

A Slow Victory: How the Disability Community Is Fighting for an Accessible  
Stadium Experience

An STS Research Paper  
presented to the faculty of the  
School of Engineering and Applied Science  
University of Virginia

by

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May 8, 2023

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## **A Slow Victory: How the Disability Community Is Fighting for an Accessible Stadium Experience**

About 44 million Americans, or 13 percent of the population live with a disability (NIDILRR, 2021). Yet, prior to the Rehabilitation Act of 1973, federal law in the United States did not protect people from discrimination on the basis of disability. In 1990, the Americans with Disabilities Act (ADA) established accessibility standards in places of public accommodation, protecting people with disabilities (ADA, 1990; CRD, 2023). Recent amendments to the ADA protect digital accessibility. Despite such legislation, obstacles for people with disabilities persist as business owners poorly comply with ADA standards; this is particularly notable at sporting arenas. Because the ADA relies on reports of noncompliance, it assigns the majority of the enforcement burden to the people the law intends to protect. Disability rights advocates have accepted this burden and are seeking equitable digital and physical experiences at sporting arenas across the US. Advocates of the rights of the disability community, law firms, professional architects, and the disability community itself use diverse strategies to promote stadium accessibility.

Among these advocates, three strategies have been common and effective. Two are largely reactive: advocacy for civil rights legislation and litigation against violators of the ADA. One is proactive: promoting accessible design and renovation of sporting stadiums. The success of the two reactive methods has promoted reforms in stadium design, resulting in significant progress for the disability community in recent years.

## Literature Review

Disability civil rights research focuses on the implications of federal legislation enacted to protect the civil rights of people with disabilities. Widespread criticism of protective legislation claims the collection of protective laws sometimes exist in a state of contradiction. Critics also claim that key terminology is ill defined. For example, the Individuals with Disabilities Education Act (IDEA) promotes equitable access in public schools; the goals of IDEA and the ADA are aligned to protect people with disabilities, yet their implementation often promotes tension where schools cannot abide by both standards, creating confusion amongst teachers and school personnel (West et al., 2022). Similarly, language used in the ADA is often poorly defined. For example, ‘meaningful access’ has historically been held by the courts to a minimal standard, allowing business owners to informally bypass this requirement (Stout, 2021). A reason for this low standard is that the definition of ‘meaningful access’ is constantly evolving as the realm of accessibility grows, creating misunderstandings of how to provide and enforce ‘meaningful access’ to all people (Kovacs Burns & Gordon, 2009). The inconsistent interpretation of protective acts creates a court system that favors employers or business owners (Croteau, 2006). Business owners are favored because it is difficult to convict a perpetrator of withholding ‘meaningful access’ if a proper definition is not readily available to the judges. Additionally, an impactful portion of the American population does not support the ADA, claiming ADA guidelines impose unnecessary costs upon businesses and lead to frivolous lawsuits seeking financial benefit (Friedman & Van Puymbrouck, 2021). Despite the attempts of the federal government to legally protect the disability community, research reveals a failure to execute this promise due to misinterpretations of the law and existing prejudices in the American population.

The existing literature holistically reviews the ways in which protective legislation has struggled to protect disability civil rights. Common areas of application include employment, transportation, education, and health care, yet there is a lack of understanding in regards to entertainment or other areas of elective participation (Friedman & Van Puymbrouck, 2021). There is little research focusing on the strategies disability advocates use to fight for increased compliance with federal protective laws.

## **Disability Rights Advocacy Strategies**

### *Advocating for Disability Civil Rights Legislation*

The Rehabilitation Act of 1973 was not heavily enforced, so disability rights advocates engaged in civilly disobedient sit-ins across the country. In 1977, the 504 Sit-Ins began as 150 activists spent 25 days occupying a federal building in San Francisco, California in protest of weak enforcement of protective legislation. The Black Panther Party brought attention to the efforts through their newspaper publication (Schweik, 2011). Dennis Billups, nicknamed the “Chief Morale Officer” of the protests, inspired others to “have more force than they [government] can ever deal with” (Sermons, 2021). During the “Capitol Crawl” in 1990, people with physical disabilities left their wheelchairs, crawling up the steps of the Capitol in protests surrounding the failure to quickly pass the ADA (Carmel, 2020). The result of the “Capitol Crawl” was an eye opening display of the passionate demands for equal protection under the law. Such acts of civil disobedience used by early activists aimed to pressure the federal government to write, pass, and properly enforce disability civil rights legislation.

Early activists also aimed public announcements at the federal government. Prior to the 504 Sit-Ins, the American Coalition of Citizens with Disabilities (ACCD) lobbied President

Jimmy Carter's administration to enforce Section 504 without changes. Activists feared that changes to Section 504 would "water down" the regulations, leaving the disability community without holistic and strong protection (Grim, 2015). In 1986, the National Council on Disability (NCD) called for a comprehensive law to "improve the ability of persons with disabilities to live with dignity and as independently as possible within their communities" (NCD, 1986). The NCD also delivered "discrimination diaries" to Congress, which featured videos of people with disabilities sharing their personal hardships due to lack of legal protections from discrimination (ACL, 1999). In 1988, Lisa Carl delivered her testimony to Congress when she was denied access to a movie theater due to her wheelchair: "I just wanted to watch the movie like everyone else" (Duckworth, 2017). Her brave account of her experiences with discrimination was emotional, communicating to Congress the dire need to pass protective legislation. By speaking directly to the federal government, activists inspired legislation by provoking emotions and raising awareness of the challenges faced by the disability community.

Activists also assisted Congressmen in the authorship of monumental bills. Judy Heumann, a post-polio paraplegic, worked as a legislative intern for the Education for All Handicapped Children Act of 1973 (Scotch, 1989). Heumann then contributed to Section 504, the ADA, and the Convention on the Rights of Persons with Disabilities, using her personal experiences to inform statutes included in legislation (Litvinov, 2021). The NCD's 1986 report contained a drafted bill that inspired the ADA and incorporated feedback from disability groups (Burgdorf). Chai Feldblum, a legislative counsel of the American Civil Liberties Union (ACLU), served as principal author of the ADA (ACLU History). Through the inclusion of the disability community in the creation of federal legislation, people with disabilities were able to voice their

own diverse needs. With this input, bills were better designed to meet the actual needs of the disability community, promising real change.

Early advocates worked alongside legislators to create, pass, and properly enforce disability civil rights legislation. These advocates were motivated by their personal accounts of discrimination. Their work in supporting protective legislation encouraged equal access to public areas, including sporting stadiums, for those with disabilities. These strategies removed barriers due to facilities not accounting for people with disabilities, but ushered in another era of challenges for people with disabilities accessing sporting stadiums.

#### *Pursuing Litigation Against Violators of the ADA*

To enforce ADA compliance, a lawsuit must be filed against the violator. This structure inherently creates barriers and avenues for violators to remain ADA noncompliant, indicating yet another disadvantage to the disability community. Advocacy groups and the Department of Justice (DOJ) provide legal support and representation for people with disabilities to impose the guidelines of the ADA. Without these organizations, individuals are responsible for seeking out and funding their own legal support. This was the case for Heumann, who filed a lawsuit against the Board of Education in 1970 on the basis she was denied her teaching certification because she used a wheelchair (Scotch, 1989; Malcolm, 1970). With more than 11,000 disability discrimination lawsuits filed in 2021, the availability of advocacy groups to support litigation has decreased barriers towards seeking enforcement of ADA regulations (Vu, Launey, & Ryan, 2022).

Disability Rights Advocates (DRA) supports equitable access to mainstream life for people with disabilities “through high-impact, precedent-setting litigation” (Martinez, 2021;

DRA, 2015). DRA recently filed a lawsuit against the San Jose Sharks for their role in making the San Jose Sharks + SAP Center mobile application inaccessible to those with vision impairments. The mobile application is a core component of their digital stadium experience; without proper access, the experience of people with visual impairments is significantly hindered (Salsiccia v. Sharks, 2019). Similarly, the National Association of the Deaf's (NAD) primary goal is to ensure "the collective interests of the American Deaf and hard of hearing community are seen and represented among our nation's policy makers" (NAD, 2022a). The NAD has filed several disability discrimination lawsuits against sporting venues, such as those which host the Washington Commanders and the University of Maryland, for failure to provide closed captioning, thereby excluding the Deaf and hard of hearing communities (NAD, 2022b). Alongside advocacy efforts, the DOJ is responsible for enforcing all federal laws related to disability civil rights (US DOJ, 2021). For example, John Lausch, the US Attorney for the Northern District of Illinois, filed a civil lawsuit against the Chicago Cubs due to their stadium renovations removing wheelchair accessible seating (National Archives, 2017). Lausch stated the Cubs had "ample opportunity to incorporate wheelchair seating." (Mannion, 2022). Altogether, advocacy groups representing the disability community and pursuing litigation on their behalf are minimizing the burden of ADA enforcement commonly experienced by people with disabilities. However, the burden still exists as advocacy groups cannot manage all instances of inaccessible public spaces, highlighting a need for proactive advocacy.

Legal firms are beginning to specialize in ADA legal consulting as accessibility litigation becomes more prevalent. These expert firms help facilities become ADA compliant before litigation is filed. This form of proactive advocacy reduced the burden of reporting violators of the ADA and seeking subsequent litigation. For example, Lewis Brisbois, Bisgaard, & Smith, a

national law firm based out of Los Angeles, California, claims their “first priority is to assist our clients in examining their entire enterprise from top to bottom to ensure that they are fully compliant with applicable regulations” (Lewis Brisbois, 2023). David Shaffer, another lawyer who specializes in civil rights and disability law, provides facilities with “practical legal advice on physical and web accessibility” (Shaffer, 2022). This category of legal teams are aiding the disability rights movement, working with facilities to become accessible. The result is a decrease in lawsuits against ADA violators. The motivation for facilities to seek legal consulting is rooted in their desire to avoid expensive litigation, yet the result remains beneficial to the disability community. Most law firms specializing in accessibility contribute positively to the disability civil rights movement, although the emerging prevalence of civil rights lawsuits has created a category of law firms who seek to stunt the movement. For example, Seyfarth Shaw LLP’s ADA Title III Team provides litigation defense and counseling services to businesses “bombarded...by serial plaintiffs and disability rights advocates.” Seyfarth Shaw claims to use knowledge of plaintiffs’ litigation strategies to help their clients avoid repercussions from failed or subpar compliance (Seyfarth Shaw LLP, 2022). Seyfarth Shaw’s team holds the belief that disability rights activists are seeking personal financial gain from such litigation, which is also held by a vocal minority of Americans (Friedman & Van Puymbrouck, 2021). Although both Lewis Brisbois and Seyfarth Shaw have successfully defended sporting arenas against ADA compliance lawsuits, there is a stark contrast between the impacts each firm has on the fight for disability civil rights.

Advocacy groups, US Attorneys, and law firms are retroactively promoting accessibility through lawsuits. These groups are also proactively striving for a more accessible sporting



environment via legal consulting. The use of proactive strategies indicates positive momentum towards values of inclusivity in public places, despite lack of strong ADA enforcement.

### *Promoting Accessible Design of Stadiums*

For-profit businesses are also serving as disability rights advocates, promoting accessible experiences through stadium design consulting. For example, Sports Destination Management provides consulting services to sporting facilities and arenas to “help our clients and their entire team think from the perspective of their users” (Patty, 2010). Similarly, Access Advocates “make[s] a positive difference in the lives of people with disabilities,” using their architectural expertise to complete ADA audits and verify ADA compliance for architectural drawings early in the stadium design process (Access Advocates, 2023). Sporting arenas themselves, particularly those that have been built in recent years, are implementing significant accessibility considerations into the initial construction of stadiums. This is a stark contrast from stadiums built in the 20th century, where the disability community was not considered in the building design. For example, SoFi Stadium in Los Angeles, California provides accessible stadium entry at all entry points, open captioning on ribbon boards, sensory rooms and toolkits, wheelchair escorts, and wheelchair lifts (SoFi Stadium, 2022). When the Super Bowl was hosted at SoFi Stadium in 2022, accessibility specialists were hired to “make sure that we are addressing those needs and making sure their experience is equal” (Ability Media Group, 2022). By implementing accessibility considerations into the original design of the building, SoFi stadium has ensured ADA compliance and, more significantly, created an overwhelmingly positive experience for patrons with disabilities. Through consultation with accessibility experts, stadiums are able to

surpass the minimum requirements to be considered ADA compliant, creating an environment that is equally accessible and enjoyable for people with disabilities.

Similarly, organizations composed of people with disabilities are offering their personal experiences through consultation to help stadiums become more accessible. For instance, Paralyzed Veterans of America (PVA) are promoting accessible design for people with physical disabilities. PVA's architect team worked with US Bank Stadium in 2018 to provide an "additional level of access for mobility restricted individuals" at the Super Bowl (PVA, 2021). PVA also assisted in the accessible redesign of the Washington Nationals Ballpark (PVA, 2018). PVA's members' personal experiences with physical accessibility give them the expertise to help stadiums rethink how people with physical disabilities navigate the arena.

Likewise, Kulture City specializes in promoting accessibility for people with "invisible disabilities," such as autism. Because of the visible nature of physical disabilities, campaigning for accessibility considerations is much more straightforward than cognitive disabilities that can take many forms (Alexiou, 2023). Kulture City focuses on bringing inclusive, sensory-friendly experiences to people with sensory needs, "promoting the freedom for everyone to be included in all activities everywhere" (KultureCity, 2020). Kulture City's partnership with Quicken Loans Arena in Cleveland, Ohio allows people with a diversity of disabilities to have a comfortable experience during sporting events. As part of this transformation, Kulture City has implemented employee sensory awareness training, a Quiet Space Sensory Room, provided sensory bags, and permitted re-entry to those with sensory needs at Quicken Loans Arena (Anzilotti, 2017; Clenadams, 2017). Through Kulture City's inclusion of the neurodivergent population, spectators can enjoy sporting events in a controlled setting without experiencing sensory overload from the general areas of the stadium. Kulture City's work is particularly important as sports journalist

Richard Coffey and sensory room experts Experia identified significant “gaps in provisions for spectators with... autism or other sensory processing disorders.” This research indicates only 44 percent of US stadiums across major sports, or 70 out of 243 stadiums, are sensory inclusive. Efforts by Kulture City and other entities have caught the attention of Christine Flintoft-Smith, the Head of Accreditation at the National Autistic Society: “we welcome any initiative to support autistic people accessing public spaces and sporting events” (Alexiou, 2023). The initiative of organizations such as Kulture City and partnering stadiums have allowed the neurodivergent population to equitably access sporting arenas for the first time in history.

Both KultureCity and PVA have used their niche expertise to partner with stadiums, paving the way for increased accessibility and comfort amongst people with disabilities engaging with sporting events. By consulting accessibility experts, stadiums have become enjoyable venues for people with disabilities. Rather than minimally complying with the ADA, stadiums are striving to be inclusive of all ability levels. This movement is the result of decades of advocacy groups implementing a diversity of strategies to see their needs met on a grand scale.

## **Conclusion**

In the 1900s, early disability rights advocates utilized civil disobedience and lobbied for civil rights legislation in reaction to significant discrimination they personally experienced. These reactive strategies led to the passage of federal bills protecting people with disabilities from discrimination. Although enforcement of such legislation was a challenge, the landscape of American life for the disability community was significantly altered. In 2023, advocacy groups are still utilizing reactive strategies by filing litigation against ADA violators, but a greater priority now is placed on the accessible design and renovation of sporting arenas. Advocacy

groups are recruited to provide consultations with architects and engineers to ensure stadium renovation and construction plans are executed with the disability community in mind. Early reactive activists paved the way for modern advocacy groups to demand compliance and consideration of sporting stadiums in the US.

Overall, it is apparent that passage of protective legislation does little without aggressive and consistent enforcement of federal law. It is unjust that people with disabilities must continue to loudly voice their unique needs to attain reasonable accommodations at sporting events when their rights have been legally protected for more than 30 years. Although advocacy groups are working diligently to bring awareness to the disability community's challenges in accessing entertainment, it is ultimately the responsibility of US representatives in Congress to protect their constituents' civil rights. Moving forward, federal, state, and local governments in the US must dedicate themselves to proper enforcement of disability civil rights legislation. Civil rights legislation is ineffective if the responsibility to enforce compliance is assigned to those who are intended to be protected. By increasing enforcement, weakly compliant sporting arenas will be forced to reevaluate the effectiveness of their accessibility accommodations. This movement will lead to stadiums adopting the strategies pioneered by SoFi Stadium and Quicken Loans Arena, resulting in an equitable and enjoyable opportunity for people with disabilities.

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