

The State Can Intervene When Counties Fund ADA-Noncompliant Legal Services Programs

By Thomas F. Coleman

All California counties receive funds from the state to operate legal services programs providing lawyers to respondents in limited conservatorship cases. If a program does not comply with the Americans with Disabilities Act, the entity using state funds to operate or finance the program is violating California Government Code Section 11135 because this law incorporates Title II of the ADA.

Title II requires public entities to provide people with disabilities meaningful access to services. ADA-compliant advocacy services require performance standards and training programs for appointed attorneys and a system of monitoring performance. The County of Los Angeles is not doing any of this. It pays for substandard services the same as it pays for effective services. No questions asked.

The Department of Fair Employment and Housing (DFEH) has jurisdiction to enforce Section 11135. It therefore can investigate complaints for Title II violations by a county and, if warranted, can negotiate a settlement or

file a lawsuit in state or federal court. The director may also initiate an investigation on his or her own motion and file a lawsuit for systemic violations affecting a protected class.

DFEH has not yet been presented with evidence of [systematic ADA violations](#) by the court-appointed attorney program for limited conservatorships funded by the County of Los Angeles. Spectrum Institute filed an informal [ADA complaint](#) with the county but later withdrew it when the county failed to follow its own procedures for such complaints.

If the Board of Supervisors were to restructure the legal services program to make sure that attorneys for limited conservatorship respondents are complying with the ADA, the problem of systemic and ongoing violations of Title II and Section 11135 would be moot.

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Government Code Section 11135

(a) No person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. Notwithstanding Section 11000, this section applies to the California State University.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) The protected bases referenced in this section have the same meanings as those terms are defined in Section 12926.

(d) The protected bases used in this section include a perception that a person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.