

**Gause, John P**

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**From:** Gause, John P  
**Sent:** Wednesday, August 01, 2007 1:40 PM  
**To:** Davis, Fran  
**Subject:** [REDACTED]

Hi Fran,

Here are my thoughts on the temporary Superintendent's Office:

"New construction" includes "the design and construction of facilities for first occupancy after January 1, 1996." 5 M.R.S.A. § 4594-F(1)(H). The Act defines a "facility," in relevant part, as "any portion of buildings, structures, sites, complexes, equipment . . . or other real or personal property, including the site where the building, property, structure or equipment is located." 5 M.R.S.A. § 4594-F(1)(D). Our Accessibility Regulations, § 7.20(a), state that new construction shall comply with ADAAG. ADAAG, § 4.1.1(4), provides that it covers temporary buildings or facilities and adds the following:

Temporary buildings and facilities are not of permanent construction but are extensively used or are essential for public use for a period of time. Examples of temporary buildings or facilities covered by these guidelines include, but are not limited to: reviewing stands, temporary classrooms, bleacher areas, exhibit areas, temporary banking facilities, temporary health screening services, or temporary safe pedestrian passageways around a construction site.

Using this definition of a covered "temporary building," the temporary Superintendent's Office would need to be designed and constructed to be fully accessible if it is "extensively used" or "essential for public use for a period of time." It does not seem to me that it meets either concept. With respect to the former, although the office would be used *frequently* (by both the school employees who work there and, presumably, other school employees and members of the public), the fact that it will only be used for 2 ½ months suggests that it will not be used *extensively*. With respect to whether the office is "essential for public use," it is certainly essential for use by the school employees who work there, but members of the public who want to meet with the Superintendent can meet with him in a different location. This is different from the listed examples, where the essential activities of the temporary facilities must take place within the facilities (e.g., bleachers, classrooms, etc.).

Of course, even if the school were not required to install a ramp to the temporary Superintendent's Office, it would be required to make sure that its programs are fully accessible, including any meetings with the Superintendent. It is also required to remove barriers where such removal is "readily achievable." I understand that arrangements would be made so that any meetings between the occupants of the office and people with disabilities who cannot access the office would take place in an adjacent, accessible location. What would a person who uses a wheelchair do, however, if she simply showed up at the Superintendent's Office without calling in advance? The school should think of ways to address this and other potential access problems that might arise. One possibility may be to install a sign giving appropriate directions.

Also, we should point out that if the completion date of the school is delayed, the longer the temporary office is used, the more likely it would be determined to be used "extensively" and thus covered by the "new construction" requirements.

John

John P. Gause  
Commission Counsel  
Maine Human Rights Commission  
51 State House Station  
Augusta, Maine 04333-0051  
(207) 624-6050

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