increasing and maintaining their disability access compliance and improving their operations to increase accessibility. The SBDC hosted multiple small business forums and town halls throughout the state to promote the mentorship program. One of these events included “Open Door Access for All: Tips & Resources to Serve Customers with Disabilities” in coordination with the city of Oakland. The event was well-attended by local small business owners and provided the Commission with the opportunity to explore creating materials for business owners in languages other than English.



*Left to right: Commission Executive Director Angela Jemmott with city of Oakland Business Development Coordinator Juno Thomas and California Pollution Financing Authority Deputy Executive Director Janae Davis.*

## External Outreach Efforts and Partnerships

In addition to holding its own educational outreach events, Commission staff also participated in outreach events held by external partners and stakeholders. Some of these efforts include the State Capitol Annex project, a Certified Access Specialist Program webinar with the Division of the State Architect, and a feature in the California Hotel and Lodging Association's newsletter.

### Capitol Annex Project

In 2016, the Legislature passed SB 836 (Committee on Budget and Fiscal Review, Chapter 31, Statutes of 2016), which provides funding to address deficiencies in the State Capitol Annex, which is home to both the Legislature and the governor's and lieutenant governor's offices. The Commission played an active role in advising the Legislature about the impacts of SB 836 in 2016 and was invited by Assembly Member Ken Cooley in 2019 to participate in a project to evaluate the needs of a remodeled Capitol Annex, including disability access design considerations.

At its conclusion, the project will shape the future of the state's legislative branch for the next 50 to 100 years; will provide the public with a safe, inviting building to participate in the governmental process; and will make California's State Capitol one of the most energy-efficient capitol buildings in the United States.



*Assembly Member Ken Cooley and Commission Executive Director Angela Jemmott reviewing historical records of building "The People's House," the California State Capitol.*

## **Certified Access Specialist Code Discussion Group Webinar**

The Commission's Executive Director Angela Jemmott served as a presenter for the July 2019 Certified Access Specialist Program (CASp) webinar hosted by the Division of the State Architect to discuss where and how to find resources to support CASps in performing business property inspections. Executive Director Jemmott presented resources for business owners on the Commission's website, discussed past annual reports on disability access data, and provided an overview of the top 10 alleged violations from 2018.



*Commission Executive Director Angela Jemmott (left) presenting during the CASp Webinar, supported by Marketing & Outreach Analyst Taylor St. Mary.*

## **Feature in the California Hotel and Lodging Association Newsletter**

The Commission fulfills its need for technical expertise to develop and maintain legislatively mandated educational tools through heavy reliance on external contractors, appointed commissioners and volunteer stakeholders serving on subcommittees. One such subcommittee is the Checklist Committee, comprised of representatives from business associations, the legal community, CASps and local building officials. One member of the Checklist Committee, the California Hotel and Lodging Association, featured the Commission's "Accessibility Compliance for Businesses: Myths & Misconceptions" educational materials in its September 2019 newsletter in tandem with its SAFE Conference. As a result of this feature, the Commission's educational material was shared with over 300 conference participants and thousands of the association's members.

## Commission's Statewide Impact

All of the Commission's accomplishments in 2019 culminated in a tremendous statewide impact: five presentations given, two Listening Forums held, 18 publicly accessible meetings held in accordance with the Bagley-Keene Open Meeting Act, 14 cities visited and more than 20 partners and sponsors supporting external outreach efforts. For the public, the Commission's accomplishments resulted in distributing 200 draft toolkits through the restaurant industry outreach events, providing information and referrals in response to 243 public inquiries, and sending email communications to 241 subscribers, along with our continuous website presence. The draft toolkit was distributed in its digital format on the Commission's and partners' websites. Figure 1 visualizes the Commission's 2019 statewide impact.

Commission staff also enhanced an internal tracking system to log the type (i.e., phone or email), number and category of public inquiries received. Based on the information collected, the top three incoming public inquiry category types were: building code requirements, enforcement or legal advocacy and disability program access.

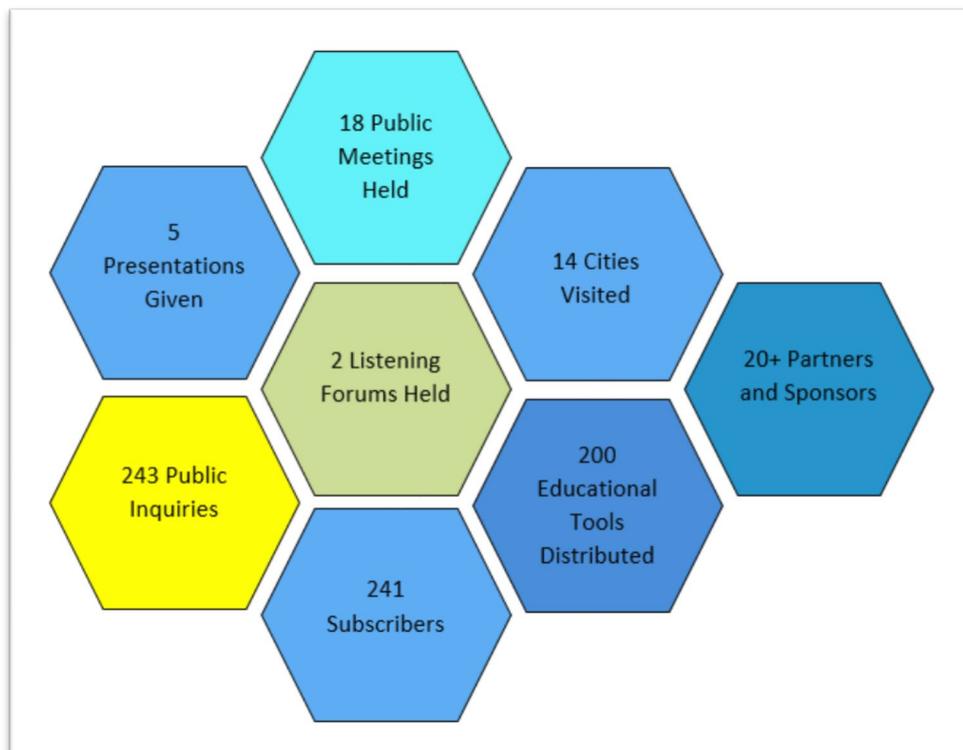


Figure 1: 2019 Commission Statewide Impact (in addition to our website presence).

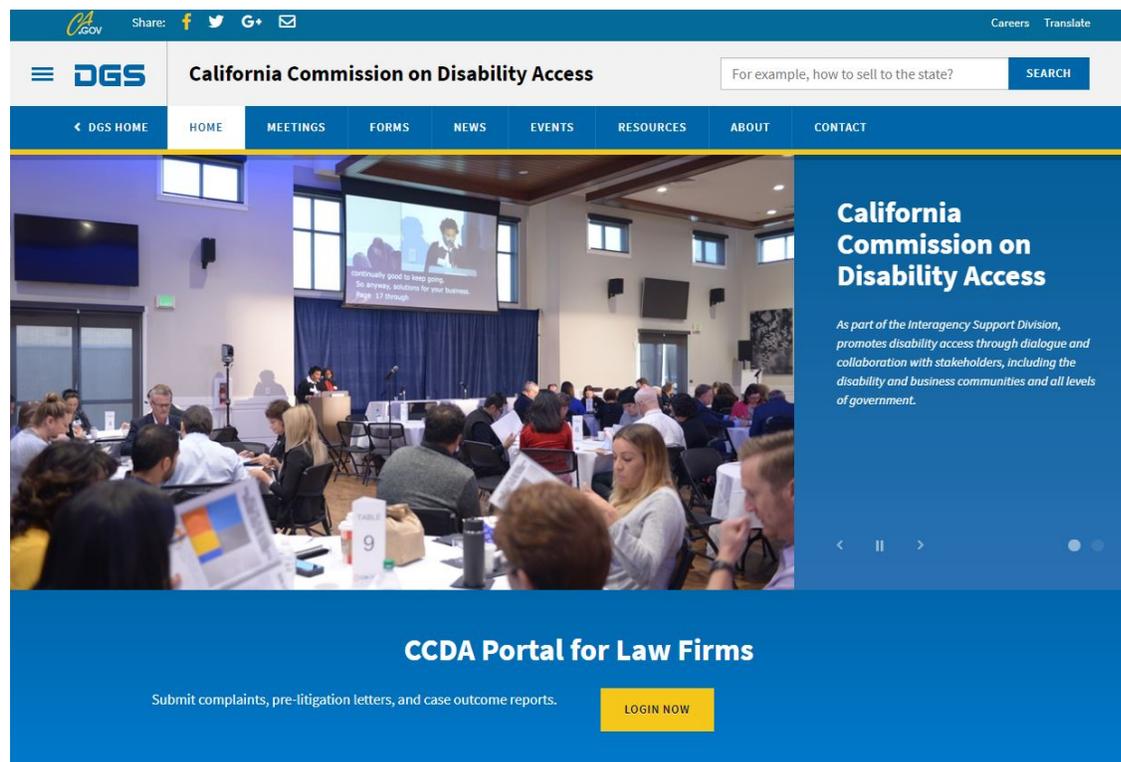
The Commission looks forward to continued statewide service to the business

and disability communities as well to as all levels of government in 2020. The next section outlines some specific activities related to the Commission's path forward.

## Path Forward

### Technology: Increasing Electronic Submissions to 40 Percent

The Commission developed the Electronic Data Collection Project to make its review of prelitigation letters, complaints and case resolution reports for construction-related accessibility claims more efficient and environmentally friendly, and to promote better data analysis. In 2018 and 2019, CCDA completed phase one and phase two of the project, respectively, by implementing an electronic transfer and storage process for previously reviewed files and by launching a web-based portal that allows the legal community to submit claims electronically to CCDA. In 2020, CCDA will enter the third phase of this effort: a comprehensive marketing strategy to increase electronic submissions to at least 40 percent of the total. This is the completion of a multiyear goal started in 2018.



Screenshot of new Electronic Data Collection portal featured on Commission's website homepage.

### Completing Data Entry for Historical Complaint and Case Resolution Report Submissions

The completion of the Commission's Electronic Data Collection Project, as well

as ongoing maintenance of the electronic document management system, will require data entry of historical information into the new electronic system. The Commission has over 20,000 historical records that need to be integrated into the new electronic system, which will require considerable staff and volunteer work hours in order to create a system with comprehensive data covering a seven-year period (2012-2018). The comprehensive dataset will improve overall data analysis and allow the Commission to make historical records publicly searchable utilizing customized data dashboards.

## **Pro se/Self-represented Litigants**

Based on research from public inquiries and utilizing legal research tools, Commission staff discovered a potentially underreported segment of construction-related claims: those filed by *pro se* (self-represented) litigants. Currently, *pro se* litigants are not required to send copies of their claims to the Commission. The reporting requirement in California Civil Code § 55.32 applies only to attorneys. CCDA recommends the Legislature review potential benefits of amendments to Civil Code § 55.32 requiring construction-related access claims filed by *pro se* litigants to be submitted. Receiving these additional claims would allow the Commission to present more comprehensive data regarding construction-related accessibility claims.

## **Monitoring Number of Claims Received Alleging Website Accessibility Violations**

During the Commission's January 22, 2020 full Commission meeting, a panel of experts presented information on the topic of website accessibility. Panel members included representatives from Zenyth Group, LLC, Disability Rights California, Department of Rehabilitation and DGS' Enterprise Technology Solutions office. Commissioners discussed website accessibility laws and how these laws will impact California's businesses compliance efforts. As detailed in the next data collection section, the Commission received claims alleging a total of 184 instances of alleged website accessibility violations. Although this represents a small percentage of overall alleged violations received, website accessibility is an emerging policy and workload issue for the Commission. Currently the Commission is not statutorily mandated to collect website accessibility claims, nor is it mandated to educate businesses on website accessibility laws and how to comply.



*Website accessibility panelists (left to right): DGS Chief Information Officer Gary Renslo; Department of Rehabilitation Chief of Disability Access Services Vianalyn Tankiamco; and Disability Rights California Director of Legislation Curt Child.*

## Education and Outreach

### **Developing Educational Tools for Small Businesses to Promote and Facilitate Disability Access Compliance**

In support of CCDA's statutory mandate to prioritize the development and dissemination of educational materials and information, the Commission will create two educational tools for use by small businesses to promote and facilitate disability access compliance. The first tool will be a comprehensive disability access toolkit, while the second will be short-form informational sheets for businesses seeking to be access compliant. These educational tools – including versions in alternative formats – will be made available on the CCDA website. This goal will benefit the business community and local government agencies by promoting disability access at places of public accommodation. It will also benefit members of the business community who speak languages other than English by providing access to educational materials available in culturally appropriate formats. Data outlined in the next section of the report supports the necessity for the Commission to develop materials in multiple languages.<sup>2</sup>

### **Developing Strategic Partnerships to Support Businesses**

Currently there is no mechanism to support a business after it has received a Certified Access Specialist (CAsp) report. Many business owners lack the information and resources to complete the improvements advised within CAsp reports and/or disability access maintenance plans. In an effort to help small businesses to tackle these challenges, the Commission has introduced mentorship to the business communities. The Commission partnered with the Northern California Small Business Development Center Network to launch the Accessible City business consulting pilot program. This pilot project was opened to any small business located in the Greater Sacramento area and Bay Area. The Commission has also created strategic partnerships for mentorship models with various cities, with positive responses from the cities of Fresno, San Diego and San Francisco. Each city responded to the call of access mentorship with its unique regional opportunities and needs.

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<sup>2</sup>“Culturally appropriate” refers to the recognition that various cultural enclaves in our state may not have had the opportunity to understand the importance of architectural access and creating a barrier-free California. CCDA will seek to be mindful of training and literature to raise awareness about access in communities of color throughout our state.



*CASp inspection marketing flyer.*

### **Developing Campaign to Educate Businesses on Top Five Alleged Violations**

In support of the Commission's new five-year strategic goal, the Commission's Education and Outreach subcommittee will explore the development of a marketing campaign aimed at educating businesses on ways to achieve compliance in the top five alleged violation areas. Historically, parking violations have consistently been in the top-ranked violation categories. The Commission and California businesses will benefit from more specific and targeted compliance resources with the ultimate goal of increasing disability access within the built environment.

## **Complaints and Prolitigation Letter Data Collection**

### **Data Overview**

California Civil Code § 55.3 requires attorneys to submit construction-related physical access complaints and prelitigation letters to the Commission within five business days of filing. In 2019, the Commission received 3,552 records of complaints and prelitigation letters. This is a 16.8 percent decrease from the 4,271 records received in 2018. Also in 2019, the number of reported prelitigation letters decreased by 40 percent to 30, down from 50 records in 2018. Table 1 outlines the total number of complaints and prelitigation letters received by the Commission over the past six years.

**Table 1: Complaints and Prelitigation Letters Received by Year (2014-2019)**

<b>Year</b>	<b>Complaints (state &amp; federal)</b>	<b>Prelitigation Letters</b>	<b>Total</b>
2019	3,522	30	3,552
2018	4,221	50	4,271
2017	2,365	1,461	3,826
2016	2,559	781	3,340
2015	2,323	623	2,946
2014	2,944	234	3,178
<b>Total:</b>	<b>17,934</b>	<b>3,179</b>	<b>21,113</b>

### **Prelitigation Letters**

The Commission found that as case filings increased, considerably fewer prelitigation letters were sent. Of the 1,461 prelitigation letters submitted to the Commission in 2017, 1,359 (93 percent) were from one law firm. In subsequent years, the same law firm submitted federal filings to the Commission instead of prelitigation letters.

As noted in the Commission's 2018 Annual Report, the Commission speculates an additional reason behind the significant drop in prelitigation letters is an unintended consequence of California Civil Code § 55, which caused attorneys to file litigation rather than serving prelitigation letters. Also effective January 1, 2019, attorneys are no longer required to submit copies of filed prelitigation

letters to the State Bar of California. However, to maintain the consistency with data reported in previous years, the Commission included prelitigation letters received in this report.

### Court Filing Trends

In 2019, the Commission experienced a steady increase in the total number of federal filings and a decrease in the number of state filings. This filing trend has been ongoing since 2014. In 2019, the Commission received 10 times more federal cases than state cases. For more detailed analysis on these filing trends, refer to the Case Outcomes section starting on page 45. Table 2 outlines the number of federal and state filings received by the Commission in 2018 and 2019, including the corresponding percentages of the total.

**Table 2: 2019 and 2018 Filings Received by Commission (federal vs. state)**

Type of Filing Received	2019 Total	2019 Percent	2018 Total	2018 Percent
Federal	3,213	91%	3,433	81%
State	309	9%	788	19%
<b>Total:</b>	<b>3,522</b>	<b>100%</b>	<b>4,221</b>	<b>100%</b>

### Potential Filings

Commission staff discovered that a notable number of the complaints *not* received by the Commission were filed by *pro se* litigants representing themselves in the courts. The reporting requirements outlined in Civil Code § 55.3 apply only to attorneys and are not applicable to *pro se* litigants. The Commission could benefit from amendments to Civil Code § 55.3 that would require construction-related access claims filed by *pro se* litigants to be submitted. Receiving these additional claims would allow the Commission to report more comprehensive data that reflects all claims filed, whether by an

attorney or by a *pro se* litigant. Further, the Commission now has an electronic system that could handle the increased volume of claims submitted.

### **Alleged Construction-Related Physical Access Violations**

A total of 7,507 construction-related physical access violations were alleged in the 3,552 complaints and prelitigation letters received by the Commission in 2019. This is a 33 percent decrease in comparison to the 11,197 alleged violations received in 2018. This decrease is proportional to the decrease in the overall number of complaints received.

In 2019, the Commission received a total of 7,699 alleged disability violations. Of these, 7,507 alleged violations were construction-related and 192 were non-construction-related. Examples of non-construction-related violations received include inaccessible websites, online mobile applications, service animal violations, transportation programs (e.g., rideshare, automobile hand-controls, rental bike access), and three complaints alleging inaccessible kiosks. Of the three inaccessible kiosk complaints, one was a class action suit against a government entity.

Table 3 outlines the total number of alleged construction-related physical access violations received by the Commission from 2015-2019.

**Table 3: Total Number of Alleged Construction-Related Physical Violations Received (2015-2019)**

<b>Year</b>	<b>Number of Alleged Construction-related Physical Violations</b>
<b>2019</b>	7,507
<b>2018</b>	11,197
<b>2017</b>	10,608
<b>2016</b>	11,468
<b>2015</b>	9,643

<b>Year</b>	<b>Number of Alleged Construction-related Physical Violations</b>
<b>Total:</b>	<b>50,423</b>

The Commission received complaints in 2019 alleging non-construction-related access violations, which are detailed in Table 4.

**Table 4: Total Number of Alleged Non-Construction-Related Physical Violations Received (2019)**

<b>Non-construction-related Violation</b>	<b>Number of Instances</b>
Website Violation	184
Mobile Application Violation	1
Service Animal Violation	2
Program Access (rideshare, hand-control, rental bike service)	5
<b>Total:</b>	<b>192</b>

### **Top Five Alleged Construction-Related Physical Access Violations**

The most frequently alleged construction-related physical access violations comprised 5,614 (or 73 percent) of the total alleged violations received by the Commission in 2019. The Commission observed that alleged accessible parking violations comprised the top five categories of all alleged violations received. For instance, the most commonly alleged violation, accounting for 1,207 claims (16 percent), involved accessibility within a public facility where heights of surfaces were noncompliant, such as counters, bars or tables. The second most commonly alleged violation, accounting for 964 claims (13 percent), was that routes to or from the parking lot or public right of way were inaccessible, such as uneven surfaces. Various types of alleged parking violations comprised the balance of the top five, including 791 claims (or 10 percent) that parking spaces

were noncompliant, 673 claims (or 9 percent) that parking lots did not contain the minimum number of accessible parking spaces, and 382 claims (or 5 percent) that accessible parking signage was noncompliant. Appendix B further details the top 10 alleged violations received.

**Top Five Alleged Places of Public Accommodation**

Based on the case files received by the Commission in 2019, the top five places of public accommodation where alleged violations occurred as outlined in Appendix D were: 1) sales and rental establishments, 2) establishments serving food and drink, 3) service establishments, 4) places of lodging and 5) other categories. In 2019, Commission staff improved the internal categorization of places of public accommodation by including additional categories consistent with the California Building Code. The places of public accommodation categories are detailed in Appendix C.

The Commission also found several trends among the litigated defendants based on the case files received in 2019. The top three defendants with alleged violations include a franchise chain drug store and two major chains of gas stations. These parties coincided with the top five places of public accommodation where the alleged violations occurred. Table 5 outlines the ranking of the top 10 litigated defendants.

**Table 5: Top 10 Most Frequent Defendants with Alleged Violations**

Rank	General Description of Business and Place of Public Accommodation Category	Number of Filings Received
1	Franchise drug store chain (service establishment)	36
2	Gas station (service establishment) <sup>3</sup>	33
3	Gas station (service establishment)	30
4	Gas station (service establishment)	28

<sup>3</sup>From the top 10, rankings 2-8 were specific large chains of gas station establishments.

<b>Rank</b>	<b>General Description of Business and Place of Public Accommodation Category</b>	<b>Number of Filings Received</b>
5	Gas station (service establishment)	25
6	Franchise hotel & resort chain (place of lodging)	24
7	Franchise sandwich shop (establishment serving food or drink)	20
8	Gas station (service establishment)	19
9	Franchise self-storage company (sales or rental establishment)	17
10	Franchise fast food chain (establishment serving food or drink)	16
<b>Total:</b>		<b>248</b>

Although the top five alleged places of public accommodation filings only accounted for 248 out of the 3,552 (7 percent) case files received, the Commission notes that these businesses are comprised of franchises to larger corporations throughout all of California. The Commission suspects that the majority of the remaining 3,305 (97 percent) case files received constitute claims against small, independent businesses. Interestingly, there is no correlation between the top most frequent defendants with alleged violations and the top complaints received by region as detailed in Table 5 and Table 6. The Commission could benefit from this information in the future when developing an education and outreach strategy to reach these targeted businesses.

In 2019, the top five ZIP codes with reported alleged disability access violations were in Los Angeles County and included: 90014, 90026, 90048, 90022 and 90069. The top 10 ZIP codes from which complaints were received are outlined in Table 6, along with their corresponding cities and neighborhoods. Table 7 further outlines the median household income and demographics of the top five zip codes in Los Angeles County from which complaints were received.

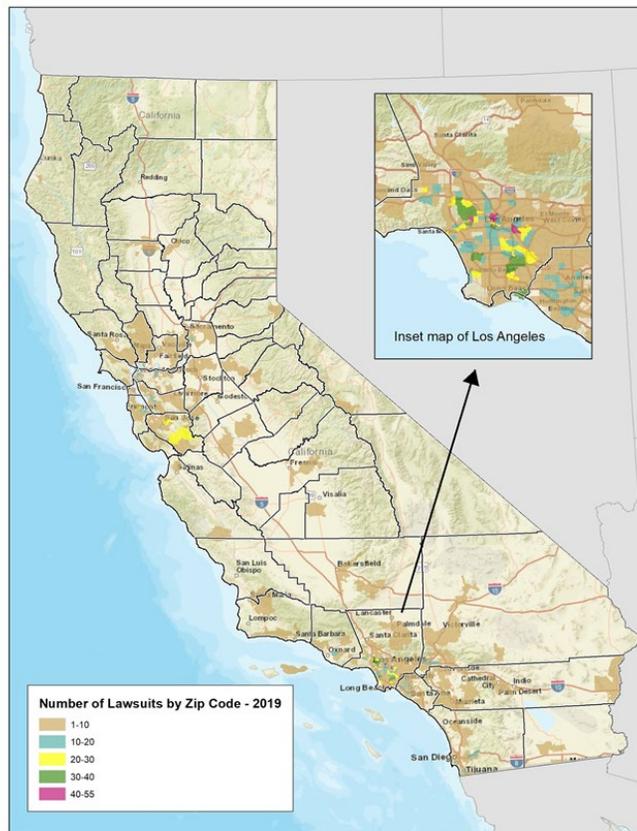
**Table 6: Top 10 Zip Codes of Complaints Received (2019)**

<b>Ranking</b>	<b>ZIP Code</b>	<b>City (Region)</b>	<b>Corresponding Local Neighborhoods (Districts)</b>
1	90014	Los Angeles City (Central)	Gallery Row, Fashion District, Downtown Los Angeles, Industrial District, Jewelry District, Skid Row, Little Tokyo
2	90026	Los Angeles City (Central)	Echo Park, Angelino Heights, Elysian Heights
3	90048	Los Angeles City, (Central)	Beverly Grove
4	90022	East Los Angeles, Commerce (Eastside)	Eastmont, Belvedere Gardens, Winter Gardens
5	90069	Los Angeles City, West Hollywood (Central)	Beverly Grove, Beverly Hills Fairfax, Hollywood, and Hollywood Hills West
6	90706	Bellflower (Southeast)	Cerritos, Downey, Lakewood, Long Beach, Norwalk and Paramount
7	90210	Beverly Hills (Westside)	Beverly Crest, Beverly Grove, Beverlywood, Carthay Square, Century City, Cheviot Hills, Hollywood Hills West, Pico-Robertson, West Hollywood, and Westwood
8	90035	Los Angeles City (Westside)	West Pico Boulevard, West Los Angeles
9	90046	Los Angeles City (Central)	Hollywood Hills, Beachwood Canyon, Cahuenga Pass, Franklin Village, Hollywood Heights, Hollywoodland, Outpost, and Whitley Heights

Ranking	ZIP Code	City (Region)	Corresponding Local Neighborhoods (Districts)
10	90250	Hawthorne (South Bay)	Alondra Park, Athens, Del Aire, El Segundo, Gardena, Inglewood, Lawndale, Lennox, Manhattan Beach, Redondo Beach, Westchester, and Westmont

### Place(s) of Public Accommodation ZIP Codes

The map below in Picture 1 depicts the various ZIP codes where alleged violations occurred. In 2019 the number of complaints received by the Commission remained heavily concentrated in urban areas. The Southern California region had the highest number of filings, followed by the Bay Area. Within Los Angeles County, the city of Los Angeles had the highest numbers of report filings. Table 7 outlines demographics of the top five zip codes in Los Angeles County from which complaints were received.



**Table 7: Demographics of Top Five Ranked Zip Codes in Los Angeles County**

<b>Ranking</b>	<b>Zip Code</b>	<b>Median Household Income (per year)</b>	<b>Individuals Speaking Languages Other Than English at Home (percentage of population)</b>	<b>Individuals with Disabilities (percentage of population)</b>
First	90014	\$35,857	34%	24%
Second	90026	\$60,820	51%	10%
Third	90048	\$95,197	29%	16%
Fourth	90022	\$43,879	90%	8%
Fifth	90069	\$92,952	26%	10%

Data collected by the Commission in 2019 casts doubt on the assumption that larger cities are better equipped to serve a large, diverse population in complying with federal and state access obligations. For example, ZIP code 90022 (East Los Angeles) ranked fourth in total number of complaints received and reflects 90 percent of the population speaking a language other than English at home. Due to language barriers and cultural differences, business owners in this area may lack access to educational information and access-related financial assistance programs in the languages spoken at home.

### **High Frequency Litigants**

Of the 309 state complaints received by the Commission in 2019, 125 (40 percent) were from self-identified high-frequency litigants (HFLs), defined by Government Code § 42555 as plaintiffs who have filed 10 or more state complaints alleging a construction-related accessibility violation within a 12-month period. In 2018, 302 of the 788 state complaints (38 percent) were from self-identified HFLs. Although the number of state complaints filed in 2019 decreased by 479 (44 percent) from 2018, the proportion of HFLs between the

two years remains relatively consistent. Government Code 70616.5 requires that HFLs must pay a \$1,000 fee upon filing a complaint, half of which is to be distributed to the General Fund for use by the Commission (Government Code § 68085.35). Commission staff verified with the Judicial Council that as a result of fee waivers granted by the courts, no fees were collected from HFL plaintiffs in 2019.

**Table 8: Number of Self-Identified HFL Complaints Received (2018 vs. 2019)**

Year	Number of Complaints Received from Self-Identified High-Frequency Litigants	Percentage of Total
2018	302	38%
2019	125	40%

**Volume of State and Federal Complaints Received from Law Firms**

Of the 3,522 state and federal complaints received by the Commission in 2019, 2,809 (79 percent) were filed by five law firms. Four of the top five law firms are based in Southern California, while one is based out of state. The large difference between the percentage of the first-ranked firm and the subsequent four was attributed to the distribution of complaints in California. As observed in Picture 1 (ZIP Code Locations of Complaints/Pre-litigation Letters Received), most of the complaints were filed in Southern California, specifically within Los Angeles County. Notably, 60 percent of all the state and federal complaints received by the Commission were filed by one law firm that has multiple offices throughout the Southern California region.

**Table 9: Volume Ranking of State and Federal Filings by Top Five Law Firms**

Ranking	Percentage of 2019 Filings Received
1	60%
2	5%
3	5%
4	5%

<b>Ranking</b>	<b>Percentage of 2019 Filings Received</b>
5	4%
<b>Total:</b>	<b>79%</b>

## **Americans with Disabilities Act Title II Complaints Against Educational Entities**

Effective January 1, 2017, the Commission was required to collect, review and report on prelitigation letters, complaints and case outcomes pertaining to Title II ADA educational entities (Senate Bill 1406, Mendoza, Chapter 892, Statutes of 2016). In 2019, the Commission received a total of three complaints pertaining to educational entities: two complaints involving California State Universities and one complaint involving a local unified school district. The alleged violations include path of travel, parking, bathroom and program access violations (e.g., denial of service animal on campus). Since 2017, the Commission has only received a total of nine ADA Title II educational entities complaints. The Commission is unable to determine whether or not this is due to underreporting or a lack of complaints filed against ADA Title II educational entities.

### **Non-Educational Entities: Complaints Against State and Local Governments**

CCDA received one prelitigation letter and 14 complaints alleging violations against ADA Title II non-educational places of public accommodations in 2019, which include facilities maintained by state and local governments. The majority of the allegations occurred in the state’s Central or Bay Area regions. The type of facility alleged in the complaints varied: places of lodging, sales or rental establishments, service establishments, places of exhibition or entertainment, public transportation terminals, places of recreation, public curbs or sidewalks, and rideshare services. The types of violations alleged against these entities were also diverse, ranging from parking violations and path of travel violations to program access violations, such as denial of service animals or transportation services. Based on the number of complaints collected since the enactment of Senate Bill 1406 (Mendoza, Chapter 892, Statutes of 2016), the Commission anticipates receiving more ADA Title II complaints against local governments as opposed to educational entities.

## Case Outcomes

### Background

In October 2015, Assembly Bill 1521 (Committee on Judiciary, Chapter 755, Statutes of 2015) was enacted as an urgency measure requiring the Commission to collect, study and report on construction-related physical access case outcomes. Attorneys use the Case Resolution Report (CRR) created by the Commission to report on the outcomes of the complaints filed in federal and state courts.

### Data Overview -- Case Resolution Reports

In 2019 the Commission received 1,695 CRRs, a 10 percent decrease from the 1,889 CRRs received in 2018. Of those processed, 73 percent were received within five business days as required by law. Table 10 outlines the number of CRRs received by type of court filing between 2015-2019.

**Table 10: Case Resolution Reports Received by Type of Court Filing (2015-2019)**

Type of Complaint	2019	2018	2017	2016	2015
Federal	1,397	1,403	1,380	1,391	285
State	276	413	468	483	111
Not stated	12	16	22	184	142
Not processed	10	57	N/A	N/A	N/A
<b>Total:</b>	<b>1,695<sup>4</sup></b>	<b>1,889</b>	<b>1,870</b>	<b>2,058</b>	<b>538</b>

Based on information collected from the case resolution reports received from 2015 to 2019, Commission staff discovered the complaints filed in the California federal district courts generally had higher and faster settlement rates

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<sup>4</sup>In 2019, the Commission received 10 CRRs that could not be analyzed due to incomplete or insufficient information provided by the law firm which could not be identified using legal research tools.

compared to the complaints filed within the state courts. The Commission received three to five times more federal complaints with a resolution in comparison to the state complaints. On average, federal complaints were settled within two to six months, whereas state complaints were settled within 12 to 24 months. As noted in the Commission's 2018 Annual Report, the Commission concluded there may be factors which make filings in federal courts more attractive than filing in state court. One such factor is alternative dispute resolution methods available to parties, such as mediation and early neutral evaluation, which reduce the costs for all parties and results in an earlier resolution.

### **Manner of Case Resolution Type**

Construction-related access claim resolution falls into one of three categories: settlement, judgment or dismissal. In 2019, settlements were reached in 79 percent of the resolution reports received whereas judgment was reached in only 3 percent (See Table 11). The high percentage of settlements compared to low rates of judgments indicate that most plaintiffs and defendants chose to resolve their dispute prior to reaching an official court judgment. Both sides often have more incentive to reach a settlement in order to avoid the costs (e.g., legal fees, finding expert witnesses, etc.), time and stress associated with a trial. The remaining 18 percent of the reports received indicate the plaintiffs voluntarily dismissed their cases. Table 11 details the manner of resolution reported to the Commission in 2019, including the corresponding percentages of the total.

**Table 11: Percentage of Case Outcomes by Type (2019)**

<b>Manner of Resolution</b>	<b>Instances</b>	<b>Percentage</b>
Settlement	1,321	79%
Dismissal	307	18%
Judgment	57	3%
<b>Total:</b>	<b>1,685</b>	<b>100%</b>

## **Construction-Related Access Barrier Remediation**

Of the 1,685 processed CRRs, 83 percent indicated the violations alleged in the complaint or prelitigation letter were remedied in whole or in part. This supports the premise that legal action results in remediation of the access violation, which benefits not just the plaintiff but members of the disabled community by increasing access for all.

The remaining 17 percent of the CRRs showed that alleged violations in the complaints or prelitigation letters were not remedied at all. In some of the CRRs, attorneys reported that they are unable to verify whether the alleged violations will be remedied even after the settlement. Other CRRs indicated the violations alleged were never remedied because the case was voluntarily dismissed by the plaintiff or because the allegedly noncompliant business closed. A total of four resolution reports stated the alleged violations were not remedied due to the closure of the businesses.

## **Supplemental Case Resolution Report Information**

The Commission asks attorneys to provide additional, supplemental information such as: whether the plaintiff received damages, monetary settlement or other favorable result; and whether a site inspection was requested and held. Not all attorneys answer these supplemental questions; however, the data the Commission does receive may still be illuminating. Appendix E details summaries of the responses received from 2015-2019.

In 2019, only 1 percent of the defendants requested an early evaluation conference after being served a construction-related access claim. A possible reason for this small percentage of requests for a stay in proceedings and an early evaluation conference may be due to the difficulty of fulfilling the requirements of California Civil Code § 55.54. Under this provision, defendants are only eligible for an early evaluation conference if they obtained a Certified Access Specialist (CAsp) report prior to the lawsuit, they are a small business, or their facility contains new construction. Even if eligible, the defendant would still need to provide evidence demonstrating correction of the alleged violation(s) within a certain time frame. This small percentage of early evaluation conference requests is also attributable to the fact that a majority of construction-related accessibility complaints are now filed in federal court, where the state CAsp inspection protections do not apply.

CRRs indicated that 92 percent of the defendants did not request a site inspection by a CASp. This statistic may indicate that a vast majority of California businesses are either unaware of the option to hire a CASp to inspect their business or are unable to afford hiring a CASp to conduct the inspection. Based on available 2019 data, the Commission discovered that only one out of 78 CASp-inspected businesses had a construction-related access claim filed against them.

The 2019 CRR data show that 43 percent of plaintiffs reported receiving another favorable remedy other than immediate barrier remediation. Other favorable remedies include but are not limited to: the remediation of barriers alleged in the complaint within a feasible time frame, implementing internal training programs for staff to provide reasonable accommodations, and developing a plan to maintain accessible features. Finally, 90 percent of the CRRs indicated the plaintiff was compensated for damages and litigation expenses, making monetary compensation the most common case outcome.

## **Conclusion**

In 2019, the Commission noted a steady increase in federal filings due to more favorable incentives for the plaintiffs to file complaints in the federal courts. One such incentive is greater monetary awards and faster settlement rates in comparison to state court claims. This increase in federal filings also means that the California-specific early evaluation conference option for small business owners is not available as an alternative resolution method to litigation.

In 2019, most of the alleged violations occurred in Los Angeles County, a region that includes many small businesses in communities that primarily speak a language other than English. Non-English-speaking business owners may not have access to information or resources that would help them understand their access-related obligations and apply for funding to help meet those obligations. The Commission will continue to seek ways to collaborate with the Division of the State Architect and local governments to promote the use of the Certified Access Specialist program and educate small business owners located in diverse communities. The Commission can also leverage relationships with local jurisdictions, industry associations, business improvement districts and other

stakeholders for this purpose, as demonstrated by outreach efforts completed in 2019.

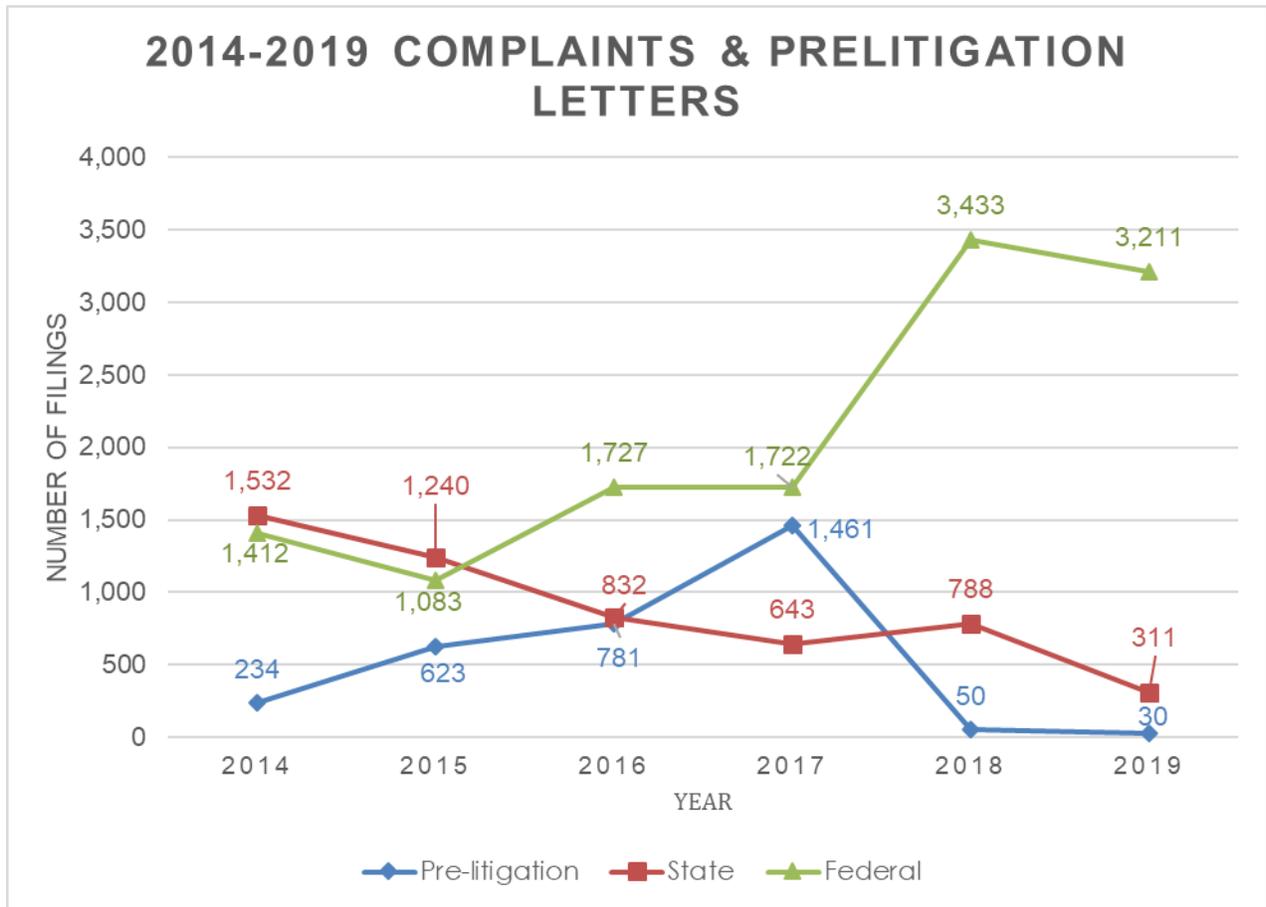
The Commission has launched an online submission portal for plaintiffs' attorneys to more efficiently submit construction-related access claims and resolution reports. The Commission anticipates that the automation of its data collection system will allow increased time for staff to further explore and analyze the information obtained from the claims collected. The automated system also supports the Commission in being able to receive and manage an increased amount of claims that may allege non-construction-related access barriers but are critical to understanding disability access compliance statewide, like website accessibility and claims filed by *pro se* litigants. Receiving these types of claims will help the Commission to better fulfill its legislative mandate to make recommendations that will enable persons with disabilities to obtain full and equal access to public facilities, as well as address many of the unanswered questions asked by stakeholders. Full and equal access to public facilities is both physical and programmatic,<sup>5</sup> factors that drive the Commission in continuing to act in a data-informed manner when developing future educational and outreach strategies to reach industries statewide.

Finally, the Commission has completed the development of a revised strategic direction to guide its efforts over the next five years. This direction is reflective of the Commission's strengths, opportunities and aspirations. In summary, the Commission will continue to increase disability access awareness through training and toolkit development – including providing data on access compliance – and to seek the promotion of funding to remove physical access barriers within our communities. The Commission looks forward to partnerships and outcomes from these efforts to achieve an accessible, barrier-free California for all.

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<sup>5</sup>The ADA standard for public entities subject to Title II is "program access." It requires that a public entity's services, programs or activities, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities.

## Appendix A: 2014-2019 Case Files Received by Commission



Since 2015, the Commission has observed a steady decrease in the number of state complaints received and significant increases in the number of federal complaints received. The amount of prelitigation letters received fell into sharp decline beginning in 2017.

## Appendix B: 2019 Top 10 Alleged Violations

Rank #	Violation Description	Total Number of Violations	Percent of Total
1.	<b>Access Within Public Facility:</b> Access height. Heights of surfaces such as counters, bars, or tables are not compliant.	1,207	16%
2.	<b>Accessible Route and Entry:</b> Routes to and from parking lot or public right of way are not accessible. May include: uneven surfaces or lack of detectable warnings.	964	13%
3.	<b>Parking:</b> Parking spaces. Existing parking spaces are not compliant; fading blue paint or excessive slope.	791	10%
4.	<b>Parking:</b> Number of spaces. Parking lot does not contain minimum number of accessible parking spaces.	673	9%
5.	<b>Parking:</b> Parking signage. Signage in parking lot is not compliant (e.g., parking spaces need to be designated as reserved by a sign showing the symbol of accessibility).	382	5%
6.	<b>Accessible Route and Entry:</b> Ramps. Curb ramps or entrance ramps are not compliant or nonexistent.	376	5%
7.	<b>Parking:</b> Loading zones/van access aisles are not compliant or nonexistent.	341	4%
8.	<b>Accessible Route and Entry:</b> Path of travel is not accessible (e.g., noncompliant surfaces, excessive slope/cross-slope, etc.).	324	4%
9.	<b>Accessible Route and Entry:</b> Door hardware. Thresholds, handles, pulls, latches, locks, or other operating devices are not accessible. Kick plates.	320	4%
10.	<b>General Violations:</b> Point-of-sale machines are noncompliant or not accessible, (e.g., gas pumps, ATMs, cashier machine, or other fare mechanism).	236	3%
<b>Total:</b>		5,614	73%

## Appendix C: Place of Public Accommodation Categories

“PLACE OF PUBLIC ACCOMMODATION”. According to the California Building Code, a facility operated by a private entity whose operations affect commerce and fall within at least one of the following categories:

- (1) Place of lodging, except for an establishment located within a facility that contains not more than five rooms for rent or hire and that actually is occupied by the proprietor of the establishment as the residence of the proprietor. For purposes of this code, a facility is a “place of lodging” if it is (i) An inn, hotel or motel; or (ii) A facility that (A) Provides guest rooms for sleeping for stays that primarily are short-term in nature (generally 30 days or less) where the occupant does not have the right to return to a specific room or unit after the conclusion of his or her stay; and (B) Provides guest rooms under conditions and with amenities similar to a hotel, motel, or inn, including the following: (1) On- or off-site management and reservations service; (2) Rooms available on a walk-up or call-in basis; (3) Availability of housekeeping or linen service; and (4) Acceptance of reservations for a guest room type without guaranteeing a particular unit or room until check-in, and without a prior lease or security deposit.
- (2) A restaurant, bar, or other establishment serving food or drink;
- (3) A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
- (4) An auditorium, convention center, lecture hall, or other place of public gathering;
- (5) A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
- (6) A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;
- (7) A terminal, depot, or other station used for specified public transportation;
- (8) A museum, library, gallery, or other place of public display or collection;
- (9) A park, zoo, amusement park, or other place of recreation;
- (10) A nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;
- (11) A day-care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment;
- (12) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation;
- (13) A religious facility;
- (14) An office building; and
- (15) A public curb or sidewalk.”

## Appendix D: Complaints and Prelitigation Letters Received by Places of Public Accommodation (2016-2019)

Place of Public Accommodation Category	2019 Total	2019 %	2018 Total	2018 %	2017 Total	2017 %	2016 Total	2016 %
Sales or Rental Establishments	1,261	35.0%	1,334	30.8%	1,453	38.0%	1,355	40.6%
Establishments Serving Food or Drink	1,180	32.7%	1,189	27.5%	727	19.0%	888	26.6%
Service Establishments	748	20.7%	1,030	23.9%	1,343	35.1%	853	25.5%
Place of Lodging	259	7.2%	661	15.4%	250	6.5%	135	4.0%
Other <sup>6</sup>	52	1.4%	4	0.1%	N/A	N/A	N/A	N/A
Multifunctional Categories (e.g., Cellular provider/store, Casinos, etc.)	28	0.8%	N/A	N/A	N/A	N/A	N/A	N/A
Public Transportation Terminals, Depots, or Stations	20	0.6%	28	0.7%	2	0.1%	26	0.8%
Place of Exhibition or Entertainment	17	0.5%	19	0.4%	12	0.3%	13	0.4%
Places of Exercise or Recreation	16	0.4%	26	0.6%	31	0.8%	32	1.0%
Place of Recreation	9	0.4%	12	0.3%	2	0.1%	22	0.7%
An Office Building	6	0.2%	N/A	N/A	N/A	N/A	N/A	N/A

<sup>6</sup>This category includes non-construction related business categories such as website, mobile apps or business categories not listed under Title 24 of the California Building Standards such as marijuana or cannabis dispensaries.

<b>Place of Public Accommodation Category</b>	<b>2019 Total</b>	<b>2019 %</b>	<b>2018 Total</b>	<b>2018 %</b>	<b>2017 Total</b>	<b>2017 %</b>	<b>2016 Total</b>	<b>2016 %</b>
Places of Education (Non-Title III)	3	0.1%	3	0.1%	2	0.1%	4	0.1%
Places of Education (Title II)	3	0.1%	4	0.1%	N/A	N/A	N/A	N/A
Social Service Center Establishments	1	0.0%	3	0.1%	1	0.0%	6	0.2%
Place of Public Gathering	1	0.0%	4	0.1%	1	0.0%	3	0.1%
Place of Public Display or Collection	1	0.0%	3	0.1%	2	0.1%	3	0.1%
A Public Curb or Sidewalk	1	0.0%	N/A	N/A	N/A	N/A	N/A	N/A
A Religious Facility	0	0.0%	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total:</b>	<b>3,606<sup>7</sup></b>	<b>100%</b>	<b>4,320</b>	<b>100%</b>	<b>3,826</b>	<b>100%</b>	<b>3,340</b>	<b>100%</b>

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<sup>7</sup>Federal and state complaints received by the Commission often allege violations against multiple types of places of public accommodation within a single complaint. As a result, the totals of categories exceed the total number of files received.

## Appendix E: Case Resolution Report Questions and Responses (2015-2019)

### 2015 Case Resolution Report Responses<sup>8</sup>

Question	Yes	Percent Yes	No	Percent No
Defendant requested an early evaluation conference	0	0%	516	100%
Defendant requested a site inspection by a Certified Access Specialist	0	0%	520	100%
Plaintiff received injunctive relief <sup>9</sup>	N/A	N/A	N/A	N/A
Another favorable result achieved <sup>10</sup>	N/A	N/A	N/A	N/A
Plaintiff received damages or a monetary settlement	143	30%	330	70%

### 2016 Case Resolution Report Responses

Question	Yes	Percent Yes	No	Percent No
Defendant requested an early evaluation conference	42	2%	1,997	98%
Defendant requested a site inspection by a Certified Access Specialist	33	2%	2,011	98%
Plaintiff received injunctive relief	1,222	73%	447	27%

<sup>8</sup>Data only includes October-December CRRs received.

<sup>9</sup>Question was not asked in 2015.

<sup>10</sup>Question was not asked in 2015.

<b>Question</b>	<b>Yes</b>	<b>Percent Yes</b>	<b>No</b>	<b>Percent No</b>
Another favorable result achieved	766	47%	869	53%
Plaintiff received damages or a monetary settlement	734	58%	522	42%

### **2017 Case Resolution Report Responses**

<b>Questions</b>	<b>Yes</b>	<b>Percent Yes</b>	<b>No</b>	<b>Percent No</b>
Defendant requested an early evaluation conference	39	2%	1799	98%
Defendant requested a site inspection by a Certified Access Specialist	45	2%	1791	98%
Plaintiff received injunctive relief	1370	75%	460	25%
Another favorable result was achieved	952	52%	874	48%
Plaintiff received damages or monetary settlement	744	93%	57	7%

### 2018 Case Resolution Report Responses

Questions	Yes	Percent Yes	No	Percent No
Defendant requested an early evaluation conference	34	2%	1798	98%
Defendant requested a site inspection by a Certified Access Specialist	68	4%	1764	96%
Plaintiff received injunctive relief	1275	70%	554	30%
Another favorable result was achieved	908	50%	910	50%
Plaintiff received damages or monetary settlement	798	95%	46	5%

### 2019 Case Resolution Report Responses<sup>11</sup>

Questions	Yes	Percent Yes	No	Percent No
Defendant requested an early evaluation conference	21	1%	1,659	99%
Defendant requested a site inspection by a Certified Access Specialist	134	8%	1,537	92%
Plaintiff received injunctive relief	1,352	83%	278	17%
Another favorable result was achieved	612	43%	807	57%
Plaintiff received damages or monetary settlement	899	90%	97	10%

<sup>11</sup>As discovered in 2018 and 2019, law firms do not consistently answer every question on the CRR form, which results in inconsistencies between the total number of answers for each question.

## APPENDIX F: Commissioner Roster<sup>12</sup>

Name	Represents	Original Appointment	Current Appointment	Appointed By
Guy Leemhuis (Chair)	Public/Disability	5/8/2013	1/24/2018 - 1/1/2021	Senate
Douglas Wiele (Vice Chair)	Public/Business Properties Association	9/19/2013	1/9/2017- 1/1/2020	Governor
Christopher Downey	Public/Disability	9/19/2013	1/8/2018 - 1/1/2021	Governor
M. Scott Lillibridge	Public/General Business	1/8/2018	1/8/2018 - 1/1/2021	Governor
Celia McGuinness	Public/Disability	2/6/2015	1/1/2016 – 1/1/2019	Governor
R. Michael Paravagna	Public/Disability	9/19/2013	1/1/2017 - 1/1/2020	Governor
Betty Wilson	Public/Disability	5/26/2009	1/1/2016 - 1/1/2019	Governor
Vacant	Public/General Business	N/A	N/A	Governor
Brian Holloway	Public/General Business	2/16/2017	2/16/2017 - 1/1/2020	Senate

<sup>12</sup>The Commission is required by law to annually elect from its membership a chairperson who must, as required by Government Code § 14985.2 (b), be a representative from the disability community and a vice chairperson who also must be elected from the membership as a representative of the business community. The Commission has a vacant public member as a representative of general business appointed by the governor.

<b>Name</b>	<b>Represents</b>	<b>Original Appointment</b>	<b>Current Appointment</b>	<b>Appointed By</b>
Tiffany Allen	Public/Disability	7/19/2017	1/1/2017 - 1/1/2020	Assembly
Karla Prieto	Public/General Business	6/14/2018	6/14/18 – 1/1/2021	Assembly
Jim Frazier	Assembly/Ex-Officio	2/14/2018	N/A	N/A
Tom Lackey	Assembly/Ex-Officio	2/29/2015	N/A	N/A
Melissa Hurtado	Senate/Ex-Officio	3/13/2019	N/A	N/A
Jeff Stone <sup>13</sup>	Senate/Ex-Officio	3/13/2019	11/30/2019	N/A
Anthony Seferian	Attorney General Office/Ex-Officio	5/26/2009	N/A	N/A
Ida Clair	Division of the State Architect/Ex-Officio	1/8/2019	N/A	N/A

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<sup>13</sup>Jeff Stone vacated his Senate seat in late 2019. The Commission currently has a vacant Senator seat.

## APPENDIX G: Commission Subcommittees

Guy Leemhuis – Commission Chair

Douglas Wiele – Commission Vice Chair

<b>Committee Name</b>	<b>Committee Chair</b>	<b>Committee Vice Chair</b>
<b>Executive</b>	Guy Leemhuis	Douglas Wiele
<b>Legislative</b>	R. Michael Paravagna	N/A
<b>Research<sup>14</sup></b>	Vacant	Vacant
<b>Education &amp; Outreach</b>	Betty Wilson (Co-Chair) Christopher Downey (Co-Chair)	N/A
<b>Checklist</b>	Brian Holloway	Vacant

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<sup>14</sup>Meetings of the Research Committee were placed on hold in 2019.

**APPENDIX H: Summary of Five-Year Strategic Goals  
(Past and Present)  
2014-2019 Goals**

<b>Goal</b>	<b>Purpose</b>
1. Advocate for access curricula for all school programs.	To raise awareness of, and increase training around, accessibility design and construction.
2. Increase disability access awareness.	To raise awareness of access issues and the tools available to assist businesses, nonprofits, schools, and the community to support changes to the built environment.
3. Create training programs for targeted constituencies.	To address the lack of opportunity for businesses, nonprofits, schools, and professionals in the planning, design, property, construction and other sectors to learn about and to engage with resources around access issues and find support to make accommodation modifications.
4. Create and identify revenue streams to fund access needs (subject to increased Commission funding).	To identify and secure a revenue stream to support efforts to mitigate accommodation costs and incentivize access compliance.
5. Create financial and other incentives for access compliance.	To support and encourage access compliance through new and creative incentive programs.
6. Explore the development of a state-level Americans with Disabilities Act (ADA) Access Office.	To address the disparate levels of resources and information at various state offices by providing a single point of contact.
7. Advocate to hold authorities with jurisdiction accountable for the built environment (both	To seek out ways to educate and support public and private entities on their responsibilities for access compliance.

Goal	Purpose
public and private) to avoid passive noncompliance for architectural and program access.	
8. Maintain data on status of access compliance.	To provide relevant information and data on the status of access compliance throughout California.
9. Expand methods of identification, obligation, and enforcement of barrier removal in the built environment.	To facilitate awareness of current and potential gaps and inconsistencies in policy at the state and local levels.

**2020-2024 Goals**

Goal	Purpose
1. Increase disability access awareness.	A large number of members of the disability community are not readily identifiable, and disability types come in all forms—visible and non-visible. As California's diverse population continues to grow and change, a greater percentage of society will need built environments that are barrier-free. Accessibility compliance is sometimes viewed as unnecessary and applicable to a very small minority of entities. Business owners, nonprofits, and other organizations are often unaware of applicable state and federal compliance requirements—or if they are, may be unsure of what compliance looks like. This goal seeks to raise awareness of access issues and the

Goal	Purpose
	availability of tools to support accessibility in the built environment.
2. Continue to provide training programs and toolkits for targeted stakeholders.	This goal seeks to address the need for providers of places of public accommodation to learn about access issues, including available resources and support to make disability access modifications.
3. Identify and promote revenue streams to fund physical access compliance.	There are limited resources available to offset the financial cost of access compliance issues. This goal speaks to the need to identify available programs that support efforts to mitigate accommodation costs and incentivize access compliance.
4. Maintain data on status of access compliance.	Information on the status of access compliance will help stakeholders be more aware of ADA requirements, and what compliance looks like. There are questions as to what information exists on compliance successes and where opportunities exist to create greater access, not to mention outcomes from state and federal accessibility lawsuits. The purpose of this goal is to provide relevant information and data on the status of access compliance throughout California.

## Appendix I: Summary of 2019 One-Year Strategic Goals

Goal	Purpose
<p><b>Goal 1: Implement phase two of the Electronic Data Collection Project.</b></p>	<p>Create a database for data collection. CCDA developed the Electronic Data Collection Project to make its review of prelitigation letters and complaints for construction-related accessibility claims more efficient and environmentally friendly, and to promote better data analysis. In 2018, CCDA completed phase one of the project by implementing an electronic transfer and storage process for previously reviewed files. In 2019, CCDA will enter the second phase of this effort through the creation of a secure database and a web-based form that will allow the legal community to submit claims electronically to CCDA.</p>
<p><b>Goal 2: Conduct a research study on state accessibility compliance and coordination efforts</b> (year one of a two-year goal).</p>	<p>To further its mission of promoting access for all Californians, CCDA will partner with a research university to develop and conduct a survey of state government operations and the effectiveness of ADA Coordinators with regard to disability access. In 2019, CCDA will organize study participants from multiple state agencies and publish a roster of statewide ADA Coordinators. CCDA and the partner university will create a scope of work/research proposal by the end of the year.</p>

## References

### **US Census Data on Los Angeles County:**

United States Census Bureau. "2018 Los Angeles County, California Census Data." data.census.gov. Accessed on January 1, 2020.

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### **Top Five Ranked ZIP Codes (Los Angeles County):**

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