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KETCH EMPLOYER ACCOMMODATION CENTER
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TRAINING PROGRAMS

KETCH

■ VOCATIONAL TRAINING

• **Center-based training**—On any given day, 135 trainees are engaged in Center-based vocational training programs. Six different training areas—general assembly, electrical assembly, woodshop, mail services, binder and air filter manufacturing—teach work attitudes, as well as work skills. Contracts with area business and industry supply the work; contract income helps to underwrite training costs. Trainees are paid a wage based on productivity.

• **Transitional employment**—Selected trainees gain exposure to a variety of work environments and jobs through "transitional employment," a program that enables clients to do contract work on-site for local employers.

A total of 156 KETCH clients participated in Center-based and/or transitional employment training programs during fiscal 1991-92.

• **Supported Employment**—An additional 40 persons were placed in industry-based training through the KETCH Supported Employment Program. Supported Employment provides job coaching tailored to the needs of a particular client and job. Coaching is phased out gradually as the trainee becomes acclimated to his/her job and begins meeting company performance standards.

• **Admissions criteria**—KETCH vocational training programs primarily serve persons dually-diagnosed whose disabilities are described as moderate to severe. Persons most likely to benefit from and therefore eligible for admission to the KETCH vocational training program are those: 1) 16 years of age or older; 2) who desire employment as an outcome; 3) exhibit the need to overcome barriers to employability related to: productivity, attitude, behavior and/or life skills.

■ COMMUNITY LIVING

Last year, KETCH served 106 persons with disabilities through its community living programs. Such programs include: group living in three group homes; semi-independent apartment living in the Country Acres complex and Supported Living.

• **Group Living**—Group Living provides clients with a highly-structured environment in which they can learn all manner of life skills—cooking, shopping, budgeting, and personal grooming, to name a few—and explore a myriad of opportunities for participation in community activities.

• **Semi-independent**—Semi-independent apartment living gives clients a chance to test what they know and learn more in an environment that allows more autonomy and privacy than group living.

• **Supported Living**—Supported Living supports clients in their own apartments or houses. Life skills trainers provide services on an as-needed basis. Currently, 20 persons are served by Supported Living staff.

• **Admissions criteria**—To be eligible for group or semi-independent living programs, one must be: 1) 18 or older; 2) be employed or in a training program; 3) desire to live independently; 4) have access to income adequate to provide for clothing, medication, personal items, leisure activities, rent, food and budget-training activities; 5) have need of supervision and/or training in one or more of the following areas: self-care, personal hygiene, household management, use of community resources, personal safety, personal health and appropriate response to emergency situations.

■ ***KETCH MISSION*** *— to provide leadership to Kansans through programs and services that enable persons with special needs to achieve greater independence and self-fulfillment at work, at home and in the community.*

1006 East Waterman • Wichita, Kansas 67211-1551 • (316) 269-7700

EMPLOYMENT SERVICES

KETCH

KETCH Employment Services is a comprehensive placement agency that has provided outstanding job placement services to Kansas businesses for more than 20 years. As an employer, you look for an agency that has the experience and expertise to do the job right. KETCH Employment Services fits the bill. KETCH places individuals with disabilities and older adults in a variety of jobs. A unique partnership with business and industry allows KETCH to keep in touch with your needs to facilitate successful job matches. Put the experts at KETCH to work for you.

KETCH Employment Services will:

- Pre-screen applicants
- Facilitate individual job matching
- Provide job coaching
- Follow up with placements
- Coordinate hiring incentives which may include:
  - On the Job Training
  - Targeted Job Tax Credits
  - on-site work evaluations
- Provide information on the Americans with Disabilities Act:
  - written materials
  - referrals to area and national services
  - on-site assessment of application process
  - staff training
- Identify information and referral sources
- Provide on-site work crews in selected areas

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Local Offices:

KETCH
1006 East Waterman
Wichita, Kansas 67211-1551
(316) 269-7700
FAX (316) 269-7779
TDD (316) 269-7746

KETCH/Projects With Industry
3244 E. Douglas
P.O. Box 518
Wichita, Kansas 67201-0518
(316) 651-5230
FAX (316) 651-5094

KETCH/Senior
Employment Services
200 South Walnut
Wichita, Kansas 67213-4777
(316) 267-1771

KETCH / Projects With Industry in cooperation with Kansas Rehabilitation Services

EMPLOYER ACCOMMODATION CENTER

KETCH

The **KETCH EMPLOYER ACCOMMODATION CENTER** was created to help Kansas businesses understand and comply with the Americans with Disabilities Act (ADA) and the recent amendments to the Kansas Act Against Discrimination. The Employer Accommodation Center will provide information, referral, training and support through the following mechanisms:

- Written materials
- Toll-free number, 1-800-530-5715
- Referrals to area and national services
- General orientation to the ADA
- Sponsorship of seminars and workshops
- On-site assessments
- Job restructuring consultation
- Referrals of qualified applicants for job openings
- Management training

For more information contact:

■ Employer Accommodation Center
KETCH Corporate Offices
1006 E. Waterman
Wichita, KS 67211
316-269-7796
1-800-530-5715

■ Employer Accommodation Center
KETCH Satellite Office
1115-C Kansas Plaza
Garden City, KS 67846
316-275-1736

KETCH is a not-for-profit Kansas Corporation providing comprehensive vocational rehabilitation and job placement services for individuals with physical, mental and emotional disabilities as well as employment placement and residential services to older persons. More than 22,000 persons with disabilities have received assistance in vocational rehabilitation and/or job placement since the Center's inception in 1964. The Employer Accommodation Center is partially funded by the cooperative efforts of the Kansas Department of Commerce and Kansas Rehabilitation Services.

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JUST THE FACTS

KETCH

Our heritage... Since 1964, KETCH has provided vocational training, job placement and community living services that enable adults with disabilities to live and work independently. In 1982, the program was expanded to address residential and employment needs of older persons.

Today, KETCH continues to provide leadership to Kansans through programs and services that enable persons with special needs to achieve greater independence, and self-fulfillment at work, at home and in the community.

More than 22,000 persons have been served at KETCH's Wichita training facilities and through employment services across Kansas.

KETCH training programs are geared to the needs of each individual. On average, 135 people are involved each day in the first stages of job preparation at KETCH's Wichita training facilities. Sub-contracts for assembly and packaging, and the production of air filters, notebook binders and wooden pallets provide the work. Trainees are paid a wage based on productivity. Trainees may move into supported employment, transitional industry-based training programs and, finally, into full employment.

1400 job placements of older persons and individuals with disabilities were made in FY 1991. This accomplishment was rivaled only by the Kansas Job Service Centers. An exemplary success rate of 81% was achieved through a careful matching of employers' needs and individuals' job skills, coupled with extensive follow-up. KETCH/Projects With Industry job placement specialists serve all Kansas counties; KETCH Senior Employment Program staff serve 8 counties in South Central and Western Kansas.

KETCH community living programs served 106 persons with disabilities in FY 1991, with one-fifth moving into more independent living situations. The KETCH Almond Tree Apartments, a 50-unit complex, is home to low-income individuals 55 and older.

Advocacy, opportunity and choice are key to the KETCH approach to vocational rehabilitation. The program addresses the individual's need to function as an integral part of the community and to earn a competitive salary in occupations that accommodate personal interests and abilities.

Major support for the agency is derived from grants or contractual fees from: school districts, county mill levies, United Way of the Plains, the Kansas State Department of Social and Rehabilitation Services, the U.S. Rehabilitation Services Administration, Kansas Rehabilitation Services, Kansas Department on Aging. Private support is provided by foundations, corporations, organizations and individuals.

KETCH MISSION *— to provide leadership to Kansans through programs and services that enable persons with special needs to achieve greater independence and self-fulfillment at work, at home and in the community.*

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EMPLOYER ACCOMMODATION CENTER
ADVISORY COUNCIL
AGENDA
May 26, 1992

I. Introductions & Comments.....Senator Dole

II. Introduction of Judy Hearn, President of KETCH.....Sbarra

III. Brief overview of KETCH.....Hearn

IV. Activities of the Employer Accommodation Center to date.....DeVaughn

V. Role of Advisory Council.....Sbarra
   A. Monitor & evaluate

   B. Lend name and credibility to effort

   C. Provide expertise

   D. Assist in search for future funding

   E. Encourage community to become more accessible and accepting to persons with disabilities

VI. Adjourn.....Sbarra

Americans with Disabilities Act

An Advertising Supplement to the Wichita Business Journal

November 29, 1991

What is the ADA?

The Americans with Disabilities Act (ADA) is a national mandate to end discrimination against persons with disabilities in social and economic life. The scope and effect of this landmark legislation is broad, addressing a number of issues including: employment, access to public accommodations (products and services by private entities), transportation and telecommunications.

Approximately 43 million Americans are protected by the Act, of which 67% are unemployed. With a recognized drop in qualified labor, Americans with disabilities represent an untapped, but needed resource of qualified labor. Viewed in this light, the ADA is legislation of opportunity for persons with disabilities and the businesses that employ them.

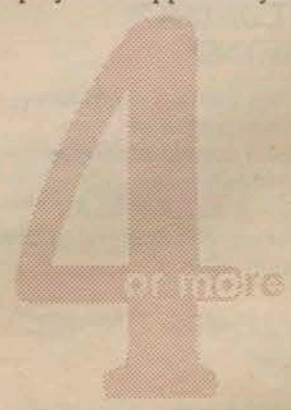
> Employers may not discriminate against a **qualified** individual with a disability in any aspect of employment. Employers must make **reasonable accommodation** if needed, unless to do so would impose **undue hardship.**

The Employment Title forbids employers from discriminating against a qualified individual with a disability in any aspect of employment. This includes job application procedures, hiring or discharge, compensation, job training, advancement, leaves of absence, and employer sponsored activities. It further requires employers to reasonably accommodate otherwise qualified individuals with disabilities if needed to enable them to perform essential job functions, unless to do so would impose undue hardship.

The law does not try to second guess the employer as to who is most qualified, but instead prevents employment decisions based on erroneous assumptions about what persons with disabilities can or cannot do. Employers must investigate and make employment decisions based on facts. This investigation requires employers to determine the essential functions of jobs, identify potential accommodations and ascertain what accommodations create hardships.

As the corresponding federal regulations explain, the "ADA seeks to ensure access to equal employment opportunity based on merit...The ADA does not relieve a disabled employee or applicant from the obligation to perform the essential functions of the job."

The ADA becomes effective on July 26, 1992 for those businesses with 25 or more employees. Businesses with 15-24 employees must comply as of July 26, 1994. The ADA will be enforced by the Equal Employment Opportunity Commission (EEOC).



However, Kansas employers of four or more employees are essentially covered by the ADA now. Effective July 1, 1991, the Kansas legislature amended the Kansas Act Against Discrimination (KAAD) to provide protection similar to the ADA in the area of employment. The Kansas Human Rights Commission (KHRC) enforces the KAAD. Until the KHRC finalizes its regulations, Kansas employers should comply with the EEOC regulations.

Questions & Answers

WHAT IS CONSIDERED A DISABILITY?

The ADA and KAAD use a three-prong definition of disability. A person is considered to have a disability if he has a **physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.**

A "physical or mental impairment" refers to any physiological disorder or condition, cosmetic disfigurement, anatomical loss, and any mental or psychological disorder. The following conditions represent a non-exclusive list of covered disabilities: orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; AIDS; cancer; heart disease; diabetes; mental retardation; emotional illness; and specific learning disabilities.

Certain psychiatric disorders, sexual orientations, and current illegal drug use are specifically excluded from the definition of disability.

WHO IS PROTECTED?

An employer covered by the Disability Acts may not discriminate against a qualified individual with a disability. A person is qualified if she can perform, **with or without reasonable accommodation, the essential functions of the job.**

The employer must first determine if a disabled individual is otherwise qualified apart from the disability, e.g. the individual possesses the appropriate educational background, employment experience, skills, licenses, etc. If qualified, the employer then determines if the individual can perform the essential functions of the job position, with or without reasonable accommodation.

For example, a paraplegic applicant for a certified public accountant position must first show that he or she is a licensed CPA. Once found to be "otherwise qualified," the employer must determine whether the applicant can presently perform the essential functions of the accountant position, with or without reasonable accommodation.

ARE JOB DESCRIPTIONS REQUIRED?

The Disability Acts do not require employers to have written job descriptions. However, well-drafted job descriptions that list actual job requirements can be of great value.

Employers must identify the essential functions of each job and communicate them to applicants or employees. The ability to perform the essential functions of a particular job determines whether a person with a disability is protected by the Disability Acts.

If prepared in advance of advertising or interviewing for a position, detailed job descriptions help the employer:

a. Determine whether an applicant/employee is covered by the Disability Acts;
b. Set the qualification standards, employment tests or other selection criteria for each job; and
c. Comply with the Disability Acts during the pre-employment process and beyond.

AREN'T ALL DUTIES OF THE JOB "ESSENTIAL FUNCTIONS" OF THE JOB?

The Disability Acts distinguish "essential" functions, those that are fundamental, basic, necessary or vital to the job, from those that are marginal. To make the distinction between essential and marginal functions an employer must first determine whether its employees actually perform particular job functions.

If actually performed, a function is then analyzed to determine whether removing that function would fundamentally alter the job position. A job function may be essential if:

a. The position exists solely to perform the function. For example, a person hired to proofread documents must have the ability to proofread, since the job only exists for that purpose.
b. The number of other employees available to perform the job function or among whom the performance of the job function can be distributed is limited. Companies with a small number of employees, relative to the volume of work to be done, may require each employee to perform a multitude of functions.
c. The job function is so highly specialized that an individual is hired for his or her special expertise or ability to perform that function. An orchestra conductor or airline pilot are examples.

This supplement is provided through the cooperative efforts of Martin, Churchill, Overman, Hill, & Cole, Chartered; Hesston Business Interiors; and KETCH.

ADDITIONAL INDICATORS OF ESSENTIAL FUNCTIONS

a. Employer's judgment;
b. Job descriptions;
c. Time spent performing the function;
d. Consequences of not performing the function;
e. Union contracts;
f. Work experience of past incumbents; and
g. Current work experience of employees in similar jobs.

MAY AN EMPLOYER CONDUCT MEDICAL EXAMINATIONS?

An employer cannot conduct medical examinations of applicants prior to a conditional offer of employment. Post-offer medical examinations are allowed if required of all employees in that job category, the results are kept in a confidential file separate from other personnel records, and the results are not used in an impermissible way.

IS DRUG TESTING ALLOWED UNDER THE DISABILITY ACTS?

Testing for the illegal use of drugs is permitted under the Disability Acts. Individuals currently engaging in the illegal use of drugs are not protected and such drug tests are not medical examinations regulated by the Disability Acts.

Drug tests must be administered with caution, because many legitimately prescribed drugs are identified in routine drug screens. This information may identify an individual with a disability and should not affect an employment decision. For example, many individuals with epilepsy are treated with phenobarbital, a drug which will show up on most drug tests.

If a consent form asks general medical questions or questions about the use of prescription or other legal drugs, the drug test should only be administered after a conditional offer of employment has been made. The Disability Acts do not state whether an employer may test applicants or employees for the use of alcohol.

Any information regarding an individual's medical condition or history obtained from a drug test is subject to strict recordkeeping and confidentiality requirements.

MUST AN EMPLOYER GIVE PREFERENCE TO PERSONS WITH DISABILITIES?

Affirmative action is not required. An employer is free to select the most qualified applicant available and to make decisions based on factors unrelated to a disability. The federal regulations state "...the ADA seeks to insure access to equal employment opportunities based on merit. It does not guarantee equal results, establish quotas, or require preferences."

HOW DO THE DISABILITY ACTS AFFECT COMPANY QUALIFICATION STANDARDS, EMPLOYMENT TESTS, AND OTHER SELECTION CRITERIA?

It is unlawful for an employer to use qualification standards, employment tests or other selection criteria that tend to exclude disabled individuals from jobs. All standards, tests or criteria should actually measure an applicant's or employee's ability to do a job. Even job criteria that unintentionally screen out disabled individuals may violate the law. The types of selection criteria covered by this provision include vision, hearing, walking and lifting requirements, as well as employment tests.

Another duty of employers is to make sure that their testing procedures do not discriminate against disabled individuals. Employment tests to be administered to applicants or employees with impaired sensory, manual or speaking skills must be administered in formats that do not require the use of the impaired skill. For example, it is unlawful to administer a written employment test to an individual who has told the employer, prior to the administration of the test, that she is disabled by dyslexia and unable to read. A reasonable accommodation to this applicant may be an alternative verbal test. For tests without alternative formats, the employer may be required, as a reasonable accommodation, to evaluate the skill to be tested in some other manner.

This duty does not apply to employment tests that require the use of sensory, manual, or speaking skills where the tests are intended to measure those skills. Thus, an employer may require an applicant with dyslexia to take a written test, if the ability to read is the skill the test is designed to measure. An employer could also require an applicant to complete a test within an established time frame, if speed was one of the skills for which the applicant was being tested.

DOES THE ADA CONSIDER SAFETY ISSUES?

An employer may take appropriate action to transfer, isolate, or deny employment to an individua. whose condition poses a direct threat to the health or safety of the individual or others in the workplace if an accommodation to reduce the risk is not possible. An employer may not simply assume that a threat exists. The employer must prove, based on the most current medical evidence, that a genuine risk exists and that substantial harm could occur if the disabled individual was so employed.

MAY AN EMPLOYER ASK AN APPLICANT IF SHE HAS A DISABILITY?

Employers may not ask job applicants if they have any disabilities or about the nature of a known disability during an interview or on a job application.

An employer may ask an applicant with a known disability that may interfere with job-related functions to describe or to demonstrate how she will be able to perform those functions, with or without reasonable accommodation. However, if the known disability will not interfere with job-related functions, such a description or demonstration must be required of all applicants.

Below are examples of illegal questions paired with some acceptable options:

NO	Do you have a heart condition?
YES	Are you able to climb three flights of stairs?
NO	Do you have a visual impairment?
YES	Can you use a word processor?
NO	How often will you require leave for treatment of your disability?
YES	The attendance requirements for this position are ___. Will you be able to meet them?

Application of the general rule

What are the essential functions? → Can the person with a disability perform the essential functions? → Does the person need an accommodation to perform the essential functions? → Is the accommodation reasonable?

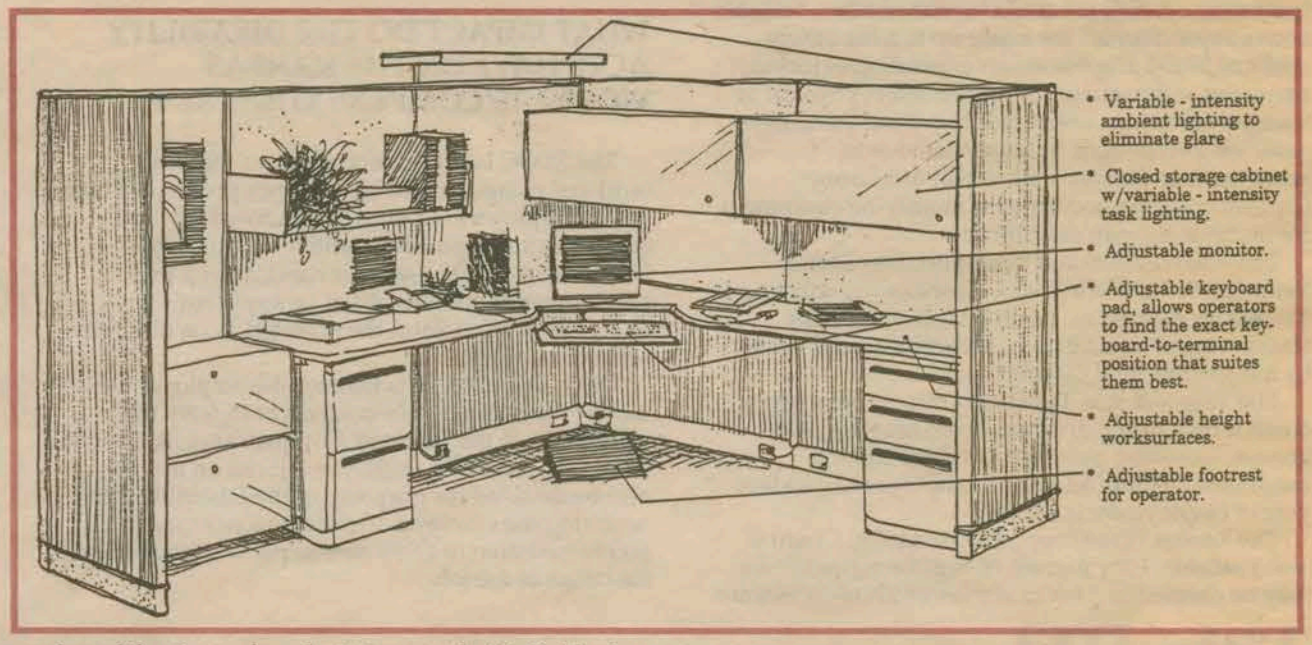
Reasonable Accommodation

Employers must make "reasonable accommodation" for an otherwise qualified worker with a disability, unless the employer can prove the accommodation would impose undue hardship. There are three types of accommodations: 1) those that ensure equal opportunity in the application process; 2) those needed to perform the essential functions of a job; and 3) those that assure equal benefits and privileges of employment as enjoyed by other employees.

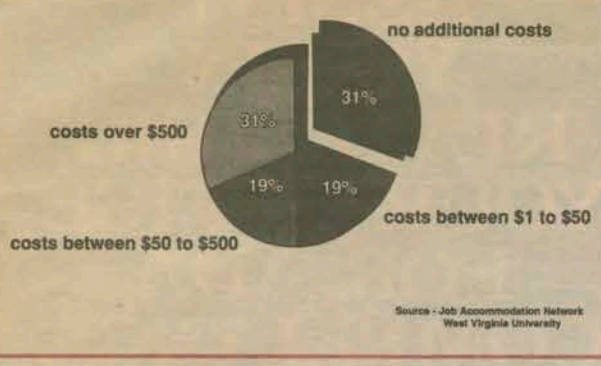
The process of identifying whether, and to what extent, a reasonable accommodation is needed should include both the employer and the individual with a disability. The applicant/employee must first present the need for an accommodation. After the need is identified, the employee is often the best source of possible accommodations. Agencies such as KETCH, Cerebral Palsy Research (CPR), Kansas Vocational Rehabilitation Services and the Job Accommodation Network can also provide assistance.

The employer next reviews the possible accommodations and assesses the reasonableness of each with respect to its effectiveness in eliminating the limitation. The accommodation that is most appropriate for the employer and the employee is then implemented. Employers should keep records documenting accommodation requests, actions taken, and the justification for each action.

Accommodations are often simple adjustments or modifications that involve little or no cost. It is estimated that 50% of all accommodations cost $50 or less.



Cost of Accommodations



The following is a list of some possible reasonable accommodations:

a. Make existing employee facilities readily accessible and usable by individuals with disabilities. This may include the installation of wheelchair ramps and modifications of work stations so that individuals with disabilities can perform the essential functions. Lunch rooms, break areas, employee restrooms, and training rooms must also be accessible and usable. (Title III includes accessibility guidelines to be used for employers, as well as those entities that provide services and products. These guidelines are standards that eliminate physical barriers for persons with disabilities.)

b. Restructure a job by reassigning or exchanging non-essential tasks that the person with a disability cannot perform. Employers are not required to create new jobs to accommodate persons with disabilities or reassign essential job functions.

c. Allow part-time, modified and/or flexible work schedules. These accommodations can help persons who depend on a public transportation timetable or those who require regularly scheduled medical treatment.

d. Reassign an otherwise qualified individual to a vacant position. An employer is not required to bump another employee nor accommodate applicants in this manner.

e. Acquire or modify equipment, which might include: electronic visual aids, braille materials, talking calculators, magnifiers, raised or lowered furniture. Employers are not obligated to provide items that have a personal use and are not job-related.

f. Adjust or modify examinations, training materials or policies. Areas to consider for modification are test formats, time limits, general directions, supervision, and assistance.

g. Provide qualified readers or interpreters.

The law prohibits an employer from denying an otherwise qualified applicant a job because of the need for a reasonable accommodation.

OFFICE CONSIDERATIONS

An employer has several options when selecting office furniture, remodeling an existing facility, or constructing a new building. A major consideration should be adjustable furniture.

Workstations provide flexibility to move the work surface up or down. In the same way, shelves and other components can be adjusted. This flexibility is not only important for employees with disabilities but also for short or tall employees who require adjustable furniture.

ACCESS SYMBOLS


International Symbol of Accessibility


Amplified Telephone


International TDD Symbol


Interpreter Available

Undue Hardship

"Undue hardship" is the limit of an employer's obligation to accommodate an otherwise qualified person with a disability. The ADA defines this term as "an action requiring significant difficulty or expense." The federal regulations further explain that an accommodation that is "... unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business" is unreasonable.

From these factors some basic conclusions can be made. First, for an employer to claim undue hardship, an accommodation must cost more than a small amount or result in more than a minor inconvenience. Second, what is "reasonable" depends on the type and size of the business considered. Third, an employer must explain why a proposed accommodation has been rejected. If the issue of hardship is cost, the employer must investigate public funding sources, as well as offer the employee the option of paying for all or part of the accommodation. Kansas Rehabilitation Services provides funding for accommodations needed for its clients.

FACTORS TO CONSIDER

1) nature and cost of accommodation;
2) resources of both facility and covered entity;
3) type of operation, including composition and structure of workforce; and
4) relationship between facility and covered entity.

ARE TAX INCENTIVES AVAILABLE?

The Disabled Access Credit is available to small businesses. A 50% tax credit is offered when "eligible access expenditures" are made up to a maximum credit of $5000. Eligible access expenditures include: removing architectural, communication, physical or transportation barriers; providing qualified readers, qualified interpreters, or other methods to accommodate persons with visual or hearing impairments; and acquiring or modifying equipment for individuals with disabilities.

The Architectural and Transportation Barrier Removal Deduction allows businesses to deduct up to $15,000 for making an existing facility or public transportation vehicle more accessible to and usable by individuals with disabilities.

The Targeted Jobs Tax Credit offers employers a credit if they hire individuals from nine targeted groups, including persons with disabilities. A maximum credit of $2,400 per employee for the first year of employment is available.

The Kansas Handicapped Accessibility Credit is also available. Fifty percent of eligible expenditures may be claimed as a tax credit toward Kansas income tax liability (up to $10,000). Businesses should consult their tax consultants for more details.

WHAT IMPACT DO THE DISABILITY ACTS HAVE ON THE KANSAS WORKERS'COMPENSATION ACT?

The EEOC interpretation explains that state workers' compensation laws are not preempted by the ADA. Employers can engage in normal workers' compensation reporting without violating the Disability Acts. On the other hand, asking pre-employment questions about an applicant's work-related injuries violates the prohibition on disability-related inquiries.

Once an employee is injured, the employer must monitor the employee's progress both from the standpoint of the Workers' Compensation Act and the Disability Acts. The employee injured on the job may also be disabled for purposes of the Disability Acts, requiring the employer to provide a reasonable accommodation to allow him to perform the essential functions of the job.

STEPS TOWARD ADA COMPLIANCE

1. Determine essential functions of job (Consider including in job description)
2. Standardize pre-employment process
3. Review applications for illegal questions
4. Ensure applications and interviews are accessible
5. Train interviewers
6. Review medical examination procedures
7. Review testing, selection criteria, policies and benefit programs
8. Develop plan for handling requests for accommodation

Title III?

HOW WILL TITLE III, PUBLIC ACCOMMODATIONS, AFFECT AREA BUSINESSES?

Any privately owned business that provides a service or product may not discriminate against persons with disabilities beginning January 26, 1992 under Title III of the ADA. The KAAD, however, applies to Kansas businesses as of July 1, 1991. Businesses are required to provide services and goods in "the most integrated setting appropriate to the needs of the individual." Furthermore businesses must make auxiliary aids available, unless to do so would result in an undue burden.

The Act requires businesses to remove architectural and communication barriers in existing facilities where removal is "readily achievable". Readily achievable is defined by the law as "easily accomplishable and able to be carried out without much difficulty or expense." The following are some steps that may be considered readily achievable: installing ramps, flashing alarm lights and grab bars; lowering shelves, telephones and paper towel dispenser; widening doors; rearranging tables, chairs, vending machines, display racks, and other furniture; and creating designated accessible parking spaces.

Americans with Disabilities Act:

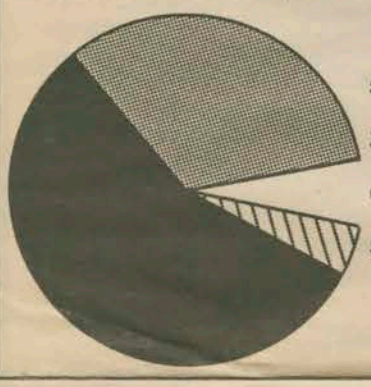
Open Your Doors to New Customers

An Advertising Supplement to the Wichita Business Journal *May 1, 1992*

Public opinion and accessibility

In the first national poll of people with disabilities conducted in 1986, the Louis Harris organization asked a number of questions regarding the social integration and activities of Americans with disabilities. They discovered that people with disabilities are an extremely isolated segment of society.

How Much Should the Country Spend to Make Schools, Transportation, Workplaces and Other Public Facilities Accessible to People with Disabilities?



Specific findings of the poll included the following: Nearly two-thirds of all of the disabled population never went to a movie in the past year. Seventy-five percent of this population never went to a sporting event during the past year, compared to 50% of all adults. Furthermore, people with disabilities are much less likely than the rest of the population to ever eat in restaurants.

Contributing to this isolation is the fact that people with disabilities often do not feel welcome in public places. Physical barriers prevent people with disabilities from visiting social, commercial and recreational establishments. Many people with mobility impairments cannot enter or use a building that has steps or narrow doorways. Restrooms are often not accessible. People who have visual or hearing impairments are often unable to make effective use of, or participate safely in, activities if the facilities in which they are held have no features for communication accessibility.

Another Harris poll was conducted in 1991 after the passage of the Americans with Disabilities Act (ADA). This poll shows that 89% of the public is willing to spend the money necessary to integrate people with disabilities into the mainstream of American society. Furthermore, 96% support making public places such as restaurants, stores, theaters and hotels accessible to people with disabilities.

Title III of the Americans With Disabilities Act requires that most businesses be accessible to people with disabilities. In addition to barrier removal, businesses cannot deny service to the disabled and must provide goods and services in the most integrated setting possible. It is the responsibility of covered businesses to provide auxiliary aids if necessary. Title III became effective on **January 26, 1992.**

GENERAL RULE:

BUSINESSES PROVIDING GOODS, SERVICES AND ACCOMMODATIONS TO THE PUBLIC MAY NOT DISCRIMINATE AGAINST INDIVIDUALS WITH DISABILITIES.

Who is covered?

Virtually all privately-owned companies that provide goods and services to customers, clients or visitors fall within the ADA's definition of a "public accommodation" and must comply with its non-discrimination provisions. These provisions apply to all covered businesses regardless of size.

"Public accommodations" include 12 categories of privately operated entities:

A. Places of lodging - inn, motel, hotel.

B. Food or drink establishments - restaurant, bar.

C. Places of exhibition or entertainment - theater, concert hall, stadium.

D. Places of public gathering - auditorium, convention center, lecture hall.

E. Sales or rental establishments - bakery, grocery store, clothing store, hardware store, shopping center.

F. Service establishments - laundromat, dry cleaner, bank, barber shop, beauty shop, travel agency, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital.

G. Stations used for specified transportation - terminal, depot, or station for bus, rail or other non-aircraft conveyance.

H. Places of public display or collection - museum, library, gallery.

I. Places of recreation - park, zoo, amusement park.

J. Places of education - nursery, elementary, secondary, undergraduate, or post-graduate private school.

K. Social service center establishments - day care center, senior citizen center, homeless shelter, food bank, adoption agency.

L. Places of exercise or recreation - gymnasium, health spa, bowling alley, golf course.

The category list is exclusive, but the examples within each category are not. A facility may qualify as a public accommodation because it is included in a statutory category even though the type of facility is not listed as an example.

WHO IS NOT COVERED UNDER TITLE III?

Private clubs (i.e. fraternal organizations) and religious organizations are exempt from the ADA's requirements for public accommodations.

HOW DOES THE ADA AFFECT FACTORIES AND OFFICE BUILDINGS?

A commercial facility is a non-residential facility whose operations affect commerce and which is not listed in the statutory list of public accommodations. Factories and office areas, if not open to the public, are examples of commercial facilities. Commercial facilities must comply with the new construction and alterations portions of the regulations, but are not required to remove barriers, provide auxiliary aids or provide services through alternative means.

A single facility can be classed as both a public accommodation and a commercial facility. A manufacturing business that maintains a customer showroom or retail outlet at the same site as its factory would be an example of such dual status. However only that portion actually open to the public must remove barriers and provide auxiliary aids/services. Likewise, an office building that has any offices that have customers, clients, patients or is open to the public must comply with all provisions of Title III. Commercial facilities may have obligations to applicants for employment or to current employees to accommodate individuals with a disability under Title I of the ADA which governs employment..

This supplement is provided through the cooperative efforts of Martin, Churchill, Overman, Hill, & Cole, Chartered; Pettit Bullinger Associates Architects, P.A.; Wichita Door Controls, Inc.; Farha Construction, Inc.; Kansas Department of Commerce; Kansas Rehabilitation Services; and KETCH.

How does my business comply with Title III?

Public accommodations may have to modify policies, provide auxiliary aids and remove barriers.

MODIFY POLICIES AND PROCEDURES

A place of public accommodation must modify its policies, practices or procedures, if necessary, to make its goods and/or services accessible unless the facility can show that such a modification would fundamentally alter the nature of its business or result in an undue burden. For example, policies, practices and procedures should be modified to permit individuals with service animals such as guide dogs to be allowed into any type of business. A retail establishment may need to allow forms of identification other than a drivers license when cashing checks because some individuals with disabilities may not have a license.

PROVIDE AUXILIARY AIDS

One of the fundamental requirements of the ADA is to provide auxiliary aids and services. Businesses must take steps necessary to ensure that individuals with disabilities are not excluded, denied services, segregated or otherwise treated differently because of the absence of auxiliary aids and services.

A TDD (Telecommunications Device for the Deaf) is a machine that uses graphic communication in the transmission of coded signals by telephone or radio communication.

Specific examples of auxiliary aids and services include:

- readers
- braille documents
- large print materials
- audio recordings
- taped texts
- closed captions
- decoders
- telephone handset amplifiers
- telephones compatible with hearing aids
- telecommunication devices for the deaf
- qualified interpreters

Whether any of the aids listed above are necessary to the full enjoyment of goods and services depends upon the nature of those goods and services and the nature of the individual's disability.

The law is intended to address the underlying obligation of a public accommodation to communicate effectively with customers, clients, patients, or participants who have disabilities. Qualified interpreters may have to be provided because of the nature of the information which is being conveyed to the individual with a disability. Communications that involve health, finance or legal matters that may be lengthy or complex may require an interpreter for effective communication. Although some arguments will be made that specific aids are not necessary but just desirable, the clear intent of the law is to make auxiliary aids widely available.

For example, Telecommunication Devices for the Deaf (TDD)s have to be offered if an establishment customarily offers telephone service to its customers, clients, patients, or participants on more than an incidental convenience basis.

Here are some other examples of auxiliary aids and services that in most settings would not be considered an undue burden:

- salespeople reading the cost of an item to a customer
- bookstores making a special order of braille books
- salespeople helping to reach items that are out of reach of a person using a wheelchair
- hotels of a certain size being required to have closed caption decoders available

REMOVE BARRIERS

Title III also requires public accommodations to remove all architectural barriers and communication barriers that are structural in nature, where such removal is readily achievable. Barrier removal is readily achievable if it is easily accomplishable without much difficulty or expense.

If removing a barrier is not readily achievable, the facility must make its goods, services or accommodations available through alternative measures if such alternatives are readily achievable. Curb service may be an appropriate alternative for a dry cleaners that is not yet accessible. Attendant service at a self service gas station where the gas pump is inaccessible is another example.

Several examples of readily achievable barrier removal are:

Installing ramps
Making curb cuts in sidewalks and entrances
Lowering shelves
Rearranging tables, chairs, vending machines, display racks and other furniture
Lowering telephones
Adding raised letter markings on elevator control buttons
Installing flashing alarm lights
Widening doors
Installing offset hinges to widen doorways
Eliminating a turnstile or providing an alternative accessible path
Installing accessible door hardware
Installing grab bars in toilet stalls
Rearranging toilet partitions to increase maneuvering space
Insulating lavatory pipes
Installing a raised toilet seat
Installing a full length bathroom mirror
Lowering the paper towel dispenser in a bathroom
Creating a designated accessible parking space
Installing an accessible paper cup dispenser at an existing inaccessible water fountain
Removing high pile low density carpeting
Modifying vehicle hand controls

SELF-EVALUATION GUIDELINES FOR PROVIDING GOODS AND SERVICES

1. Do you treat your customers who have a disability in a nondiscriminatory manner?
2. Are your company's goods and services provided in the most integrated setting?
3. If you provide separate programs or activities for individuals with disabilities, are they allowed to participate in those programs that are not separate from the nondisabled if they wish?
4. Do you directly or indirectly (through contractual or other arrangements) use administration policies that discriminate against the disabled?
5. Are people who have friends or relatives with a disability provided goods, services and access to your business on a nondiscriminatory basis?
6. Do your eligibility criteria screen out individuals with disabilities?
7. Are people with disabilities treated in the same manner as your other customers through the provision of auxiliary aids and services?
8. Has your company removed architectural and communication barriers?
9. When the removal of barriers is not "readily achievable" does your company provide goods and services through alternative methods?

READILY ACHIEVABLE/ UNDUE BURDEN

Some factors to consider to determine whether removal of a barrier is readily achievable or if providing an auxiliary aid or alternative means of providing goods, services or accommodations creates an undue burden include:

A. The nature and cost of the action needed.

B. The overall financial resources of both the facility and covered entity.

C. The number of employees.

D. The financial resources and the size of any parent company or entity.

Questions & Answers

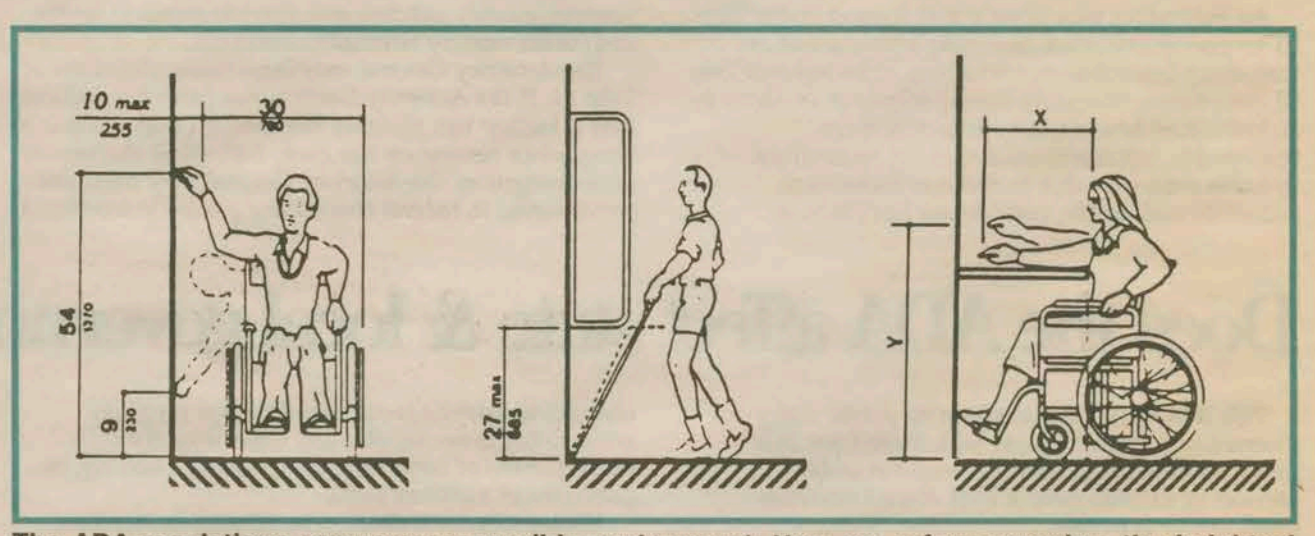
WHAT STEPS SHOULD MY COMPANY TAKE TO REMOVE BARRIERS?

1. Evaluate Existing Facilities. Walk through the facilities and identify existing barriers. (Placing a staff member in a wheelchair will make many of these barriers obvious).
2. Solicit Input from People With Various Disabilities. Invite groups who represent various disabilities to give you advice on making your facility more accessible. Although not mandatory, mailing out a survey to customers will help you determine the best ways to meet their needs.
3. Make Changes. Make all the changes that can be made without much cost or difficulty.
4. Document Costs and Difficulties. Document the specific costs of any changes that are not being made because they are too expensive.
5. Re-Evaluate. Frequently evaluate the facilities after changes have been made to identify other access barriers not previously identified.
6. Create a Specific Plan. If there are several needed changes that are not being made immediately because of the total cost, prepare a plan for accomplishing modifications which are achievable. When making this plan, grouping like projects together is advisable. An example is to make the building completely accessible for those with a given disability. If you are prioritizing modifications, make those changes first which will benefit the largest group of persons with a disability.

IN WHAT ORDER SHOULD BARRIERS BE REMOVED?

Places of public accommodation should prioritize their barrier removal in the following order:

1. Provide **initial access** to the facility from public sidewalks, parking or public transportation. These measures include installing proper parking spaces, curb cuts, entrance ramps and widening entrances.
2. Provide access to those areas where **goods and services** are made available to the public. These steps include adjusting the layout of display racks or tables, providing visual alarms, providing Brailled and raised character signage.
3. Provide access to **restroom facilities.** Restroom access includes widening doors, lowering paper towel and soap dispensers, providing accessible signage, widening of toilet stall, and installing grab bars.
4. Take any **other measures** necessary to provide access to the facilities, goods, services, privileges or other advantages which are offered to the public.



The ADA regulations assure an accessible environment. Here are a few examples: the height of elevator controls, the width of objects protruding from the wall and the height of restaurant tables.

WHO IS RESPONSIBLE, THE LANDLORD OR THE TENANT?

A landlord and his or her tenant are both responsible for making facilities accessible and the regulations accompanying Title III set forth those responsibilities. The regulations do allow landlords and tenants to allocate the responsibility for modifying policies, practices and procedures, removing barriers and providing auxiliary aids and services. Such contractual allocations,however, do not affect the primary liability of the landlord if the tenant fails to comply with Title III requirements.

WHAT EFFECT DOES THE ADA HAVE ON NEW CONSTRUCTION OR ALTERATIONS?

All buildings used as public accommodations or commercial facilities that are designed and constructed for first occupancy after **January 26, 1993,** must be accessible to and usable by people with disabilities. Likewise, any alteration to an existing facility that affects or could affect the usability of the facility by a person with a disability must be accessible to the greatest extent feasible. In addition, the "path of travel" to any altered area must likewise be accessible. There is a limit as to how much must be expended for making the path of travel to an alteration accessible. Generally, path of travel costs need not exceed 20% of the total cost of the alteration.

ARE TAX INCENTIVES AVAILABLE?

Yes. Tax incentives are available to businesses that remove architectural and communication barriers.

The Disabled Access Credit is available to small business. A 50% tax credit is offered when "eligible access expenditures" are made, up to a maximum credit of $5,000. Eligible access expenditures include: removing architectural, communication, physical or transportation barriers; providing qualified readers, accommodating persons with visual or hearing impairments; and acquiring or modifying equipment for individuals with disabilities.

The Architectural and Transportation Barrier Removal Deduction allows businesses to deduct up to $15,000 for making an existing facility or public transportation vehicle more accessible to and usable by individuals with disabilities.

The Kansas Handicapped Accessibility Credit is also available. Fifty percent of eligible expenditures may be claimed as a tax credit toward Kansas income tax liability (up to $10,000). Businesses should consult their tax consultants for more details.

Accessibility — How Do You Measure Up?

Building Access:

1. Are 96" wide parking spaces designated with a 60" access aisle?
2. Are parking spaces within 200' of main building entrance?
3. Is the slope from parking to building entrance 1:12 or less?
4. Is the entrance doorway at least 32 inches wide when the door is open at a 90 degree angle?
5. Are lever handles on the door?
6. Is the force of the door 5 lbs. or less?
7. Is the threshold no more than 1/2" high?
8. If the main entrance does not meet standards is there a marked accessible entrance?

Building Corridors:

1. Is path of travel free of obstruction and wide enough for a wheelchair (3 6 ") ?
2. Is floor surface hard and not slippery?
3. Are elevator controls low enough (42") to be reached from a wheelchair?
4. Are elevator markings in Braille for the visually impaired?
5. Does elevator provide audible signals for the visually impaired?

Restrooms:

1. Do doors have lever handles?
2. Are doors at least 32" wide?
3. Is restroom large enough for wheelchair turnaround, 60" x 56" or 48 " x 69 " ?
4. Are stall doors at least 32" wide?
5. Are grab bars provided in toilet stalls?
6. Do sinks have at least 27" clearance below, and are they no higher than 34" at the rim?
7. Are sink handles easily reached and used?
8. Are soap dispensers, towels, no more than 48 " from floor?
9. Are accessible restrooms marked?

How is Title III enforced?

An individual may bring a civil lawsuit under Title III for preventive relief, including a permanent or temporary injunction or restraining order to force Title III compliance. Monetary damages are not available in an individual lawsuit, but attorney fees are recoverable. Injunctive relief that can be obtained includes orders to: alter facilities to make them accessible and usable; provide auxiliary aids or services; modify policies; and provide access to goods and/or services by alternative methods.

The Attorney General may investigate violations of Title III. If the Attorney General has reason to believe that a facility has violated the law, he may initiate a compliance review on his own. Following the review or investigation, the Attorney General may commence a civil action in federal court if any person is suspected of engaging in a pattern or practice of discrimination against the disabled or the alleged discrimination against an individual raises an issue of general public importance. In a suit by the Attorney General, the court may force the entity to comply with Title III, award monetary damages to the individual with a disability, and assess a civil penalty of up to $50,000.00 for a first violation.

Does the ADA affect state & local government?

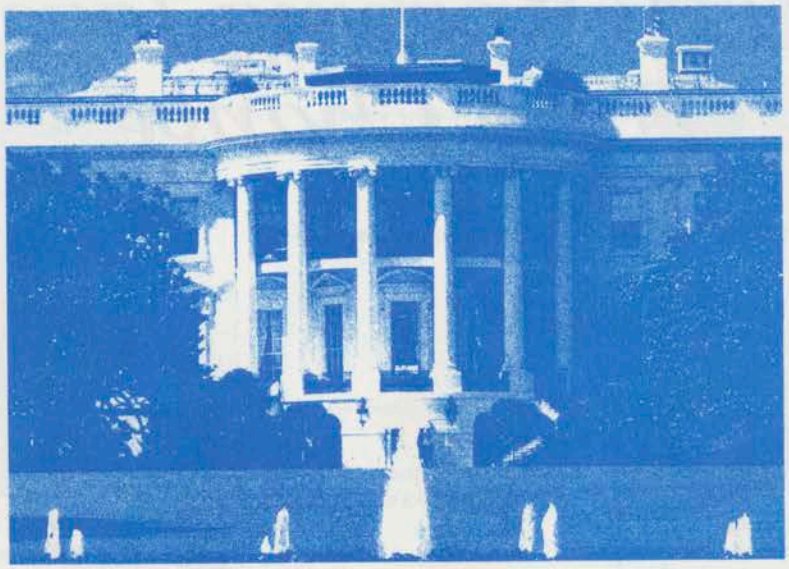
Title II of the ADA states that no public entity can discriminate against people with disabilities. It is unlawful for state or local government to deny services or exclude people with disabilities from programs or activities.

Each state or local government in the U.S. is required to complete a self-evaluation of its current policies and practices to identify any non-compliant policies. Even though this procedure will not protect a public entity from a discrimination complaint, it is mandatory if programs are not readily accessible to, and usable by people with disabilities.

A public entity is required to make structural changes to existing facilities only when program accessibility is not feasible any other way. (i.e.: reassignment of services to an accessible building, or provision of auxiliary aids).

Where structural changes to existing facilities are the only way to arrive at program accessibility a transition plan outlining the steps necessary to complete the structural changes is required. Comments must be invited from people with disabilities or from organizations which represent them. The transition plan must be completed by **July 26, 1992,** and include identification of barriers (architectural and communication) to program accessibility. Detailed plans to make the facilities accessible need to include the timetable for implementation, as well as the name of the person responsible for these modifications.

Title II does not prohibit the existence of separate services which are designed to provide a benefit for persons with disabilities, such as specialized recreation programs. Such programs, however, can never be used as a basis to exclude a person with a disability from a program that is offered to persons without disabilities, or to refuse to provide an accommodation in a regular setting.



Working Together . . . For A Change

THE 1992 ANNUAL CONFERENCE OF THE PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES PRESENTS "THE BEST OF ADA"

May 27, 28 & 29, 1992
The Washington Hilton Hotel and Towers
Washington, D.C.

"This year's meeting
will showcase the very best materials, programs, and people
associated with the implementation
of the Americans with Disabilities Act (ADA)."

Rick Douglas
Executive Director, President's Committee

ADA: Working Together . . . For A Change

Program at a Glance (more details on page 4)

Tuesday, May 26*

12:00 noon - 7:00 p.m. – Registration
12:00 noon - 8:00 p.m. – DREDF ADA Training
5:00 p.m. - 6:00 p.m. – Orientation for New Attendees
6:00 p.m. - 8:00 p.m. – Welcoming Reception

Wednesday, May 27*

8:00 a.m.. - 6:00 p.m. – Registration
9:30 a.m.. - 11:30 a.m. – Opening Session – Vice President (invited)
12:00 noon - 2:00 p.m. – Awards Luncheon
12:00 noon - 7:00 p.m. – DREDF ADA Training
2:15 p.m. - 3:45 p.m. – 9 Concurrent Sessions
4:00 p.m. - 5:30 p.m. – 9 Concurrent Sessions
6:00 p.m. - 8:00 p.m. – Exhibit Hall Reception

Thursday, May 28*

8:00 a.m. - 5:00 p.m. – Registration
9:00 a.m. - 10:00 a.m. – General Session – Disability and the Media
10:30 a.m. - 12:00 noon – 9 Concurrent Sessions
10:30 a.m. - 5:15 p.m. – DREDF ADA Training
12:15 p.m. - 2:00 p.m. – Media Awards Luncheon
2:15 p.m. - 5:15 p.m. – Concurrent Symposiums
- *Minority Americans with Disabilities*
- *Title I of ADA*
- *Assistive Technology and ADA*
- *The Legislative Agenda*
- *Title III of ADA*

6:00 p.m. - 9:00 p.m. – Evening Social – "The Great American Picnic"

Friday, May 29*

8:00 a.m. - 12:00 noon – Registration
8:30 a.m. - 10:00 a.m. – DREDF ADA Training
8:30 a.m. - 10:00 a.m. – 8 Concurrent Sessions
10:45 a.m. - 12:00 p.m. – Closing Session – President Bush (invited)

Exhibit Hours:
Wednesday, May 27
2:00 p.m. - 8:00 p.m.
Thursday, May 28
9:00 a.m. - 5:00 p.m.
Friday, May 29
9:00 a.m. - 12:00 noon

Concurrent Sessions

Throughout the three days of the conference attendees will have an opportunity to select from over 35 workshops which will deal with the implementation of ADA and ADA empowerment. Workshops will focus on the questions being asked by business, by government, by service providers, by organized labor, and by the disability community. A sampling of what is in store for you is listed below.

- *Returning to Work: What Employers Need to Know About People With Psychiatric Disabilities.*
- *ADA: Developing a Compliance Plan for Business and Industry*
- *Reasonable Accommodations: A Common Sense Approach*
- *Hidden Disabilities in the Workplace: Will They Get Fair Treatment Under ADA?*
- *The ADA and Employment: A Practical and Legal Analysis of the Act and Regulations*
- *Implementation of the ADA: Approaches to Providing Technical Assistance Relative to Communication Barriers of Vision and Hearing Loss*
- *Employment Options for People With Disabilities Who Receive Social Security Benefits*
- *Consumer Advocacy: Supported Employment and ADA – A Vision for the Future*
- *The Success of Early Intervention in Restoring People Who Become Disabled to Work*
- *ADA Employment Rights – ADA Employment Responsibilities*
- *Training Labor Leaders on the ADA*
- *We Worked Together for Change*
- *Insurance and People with Disabilities*
- *Peer and Family Training on ADA*
- *Empowerment and Leadership for Youth with Disabilities*
- *Personal Assistance: Key to Empowerment for Individuals With Severe Disabilities*

***NOTICE – Registration Fee**

Beginning this year, a registration fee has been instituted in order to help support the cost of the Conference. This Conference is a major national meeting and, as such, needs to become self-sustaining in order to insure its future. Registration fees are: $30.00 – Individual, $100 – employer/organizations. Registration fee can be waived if it would prevent you from attending the meeting. **In order to avoid long lines at the conference, please register in advance.**

"I urge you to meet with us in Washington, D.C. Your personal and professional experience and participation is absolutely essential to keep the promise of ADA. That promise will be kept by all of us in the living rooms, offices, minds and hearts of mainstreet America,or it will not be kept. Together, only together, we shall overcome."

Chairman Justin Dart

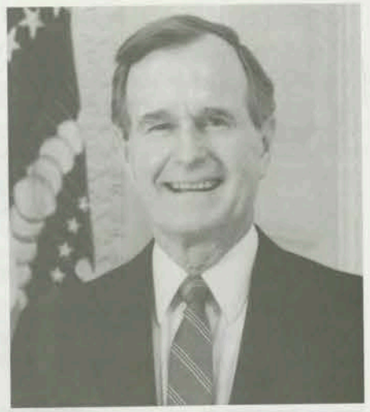
"What are the strategies for successfully implementing the Americans with Disabilities Act (ADA)? What are the problems and issues currently being faced by business, professionals and the disability community? What are the solutions? What are the next steps to support the concept of equal access to America needed by those of us with disabilities?

We've been to 50 States to find out and we're bringing the best material and people to you at this landmark Annual Conference. Join us."

Executive Director
Rick Douglas

". . . the job is not yet finished. I look forward to working with all of you to uphold the magnificent promise of ADA by ensuring that people with disabilities are full participants in the mainstream of American life."

President George Bush



March 1992

Dear Colleagues:

On behalf of President George Bush, we invite you to the 1992 Annual Conference of the President's Committee on Employment of People with Disabilities here in Washington, D.C., May 27-29.

July 26, 1990, we celebrated the signing by President Bush of the world's first comprehensive civil rights act for people with disabilities – the American's with Disabilities Act (ADA). July 26, 1991 we gathered in the Rose Garden for the first anniversary of the enactment. In 1992, we begin the implementation of ADA.

Last year, we congratulated the President, the Congress and especially you, our colleagues in the disability community who labored long years to lay the foundation for the passage of ADA.

Today our united efforts are bearing fruit. The implementation of ADA is going forward across the land.

Our annual Conference theme this year is: *ADA: Working Together . . . For A Change.*

By the end of March, we will have completed our fifty state tour to dialogue with the leaders of business, labor, state and local government and the disability community about keeping the promise of ADA. We have received much valuable guidance, and the agenda of our Annual Conference will reflect that guidance. Included in the offerings will be in-depth, state-of-the-art ADA implementation training by many of the people who created the law, and a national dialogue on using ADA as a foundation for specific initiatives to empower people with disabilities in the productive mainstream of America.

We urge you to meet with us in Washington, D.C. Your personal and professional experience and participation is absolutely essential in order to achieve the employment of those 2/3 of Americans with disabilities who are presently excluded from the workforce. The promise of ADA will be kept by you in the living rooms, the offices, the minds and the hearts of mainstreet America, or it will not be kept.

We look forward to meeting you in Washington. Working together, we will keep the promise of America for all our citizens.

Sincerely,

Justin Dart, Jr.
Chairman

Sincerely,

Rick Douglas
Executive Director

ADA: Working Together . . . For A Change

1992 ANNUAL CONFERENCE OF THE PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

Instructions: Please print or type information and send with payment prior to May 11, 1992 to:

USDA GRADUATE SCHOOL
600 Maryland Avenue, S.W.
Room 106 (IH)
Washington, D.C. 20024
202/382-8502

"I found the subject matter, presenters and the entire atmosphere to be quite rewarding."
Service provider on '91 conference

After that date, individuals must register on-site. Badges and tickets for registrations received after May 11, 1992 must be picked-up on-site.

NO REFUNDS will be made after May 11, 1992. To avoid long lines at the conference, register in advance.

Registration

Name _____

Street Address _____

City _____ State _____ Zip _____

Office Telephone (___) _____

Social Security Number _____

Accessibity Assistance (Please check all that apply)

Interpreter Services: Deaf _____ Deaf-Blind _____ Taped Program _____ Brailled Program _____

Registration Fees

The following Registration Fees will be charged for the 1992 Annual Conference. If paying a registration fee would cause undue financial hardship and prohibit you from attending the meeting, you may waive the registration fee by checking the appropriate line.

Individual $ 30 _____

Corporate _____ Organization _____ Agency _____ $100 _____

I elect to waive the registration fee _____

"I have to use 'Training and Travel money' wisely as a small I.L Director. This conference was invaluable to me"
Comment on '91 Conference

Optional Functions – Luncheon Reservations

(Purchase with this registration to guarantee availability)

Wednesday, May 27 - Awards Luncheon $30x _____ = _____

Thursday, May 28 - Media Awards luncheon $30x _____ = _____

Special Dietary Needs (please check) _____

Kosher ____; Vegetarian ____; Diabetic ____

TOTAL _____

____ Check attached (payable to USDA Graduate School)

____ Charge my credit card ____ VISA ____ MasterCard ____ Diner Club

Account Number _____ Exp. Date _____

Signature _____

Government Employees

Purchase order/training authorization attached. (Please attach this registration form to 3 copies of your completed PO or training authorization form and return to the USDA Graduate School. Be sure that registration and/or meal functions are specified on the training form.)

NO REFUNDS WILL BE MADE AFTER MAY 11, 1992. No tickets will be sent by mail after May 11, 1992. Tickets not received by mail can be picked up at the Ticket Booth after noon, May 26, 1992.

Hotel Room Reservation

The Washington Hilton Hotel and Towers
Reservation Department
1919 Connecticut Avenue, N.W.
Washington, D.C. 20009
202/483-3000

The Washington Hilton and Towers is the Headquarters Hotel for the Annual Conference.

All events will take place in the Hotel. A substantial block of lodging rooms has been reserved for those attending the meeting. The management will release this block on April 28, 1992. After that date rooms at the conference rate may not be available. Make your reservations early.

"Excellent Conference! Power House of speakers – very much energized". . .
educator on '91 conference

Reservation Form

(Send Directly to the Washington Hilton and Towers)

Annual Conference of the President's Committee on Employment of People with Disabilities

May 26-29, 1992
The Washington Hilton and Towers, Washington, D.C.

Please reserve: _____ Single Room $95
_____ Double or Double - Double Room $115
_____ Towers Single Room $175
_____ Towers Double $195
_____ Suite - Standard Parlor & One Bedroom $400
_____ Suite Executive Parlor & One Bedroom $425
_____ Junior Suite Single $175
_____ Junior Suite Double $195

For additional rates on suites call hotel directly.

Check type of room needed:

_____ Regular Room
_____ Fully Accessible Room, (width of restroom doorway 32 inches)
_____ Room close to elevator, mobility impairment
_____ Room for Hearing Impaired

"Excellent overall. Really outdid yourselves over the past 2 years". . .
government agency on our Conferences

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Program Highlights

The focus of this year's conference is on showing the best practices, resources and materials supporting the implementation of the Americans with Disabilities Act.

Concurrent Sessions

Throughout the three days of the conference attendees will have an opportunity to select from over 35 workshops which will deal with the implementation of ADA and ADA empowerment.

Orientation for New Attendees

For those attendees who wish a briefing on the purpose and programs of the President's Committee on Employment of People with disabilities; and, who would like an overview of the Annual Conference activities.

Opening Reception

A special Ice Cream Social is planned with entertainment to start the conference off in style.

Opening Session

Leaders of government, the private sector and the disability community will address the key ingredients needed for a smooth implementation of ADA. Mr. Bob Autry, President and CEO of Hardees Food Systems, Inc. will be a feature speaker. Presentation of Employer and Labor Awards will be made at this session.

Awards Luncheon

This event pays tribute to labor leaders and private and public employers selected for national recognition for the role they have played in advancing employment of persons with disabilities.

Exhibit Hall Reception

A reception in the Exhibit Hall will provide you with a great opportunity to meet the Exhibitors and learn more about resources.

General Session

The Thursday General Session will address how persons with disabilities are being incorporated into the media and the impact this is having on the stereotypical view of persons with disabilities.

Media Awards Luncheon

This luncheon will give us an opportunity to recognize excellence in the media.

Concurrent Symposiums

1. *Minority Americans with Disabilities*
   The Symposium will emphasize the way in which all sectors are working together in minority communities to insure implementation of ADA.
2. *Title I of ADA*
   The Symposium will focus on essential functions, job accommodation, organized labor, and technical assistance; all key features in the successful implementation of this title of the Act.
3. *Assistive Technology and ADA*
   The Symposium will address the questions employers and others are asking about how assistive technology can be used to bridge the gap to accessibility.
4. *The Legislative Agenda*
   The Symposium will focus on key legislative issues which still need to be addressed or revisited. The session will address Social Security disincentives, personal assistant services, the rehabilitation Act and a look at National Health Insurance.
5. *Title III*
   The Symposium will focus on the Department of Justice (DOJ) Grants to provide technical assistance in complying with the ADA. Projects undertaken by the DOJ grantees will be featured.

Free Post-Regulation Training by the Authors of ADA!

You have probably taken ADA training. But you probably have not taken in-depth post-regulation training by the people of DREDF, the authors of ADA and many of its regulations.

The Disability Rights Education and Defense Fund (DREDF) will offer free training on substantive provisions of ADA, and will repeat sessions so that attendees will have more than one opportunity to participate. DREDF is a national law and policy center dedicated to strengthening the civil rights of people with disabilities. Pat Wright, Liz Savage, Arlene Mayerson, Marilyn Golden and other DREDF stars are universally recognized as the leading authorities on the content and intent of the ADA, and on effective implementation strategy. Take advantage of this unique opportunity to become a real expert, to understand the subtleties of ADA and its regulations and the regulatory policies of the enforcement agencies.

Great American Picnic

Let's celebrate together! Join us for an old fashioned picnic . . . American style. We'll be served up with a large portion of entertainment.

Closing Session

Hear from top experts and international dignitaries regarding the next steps to full empowerment of persons with disabilities world wide. The presentation of the President's Trophy to the Disabled American of the Year will be a major feature of this session.

The Exhibition

The Exhibit Hall of the President's Committee Annual Conference will feature over 140 exhibit booths highlighting new products and programs of interest to individuals concerned with the employment of persons with disabilities.

Other Hotels in the Area

- Hotel Pullman Highland
  1914 Connecticut Avenue, N.W.
  Washington, D.C. 20009
  202/797-2000
- Quality Inn Hotel
  1900 Connecticut Avenue, N.W.
  Washington, D.C. 20009
  202/332-9300
- Days Inn Hotel
  4400 Connecticut Avenue, N.W.
  Washington, D.C. 20008
  202/244-5600

Please call hotel directly to make reservations and check on their accommodations.

"The ADA self-evaluation guide I received last year saved my company thousands of dollars" . . . business leader on 1992 Annual Conference

Reduced Airfares

USAir has been designated as the official carrier for the attendees of the President's Committee on Employment of People With Disabilities, May 27-29, 1992, in Washington, DC. USAir agrees to offer an exclusive low fare for the attendees. This special fare will offer a 5% discount off any published USAir promotional round trip fare, excluding First Class, Government Contract Fares, Senior fares, System fares and Tour fares. This discount is valid providing all rules and restrictions are met and is applicable for travel from the Continental United States, Bahamas and San Juan, PR.

For attendees unable to meet the restrictions for promotional fares, USAir will offer a 45% discount off the standard round trip day coach fare for travel from the Continental United States, Bahamas and San Juan, PR. For attendees traveling from Canada we will offer a 30% discount with a 2 night minimum stay and no advance ticket purchase requirement or a 35% discount with a saturday night stay and 7 day advance reservation/ticketing/change requirement.

Additional restrictions apply for discounts on international travel.

These convention discounts are valid between May 24-31, 1992.

To obtain this convention discount, you or your travel agent must call USAir's Meeting and Convention Reservation Office at 1-800-334-8644; 8:00 a.m. – 9:00 p.m., Eastern Time. REFER TO GOLD FILE NO. 79520094.

"To those who put the Annual Meeting together . . . Congratulations! The entire program was first class in every aspect. The selection of topics and the level of presenters were nothing short of magnificent. This was my first exposure to the President's Committee but not the last by any means."
First time participant '91

Information on Airport Transportation

Transportation from all airports is available from a variety of sources including taxis and airport shuttles.

For those needing special assistance or who can not use regular airport services the following list of special transportation services is provided. Please call in advance to arrange your own transportation.

- Ikard Transportation Inc.
  70 V Street, N.W.
  Washington, D.C. 20001
  202/462-3971
- Mercy Ambulette Services
  1725 17th Street, N.W.
  Washington, D.C. 20009
  202/797-0444
- Moble Care Limited
  6201 Riverdale Rd. (108-B)
  Hyattsville, Maryland 20737
  301/779-5115
- The Washington Flyer Airport Transportation
  905 N. Glebe Road
  Arlington, Virginia 22203
  703/661-8248 (Ask for Gary Hamrick)

"The Conference in Dallas was simply superb. I think everything was very well done" . . . rehabilitation facility personal on '91 Annual Conference

Attendant Care

To arrange for special Attendant Care and to obtain information on fees contact:

- A-1 Action Nursing Care
  3508 Greencastle Road
  Burtonsville, Maryland 20866
  301/890-7575
- Kelly Assisted Living
  1010 Rockville Pike
  Rockville, Maryland 20852
  301/424-3994
- Home Caring Servicing Inc.
  10111 Colesville Road
  Silver Spring, Maryland 20901
  301/681-4122
- Health Unlimited Nursing Resources
  6000 Westchester Park Drive
  College Park, Maryland 20777
  301/474-3797 or 301/599-7109

Please make all arrangements well in advance of meeting dates.

The President's Committee on
Employment of People with Disabilities
Washington, D.C. 20004-1107

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AMERICANS WITH DISABILITIES ACT

Signed by President Bush, July 26, 1990

National Council on Disability

The National Council on Disability is an independent federal agency with 15 members appointed by the President of the United States and confirmed by the U.S. Senate. It is the only federal agency charged by Congress with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities.

The Americans with Disabilities Act (ADA), was first proposed in the 1986 special report of the National Council on Disability, *Toward Independence*. In 1988, the National Council outlined the blueprint for the ADA in another special report entitled *On The Threshold of Independence*.

The ADA, which was signed into law by President Bush on July 26, 1990, is a wide-ranging civil rights statute that prohibits discrimination against people with disabilities — similar to the protection given to women, minorities and others since the Civil Rights Act of 1964 was enacted.

Protected are an estimated 43 million Americans with physical or mental impairments that substantially limit activities such as working, walking, talking, seeing, hearing, or caring for oneself. People who have a record of such an impairment and those regarded as having an impairment are also protected.

People with AIDS or who are HIV-positive are protected. Individuals who are in or have successfully completed rehabilitation for alcoholism or drug abuse are protected, but not those currently engaging in the illegal use of drugs.

ADA bars discrimination in employment and requires most employers to make reasonable accommodations for qualified employees with disabilities beginning in 1992. It also bars discrimination in any activity or service operated or funded by state or local government — similar to a 1973 requirement for services operated or funded by the Federal Government.

ADA prohibits discrimination in commercial facilities and public accommodations — hotels, restaurants, stores, theaters and museums, among others. New buses, trains, subway cars and rail stations will have to be made accessible in the next few years. Accessible paratransit services must be provided that are comparable to fixed-route transportation services. Phone companies must provide relay services so that people with speech or hearing impairments can converse with people or businesses that use conventional voice phones.

While many states have laws banning discrimination against people with disabilities, the National Council on Disability felt that the lack of a consistent standard across the nation left people with disabilities living as second-class citizens — unable to move about as freely as people without disabilities and viewed as dependent people unable to work. Unemployment among people with disabilities is higher than in any other group.

Title I — Employment

Title I of ADA bars employment discrimination in the public and private sectors and in state and local governments. Prior to its passage, any discrimination — including employment — was prohibited in Federal Government operations, as well as in those of employers — including state and local government — that received federal funds. Companies doing more than $2,500 a year of business with the Federal Government had to take "affirmative steps" in hiring and promoting people with disabilities.

ADA takes an across-the-board approach to antidiscrimination protection in employment. It bans discrimination and requires reasonable accommodation in recruiting, hiring, employing, promoting and training qualified workers with disabilities. The term "qualified" refers to an individual with a disability who — with or without reasonable accommodation — can perform the essential functions of the job held or sought. Consideration is given to the employer's judgment as to what functions of a job are essential. If an employer develops a written job description before recruiting or interviewing applicants, this description is considered evidence of the essential functions.

Employers of 25 or more workers — the number employed each work day in each of 20 weeks in the current or preceding year — are affected starting 2 years after ADA was signed. Employers of 15 or more are covered 2 years later. Private membership clubs — except labor unions — are exempt. "Reasonable accommodation" may include making facilities used by employees accessible and usable by individuals with disabilities. It may also include restructuring jobs, setting up a part-time or modified work schedules, purchasing or modifying equipment or devices; modifying examinations, training materials, or policies; and providing qualified readers or interpreters.

Accommodation is required unless it results in "undue hardship" — significant difficulty or expense to the employer. Factors to be considered include the nature and cost of the accommodation, and the financial resources and overall size of the business in terms of the number of workers, the number of facilities, and the structure and functions of the workforce.

A "qualified individual with a disability" in the employment portion of ADA does not include anyone who is currently engaging in the illegal use of drugs. Protection is provided, however, to someone who is incorrectly regarded as using drugs. Also protected from discrimination are individuals who have completed or are participating in supervised drug rehabilitation programs and who are no longer using drugs.

An employer may prohibit the use of alcohol and the illegal use of drugs at the workplace and require that employees not be under the influence of either while on the job. Drug testing is permitted and is not considered to be a medical examination.

Pre-employment medical exams can be required if they apply to all entering employees, without regard to disability. Exams cannot be used to determine whether a person has a disability or to evaluate its nature or severity. The employer may, however, ask whether the applicant can perform job-related functions.

While ADA was being considered in Congress, an effort was made to amend it so that anyone who had AIDS, was HIV-positive or was regarded as having AIDS could be transferred out of a food-handling job. That requirement was dropped and a substitute inserted that required the Secretary of Health and Human Services to publish a list of infectious diseases that are transmitted through handling food. The list was issued in August 1991. If transmission cannot be eliminated through reasonable accommodations, an employer may refuse to assign an affected individual to a job involving food handling.

A year after ADA was signed, the Equal Employment Opportunity Commission (EEOC) issued regulations implementing employment provisions. Most of the enforcement aspects of Title I will be handled by the EEOC and the Attorney General and through individual lawsuits.

Title II — Public Service and Public Transportation

Title II of ADA is devoted to prohibiting discrimination in services, programs, or activities of a "public entity" — any state or local government (any department, agency, special-purpose district, or instrumentality of state or local government, including public transportation services), the National Railroad Passenger Corporation (Amtrak), and intercity and commuter rail services generally.

No qualified individual with a disability may be excluded by reasons of such disability from participation in or be denied the benefits, services, programs, or activities of a public entity beginning January 26, 1993, 18 months after ADA was signed. Access standards must be consistent with the minimum requirements issued by the federal Architectural and Transportation Barriers Compliance Board (ATBCB). Implementing regulations for public services were issued a year after ADA's signing.

Most of the Title II focuses on public transportation — bus, rail, taxi and limousines. Air travel is not covered, since the Air Carriers Access Act already established air travel nondiscrimination and access requirements. Staring 30 days after ADA was signed, public entities purchasing or leasing new buses, rail cars, or other passenger-transporting vehicles must make certain that those vehicles are accessible and usable by people with disabilities, including those in wheelchairs. Vehicles that have been remanufactured to extend their usable life for 5 years or more must also be accessible. Historic vehicles may be exempt if accessibility modification would significantly alter their historic character.

If a public entity runs a fixed-route system other than solely commuter bus service, it must provide paratransit or other special transportation that is comparable in service level and response time to services provided to individuals who do not have disabilities using the fixed-route system, unless doing so would impose an undue financial burden. In such a case, the service must still be provided to the extent that it does not impose a burden.

New public transportation facilities must be made accessible. While existing facilities — except key stations — need not be retrofitted, portions of existing facilities being altered must be made accessible. Key stations must be made accessible in 3 years, although they have up to 30 years if expensive structural changes are needed. Two-thirds of key stations must be made accessible within 20 years.

Commuter rail services must have at least one accessible car on each train as soon as possible, but not later than 5 years after ADA's signing. Exceptions may be made for historic trains.

Commuter rail service and Amtrak share these requirements — one accessible car per train within 5 years; cars purchased or leased 30 days or more after ADA's approval must be accessible; accessible rail coaches must have an accessible restroom; remanufactured cars, to the extent feasible, must be made accessible if the rebuilding extends the life of the car for 10 years or longer; new stations must be accessible, and all stations must be made accessible within 20 years.

The Secretary of Transportation issued regulations for the implementation of these requirements.

Title III — Public Accommodations

Title III of ADA became effective 18 months after ADA's approval, on January 26, 1992. Title III prohibits discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation and services operated by private entities. The goods, services and accommodations must be offered in the most integrated setting appropriate to the needs of the individual.

A place of public accommodation specifically identified in ADA can be a hotel, motel, or inn (except one in which the proprietor lives that has five or fewer rooms for rent); an establishment serving food or drink; a theater, concert hall, stadium or other place of exhibition or entertainment; an auditorium, convention center or lecture hall; a bakery, grocery, clothing or hardware store, shopping center, or other sales or rental establishment; a service establishment such as a laundromat, bank, barber or beauty shop, funeral parlor, gas station, accountant or lawyer, hospital or health-care provider.

Also covered are: a transportation terminal or station; a museum, library, gallery, park, zoo, or amusement park; a nursery, private school (elementary through postgraduate), or other place of education; a day-care or senior citizen center; a homeless shelter; a food bank, adoption agency, or other social service center; and a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

New facilities to be occupied 2 1/2 years or later after ADA's enactment have to be accessible unless it is structurally impossible to make them so. Newly altered portions of facilities must also be accessible. Elevators are not required in buildings with fewer than three stories or less than 3,000 square feet per story except for shopping malls, or offices of professional health-care providers.

Under this portion of ADA, it is discriminatory to fail to remove architectural and communication barriers in existing facilities, if removal is "readily achievable" that is, if it can be accomplished without much difficulty or expense. Factors to be considered include the nature and cost of the structural modification as well as the size, financial resources and type of business. If the barrier cannot readily be removed, the goods or services must be made available through alternative methods.

It will be considered discriminatory to fail to make reasonable modifications in policies, practices and procedures that would enable a person with a disability to have the same opportunity as a person without a disability to obtain the goods, services or privileges. Regulations to implement the public accommodations requirements come from the Attorney General.

Private entities (other than airlines) that are primarily in the business of transporting people are required to purchase or lease only accessible fixed-route vehicles if they carry more than 16 passengers, starting 30 days after ADA was signed. Demand-response systems with vehicles seating eight or more (including the driver) must be accessible, and the services must be provided at a level equivalent to those provided to people without disabilities.

Over-the-road buses (those with baggage compartments below the passenger seating areas) must be accessible in 6 or 7 years, depending on the size of the transportation company. These deadlines may be extended a year if the President determines, following review of a study due in 1993 from the Office of Technology Assessment, that there would be a reduction in service as the result of meeting the deadlines.

The Secretary of Transportation has issued regulations to implement ADA provisions affecting private transportation companies.

Title IV — Telecommunications

Under Title IV of ADA, telecommunications relay services for people with speech and hearing impairments must be in place across the country by July 26, 1993. These services link users of telecommunications devices for the deaf (TDD) or other nonvoice devices and users of voice telephones.

The mandate calls for both intrastate relay services in all states and interstate services. New York, California and Alabama already provide intrastate relay services.

Title IV requires the relay services to operate 24 hours a day, 7 days a week. Relay operators may not alter conversations, limit the length of calls, or disclose to others the contents of relayed conversations. Rates charged to relay users may not exceed those charged for functionally equivalent voice communications as regards to the duration of the call, time of day, and distance between the caller and the place called. Regulations for implementing these services were issued by the Federal Communications Commission.

Title IV also requires that television public service announcements produced or funded in whole or in part by any federal agency be closed-captioned.

Title V — Miscellaneous

Title V of ADA is a potpourri of clarifications, exclusions and add-ons, many of which were inserted to clarify questions or concerns of some Members of Congress as the measure was debated.

Among the provisions are the following:

— Nothing in ADA, except as specifically provided, shall be construed to apply a lesser standard than one already required under Title V of the Rehabilitation Act of 1973 or the regulations issued as a result of that law.

— States are subject to ADA, and ADA does not limit or invalidate state or local laws that provide protection equal to or greater than that of ADA.

— Insurers may continue to underwrite and classify risks consistent with state law and entities covered may provide benefit plans based on risk classifications.

— No person can be discriminated against because he or she has made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing under ADA.

— The winning party in an ADA action — other than the U.S. Government — may be awarded a reasonable attorney's fee, including litigation expenses and costs.

— The Attorney General — in consultation with the Chairman of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chairman of the Architectural and Transportation Barriers Compliance Board and the Chairman of the Federal Communications Commission — developed a plan to assist entities covered by ADA.

— The term "disabled" or "disability" does not apply to an individual solely because the person is a transvestite.

— Homosexuality and bisexuality are not considered as impairments under ADA.

— The term "disability" does not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments or other sexual behavior; compulsive gambling, kleptomania, or pyromania; or psychoactive substance use disorders resulting from current illegal use of drugs.

ADA/ TITLE	EFFECTIVE DATES/REGULATIONS
TITLE I **Employment**	Two years after the bill was signed, July 26, 1992, for employers with 25 or more employees; 4 years after it was signed for employers with 15 or more employees. Regulations were issued by the EEOC 1 year after the bill was signed. 29 C.F.R. Part 1630.
TITLE II **Public Service**	
All activities of local and state governments	Eighteen months after the bill was signed. Regulations were issued by the Attorney General 1 year after bill was signed.
(Part I), Public transportation (buses, light and rapid rail including fixed-route systems, paratransit, demand-response systems and transportation facilities).	After August 25, 1990, all orders for new vehicles must be for accessible vehicles; one car per train must be accessible as soon as practicable, but no later than after 5 years; paratransit services must be provided after 18 months; new stations must be retrofitted in 3 years, with some extensions allowed for up to 30 years.
(Part II), Public transportation by intercity Amtrak and commuter rail (including transportation facilities).	Within 10 years after the bill was signed, Amtrak passenger coaches must have the same number of accessible seats as would have been available if every car were built accessible; half of such seats must be available within 5 years. Same one-car-per-train rule and new stations rule as above. All existing Amtrak stations must be retrofitted within 20 years; key commuter stations must be retrofitted in 3 years, with some extensions allowed for up to 20 years. Regulations were issued by the Secretary of Transportation. 49 C.F.R. Parts 37 and 38.
TITLE III **Public Accommodations**	
A. Public accommodations (all business and service providers).	Eighteen months after the bill was signed; 24 months for businesses with 25 or fewer employees and certain level of revenues; 30 months for businesses with 10 or fewer employees and certain level of revenues. Regulations based on standards issued by the ATBCB were issued by the Attorney General 1 year after bill was signed. 28 C.F.R. Part 36.
B. New construction/alterations to public accommodations and commercial facilities.	Eighteen months after the bill was signed for alterations. Thirty months after the bill was signed for new construction. Same as above.
C. Pubic transportation provided by private entities.	In general, after August 25, 1990, for all new purchases or leases of accessible vehicles. Calls for a 3 year study of over-the-road buses to determine access needs, with requirements effective in 6 to 7 years. Standards to be issued by the ATBCB. Regulations were issued by the Secretary of Transportation. 49 C.F.R. Parts 37 and 38.
TITLE IV **Telecommunications**	Three years after the bill was signed, by July 26, 1993, telecommunications relay services to operate 24 hours per day. Regulations were issued by the Federal Communications Commission. 47 C.F.R. Parts 0 and 64.
TITLE V **Miscellaneous Provisions**	In general, this title describes the ADA's relationship to other laws, exp inclusion, sets regulations by the ATBCB, explains implementation of e provides that state and local laws that afford persons with disabilities

ENFORCEMENT JURISDICTION
EEOC, Attorney General. Private right of action, remedies and procedures set forth in Title VII of the Civil Rights Act of 1964, as amended.
Private right of action; remedies and procedures set forth in Section 505 of the Rehabilitation Act of 1973. Same as above. Same as above.
Private right of action; remedies of Title II of the Civil Rights Act of 1964; Attorney General enforcement in pattern or practice cases. Same as above. Same as above.
Private right of action and Federal Communications Commission.
lains insurance issues, prohibits state immunity, provides congressional ach Title and notes amendments to the Rehabilitation Act of 1973. It also greater protection than ADA remain in effect.

For additional information, contact:

National Council on Disability
800 Independence Avenue, SW
Suite 814
Washington, DC 20591

(202) 267-3846 Voice
(202) 267-3232 TDD
(202) 453-4240 Fax

National Council on Disability
800 Independence Avenue, S.W.
Suite 814
Washington, DC 20591

202-267-3846 voice
202-267-3232 TDD

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ADA WATCH MEETING

Senate Russell Office Building
April 23, 1992
10:00 a.m. - 11:15

NCD - ADA WATCH
1-800-875-7814
301-577-7814

Welcome & Opening Remarks	Sandra Swift Parrino, Chairperson National Council on Disability
Introductions	Sandra Swift Parrino
NCD's Vision for the ADA Watch	Sandra Swift Parrino
Project Strategy and Approach	Robert G. Kramer Timothy L. Jones Kramer & Associates, Inc.
Relationship with Federal Agencies	Discussion
ADA Watch Public Meetings	Sandra Swift Parrino Robert G. Kramer
Final Report	Sandra Swift Parrino Timothy L. Jones
ADA Watch Advisory Committees	Sandra Swift Parrino
Closing Remarks	Sandra Swift Parrino

ADA WATCH

PURPOSE AND SCOPE

- Monitor implementation of the ADA
- Cover all titles and content areas
- Monitor activities in all sectors

OBJECTIVES

- Gather information about the ADA and its implementation
- Disseminate information on the ADA
- Monitor ADA implementation
- Establish contacts with ADA communities of interest
- Serve as a resource for the general public
- Establish an ADA implementation database
- Establish an interested parties database
- Publish and disseminate reports

KEY ACTIVITIES

- Information gathering and dissemination
- Site visits to review specific programs
- Public meetings
- Advisory and Executive Committees

PROJECT APPROACH

Robert G. Kramer & Associates, Inc., a small business based in Annapolis, Maryland, has assembled a team of experts and developed an efficient strategy to conduct the Americans with Disabilities (ADA) Watch for the National Council on Disability. The team includes two of the leading authorities on the ADA (Jane West and Robert Burgdorf), two senior consultants with an extensive network of contacts in the business community, and a project management team that has managed multimillion dollar contracts.

The general approach that Kramer & Associates is taking focuses the information gathering, information dissemination, and monitoring efforts on "gatekeeper" organizations representing the ADA communities of interest -- the disability community, the business community, and the governmental sector. The concept involves building on their existing networks rather than creating an entirely new information network. The ADA Watch team provides assistance designed to motivate and empower these groups to use their own resources and expertise efficiently and effectively to promote the flow of information to and from their members.

We are also building on this network by tapping into extant databases and information sources, as well as creating other information channels. By compiling, organizing, and analyzing this broad range of information sources and types, we will be able to observe from many perspectives the realities of ADA implementation. Our team will then be able to translate this picture into a final report that the National Council may use effectively for its purposes, specifically to advise the Congress and the Executive branch with information and recommendations regarding ADA implementation.

ADA WATCH NETWORK MODEL

MANAGEMENT TEAM

ROBERT G. KRAMER, OFFICER-IN-CHARGE

Robert G. Kramer is founder and president of Kramer & Associates. He currently assists clients in both the public and private sector, providing strategic planning, marketing, and management consulting in the areas of senior markets, health care/long-term care, management and fund-raising for non-profit organizations, and the environment. His recent and current clients include American Express, the Eisenhower Centennial Foundation, and the U.S. Department of Veterans Affairs.

Prior to establishing Kramer & Associates, Mr. Kramer served as founding executive director of the National Association for Senior Living Industries (NASLI). In addition, Mr. Kramer served in the Maryland General Assembly and held posts in Anne Arundel County government.

TIMOTHY L. JONES, PROJECT DIRECTOR

Timothy L. Jones, Senior Associate with Kramer & Associates, has worked as a management and human resources consultant to both government and industry. His federal government clients have included the Departments of Energy, Defense, Veterans Affairs, and Housing and Urban Development. Among the private sector clients he has served are such major corporations as General Motors, IBM, Campbell Soup, Toyota, General Foods, and Merrill Lynch.

Mr. Jones has extensive experience in disability related management and research projects. He has written numerous training and technical assistance manuals on Section 504 of the Rehabilitation Act, the model legislation for the Americans with Disabilities Act (ADA). In addition, he has provided on-site management assistance to federal funding recipients in the implementation of Section 504. He has developed a model needs assessment methodology related to housing for persons with disabilities.

Mr. Jones has also served as project director on several national and regional surveys of persons with disabilities, incorporating a total of over 15,000 interviews. He directed the VA's Survey of Disabled Veterans, a national study that included nearly 10,000 one-hour in-person interviews with veterans having service-connected mental and physical disabilities.

CONSULTANT TEAM

JANE WEST, Ph.D.

Dr. West is a nationally recognized expert on disability issues who has previously served as a consultant to the National Council on Disability on a wide range of issues. Dr. West is the project director for The Americans With Disabilities Act Implementation Project: Phase I and editor of The ADA: From Policy to Practice funded by the Milbank Memorial Fund. She was awarded the Mary E. Switzer Distinguished Research Fellowship to conduct the study "The Formation of National Disability Rights Policy in the 100th Congress (1986 - 1988)" by the National Institute on Disability and Rehabilitation Research of the U.S. Department of Education. Dr. West directed the national study The Education of Students With Disabilities : Where Do We Stand? under contract with the National Council on Disability.

Dr. West has served as the Senior Policy Analyst for the Presidential Commission on the HIV Epidemic (AIDS) and as the Staff Director for the U.S. Senate Subcommittee on the Handicapped of the Committee on Labor and Human Relations.

ROBERT BURGDORF, JR.

Robert Burgdorf, Jr. is an Associate Professor at the District of Columbia School of Law, where he teaches Constitutional Law and supervises a clinical program on legislation. Previously, Professor Burgdorf worked for over three years at the National Council on the Handicapped. He was the principal staff author of Toward Independence, the Council's 1986 report to the President and Congress, and contributed papers on equal opportunity laws for the Council's 1988 follow-up report, On the Threshold of Independence. He was the chief draftsperson on the ADA.

Professor Burgdorf has written widely on disability issues, having recently published an article titled "The Americans with Disabilities Act: Analysis and Implications of a Second Generation Civil Rights Statute," published in the Harvard Civil Rights - Civil Liberties Law Review. He is currently working on a legal treatise, Disability Discrimination in Employment Law, to be published by the Bureau of National Affairs in 1992.

CONSULTANT TEAM

MIDGE SAINT

Ms. Saint has a strong professional background in communications, special event planning, fundraising and political affairs. She has over ten years' experience working directly with Fortune 500 chief executive officers, government officials and civic leaders, advising them on how to leverage their participation in special events to achieve corporate strategic objectives.

Ms. Saint worked for the past six years for the American Express Company, most recently as director of government affairs. She has worked on numerous projects with the Business Round Table, including the extension of "Fast Track" legislation. Prior to this experience, Ms. Saint managed public and government relations for Warner Amex Cable Communications, Inc. in New York. From 1981 to 1983, she served as the Special Assistant for Public Affairs for the Secretary of the U.S. Department of Transportation.

Ms. Saint also has extensive experience with non-profit organizations. For six years she has served as a corporate advisor to the President of United Way of America.

CATHERINE D. BOWER, CAE

Ms. Bower is an experienced association executive with expertise in strategic planning, issue management, publications, communications strategy and public relations. For 17 years, Ms. Bower served the Society For Human Resource Management (formerly American Society for Personnel Administration). As Vice President for Communications and Public Relations, a position she held for five years, she was the association spokesperson, advising the President, Board and staff on internal and external positioning of the 44,000 member, international professional society. During her tenure, she served as both editor and publisher of Personnel Administrator magazine (now HR Magazine).

Now President of Cate Bower Communications, her firm focuses on communications as a strategic tool for problem identification and resolution for its clients, primarily associations and corporations. She also serves as a senior partner in Glenn H. Tecker, Consultants, Trenton, New Jersey. Ms. Bower has been an active participant in the American Society of Association Executives (ASAE) and currently serves on the ASAE Foundation Board of Directors. She has received numerous professional awards including being designated an ASAE Fellow in 1991.

How to reach the Resource Center

Call
202•783•2900 (Voice)
202•737•0645 (TDD)
202•737•0725 (Fax)
Write
Resource Center on Substance Abuse Prevention and Disability, 1331 F St.,NW, Suite 800, Washington, DC 20004

Office for Substance Abuse Prevention

The Resource Center has been developed by VSA Educational Services through a three -year grant from the U.S. Department of Health and Human Services, Office for Substance Abuse Prevention, Division of Communication Programs.

The Resource Center serves as a Specialty Center for the Regional Alcohol and Drug Awareness Resource (RADAR) Network, a collaboration of national, state, and local prevention information centers.

VSA Educational Services

VSA Educational Services develops commercial products and services for teachers, parents, and others who work with people with disabilities. It is an affiliate of Very Special Arts, an educational affiliate of The John F. Kennedy Center for the Performing Arts.

Understanding a need...

Resource Center on Substance Abuse Prevention and Disability

Why a Resource Center?

As the number of Americans who have one or more physical or mental disabilities continues to increase, so do the needs and challenges facing these individuals and those who provide them services.

It is becoming increasingly apparent that the incidence of alcohol and other drug abuse problems among people with certain disabilities is above the national average for the general population, which is estimated at 8 to 10 percent. Studies indicate that alcohol and other drug abuse prevalence rates for people with disabilities may range from 15 to 30 percent of all people with disabilities.

Yet, few prevention, intervention, and treatment programs are designed to meet the specific needs of people with disabilities. And, access to existing programs is limited.

The Resource Center on Substance Abuse Prevention and Disability was created to help raise public awareness about the need for appropriate alcohol and other drug abuse services for people with disabilities.

What is the Resource Center?

The Resource Center is an up-to-date source of information about programs, reference materials and research addressing alcohol and other drug abuse prevention and disability.

Maybe you are interested in

- developing an alcohol and other drug prevention component in a rehabilitation facility, or
- developing prevention materials for outreach to people with disabilities.

If so, the staff can provide you with information and resources from around the country. The information is updated on a regular basis to ensure that the most current resources are provided to you. Copies of select material in the Resource Center are also available.

Who can use the Resource Center?

Whether you work on a national, state or local level you can benefit from the services of the Resource Center. It is designed to serve as an active networking link between people in the alcohol and other drug abuse fields and those in the disability and rehabilitation fields.

How to use the Resource Center

You can write, fax or call, via voice or TDD, for information and referrals. Information specialists are available to assist you, Monday through Friday, 9 am to 5 pm, EST. The reading room is open during these same hours. Most services and information are free.

When you request information from the Resource Center, you will receive personalized attention from the staff who can answer a wide variety of questions. This effort will go beyond just answering your questions. A brief interview begins the search of available print and audiovisual resources, programs, research literature and other information that will provide a comprehensive response to your request.

How you can help the Resource Center

Innovative programming and new ideas begin with your contribution. Please send in reference materials that address alcohol and other drug prevention and disability, such as:

- newsletters
- articles
- dissertations
- conference proceedings
- audiocassettes and videotapes
- journals
- books
- curricula
- government documents
- programs

Please send me Information about the materials developed by the Resource Center on Substance Abuse Prevention and Disability.

Name _____ Title _____

Organization _____

Address _____

City _____ State _____ Zip Code _____

Work Phone _____ TDD# _____ Fax# _____

I would like to receive the material in the following format:

Braille ____ Large Print ____ Audiocassette ____

The passage of the Americans with Disabilities Act of 1990 was a significant landmark. It reaffirmed that people with disabilities are to have equal access to society. The increased public awareness of disability issues has focused attention on issues which were previously ignored. One such issue is the relationship between disabilities and the increased risk for alcohol and other drug problems.

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ALCOHOL AND OTHER DRUG ABUSE PREVENTION AND DISABILITY

PACKAGE OF MATERIALS

This material was developed by the Resource Center on Substance Abuse Prevention and Disability. It was written for those working in the field of alcohol and other drug abuse services, as well as for those involved in the disability and rehabilitation fields. It reflects information available at the time of its printing, December 1991. The following fact sheets have been selected for you:

- ❑ **An Overview of Alcohol and Other Drug Abuse Prevention and Disability**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Americans With Disabilities**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Attention Deficit Disorder**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Blindness and Visual Impairments**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Deafness and Hearing Loss**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Hidden Disabilities**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Learning Disabilities**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Mental Illness**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Mental Retardation**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Mobility Limitations**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Traumatic Brain Injury**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Disability and Enabling**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Disability and the Family**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Disability and Health Implications**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Service Delivery Settings**
- ❑ A Look at Alcohol and Other Drug Abuse Prevention and... **Symptoms Checklist**

If you are intersted in receiving fact sheets that have not been included in this package, please request them.

This material was produced by VSA Educational Services and funded through a grant of the U.S. Department of Health and Human Services, Office for Substance Abuse Prevention, Division of Communication Programs.

Resource Center on Substance Abuse Prevention and Disability ▪ 1331 F Street N.W., Suite 800 ▪ Washington, DC 20004
Voice (202)783-2900 ▪ TDD (202)737-0645 ▪ Fax (202)737-0725

Examples of Risk Factors

Medication Use: People with disabilities often use medications over extended periods of time. The use of from two to five concurrent prescribed medications may be average for some disabilities (Moore and Siegal, 1989). Those who use prescribed medication require specialized information on how those drugs influence behavior or interact with other drugs such as alcohol. Disabilities as diverse as arthritis, epilepsy, and cystic fibrosis may place a person at risk for problems related to medication use.

Health Concerns or Chronic Pain: The special medical conditions associated with some disabilities can decrease tolerance for alcohol and other drugs. The problems associated with decreased tolerance include dangerous levels of intoxication, especially when medications are combined with alcohol. There may be a corresponding increase in risk for accidents from alcohol and other drug misuse due to pre-existing balance, mobility, or vision impairments. Also, people who experience chronic pain or discomfort are far more likely to either become dependent on prescribed medications, or use other drugs such as alcohol, to attempt temporary release from the discomfort.

Peer Group Differences: People with disabilities, especially those who acquired the disability before adulthood, may have less opportunity for association with peer groups. These social limitations can result in gravitation to peer groups which tolerate abuse of alcohol or other drugs. This also means that people with disabilities may be more vulnerable to alcohol and other drug abuse through peer pressure due to a lack of social experience or a need for acceptance.

Fewer Social Supports: People who experience disabilities tend to have fewer social outlets and have related problems with underutilization of time. Both of these conditions contribute to alcohol and other drug abuse risk. When a person has fewer social options, it can be difficult to change friends in order to avoid negative influences. There may be greater difficulty in locating sober social settings when attempting recovery from alcohol or other drug dependency. Few Alcoholics Anonymous meetings include sign language interpretation, and a number of meetings are physically inaccessible to those with mobility limitations. Even when an Alcoholics Anonymous meeting is accessible, members may not understand the issues associated with managing chronic pain, or having to take a medication although it is considered mind altering.

Enabling of Alcohol and Other Drug Use: Family, friends, and professionals may inadvertently encourage people with disabilities to misuse alcohol and other drugs. Enabling may be motivated by misplaced feelings of compassion, guilt, frustration, or camaraderie. Enabling of alcohol and other drug abuse is a particular problem for people with disabilities because of societal misunderstandings about the issues involved.

> "One of the basic tenets of physical rehabilitation is that a person must accept their limitation if rehab is to succeed. The recovery community has much to teach the disabled community about this concept. Both...share the same paradox. In order to transcend the condition, one must surrender to its reality. Drinking alcohol is a highly valued social custom. Able-bodiedness is also a value-asset in our culture... Each group, people with disabilities and people in recovery, can support and assist each other to achieve a better quality of life."
>
> **—Anthony Tusler**
> President, Institute on Alcohol,
> Drugs and Disability

AN OVERVIEW OF ALCOHOL AND OTHER DRUG ABUSE PREVENTION AND DISABILITY

The passage of the Americans with Disabilities Act (ADA) of 1990 was a significant landmark for people with disabilities. It reaffirmed through government enforcement that people with disabilities have equal access to society, including the right to a full and productive lifestyle. The increased public awareness stemming from the ADA has focused attention on a variety of disability issues which previously were ignored. One such issue is the relationship between disabilities and the risk for alcohol and other drug problems. As societal myths about disabilities disappear, people with disabilities can acknowledge that they are subject to the same dilemmas experienced by others.

A Definition of Disability

The ADA defines a person with a disability as anyone who either:

1. has a physical and/or mental impairment that substantially limits one or more major life activities; or,
2. has a record of such an impairment; or,
3. is regarded by others as having such an impairment.

The increased focus on alcohol and other drug abuse and disabilities is timely. Recent studies suggest that a person with a disability is at higher risk for alcohol and other drug abuse problems. For example, alcohol and other drug abuse rates for people with disabilities may range from 15 to 30 percent of all people with disabilities (Buss and Cramer, 1989; de Miranda and Cherry, 1989). Alcohol and other drug abuse rates for people with certain disabilities such as spinal cord and head injury exceed 50 percent of those populations (Heinemann et al., 1989; Sparadeo and Gill, 1989). These figures are considerably above the national average.

Approximately 43 million Americans meet the ADA disability criteria. While the nature of their disabilities vary widely, all share an increased risk for alcohol and other drug abuse. There are a number of reasons for this fact. Clearly, people with disabilities may abuse alcohol and other drugs for all the same reasons as their non-disabled peers. However, the higher risk reflects a number of other reasons directly related to the existence of a disability. These include:

- medication use;
- health concerns;
- chronic pain;
- peer group differences;
- increased stress on family life;
- fewer social supports;
- enabling of alcohol and other drug use by others;
- excess free time; and
- lack of access to appropriate alcohol and other drug abuse prevention resources.

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Disabilities and Risks

The disability categories which have been identified as at risk for alcohol and other drug abuse or are prevention and treatment services include:

Attention Deficit Disorder: If attention deficit disorder (ADD) persists into later adolescence, alcohol and other drug abuse and oppositional-defiant behavior occur in over 50 percent of the diagnosed persons (Hechtman, et al., 1984). Additionally, many young people with ADD are prescribed medications for behavior control, and this also may be a risk factor for some forms of subsequent alcohol and other drug abuse.

Blindness and Visual Impairments: Increased risks for alcohol and other drug abuse problems among people who are blind have been associated with isolation, excess free time, and underemployment (Nelipovich and Buss, 1989). People with visual impairments may face fewer consequences from alcohol and other drug abuse due to the enabling of others, social isolation, and constraints imposed by the disability. The treatment requirements may differ for those whose alcohol and other drug abuse has preceded, rather than followed, the onset of the visual impairment (Glass, 1980-81).

Deafness and Hearing Loss: People with severe hearing loss or deafness do not have ready access to appropriate alcohol and other drug information. When problems exist, treatment also is inaccessible (Sylvester, 1986). Alcohol and other drug abuse prevention materials frequently do not take into account the cultural, language, or communication differences indigenous to people who are deaf or have a hearing loss. There also is concern that people who are deaf attempt to avoid the additional social stigma associated with an alcohol and other drug abuse label, thereby making detection of problem use more difficult (Boros, 1981).

Hidden Disabilities: For people with hidden disabilities, there are increased risks for alcohol and other drug abuse which may not be immediately apparent. These can include decreased tolerance of mood altering drugs, atypical childhood experiences, lower resistance to peer pressure, over-protection by family members, and the use of long-term medications. These risks are increased when teachers, employers, or peers do not understand how needs or behavior are related to a disability that is not obvious.

Learning Disabilities: People with learning disabilities are more prone to misunderstanding alcohol and other drug education and prevention materials, placing these individuals at greater risk for injuries and other consequences of abuse. Unfortunately, people with learning disabilities may be in greater need of prevention information. This is because unsuccessful peer group and school experiences can hasten the use of alcohol and other drugs in order to cope with feelings of low self-esteem, perceived underachievement, and rejection.

Mental Illness: People with mental illness appear to experience recurring alcohol and other drug abuse problems at rates which are double that of the general population. Over 50 percent of young, mentally ill patients are reported to experience alcohol and other drug abuse problems (Brown et al., 1989).

Mental Retardation: Research indicates that people with mental retardation use alcohol and other drugs less than or similarly to the general population (DiNitto and Krishef 1984; Edgerton, 1986; Westermeyer et al., 1988). However, the legal, social, and work problems are more readily experienced than by non-disabled peers or family members, even when the person with mental retardation is consuming less. This is because judgment and other social skills require more concentration to begin with, and there-

fore are more influenced by even small amounts of alcohol consumption.

Mobility Limitations: People with a variety of disabilities may have mobility limitations (e.g., spinal cord injury, arthritis, cerebral palsy). As many as 50 percent of spinal cord injuries are caused by an injury involving alcohol or other drugs. Many continue to be at risk for alcohol and other drug abuse problems after the injury (Heinemann et al., 1988; Sparadeo and Gill, 1989). Some people with mobility limitations are required to take several medications for health management. This situation greatly increases risk for complications arising from alcohol or other drug misuse (Moore and Siegal, 1989).

Traumatic Brain Injury: Alcohol abuse has been associated with traumatic brain injury (TBI) in over half of all occurrences. It appears to be associated in many cases with lifestyles where alcohol and other drug abuse and risk taking were common (Sparadeo, et al., 1990). Specialized alcohol and other drug abuse treatment often is necessary for people with TBI.

Resource: *Don't Worry, He Won't Get Far on Foot* is an autobiography written by cartoonist, John Callahan. It is an uncensored account of a cartoonist who is both quadriplegic and a recovering alcoholic. It was published in 1990 by Vintage Books, a division of Random House, Inc., New York. The book can be found in most bookstores.

Chemical dependency is recognized by the American Medical Association as a chronic, progressive disease. The disease may be manifested by the onset of problems in any or all areas of a person's life and will ultimately lead to death if left untreated. Although there is no cure for this disease and it will not spontaneously resolve, recovery is possible, but involves more than merely limiting chemical use. Recovery is achieved through abstinence from mood-altering chemicals, participation in a treatment program, and on-going support. The disease cannot be treated by attempts to resolve other identified problems which may be attributed to the disability. Those problems are usually the result of the chemical dependency, and cannot be resolved until the chemical dependency is treated.

Those persons who have chosen to remain chemically free and to become actively involved in a recovery program are gaining self-esteem, self-respect, self responsibility, and beginning the process of accepting their disabilities. They are experiencing better health, and developing alternative means of managing chronic pain, sleep disorders, spasticity and stress. New social experiences are replacing isolation; and healthy relationships are replacing abusive, dependent ones. Many have developed more independent lifestyles, become involved in vocational and avocational activities, and resolved financial and legal difficulties.

—Sharon Schaschel and Dennis Straw
Abbott-Northwestern Hospital
Sister Kenny Institute

What Is Needed

Research: A limited number of studies have begun to identify and analyze the scope of needs relative to alcohol and other drug abuse among people with disabilities. Unfortunately, there is a lack of information in this area. Existing information often is based on clinical observations or research involving small groups at a single facility.

Access to Appropriate Prevention Information: People with disabilities frequently encounter limited access to alcohol and other drug abuse materials or treatment programs. This problem is critical considering the risks which have been identified. "Prevention" most often is focused on eliminating problems before they start. For this reason, particular emphasis is placed on alcohol and drug education during school years. For young people with disabilities, this can include information on medication use, interaction and socialization skills, and learning about independent living options.

Traditional prevention models are not always appropriate for people with disabilities because they do not take into account the special risk factors associated with disability. In many cases, alcohol and other drug abuse prevention materials require modification if they are to be appropriate for persons with disabilities. The required modifications may include:

- transcribing materials into braille, large print, audio cassette, or some form of sign language;
- modifying materials for persons with special learning requirements, such as those associated with a learning disability or mental retardation.

Early Identification of Problems: Providing appropriate access to treatment begins with the identification of alcohol and other drug abuse behaviors. Too often, people with disabilities are not identified as considerably more difficult to treat (Moore and Polsgrove, 1989). The consequences of abuse can be "hidden" behind the disability without most people even suspecting a problem.

Access to Appropriate Treatment: When alcohol or other drug abuse has been identified and an intervention has taken place, the next step is often treatment. Treatment may include individual and group counseling, family counseling, education about alcohol and other drug abuse, and involvement in self-help groups, such as Alcoholics Anonymous.

Even when treatment is sought, it is the exception rather than the rule when a program has experience in accommodating the needs of people with severe disabilities. The treatment program accommodations required may include:

- the need for an interpreter knowledgeable about alcohol and other drug dependency;
- physical modifications to the building;
- staff training;
- special nursing or attendant care;
- an altered theoretical approach to treatment; and
- availability of self-help support groups specific to disabilities.

> "Creating a treatment environment that is both welcoming and user friendly requires paying attention to just about every aspect of the program. We are working to raise the awareness level of staff, modify treatment components, and make architectural changes all at the same time. Because our program encourages attendance at AA and NA meetings we are looking for twelve step meetings that are held in accessible places."
>
> **—Paula Swink**
> Director
> Chemical Dependency Center
> Mills-Peninsula Hospitals

How You Can Help

There are several activities which can help address alcohol and other drug abuse and disability issues. The same activities are worth considering regardless of whether one comes from an alcohol and other drug, or disability-oriented, background. Most of the following activities also apply for people with disabilities who are acting as consumer advocates, or for family members with an interest in this area.

- Form a coalition of interested and knowledgeable people who are aware of the issue of alcohol and other drug abuse and disability. Make certain to include strong representation by people with disabilities, as well as any professionals with specific expertise to address the problem.
- Survey local alcohol and drug abuse agencies, as well as schools and disability organizations in order to assess the level of need and awareness of this issue. Identify those that are most active in this arena. Use the networks already established in the community.
- Identify and distribute disability-specific alcohol and other drug prevention material to those locations most in need. Include alcohol and other drug dependency treatment programs, disability agencies, schools, and local policy makers.
- Identify or sponsor local support groups which focus on alcohol or other drug abuse for people with disabilities.
- Encourage local governments to pay more attention to this issue.
- Make certain that your agency or organization has specific policies and procedures which address alcohol and other drug abuse. Make policies enforceable.
- Become familiar with the signs and symptoms of alcohol and other drug abuse, and with what to do when you suspect someone with a disability is experiencing problems in this area.

ETC.

This space has been provided for you. Make notes or write questions that you want to ask resource organizations or agencies.

For Easy Reference
Alcohol and Other Drug Terms

- **USE means:** the consumption of alcohol and other legal drugs by people of legal age. "Use" implies moderate consumption which has no adverse physical, psychological, or social consequences. A person with a disability may have to be particularly mindful of all medication or alcohol use due to decreased drug tolerance or other disability-related factors and the risks involved.

- **ABUSE means:** consuming alcohol or other drugs to the extent that problems result from that use. These may include impaired school or work performance, deteriorating personal relationships, separation from family, and regular financial problems. The amount one consumes is not as important in defining "abuse" as are the consequences experienced because of that consumption.

  The consumption of any illicit drug by adults is considered abuse, and the consumption of alcohol or other drugs by underage youth is considered abuse. For persons with disabilities, it is sometimes comparatively easy to obtain illicit drugs, either by trading excess habit forming medications, or because persons provide the drugs out of feelings of sympathy.

- **ALCOHOL AND OTHER DRUG DEPENDENCE means:** that a person reaches a point at which he or she will continue to make painful or injurious decisions to abuse alcohol and other drugs in spite of recurring problems. Some of the common symptoms of dependency for persons with disabilities are heavy and inappropriate use of medications, drinking in combination with medication use, excessive time spent in using or acquiring alcohol and other drugs, frequent intoxication (sometimes without others realizing this), and continued use of drugs despite adverse consequences. Persons must experience problems for at least one month or repeatedly over a longer period of time in order to be considered dependent (DSM III, R)

Available
Resource Center Materials

To learn more about this issue, contact the Resource Center to obtain the rest of the set of materials, *Alcohol and Other Drug Abuse Prevention and Disability.* The sections include:

An Overview on Alcohol and Other Drug Abuse Prevention and Disability

A Look at Alcohol and Other Drug Abuse Prevention and...Americans with Disabilities

A Look at Alcohol and Other Drug Abuse Prevention and...Attention Deficit Disorder

A Look at Alcohol and Other Drug Abuse Prevention and...Blindness and Visual Impairments

A Look at Alcohol and Other Drug Abuse Prevention and...Deafness and Hearing Loss

A Look at Alcohol and Other Drug Abuse Prevention and...Hidden Disabilities

A Look at Alcohol and Other Drug Abuse Prevention and...Learning Disabilities

A Look at Alcohol and Other Drug Abuse Prevention and...Mental Illness

A Look at Alcohol and Other Drug Abuse Prevention and...Mental Retardation

A Look at Alcohol and Other Drug Abuse Prevention and...Mobility Limitations

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This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request.
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A Look at Alcohol and Other Drug Abuse Prevention and...

DISABILITY AND THE FAMILY

The diagnosis of a disability can be a powerful event impacting every family member. The negative reactions to a disability can include:

- shock;
- denial;
- anger;
- depression;
- resentment;
- guilt; and
- embarrassment (Shaw and McMahon, 1990).

Unfortunately, this already emotional process of adjustment is compounded when the family member with the disability also is abusing alcohol or other drugs. In fact, the emotional reactions to alcohol and other drug abuse in the family can be similar to those involving a disability.

People in general do not view someone with a disability as being at risk for problems from alcohol and other drugs, and parents or other family members frequently share this point of view. Families may overprotect or shelter their children with disabilities in an attempt to isolate them from knowledge about alcohol and other drugs. Such strategies work for only a limited time.

The reasons why a person with a disability uses alcohol or other drugs are similar to those of anyone else. These include:

- family consumption patterns;
- peer pressure;
- poor school experiences; and
- media messages which glamorize use.

Also, disability-specific influences may increase the pressure to use. These influences include social isolation, use of habit-forming medication, the presence of chronic pain, and excess free time.

At times, the harmful effects of alcohol and other drug abuse remain completely hidden from family members. This is because the family is focusing on the disability to the exclusion of other concerns. Sometimes it is possible to miss symptoms of abuse because disability-related problems can be similar to those generated through alcohol and other drug abuse. For example, family members may believe that medical problems, such as bed sores or recurring infections, are due strictly to a disability; when the main cause may be continued misuse of alcohol or other drugs. Even when family members recognize the cause, they may be unable or unwilling to explore some of the difficult actions necessary to address the problem.

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Prevention Guidelines for Families

Whether the family member is a youth or an adult, alcohol and other drug awareness is important. The following guidelines can be helpful for the entire family:

- Family members can become educated about alcohol and other drugs, including the special risks associated with disability. Information is available through reading, attending training sessions, talking to counselors or health educators, or attending self-help support meetings (such as peer groups or Al Anon or Alcoholics Anonymous). Dealing with disability and alcohol and other drug abuse are both difficult, with or without assistance. Families experiencing either or both of these conditions should not feel ashamed to ask for help from professionals.
- Families can seek out materials about alcohol and other drug use or abuse for the child with a disability. Select educationally appropriate materials when possible. Watch television specials, documentaries, or attend training which educate youth about alcohol and other drug abuse. These types of materials are available through the library, schools, health departments, and other agencies.
- Families should encourage their child with a disability to become involved with a peer group. It is also important to support a child's efforts toward independence. Young people with disabilities should be provided with opportunities to make their own decisions. Family members can be supportive by giving the person with the disability the right to learn from his or her mistakes.
- The person with a disability needs to understand the mixed messages that he or she receives about alcohol or other drug use. Children learn about use of alcohol or other drugs from their peers, advertisements, the medical system, and from cultural attitudes. Sometimes, these messages provide conflicting information. For example, parents may oppose alcohol and other drug use, but television shows and movies may glamorize use.
- If family members are concerned about the alcohol or other drug use of the person with a disability, those concerns should be expressed in a caring but firm way. Boundaries and logical consequences should be set regarding alcohol or other drug use. The consequences should be stated in advance, be enforceable, and age-appropriate.

> The presence of a person with a disability and also involved in substance abuse or the presence of two family members, one of which has a disability while the other is involved in substance abuse, hits the family with a "double whammy." The stress created by the presence of a disability in the family is significant. To add substance abuse on top of it, increases the stress on a family geometrically. The stresses intertwine. The coping and corrective strategies become so complex as to be overwhelming.
>
> It's really hard to practice "letting go" and/or "tough love" on a family member who has a disability. The emotional impact is exacerbated by a lack of objectivity...in other words, "it's tough going."
>
> **—Patricia McGill Smith**
> Executive Director
> National Parent Network on Disabilities
> Alexandria, VA

MYTHS & FACTS

MYTH: *The presence of a disability does not alter an individual's risk for alcohol and other drug abuse problems.*

FACT: There are a number of factors associated with disabilities which can increase risk for alcohol and other drug abuse. These include social isolation, lack of peer groups, medication problems, societal overcompensation which enables abuse, and chronic medical conditions.

■

MYTH: *Family members don't need to make adjustments or alter behaviors when a family member is both disabled and an alcohol and other drug abuser.*

FACT: Either of these conditions can dramatically alter family interaction. When both are present, very serious problems can result, including alienation and breakdowns in the family unit. This is an appropriate time to seek professional assistance from someone who understands the issues involved. Such people can be located by making inquiries at medical rehabilitation units, disability-specific agencies, and publicly funded alcohol and drug organizations.

MYTH: *Family members cannot influence an alcohol and other drug abuser to seek assistance unless that person wants to be helped.*

FACT: The alcohol and other drug abuser in almost every case requires some form of pressure to see the need for change. Alcohol and other drug abuse is more likely to stop when there are firm boundaries and the enforcement of consequences. The use of professional intervention also can be very effective in promoting positive change.

■

MYTH: *When the person stops using alcohol and other drugs, the accompanying problems for the family cease.*

FACT: The most urgent and serious problems tend to subside when alcohol and other drug abuse no longer occurs. However, the problems created during the abuse, such as loss of trust, will continue until the family comes to terms with these issues. If the alcohol and other drug abuse occurred prior to the onset of disability, the member with a disability also may need time to adjust, since the use of alcohol and other drugs prevents normal psychological adjustment to disability. Families have found that counseling or involvement in support groups is helpful at such times.

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For More INFORMATION

Resources

In the area of family and disability:

National Information Center for Children and Youth with Disabilities (NICHCY)
P.O. Box 1492
Washington, D.C. 20013
(703) 893-6061 or (800) 999-5599
(703) 893-8614 TDD

National Parent Network on Disabilities
1600 Prince Street, #115
Alexandria, VA 22314
(703) 684-6763

Beach Center on Families and Disability
c/o Institute for Life Span Studies
3111 Haworrth Hall
Lawrence, KS 66045
(913) 864-7600
(913) 864-7605 TDD

In the area of family and alcohol and other drug abuse:

Association for the Care of Children's Health
7910 Woodmont Ave, Suite 300
Bethesda, MD 20814-30115
(301) 654-6549

Kids are Special
535 Race St.
San Jose, CA 95126
(408) 995-6633

National Drug Information Center of Families in Action
2296 Henderson Mill Rd.
Suite 204
Atlanta, GA 30345
(404) 934-6364

References

McCarren, M. (1991). Mothers and their sons: Substance abuse is a family affair. *Spinal Network Extra,* Winter, 24-25.

Seaton, D.J., and David, C.O. (1990). Family role in substance abuse and traumatic brain injury rehabilitation. *Journal of Head Trauma Rehabilitation,* 5 (3), 41-46.

Shaw, L., and McMahon, B. (1990). Family-staff conflict in the rehabilitation setting: Causes, consequences and implication. *Brain Injury,* 4 (1), 87-93.

This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request.
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A Look at Alcohol and Other Drug Abuse Prevention and...

DISABILITY AND ENABLING

People with disabilities who abuse alcohol and other drugs rarely manage to hide this fact completely. In spite of the sometimes obvious symptoms, others may not recognize or react to abuse when it affects someone with a disability. The reasons include ignorance about alcohol and other drug abuse or disability issues, or the perception that it is not one's place to interfere. When others do not attempt to confront alcohol and other drug abuse, it is referred to as "enabling." Because of inappropriate reactions to disabilities, enabling of alcohol and other drug abuse can be particularly problematic for people with disabilities.

Ironically, in the terminology of disability advocacy, "to enable" someone with a disability means to provide physically and attitudinally flexible environments which maximize societal participation. There needs to be a balance between being flexible and understanding about disability-related limitations, without encouraging unhealthy practices. Finding this balance is a challenge for those who are dealing with the issue of alcohol and other drug abuse and disability. It has been the people with disabilities, especially those within the independent living movement, who have been of the greatest assistance in defining the problems and possible solutions to this dilemma.

Alcohol and Other Drug Abuse Enabling

Overcompensation by well-meaning family members, friends, or professionals actually can increase attention on the disability, rather than on other attributes of the person. When this occurs, alcohol and other drug abuse symptoms (such as poor school performance or health problems) are more likely to be perceived as disability-related, rather than natural consequences of alcohol and other drug abuse. Even when the alcohol and other drug abuse is recognized, there is a tendency to accept that the disability makes the abuse more understandable. Alcohol and other drug abuse enabling occurs in:

- families;
- peer groups;
- schools;
- job sites; and
- rehabilitation settings.

Often, it is those closest to the abuser, such as family members, who are the least able to recognize their own enabling behaviors.

On some occasions, societal reactions to people with disabilities include a more active form of alcohol and other drug abuse enabling. Uninformed individuals may have the feeling that life with a disability is so unpleasant that there is an "entitlement" to use alcohol or other drugs in order to cope (Moore, 1990). This attitude is based on a misperception of what it is like to live with a disability. This mistaken belief encourages people with disabilities to utilize both prescription and illegal drugs without facing the societal constraints which are applied to everyone else. In contrast to the perceptions of oth-

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ers, people with disabilities do not view themselves as more entitled to use alcohol or other drugs (Moore and Siegal, 1989).

The enabling of alcohol and other drug abuse among people with disabilities can best be addressed through education and self-evaluation. Appropriate responses to alcohol and other drug abuse and disability issues require that a person be comfortable with his or her own relationship with alcohol and other drugs. If there are personal issues of alcohol and other drug abuse or co-dependency, it may be more difficult to respond to those symptoms in others. Also, a person must be comfortable interacting with the person with a disability. If being around a person with a disability causes uncomfortable feelings, it is likely that alcohol and other drug abuse issues will be ignored all together.

The same criteria for reacting to alcohol and other drug abuse should be used for everyone, regardless of whether or not someone has a disability. The task facing rehabilitation professionals includes educating people with disabilities and others about the dangers inherent in alcohol and other drug use. Family members of a person with a disability must learn to accept the disability with sensitivity, while acknowledging the accompanying risks for alcohol and other drug abuse.

Sometimes enabling stops only when family members, friends, and professionals recognize that alcohol and other drug abuse interventions are an effective means for preventing problems from becoming worse.

It is often difficult for persons unfamiliar with the physical needs of persons with disabilities to know the difference between positive and negative enabling. The word *enabling* is used in very different contexts in the alcohol and other drug field and in the disability field. In the disability field, to enable a disabled person is to provide a physically and attitudinally flexible environment in which their disability related needs are freely and openly accommodated to the extent possible. In the alcohol and other drug field, the word *enabling* refers to the often unintentional act of helping a person maintain their alcohol or other drug problem. It is, therefore, a negative term in this context. The ability to accommodate, or enable, a person's disability needs without accommodating, or enabling, their alcohol and other drug problems is difficult and only comes with training, exposure and experience.

—Excerpt from the Summary Report of the Institute on Alcohol, Drugs and Disability's National Policy and Leadership Development Symposium August 1–3, 1991.

"Too often, counselors find themselves taking care of these people [with a disability where alcohol and other drugs play a major role in their lives]. Independent living goals are set aside. The counselor becomes mediator, trying to keep landlords from evicting the client, looking for emergency funds, emergency shelter, food, etc. Yet counselors seldom acknowledge the real reason for these emergencies. That is, the client's life is being gravely diseased by the abuse of chemical substances."

—Johnnie Lacey
Director
Community Resources for Independent Living
Hayward, CA

MYTHS & **FACTS**

MYTH: *People with disabilities do not have ready access to alcohol and other drugs.*

FACT: Within our society, virtually everyone has access to alcohol and other drugs. This is especially true for people who may be more susceptible to peer pressure or those who may already receive habit-forming prescription drugs. When people with disabilities are perceived as "naive" or socially innocent, there are sometimes greater opportunities to abuse drugs and not be confronted.

■

MYTH: *People with disabilities are "entitled" to use alcohol or other drugs in order to assist with social interactions or physical pain.*

FACT: A number of people with disabilities face challenges when attempting to establish and maintain an active social life. Although involvement in activities such as drinking may appear to be helpful in this regard, the risks associated with "social use" may not be readily apparent. These risks include medication side effects, a lower tolerance for alcohol, less experience in controlling consumption, and fewer social consequences which would limit episodes of abuse.

■

MYTH: *People with chronic pain can only deal with their situation through the use of strong medications.*

FACT: Chronic pain is a condition experienced by millions of Americans. Our medically-oriented culture looks to prescription and over-the-counter drugs as being a source of relief from these conditions. However, many people have discovered that medication only marginally assists with pain management, and in fact continual use of medication may only make the pain more obvious and debilitating. Exercise, diet, and other lifestyle adjustments, combined with specific pain reduction techniques, often are more successful in allowing someone to adjust to and live with pain.

■

MYTH: *A person with a disability is not likely to become alcohol and other drug dependent.*

FACT: Anyone can become alcohol and other drug dependent, but some people are at higher risk than others. The factors which increase risk include a family history of heavy use, chronic stress or mental health problems, environmental and cultural exposure to heavy use, peer pressure, and even biological conditions which increase the predisposition for abuse. Another identified risk factor for alcohol and other drug dependency is the presence of a disability. If an individual of legal age experiences a disability, this does not mean that he or she should not be allowed to consume alcohol. However, it is important that the individual understand the risks for dependency which may be increased by the disability.

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For More INFORMATION

Resources

The Substance Abuse Prevention Project has developed training material for rehabilitation staff serving persons with a traumatic injury, those addicted and their families. The material is appropriate for adults and teens. To order, contact the Rehabilitation Institute of Chicago, 448 E. Ontario #650, Chicago, IL 60611. Phone: (312) 908-2802.

The Substance Abuse Assessment and Education Kit was developed for those working in the field of traumatic brain injury. It contains useful clinical materials and research information intended to help identify substance abusers, develop effective plans for education and prevention, and assist in policy making efforts. To order, contact the Rehabilitation Research and Training Center on Severe Traumatic Brain Injury, Box 434, MCV Station, Richmond, VA 23298. Phone: (804) 786-7290.

Enabling: Masking Reality, a 22 minute video, narrated by Hugh Downs. For ordering and rental information, contact The Johnson Institute, 7205 Ohms Lane, Minneapolis, MN 55439. Phone: (800) 231-5165.

Training Manual for Professionals: Substance Abuse and Disability Issues. This manual can be used for self directed education or group training. Contact Substance Abuse Resources for Disabled Individuals, Department of Community Health, School of Medicine, Wright State University, Dayton, OH 45435. Phone: (513) 873-3588.

References

Cherry, L., and Gillespie, J. (1991). Discussion paper. Alcohol, Drugs and Disability: National Policy Leadership Development Symposium. Stanford University.

Moore, D. (1990). Research in substance abuse and disabilities: The implications for prevention and treatment. Paper presented at the National Prevention Research Conference People with Disabilities. Phoenix, AZ.

Moore, D., and Seigel, H. (1989). Double trouble: Alcohol and other drug use among orthopedically impaired college students. *Alcohol Health and Research World* 13(2), 118-123.

This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request. They include: An Overview of Alcohol and Other Drug Abuse Prevention and Disability; and the series: A Look at Alcohol and Other Drug Abuse Prevention and...Americans with Disabilities, Attention Deficit Disorder, Blindness and Visual Impairments, Deafness and Hearing Loss, Hidden Disabilities, Learning Disabilities, Mental Illness, Mental Retardation, Mobility Limitations, Traumatic Brain Injury, Disability and Health Implications, Disability and Enabling, Disability and the Family, Service Delivery Settings, and a Symptoms Checklist.
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A Look at Alcohol and Other Drug Abuse Prevention and...

DISABILITY AND HEALTH IMPLICATIONS

It is a well-known fact that people with disabilities tend to experience more medical and health-related problems than the general population. However, many people with disabilities do not require greater amounts of medical care. Instead, it is the disability in combination with an unhealthy lifestyle which places a person at risk for health and medical problems (Pope and Tarlov, 1991). One lifestyle risk involves the misuse of alcohol and other drugs. Even amounts of alcohol considered "moderate" for most people can have negative effects for someone with a disability. This is due to such factors as:

- regular use of medications;
- compromised circulation or metabolism; or
- unusual nervous system activity (e.g., spasticity, seizures, hyperactivity).

For people with disabilities who must take special precautions about their health, alcohol and other drug misuse can increase the risk for chronic health problems, and place them at risk for secondary disabilities.

Disability-related medical care in the United States has been estimated to cost $120 billion per year (Pope and Tarlov, 1991). The unidentified alcohol and other drug abuser within the health systems substantially raises these costs. Problems associated with alcohol and other drug abuse and disability affect many large systems including medical rehabilitation, special education, centers for independent living, vocational rehabilitation, and worker compensation. Screening and identification of alcohol and other drug abuse problems must be an integral part of these services to better serve those in need, to reduce the risk of secondary disabilities, and to maintain cost-effective services.

> "Disability management and rehabilitation success requires commitment, tenacity, energy, and endurance. These attributes become suppressed and vanish with the use of alcohol and other controlled substances. Rehabilitation requires sobriety."
>
> **— James S. Jeffers**
> Assistant Superintendent for
> Vocational Rehabilitation, Maryland

Medical and other rehabilitation efforts can be severely hindered when a person with a disability is overmedicated, abusing, or using even small quantities of alcohol or other drugs (Heinemann, et al., 1989). Cognition, mobility, stamina, and interpersonal skills are all adversely affected. Rehabilitation staff do not always recognize alcohol and other drug abuse problems in their patients because some behaviors associated with disabilities are similar to the consequences of alcohol and other drug abuse, such as:

- missed appointments,
- drowsiness,
- impaired memory,
- affected speech or gait.

Moreover, health care professionals often do not perceive alcohol and other drug abuse identification as their responsibility. Unfortunately, this attitude shields the person with a disability from negative consequences, perpetuating the alcohol and other drug abuse.

One societal misperception is that people with disabilities are sick or unhealthy. This misperception tends to mask the true reasons behind some medical complications. For their part, physicians frequently have limited information regarding those patients with disabilities who are most at risk for developing alcohol and other drug abuse problems. Also, these practitioners have limited means for identifying patients who have acquired the same medication from other physicians. Sometimes, as a consequence, medications are abused because of their abundance, or they are traded for alcohol or other drugs.

Perhaps the greatest challenge to health care professionals, disability specialists, families, and society in general is to look beyond the disability and assess the underlying causes for recurring medical problems. Frequently, alcohol and other drug abuse will remain hidden behind a disability until specific questions are asked.

The prevalence of alcohol-related problems in persons with physical disabilities has emerged as an issue in medicine and physical rehabilitation. Physicians, rehabilitation specialists and service providers increasingly are aware that alcohol abuse not only can contribute to the onset of disability, but can undermine the rehabilitation process by impairing the learning process and increasing morbidity.

—Allen W. Heinemann, Ph.D.
Associate Professor, Department of Physical Medicine and Rehabilitation
Northwest University Medical School
Chicago, IL

Resources: *JR's Story: The Disability of Chemical Dependency* is a video which chronicles one year in the life of a young man with quadriplegia following an arrest for drug trafficking. To order, contact Aims Media, 9710 DeSoto Ave., Chatsworth, CA 91311. Phone: (800) 367-2467.

The Substance Abuse Assessment and Education Kit was developed for professionals working in the field of traumatic brain injury. It contains useful clinical materials and research information intended to help identify substance abusers, develop effective plans for education and prevention, and assist in policy-making efforts. For more information, contact Rehabilitation Research and Training Center on Severe Traumatic Brain Injury, Box 434 MCV Station, Richmond, VA 23298-0434. Phone: (804) 786-7290

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DID YOU **KNOW** THAT...

the definition of 'heavy alcohol use' is dependent, among other things, on the nature of the disability and the types of medications being used?

For the "average" person without a disability, the body is able to process approximately one drink per hour (one shot of whiskey, one 12 oz can of beer). For this person, consuming several drinks in the course of an evening may not be considered excessive. However, a person taking medications, such as muscle relaxers (Flexeril, Soma or Robaxin) to control spasms will experience the side effects of heavy alcohol consumption after only one or two drinks. The same reactions may occur when alcohol is consumed with antidepressants, sedatives, and other drugs commonly prescribed for people with specific disabilities.

■

alcohol use can be directly implicated in some forms of arthritis?

Of the many forms of arthritis, some are associated with alcohol abuse. Gout is one form of arthritis associated with alcohol abuse. Gout is marked by an excess of uric acid in the blood and painful inflammation of the joints. At least one form of arthritis of the hip also is strongly associated with excess alcohol consumption.

■

bedsores, or decubitus ulcers, can be caused by frequent alcohol or other drug use?

People who have serious mobility limitations spend much of their time sitting or lying down. If a person is frequently under the influence, it is far less likely that pressure release exercises will be conducted on time to relieve excess stress on body pressure points. Failure to follow pressure release procedures can cause ulcerations on the body. Sometimes these ulcerations extend all the way to the bone. It can take over $50,000 and many months to heal a single bedsore.

■

the use of hallucinogens can be especially dangerous for people with spinal cord injuries?

People with spinal cord injuries who have experimented with hallucinogens report a number of very serious side-effects. These include hyperventilation, greater spasticity and high body temperature, as well as the absence of the typical "high."

■

among some leading causes of mental retardation, Fetal Alcohol Syndrome (FAS), is the most preventable?

FAS is currently one of the leading causes of mental retardation in the United States. This condition can be entirely prevented if women abstain from alcohol and other drugs during pregnancy. There is no known "safe" amount of alcohol which can be consumed without damaging the fetus. Common features associated with FAS include reduced growth rate, impaired cognitive functioning, abnormalities in body features, and behavioral problems.

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For More INFORMATION

Resources

Include, but are not limited to, the following:

Abbott Northwestern Hospital
Sister Kenny Institute
800 East 28th Street
Minneapolis, MN 55407
(612) 863-5061

Mediplex Rehab - Denver
The Bridge Recovery Program
8451 Pearl Street
Thornton, CO 80229
(800) 486-1017
(303) 288-3000

Rehabilitation Institute of Chicago
448 E. Ontario
Room 605
Chicago, IL 60611
(312) 908-2802

References

Heinemann, A.W., Doll, M., and Schnoll, S. (1989). Treatment of alcohol abuse in people with recent spinal cord injuries. *Alcohol Health and Research World,* 13(2), 110-117.

Pope, A.M., and Tarlov, A.R. (Eds.) (1991). *Disability in America: Toward a National Agenda for Prevention.* Washington, DC: National Academy Press.

Schaschl, S. and Straw, D. (1989). Results of a model intervention program for physically impaired persons. *Alcohol Health and Research World,* 13 (2).

This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request. Some examples are: A Look at Alcohol and Other Drug Abuse Prevention and...Americans with Disabilities, Attention Deficit Disorder, Blindness and Visual Impairments, Deafness and Hearing Loss, Hidden Disabilities, Learning Disabilities, Mental Illness, Mental Retardation, Mobility Limitations, Traumatic Brain Injury, Disability and Enabling, Disability and the Family, Disability and Health Implications, Service Delivery Settings, and Symptoms Checklist.
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A Look at Alcohol and Other Drug Abuse Prevention and...

SERVICE DELIVERY SETTINGS

A very important component for addressing alcohol and other drug abuse within an organization or agency is the existence of written policies regarding these issues. When policies and procedures are established in writing, both staff and clients have greater appreciation for these types of concerns. Written policies also designate specific staff responsibilities and procedures for initiating intervention or referral. People receiving services from the agency are provided a clear message—alcohol and other drug abuse which impacts the utilization of agency services will not be overlooked.

COMPONENTS OF AN AGENCY POLICY

Include the following points when developing an agency policy regarding the use and misuse of alcohol and other drugs by clients and staff:

1. Definition of alcohol, other drug use and abuse and the criteria used to determine when these situations apply.
2. Review of applicable federal, state, and local drinking and drug laws.
3. Procedures for documenting alcohol and other drug-related incidents.
4. Consequences for alcohol and other drug abuse including intervention and referral procedures.
5. Alcohol and other drug abuse assessment procedures, when applicable.
6. Alcohol and other drug abuse services which may be utilized, including in-house support groups or incorporating alcohol and other drug abuse treatment into the individual rehabilitation plan.
7. Designation of the staff responsible for enforcing the alcohol and other drug abuse policy.
8. Consequences for failure to comply with the alcohol and other drug abuse component of the rehabilitation plan.
9. Procedures and rationale for notifying significant others, law enforcement officials, or other service providers.

Agency policy can be communicated to clients through the use of a signed agreement. An example of such a contract follows on the next page.

Resource: Obtain a copy of the *Summary Report* of the Institute on Alcohol, Drugs and Disability's Policy and Leadership Development Symposium, which was held August, 1991. Contact IADD, Publications and Dissemination, 3224 Round Hill Drive, Hayward, CA 94542. Phone: (510) 582-6838.

AN EXAMPLE:

Alcohol and Drug Use Policy Description and Contract

The goal of the Rehabilitation Research and Training Center Supported Work Program is to assist individuals who have sustained traumatic brain injuries to return to work. Past experience has indicated that we are able to provide more effective services—and individuals are more successful in their jobs—if alcohol and other nonprescription drugs are not used.

The use of alcohol/nonprescription drugs can be dangerous for someone who has had a head injury. Head injury causes damage to the brain and nervous system, thereby making an individual more susceptible to the effects of alcohol and other drugs. In other words, one glass of beer or wine can actually have the effect of three to five glasses. In addition, seizures may be caused by even small dosages of alcohol/other drugs in persons who have a traumatic brain injury.

There is no question that alcohol and illicit drugs will slow recovery from brain injury. This is because nerve cells in the brain are killed or damaged as a result of a traumatic brain injury; each drink of alcohol or dose of a nonprescription drug affects brain cells that are a part of the brain's reserve capacity. As more brain cells are killed or damaged, the brain has a harder time making up for losses.

Therefore, we request that you do not use alcohol, marijuana, cocaine, amphetamines, barbiturates, or other nonprescription drugs while being served at the RRTC supported work program. If an RRTC staff member, or employer, or other reliable source has reason to believe you are using alcohol or other drugs, you will be required to see a substance abuse counselor for an evaluation. Supported employment services may be discontinued if an individual refuses to see a substance abuse counselor as requested.

The results of the evaluation will determine whether or not you are referred to a substance abuse treatment program. If you are referred to a treatment program, supported employment services will continue as long as you comply with the treatment program. Failure to participate in a treatment program will be grounds for the RRTC to discontinue supported employment services.

I _____ have read the above and understand that the RRTC will refer me to a substance abuse counselor if I am suspected of using alcohol or other drugs not prescribed for me by a physician. Participation in any recommended treatment or counseling will mean that the RRTC will continue supported employment services.

Signed:_____
(Consumer's Signature and Date)

_____
(Witness' Signature and Date)

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A Look at Alcohol and Other Drug Abuse Prevention and...

SYMPTOMS CHECKLIST

The following questions can assist with a general screening for alcohol and other drug abuse problems among people with disabilities. Although the questions may apply to anyone who abuses alcohol or other drugs, they may have particular relevance to a person with a disability.

Exhibiting one of these symptoms is not necessarily indicative of alcohol and other drug abuse; however, several or more of these symptoms in combination may suggest that issues related to alcohol and other drug abuse should be explored at greater length. If a person exhibits several of the above symptoms, it might be advisable to consult with an alcohol and other drug abuse specialist.

❑ Frequent intoxication

a. Does the person report or appear to be frequently high or intoxicated?

b. Do recreational activities center around drinking or other drug use, including getting, using, and recovering from use?

❑ Atypical social settings

a. Does the immediate peer group of the person suggest that alcohol and other drug abuse may be encouraged?

b. Is the person socially isolated from others and is alcohol and other drug abuse occurring alone?

c. Is the person reluctant to attend social events where alcohol or other drug won't be available?

❑ Intentional heavy use

a. Does the person use alcohol or other drugs with prescribed medications?

b. Does the person use more than is safe in light of medications or compromised tolerance?

c. Does the person have an elevated tolerance as evidenced by the use of large quantities of alcohol or other drugs without appearing intoxicated?

❑ Symptomatic drinking

a. Are there predictable patterns of use which are well known to others?

b. Is there a reliance on alcohol or other drugs to cope with stress?

c. Has the person made lifestyle changes (e.g., changed friends or moved to another area) yet the alcohol or other drug use has stayed the same or increased?

❑ Psychological dependence

a. Does the person repeatedly rely on alcohol or other drugs as a means of coping with negative emotions?

b. Does the person believe that he or she cannot cope with pain without medication?

c. Does the person obviously feel guilty about some aspect of his or her use?

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❑ **Health problems**

a. Are there medical conditions which decrease tolerance or increase the risk of alcohol and other drug abuse problems?

b. Are there recurring bladder infections, chronic infections, bed sores, seizures, or other medical situations which are aggravated by repeated alcohol or other drug use?

c. Did the disability occur when the person was under the influence, even if he or she denies that it was alcohol or other drug related?

❑ **Job problems**

a. Is the person underemployed or unemployed?

b. Has the person missed work or gone to work late due to abuse of alcohol or other drugs?

c. Does the person blame his or her disability for work-related problems?

❑ **Problems with significant others**

a. Has a family member or friend expressed concern about the person's use?

b. Have important relationships been lost or impaired due to alcohol and other drug use?

❑ **Problems with law or authority**

a. Has the person been in trouble with authorities or arrested for any alcohol or other drug-related offenses?

b. Have there been instances when the person could have been arrested but wasn't?

c. Does the person seem angry at "the system" and at authority figures in general?

❑ **Financial problems**

a. Is the person's spending money easily accounted for?

b. Does the person frequently miss making payments when they are due?

❑ **Belligerence**

a. Does the person appear angry or defensive but does not know why?

b. Is the person defensive or angry when confronted about alcohol and other drug use?

❑ **Isolation**

a. Does increasing isolation suggest heavier alcohol and other drug abuse?

b. Is the person giving up or changing social and family activities in order to use?

❑ **"Handicappism"**

a. Does the person focus on the disability to the exclusion of other aspects of him or herself?

b. Does the person blame his or her disability for what goes wrong?

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This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request.
Produced by VSA Educational Services, Resource Center on Substance Abuse Prevention and Disability.
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ALCOHOL AND OTHER DRUG ABUSE PREVENTION AND DISABILITY

ORDERING INFORMATION

These materials were developed by the Resource Center on Substance Abuse Prevention and Disability. It was written for those working in the field of alcohol and other drug abuse services, as well as for those involved in the disability and rehabilitation fields. It reflects information available at the time of its printing, December 1991. To order, please check the box which corresponds to the fact sheet you are interested in receiving and complete the information on the back.

❑ **An Overview of Alcohol and Other Drug Abuse Prevention and Disability**
Provides information regarding the relationship between disabilities and the risk for alcohol and other drug problems. Includes examples of the risk factors. (8 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Americans with Disabilities**
Reviews the Americans with Disabilities Act of 1990 and its impact on alcohol and other drug services. Provides information on architectural and communication barriers, as well as discrimination and other barriers and suggestions to improve access and positive interactions. Resource organizations and agencies to contact for more information are provided. (8 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Attention Deficit Disorder**
Provides information on attention deficit disorder. Describes the implications of alcohol and other drug abuse for a person with attention deficit disorder with suggestions to improve access and positive interactions. A resource organization and a government agency to contact for more information are provided. (4 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Blindness and Visual Impairments**
Provides information on blindness and visual impairments. Describes the implications of alcohol and other drug abuse for a person who is blind or has a visual impairment with suggestions to improve access and positive interactions. Resource organizations and a government agency to contact for more information are provided. (4 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Deafness and Hearing Loss**
Provides information on deafness and hearing loss. Describes the implications of alcohol and other drug abuse for a person who is deaf or has a hearing loss with suggestions to improve access and positive interactions. Resource organizations and a government agency to contact for more information are provided. (8 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Hidden Disabilities**
Provides information on hidden disabilities. Describes the implications of alcohol and other drug abuse for a person with a hidden disability with suggestions to improve access and positive interactions. Resource organizations and government agencies to contact for more information are provided. (4 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Learning Disabilities**
Provides information on learning disabilities. Describes the implications of alcohol and other drug abuse for a person with a learning disability with suggestions to improve access and positive interactions. Resource organizations and a government agency to contact for more information are provided. (4 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Mental Illness**
Provides information on mental illness. Describes the implications of alcohol and other drug abuse for a person with a mental illness with suggestions to improve access and positive interactions. Resource organizations and government agencies to contact for more information are provided. (4 pages)

(Over)

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❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Mental Retardation**
Provides information on mental retardation. Describes the implications of alcohol and other drug abuse for a person with mental retardation with suggestions to improve access and positive interactions. Resource organizations and government agencies to contact for more information are provided. (6 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Mobility Limitations**
Provides information on mobility limitations. Describes the implications of alcohol and other drug abuse for a person with mobility limitations with suggestions to improve access and positive interactions. Resource organizations and government agencies to contact for more information are provided. (6 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Traumatic Brain Injury**
Provides information on traumatic brain injury. Describes the implications of alcohol and other drug abuse for a person with a traumatic brain injury with suggestions to improve access and positive interactions. Resource organizations and a government agency to contact for more information are provided. (4 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Disability and Enabling**
Discusses the concept of the term enabling as used in the alcohol and other drug field and in disability advocacy. Also reviews some of the reasons people will enable others, specifically people with disabilities, to continue to use alcohol and other drugs. Provides resource and reference information on addressing the issue of enabling. (4 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Disability and Family**
Addresses the impact on the family when a family member has a disability and how the issues are compounded when that person is abusing alcohol or other drugs. Provides guidelines and resources for the family. (4 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Disability and Health Implications**
Discusses the health and medical implications associated with alcohol and other drug abuse and disability. Provides resources to develop knowledge and skills in addressing these issues, for those in the health, medical and rehabilitation fields. (4 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Service Delivery Settings**
Discusses a component for addressing alcohol and other drug abuse within an organization or agency, the existence of a written policy regarding these issues. Includes components of an agency policy and an example of a contract used in a supported employment program. (2 pages)

❑ **A Look at Alcohol and Other Drug Abuse Prevention and… Symptoms Checklist**
Provides questions which can assist with a general screening for alcohol and other drug abuse problems among people with disabilities. (2 pages)

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A Look at Alcohol and Other Drug Abuse Prevention and...

AMERICANS WITH DISABILITIES

In the "Findings and Purposes" of the Americans with Disabilities Act (ADA) of 1990, Congress reported that approximately 43 million Americans have one or more physical or mental disabilities, and that this number is increasing as the population grows older. Congress referred to these people as a "discrete and insular minority who have been subjected to a history of purposeful, unequal treatment and relegated to an inferior status in our society." Congress further described the persistent discrimination experienced by people with disabilities in employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services.

Congress reported that the severe disadvantages experienced by Americans with disabilities take many forms including:

- outright intentional exclusion;
- overprotective rules and policies;
- segregation or relegation to lesser services or programs;
- exclusionary standards; and
- architectural, transportation, and communication barriers

(Public Law 101-336, Section 2, July 26, 1990).

The ADA was passed to address and eliminate the major forms of discrimination faced daily by people with disabilities. The Congressional findings are very important to alcohol and other drug prevention programs and professionals for another reason. They serve to illustrate that Americans with disabilities experience stressful demands. It is well known that most people with disabilities will experience some period of depression, denial, anger, grief, social isolation, agitation, and even guilt. There are also transition periods when a person may be dealing with issues of attribution. It could be the responsibility one has for having incurred a disability or chronic illness. Indeed, some may have contributed to the onset of their disability (e.g., by driving while intoxicated or smoking).

These stresses may predispose people with disabilities to choosing an escape through the use of alcohol or other drugs. Due to medical needs such as pain, spasticity, seizure control, or breathing difficulties, people with disabilities also have more ready access to prescription drugs. It is well documented that medical personnel, attendants, and family members sometimes enable the use and abuse of alcohol and other drugs by a person with a disability to alleviate their own guilt, provide a perceived pleasurable diversion, or simply avoid conflict.

Based upon five detailed case studies, de Miranda (1990) recently enumerated issues requiring additional attention by alcohol and other drug programs seeking to serve people with disabilities:

- The regular use of prescribed medication, both non-psychoactive and psychoactive, may serve to facilitate later legal or illicit drug use.
- Alcohol and other drug abuse that exists prior to disability acquisition tends to continue and worsen.

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- Accessing self-help groups such as Alcoholics Anonymous or Narcotics Anonymous is especially difficult for some people with disabilities.

The de Miranda study concluded that all of these circumstances provide a foundation for above average consumption of alcohol and other drugs.

These observations may partially explain (without approving or condoning) the real phenomenon that alcohol and other drug problems are significantly more prevalent among people with disabilities. Even though prevalence rates vary among specific disability groups, "There are reliable estimates of the incidence of alcohol and drug abuse among people with disabilities; indications are that it is at least double that of non-disabled people." (California Attorney General's Commission on Disability, 1989.) This is why the Office for Substance Abuse Prevention (OSAP) is looking at the alcohol and other drug abuse prevention issues unique to Americans with disabilities.

The ADA is important for alcohol and other drug prevention programs and professionals because of the potential impact on their operations and employment practices. The following needs to be noted:

1. Whether configured as a social service, health care service, or educational service, alcohol and other drug prevention programs are public accommodations. Beginning January 26, 1992, they must allow all people with disabilities to participate in the full and equal enjoyment of goods, services, facilities, privileges, advantages, and accommodations of the program.
2. While the ADA will outlaw the use of pre-employment medical examination, a drug test is not regarded as a medical examination for employment purposes. Accordingly, employers may test employees and applicants routinely either before or in the course of employment.
3. The ADA stipulates that people who are recovering from alcohol and other drug abuse may receive the full protection of the new law. Current users of illegal drugs or alcohol, however, receive no protections. The existence of another disability does not preclude discrimination clearly based on the current illegal drug or alcohol abuse.

These points serve to illustrate the increased importance of alcohol and other drug abuse prevention, especially in the workplace.

> "Attitudinal and architectural barriers to prevention and recovery for people with disabilities is oppression. Just as African-Americans were relegated to the back of the bus people with disabilities were, until the Americans with Disabilities Act, legally kept off the bus."
>
> **— Anthony Tusler**
> President
> Institute on Alcohol, Drugs and Disability

The employment provisions of the ADA prohibit discrimination in all employment-related practices and activities. They are rooted in the legislative history of Sections 503 and 504 of the 1973 Rehabilitation Act, but are much more far reaching. Additionally, there is much more awareness and involvement in the ADA by disability rights groups. The employment provisions become effective on July 26, 1992, and are expected to become rigorously enforced by the Equal Employment Opportunity Commission. Penalties for ADA employment discrimination, at a minimum, will include back pay, litigation expenses, and corrective action (e.g. hiring, reinstatement, promotion). In general, the public access provisions of the ADA become effective on January 26, 1992. They will be enforced by the Department of Justice, and civil penalties may reach $100,000 per violation.

The ADA, in conjunction with Section 504, is the most important civil rights legislation since the 1964 Civil Rights Act. It is leading to a major civil rights movement for Americans with disabilities, who have waited for decades to see their basic civil rights guaranteed by law.

OSAP has recognized the significance of the ADA and is attempting to facilitate the interface between the alcohol and other drug abuse prevention community and the disability and rehabilitation communities. A significant portion of the history of the 1990s will be written about the disability civil rights movement. You can participate in this important arena and even provide leadership. This begins by taking the necessary time to understand some basic information about disability.

Who are the 43 million Americans with disabilities? They are the largest and most diverse minority group in the U.S. Still, two-thirds of their working age members are unemployed even though 66% of these people say they want to work. According to the President's Committee on Employment of People with Disabilities, the cost to the American taxpayer is $300 billion annually. Worker compensation payments are over $25 billion per year, and one dollar of every hour of wages in America now goes for a disability related expense. Disability is an equal opportunity phenomenon, affecting every racial and economic segment of our population.

To fall within the Americans with Disabilities Act's (ADA) definition of a person with a disability, a person:

- must have a physical and/or mental impairment that substantially limits one or more major life activities; or
- must have a record of such an impairment; or
- must be regarded as having such an impairment.

This definition is broad by design and is intended to address both medical and psychosocial impediments to the full integration of Americans with disabilities.

The ADA defines as disabled people who have completely recovered from a disabling condition, but who have a history or record of disability. People with a history of cancer, heart surgery, or mental illness are common examples. The ADA also defines as disabled people who once had been misclassified as disabled (e.g., a person with a medication allergy who may have been wrongly diagnosed as epileptic). People who may be regarded as having a disability include:

- a person with hypertension that is controlled by medication, but whose employer has decided he or she cannot do strenuous work;
- a person with facial disfigurement that is disabling only because of the attitudes and reactions of others;
- a person who is rumored to carry the AIDS virus, but who has no impairment and is disabled only by the perception of others.

These people receive the full protection of the ADA, guaranteeing basic civil rights.

Architectural and Communication Barriers

The ADA recognizes that one significant barrier to the provision of alcohol and other drug abuse prevention services is the person's physical access to and within the place where such services are provided. Inaccessibility primarily affects those with mobility and sensory impairments, but it is relevant to many other disabled and even nondisabled people (e.g., pregnant women and elderly people). Title III of the ADA specifies that discrimination includes a failure to remove architectural or communication barriers in existing facili-

ties if such removal is readily achievable (i.e., accomplishable without much difficulty or expense). Examples would include modest adjustments such as adding grab bars in restrooms, lowering public telephones, or adding braille markings on elevator control buttons.

If the removal of a barrier is not readily achievable, then one must attempt to provide services or programs through alternate methods (e.g., providing assistance to retrieve items in an inaccessible location). The ADA mandates a much higher standard for "readily accessible to and usable by" regarding new construction and major alterations because it costs far less to design accessibility into a new construction project, typically adding 0.5% to 5% of the total budget.

Discrimination and Other Barriers

The lawmakers of the ADA were quick to recognize that the serious impediments to access for people with disabilities are not problems that can be solved solely by architects. They are problems of attitude. An attitudinal barrier is defined as a way of thinking or feeling that results in behavior which limits the potential of people with disabilities to function independently. Attitudes toward people with disabilities have been explored. Three important assumptions can be noted:

1. A small percentage of people have openly negative attitudes that are associated with prejudice, fear, ignorance, intolerance, insensitivity, discrimination, dislike, condescension, and the like. They subscribe to most of the myths surrounding disabilities, even in the face of documented evidence to the contrary.
2. The vast majority of the American public is neither positive nor negative toward people with disabilities. Their general reaction is one of massive and deliberate indifference. They just prefer not to think about disability at all.
3. This indifference is rooted in a perfectly natural psychological phenomenon in which, when we think about or encounter disability, we must think about and deal with the fragility of our own health and ultimately our own mortality. To do so is unpleasant and uncomfortable for most people.

Avoiding this discomfort has been too expensive. Any indifference, unpleasantness, or discomfort felt, any attitudinal barriers that may have been erected around the issue of disability must be removed. As in all areas of life, complete access to alcohol and other drug abuse prevention services must be guaranteed.

Suggestions to Improve Access and Positive Interactions

Offer assistance if you wish, but do not insist. Always ask before you act, but do not help without permission. If you are not sure what to do, ask the person to explain what would be helpful.

Focus on the abilities of the person, rather than on the disability. Be mindful that alternative ways of doing things are often equally effective. Encourage people with disabilities to be their own advocates.

Be aware of limitations specific to a disability, but do not be overprotective. Do not exclude the person from participating in an activity just because you assume their disability would be a problem. Let them make the decision; do not lower your expectations. There is dignity in being able to take risks. Allow a person with a disability to fail just as you would allow any other person. No one succeeds all the time.

Make sure that parking areas, restrooms, and buildings in which you provide services or conduct meetings are architecturally and environmentally accessible to all people. This is crucial

to the establishment of a comfortable and equitable relationship with people with a disability. Get expert advice before making expensive structural modifications.

Accessibility to the full range of services you provide is legally required. Review your programs and reading materials. Are they diverse enough to reach all levels of ability? Is the content accessible to people with hearing, visual, or learning disabilities? (e.g., audiotapes, audiovisuals, large print).

Conduct outreach efforts to publicize your programs to people with disabilities. Allow time for them to become fully aware of your services and develop trust in your efforts.

Ask a person with a disability to facilitate disability awareness training sessions with staff to promote positive attitudes. Locate material and have it available for learning more about disability related issues.

Involve people with disabilities on advisory boards, planning committees, in positions of authority and in the planning and presentation of all sponsored programs. Actively seek qualified persons with disabilities when hiring for staff positions.

Assume responsibility for understanding the issues that affect people with disabilities. Learn more. Send for information from consumer and disability related organizations, ask for their support, and invite their representatives to speak at meetings.

For each person with a disability, explore all possible factors contributing to alcohol and other drug involvement, not just those related to disability.

The Power of Language

It is important to monitor your use of written and spoken language regarding people with disabilities. Words are powerful tools, indicating the perceptions and attitudes of the person using them. The following general guidelines will be helpful:

1. Focus on issues and not on a disability. Above all, do not sensationalize a disability by using terms such as "afflicted with," "suffers from," "victim of," "shut-in," "infirmed," "crippled with," or "unfortunate." These expressions are very offensive, even defamatory, to people with disabilities.
2. Emphasize people, not generic labels. Say "people with mental retardation," not "the retarded." Put people first, not their disability.
3. Emphasize abilities, not limitations. Say "uses a wheelchair," not "confined to a wheelchair" or "wheelchair bound."
4. Avoid condescending euphemisms like "handicapped, mentally different, physically inconvenienced, physically challenged." These tend to trivialize disabilities and suggest that they cannot be dealt with in an upfront manner.
5. Avoid disease connotations such as "patients" or "cases."

MYTHS & **FACTS**

MYTH: *Disability is a constantly frustrating tragedy.*

FACT: People with disabilities do not sit around and ponder their disability all the time. They simply carry out their lives as normally as they can.

■

MYTH: *People with disabilities have interests, needs, desires, abilities, and lifestyles which are profoundly different from other people.*

FACT: People with disabilities are more like than unlike people without disabilities in all respects. As with all of us, it is their unique individuality that makes each person different.

■

MYTH: *If a person with a disability has a problem with alcohol or other drugs, it probably began as a result of the disability.*

FACT: Many people with disabilities have pre-disability histories of alcohol or other drug involvement. In the case of trauma, for example, about 50% of all injuries involve the use of alcohol or other drugs. People with disabilities experience the same risk factors as others, including possible hereditary predispositions. These may have more impact on alcohol and other drug use than disability related issues per se.

MYTH: *People with disabilities prefer to work with alcohol and other drug abuse prevention personnel who are disabled.*

FACT: People with disabilities seek services from professionals who are the most qualified in their areas in terms of training, experience, knowledge of resources, and willingness to work with disability issues.

■

MYTH: *People with disabilities prefer separate programs and services.*

FACT: Most people with disabilities do not want or need separate programs which often limit opportunities and perpetuate segregation and the myth of "different-ness." Besides, the ADA expressly prohibits the provision of separate services "unless such action is necessary to provide a service that is as effective as that provided to others."

REMEMBER

ASK AND LISTEN!

A person with
a disability
is the expert
about his or her
disability.

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For More INFORMATION

Organizations

Include, but are not limited to, the following:

Adaptive Environments Center
374 Congress Street, Suite 301
Boston, MA 02210
(617) 695-1225 Voice and TDD

Association for Persons with Severe Handicaps
7010 Roosevelt Way, NE
Seattle, WA 98115
(206) 523-8446
(206) 524-6198 TDD

Barrier Free Environments, Inc.
PO Box 30634
U.S. Highway 70, West Water Garden
Raleigh, NC 27622
(919)782-7823

National Council on Independent Living
Troy Atrium, 4th Street and Broadway
Troy, NY 12180
(518) 274-1979
(518) 274-0701 TDD

National Center for Law and the Handicapped
1235 N Eddy Street
South Bend, IN 46617
(219) 288-4751

National Easter Seal Society
70 East Lake Street
Chicago, IL 60601
(800) 221-6827
(312) 726-4258 TDD

National Rehabilitation Information Center
8455 Colesville Road, #935
Silver Spring, MD 22091
(800) 34-NARIC Voice and TDD

Government Agencies

Architectural and Transportation Barriers Compliance Board
111 18th Street, NW
Suite 501
Washington, DC 20036
(202) 653-7834 Voice and TDD

National Institute on Disability and Rehabilitation Research
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202
(202) 732-1134 (202) 732-5316 TDD

National Council on Disability
800 Independence Avenue, SW, Suite 814
Washington, DC 20591
(202) 267-3235 (202) 267-3232 TDD

President's Committee on Employment of People with Disabilities
1331 F Street, NW, Suite 300
Washington, DC 20004
(202) 376-6200 (202)376-6205 TDD

Rehabilitation Services Administration
U.S. Department of Education
330 C Street, SW
Washington, DC 20001
(202) 732-1282

Community Contacts

Many of the listed organizations have state and local chapters.

To locate additional resources contact your state Governor's Committee of People with Disabilities

or obtain a State Resource Sheet from

National Information Center for Children and Youth with Disabilities
PO Box 1492
Washington, DC 20013
(703) 893-6061 (800) 999-5599 (703) 893-8614 TDD

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A Look at Alcohol and Other Drug Abuse Prevention and...

ATTENTION DEFICIT DISORDER

Attention Deficit Disorder (ADD) is marked by developmentally inappropriate degrees of inattention, impulsiveness, and hyperactivity (DSM III, R). ADD generally has an onset prior to the age of four. However, it is typical that ADD is not diagnosed until the child begins school. An estimated 3% of all children experience ADD, and it occurs approximately six times more frequently in males than in females.

A common fallacy is that ADD is a learning disability. ADD is behavioral in nature and is characterized by impulsivity and an inability to remain focused on one topic. ADD frequently is accompanied by hyperactivity. In contrast, a learning disability is associated with how a person learns. School difficulties are common to both disabilities.

It is believed that ADD has a biological basis. This disability occurs more frequently in children from families with a history of developmental disorders, conduct disorders and alcohol and other drug abuse (DSM III, R).

The Implications of Alcohol and Other Drug Abuse

Problems with alcohol and other drug abuse seem to occur more frequently in people diagnosed with ADD (Hechtman, 1986). Many youth experiencing ADD continue to show signs of the disability into adolescence and adulthood. If ADD persists into later adolescence, conduct disorder and alcohol and other drug abuse may be a problem for up to one half of these individuals.

For many people, it is difficult to distinguish between the behaviors associated with ADD and those associated with alcohol and other drug abuse—especially since both are often manifested in socially unaccepted behaviors. For this reason, estrangement from family and significant adults is a possibility. These behavior issues also make alcohol and other drug abuse treatment efforts more difficult. Standard treatment modalities often do not take into consideration the special needs of people with ADD. Additionally, young people with ADD may be prescribed medications for behavior control, and this also may be a risk factor for some forms of subsequent alcohol and other drug abuse.

Alcohol and other drug abuse prevention efforts should include information specific to the person's disability. For example, the following points might be emphasized in discussions with a person who has ADD:

- Even small amounts of alcohol can be harmful in combination with prescription drugs.

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- The use of alcohol and other drugs can interfere with learning and developing effective social skills, which could increase feelings of isolation and disenfranchisement.

- There is a difference between taking medication and using alcohol and other drugs to deal with emotions and difficult situations. It is important to learn effective ways to deal with stress and other problems and not use alcohol and other drugs to do so.

Resources: *A Special Message: Project Oz, A Comprehensive Drug Education Curriculum for Learning Disabled and Behavior Disordered Populations.* A drug education and prevention program now available for grades one through twelve. The price list and ordering information can be obtained by contacting Project Oz, 201 E. Grove Street, 2nd floor, Bloomington, IL 61701. Phone: (309) 827-0377.

Obtain a list of publications available for ordering from Learning Disabilities Association of America-Literary Depository, 4156 Library Road, Pittsburgh, PA 15234. Examples of publications available on ADD:

Attention Deficit Disorder-ADD Syndrome
Parenting Attention Disordered Teens
Attention Deficit Disorder in Teenagers and Young Adults
Educational Strategies for Students with ADD.

Suggestions to Improve Access and Positive Interactions

Be patient when communicating with someone with ADD. Ask clarifying questions throughout the conversation to ensure that the person is grasping the information provided. Repetition will be necessary.

When communicating with a person with ADD, use innovative and unusual examples to catch the person's attention. Those with ADD tend to stay more focused when the information and modalities are presented in diverse ways.

Take frequent breaks. When the person seems to be drifting away from the lesson, take a break before refocusing on the topic at hand. People with ADD have the most difficulty in situations which require prolonged periods of attention.

People with ADD seem to stay focused better when in a structured setting, receiving frequent reinforcements. Important information may best be given in one to one situations.

REMEMBER

ASK AND LISTEN!

A person with a disability is the expert about his or her disability.

MYTHS & **FACTS**

MYTH: *Attention deficit disorder is the same as learning disability.*

FACT: These two disabilities can co-exist but each addresses distinctly different symptoms. ADD considers a person's inability to focus attention or control aspects of behavior. It frequently is accompanied by hyperactivity. Learning disability relates to specific developmental disorders associated with learning and learning modalities.

■

MYTH: *All people with ADD have brain damage.*

FACT: Although some people with ADD do have signs of brain damage, the majority do not have measurable differences in brain function.

MYTH: *People with ADD have intellectual deficits.*

FACT: Although there are exceptions, most people with ADD have average to above average intelligence.

■

MYTH: *People outgrow ADD by the time they reach adulthood.*

FACT: Approximately one-third of the people with ADD experience continuing problems into adulthood, sometimes including conditions that adversely affect conduct.

ETC.

This space has been provided for you. Make notes or write questions that you want to ask resource organizations or agencies.

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Voice (202)783-2900 ▪ TDD (202)737-0645 ▪ Fax (202)737-0725

For More INFORMATION

Organization

Children with Attention Deficit Disorder
1859 North Pine Island Road, Suite 185
Plantation, FL 33322
(305) 587-3700

Government Agency

Office of Special Education Programs
Room 3086, Switzer Building
330 C Street, SW
Washington, DC 20036
(202) 732-1007
(202) 732-1170 TDD

Community Contacts

To locate additional resources, contact your state Governor's Committee of People with Disabilities

or obtain a State Resource Sheet from

National Information Center for Children and Youth with Disabilities
PO Box 1492, Washington, DC 20013
(703) 893-6061 • (800) 999-5599
(703) 893-8614 TDD

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This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request.
Produced by VSA Educational Services, Resource Center on Substance Abuse Prevention and Disability.
Funded by the U.S. Department of Health and Human Services, Office for Substance Abuse Prevention, Division of Communication Programs.

A Look at Alcohol and Other Drug Abuse Prevention and...

BLINDNESS AND VISUAL IMPAIRMENTS

A person whose optimum visual acuity in the better eye is 20/200 is considered to have statutory or legal blindness. It is estimated that 11.4 million Americans have some visual impairment, even with glasses. Of this number:

- 120,000 are totally blind;
- 600,000 are legally blind with some usable vision;
- 1,400,000 are severely visually impaired (cannot read newsprint with glasses).

Visual impairments also include tunnel vision and color blindness. Two thirds of blindness is caused by cataracts, glaucoma, diabetes, vascular disease, trauma, and heredity. One third is "cause unknown."

The Implications of Alcohol and Other Drug Use

Very little is known about the alcohol and other drug use patterns of people with visual impairments. Increased risks for alcohol and other drug problems among the blind have been associated with isolation, excess free time, and underemployment (Nelipovich and Buss, 1989). People with visual impairments may face fewer consequences from alcohol and other drug abuse due to the enabling of others, social isolation, and constraints imposed by the disability.

When alcohol and other drug dependency treatment is required, the educational modalities must be altered for this process to be effective (e.g., talking books, braille). Also, treatment requirements may differ for those whose alcohol and other drug abuse has preceded, rather than followed, the onset of the visual impairment (Glass, 1980-81).

Alcohol and other drug abuse prevention efforts should include information specific to the person's disability. For example, the following points might be emphasized in discussions with a person with blindness or other visual impairments:

- When the visual impairment is progressive, such as with glaucoma or diabetes, alcohol and other drug abuse issues are compounded. Even moderate drinking can aggravate these conditions, and the person must go through a period of psychological adjustment with each level of vision that is lost.
- When alcohol or other drugs are the means of coping with a visual impairment, psychological adjustment to disability is less complete. Successful independent functioning therefore is less likely.
- Alcohol and other drugs are ineffective means for dealing with negative self images and feelings of isolation. Discuss other ways to develop self esteem, social skills and independence.
- Alcohol and other drugs can effect motor coordination and cause difficulties in mobility.

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A Resource: To explore the issues related to alcohol and other drug dependency treatment, obtain a copy of *Blindness and Visual Impairment: Drug and Alcohol Abuse Prevention and Treatment*, written by Leonard F. Burns, M.A. and John de Miranda, Ed.M., August 1991. The report is available from the authors. Write to Peninsula Health Concepts, 2165 Bunker Hill Drive, San Mateo, CA 94402. Phone: 415-578-8047.

Possible Solutions to Access Problems

- To facilitate mobility on a path of travel, remove displays or other objects; avoid clutter; use large letter signs; raise low-hanging signs or lights.
- Written information is a problem. Try using talking calculators or computers. Increase the frequency of oral announcements; provide audiotapes or braille transcripts of frequently requested information; have staff read aloud brochures or important information.
- Add raised or braille lettering to elevator control buttons.
- Install entrance indicators such as strips of textured material near doorways, elevators, etc.
- Use radio for announcements and advertising.
- Have optical magnifiers and other optical aids available for the person with a visual impairment to use.

Suggestions to Improve Positive Interactions

To guide a person who is blind, let him or her take your arm. If you encounter steps, curbs, or other obstacles, identify them.

When sitting down, guide the person's hand to the back of the chair and tell him or her whether the chair has arms.

When giving directions, be as clear and specific as possible. Estimate the distance in steps, and point out obvious obstacles in the direct path of travel.

Speak directly to the person in a normal tone and speed. Do not shout or speak in a loud voice.

Resist the temptation to pet or play with a working guide dog. The dog is working and should not be distracted.

When leaving a room, say so. Anyone would feel foolish talking into thin air.

When the person who has a visual impairment must meet many people, introduce them individually. This helps the person to better associate names and voices for subsequent encounters.

MYTHS & **FACTS**

MYTH: *People who are blind can hear and feel things no one else can; they have a "sixth sense."*

FACT: Certain senses become more highly developed because people who are blind rely upon them more. There is nothing mystical about this phenomenon.

■

MYTH: *Blindness means living in a world of darkness.*

FACT: What a person is able to see depends upon the age of onset, degree of visual memory, and degree of usable vision regarding light, shape, etc.

MYTH: *All people who are blind read braille.*

FACT: Only about 10% read braille, but there are many other assistive devices that promote independence. These include reading aids, listening aids, and readers.

REMEMBER

ASK AND LISTEN!

A person with a disability is the expert about his or her disability.

ETC.

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For More INFORMATION

Organizations

American Council of the Blind
1155 15th Street NW, Suite 720
Washington, DC 20005
(800) 424-8666 • (202) 467-5081

American Foundation for the Blind
15 West 16th Street
New York, NY 10011
(212) 620-2000

National Association for the Visually Handicapped
22 W 21st Street
New York, NY 10010
(212) 889-3141

National Federation of the Blind
1800 Johnson Street
Baltimore, MD 21230
(301) 659-9314

Community Contacts

Many of the listed organizations have state and local chapters.

To locate additional resources contact your state Governor's Committee of People with Disabilities

or obtain a State Resource Sheet from

National Information Center for Children and Youth with Disabilities
PO Box 1492
Washington, DC 20013
(703) 893-6061 • (800) 999-5599 • (703) 893-8614 TDD

Government Agency

Division of the Blind and Visually Impaired
Rehabilitation Services Administration
U.S. Department of Education
330 C Street, SW
Washington, DC 20202
(202) 732-1309

References

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This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request.
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A Look at Alcohol and Other Drug Abuse Prevention and...

DEAFNESS AND HEARING LOSS

Deafness is the inability to hear and understand conversational speech with or without a hearing aid. Hearing loss is a condition in which the sense of hearing is defective but functional for ordinary life purposes (usually with the help of a hearing aid). There are approximately 2 million persons in the United States who are deaf. Another 20 million Americans have some degree of hearing loss. These numbers are increasing due to the aging of the population and the exposure of young people to damaging noise levels, especially from music.

It is important to understand that the major handicap is not the inability to hear, but the difficulty in communication. The way in which the person with a hearing loss will communicate depends on these factors:

- degree of hearing loss;
- age at which the hearing loss developed;
- residual hearing;
- language skills;
- speech abilities;
- family environment;
- educational background.

The communication problems are more complicated for the person who never heard speech than for those whose hearing loss developed at a later age. Speech develops as we imitate others and listen to the sounds we make. To improve communication, a person with a hearing loss may rely upon lip reading, manual communication, teletypewriters, or pads and pens. All methods are acceptable, if communication is achieved.

More About Deafness

Society has enforced a communication barrier for people who are deaf. The communication problems were either ignored or the person with deafness was sent to special schools or institutions. As a result of this separatism, people with deafness began to form a culture among themselves. They employed their own means of communication and sought each other's company. Even today 80% of people who are deaf marry within their own culture.

It is important to learn what type of school a person who is deaf learned communication skills. The different types include oral only schools and those using a total communication approach.

Oral Only School: This type of school was developed by authorities to solve the problem of isolation of people with deafness. A strictly oral mode of speech training is enforced. Speech reading and vocal training are taught and sign language is forbidden.

Total Communication School: This approach was developed from the philosophy that the all important goal was that a person who is deaf be able to communicate with anyone. Many leading teachers, including Thomas Gallaudet (for

whom Gallaudet University was named), promoted this form of education. Sign language skills were strongly advocated, along with whatever means aided communication, including speech reading, vocal training and gesturing.

Sign language itself varies. American Sign Language (ASL) is growing in use. ASL is a subtle combination of hand, face and body movements to comprise vocabulary and grammar that are distinct from English. It should be noted that very few hearing people learn to sign, further increasing the barriers around communication. Other methods of manual communication include Manually Coded English and Pidgin Sign English.

It is also important to note that, for the person who is deaf, English is a second language. The person may have difficulty understanding written or spoken English. In fact, many of the abstract concepts and ideas which are used to talk about alcohol and other drug dependency do not translate into ASL (Finkelstein, 1990).

More About Hearing Loss

A person who has developed a hearing loss later in life may continue to use speech to communicate and may not use sign language. This person may also not associate with the deaf community or be involved in related activities.

The person with a hearing loss often relies on assistive listening devices, such as hearing aids, amplifiers, induction loops, etc. A hearing aid amplifies sound and can be beneficial for many, as long as some hearing remains. The aids help with volume but not necessarily with distinguishing sounds. Hearing aids require a period of learning and adapting and some people become sensitive to the amplified sound.

The Implications of Alcohol and Other Drug Use

Hearing Loss: There is an assumption that all hearing losses other than profound deafness are similar in nature. People with a moderate or mild hearing loss are often perceived as being no different from those who can hear. This inaccurate perception can result in the failure of treatment and prevention service programs to respond to the needs of people with a hearing loss (Buss, 1985).

On an individual level, this insensitivity to a person's special needs can lead to a negative self-perception and a sense of social stigma. The person with a hearing loss may withdraw from the hearing world or deny the existence of a hearing loss (Kearns 1989). These behaviors lay the groundwork for isolation, and the suggestion has been made that a high level of frustration may increase the incidence of alcohol abuse among people with a hearing loss (Harris, 1982).

Deafness: There has been insufficient research to date to understand the nature and scope of alcohol and other drug abuse problems among people who are deaf. Estimates suggest that alcohol use is at least comparable to that of the general population. This in itself is a problem, because people who are deaf do not have ready access to appropriate alcohol and other drug information or treatment (Sylvester, 1986).

Alcohol and other drug prevention materials frequently do not take into account the cultural, language, or communication differences indigenous to people who are deaf. The inability of social agencies, the legal system, and school/work environments to communicate appropriately with the deaf have enabled some people with this disability to escape the normal

consequences of alcohol and other drug abuse, thereby perpetuating these problems.

There also is concern that people who are deaf have a strong desire to avoid the social stigma associated with alcohol and other drug abuse because it constitutes another negative label (Boros, 1981). This reluctance to address alcohol and other drug abuse issues leads to social isolation and even more problematic consumption.

Service Delivery: A lack of access to the spoken media has isolated the person who is deaf from information about alcohol and other drug abuse. Information may also have been misrepresented or suppressed.

Prevention efforts should include information specific to the person's disability. For example, the following points might be emphasized in discussions with a person who is deaf or has a hearing loss:

- The use of alcohol and other drugs can interfere with learning and developing effective social skills, which could increase feelings of isolation.
- It is important to learn effective ways to deal with stress and other problems and not use alcohol and other drugs to do so.
- When the hearing loss is progressive, alcohol and other drug abuse issues are compounded. A person must go through a transitional period of psychological adjustment when hearing is lost.

When a person with a severe hearing loss requires alcohol and other drug dependency treatment, it may necessitate specialized services established just for this disability. To be effective, a treatment program must provide much more than a sign language interpreter for some clients.

Suggestions to Improve Positive Interactions

Speak clearly and distinctly, but do not exaggerate or slow down unless asked.

Use a normal voice tone and provide a clear view of your mouth.

If an interpreter is involved, speak directly to the person with deafness—not the interpreter. Learn more about the role and proper use of a sign language interpreter.

Ask the person to repeat if you do not understand. If that does not work, use a pad and pen. Achieving communication is more important than the method.

Avoid standing in front of a light source (e.g., window) which might silhouette your face making it difficult to see.

Use facial expressions, body language, and pantomime.

Explain any interruption (phone rings, knock at door) before attending to it.

Learn how to find an interpreter on short notice.

Install a Telecommunication Device for the Deaf (TDD) in your reception area. Advertise its availability and learn how to operate it properly.

Encourage and support sign language instruction for all interested employees.

Avoid such offensive terms as deaf and dumb, deaf mute, or the deaf. Use persons with deafness or persons with a hearing loss.

Additional Suggestions for Group Meetings or Training Sessions

Assign someone to take notes, if an interpreter is not available.

Use a round or oval table to allow for a good line of sight to all participants.

Arrange for the person with a hearing loss to sit near the speaker in lecture situations

Remind the lecturers to avoid pacing or talking with his or her back to the audience.

Maximize the use of visual aids, such as flip charts.

For a larger meeting, an induction loop could be used. This loop is a length of wire that is placed around the selected area (where people who have a hearing loss will be seated). The wire is connected to an amplifier and to the speaker's microphone. The magnetic field within the loop of wire is picked up by the telephone switch setting on a hearing aid and changed to sound. This system can only be used by people who are able to use a hearing aid and have the telephone switch.

A new method of transcribing oral communication is Real Time Captioning. A typist, using a computer and special equipment, enters the speech or presentation and the text is projected onto a movie screen for participants.

Possible Solutions to Other Access Problems

- For information commonly obtained through telephones, provide small sound amplification devices or install a TDD. Also learn how to utilize the dual-party relay service that is provided by the local telephone company. This service allows for unrestricted communication between any person with a TDD and any person without one, day or night.
- Publish written notices of events that once were announced only orally. Arrange to have messages that are delivered by a public address system relayed in writing.
- Provide paper and pencils at work stations involving public contact.
- Install visual warning lights for fire and burglar alarms and doorbells.
- Allow mail-in procedures to be used to request information or respond to inquiries.
- Use visual cues for signage.

Resources: To explore the issues related to communication, obtain a copy of *Communicating with Deaf People: An Introduction,* distributed by National Information Center on Deafness, Gallaudet University, 800 Florida Avenue, NE, Washington, DC 20002. Phone: (202) 651-5052, TDD (202) 651-5051.

To obtain information about sign language interpreters, contact the Registry of Interpreters for the Deaf, National Office, 8719 Colesville Road, Suite #310, Silver Spring, MD 20910. Phone: (301) 608-0050 Voice and TDD.

MYTHS & **FACTS**

MYTH: *All people with a hearing loss lack the ability to speak.*

FACT: People who have lost their hearing after the development of speech have little difficulty speaking. Many persons with "prelingual" deafness have learned to use their voices in speech classes. This may present some initial difficulty for the listener to understand.

■

MYTH: *All people with a hearing loss can read lips.*

FACT: Many people with a hearing loss have had formal training in lipreading. Even hearing people rely heavily on lip-reading, but it is an imperfect process (about 30-40% accurate). It is rarely used in isolation of other communication methods.

■

MYTH: *Hearing aids totally correct hearing loss.*

FACT: Hearing aids may improve hearing for many people with a hearing loss, but they are not corrective devices. It usually lessens the severity of the hearing loss.

MYTH: *People who are deaf use one system for communicating.*

FACT: In the United States, people who are deaf use a variety of communication systems. Among the choices are speaking, speechreading, writing, and manual communication. Manual communication refers to the use of manual signs and fingerspelling.

■

MYTH: *Many people who are deaf have not even learned to speak. People who are deaf cannot be very bright.*

FACT: It is extremely difficult to learn to speak if a hearing loss occurs before speech develops. Many other persons with deafness who have some speech have not mastered the fine grammatical points of their second language—English. The problem is one of communication, not intellect.

REMEMBER

ASK AND LISTEN!

A person with a disability is the expert about his or her disability.

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Resources

Addiction Intervention with the Disabled, is a project that has been involved in the issue of alcohol and other drug abuse and deafness. To find out more about the material available, write c/o Alexander Boros, Department of Sociology, PO Box 5190, Kent State University, Kent, Ohio 44242. Phone: (216) 672-2440.

Volunteers in Prevention Promoting Education, Encouragement, Resources and Support (VIP PEERS) provides drug and alcohol prevention education for deaf and hearing-impaired junior and senior high school students. For more information about volunteer recruitment, curriculum and workshops, contact Substance and Alcohol Intervention Services for the Deaf, Rochester Institute of Technology, 50 West Main Street, Rochester, NY 14614. Phone: (716) 475-4978 Voice and TDD.

To explore the issues related to the alcohol and other drug dependency treatment, obtain a copy of the videotape: *Meeting the Challenge: Working with Deaf People in Recovery.* It can be ordered from The University of California Center on Deafness, 3333 California Street, Suite 10, San Francisco, CA 94143. Phone: (415) 476-4980, (415) 476-7600 TDD.

The Silent Living Series consists of, *Alcoholism and Deafness* and *Problem Solving at School.* For more information about these signing videotapes, contact Ron Kennedy, Silent Eagle Productions, 11303 15th Ave., NE, Seattle, WA 98125. Phone: (206) 367-9141 TDD, (206) 587-5500 Voice.

The Hope and Help Series includes the following videotapes: Tape #1 and #2: Special problems faced by the chemically dependent hearing-impaired person. Tape #3: Alcoholics Anonymous as a resource for the chemically dependent hearing-impaired person. Tape #4: Hearing-impaired people with a chemically dependent family member. Tape #5: Counselors and treatment staff serving chemically dependent hearing-impaired persons. Contact: Minnesota Documents Division, 117 University Ave (Ford Building), St. Paul, MN 55155. Phone: (612) 297-3000.

ETC.

This space has been provided for you. Make notes or write questions that you want to ask resource organizations or agencies.

For More INFORMATION

Organizations

Alexander Graham Bell Association for the Deaf
3417 Volta Place, NW
Washington, DC 20007
(202) 337-5220 Voice and TDD

American Academy of Otolaryngology/ Head and Neck Surgery
1 Prince Street
Alexandria, VA 22314
(703) 836-4444

American Speech-Language-Hearing Association
10801 Rockville Pike
Rockville, MD 20852
(301) 897-5700 Voice and TDD

Better Hearing Institute
PO Box 1840
Washington, DC 20013
Hearing Helpline (800) 327-9355 Voice and TDD

Deafness Research Foundation
9 East 38th Street
New York, NY 10016
(212) 684-6556
(212) 684-6555 TDD

National Association of the Deaf
814 Thayer Avenue
Silver Spring, MD 20910
(301) 587-1788
(301) 587-1789 TDD

National Captioning Institute
5203 Leesburg Pike
Falls Church, VA 22041
(703) 998-2400 Voice and TDD

National Easter Seal Society, Inc.
70 East Lake Street
Chicago, IL 60612
(800) 221-6827
(312) 726-4258 TDD

National Information Center on Deafness
Gallaudet University
800 Florida Avenue, NE
Washington, DC 20002
(202) 651-5052
(202) 651-5051 TDD

National Technical Institute for the Deaf
Rochester Institute of Technology
1 Lomb Memorial Drive
PO Box 9887
Rochester, NY 14623
(716) 475-6400
(716) 475-2181 TDD

Self-Help for Hard of Hearing People (SHHH)
7800 Wisconsin Avenue
Bethesda, MD 20814
(301) 657-2248
(301) 657-2249 TDD

Government Agency

The National Institute on Deafness and Other Communication Disorders
National Institutes of Health
Building 31, Room 3C35
Bethesda, MD 20892
(301) 496-7243
(301) 402-0252 TDD

Community Contacts

Many of the listed organizations have state and local chapters.

To locate additional resources, contact your state Governor's Committee of People with Disabilities

or obtain a State Resource Sheet from
National Information Center for Children and Youth with Disabilities
PO Box 1492
Washington, DC 20013
(703) 893-6061 • (800) 999-5599 • (703) 893-8614 TDD

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This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request.
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A Look at Alcohol and Other Drug Abuse Prevention and...

HIDDEN DISABILITIES

People with hidden disabilities appear to be physically nondisabled, healthy, and productive, leading normal lives. They have "hidden" conditions such as cancer, epilepsy, diabetes, lung disease, kidney failure, hemophilia, hypertension, early stages of AIDS, or heart disease. Therefore most people will expect them to be totally self-sufficient and competent. Yet within the disability community, they do not feel like they belong—not "disabled enough" to fit into a group of active, assertive people with disabilities. Their numbers are far greater than those of any one disability group, but they are often in a state of limbo about belonging—feeling without a place in anyone's world. People with hidden disabilities are caught between not being fully accepted as a nondisabled person, yet not being recognized as someone with a "real" disability either.

The lawmakers of the Americans with Disabilities Act of 1990 (ADA) continued in the tradition of Section 504 and includes people with hidden disabilities. This is demonstrated by the broad definition of disability which included persons with a history of impairment and those who are perceived as having a disability. This is further reinforced by ADA regulations which encourage people with hidden disabilities to disclose their impairments and seek the full protection of the new federal law.

The Implications of Alcohol and Other Drug Use

For people with hidden disabilities, there are increased risks for alcohol and other drug abuse which may not be immediately apparent. These can include:

- decreased tolerance for mind altering drugs,
- atypical childhood experiences,
- lower resistance to peer pressure,
- overprotection by family members, and
- long-term use of medications

These risks are increased when teachers, employers, or peers do not understand how needs or behaviors are related to a disability that is not obvious. Misunderstandings and unrealistic expectations stifle self-esteem while promoting alcohol and other drug abuse.

Chronic pain and recurring medical relapses also place some people with hidden disabilities at risk for alcohol and other drug abuse. These conditions can lead to abuse of medication alone, or in combination with drugs such as alcohol (O'Donnell et al, 1981-82; Greer, 1986; Rapaport, 1987). Ironically, the use of drugs to alleviate long-term pain in some cases actually exacerbates the discomfort while increasing the likelihood for alcohol and other drug dependency.

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Alcohol and other drug abuse prevention efforts should include information specific to the person's disability. For example, the following points might be emphasized in discussions with a person who has a hidden disability:

- If a person has diabetes, the use of alcohol and other drugs can aggravate it and lead to blindness, kidney failure and other physical problems.
- The effects of alcohol and other drugs may interfere with medications, especially those designed to prevent seizure episodes. They also may lower the seizure threshold.
- The difference between taking medication and using alcohol and other drugs to deal with negative self images and emotions. It is important to learn effective ways to deal with stress and other problems and not use alcohol and other drugs to do so.

REMEMBER

ASK AND LISTEN!

A person with a disability is the expert about his or her disability.

Suggestions to Improve Access and Positive Interactions

If you think that someone has a hidden disability, ask questions that may be appropriate to the treatment process. For example, "Is there anything about you we have not discussed that might make it difficult to participate in this program? meet the program requirements? engage in these physical activities?"

The removal of barriers and provision of reasonable accommodation for people with hidden disabilities is highly individualized. Sometimes the evidence of your genuineness and openness to more obvious disabilities will make people with hidden disabilities more likely to discuss openly the accommodations they require.

Provide an environment conducive to self-disclosure. This includes hiring people with disabilities; establishing a reputation for confidentiality; formally inviting employees and clients to self-identify; and providing descriptive literature and speakers regarding your interest in serving people with disabilities.

Once a person is identified as having a disability, an open and honest discussion can follow regarding the need for and nature of accommodation required. For most hidden disabilities, the primary accommodation required will be acceptance by the staff and clients.

Hidden disabilities are not contagious. Under the ADA, the Secretary of Health and Human Services will publish a list of contagious diseases each year and the conditions under which diseases may be transmitted. There is no reason to avoid people with disabilities for fear you might catch something.

MYTHS & **FACTS**

MYTH: *Hidden disabilities, such as emphysema or cystic fibrosis, are contagious.*

FACT: Hidden disabilities are not contagious, including respiratory problems accompanied by coughing or wheezing. Segregation makes the person feel abnormal and increases fear and misunderstanding.

■

MYTH: *All people with cancer are dying.*

FACT: Cancer is a large group of diseases characterized by uncontrolled growth and spread of abnormal cells. More than one third of people with cancer today are completely cured, and the others are living with cancer, not dying of it. Many cancers can be cured if detected and treated promptly.

MYTH: *Insulin cures diabetes.*

FACT: There is no cure for diabetes, but insulin combined with exercise and diet can result in productive and healthy living despite diabetes.

■

MYTH: *People with epilepsy are likely to have seizures at any time.*

FACT: Over 2 million Americans have seizure disorders and the overwhelming majority are controlled by medication. Many seizure episodes are as mild as blinking or a brief lapse of attention.

For More **INFORMATION**

Government Agencies

National Cancer Institute
Building 31, Room 10A16
9000 Rockville Pike, Bethesda, MD 20892
(301) 496-6631

National Heart, Lung and Blood Institute
Building 31, 9000 Rockville Pike, Bethesda, MD 20892
(301) 496-4236

National Institute of Diabetes and Digestive and Kidney Diseases
Building 31, 9000 Rockville Pike
Bethesda, MD 20892
(301) 496-3583

National Institute of Neurological Disorders and Stroke
Building 31, Room 8A06, 9000 Rockville Pike
Bethesda, MD 20892
(301) 496-5924

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For More INFORMATION *(continued)*

Organizations

AIDS Information (Hotline)
(800) 342-2437 • (800) 243-7889 TDD

American Cancer Society
1599 Clifton Road, NE Atlanta, GA 30329
(800) ACS-2345

American Diabetes Association
1660 Duke Street, Alexandria, VA 22314
(800) 232-3472

American Heart Association
7320 Greenville Avenue, Dallas, TX 75231
(214) 373-6300

American Lung Association
1740 Broadway, 14th Floor, New York, NY 10019
(212) 315-8700

Arthritis Foundation
1314 Spring Street, NW
Atlanta, GA 30309 (800) 283-7800

Cystic Fibrosis Foundation
6931 Arlington Road
Bethesda, MD 20814 (800) 344-4823

Epilepsy Foundation of America
4351 Garden City Drive, Landover, MD 20785
(800) 332-1000 • (301) 459-3700 Voice and TDD

National AIDS Clearinghouse
PO Box 6003
Rockville, MD 20850
(800) 458-5231

National Chronic Pain Outreach Association
7979 Old Georgetown Road, Suite 100
Bethesda, MD 20814 (301) 652-4948

National Diabetes Information Clearinghouse
Box NDIC, 9000 Rockville Pike
Bethesda, MD 20892 (301) 468-2162

National Kidney Foundation
30 East 33rd Street
New York, NY 10016 (212) 889-2210

National Kidney and Urologic Diseases Information Clearinghouse
Box NKUDIC, 9000 Rockville Pike
Bethesda MD 20892 (301) 468-6345

Community Contacts

Many of the listed organizations have state and local chapters.

To locate additional resources contact your state Governor's Committee of People with Disabilities

or obtain a State Resource Sheet from

National Information Center for Children and Youth with Disabilities
PO Box 1492, Washington, DC 20013
(703) 893-6061 • (800) 999-5599 • (703) 893-8614 TDD

References

Greer, B.G. (1986). Substance abuse among people with disabilities: A problem of too much access. *Journal of Rehabilitation*, Jan-Mar, 34-37.

O'Donnell, J., Cooper, J., Gessner, J., Sheham, I., and Ashley, A. (1981/82). Alcohol, drugs and spinal cord injury. *Alcohol Health and Research World*, 6(1), 27-29.

Rapaport, M.H. (1987). Chronic pain and PTSD. *American Journal of Psychiatry*, 144(1), 120.

Regional Rehabilitation Research Institute on Attitudinal, Legal and Leisure Barriers, (1979). *Inside Out*. Washington, DC: George Washington University.

Stern, R.C., Byard, P.J., and Tomashefski, J.F. (1987). Recreational use of psychoactive drugs by patients with cystic fibrosis. *Journal of Pediatrics*, 111(2), 293-298.

This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request.
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A Look at Alcohol and Other Drug Abuse Prevention and...

LEARNING DISABILITIES

Learning disabilities are disorders manifested by significant difficulties in listening, speaking, reading, writing, reasoning, and mathematical abilities. The primary problems do not involve collecting information (as in sensory disabilities) but in interpreting, translating, or recalling information collected. Learning disabilities are intrinsic to the person, presumed to be due to central nervous system dysfunction, and may occur across the life span.

Learning disabilities range from mild to very severe. They affect between 5 to 10% of the population. There are many types of learning disabilities. Some examples include:

- dyslexia: severe problems with reading;
- dysgraphia: severe problems with writing;
- dysphasia: severe problems with speaking;
- dyscalcula: severe problems doing math.

The Implications of Alcohol and Other Drug Use

People with learning disabilities are more prone to misunderstand alcohol and other drug education and prevention materials, placing them at greater risk for injuries and other consequences of abuse. People with learning disabilities may begin to use alcohol and other drugs through peer pressure in an effort to gain acceptance and recognition when other avenues appear to be unavailable.

Communication difficulties experienced by people with learning disabilities often are not understood or appreciated by others. These misunderstandings compound feelings of inadequacy, frustration, and rejection. Unsuccessful peer group and school experiences can hasten the use of alcohol and other drugs in order to cope with these feelings.

Alcohol and other drug abuse prevention efforts should include information specific to the person's disability. For example, the following points might be emphasized in discussions with a person who has a learning disability:

- Even small amounts of alcohol can be harmful in combination with prescription drugs.
- There is a difference between taking medication and using alcohol and other drugs to deal with emotions and difficult situations. It is important to learn effective ways to deal with stress and other problems and not use alcohol and other drugs to do so.
- The use of alcohol and other drugs can interfere with learning and developing effective social skills, which could increase feelings of isolation and disenfranchisement.
- Using alcohol and other drugs can exacerbate difficulties which may exist in planning, concentration, and information processing speed.

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Suggestions to Improve Access and Positive Interactions

Processing difficulties often interfere with learning. Extra time may be required to learn a certain skill. Once learned, however, there is no relationship between a learning disability and performance of the task.

Occasional inattentiveness, distraction, or loss of eye contact by the person with a learning disability is not unusual. Do not be concerned or offended, it is unintentional.

Some information processing problems may affect social skills, such as an unconventional or complete lack of response. Do not confuse this with rudeness.

A person with a learning disability sometimes has difficulty interpreting social cues (e.g., facial expressions, voice tone, and gestures). Accordingly, he or she may respond in an inappropriate manner. Again, do not confuse this with rudeness.

If future contact with a person with a learning disability is warranted, discuss openly the preferred way to communicate. This may be in writing or by phone.

Have your educational and promotional materials reviewed to see that they are available in various sensory modes and accessible to people with communication problems.

ETC.

This space has been provided for you. Make notes or write questions that you want to ask resource organizations or agencies.

REMEMBER

ASK AND LISTEN!

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MYTHS & **FACTS**

MYTH: *Learning disability is just another name for mental retardation.*

FACT: Both conditions interfere with the ability to learn. Mental retardation, however, involves a generalized, lowered intelligence while learning disability is specific to only one form of information processing. Learning disabilities, however, may occur in combinations.

■

MYTH: *A learning disability affects only academic achievement and disappears as a child matures.*

FACT: A learning disability affects many aspects of a person's life such as driving, team participation, and human relations. Although its impact can be lessened somewhat as a person develops and learns to compensate, learning disability is usually a life-long issue.

■

MYTH: *It is impossible to be both physically disabled and learning disabled.*

FACT: Physical disabilities and learning disabilities occur independently of one another. A person with a physical disability is as likely to have a learning disability as a nondisabled person.

MYTH: *Learning disabilities are the result of other handicapping conditions or social influences.*

FACT: Although learning disabilities may occur at the same time as other handicapping conditions (e.g., sensory impairment, emotional disturbance) or external influences (e.g., cultural differences, poor instruction), they are not the result of those conditions or influences.

■

MYTH: *Problems in self-regulatory behaviors, social perception, and social interaction constitute a learning disability.*

FACT: By themselves these do not constitute a learning disability, although they may exist with a learning disability.

A Resource: *A Special Message: Project Oz, A Comprehensive Drug Education Curriculum for Learning Disabled and Behavior Disordered Populations.* A drug education and prevention program, now available for grades one through twelve. The price list and ordering information can be obtained by contacting Project Oz, 201 E. Grove Street, 2nd floor, Bloomington, IL 61701. Phone: (309) 827-0377.

For More INFORMATION

Organizations

Center on Postsecondary Education for Students with Learning Disabilities
University of Connecticut
Box 464, 249 Glenbrook Road
Storrs, CT 06269
(203) 486-4036

Learning Disability Association of America
4156 Library Road
Pittsburgh, PA 15234
(412) 341-1515

National Center for Learning Disabilities
99 Park Avenue
New York, NY 10016
(212) 687-7211

National Network of Learning Disabled Adults
800 N. 82nd Street, Suite F2
Scottsdale, AZ 85257
(602) 941-5112

Orton Dyslexia Society
Chester Building, Suite 382
8600 LaSalle Road
Baltimore, MD 21204
(301) 296-0232

Government Agency

Administration on Developmental Disabilities
200 Independence Avenue, SW
Room 336D
Washington, DC 20201
(202) 245-2890

Community Contacts

Many of the listed organizations have state and local chapters.

To locate additional resources contact your state Governor's Committee of People with Disabilities

or obtain a State Resource Sheet from

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References

Blouin, A., Bornstein, R., and Trites, R. (1978). Teenage alcohol use among hyperactive children: A five year study. *Journal of Pediatric Psychology,* 3(4), 188-194.

Fox, C. L., and Forbing, S. (1991) Overlapping symptoms of substance abuse and learning handicaps: implications for educators. *Journal of Learning Disabilities,* 24 (1), 24-31.

Greenfield, B., Hechtman, L., and Weiss, G. (1988). Two subgroups of hyperactives as adults: Correlations of outcomes. *Canadian Journal of Psychiatry,* 33(6), 505-508.

Mandell, W., and Nollie, P.W. (1985). Hyperactive teens more likely to drink. *U.S. Journal of Drug and Alcohol Dependence,* 9(12), 19.

Pendergast, M., Austin, G., and de Miranda, J. (1990). Substance abuse among youth with disabilities. *Prevention Research Update: No. 7.* Portland, Oregon:Western Center for Drug-Free Schools and Communities.

This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request.
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A Look at Alcohol and Other Drug Abuse Prevention and...

MENTAL ILLNESS

Mental illness is a commonly occurring disability in the United States. Perhaps one-third of the population will experience a mental disorder at one time in their lives (Reiger et al., 1988). It is very difficult to determine the number of people with mental illness due to the nature of definitions. Mental illness often is considered a separate category from other disabilities, and this also confuses estimates of prevalence (NIDRR, 1989).

Two of the most common conditions are anxiety disorders and depression. There are different types of anxiety disorders, including:

- generalized anxiety disorder;
- panic disorder;
- post-traumatic stress disorder;
- obsessive compulsive disorder; and
- social and other phobias.

Approximately one American in twenty will suffer at least one major depressive disorder in his or her life. Depressive illnesses include:

- major depression;
- dysthymic disorder;
- atypical depression; and
- manic depression.

Among the more severe forms of mental illness is schizophrenia. It is estimated that one percent of the population is schizophrenic. Unfortunately, only one half of these people are treated for the condition (Smith, 1989). Although mental illness is not considered a physically restricting condition, it is ranked ninth out of 67 chronic health conditions for causing activity limitation (LaPlante, 1989). Mental illness is included in the definition of disability in Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA).

The Implications of Alcohol and Other Drug Use

Recurring alcohol and other drug abuse problems affect perhaps 50% or more of all people with mental health disabilities (Brown, et al., 1989). When this occurs, a vicious cycle is established—the abuse degrades the person's mental health, which only increases the problems with alcohol and other drug abuse. Confounding the issue of diagnosis, the symptoms of alcohol and other drug dependency are sometimes very similar to those of depressive or anxiety disorders.

The dual problem of alcohol and other drug abuse and chronic mental illness is particularly difficult and challenging to address in treatment settings. The issues related to the mentally ill chemical abuser are a major concern for health and mental health systems for this reason. There has been more interest in this area of disability and alcohol and other drug abuse than in any other to date.

People with serious mental health problems generally do not function well in traditional

alcohol and other drug dependency treatment settings. Denial of the mental illness is as common as the denial of alcohol and other drug abuse problems. Self-help support groups are one potential source of sobriety, especially if the groups are specialized for people with mental illness.

A Resource: To explore the issues related to the alcohol and other drug dependency treatment, obtain a copy of *Dual Disorders: Counseling Clients with Chemical Dependency and Mental Illness*, written by D. Daley, H. Moss and F. Campbell, 1987. The book is available from Hazeldon, Box 176, Center City, MN 55012.

Alcohol and other drug abuse prevention efforts should include information specific to the person's disability. For example, the following points might be emphasized in discussions with a person who has a mental illness:

- Many people with mental illness receive medication on a regular basis, and these drugs can include some with habit-forming properties or potentials for abuse. Anti-anxiety medications in particular are very addictive, and they are dangerous when mixed with alcohol.
- The depressant effects of alcohol and other drugs are not helpful if proneness to major reactive episodes are common for the person with mental illness.
- There is a difference between taking medication and using alcohol and other drugs to deal with emotions and difficult situations. It is important to learn effective ways to deal with stress and other problems and not use alcohol and other drugs to do so.

Suggestions to Improve Positive Interactions

Learn more about the nature of the person's diagnosed mental illness. If the person is prescribed medication for his or her illness, locate information on the side effects and long-term health impact.

Remember that people with mental health problems generally do not have lower intelligence. Some people may have difficulties with attention span or discussion topics that produce anxiety, but other communication problems should be minimal.

Be aware that people with more severe mental illness have difficulty dealing with emotions or expressing them. A person may smile even when he or she is angry or afraid.

Some people with mental health problems tend to overreact to emotionally-charged topics or conversations. When this occurs, it is more likely that miscommunications will result. Important information should be conveyed in an objective manner, unless you know how the person is likely to react.

Positive reinforcement and encouragement are very important tools for change for a person with mental illness. These principles should be incorporated into conversations and activities.

REMEMBER

ASK AND LISTEN!

A person with a disability is the expert about his or her disability.

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MYTHS & **FACTS**

MYTH: *People with mental illness are mentally retarded.*

FACT: Most people with mental illness are average or above average in intelligence. During adjustment periods to medications, a person may appear lethargic. The medications do not affect intelligence.

■

MYTH: *People with mental illness are violent and dangerous.*

FACT: Although some mental health diagnoses include symptoms of aggressive behavior, people with mental illness are no more violent than the norm.

MYTH: *People with mental illness never get better.*

FACT: Most people with mental illness show improvement over time in their diagnosed condition. Some conditions, such as schizophrenia, usually are permanent; however, self-help groups, medication, case management, and psychotherapy can improve a person's quality of life and functioning level.

■

MYTH: *People with mental illness bring it on themselves.*

FACT: Numerous research studies have shown that mental illness consists of bio-psycho-social conditions that are created by multiple factors. Some mental illnesses tend to recur in the same family.

ETC.

This space has been provided for you. Make notes or write questions that you want to ask resource organizations or agencies.

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For More INFORMATION

Organizations

American Psychiatric Association
1400 K Street, NW
Washington, DC 20005
(202) 682-6000

National Alliance for the Mentally Ill
2101 Wilson Blvd, Suite 302
Arlington, VA 22201
(703) 524-7600

National Mental Health Association
1021 Prince Street
Alexandria, VA 22314
(703) 684-7722

Government Agencies

Alcohol, Drug Abuse, and Mental Health Administration
5600 Fishers Lane, Rockville, MD 20857
(301) 443-3783

National Institute of Mental Health
5600 Fishers Lane, Rockville, MD 20857
(301) 443-3673

Community Contacts

To locate additional resources contact your state Governor's Committee of People with Disabilities

or obtain a State Resource Sheet from

National Information Center for Children and Youth with Disabilities
PO Box 1492, Washington, DC 20013
(703) 893-6061 • (800) 999-5599 • (703) 893-8614 TDD

References

American Psychiatric Association (1987). *Diagnostic and Statistical Manual of Mental Disorders,* (3rd ed. Revised). Washington, DC: American Psychiatric Association.

Brown, V.B., Ridgely, M.S., Pepper, B., Levine, I.S., and Ryglewicz, H. (1989). The dual crisis: Mental illness and substance abuse, present and future directions. *American Psychological Association, Inc.*, 44(3), 565-569.

Hellmen, J.M. (1981). Alcohol abuse and the border line patient. *Psychiatry,* 44, 307-317.

LaPlante, M.P. (1989) Disability in basic life activities across the life span. *Disability Statistics Report 1.* San Francisco: University of California, Institute for Health and Aging.

National Institute on Disability and Rehabilitation Research (NIDRR) (1989). *Chartbook on Disability in the U.S.: An InfoUse Report.* Washington, DC: U.S. Government Printing Office.

Reiger, D.A., Boyd. J.H., Burke, J.D. Jr., Rae, D.S., Myers, J.K., Kramer, M. Robins, L.N., George. L.K., Karno, M., and Locke, B.Z. (1988). One month prevalence of mental disorders in the U.S. *Archives of General Psychiatry,* 45, 977-986.

Smith, W. (1989). *A Profile of Health and Disease in America: Mental Illness and Substance Abuse.* New York: Facts on File.

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A Look at Alcohol and Other Drug Abuse Prevention and...

MENTAL RETARDATION

Mental retardation affects approximately 1 to 2% of the population, involving slightly more males than females (DSM III R, 1988). It is defined as sub-average intellectual functioning to such a degree that it interferes with activities of daily living. A diagnosis of mental retardation only applies if the onset of the condition was before age 18. Also, the person must experience problems in daily living as a result of the condition. It has been estimated that there are over 200 causes for mental retardation ranging from genetic disorders to environmental pollution.

There are four levels of mental retardation—mild, moderate, severe, and profound, with most diagnoses falling in the mild category. Typically, an I.Q. score of 70 or below is indicative of mental retardation.

Mental retardation is often referred to as a developmental disability. The federal definition of a developmental disability is a severe, chronic disability of a person which:

- is attributable to a mental or physical impairment or combination of physical and mental impairments;
- is manifested before the person attains age 22;
- is likely to continue indefinitely;
- results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self direction, capacity for independent living, and economic self-sufficiency; and
- reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

This definition is interpreted differently at the state level. Disabilities such as brain injury, autism, cerebral palsy, and other neurological impairments may be included.

The degree to which a person with mental retardation adapts into society depends a great deal on early identification, family support, and appropriate education. Most people with mental retardation can function in jobs and live independently if appropriate educational and support services are available.

The Implications of Alcohol and Other Drug Use

People with mental retardation, as a group, do not appear to use alcohol or other drugs as frequently as the general population. However, when people with mental retardation use alcohol or other drugs, problems may occur more quickly than for nondisabled peers. Limited social skills are a major reason that problems from use are likely, even with moderate levels of consumption.

One high risk group is people with mental retardation who come from a family where heavy

alcohol or drug use is normal. In these situations, it is not uncommon for the family member with mental retardation to encounter serious problems from use while still a teen (Westermeyer, et al., 1988).

Living with family members who abuse alcohol or other drugs is especially risky for a person with mental retardation. In those cases, problems are more likely to result even if the person with mental retardation uses less than other members of the household (Westermeyer, et al., 1988). People transitioning into independent living, after being sheltered by family or agencies, also are at risk for alcohol abuse (Edgerton, 1986). The problems in these cases can include difficulties with employment, family, and police.

A Fact

A major health concern at the present time relates to the number of alcohol or other drug-affected babies that are born each year—many of these children will experience some level of cognitive impairment. It is estimated that as many as 375,000 babies are born each year in the United States with problems related to alcohol and other drug abuse, according to the National Association on Perinatal Addiction Research and Education. This represents a major educational and social service challenge which will face this country for many years to come.

Another risk factor involves use of prescribed medications in combination with alcohol. Many people with mental retardation take strong medications, including anti-convulsant drugs. Many of these people are unaware of the side effects when used with alcohol (DiNitto and Krishef, 1984).

Alcohol and other drug abuse prevention efforts should include information specific to the person's disability. For example, the following points might be emphasized in discussions with a person with mental retardation:

- Alcohol and other drugs can interfere with learning and developing social skills, decreasing a person's ability to be independent.
- If a person with mental retardation is living in a supervised living situation or group home, there are probably very specific rules about use of alcohol and other drugs. If those rules are broken, a person's living arrangements can be jeopardized and eviction may occur.
- Even small amounts of alcohol can be harmful in combination with prescription drugs.
- There is a difference between taking medication and using alcohol and other drugs to deal with emotions and difficult situations. It is important to learn effective ways to deal with stress and other problems and not use alcohol and other drugs to do so.

Suggestions to Improve Positive Interactions

Break down concepts into small, easy to understand components. Use concrete terms and avoid abstract ideas. Do not be afraid to explain concepts in logical steps in sessions that may be separated by hours or days.

Because of its social desirability, it is possible for a person with mental retardation to insist that he or she understands a concept when this is not true. When discussing or teaching a point, be certain that the person understands the concepts involved.

Avoid the tendency to talk around or about a person with mental retardation when that person is present. Direct questions or comments to that person, and allow him or her to seek assistance in answering if necessary.

If the communication deficits are significant, it may be helpful to involve an advocate in conjunction with the person with mental retardation. The advocate, someone who is familiar with the lifestyle and communication patterns of this person, can be of assistance in facilitating conversation or planning for needed services.

Resources

Picture-Ideas Booklet, Twelve Ideas for My Improvement by Alexander Boros.The booklet is spiral bound and describes pictorially the "Twelve Steps of A.A." in a simplified version. A separate set of Instruction Sheets are also available to help sponsors use this booklet in their work with new members who have difficulty with the traditional language of A.A. literature. For ordering forms and cost, write Alexander Boros, AID, Sociology Department, Kent State University, Kent, Ohio 44242. (216) 672-2440

Me, Myself and I! A Comprehensive Curriculum for High-School Aged Educable Mentally Handicapped brings alcohol and other drug abuse prevention to youth, presented in a video format with an accompanying teacher manual (July 1990). It is available through Project Oz, 210 E. Grove Street, Bloomington, IL 61701. Phone: (309) 827-0377. The cost is $150 in Illinois, $200 out-of-Illinois, plus shipping and handling.

A booklet for alcohol and other drug abuse counselors, people with developmental disabilities, family members and service providers is *Facts About Alcohol, Other Drugs and Developmental Disabilities* (1989). To order, contact the Wisconsin Clearinghouse, Dept. C, PO Box 1468, Madison, Wisconsin 53701. Phone: (800) 322-1468. The cost is $.75.

ETC.

This space has been provided for you. Make notes or write questions that you want to ask resource organizations or agencies.

MYTHS & **FACTS**

MYTH: *People with mental retardation cannot live independently.*

FACT: Many people with mental retardation can achieve independence in daily living. Supervised housing also empowers some people with mental retardation to achieve independence.

■

MYTH: *People with mental retardation prefer to spend time around other people with the same disability.*

FACT: Although it is natural to enjoy activities with peers, people with mental retardation also require and seek contact with people with normal intellectual functioning. The emotional states experienced by a person with mental retardation are identical to those of everyone else. Since expressive language is most impaired, other people tend to underestimate the emotional and social potential of the person with mental retardation.

■

MYTH: *All adults with mental retardation are childlike.*

FACT: A person's developmental abilities are influenced by many factors, including the relationship with family and friends, school and work environment and the opportunities provided for growth and social development.

MYTH: *People with mental retardation are mentally ill.*

FACT: A person with limited cognitive abilities can have the same range of emotional expression and emotional health as anyone else. People with mental retardation are most likely to behave inappropriately when there has not been access to environments which are supportive and successful.

■

MYTH: *People with mental retardation do not like to drink.*

FACT: Drinking is a socially learned behavior which is most associated with a person's specific culture and family. A person with mental retardation would be motivated to drink for reasons similar to anyone else—for social acceptance and the use of leisure time.

REMEMBER

ASK AND LISTEN!

A person with a disability is the expert about his or her disability.

Resource Center on Substance Abuse Prevention and Disability ■ 1331 F Street N.W., Suite 800 ■ Washington, DC 20004
Voice (202)783-2900 ■ TDD (202)737-0645 ■ Fax (202)737-0725

For More INFORMATION

Organizations

Association for Retarded Citizens
PO Box 1047
Arlington, TX 76006
(817) 261-6003
(817) 277-0553 TDD

American Association on Mental Retardation
1719 Kalorama Road, NW
Washington, DC 20009
(202) 387-1968
(800) 424-3688

National Association of Developmental Disabilities Council
1234 Massachusetts Avenue
Washington, DC 20005
(202) 347-1234

People First
PO Box 12642
Tacoma, WA 98401
(206) 272-2811

Community Contacts

Many of the listed organizations have state and local chapters.

To locate additional resources contact your state Governor's Committee of People with Disabilities

or obtain a State Resource Sheet from

National Information Center for Children and Youth with Disabilities
PO Box 1492
Washington, DC 20013
(703) 893-6061
(800) 999-5599 • (703) 893-8614 TDD

Government Agencies

Administration on Developmental Disabilities
200 Independence Avenue, SW
Room 336D
Washington, DC 20201
(202) 245-2890

Office of Special Education Programs
Room 3086
Switzer Building
330 C Street, SW
Washington, DC 20036
(202) 732-1007
(202) 732-1170 TDD

President's Committee on Mental Retardation
Room 5325
Cohen Building
330 Independence Avenue
Washington, DC 20201
(202) 619-0634

Rehabilitation Services Administration
U.S. Department of Education
330 C Street, SW
Washington, DC 20001
(202) 732-1282
(202) 732-2848 TDD

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This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request.
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Funded by the U.S. Department of Health and Human Services, Office for Substance Abuse Prevention, Division of Communication Programs.

A Look at Alcohol and Other Drug Abuse Prevention and...

MOBILITY LIMITATIONS

A broad range of disabilities have the effect of restricting independent movement or travel. Problems with mobility may result from spinal cord injury, arthritis, muscular dystrophy, cerebral palsy, amputation, polio, stroke, breathing or stamina limitations, or other conditions. Over an estimated 25 million people have mobility problems, which may take the form of paralysis, muscle weakness, nerve damage, stiffness of the joints, or lack of balance or coordination. One million of these people are wheelchair users. Orthopedic impairments and arthritis affect 9.2 million people and rank as the top causes of activity limitations.

The Implications of Alcohol and Other Drug Use

The risk for alcohol and other drug-related problems among people with mobility limitations generally is higher than for the population at large. The specific prevalence of alcohol and other drug abuse problems varies according to the nature and origin of the disability. One subgroup of concern involves people with traumatic injuries, such as spinal cord injury. Approximately one half or more of all spinal cord injuries occur following alcohol or other drug consumption (Heinemann, et al., 1988).

Another group at high risk are those people who experience chronic pain or muscle spasms (Moore and Polsgrove, 1991). It is not unusual for people with these conditions to receive a number of simultaneous prescriptions. Even small amounts of alcohol can be harmful in combination with prescription drugs, and these dangers often are not apparent to the consumer or others. Relying on drugs as a primary means of coping with pain increases the likelihood that chemical coping will be perceived as the best way to deal with physical and emotional pain as well (Krupp, 1968).

Societal attitudes sometimes include the belief that people with mobility limitations are "entitled" to use alcohol and other drugs in order to cope with isolation, pain, or social problems (Moore and Ford, 1991). Unfortunately, once alcohol and other drug abuse becomes a problem, it is difficult to identify and treat because professionals and family focus on the disability, not the alcohol or other drug problem.

> "Great gains have been made in the addiction field, but people with major life-limiting impairments continue to be undertreated and undercounted...the challenges of making treatment and prevention accessible and responsive to people with physical impairments is a challenge that faces us all."
>
> **— Alexander Boros, Ph.D.**
> Director
> Project Addiction Intervention
> with the Disabled
> Kent State University

Alcohol and other drug abuse prevention efforts should include information specific to the person's disability. For example, the following points might be emphasized in discussions with a person with mobility limitations:

- For someone with serious mobility limitations, even moderate alcohol use increases risk for medical complications, accidents, and occupational difficulties.
- Alcohol and other drug use can interfere with motor coordination and muscle control, making certain tasks even more difficult to accomplish.
- Even small amounts of alcohol can be harmful in combination with prescription drugs.

The Issue of Access

In reviewing your facility, office or program's accessibility for people with mobility limitations, ask some of the following questions:

- Are paths and walkways at least 36 inches wide?
- Is parking conveniently located to a main building entrance via an accessible route?
- Is the carpet pile on the floor 1/2 inch or less?
- Are all rugs and mats securely fastened?
- Are there a reasonable number of (at least one) accessible toilet rooms on an accessible route?
- Are call buttons in the elevators located 42 inches or less above the floor?

This check list is a sample taken from "Making the Workplace Accessible: Guidelines, Costs and Resources," a 1990 publication of Mainstream, Inc.

Possible Solutions to Access Problems

Make the necessary structural changes to eliminate barriers. Some suggestions:

- Add a ramp to cover one or two steps;
- Widen doorways;
- Lower towel dispensers in rest rooms;
- Lower telephones and water fountains;
- Make curb cuts in sidewalks and entrances;
- Use floor coverings that allow easy mobility (e.g., non-skid surfaces or low carpet);
- Add a paper cup dispenser at a water fountain;
- Raise desks with blocks or use simple crank-style drafting tables as alternatives to standard desks;
- Replace existing hardware and equipment to allow for grab bars, handrails, and other supports where needed;
- Monitor access to emergency controls and general hardware (e.g., level door handles, light fixtures, vending machines), use "Lazy Susans" which allow people to rotate equipment without reaching;
- Lower tension on doors and water fountains;
- Buy automatic electric staplers for paperwork;
- Attach items or equipment with velcro;
- Relocate a program or service to an accessible area.

For More INFORMATION

Organizations

American Amputee Foundation
PO Box 55218, Hillcrest Station
Little Rock, AR 72225
(501) 666-2523
(800) 553-4483

Arthritis Foundation
1314 Spring Street, NW
Atlanta, GA 30309
(800) 283-7800

International Polio Network
5100 Oakland Avenue
Suite 206
Saint Louis, MO 63110
(314) 534-0475

National Spinal Cord Injury Association
600 West Cummings Park, Suite 2000
Woodburn, MA 01801
(800) 962-9629

National Stroke Association
300 East Hampden Avenue
Suite 240
Englewood, CO 80110
(303) 762-9922

Paralyzed Veterans of America
801 18th Street, NW
Washington, DC 20006
(800) 424-8200

Spinal Network
PO Box 4126
Boulder, CO 80306
(303) 449-5412
(800) 338-5412

United Cerebral Palsy Associations, Inc.
1522 K Street, NW, Suite 1112
Washington, DC 20005
(800) USA-5UCP
(202) 842-1266 Voice and TDD

Government Agencies

National Institute of Neurological
Disorders and Stroke
Building 31, Room 8A06
9000 Rockville Pike
Bethesda, MD 20892
(301) 496-5924

Rehabilitation Services Administration
U.S. Department of Education
330 C Street, SW
Washington, DC 20001
(202) 732-1282
(202) 732-2848 TDD

Community Contacts

Many of the listed organizations will have state and local chapters.

To locate additional resources, contact your state Governor's Committee of People with Disabilities

or obtain a State Resource Sheet from

National Information Center for Children and Youth with Disabilities
PO Box 1492, Washington, DC 20013
(703) 893-6061
(800) 999-5599
(703) 893-8614 TDD

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This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request.
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Funded by the U.S. Department of Health and Human Services, Office for Substance Abuse Prevention, Division of Communication Programs.

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Voice (202)783-2900 ▪ TDD (202)737-0645 ▪ Fax (202)737-0725

Suggestions to Improve Positive Interactions

If the person appears to have little grasping ability, do not be afraid to try to shake hands. This is a traditional part of business etiquette, and signals that you are giving equal consideration. It is important to allow the person with a disability to guide you. He or she will have developed ways to handle almost all common social situations.

Do not hold on to a person's wheelchair. It is part of the person's body space and is both inappropriate and dangerous.

Talk directly to the person using a wheelchair, not to an attendant or third party. The person is not helpless or unable to talk.

If conversation becomes protracted, consider sitting down in order to share eye level. This not only is more respectful, but it may be more comfortable for both parties.

Avoid the following disabling terms: cripple, confined to a wheelchair, wheelchair bound, deformed, cord, quad, para. Use terms such as: person with (spinal cord injury, etc.), walks with (crutches, braces, etc.), wheelchair user.

REMEMBER

ASK AND LISTEN!

A person with a disability is the expert about his or her disability.

Resources

The Spinal Network: the Total Resource for the Wheelchair Community. This directory and other publications are available from the Spinal Network, PO Box 4126, Boulder CO 80306. Phone: (800) 338-5412.

National Resource Directory, an Information Guide for Persons with Spinal Cord Injury and Other Physical Disabilities. This directory can be ordered from the National Spinal Cord Injury Association. Their address is 600 West Cummings Park, Suite 2000, Woburn, MA 01801. Phone: (617) 935-2722.

To explore the issues related to the alcohol and other drug dependency treatment, obtain a copy of *Spinal Network Extra: Special Report Substance Abuse,* (Winter 1991). Write to Spinal Network, PO Box 4126, Boulder, CO 94402. Phone: (800) 338-5412.

DIRECT LINK for the Disabled, Inc., is a public benefit organization that provides information and resources for any disability related question. Information packages about technology for people with disabilities; financial assistance; and notebooks of resources on stroke, spinal cord injury or neuromuscular diseases are available. Write DIRECT LINK for the Disabled, Inc., PO Box 1036, Solvang, CA 93464. Phone: (805) 688-1603.

The United Cerebral Palsy Associations, Inc. (UCPA) provides information, referrals and training. Information and referral specialists are available to direct you to the most appropriate publication produced by UCPA, including: *The Networker* and *Family Support Bulletin.* Contact UCPA, 1522 K Street, NW, Washington, DC 20005. Phone 1 (800) USA-5UCP.

MYTHS & **FACTS**

MYTH: *All wheelchair users are paralyzed and are "confined" to their wheelchairs.*

FACT: Many wheelchair users can walk with other mobility aids, but their speed, range, and convenience of movement is enhanced by wheelchair use. Wheelchairs liberate those who need them and confine none.

■

MYTH: *People with paraplegia are paralyzed from the waist down, and people with quadriplegia from the neck down.*

FACT: Both paraplegia and quadriplegia are conditions with varying degrees of paralysis. A person with a high cervical injury may have total paralysis from the neck down, requiring the assistance of a respirator for breathing. Someone with a low cervical injury may have movement and control of the upper extremities except for the absence of finger grasp.

MYTH: *Accommodations for people with mobility limitations mean the complete removal of all architectural barriers.*

FACT: The term "accommodation" covers a multitude of possibilities. Making worksite modifications, adjusting schedules, and acquiring specialized equipment are examples of accommodation. It is a highly individualized matter.

■

MYTH: *Accommodating a person with mobility limitations is expensive.*

FACT: The overwhelming majority of accommodations (over 80%) cost less than $500.

ETC.

This space has been provided for you. Make notes or write questions that you want to ask resource organizations or agencies.

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A Look at Alcohol and Other Drug Abuse Prevention and...

TRAUMATIC BRAIN INJURY

Traumatic brain injury refers to damage to the brain caused by external mechanical forces applied to the head. The traumatic brain injury (TBI) is acquired suddenly in the course of normal development. It typically results in brain damage which is diffuse or widespread; it is not usually confined to one area of the brain. Thus, impairments are multiple and many aspects of life are changed.

Someone receives a traumatic brain injury every 15 seconds in the United States. Over 2 million injuries occur per year with 500,000 severe enough to require hospital admission. Between 75,000 and 100,000 people die each year from a traumatic brain injury, which is also the leading killer and cause for disability in children and young adults. The economic costs alone approach $25 billion per year, and astronomical medical and legal bills often leave families in financial ruin.

Among those who survive, 90,000 people will be severely and permanently disabled. They will experience deficits in physical, psychosocial, intellectual, cognitive, vocational, educational, recreational, and independent living skills. These deficits will vary in intensity over time, and will interact in ways unpredictable and unique. These interactions require extremely complex management and rehabilitation methods.

FOR YOUR REFERENCE

DESCRIPTORS OFTEN USED FOR TBI INCLUDE:

Acquired Brain Injury
Brain Injury
Head Injury

The Implications of Alcohol and Other Drug Use

Alcohol abuse has been associated with TBI in over half of all occurrences. It appears to be related in many cases with lifestyles where alcohol and other drug abuse and risk taking are common (Sparadeo, et al., 1990). If the disability is a direct result of alcohol or other drug use, or if it predates the disability, the chances are greater that the problems will continue following rehabilitation. The continued abuse of alcohol and other drugs can negate attempts at physical, social, and cognitive rehabilitation.

Specialized alcohol and other drug abuse treatment often is necessary for people with traumatic brain injury. TBI's can include lasting memory and cognitive difficulties, and alcohol and other drug abuse treatment needs should be addressed by taking learning styles and capacities into consideration. Medical care for TBI is costly, and it is not uncommon to exhaust financial resources before the person can access appropriate alcohol and other drug abuse treatment.

Alcohol and other drug abuse prevention might best be approached by emphasizing the effects of alcohol and other drug use upon the damaged brain and a person's recovery from TBI. For example, the following points might be emphasized in the discussion with a person with TBI:

- The disinhibiting effects of alcohol are not helpful when disinhibition itself is a social problem for many persons with TBI.
- The depressant effects of alcohol and many other drugs are not helpful when proneness to major reactive depressive episodes are so common among person recovering from TBI.
- The effects of alcohol and other drugs may interfere with medications designed to prevent seizure episodes. They also may lower the seizure threshold.
- It is highly undesirable to exacerbate deficits in planning, verbal fluency, motor control, concentration, attention, memory, and information procession speed, which are already problems in recovering from TBI.

Resources: To explore the issues related to alcohol and other drug dependency treatment, obtain a copy of the *Substance Abuse Task Force White Paper.* Reprints of the White Paper are available from the National Head Injury Foundation, 1140 Connecticut Avenue, NW, Suite 812, Washington, DC 20036, (202) 485-9950.

Alcohol, Drugs, and Brain Injury, a survivor's workbook, by Robert Karol, Ph.D. and Frank Sparadeo, Ph.D., 1991. Copies of this workbook are available free of charge by calling 1 (800) CARE TBI x3074.

Suggestions to Improve Positive Interactions

People with TBI may digress or change course during a conversation. Redirect them using appropriate cues and reinforcers.

Teach prevention skills to the person with TBI in more than one setting to maximize generalization. Focus on a specific prevention goal.

Be redundant. Never assume understanding or memory from a previous session. Always repeat the purpose, duration, and guidelines for each meeting. Summarize previous progress and then restate where the previous meeting left off.

It must be understood that because the consequences of TBI are so psychologically overwhelming, most persons experience pervasive denial. This is perfectly normal. The timing and method of confrontation about deficits, including alcohol and other drug problems, should be carefully coordinated with the interdisciplinary TBI treatment team and case manager.

Present educational points in the most effective cognitive and sensory mode. This information is best obtained from a TBI team member known as the Cognitive Specialist.

All interventions should be directive in nature, short term, goal directed, and behaviorally anchored.

Severe brain injuries are typically so devastating to the family system that many family members "leave the field" when they come to appreciate what has occurred. Social isolation is common for people with TBI. The family system must be assessed and reassessed as it will fluctuate markedly in the first four years following TBI.

Accentuate positive gains using frequent social praise.

MYTHS & **FACTS**

MYTH: *Most people with a very severe TBI will likely die.*

FACT: Because of advances over the last two decades in emergency room medicine, neurosurgical techniques, and pharmacological agents, the survival rate for people with severe TBI has quadrupled to nearly 60%. Most are young adult males who will live a full lifespan.

■

MYTH: *Brain damage is permanent and irreversible. Life after TBI is not worth living.*

FACT: There is a period of spontaneous neurological recovery of about two years in which significant improvements occur. These can be sometimes augmented by extensive and expensive rehabilitation methods. Some people with severe TBI will eventually live independently and work competitively with supports, but rarely at the level of functioning they enjoyed prior to injury.

■

MYTH: *People with TBI are volatile, aggressive, and unpredictable.*

FACT: Almost all people who have experienced severe TBI pass through a phase of agitation during their recovery. This is normal and must not be confused with a permanent psychiatric condition. Behavioral problems that do linger for a minority of persons with TBI will likely include confusion, disinhibition, and/or reservation as opposed to aggression.

MYTH: *People with TBI experience dramatic losses of intellectual functioning.*

FACT: There is usually some loss of intellectual functioning, but this can be confused with more specific cognitive deficits such as problems in attention/concentration, short-term memory, or the speed of information processing. These are often the most significant impediments to long-term recovery.

■

MYTH: *Most TBI's occur among people who were drinking and driving.*

FACT: About two-thirds of TBI's involve motor vehicle accidents. Half of the accidents which resulted in TBI are alcohol-related. Even in these circumstances, the people incurring TBI were often passengers or not intoxicated themselves. Falls, work-related accidents, sports-related injuries, and firearms account for many head injuries.

■

MYTH: *The point of impact and force of a TBI tells us a great deal about its consequences.*

FACT: Most brain injuries are diffuse (affecting the whole brain and brain stem) and are not localized. The combinations and permutations of damage to over 10 billion interdependent nerve fibers are almost infinite, as are the manifestations of TBI.

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Voice (202)783-2900 ▪ TDD (202)737-0645 ▪ Fax (202)737-0725

For More INFORMATION

Organizations

National Head Injury Foundation (NHIF)
1140 Connecticut Avenue NW, Suite 812
Washington, DC 20036
(202) 296-6443
(800) 444-NHIF (Family Help Line)

JMA Foundation
1730 M Street NW, Suite 903
Washington, DC 20036
(800) 447-8445

Community Contacts

NHIF has chapters in many states.

To locate additional resources contact your state Governor's Committee of People with Disabilities

or obtain a State Resource Sheet from

National Information Center for Children and Youth with Disabilities
PO Box 1492
Washington, DC 20013
(703) 893-6061
(800) 999-5599
(703) 893-8614 TDD

Government Agency

National Institute of Neurological Disorders and Stroke
Building 31, Room 8A06
9000 Rockville Pike
Bethesda, MD 20892
(301) 496-5924

References

Kreutzer, J., Doherty, K., Harris, J., and Zasler, N. (1990). Alcohol use among persons with traumatic brain injury. *Journal of Head Trauma Rehabilitation*, 5(3), 9-20.

Langley, M.J. (1991). Preventing post-injury alcohol-related problems: A behavioral approach. In B.T. McMahon and L.R. Shaw (Eds.), *Work Worth Doing: Advances in Brain Injury Rehabilitation*, Orlando: Paul M. Deutsch Press, Inc.

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This information was developed as a part of a set of materials on alcohol and other drug abuse prevention and disability. Other documents on specific topics are available upon request.
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Funded by the U.S. Department of Health and Human Services, Office for Substance Abuse Prevention, Division of Communication Programs.

Integrated Resources Institute

May 7, 1992

Dear Maureen Colleague:

Enclosed please find a recent paper on the topic of natural supports.

I hope the contents will be of interest to you. I look forward to your thoughts and comments.

Warmest Regards,

Steve Zivolich

18662 MacArthur Blvd., Suite 330, Irvine, CA 92715 (714) 851-7723

Draft
Not For Distribution

COMPARATIVE BENEFIT COST ANALYSIS OF NATURAL SUPPORT STRATEGIES, AND SHELTERED WORKSHOPS

M. Francesca Piuma, Ph. D.
UNIVERSITY OF WISCONSIN, MADISON

Steve Zivolich
INTEGRATED RESOURCES INSTITUTE

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Abstract

The following economic analysis is an ex post facto evaluation study comparing source costs and pecuniary outcomes of two types of employment programs serving individuals with severe disabilities: Sheltered workshops and an experimental program, a natural support approach, were compared in this study. Six continuous months of client participation in the respective programs served as the time horizon for the evaluation. The economic analysis employed two benefit-cost models: One assessed the benefits and costs of each program in isolation by assuming there were no opportunity costs for participation in an alternative program. The second model aggregated data from the first analysis by integrating the opportunity cost of sheltered work into the computations.

The results indicate substantive benefits to participants, taxpayers, and society for a natural support approach when compared to sheltered workshop models.

Overview

The unemployment rate for 19.1 million working age persons with disabilities is estimated at 75% (U.S. Commission on Civil Rights, 1983). For persons challenged with severe disabilities (developmental disabilities, severe physical disabilities, and long-term mental illness) the rate of unemployment is known to be even higher. Kiernan and Stark (1989) estimated unemployment rates for 1.9 million developmentally disabled working age individuals to be 87%.

After substantive vocational gains in the 1960s and 1970s, persons with disabilities lost economic ground over the last decade (Yelin, 1991). Census Bureau data indicate between 1980 and 1988 a decline in proportions of full time workers with disabilities, paralleled their increasing level of unemployment. Fewer hours at work subsequently resulted in a steady decrease in annual earnings for this sector of the labor pool. During the same period, a survey conducted by Harris and Associates documented this group's desire to work, and their frustrations about barriers to employment (Harris, 1986). This survey, indicated 65% of the respondents identified strong preferences to work if given the opportunity.

There are 2.2 million SSI recipients with severe disabilities, only 172,000 (8%) of these individuals are working (Social Security Administration, 1991). Less than 1/2 of 1% of these potential workers return to the labor force annually. Each year more than 37.9 billion dollars is paid by U.S. taxpayers in terms of SSI/SSDI and medical payments. This benifit program translates into 5.72% of the Gross National Product. In addition, SSI disability claims have increased by 20% since 1984, demonstrating uncontrolled expenditure growth for this public assistance program.

Federal SSI subsidies were established 17 years ago to insure persons with severe disabilities an income standard above poverty level. Contrary to the original intent, current monthly SSI benefit payments are substantially below the federal

poverty level ($6,617) and inadequate in meeting basic human needs (SSA, 1991). Thus, the SSI Program is not responding to its original charter.

Income subsidies provided to this group are commonly paired with a redistribution mechanism described in the literature as sheltered work. This self-contained work model is one of the oldest and largest vocational rehabilitation employment strategies serving individuals challenged with severe disabilities. Currently public funds are redistributed to over 5,000 workshops (Kiernan & Stark, 1989) with more than 250,000 clients (Smith, 1987).

Most persons receiving sheltered services earn less than half of minimum wage, and do not advance to unsubsidized employment in competitive labor markets (Bellamy, Rhodes, & Albin, 1986; Piuma, 1990). Yet, the taxpayer's annual cost of this redistribution exceeds 1.5 billion dollars (Kiernan & Stark, 1989). Yelin (1991) suggests the source of increasing costs and lack of advancement into competitive markets is rooted in the model's outdated manufacturing job training emphasis. In general, workshop programs are not responding to a service sector economy.

Growing dissatisfaction with increasing subsidy and redistribution costs as well as the limited movement of consumers from workshop to competitive markets stimulated the rapid emergence of the supported employment model. This paradigm emphasizes on site vocational training consonant with instructional strategies that focus on the behavioral expectations of the employer and co-workers. Concomitantly, these services systemically arrange for ongoing training, evaluation and long term supervision support in the workplace.

The role of "job coach" is the essential personnel vehicle for conducting placement, training, retraining, site supervision, and evaluation in supported employment programs. Job coaches are generally employed through a community based social service agency funded through state and/or local tax dollars.

Although impressive outcomes have been achieved with supported employment, legislated federal, state, and local adoption of supported employment models are raising a number of fiscal concerns. Staff-to- client ratios and the resources required to support a job coach for extended periods of client training and supervision are under particular economic scrutiny (Rusch, Trach, Winking, Tines, & Johnson, 1989).

Cohn's (1979) criterion for public investment is based on the level at which a program's benefits exceed costs (B/C > 1), i.e. each tax dollar invested should yield a return of more than one dollar. A recent benefit-cost study of supported employment programs in Illinois, (Conley, Rusch, McCaughrin, and Tines, 1989) reported a 66¢ and 75¢ return on the dollar for taxpayer and society, respectively. New York supported employment programs reported similar benefit cost-ratios of either .69 or .67 (Noble, Conley, Banerjee, & Goodman, 1991).

These results indicate supported employment programs do not currently reach Cohn's (1979) criterion for public investment. However, monetary returns for the "next best" alternatives, sheltered employment and day activity center programs, produce substantially lower returns (Piuma, 1990), suggesting that supported employment is still a more cost efficient option. Conley, Rusch, McCaughrin, and Tines (1989) emphasize higher benefit/cost ratios will be necessary if these programs expect to receive widespread economic support.

Supported employment models incorporating the use of coworkers for on site training and supervision are perceived to be a more cost-efficient strategy. The "natural supports" model assumes co-workers and supervisors can provide the same kind of initial job training and ongoing support to individuals with disabilities as is commonplace for nondisabled workers. Utilization of in-house personnel eliminates or reduces the need for a job coach, thereby lowering personnel expenditures for the supported employment program. Recognition of

this potential cost reduction is encouraging providers to supplement their supported employment strategies with natural supports. Yet, to date there are no empirically based data describing the investment returns of natural supports to the returns identified with more traditionally based sheltered employment programs or supported employment models utilizing job coaches.

This paper focuses on the benefit and cost of natural support strategies for placing and supporting persons with severe disabilities into employment. The economic analysis is an ex post facto evaluation study comparing the resource costs and pecuniary outcomes of two types of employment programs serving individuals experiencing severe disabilities: Department of Rehabilitation sponsored sheltered workshops, and an experimental natural support program. Six continuous months of client participation in the respective programs served as the time horizon for the evaluation.

The economic analysis employs two benefit-cost models: One assesses the benefits and costs of each program in isolation by assuming there were no earnings or other benefits forgone by not participating in the "next best" employment alternative (opportunity costs). The second model aggregates data from the first analysis by integrating the opportunity cost of sheltered work into the computations.

These data serve as the foundation for a future study which contrasts the economic returns of natural supports, supported employment, and sheltered workshop programs. The authors view their current findings as the first phase in a series of studies that compare and contrast fiscal inputs and outcomes of these three employment options for individuals with severe disabilities. Financial analyses are particularly timely within the current depressed labor market. Data of this nature will assist both federal and state policy makers in making fiscally responsible decisions which maximize employment of individuals with severe disabilities while efficiently spending tax dollars.

Method

Program Characteristics and Sample Population:

In 1990 the Social Security Administration awarded a grant to Pizza Hut Corporation to develop a natural supports training and employment program for individuals with severe disabilities in selected food service settings. Rather than accessing job coaches from rehabilitation agencies, the model trained and utilized restaurant managers to supervise, instruct clients, and address site problems with coworkers. Restaurant managers received one day of instruction in training methods, supervising workers with disabilities, and strategies promoting acceptance among nondisabled coworkers. Instruction was supplemented with a two year follow-up training program provided by local rehabilitation professionals and grant staff .

Fifty-nine participants from 10 states were included in the Pizza Hut natural support (NS) program sample. Inclusion in the evaluation study was based on entry and participation in the program between July 1, 1990 and January 31, 1991 (six month period). Client demographic data (Table 1) indicate 75% of the participants were identified with some level of intellectual disability, while the remaining 25% were described in terms of other primary disabilities including long-term mental illness and physical disabilities. Approximately 40% were female, 9% African American, 78% Caucasian, 7% Hispanic and 6% other. The majority of NS participants received SSI only (84%), while 16% received SSI and/or SSDI benefits.

Sheltered work cost and benefit data were aggregated from 1,869 Department of Rehabilitation clients participating in approximately 150 to 200 workshops throughout the state of California between April 1, 1989 to March 31, 1990. Table 1 indicates 45% of the workshop participants were female. Approximately 90% of the group experienced mild/moderate intellectual disabilities. Ethnic representation included 10% African-American, 4% Asian, 66% Caucasian, 16% Hispanic, and 4%

other. Although precise data describing a breakdown of welfare benefits received was not available, interagency and intraagency reports and discussions with department staff imply a high percentage of sheltered workshop clients received Supplemental Security Income (SSI) benefits.

General program information indicated representative workshops subcontracted with local businesses for assembly-line production piecework, i.e. bench-work assembly, collating, and packaging. Wages for work were paid on a piece basis computed at the minimum wage level for 100% production rate. In cases where workshop clients were unable to produce at the 100% production level, Department of Labor waivers were obtained so that payment at subminimum rates were allowed. In addition to sheltered work, overall services generally included work evaluation, work adjustment, vocational counseling, job placement, and follow-up.

Insert Table 1

Collection of Cost Data

Costs for the sheltered workshops and NS programs were collected on a program expenditure basis. The ex post facto nature of the study prohibited the tracking of specific client resource use. Data were based on actual expenditures rather than proposed budgeted costs. Internal costs were measured using the following object class categories: personnel, fringe benefits, travel, equipment, supplies, and facility costs. External factors potentially impacting on client/program resource use were also assessed. For example, the NS program received supplementary funding from the Pizza Hut Corporation. This contribution supported the employment activities of the clients included in the study, therefore, these funds were included in the program's

cost computation. Non-federal or additional public funding was not noted in the expenditure reporting of sheltered workshops.

Costs that may have been incurred through employer tax credit programs were also reviewed. Although these subsidies are provided to the employer rather than through direct funding to the employment support agency, they ultimately constitute a cost to the taxpayer and/or society. Thus, employer tax credits must be assessed in the overall cost (Conley, Rusch, McCaughrin, & Tines, 1989). All NS employers participated in Target Job Tax Credit subsidies and received, on the average, $1,415 per client. Sheltered work programs did not receive these tax credits.

Collection of Benefit Data (Pecuniary)

According to Benson (1978), Cohn (1979), Gramlich (1981) and Taggart (1981) employment earnings are used as the major pecuniary outcome measure in employment and training benefit-cost research. In response to this convention, benefits for the study were based on wages earned for hours employed. Due to the impact of earnings data on subsequent taxes paid and reductions in welfare (transfer) payments, these latter categories were also assessed as benefits associated with each of the employment options in the study (Thornton, 1985; Collignon, Dodson, & Root, 1977; Dodson, 1979; Hill & Wehman, 1983).

Earnings data for sheltered work employees were collected from an individual state Department of Rehabilitation. The Department provided aggregated monthly performance data which included number of clients, average earnings per month, average hours worked per month, and average hourly wages. NS programs provided hours worked per week per client in addition to each clients respective monthly earnings.

Data Reduction

Cost data from each program were converted into mean cost per client. Program outcomes (benefits) were initially transformed into five categories: (1) average hours worked per week, (2) average hours worked per month, (3) average hourly wage, (4) monthly earnings, and (5) annual gross earnings. From these data two additional categories were added to the analysis: (6) state and federal taxes paid on gross earnings and (7) reductions in Supplemental Security Income (SSI) due to monthly wages.

Tax calculations were assessed at 23% of annual gross earnings. This percentage was initially established by Pechman and Okner (1974) and subsequently used by Thornton (1985), Hill, Wehman, and Banks (1985) in determining annual state and federal taxes paid by low wage earners with disabilities.

Reductions in welfare payments were computed using the SSI's standard income adjustment formula for earned income. Tax and SSI reduction formula were applied to the earnings of each participant in the NS programs. These same formula were also applied to the aggregated earnings data of clients participating in the sheltered workshop programs.

In addition to the cost data, the seven categories of outcome data were analyzed and summarized into client means (Results section, Tables 3, 4 and 5). These descriptive statistics were subsequently utilized in benefit-cost models 1 and 2.

Adjustments for Inflation

Cost and wage data for the sheltered workshop and NS client samples were collected at different periods of time: April 1, 1989 to March 31 and July 1, 1990 to January 31, 1991, respectively. Therefore, cost and wage data needed to be adjusted to 1991 dollars. The National Income Product Accounts (July , 1991) were used to make

the appropriate adjustments for inflation. Please note: all pecuniary data listed in Tables 3 through 8 represent 1991 dollars.

Configuring Data into Costs and Benefits from Three Perspectives

Based on economic convention, pecuniary values described in the Tables 3, 4, and 5 (Results section) were organized into a series of costs and benefits that reflect three different perspectives: program participant, taxpayer, and society. Program participants are identified as individuals who attended the sheltered work or NS programs within the described time horizon. Taxpayers are those individuals who pay state and federal taxes but are not included as program participants. Finally, society is defined as the group composed of both participants and taxpayers. The appropriate configuration of benefits and costs across participant and taxpayer perspectives should equal the value described for society (Thornton, 1985; Gremlich, 1986). The format used in this study for configuring benefits (+) and costs (-) is identified in Table 2.

Insert Table 2

Rationale for Configuring Costs and Benefits

Program costs are viewed as no cost to the participant but clearly translate into costs for taxpayers and society. Earnings benefit the participant, have no effect on the taxpayer, but when both perspectives are totaled, they equal a benefit to society. State and Federal taxes are a cost to the participant but a benefit to the taxpayer. By totaling these perspectives, the benefits and costs nullify each other, having zero impact on society at large.

Determining the benefit or cost status of Supplemental Security Income (SSI) reductions from the three perspectives is somewhat more complex. When SSI payments are reduced due to wages earned from work, this translates into a reduction of income that would have been available if the participant had not worked. The reduction in SSI is seen as a cost to the participant.

Taxpayer's perceive the reduction as a benefit in two ways: First, the reduced payment is a tax savings, and second, the cost of administering those funds is also saved. The taxpayer's benefit is computed by adding the reduction in SSI to the savings in administrative costs (Barnett, 1985; Thornton, 1985).

From society's perspective, reduced SSI payments are viewed as a transfer of funds from one group of people in society (the participants in the study) to another group (other welfare recipients). Reductions in SSI payments are just a shift of funds (transfer payment) and do not constitute a savings to the society as a whole. In contrast, society observes the obviated administrative costs for SSI as a savings in actual resources. Therefore, the latter are observed as a benefit to society (Barnett, 1985; Thornton, 1985). Administrative costs were computed at 10% of the welfare payment, an average computed for costs associated with administering SSI programs offered to disabled workers (Thornton).

Discounting and Use of the Benefit-Cost Ratio

When projects extend over a period of a year, standard economic convention requires benefit and cost data to be discounted for purposes of determining net present values. Due to the point in time nature of this study (six months), discounting values was not deemed necessary or appropriate. The absence of present values eliminated using net present values or internal rates of returns as criteria for project selection. Therefore, the study identified the benefit-cost ratio as the summary unit for selecting the most efficient use of project funds. This ratio determines the percentage of return for

each dollar invested in project activities. According to Cohn (1979), selection of a project should occur when the value of benefits to the value of costs exceeds unity (1): B/C > 1.

Benefit-Cost Analysis Model 1

Levin (1975, 1981, 1983) suggests the use of a benefit-cost model which describes costs and benefits independently for each alternative program under review. This approach allows the reviewer to observe and compare the average costs and pecuniary benefits of each alternative in isolation, without the effects of opportunity costs integrated into the analysis. Recent economic studies comparing employment programs, aggregate the data of alternatives within one analysis. This approach often omits numeric detail describing the costs and benefits of the competing program. Thus, the reviewer is unable to determine the appropriateness of the selected values for each alternative, their comparability, and if the configuration of costs and benefits is methodologically sound. In addition, the omission of thorough data for the alternative model does not allow a benefit-cost ratio to be computed, this eliminates the possibility of comparing the benefit-cost ratios for the competing projects.

The analysis in model 1 configures the benefits and costs of sheltered work and NS programs in isolation of each other according to Levin's (1975, 1981, 1983) described methodology. This approach required a separate analysis for each of the programs. To standardize the analysis it was necessary to assume participants in each of the programs did not have a next best employment alternative outside their selected option. Therefore, the calculations do not include opportunity costs. The impact of the participant's choice and the elimination of a next best alternative is fiscally described in terms of the participant, taxpayer, and society perspectives in Tables 6 and 7 (Results section).

Benefit-Cost Analysis Model 2

The second model used in the analysis was employed by Thornton (1981, 1985); Hill and Wehman (1983); Hill, Hill, Wehman, and Banks (1985); and Conley, Rusch, McCaughrin, and Tines (1989). Their approach emphasizes one employment option and identifies a competing program as the "next best alternative". In this study's analysis the focus program is NS and the alternative is sheltered work. Marginal analysis is used which aggregates cost and benefit differentials between individuals participating in NS and the sheltered workshops. For example, the pecuniary data of sheltered work is integrated into the analysis by including the increased earnings of NS clients over the participants in sheltered workshops. In addition, the deferred client cost from sheltered work is calculated as a benefit for NS (the assumed savings due to a client choosing not to participate in sheltered programs). The aggregated analysis numerically describes the outcome of individuals choosing one set of program resources over the resources of another program. (This analytical approach can more simply be explained by the example of choosing a Milky Way candy bar over an apple. By purchasing one you have eliminated the opportunity of buying the other due to limited resources. The cost difference between the two represents the monetary impact or opportunity cost of your choice).

In terms of this study, the second benefit-cost analysis (aggregated format) assumes participants in the NS program would have chosen sheltered work programs as their next best alternative. The marginal cost breakdown listed in Table 8 (Results section) describes the fiscal impact of an individual's choice on her/himself (participant), the taxpayer, and society at large.

In summary, by conducting analyses that include both benefit-cost models, the reviewer is given an opportunity to look at the detailed benefits and costs of both employment options in isolation of each other. In addition, the second analysis allows the reviewer to see a compilation of aggregated data, thereby showing the the

fiscal impact of participants choosing supported employment with natural supports over the more traditional sheltered employment option.

Results

Costs (Inputs)

By comparing the per client cost from the NS and sheltered workshop programs (Table 3), expenditures for the NS program were $1,815 less than serving a client in a sheltered work program.

Insert Table 3

Outcomes

Client work time and wage related outcomes (Tables 4 and 5) resulting from the previously described expenditures, indicate participants in the NS programs worked more hours, received a greater hourly wage, and subsequently benefited from higher annual gross earnings as opposed to clients employed by sheltered workshop programs. In addition, individuals in NS programs paid more in state and federal taxes and received lower welfare subsidies (SSI) than sheltered work participants.

Insert Table 4

Insert Table 5

Benefit-Cost Analysis Model 1

Individuals in NS programs benefited $1,584 annually from their participation in this supported employment model. This is twice the amount realized by individuals participating in workshop programs ($723). The benefit-cost ratio for the taxpayer's investment in NS programs equaled .74, while the ratio from society's perspective was 1.21. Thus, for every taxpayer dollar invested in a NS participant, taxpayers realized a return of 74 ¢ and society $1.21, respectively (Table 6). For individuals in sheltered work programs the return on each dollar for the taxpayer was 4 ¢ and society 18 ¢ (Table 7)

Insert Table 6

Insert Table 7

Benefit-cost Analysis Model 2

The second analysis presented in Table 8 focuses on the NS program by aggregating the data from Tables 6 and 7 and applying the benefit and cost differentials to the isolated NS calculations. The results indicated that each NS client benefited $861 dollars more per year for participating in a NS program as opposed to choosing sheltered work.

Calculations also indicate that even after opportunity costs are considered, the taxpayer realizes a return of $1.22 on each dollar invested in a NS participant. Society receives $1.47 on the dollar for their investment.

Insert Table 8

Discussion

Both benefit-cost models clearly indicate public dollars invested in NS programs are substantially more efficient than investments in the sheltered work programs described within this study. From participant, taxpayer, and society perspectives, investments in NS programs maximized the utilization of limited resources. This translates into increased levels of productivity which were not realized when greater resources were spent on individuals participating in sheltered workshops. For example, Tables 3, 4, and 5, indicate the additional $269 dollars/month spent on each workshop client resulted in 30 fewer work hours (when compared to the cost and work hours of a NS participant).

Clients in the NS programs experienced increased benefits at an annual rate of $861 by choosing to participate in the NS program as opposed to the sheltered workshops. From a more public policy perspective, NS programs clearly satisfy Cohn's (1979) criteria for public funding (B/C > 1). The return to the taxpayer exceeded the point of parity ($1.21 per dollar), while society realized $1.46 return for each dollar invested. These data provide a sound rationale for public support of the NS model and reflect the conspicuous inefficiency of public funds invested in sheltered workshops (taxpayer: 4 ¢ per dollar; society: 18 ¢ per dollar).

Future economic investigations need to focus their attention on resource inputs and outcomes between supported employment models using job coaches and those employing natural supports. Comparisons of the data presented with the B/C < 1 ratios reported in both Conley, Rusch, McCaughrin, and Tines (1989) and Noble, Conley, Banerjee, & Goodman (1991) could suggest NS strategies used in the SSA-Pizza Hut model maximize the efficiency of each dollar spent on supported employment activities.

Greater resource efficiency is a growing concern for publicly funded vocational support agencies. Employment programs for individuals with disabilities across the country are now (and will continue to be) faced with the growing challenge of decreasing federal, state and local habilitation funds attached to increasing demands for greater productivity. The benefit-cost data presented in this report is compelling in terms of describing the potential effects of policy decisions on the earning power of individuals with severe disabilities, their marketability in competitive labor markets, and the fiscal impact of habilitation decisions on taxpayers and society at large. The NS program is providing a necessary bridge between publicly funded habilitation programs and privately supported employee assistance programs in corporate institutions. With the initial support of the Social Security Administration and the Pizza Hut Corporation, NS programs are establishing an economically efficient and programmatically sound model for emerging public and private habilitation partnerships. As public resources for rehabilitation and habilitation programs diminish, the conceptual framework for NS programs will undoubtedly serve as a model for private industry to begin assuming the primary responsibility for post-school vocational training of individuals with severe disabilities.

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TABEL 1

Characteristics of Employee Populations

Characteristic	Sheltered Workshops	Natural Support
Number of Employees in Analysis	1,869	59
Percent Female	45%	40%
Percent Male	55%	60%
Percent with Primary Disability:		
Mental Retardation	90%	75%
Other	10%	25%
Ethnicity		
African American	[a]10%	9%
Asian	4%	-
Caucasian	66%	78%
Hispanic	16%	7%
Other	4%	6%

[a]Ethnic distributions for sheltered workshop group taken from adults (ages 18-64) with Developmental Disabilities data (Californians with Developmental Disabilities, July, 1990)

TABLE 2

Configuration of Costs and Benefits into Participant, Taxpayer, and Society Perspectives

B-C Configuration	Participant	Taxpayer	Society
Benefits:			
Earnings	+	0	+
Taxes	-	+	0
SSI (Transfer)	-	+	0
SSI Admin. Costs	0	+	+
Alternative Prog. Savings	0	+	+
Cost:			
Program Cost	0	-	-

TABLE 3

Mean Client Cost for Employment Programs

Annual/Monthly Employment Program Cost Mean Client Cost & Annual Average Target Job Tax Credit Per Client	
Sheltered Work Programs	Natural Support Programs
$5,236/Year $436/Month	$2,006/Year $167/Month
Target Job Tax Credit/Client	Target Job Tax Credit/Client
$0	$1,415
Annual Total Cost/Client	Annual Total Cost/Client
$5,236	$3,421

TABEL 4

Sheltered Work Mean Client Outcomes
Sheltered Workshops Mean Client Outcomes

Avg. Hrs/ Week	Avg. Hrs/ Month	Hourly Wage	Monthly Earnings	Annual Gross Earnings	Taxes Paid	SSI Reduction
13.63	59.07	$1.33	$78	$939	$216	0

Table 5

Natural Support Mean Client Outcomes

Natural Support Program Mean Client Outcomes

Avg. Hrs/ Week	Avg. Hrs/ Month	Hourly Wage	Monthly Earnings	Annual Gross Earnings	Taxes Paid	SSI Reduction
20.46	88.68	$3.74	$332	$3,978	$915	$1,479

TABEL 6

NS Isolated Program Analysis: Benefit-Cost Model 1

Natural Support Program
(Individual Program B-C Analysis)

Component	Participant	Taxpayer	Society
Benefits (Pecuniary)			
A. Outputs			
1. Gross Earnings	$3,978	0	$3,978
2. State & Federal Taxes	($915)	$915	0
B. Reduced Dependence on Transfer Programs (SSI)			
1. Reduction in SSI	($1,479)	$1,479	0
2. Reduction in Admin. Costs	0	$148	$148
Total Annual Benefit/Person	$1,584	$2,542	$4,126
Costs (Pecuniary)			
A. Inputs			
1. Total Annual Cost/Person	0	$2,006	$2,006
2. Targeted Job Tax Credit	0	$1,415	$1,415
Total Annual Cost/Person	0	$3,421	$3,421
Benefit-Cost Ratio		**0.74**	**1.21**

TABEL 7

Sheltered Workshop Isolated Program Analysis: Benefit-Cost Model 1

Sheltered Workshop Programs
(Isolated Program B-C Analysis)

Component	Participant	Taxpayer	Society
Benefits (Pecuniary)			
A. Outputs			
1. Gross Earnings	$939	0	$939
2. State & Federal Taxes	($216)	$216	0
B. Reduced Dependence on Transfer Programs (SSI)			
1. Reduction in SSI	0	0	0
2. Reduction in Admin. Costs	0	0	0
Total Annual Benefit/Person	$723	$216	$939
Costs (Pecuniary)			
A. Inputs			
1. Program Costs	0	$5,236	$5,236
Total Annual Cost/Person	0	$5,236	$5,236
Benefit-Cost Ratio		**$0.04**	**$0.18**

TABLE 8

NS Aggregated Analysis: Benefit-Cost Model 2

Natural Support Program
(Aggregated B-C Analysis)

Component	Participant	Taxpayer	Society
Benefits (Pecuniary)			
A. Outputs			
1. Increased Earnings	$3,039	0	$3,039
2. State & Federal Taxes	($699)	$699	0
3. Alternative Program Savings	0	$1,814	$1,814
B. Reduced Dependence on Transfer Programs (SSI)			
1. Reduction in SSI	($1,479)	$1,479	0
2. Reduction in Admin. Costs	0	$148	$148
Total Annual Benefit/Person	$861	$4,140	$5,001
Costs (Pecuniary)			
A. Inputs			
1. Total Annual Cost/Person	0	$2,006	$2,006
2. Targeted Job Tax Credit	0	$1,415	$1,415
Total Annual Cost/Person	0	$3,406	$3,406
Benefit-Cost Ratio		**1.21**	**1.46**

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

AMERICANS WITH DISABILITIES ACT
CONGRESSIONAL BRIEFING

April 2, 1992, 10:00 a.m. - 11:30 a.m., 2168 RHOB
April 3, 1992, 10:00 a.m. - 11:30 a.m., 2175 RHOB
April 6, 1992, 9:30 a.m - 11:00 a.m., 188 SROB

LIST OF HANDOUTS

1. The ADA: Responding to Constituent Requests for Information **(ATTACHED)**
2. Facts About the Americans with Disabilities Act (fact sheet)
3. Facts About Disability-Related Tax Provisions (fact sheet)
4. The ADA: Questions & Answers (booklet)
5. The ADA: Your Responsibilities as an Employer (booklet)
6. The ADA: Your Rights as an Individual with a Disability (booklet)
7. ADA Handbook
8. ADA Technical Assistance Manual with Resource Directory **(PLEASE SIGN IN IF YOU TAKE A COPY.)**

THE ADA: RESPONDING TO CONSTITUENT REQUESTS FOR INFORMATION

CHARGES OF DISABILITY DISCRIMINATION IN EMPLOYMENT

I. Between now and July 26, 1992:

A. Federal Laws

1. Title II of the Americans with Disabilities Act

Enforced by the Department of Justice, Title II of the ADA prohibits **state and local governments** from discriminating on the basis of disability in employment. This provision went into effect on January 26, 1992. Individuals should contact the Department of Justice at the address listed in "THE ADA: LEAD FEDERAL AGENCIES."

2. Section 503 of the Rehabilitation Act of 1973

Section 503 prohibits **federal contractors and sub-contractors** from discriminating on the basis of disability in employment. It is enforced by the Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor. OFCCP may be contacted for information about section 503 requirements or how to file a complaint either in Washington D.C. at (202) 523-9368, or at one of its ten regional offices (see pp. 89-94 of the Resource Directory to the ADA Technical Assistance Manual for a listing of the regional offices of OFCCP).

3. Section 504 of the Rehabilitation Act of 1973

Section 504 prohibits employment discrimination on the basis of handicap in any program or activity which receives **federal financial assistance**. Individuals who believe that they have been discriminated against should contact the Office for Civil Rights of the federal agency providing such assistance. A list of the civil rights divisions of some federal agencies is provided in "FEDERAL AGENCIES THAT ENFORCE OTHER LAWS PROHIBITING DISCRIMINATION ON THE BASIS OF DISABILITY."

4. Section 501 of the Rehabilitation Act of 1973

Section 501 prohibits discrimination on the basis of disability in federal employment. Individuals should contact the EEO office of the federal agency where they applied or were employed.

B. State and Local Laws

Most states and some localities have disability employment discrimination laws. They vary widely in their provisions. State laws are enforced by state fair employment practices employment agencies (FEPAs). Their offices may be contacted for information on state law provisions and how to file a charge or complaint of discrimination. Section X of the Resource Directory to the ADA Technical Assistance Manual contains listings of locations of state fair employment practice and human rights agencies.

II. On or after July 26, 1992

In addition to the protections outlined above, beginning on July 26, 1992, applicants or employees may contact the nearest EEOC field office at **800-669-4000** for information on Title I of the ADA, including how to file a charge of discrimination. By dialing this number, callers are automatically transferred to the nearest EEOC field office.

OTHER CHARGES OF DISABILITY DISCRIMINATION

1. Other Titles of the Americans with Disabilities Act

Please refer calls as necessary to the appropriate agency listed in "THE ADA: LEAD FEDERAL AGENCIES."

2. Other Federal Discrimination Laws

Individuals with disabilities who are not protected by the ADA may be protected by other discrimination laws. See "FEDERAL AGENCIES THAT ENFORCE OTHER LAWS PROHIBITING DISCRIMINATION ON THE BASIS OF DISABILITY."

OTHER LAWS ENFORCED BY EEOC

In addition to the Americans with Disabilities Act of 1990, as amended, the EEOC enforces the following laws:

1. Title VII of the Civil Rights Act of 1964, as amended, which prohibits employment discrimination based on race, color, sex, religion or national origin;

2. The Age Discrimination in Employment Act of 1967, as amended, which prohibits age discrimination and protects applicants and employees 40 years of age or older from employment discrimination;

3. The Equal Pay Act of 1963, as amended, which prohibits sex-based wage discrimination;

OTHER LAWS ENFORCED BY EEOC (continued)

4. Section 501 of the Rehabilitation Act of 1973, as amended, which protects federal employees or applicants from employment discrimination because of handicap. Once a federal agency's EEO office has rendered a decision on a complaint, a complainant has the right to file an appeal with the Commission's Office of Federal Operations.

If callers request publications about the other laws that EEOC enforces, they may call **800-669-EEOC** (Voice) or **800-800-3302**, or write to the address listed in "TECHNICAL ASSISTANCE MATERIALS AVAILABLE FROM THE EEOC."

Individuals who wish to speak to someone in the EEOC field offices should be referred to **1-800-669-4000.** By dialing this number, callers are automatically transferred to the nearest EEOC Field Office.

QUESTIONS ABOUT THE ADA

Regional Centers:
The National Institute on Disability and Rehabilitation Research (NIDRR), a part of the U.S. Department of Education, has established ten regional centers which provide information, training, and technical assistance to employers, people with disabilities, and other entities with responsibilities under the ADA. Callers may access the nearest regional center by dialing **1-800-949-4ADA.** The names and addresses of the ten regional centers are listed in "REGIONAL DISABILITY AND BUSINESS TECHNICAL ASSISTANCE CENTERS."

ADA Helpline:
Callers with specific questions about Title I of the ADA may also be referred to EEOC's ADA Helpline, which is staffed Monday through Friday between 9:00 a.m. and 5:30 p.m., E.S.T., and is accessed through EEOC's toll-free service: **800-669-EEOC** (Voice) or **800-800-3302** (TDD).

EEOC PUBLICATIONS

In General:
A list of publications with a brief description of each is attached in the "TECHNICAL ASSISTANCE MATERIALS AVAILABLE FROM THE EEOC" handout.

ADA Statute:
Both the Americans with Disabilities Act (P.L. 101-336), and the Civil Rights Act of 1991 (P.L. 102-166), which amended the ADA, may be ordered from the House Document Room (202-225-3456). The entire ADA is included in the ADA Handbook, and titles I & V of the ADA are included in the TA Manual.

ORDERING EEOC PUBLICATIONS

To obtain **EEOC** publications, individuals may call **800-669-EEOC** (voice) or **800-800-3302** (TDD), or write to EEOC, Office of Communications and Legislative Affairs, 1801 L Street, N.W., Washington, D.C. 20507.

Alternate Formats:
The employer and individual rights booklets and the fact sheets are available in Spanish. Copies of the fact sheets, booklets and regulations are available in Braille, large print, audiotape and electronic file on computer disk. The TA Manual is currently available on 3.5" computer disk; and will be available in other alternate formats. A limited number of audio cassette recordings of the poster are currently available. To obtain copies in an accessible format, individuals may call the EEOC Office of Equal Employment Opportunity at (202) 663-4398 (voice), or (202) 663-4399 (TDD) or write this office at the address above.

The ADA Handbook in Braille, large print (approximately mid-April 1992), audiotape and computer disk is available from the **Department of Justice** by calling (202) 434-9312, or writing: U.S. Department of Justice, Office on Americans with Disabilities Act, P.O. Box 66738, Washington, D.C. 20035-9998.

Individuals may order single copies of the ADA Handbook and the Technical Assistance Manual from the Commission. However, please note:

ADA Handbook:
Multiple copies of the ADA Handbook may be ordered from the Government Printing Office (GPO) (202-783-3238) for $30.00 (stock #052-015-00072-3). They take Visa and Mastercard.

Technical Assistance Manual:
Multiple copies of the ADA TA Manual may be ordered from GPO for $25.00 (stock #952-020-00000-5).

THE ADA: RESPONDING TO CONSTITUENT REQUESTS FOR INFORMATION

Attachments:

1. Technical Assistance Materials Available from EEOC;
2. The ADA Title I--Employment Questions and Answers;
3. Regional Disability and Business Technical Assistance Centers;
4. EEOC Press Release on DREDF Training Contract;
5. The ADA: Lead Federal Agencies;
6. Federal Agencies that Enforce Other Laws Prohibiting Discrimination on the Basis of Disability; and
7. Five sample letters: constituent questions on the ADA.

TECHNICAL ASSISTANCE MATERIALS AVAILABLE FROM THE EEOC ON THE AMERICANS WITH DISABILITIES ACT (ADA)

April 1992

POSTER:
Title I of the ADA takes effect on July 26, 1992. Section 105 of the ADA requires covered entities to post notices as of July 26, 1992. The EEOC's "Equal Opportunity is the Law" poster summarizes the laws that EEOC enforces, and has been revised to include a summary of the rights of individuals with disabilities under the ADA.

FACT SHEETS:

1. Facts About the Americans with Disabilities Act: one-page overview of Title I of the ADA.

2. Facts About Disability-Related Tax Provisions: one-page overview of disability-related tax credits and deductions.

BOOKLETS:

1. The Americans with Disabilities Act: Your Responsibilities as an Employer: 17-page booklet in a question and answer format addressing some of the most often asked questions about the Act from employers.

2. The Americans with Disabilities Act: Your Employment Rights as an Individual with a Disability: 11-page booklet in a question and answer format addressing some of the most often asked questions about the Act from people with disabilities.

3. The Americans with Disabilities Act: Questions & Answers*: 19-page booklet prepared by EEOC and the Department of Justice in a question and answer format addressing some of the most often asked questions about the employment and public accommodations provisions of the ADA.
*Limited copies are available from EEOC.

MANUAL:
Americans with Disabilities Act Technical Assistance Manual: two-volume manual intended primarily for employers. Part One provides guidance on the practical application of the legal requirements of Title I of the ADA, and contains a copy of Titles I and V of the ADA. Part Two contains a Resource Directory listing public and private agencies and organizations that provide information, expertise, and technical assistance on many aspects of employing people with disabilities, including reasonable accommodation.

TECHNICAL ASSISTANCE MATERIALS AVAILABLE FROM THE EEOC ON THE AMERICANS WITH DISABILITIES ACT (ADA)

HANDBOOK:

Americans with Disabilities Act Handbook: five hundred-plus-page handbook containing annotated regulations for Titles I, II, and III; resources for obtaining additional assistance; and an appendix which contains supplementary information related to the implementation of the ADA.

REGULATIONS:

1. Federal Register, 29 CFR Part 1601: four-page reprint from the Federal Register containing EEOC's procedural regulations issued on March 7, 1991.

2. Federal Register, 29 CFR Part 1630 and 1602 and 1627: 30-page reprint from the Federal Register containing EEOC's substantive regulations issued on July 26, 1991, implementing Title I of the ADA, and EEOC's recordkeeping requirements under the ADA.

3. Federal Register, 29 CFR Part 1641: six-page reprint from the Federal Register outlining the joint final rule issued on January 24, 1992, between EEOC and the Department of Labor's Office of Federal Contract Compliance Programs, on procedures for complaints/charges of employment discrimination based on disability filed against employers holding government contracts or subcontracts.

ORDERING PUBLICATIONS

To obtain **EEOC** publications, please call 800-669-EEOC (voice) or 800-800-3302 (TDD), or write to EEOC, Office of Communications and Legislative Affairs, 1801 L Street, N.W., Washington, D.C. 20507.

Alternate Formats:

The employer and individual rights booklets and the fact sheets are available in Spanish. Copies of the fact sheets, booklets and regulations are available in Braille, large print, audiotape and electronic file on computer disk. The TA Manual is currently available on 3.5" computer disk; and will be available in other alternate formats. A limited number of audio cassette recordings of the poster are currently available. To obtain copies in an accessible format, call the EEOC Office of Equal Employment Opportunity at (202) 663-4398 (voice), or (202) 663-4399 (TDD) or write this office at the address above.

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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

THE AMERICANS WITH DISABILITIES ACT
TITLE I--EMPLOYMENT
QUESTIONS AND ANSWERS

Q. What employers are covered by the ADA, and when is the coverage effective?

A. The employment provisions apply to private employers, State and local governments, employment agencies, and labor unions. Employers with 25 or more employees will be covered starting July 26, 1992, when the employment provisions go into effect. Employers with 15 or more employees will be covered two years later, beginning July 26, 1994.

Q. What practices and activities are covered by the employment nondiscrimination requirements?

A. The ADA prohibits discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities.

Q. Who is protected against employment discrimination?

A. Employment discrimination is prohibited against "qualified individuals with disabilities." Persons discriminated against because they have a known association or relationship with a disabled individual also are protected. The ADA defines an "individual with a disability" as a person who has a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or is regarded as having such an impairment.

The first part of the definition makes clear that the ADA applies to persons who have substantial, as distinct from minor, impairments, and that these must be impairments that limit major life activities such as seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, and working. An individual with epilepsy, paralysis, a substantial hearing or visual impairment, mental retardation, or a learning disability would be covered, but an individual with a minor, nonchronic condition of short duration, such as a sprain, infection, or broken limb, generally would not be covered.

The second part of the definition would include, for example, a person with a history of cancer that is currently in remission or a person with a history of mental illness.

The third part of the definition protects individuals who are regarded and treated as though they have a substantially limiting disability, even though they may not have such an impairment. For example, this provision would protect a severely disfigured qualified individual from being denied employment because an employer feared the "negative reactions" of others.

Q. Who is a "qualified individual with a disability"?

A. A qualified individual with a disability is a person who meets legitimate skill, experience, education, or other requirements of an employment position that he or she holds or seeks, and who can perform the "essential functions" of the position with or without reasonable accommodation. Requiring the ability to perform "essential" functions assures that an individual will not be considered unqualified simply because of inability to perform marginal or incidental job functions. If the individual is qualified to perform essential job functions except for limitations caused by a disability, the employer must consider whether the individual could perform these functions with a reasonable accommodation. If a written job description has been prepared in advance of advertising or interviewing applicants for a job, this will be considered as evidence, although not necessarily conclusive evidence, of the essential functions of the job.

Q. Does an employer have to give preference to a qualified applicant with a disability over other applicants?

A. No. An employer is free to select the most qualified applicant available and to make decisions based on reasons unrelated to the existence or consequence of a disability. For example, if two persons apply for a job opening as a typist, one a person with a disability who accurately types 50 words per minute, the other a person without a disability who accurately types 75 words per minute, the employer may hire the applicant with the higher typing speed, if typing speed is needed for successful performance of the job.

Q. What is "reasonable accommodation"?

A. Reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has the same rights and privileges in employment as nondisabled employees.

Q. What kinds of actions are required to reasonably accommodate applicants and employees?

A. Examples of reasonable accommodation include making existing facilities used by employees readily accessible to and usable by an individual with a disability; restructuring a job; modifying work schedules; acquiring or modifying equipment; providing qualified readers or interpreters; or appropriately modifying examinations, training, or other programs. Reasonable accommodation also may include reassigning a current employee to a vacant position for which the individual is qualified, if the person becomes disabled and is unable to do the original job. However, there is no obligation to find a position for an applicant who is not qualified for the position sought. Employers are not required to lower quality or quantity standards in order to make an accommodation, nor are they obligated to provide personal use items such as glasses or hearing aids.

The decision as to the appropriate accommodation must be based on the particular facts of each case. In selecting the particular type of reasonable accommodation to provide, the principal test is that of effectiveness, i.e., whether the accommodation will enable the person with a disability to do the job in question.

Q. Must employers be familiar with the many diverse types of disabilities to know whether or how to make a reasonable accommodation?

A. No. An employer is only required to accommodate a "known" disability of a qualified applicant or employee. The requirement generally will be triggered by a request from an individual with a disability, who frequently can suggest an appropriate accommodation. Accommodations must be made on an individual basis, because the nature and extent of a disabling condition and the requirements of the job will vary in each case. If the individual does not request an accommodation, the employer is not obligated to provide one. If a disabled person requests, but cannot suggest, an appropriate accommodation, the employer and the individual should work together to identify one. There are also many public and private resources that can provide assistance without cost.

Q. What are the limitations on the obligation to make a reasonable accommodation?

A. The disabled individual requiring the accommodation must be otherwise qualified, and the disability must be known to the employer. In addition, an employer is not required to make an accommodation if it would impose an "undue hardship" on the operation of the employer's business. "Undue hardship" is defined as "an action requiring significant difficulty or expense" when considered in light of a number of factors. These factors include the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the employer's operation. Where the facility making the accommodation is part of a larger entity, the structure and overall resources of the larger organization would be considered, as well as the financial and administrative relationship of the facility to the larger organization. In general, a larger employer would be expected to make accommodations requiring greater effort or expense than would be required of a smaller employer.

Q. Must an employer modify existing facilities to make them accessible?

A. An employer may be required to modify facilities to enable an individual to perform essential job functions and to have equal opportunity to participate in other employment-related activities. For example, if an employee lounge is located in a place inaccessible to a person using a wheelchair, the lounge might be modified or relocated, or comparable facilities might be provided in a location that would enable the individual to take a break with co-workers.

Q. May an employer inquire as to whether a prospective employee is disabled?

A. An employer may not make a pre-employment inquiry on an application form or in an interview as to whether, or to what extent, an individual is disabled. The employer may ask a job applicant whether he or she can perform particular job functions. If the applicant has a disability known to the employer, the employer may ask how he or she can perform job functions that the employer considers difficult or impossible to perform because of the disability, and whether an accommodation would be needed. A job offer may be conditioned on the results of a medical examination, provided that the examination is required for all entering employees in the same job category regardless of disability, and that information obtained is handled according to confidentiality requirements specified in the Act. After an employee enters on duty, all medical examinations and inquiries must be job related and necessary for the conduct of the employer's business. These provisions of the law are intended to prevent the employer from basing hiring and employment decisions on unfounded assumptions about the effects of a disability.

Q. Does the ADA take safety issues into account?

A. Yes. The ADA expressly permits employers to establish qualification standards that will exclude individuals who pose a direct threat -- i.e., a significant risk -- to the health and safety of others, if that risk cannot be lowered to an acceptable level by reasonable accommodation. However, an employer may not simply assume that a threat exists; the employer must establish through objective, medically supportable methods that there is genuine risk that substantial harm could occur in the workplace. By requiring employers to make individualized judgments based on reliable medical evidence rather than on generalizations, ignorance, fear, patronizing attitudes, or stereotypes, the ADA recognizes the need to balance the interests of people with disabilities against the legitimate interests of employers in maintaining a safe workplace.

Q. Can an employer refuse to hire an applicant or fire a current employee who is illegally using drugs?

A. Yes. Individuals who currently engage in the illegal use of drugs are specifically excluded from the definition of a "qualified individual with a disability" protected by the ADA when an action is taken on the basis of their drug use.

Q. Is testing for illegal drugs permissible under the ADA?

A. Yes. A test for illegal drugs is not considered a medical examination under the ADA; therefore, employers may conduct such testing of applicants or employees and make employment decisions based on the results. The ADA does not encourage, prohibit, or authorize drug tests.

Q. Are people with AIDS covered by the ADA?

A. Yes. The legislative history indicates that Congress intended the ADA to protect persons with AIDS and HIV disease from discrimination.

Q. How does ADA recognize public health concerns?

A. No provision in the ADA is intended to supplant the role of public health authorities in protecting the community from legitimate health threats. The ADA recognizes the need to strike a balance between the right of a disabled person to be free from discrimination based on unfounded fear and the right of the public to be protected.

Q. What is discrimination based on "relationship or association"?

A. The ADA prohibits discrimination based on relationship or association in order to protect individuals from actions based on unfounded assumptions that their relationship to a person with a disability would affect their job performance, and from actions caused by bias or misinformation concerning certain disabilities. For example, this provision would protect a person with a disabled spouse from being denied employment because of an employer's unfounded assumption that the applicant would use excessive leave to care for the spouse. It also would protect an individual who does volunteer work for people with AIDS from a discriminatory employment action motivated by that relationship or association.

Q. Will the ADA increase litigation burdens on employers?

A. Some litigation is inevitable. However, employers who use the period prior to the effective date of employment coverage to adjust their policies and practices to conform to ADA requirements will be much less likely to have serious litigation concerns. In drafting the ADA, Congress relied heavily on the language of the Rehabilitation Act of 1973 and its implementing regulations. There is already an extensive body of law interpreting the requirements of that Act to which employers can turn for guidance on their ADA obligations. The Equal Employment Opportunity Commission will issue specific regulatory guidance one year before the ADA's employment provisions take effect, publish a technical assistance manual with guidance on how to comply, and provide other assistance to help employers meet ADA requirements. Equal employment opportunity for people with disabilities will be achieved most quickly and effectively through widespread voluntary compliance with the law, rather than through reliance on litigation to enforce compliance.

Q. How will the employment provisions be enforced?

A. The employment provisions of the ADA will be enforced under the same procedures now applicable to race, sex, national origin, and religious discrimination under Title VII of the Civil Rights Act of 1964. Complaints regarding actions that occur after July 26, 1992, may be filed with the Equal Employment Opportunity Commission or designated state human rights agencies. Available remedies will include hiring, reinstatement, back pay, and court orders to stop discrimination.

Regional Disability and Business Technical Assistance Centers (DBTAC)

TO REACH NEAREST CENTER, DIAL TOLL FREE NUMBER: 800-949-4ADA

If you need information or technical assistance on the ADA, contact the following center in your region:

Region 1 (CT, ME, MA, NH, RI, VT)
New England DBTAC
145 Newbury Street
Portland, ME 04101
(207) 874-6535 V/TDD

Region 2 (NJ, NY, PR, VI)
Northeast DBTAC
United Cerebral Palsy Association of New Jersey
354 South Broad Street
Trenton, NJ 08608
(609) 392-4004
(609) 392-7004 TDD

Region 3 (DE, DC, MD, PA, VA, WV)
Mid Atlantic DBTAC
Endependence Center of Northern Virginia
2111 Wilson Boulevard, Suite 400
Arlington, VA 22201
(703) 525-3268 V/TDD

Region 4 (AL, FL, GA, KY, MS, NC, SC, TN)
Southeast DBTAC
United Cerebral Palsy Association, Inc./ National Alliance of Business
1776 Peachtree Street, Suite 310 North
Atlanta, GA 30309
(404) 888-0022
(404) 888-9007 TDD

Region 5 (IL, IN, MI, MN, OH, WI)
Great Lakes DBTAC
University of Illinois at Chicago/UAP
1640 West Roosevelt Road M/C627
Chicago, IL 60608
(312) 413-1407
(312) 413-0453 TDD

Region 6 (AR, LA, NM, OK, TX)
Southwest DBTAC
Independent Living Research Utilization/ The Institute for Rehabilitation and Research
2323 South Shepherd Boulevard, Suite 1000
Houston, TX 77019
(713) 520-0232
(713) 520-5136 TDD

Region 7 (IA, KS, NB, MO)
Great Plains DBTAC
University of Missouri at Columbia
4816 Santana Drive
Columbia, MO 65203
(314) 882-3600 V/TDD

Region 8 (CO, MT, ND, SD, UT, WY)
Rocky Mountain DBTAC
Meeting the Challenge, Inc.
3630 Sinton Road, Suite 103
Colorado Springs, CO 80907-5072
(719) 444-0252 V/TDD

Region 9 (AZ, CA, HI, NV, Pacific Basin)
Pacific DBTAC
Berkeley Planning Associates
440 Grand Avenue, Suite 500
Oakland, CA 94610
(510) 465-7884
(510) 465-3172 TDD

Region 10 (AK, ID, OR, WA)
Northwest DBTAC
Washington State Governor's Committee
P.O. Box 9046
Olympia, WA 98507-9046
(206) 438-3168
(206) 438-3167 TDD

U.S. Equal Employment Opportunity Commission

NEWS

FOR IMMEDIATE RELEASE
Wednesday, Feb. 26, 1992

EEOC AWARDS CONTRACT TO DISABILITY RIGHTS GROUP TO PROVIDE TRAINING ON AMERICANS WITH DISABILITIES ACT

WASHINGTON -- The U.S. Equal Employment Opportunity Commission has awarded a $1 million contract to the Disability Rights Education and Defense Fund (DREDF). The nationally known legal advocacy and education organization will use the contract to train people with disabilities about the Americans with Disabilities Act of 1990 (ADA).

Developed and funded jointly with the U.S. Department of Justice, the DREDF-run training program will focus on provisions of the ADA barring discrimination against persons with disabilities in employment, public services and public accommodations.

EEOC Chairman Evan J. Kemp, Jr. said the program "bolsters EEOC's effort to educate employers and individuals with disabilities about the ADA and unlawful job discrimination."

Some 400 people with different disabilities from across the nation will participate in the training, with priority given to those with organizational support for duplicating the ADA training in their communities. All participants will be required to return to their communities to train employers and persons with disabilities.

In the first of two training phases, participants will learn about their rights under the ADA's Title I (Nondiscrimination in Employment), Title II (Nondiscrimination in Public Services Provided by State and Local Governments) and Title III (Nondiscrimination in Public Accommodations and Services Operated by Private Entities).

-over-

One hundred participants selected from the first phase of training will receive further instruction on Title I requirements, regulations and enforcement procedures as preparation for teaching others.

Those 100 participating in the second phase will focus on helping others comply with the law and resolving disputes in the most cost-effective and non-adversarial manner.

ADA employment requirements will become effective for employers with 25 or more employees on July 26, 1992, and will expand to cover employers with 15 or more employees on July 26, 1994.

In addition to this contract, the EEOC is developing programs for training trade and business organizations and individual employers on their responsibilities under the ADA. The EEOC has developed an ADA Technical Assistance Manual, which provides guidance to employers on the practical application of the ADA's requirements.

Further, the EEOC has developed an ADA Handbook and an assortment of materials on the rights and responsibilities of persons affected by the ADA. All information is available in braille, large print, audiotape and computer disk. The EEOC also will make available speakers who are informed on the requirements of the ADA.

The EEOC enforces Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Equal Pay Act, federal sector employment provisions of the Rehabilitation Act of 1973, and the recently enacted Civil Rights Act of 1991.

# # #

For further information, please contact DREDF at 800-466-4ADA.

THE ADA: LEAD FEDERAL AGENCIES

For more specific information about ADA requirements affecting employment (Title I) contact:

Office of Communications and Legislative Affairs
Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, D.C. 20507
800-669-EEOC (Voice) or 800-800-3302 (TDD)

For more specific information about ADA requirements affecting Public Services (Title II) and Public Accommodations (Title III) contact:

Office on the Americans with Disabilities Act
Civil Rights Division
U.S. Department of Justice
P.O. Box 66118
Washington, D.C. 20035-6118
(202) 514-0301 (Voice) or (202) 514-0381/0383 (TDD)

For more specific information about requirements for accessible design in new construction and alterations contact:

Architectural and Transportation Barriers Compliance Board
1331 F Street, N.W.
Suite 1000
Washington, D.C. 20004
800-USA-ABLE (Voice and TDD)

For more specific information about ADA requirements affecting transportation contact:

Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590
(202) 366-9305 (Voice) or (202) 755-7687 (TDD)

For more specific information about ADA requirements affecting telecommunications (Title IV) contact:

Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554
(202) 632-7260 (Voice) or (202) 632-6999 (TDD)

FEDERAL AGENCIES THAT ENFORCE OTHER LAWS PROHIBITING DISCRIMINATION ON THE BASIS OF DISABILITY

SECTION 501 OF THE REHABILITATION ACT OF 1973

U.S. Equal Employment Opportunity Commission
1801 L St., N.W., Washington, DC 20507
(202) 663-4515 (Voice) or (202) 663-4053 (TDD)

Enforces **Section 501** which prohibits discrimination on the basis of disability in Federal employment, and requires that all Federal agencies establish and implement affirmative action programs for hiring, placing, and advancing individuals with disabilities. Oversees federal sector equal employment opportunity complaint processing system.

SECTION 503 OF THE REHABILITATION ACT OF 1973

U.S. Department of Labor
Office of Federal Contract Compliance Programs
200 Constitution Ave., N.W., Washington, DC 20210
(202) 523-9501

Enforces **Section 503** which prohibits discrimination on the basis of disability and requires federal contractors and sub-contractors with contracts of $2,500 or more to take affirmative action to employ and advance individuals with disabilities. Investigates complaints and provides technical assistance to individuals with rights and responsibilities under the Act.

SECTION 504 OF THE REHABILITATION ACT OF 1973

U.S. Department of Justice
Civil Rights Division
Coordination and Review Section
P.O. Box 66118, Washington, DC 20035-6118
(202) 307-2222 (Voice) or (202) 307-2678 (TDD)

Coordinates the enforcement of **Section 504** which prohibits discrimination on the basis of disability in all federally conducted programs and activities, and in the programs and activities that receive federal financial assistance. Provides information and technical assistance on legal requirements and individual agency programs.

FEDERAL AGENCIES THAT ENFORCE OTHER LAWS PROHIBITING DISCRIMINATION ON THE BASIS OF DISABILITY

SECTION 504 OF THE REHABILITATION ACT OF 1973 (continued)

U.S. Department of Education
Office for Civil Rights
400 Maryland Ave., S.W., Washington, DC 20202-2572
(202) 732-1213 (Voice) or (202) 732-1663 (TDD)

Enforces **Section 504** provisions that prohibit discrimination on the basis of disability in programs and activities funded by the Department of Education. Investigates complaints and provides technical assistance to individuals and entities with rights and responsibilities under Section 504.

U.S. Department of Health and Human Services
Office for Civil Rights
330 Independence Ave., S.W., Washington, DC 20201
(202) 619-0403 (Voice) or (202) 863-0101 (TDD)

Enforces **Section 504** provisions that prohibit discrimination on the basis of disability in programs and activities funded and conducted by the Department of Health and Human Services (DHHS). Provides technical assistance to individuals and entities with rights and responsibilities under Section 504.

U.S. Department of Transportation
400 7th St., S.W., Washington, DC 20590
(202) 366-9305 (Voice) or (202) 755-7687 (TDD)

Enforces **Section 504** provisions that prohibit discrimination on the basis of disability in federally assisted transportation.

U.S. Small Business Administration
Office of Civil Rights Compliance
409 Third St., S.W. Washington, DC 20416
(202) 205-6751

Enforces **Section 504** provisions that prohibit discrimination on the basis of disability by recipients of financial assistance from the Small Business Administration. Provides guidance and checklists on compliance with Section 504 by small businesses.

FEDERAL AGENCIES THAT ENFORCE OTHER LAWS PROHIBITING DISCRIMINATION ON THE BASIS OF DISABILITY

ARCHITECTURAL BARRIERS ACT OF 1968

U.S. Architectural and Transportation Barriers Compliance Board
1331 F Street, N.W., Suite 1000, Washington, DC 20004
(800) 872-2253 (Voice/TDD) (Technical Assistance)
(202) 272-5434 (Voice/TDD) (Complaints)

Enforces the **Architectural Barriers Act of 1968** which requires that certain buildings and facilities designed, constructed, altered, or leased with federal funds be accessible to people with disabilities. Investigates complaints on inaccessible facilities. Provides information and technical assistance.

FAIR HOUSING ACT OF 1988, AS AMENDED

U.S. Department of Housing and Urban Development
Office of Fair Housing and Urban Development
451 7th St., S.W., Room 5116, Washington, DC 20410
(202) 708-2618 (Voice) or (202) 708-1734 (TDD) (Technical Assistance)
(800) 669-9777 (Voice) or (800) 927-9275 (TDD) (Complaints)
HUD User Information Service
P.O. Box 6091, Rockville, MD 20850
(301) 251-5154 or (800) 245-2691

Enforces **Fair Housing Act of 1988, as amended,** which prohibits discrimination against housing applicants, tenants, and buyers with physical or mental disabilities, and establishes accessibility requirements for newly constructed multi-family dwellings.

AIR CARRIER ACCESS ACT

U.S. Department of Transportation
400 7th St., S.W., Washington, D.C. 20590
(202) 366-9306 (Voice) or (202) 755-7687 (TDD)
(202) 366-2220 (Complaints regarding Air Carrier Access)

Enforces the **Air Carrier Access Act** which prohibits discrimination by air carriers against persons with disabilities.

SAMPLE LETTER 1
DISABILITY CHARGES AGAINST PRIVATE EMPLOYERS
BEFORE JULY 26, 1992

This is in response to your inquiry dated _____, concerning your rights as an individual with a disability under Americans with Disabilities Act (ADA).

The U.S. Equal Employment Opportunity Commission (EEOC) has responsibility for enforcing Title I of the ADA, which was signed into law on July 26, 1990 (P.L. 101-336). Title I of the ADA protects qualified individuals with disabilities from discrimination in job application procedures, hiring, discharge, compensation, advancement, job training, or other terms, conditions and privileges of employment. However, the provisions of Title I do not take effect until July 26, 1992, for employers with 25 or more employees, and July 26, 1994, for employers with 15 or more employees.

The EEOC also enforces Sections 501 and 505 of the Rehabilitation Act of 1973, as amended, which applies to disability discrimination complaints of federal employees or applicants. If an employer is a federal contractor or recipient of federal funds, Sections 503 and 504 of the Rehabilitation Act may provide an avenue for redress. Section 503 of the act, covering federal contractors, is administered by the Office of Federal Contract Compliance Programs, U.S. Department of Labor, and Section 504, covering recipients of federal financial assistance, is administered by the Office for Civil Rights for the federal agency providing the financial assistance to the employer. In addition, most states and many localities have added disability coverage to their anti-discrimination laws.

The EEOC issued regulations implementing the employment provisions of the ADA on July 26, 1991. If you would like a copy of these regulations, or more information about the ADA, enclosed is a list of publications on the ADA that are available from the EEOC. **[ENCLOSE "TECHNICAL ASSISTANCE MATERIALS AVAILABLE FROM THE EEOC"]**

SAMPLE LETTER 2
DISABILITY CHARGES AFTER JULY 26, 1992

This is in response to your inquiry dated _____, concerning your rights as an individual with a disability under Americans with Disabilities Act (ADA).

The U.S. Equal Employment Opportunity Commission (EEOC) has responsibility for enforcing Title I of the ADA, which was signed into law on July 26, 1990 (P.L. 101-336). Title I of the ADA protects qualified individuals with disabilities from discrimination in job application procedures, hiring, discharge, compensation, advancement, training, or other terms, conditions and privileges of employment.

The provisions of Title I take effect July 26, 1992, for employers with 25 or more employees, and July 26, 1994, for employers with 15 or more employees. Title I of the ADA is enforced by the EEOC under the same procedures used to enforce Title VII of the Civil Rights Act of 1964.

Charges of employment discrimination on the basis of disability, based on actions occurring on or after July 26, 1992, may be filed at any field office of the EEOC. Field offices are located in 50 cities throughout the United States and are listed in most telephone directories under U.S. Government. Information on all EEOC-enforced laws may be obtained by calling toll free on 800-669-EEOC (Voice) or 800-800-3302 (TDD - Telecommunications Device for the Deaf).

The EEOC receives and investigates charges of discrimination and seeks through conciliation to resolve any discrimination found and obtain full relief for the affected individual. If conciliation is not successful, the EEOC may file a suit or issue a "right-to-sue" letter to the person who filed the charge. Throughout the enforcement process, EEOC makes every effort to resolve issues through conciliation and to avoid litigation.

The EEOC issued regulations implementing the employment provisions of the ADA on July 26, 1991. If you would like a copy of these regulations, or more information about the ADA, enclosed is a list of publications on the ADA that are available from the EEOC. **[ENCLOSE "TECHNICAL ASSISTANCE MATERIALS AVAILABLE FROM THE EEOC"]**

SAMPLE LETTER 3
HIRING INDIVIDUALS WITH DISABILITIES

This is in response to your inquiry on behalf of _____ concerning equal employment opportunity for individuals with disabilities.

On July 26, 1990, the Americans with Disabilities Act (ADA) was enacted into law. The ADA prohibits discrimination against individuals with disabilities in employment, public services and public accommodations.

The U.S. Equal Employment Opportunity Commission (EEOC) has responsibility for enforcing Title I of the ADA, which protects qualified individuals with disabilities from discrimination in job application procedures, hiring, discharge, compensation, advancement, training, or other terms, conditions and privileges of employment. The provisions of Title I become effective July 26, 1992, for employers with 25 or more employees, and July 26, 1994, for employers with 15 or more employees.

The intent of Congress and the Administration in enacting Title I of the ADA was to extend to people with disabilities the same basic equal employment opportunities and protections that are extended under Title VII of the Civil Rights Act of 1964 on the bases of race, sex, national origin, color and religion. The ADA requires that individuals with disabilities be assured an equal opportunity to compete with individuals without disabilities for positions for which they are qualified.

Employers are not required by the ADA to hire or promote individuals who cannot perform the essential functions of the position with or without reasonable accommodation. As with Title VII, employers retain a broad range of discretion with respect to their hiring or promotion decisions. The ADA simply requires that every applicant or employee be judged on his or her ability to perform in the position rather than on the basis of his or her disability.

The EEOC issued regulations implementing the employment provisions of the ADA on July 26, 1991. If you would like a copy of these regulations, or more information about the ADA, enclosed is a list of publications on the ADA that are available from the EEOC. **[ENCLOSE "TECHNICAL ASSISTANCE MATERIALS AVAILABLE FROM THE EEOC"]**

SAMPLE LETTER 4
MEDICAL EXAMS/INQUIRIES AND THE ADA

This is in response to your inquiry dated _____ on behalf of _____ concerning pre-employment medical inquiries under the Americans with Disabilities Act (ADA).

The U.S. Equal Employment Opportunity Commission (EEOC) has responsibility for enforcing Title I of the ADA, which protects qualified individuals with disabilities from discrimination in job application procedures, hiring, discharge, compensation, advancement, training, or other terms, conditions and privileges of employment. The provisions of Title I become effective July 26, 1992, for employers with 25 or more employees, and July 26, 1994, for employers with 15 or more employees.

Under the ADA and the EEOC's implementing regulations, an employer may not make inquiries regarding the existence, nature, or severity of an applicant's disability before he/she is extended a conditional offer of employment. An employer is also prohibited from conducting a medical examination of an applicant at the pre-offer stage. Nor may an employer inquire at the pre-offer stage about an applicant's workers' compensation history or about an applicant's sick or disability leave usage, inasmuch as such questions are likely to reveal the existence of a disability.

On the other hand, according to EEOC's regulations, an employer may inquire at the pre-offer stage about an applicant's ability to perform job-related functions. An employer may also state the requirements of the position and ask if an applicant can satisfy them. However, any selection criterion that screens out individuals on the basis of disability must be job-related and consistent with business necessity.

The regulations provide that, once an offer of employment has been made, and before the individual has started work, the employer may condition that offer on the results of a qualifying medical entrance examination that is routinely administered to all entering employees in the same job category. At this post-offer, pre-employment stage, an employer may also inquire about an applicant's workers' compensation history, and about sick or disability leave usage.

If the medical examination reveals that the applicant would pose a significant risk of substantial harm if he/she performed a particular job, and such risk could not be reduced below that level by reasonable accommodation, an employer can withdraw the offer of employment. The examinations and/or inquiries made at the post-offer stage do not have to be job-related and consistent

with business necessity. However, if an offer of employment to an individual with a disability is subsequently withdrawn because of that disability, the exclusionary selection criterion must be job-related and consistent with business necessity.

The ADA provides that information obtained as a result of permissible medical examinations or inquiries must, with certain limited exceptions, be treated as a confidential medical record. The Interpretive Guidelines which accompany the EEOC's regulations make clear that employers can submit this information to state workers' compensation offices or to second injury funds in accordance with state workers' compensation laws, without violating the ADA. This information may also be used for insurance purposes.

If you would like a copy of EEOC's Title I ADA regulations, or more information about the ADA, enclosed is a list of publications on the ADA that are available from the EEOC. **[ENCLOSE "TECHNICAL ASSISTANCE MATERIALS AVAILABLE FROM THE EEOC"]**

SAMPLE LETTER 5
DRUG USAGE AND THE ADA

This is in response to your inquiry dated _____, in which you expressed concern about provisions of the Americans with Disabilities Act (ADA) which may limit the ability of employers to look into the prior drug usage of candidates for employment.

The U.S. Equal Employment Opportunity Commission (EEOC) has responsibility for enforcing Title I of the ADA, which protects qualified individuals with disabilities from discrimination in job application procedures, hiring, discharge, compensation, advancement, training, or other terms, conditions and privileges of employment. The provisions of Title I become effective July 26, 1992, for employers with 25 or more employees, and July 26, 1994, for employers with 15 or more employees.

The ADA provides that an individual currently engaging in the illegal use of drugs is not an individual with a disability for the purposes of the ADA. Thus, employers may discharge or deny employment to persons who are currently illegally using drugs without fear of being held liable for discrimination.

Former addicts who are no longer illegally using drugs, and who have either been rehabilitated successfully or are in the process of completing a rehabilitation program, may be individuals with disabilities. However, these individuals are not automatically covered. They must still prove that they are qualified individuals with disabilities entitled to the protection of the Act.

In addition, even if a rehabilitated drug user is protected under the ADA, a covered entity may be able to impose selection criteria that exclude such individuals if it can show that the criteria are job related and consistent with business necessity, and that they cannot be satisfied with the provision of a reasonable accommodation.

The EEOC issued regulations implementing the employment provisions of the ADA on July 26, 1991. If you would like a copy of these regulations, or more information about the ADA, enclosed is a list of publications on the ADA that are available from the EEOC. **[ENCLOSE "TECHNICAL ASSISTANCE MATERIALS AVAILABLE FROM THE EEOC"]**

United States Senate

WASHINGTON, DC 20510

March 18, 1992

Dear Colleague:

On July 26, 1990, the Americans with Disabilities Act was signed into law. The ADA prohibits discrimination in employment (Title I), state and local government services including public transportation (Title II), public accommodations (Title III), and telecommunications (Title IV).

Title II took effect on January 26, 1992, and prohibits employment discrimination by state and local governments. Title I applies to the private sector and will become effective for employers with 25 or more workers on July 26, 1992, and for employers with 15 or more workers on July 26, 1994.

Available from The President's Committee on Employment of People with Disabilities is the **Job Accommodation Network - JAN.** **JAN** has an "800" number that can provide first-rate, individualized information on job accommodations and other employment-related ADA questions.

The attached brochure describes **JAN** in detail. Please share this information with your staff so that your constituents are able to avail themselves of this important resource on the implementation of the ADA.

Sincerely,

Dave Durenberger

Tom Harkin

President's Committee on Employment
of People with Disabilities

Welcome to JAN! The Job Accommodation Network, established by the President's Committee on Employment of People with Disabilities in 1984 as a service of the President's Committee, is an information and consulting service providing individualized accommodation solutions to inquiries about enabling people with disabilities to work.

JAN's purpose has always been to make it possible for employers and others to share information about job accommodations. JAN has several ways to make this possible: a free "800" number for telephone contact, 1-800-JAN-7234; a free "800" number for computer contact (with modem), 1-800-DIAL-JAN; and a new telephone "800" number, 1-800-ADA-WORK.

We are anxious to know about YOUR experiences in making accommodations. This is a very valuable resource to others. The President's Committee is asking all people active in the employment of persons with disabilities to share any information they may have about successful accommodations made, and to identify other sources. We have enclosed a tear-out sheet asking questions about "functional limitations" that have been accommodated at the workplace. Please take a few minutes to complete the form and return it to us at the address at the top of the questionnaire.

The term "functional limitations" more accurately describes a person's job-related limitations than does a general term, particularly as we work with the new regulations resulting from Title I of the Americans with Disabilities Act (ADA). Any alteration at the worksite that accommodates such limitations enables a person to engage in productive employment, and that is our ultimate goal. You have probably already made many easily-described accommodations! Please feel free to make copies of the form and distribute them throughout your organization.

If you have questions or suggestions, please call 1-800-JAN-7234, or call us at 202-376-6200. Thank you in advance for returning the questionnaire and adding to our valuable information resource of accommodations that work.

Sincerely,

Richard C. Douglas

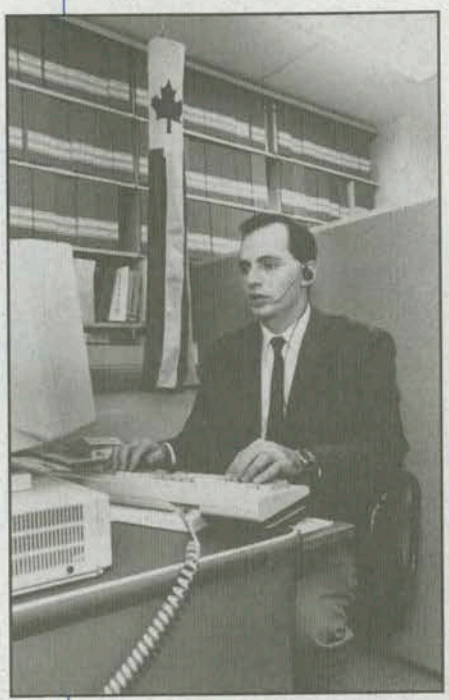
Richard C. Douglas
Executive Director

1331 F Street, N.W. • Washington, DC 20004-1107 • 202-376-6200 (Voice) • 202-376-6205 (TDD) • 202-376-6219 (Fax)

Calling JAN

Call JAN when—

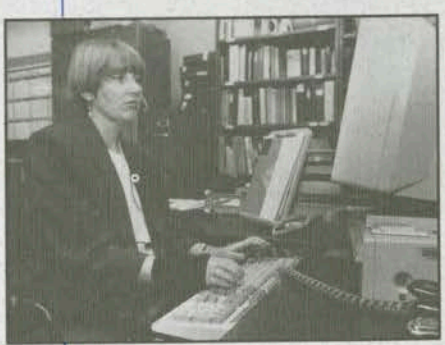
- You would like to hire a person with a disability;
- You are trying to help a person return to work from injury or illness;
- You want to promote a person with a disability;
- You need to help a person perform a present job more easily;
- You need information about how your business can comply with the Americans with Disabilities Act.



As a toll-free service in the United States and Canada, JAN's consultants provide information for English, French, and Spanish-speaking callers.

What will happen when you call:

- When you dial JAN's toll-free number, a professional consultant will ask a few easy questions about the requirements of the job, the worker, and the work environment.
- The consultant will search JAN's files to discover readily-available solutions, and may also engage other experts to help determine appropriate accommodations for your situation.
- You will receive information about possible solutions for your particular situation. You may also receive names and phone numbers of employers or workers who have made such accommodations, and lists of other helpful information such as funding resources and tax incentives.
- If you have made an accommodation in your workplace, you will be asked to share your experience on JAN's easy data input form. Information which you provide will be added to JAN's resources, where it can be used to benefit others.



Inexpensive accommodations for carpal tunnel syndrome (repetitive motion disability) include the keyboard wrist rest and wrist wrap, used regularly by this JAN staff member.

Calling hours

Calls are answered from 8 a.m. to 8 p.m. *Eastern Time* Monday through Thursday, and on Fridays from 8-5. All lines are Voice/TDD. Machines answer after-hours calls.

A JAN Consultant Will Find A Suitable, Cost-effective Solution For Your Particular Situation.

True Stories from JAN

Injured employee returns to work

An insurance company asked JAN for information to help a furniture refinisher get back to work after a leg injury. The worker had been receiving physical therapy for three months, but the injury left him unable to bend and kneel frequently while working on furniture of different shapes and weights. JAN suggested a flat lift table known as a "liftmat." This piece of equipment could elevate the furniture to a height which enabled the worker to sit or stand while working. The insurance company was pleased to pay for the equipment that not only helped the employee return to work but also eliminated their disability payments.

Accommodation opens job to candidate who is disabled and creates new service/market for company

When a bank bought some equipment that allowed a person who is deaf to work as a teller, the bank also gained the ability to serve customers who are deaf. Interested in hiring a candidate who was deaf, the bank manager called JAN for assistance. Because the position required conversations with hearing customers, JAN suggested that teller and customer could communicate using telecommunication devices for the deaf (TDDs). Though TDDs are most often used on phone lines, JAN knew of another device to connect two units without using a phone line. With the TDDs, a customer and the teller could communicate by typing on the TDD keyboard.

Barrier-free business opens its doors to customers with disabilities

The desire to open his business to a new group of customers motivated a call to JAN by the owner of a hardware and swimming pool supply store. The businessman wanted to make his facility accessible for persons with various disabilities. A JAN consultant discussed modification options including ramping the entrance way, installing automatic door systems, installing telephone devices for the deaf, and other possibilities. Then JAN mailed him a helpful packet of information showing equipment and purchasing information, describing access guidelines, and listing federal tax subsidies.

Sample accommodations and costs

- Providing a drafting table, page turner, and pressure-sensitive tape recorder for a sales agent paralyzed from a broken neck ($950).
- Changing a desk layout from the right to the left side for a data entry operator who had a shoulder injury ($0).
- Supplying a telephone amplifier for a computer programmer who was hard of hearing($56).
- Providing a special chair for a district sales agent to alleviate pain caused by a back injury ($400).
- Providing padded wrist-rests under a computer keyboard to alleviate strain of repetitive motion and carpel tunnel syndrome. ($35).

Above, a JAN consultant answers the phone using a TDD (telecommunication device for the deaf).

80% Of All Accommodations Suggested By JAN Cost Less Than $500.

JAN's Resources

- Consultants who are specialists in functional limitations and rehabilitation;
- Voice/TDD lines for hard of hearing or deaf callers;
- Ability to answer requests in English, Spanish and French;
- Materials which can be distributed in English, Spanish, French, braille, large print, tape and disk.
- Comprehensive library of information about tens of thousands of manufactured products;
- Comprehensive data on accommodation methods, policies and strategies;
- Current information about other service agencies, training programs and funding sources;
- Technical knowledge about requirements of barrier-free access and other issues;
- Computer bulletin board (toll-free) for discussion groups, electronic mail and other information sharing.

JAN distributes materials in braille, large print, regular print, on tape and on disk.

Standard telephone head sets may be used to accommodate workers with neck or shoulder injuries and other mobility impairments.

The President's Committee on Employment of People with Disabilities

This organization provides information, training and technical assistance to America's business leaders, organized labor, rehabilitation and other service providers, advocacy organizations, families and individuals with disabilities. The Committee also serves as an advisor to the President of the United States on public policy issues affecting employment of people with disabilities.

As a service of this Committee, the Job Accommodation Network maintains a close working relationship with its staff and membership.

DIAL-JAN

DIAL-JAN is a computer-based bulletin board created and maintained by the West Virginia Research and Training Center's Project Enable. Among its many functions, DIAL-JAN enables rehabilitation professionals to "come together" to share needs and expertise.

When completed please return to Job Accommodation Network—P.O. Box 6123—Morgantown, WV 26506-6123

Job Accommodation Network
Employer's Accommodation Input Questionnaire

(Before completing, please read instructions and examples on reverse side). Completion of this questionnaire is voluntary. No reduction of quality or quantity of service will result from noncompletion.

1. Name of your company: _____

   Address: _____

   Person to contact for further information about this accommodation:

   Name: _____ Title: _____

   Phone (____)_____

2. What is the nature of the disability accommodated? _____

3. Please give job title and brief description. _____

4. What functional limitations were accommodated? Check all appropriate catagories:

○ Partial Loss of Vision	○ Carrying	○ Balancing	○ Handling/Fingering	○ Operating Foot Pedal
○ Total Loss of Vision	○ Reaching	○ Standing	○ Pushing/Pulling	○ Reduced Concentration
○ Hearing	○ Grasping	○ Walking	○ Feeling/Sensing	○ Memory Loss
○ Talking	○ Sitting	○ Kneeling	○ Decreased Stamina	○ Learning
○ Reading	○ Lifting	○ Climbing	○ Squatting/Bending	○ Task Sequencing

   *Other(s)—please specify _____

   Side(s) of body involved (if applicable): ☐ Right side ☐ Left side ☐ Both sides

5. Describe the solution or modification made and how it works: _____

6. Method(s) by which accommodation was made:

   ☐ Adaptation to existing equipment/work area. Cost: _____

   ☐ Purchase of commercially available device or aid.

   Type: _____ Cost: _____ Date of purchase: _____

   Manufacturer: _____ Available from: _____

   Address: _____

   Other (e.g., time, specially developed equipment, schedule change) _____

7. Additional comments or special considerations concerning the accommodation (e.g., can be used by non-restricted person also): _____

8. Check the type of organization in which this accommodation is being used:

○ Education	○ Retail Sales	○ Manufacturing	**Service**	
○ Transportation	○ Wholesale Sales	○ Mining	○ Business/Computer	○ Social Services
○ Public Utilities	○ Government	○ Agriculture	○ Food/Lodging	○ Other Services
○ Finance/Insurance		○ Construction	○ Health	

   Other (please specify) _____

   ☐ Check here if you would prefer *not* to be contacted by other businesses about your accommodation contribution.

OMB 1225-0022 10/93

Your Job Accommodation Story

EXAMPLE FORM (for guidance only)

Information Requested	Example
1. General information regarding your company.	**Name of your company:** Barb & Deb, Inc. **Address:** 806 Somewhere Street Anywhere, North America **Person to contact for further information:** **Name:** Barbara Hendricks **Title:** Personnel Manager **Phone:** (555) 555-4321
2. What type of impairment or disability (functional limitation) prevented the individual from doing the work required? For example, blindness, cerebral palsy, back injury, amputation of limb(s), etc.	Blindness
3. Job title. Give a brief description of the job activity(ies) the person was expected to perform.	Receptionist. Responsible for greeting persons entering building and directing them toward appropriate business area.
4. Be sure to indicate ALL the job activities that were accommodated. Examples of "Other" activities might include: can't work alone, must avoid stressful situations, needed flexible schedule or shortened work day, etc.	[x] **Total loss of vision** [x] **Both sides**
5. Describe what you did that permitted the employee to perform the job related activities that were accommodated. Attach extra pages as necessary. Drawings, pictures, schematics, specifications, etc., would be helpful, if available.	Purchased a pressure-sensitive floor mat (24" x 36") that activates a door chime. The mat was placed immediately inside the door. Persons coming into the reception-ist's area cause the chimes to sound, thereby notifying her of their presence.
6. Method by which accommodation was made.	[x] **Purchase of commercially available device or aid:** **Type:** Pressure-sensitive floor mat **Cost:** About $50.00 **Date of Purchase:** January 31, 1989 **Manufacturer:** Equipment, Inc. **Available from:** Mats Are Us 2331 Somewhere Street Anywhere, North America
7. Additional comments or special considerations.	Permitted other employees in nearby work areas to be aware of guests in absence of receptionist.
8. Type of organization in which the accommodation is used.	[x] **Education**

The Job Accommodation Network Welcomes Information About Accommodations You Have Made.

Universal Engraving, Inc.

Nicole Lucas

Signage Division | 8201 W. 86th Terrace Lenexa, Ks. 66215
913-894-1234 800-659-6551 Fax # 913-894-9638

Universal Engraving, Inc.

Dennis G. Redd

Signage Division 12211 W 86th Terrace Lenexa, Ks. 66215
913-894-1234 800-659-6551 Fax # 913-894-9638

Universal Engraving, Inc.

June 4, 1992

Ms. Maureen West
Legislative Assistant
141 Hart Senate Office Building
Washington, D.C. 20510-1601

Dear Maureen:

Enclosed is a copy of a letter dated May 29, 1992 which was sent to the attorney general's office. We felt it was important to distribute a copy of this letter to persons with a genuine concern for the intent of the Americans with Disabilities Act.

The enclosed letter's main focus was in regard to a recent ruling by the U.S. Department of Justice, which limited specific signs required under the Americans with Disabilities Act to rest rooms, room numbers and exits. This ruling not only discriminates against the visually impaired community, but it is contrary to the spirit of the ADA.

The intent behind the ADA was to establish accessibility in places of public accommodations and commercial facilities, therefore, profoundly benefitting many facets of society. It is very discerning to learn that the U.S. Department of Justice would succumb to outside pressure by limiting the required signs and potentially eliminating the requirement for braille, thus changing the rules in the middle of the game. This action defeats the purpose of the Americans with Disabilities Act of 1990.

Our goal at Universal Engraving, Inc. is to help the disabled community by producing tactile braille signs which promote accessibility and safety. By doing so we hope to play our part in eliminating discrimination and benefitting society as a whole.

Nicole Lucas and myself will be in Washington, D.C. next week to attend the meetings of BCMC and ANSI. We expect to have some time available either Tuesday, Wednesday or Thursday and would welcome the opportunity to meet with you personally.

Sincerely,

Dennis G. Redd

Dennis G. Redd
Vice President

Signage Division, 11801 W. 86th Terrace Lenexa, Kansas 66215 913-894-1234 800-659-6551 Fax # 913-894-9638

Universal Engraving, Inc.

May 29, 1992

Department of Justice
Office of the Attorney General
William P. Barr, Attorney General
10th Street & Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Barr:

We, Universal Engraving, Inc., are writing to you to share information about the manufacture of the tactile braille signs to meet the requirements set forth in the Americans with Disabilities Act (ADA).

We have developed a process by which tactile signs can be molded to meet the ADA requirements and/or guidelines. This process requires minimal capital investment for equipment and minimal technical training for equipment operators. Raw materials for this process are readily available from industrial suppliers across the United States. Tactile braille signs may be produced at a cost which allows for a reasonable profit for distribution and marketing of the sign product.

Universal Engraving, Inc. is willing to share this molding process commercially (perhaps, through a franchise or license) with the sign manufacturing industry.

It is our understanding that the Department of Justice has received extensive negative feedback from the sign engraving and manufacturing industry, regarding the inability to manufacture ADA tactile signs.

Many of the signs produced before the ADA were manufactured with a mechanical cutting tool. The use of a mechanical cutting tool for ADA signs, results in sharp beveled edges on the braille dots and raised characters. Our research with the visually impaired community indicates that the visually impaired do not find the mechanically cut signs to be comfortable or easy to read.

A significant number of tactile signs are currently being produced by plastic injection molding, however, injection molding requires significant capital investment for machinery and molds. Additionally, the high cost of molds may be prohibitive for the production of custom tactile signs or design changes in standard signs.

The process used by Universal Engraving, Inc., solves both of these problems. It is a molding process, therefore, cutting tools are not an issue. Secondly, the cost of equipment is well within the reach of most family owned businesses and the cost of molds is nominal.

Signage Division, 11801 W. 86th Terrace Lenexa, Kansas 66215 913-894-1234 800-659-6551 Fax # 913-894-9638

Additional processes for the manufacturing of ADA tactile signs are described in "An ADA Primer for Sign Professionals" by Sharon Toji.

In summary, Universal Engraving, Inc., believes that the braille sign requirements established in the Americans with Disabilities Act are very positive for the visually impaired community. The technology does exist to manufacture tactile braille signs on a cost effective basis. Thus, the existing sign technology may be used to further enhance accessibility in places of public accommodations and commercial facilities for the disabled population beyond the requirements of the Americans with Disabilities Act.

Sincerely,

Dennis G Redd

Dennis G. Redd
Vice President

cc: Sharon Toji

LEGISLATIVE ANALYSIS

The Americans With Disabilities Act

S. 993/H.R. 2273 by Senator Tom Harkin
and Representative Tony Coehlo

May 24, 1989

89-68A

LABOR POLICY
ASSOCIATION, INC.

June 12, 1989
89-81

SPECIAL MEMORANDUM

Americans With Disabilities Act

Comprehensive disability rights legislation has been introduced in the House and Senate, and hearings have already begun on the legislation before the Senate Labor & Human Resources Committee. Senator Harkin filed the measure as S. 933 in the Senate, and Rep. Coehlo in the House as H.R. 2273.

The Act has separate titles that prohibit discrimination in employment, public accommodations, public services, transportation and telecommunications. It is litigation driven. Court actions, not regulatory programs, are the preferred method for achieving the bill's objectives.

The employment title of the ADA would be enforced by the EEOC, but plaintiffs could proceed directly to federal court by filing a law suit under Section 1981. That law provides jury trials and awards of punitive and compensatory "pain and suffering" damages. Not only would persons discriminated against be allowed to file suit, those who believe they are "about to be subjected to discrimination" would have a cause of action. The ADA's requirements would be imposed on employers in addition to any and all existing requirements under federal laws (such as the comprehensive Rehabilitation Act) and 44 state handicap statutes. It includes specific demands requiring employers to accommodate persons with disabilities by job restructuring, modified work schedules, purchasing new equipment, hiring assistants, and other similar actions.

Increasing job opportunities for individuals with disabilities is a goal that has been actively pursued by the business community for a number of years. Indeed, under the provisions of the comprehensive Rehabilitation Act of 1973 which apply to government contractors, many private employers have developed strong policies under which they take affirmative action in seeking out such individuals for job openings. As a result, the Census Bureau reports that more than 4.4 million persons with disabilities are actively working today.

Instead of building on this positive experience, the ADA seems more focused on developing new opportunities for plaintiff's lawyers. When introducing the bill, Senator Harkin said that it is time we "opened the courthouse door for persons with disabilities." A more appropriate federal policy would be one that developed an even stronger partnership between the business community and organizations representing those with disabilities, not one that pitted the two against each other.

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LPA FACT SHEET

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Americans With Disabilities Act

The ADA prohibits discrimination in employment by any employer subject to Title VII because of the disability of an individual. It would be overlaid on the 44 state laws that prohibit discrimination against persons with disabilities as well as the federal Rehabilitation Act of 1973, which bars discrimination by and requires government contractors to take affirmative action to hire and promote such persons. The ADA also prohibits discrimination in public services, transportation, telecommunications, and public accomodations. Regarding employment, the ADA provides for the following:

Prohibition. Prohibits discrimination against any employee or applicant who, with reasonable accommodation, can perform the "essential functions" of the job. Permits lawsuits by persons who believe they are "about to be subjected to discrimination."

Reasonable Accommodation. Requires employers to make reasonable accommodation unless the accommodation would impose an "undue" hardship on the operation of the business. Accommodation must include job restructuring, part-time or modified work schedules, acquisitions or modification of equipment or devices, provision of readers or interpreters, and other similar actions.

Enforcement. The ADA would be enforced according to Title VII and Section 1981. Plaintiffs would have a private right of action in federal court with right to a jury trial. Courts would be authorized to award punitive and compensatory (pain and suffering) damages.

Drug and Alcohol Abuse. Employers may be prohibited from taking disciplinary action against employees abusing alcohol or drugs unless the employer can demonstrate the abuse poses a direct threat to property or the safety of others in the workplace.

Employee Physical Examinations. The ADA appears to prohibit employers from using pre-employment or post-employment physical examinations, including drug screens.

Duplication Of Coverage. The ADA enforcement scheme would be in addition to any other legal remedies and rights that already exist for individuals with disabilities, thus encouraging costly litigation.

Confrontation, Not Conciliation. Existing civil rights laws emphasize conciliation as the preferred method of eradicating discrimination. Instead of promoting job opportunities, the ADA's intent is to encourage litigation over claims of discrimination.

Americans With Disabilities Act

The Americans With Disabilities Act is intended to provide tough, enforceable standards to address all forms of discrimination against individuals and classes of individuals on the basis of disability.

The legislation was introduced on May 9, 1989, in the Senate by Senator Tom Harkin (D-IA) as S. 993, and in the House by Rep. Tony Coehlo (D-CA) as H.R. 2273. The Senate Labor Committee and its Subcommittee on the Handicapped have already held three days of hearings on the legislation, and Committee markup of S. 993 is expected to begin during the latter part of June. The House bill has been referred to several committees -- Education & Labor, Energy & Commerce,, Public Works and Transportation, and Judiciary. No House hearings have yet been scheduled, but it is expected that the first committee to take action on the measure will be the Education & Labor panel.

OVERVIEW

The ADA is divided into six titles -- a general prohibition against discrimination followed by individual titles dealing with employment, public services, public accommodations and services operated by private entities, telecommunications relay services and miscellaneous provisions.

Perhaps the most confusing segment of the bill is Title I which contains a series of sweeping prohibitions on discrimination aimed at services, programs, activities, benefits, jobs, and other opportunities. These prohibitions are taken generally from the regulations issued under Section 504 of the Rehabilitation Act, 29 U.S.C. § 706. There are no specific enforcement provisions attached to Title I, but it appears that -- to the extent they relate to employment -- these provisions may be enforced under the employment discrimination provisions of Title II, either through the EEOC or through a direct lawsuit under Section 1981. Title I is so vague and so broadly worded that it seems to have been included in the bill for throw away purposes in subsequent negotiations.

One of the provisions in Title I not found in Section 504 regulations is a ban on "discrimination on the basis of association." Specifically, Section 101(a)(5) of the ADA provides that it is discriminatory to deny "equal services, programs, activities, benefits, jobs, or other opportunities" to an individual or an entity because of "the relationship to, or association of, that individual or entity with another individual with a disability." The proponents have indicated that this provision is designed primarily to prohibit discrimination against the families and friends of individuals with disabilities, particularly AIDS victims.

Definitions

Section 3 defines many of the terms used throughout the bill, including "disability," which draws upon the language in the definition of "individual with handicaps" in the Rehabilitation Act. 29 U.S.C. § 706. Thus, a disability is defined to mean "a physical or mental impairment that substantially limits one or more of the major life activities." The definition also includes "a record of such an impairment" or "being regarded as having such an impairment."

Employment

Title II of the bill covers employment discrimination. The threshold is identical to that in Title VII of the Civil Rights Act of 1964, covering employers with 15 or more employees. Title II of ADA incorporates many of the standard definitions found in Title VII, and directs the EEOC to issue regulations to carry out the ADA within 180 days of enactment.

Prohibitions. The Title II provisions are written to prohibit discrimination against any "qualified individual with a disability," defined as "an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires."

Title II's prohibition on discrimination applies to "job application procedures" as well as the standard aspects of employment listed in the prohibition in Title VII of the Civil Rights Act of 1964; that is, hiring, discharge, compensation, etc.

The term "discrimination" is specifically defined to include three situations:

(a) the failure to make reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability unless the employer can demonstrate that "the accommodation would impose an undue hardship on the operation of its business;"

(b) to deny employment opportunities because of the need of an individual for reasonable accommodation; and

(c) the imposition of "qualification standards," tests, or selection criteria," that identify or limit, or tend to identify or limit," a qualified individual with a disability, or any class of qualified individuals with disabilities, unless justified by the employer.

Burden of Proof. The employer's burden of justification is also spelled out in subsection (c). That is, to defend such standards, tests, or criteria, the employer must show that they are "necessary and substantially related to the ability of an individual to perform the essential functions of the particular employment position."

Enforcement. The enforcement scheme of Title II is spelled out in Section 205. It makes available the remedies and procedures of Title VII of the Civil Rights Act of 1964 (Sections 706, 709, and 710). Title VII provides for an individual who has been the victim of discrimination to file a charge with the EEOC. The agency then investigates the charge and attempts through conciliation to bring the parties to a voluntary resolution of the matter. If conciliation fails, the charging party has the right to initiate a lawsuit in federal court to receive back pay and other appropriate remedies such as rightful seniority.

Super Remedies and Procedures. In addition, Title II of the ADA makes available the harsh remedies and procedures of 42 U.S.C. § 1981, a post-Civil War statute which provides for an extended statute of limitations, jury trials, and awards of compensatory and punitive damages. There is no requirement that an individual first exhaust the Title VII procedures before filing a Section 1981 lawsuit.

A unique aspect of this ADA enforcement scheme is that the right to file a charge or lawsuit is not limited to those who have been discriminated against. An action can be initiated by any individual who believes that he or she "is about to be subjected to discrimination." In addition, the language of Title II specifically makes the Title II enforcement process available for violations of "any provisions of this Act ... concerning employment." Presumably, this means that charges could be filed under Title II alleging violations of the general prohibitions in Title I.

Public Services

The public services section of the ADA, Title III, prohibits discrimination on the basis of disability in all activities of state and local governments. This marks an extension of the coverage of Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination in those state and local government activities and programs receiving federal financial assistance. The provisions place particular emphasis on accessibility of public transportation such as air, rail, and bus.

Public Accommodations

Title IV of the ADA is designed to apply to many establishments operated by private businesses. This provision guarantees individuals with disabilities "full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation."

The term public accommodation is defined to mean any privately-operated establishments that are used by the general public as "customers, clients, or visitors" or "that are potential places of employment" and whose operations affect commerce. The bill lists numerous examples of such establishments, such as shopping centers, hotels, restaurants, office buildings, gas stations, sales establishments, and public transportation terminals. The Title IV requirements focus on accessibility, and should be reviewed carefully by anyone who operates such establishments.

This section incorporates sections of the Fair Housing Act providing for enforcement through private lawsuits as well as by the Attorney General. In such lawsuits by private persons, the court is authorized to award actual and punitive damages to the plaintiff, to enjoin the defendant from engaging in such practices, and to order the defendant to take such affirmative action as may be appropriate. 42 U.S.C. § 3613.

Telecommunications

Title V of the ADA requires those companies which provide telephone services to the general public to provide, within one year after enactment, telecommunication relay services so that individuals who use non-voice terminal devices or Telecommunication Devices for the Deaf (TDDs) will have opportunities for communication equal to those provided to customers who use voice telephone services.

Miscellaneous Provisions

Title VI contains several miscellaneous provisions which are important to employers. Specifically, Section 601(a) provides that nothing in the ADA shall be construed to reduce the coverage of the Rehabilitation Act or to apply a lesser standard of protection than required under the Rehabilitation Act. Similarly, Section 601(b) provides that nothing in the ADA shall be construed to limit any state or federal law that provides any greater protection for the rights of individuals with disabilities than the ADA. Section 602 contains a prohibition on retaliation, similar to that found in Section 704 of Title VII of the Civil Rights Act of 1964. Section 605 provides for an award of attorney's fees to the prevailing party in any action or administrative proceeding commenced under the ADA.

ANALYSIS

Differences Between ADA and Existing Law

At least 44 states have laws prohibiting discrimination against the handicapped. At the federal level, the Rehabilitation Act of 1973 addresses employment discrimination against the handicapped in the private sector two ways. Section 504 of the Rehabilitation Act prohibits discrimination by recipients of federal funds (federal grantees), and Section 503 requires federal contractors to take affirmative action to employ and promote the handicapped. The Rehabilitation Act also addresses discrimination against employees of the federal government itself. Section 501 prohibits discrimination by federal agencies against the employees of those agencies.

Proponents of the ADA have stressed that the primary differences between the ADA and the Rehabilitation Act are not differences of substance, but simply differences in scope, in that the ADA will apply to all employers, not just federal contractors and grantees. A careful reading of the provisions of the new ADA, however, indicates there are significant changes from existing law.

Affirmative Action/Non-Discrimination. It should be emphasized that in talking about the "existing law" under the Rehabilitation Act, we are talking about a body of law which was not developed with the concerns of private employers in mind. The proponents of the ADA view the existing law under the Rehabilitation Act as including primarily the law developed under Sections 504 and 501. For private sector employers, however, the relevant section of the Act is Section 503 which is an affirmative action requirement while Section 504 is only a non-discrimination statute. Thus, to the extent that the Rehabilitation Act requirements have developed in the context of private sector employers, it has generally been with regard to situations where the employer has had a responsibility to take affirmative action; that is, a responsibility to do something more than simply not discriminate.

On the other hand, to the extent that the law of non-discrimination has been developed under the Rehabilitation Act, it has primarily involved situations where the employer was either the federal government or an entity which owed its existence to receipt of significant federal financial assistance. This means, for example, that most of the law with regard to accommodations has been developed in the context of programs which were funded with tax dollars from the federal government, not in the context of a private sector workplace.

Thus, to the extent that the ADA does simply incorporate "existing law" under the Rehabilitation Act, that law will consist primarily of regulations and decisions developed under Section 504 rather than under Section 503.

Reasonable Accommodation

The ADA defines the term "reasonable accommodation" in Section 3(3) and then discusses the application of the concept in Section 202(b). In each instance, there is some variation between the ADA language and the current law under the Rehabilitation Act.

Undue Hardship on the Operation of its Business. Under last year's version of the ADA, any accommodation whose economic effect was less than "bankruptcy" was reasonable. An employer would have been required to make any accommodation which did not threaten the existence of the business. The "bankruptcy" standard does not appear in this year's version of the bill. Instead, an employer is not required to make an accommodation if the employer can demonstrate that the accommodation would impose "an undue hardship on the operation of its business." Section 202(b)(1).

This language follows the wording of the reasonable accommodation provision in the Section 504 regulations issued by the Department of Health and Human Services at 45 CFR § 84.12. The standard as spelled out by the Supreme Court, however, has been that "accommodation is not reasonable if it either imposes 'undue financial and administrative burdens' on a grantee, ... or requires 'a fundamental alteration in the nature of the program.'" See School Board of Nassau County v. Arline, 107 S.Ct. 1123, 1131 n.17 (1987) citing Southeastern Community College v. Davis, 442 U.S. 397, 410-412 (1979). See also, Alexander v. Choate, 469 U.S. 287, 300 (1985).

To the extent that the ADA does not include the second prong of the standard (no fundamental alteration), it is inconsistent with existing Supreme Court interpretations. The drafters may have assumed, however, that courts or agencies interpreting the ADA would incorporate the entire standard, as restated in Arline. However, as Congress is presumed to be aware of existing Supreme Court precedent, the courts are likely to view the language of S. 933 as broadening the accommodation requirements. Accordingly, it would be essential to have the entire standard restated with the refinements necessary to indicate that the standard is being applied to "employers" and "jobs," rather than "grantees" and "programs."

May or Shall. The deviation between the ADA and existing law is much more obvious in Section 3(3) which defines the term "reasonable accommodation." In this definition, the drafters of the ADA have incorporated some familiar language from the Section 504 regulations. See Health and Human Services regulations, 45 CFR § 84.12. But, a very significant change has been made in that language. The term "may" in the Section 504 regulations has been changed to read "shall" in the ADA.

Thus, the Section 504 regulations provide that "Reasonable accommodation may include: ... job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions." 45 CFR § 84.12(b) (emphasis added). The ADA, in contrast, incorporates each of these suggested items as part of the definition of reasonable accommodation, by stating that the term reasonable accommodation "shall include - job restructuring,... ." Emphasis added.

This change, albeit only a single word, necessarily creates questions about the interpretation and application of the term reasonable accommodation in the ADA. Under Section 504, an accommodation which involves job restructuring would be examined to determine whether that particular accommodation is reasonable in that particular situation. The literal meaning of the new language of the ADA appears to be that each of the listed steps is a required accommodation, the reasonableness having already been determined by the statute. While this change in language may be the result of a simple oversight in drafting, the courts routinely read the terms "may" and "shall" as having different meanings. If the drafters do not intend to change the substantive law of the Rehabilitation Act, the same language used in the Section 504 regulations should be used in the ADA. Clarity in the meaning of this provision is particularly important for private employers because this list of specific accommodations was never included in the Section 503 regulations issued by the Department of Labor.

Factors Determining Hardship. It may be noted that while the ADA has incorporated subparts (a) and (b) of the Section 504 regulation on reasonable accommodation (45 CFR § 84.12), the drafters chose not to include subpart (c) which spells out the factors to be included in determining whether an accommodation would impose an undue hardship. That subpart specifies that the factors to be considered include:

(1) the overall size of the recipient's program with respect to the number of employees, number and type of facilities, and size of budget;

(2) the type of the recipient's operation, including composition and structure of the recipient's workforce; and

(3) the nature and cost of the accommodation needed.

It is not clear why the sponsors of the ADA have chosen to include one segment of the regulation in the ADA while excluding another. If the statute is going to define "reasonable accommodation," it should define it fully and precisely. Otherwise, the result will be confusion when a court attempts to ascertain the intent behind incorporating only a portion of the definition.

Of course, if the above-cited language from § 84.12(c) were to be included, it would have to be rewritten to focus on private employment rather than on recipients of federal financial assistance. Indeed, some additional refinements would seem to be appropriate if the Section 504 standards are to be transported generally into the ADA provisions applicable to private employers. Another option, of course, might be to specifically include the language of the Section 503 regulations which list "business necessity" and "financial cost and expenses" as being among the factors to be considered in determining the extent of a contractor's obligation to provide accommodations. 41 CFR § 60-741.6(d).

Actual Cost of Accommodation. The difficulty of simply applying existing Section 504 law to private employers can be seen, for example, in the court's decision in Nelson v. Thornburgh, 567 F. Supp. 369 (E.D. Pa. 1983), a case cited frequently by proponents of the ADA as an example of how the reasonable accommodation analysis is to be made. The questions raised by that decision are not directed at the particular accommodation which the court ordered; that is, the hiring of several part-time readers for several blind caseworkers at the Pennsylvania Department of Public Welfare. Rather, the concerns focus on the court's rationale in reaching that decision. The court estimated that the part-time readers would cost approximately $6,600 per year for each caseworker, who received a salary of approximately $21,400 per year. The court noted that the agency that employed the caseworkers had suffered budget cutbacks and that its financial resources were limited. However, the court concluded, the cost of the readers was modest when compared to the agency's overall administrative budget. The judge stated:

> I am not unmindful of the very real budgetary constraints under which the [agencies] operate, and recognize that accommodation of these plaintiffs will impose some further dollar burden on an already overtaxed system of delivery of welfare benefits. But the additional dollar burden is a minute fraction of the [agencies'] personnel budgets. Moreover, in enacting section 504, Congress recognized that failure to accommodate handicapped individuals also imposes real costs upon American society and the American economy. ... When one considers the social costs which would flow from the exclusion of persons such as plaintiffs from the pursuit of their profession, the modest cost of accommodation ... seems, by comparison, quite small.

567 F. Supp. at 382.

Before the ADA is acted upon by Congress, it would be useful to clarify whether this type of analysis, perhaps appropriate when the employer is a public agency operating with federal financial assistance, is to be followed when the employer is a private entity receiving no federal grants. The question is an important one because even the most expensive accommodations can be found to be "modest expenditures" on an individual basis if the point of comparison is the company's overall administrative or personnel budget.

Cost Not A Legitimate Factor (?). In examining this point, of course, it is fair to note that the general experience of many LPA member companies has been that many innovative and successful accommodations have been made with only minor expenditures. At the same time, however, it cannot be ignored that there are requests for accommodations which involve considerably more expense. It is legitimate for employers to be concerned about the open-ended nature of an analysis such as that found in the Nelson decision. The sponsors of the ADA have been sending mixed signals in this regard. Although Senator Harkin offered a list of accommodations that have been made, each of which cost less than $50, his response to the question of cost was similar to that made by Senator Weicker last year. That is, the ADA is a civil rights statute, and cost is not a legitimate factor to be considered in applying a civil rights statute. In addition, the sponsors have emphasized that whatever the costs of the ADA may be, those costs are justified because they will result in a reduction of the federal deficit as more individuals with disabilities move off of public assistance and into jobs.

Qualified Individual with a Disability

The employment provisions in Title II are framed in terms of prohibiting discrimination against a qualified individual with a disability, or qualified individuals with disabilities. The definition of such an individual as a person who can, with reasonable accommodation, perform the essential functions of the job is drawn from the regulations issued under Section 504. See, for example, the Department of Health and Human Services regulations at 45 CFR § 84.3(k). The ADA modifies the definition slightly to include individuals who can do the essential functions of the job without an accommodation.

Although the concept that "qualification" is related to only the essential functions of the job has been part of the regulations under Section 504, it was never included in the regulations issued under Section 503. The practical impact of the concept is closely related to the employer's obligation to provide reasonable accommodation by modifying certain aspects of an individual's job duties. A key factor in determining the extent of that obligation will be the definition of "essential functions," a term which is not defined in the ADA. It may be noted that when it issued the regulations containing the term "essential functions," the Department of Health and Human Services explained that term was used to assure that handicapped persons would not be disqualified simply because they "may have difficulty in performing tasks that bear only a marginal relationship to the particular job." See 45 CFR § 84, Appendix A. In view of the broad reach of the ADA, however, it would be essential for the drafters to specify how broad the obligation on private employers will be to modify or restructure jobs.

Conflict With Title I. This would be particularly true in view of the apparent overlap and possible conflict with Title I of the ADA. As noted above, the Title I prohibitions are drawn from language in regulations issued under Section 504. The Section 504 regulations, however, specifically protect "qualified handicapped persons." In incorporating each of these provisions into the ADA, however, the term "qualified" has been deleted. In fact, the term "qualified" appears nowhere in Title I. The plain language of Title I would seem to make it illegal for an employer to deny a job to an individual with a disability where that disability made the individual unqualified for the job.

Enforcement Provisions

Title VII Plus Section 1981. The employment discrimination provisions of the ADA would combine the enforcement procedures and remedies of Title VII of the Civil Rights Act of 1964 and a post-Civil War statute, 42 U.S.C. § 1981. The Title VII procedure, of course, is one focused on an investigation and conciliation efforts by the EEOC to promote voluntary resolution by the parties. If the EEOC process fails to resolve the dispute, there is the opportunity for a lawsuit as a final resort. Section 1981, on the other hand, is a far more punitive measure. It involves direct resort to the federal courts, with the opportunity for a jury trial and the potential of a verdict that includes a large award of compensatory and punitive damages, not available under Title VII.

In announcing the new version of the ADA, the bill's chief sponsor, Senator Harkin, pointed to disability discrimination as a serious economic problem for our society. He then suggested that victims of other kinds of discrimination can "march over to the courthouse, file a lawsuit and win." But, he added, there is still one group of Americans who do not have this right. "To this day," he said, "nothing prevents an employer ... from excluding Americans with disabilities. It's time we changed that -- and opened the courthouse door for persons with disabilities." The new draft of the ADA clearly reflects this special emphasis on litigation as a primary means of achieving results.

Conciliation v. Confrontation. Senator Harkin has mentioned several times that he wants the ADA to be passed in 1989 because this is the 25th anniversary of the Civil Rights Act of 1964 which prohibited employment discrimination on the basis of race, sex, and national origin. The sponsors of the ADA, however, seem to have overlooked the fact that the effectiveness of the 1964 law is due to the vision of legislators who pushed to create a prohibition on employment discrimination which focused on cooperation and voluntary compliance as the preferred means for achieving its goal. By providing for Section 1981-type lawsuits which allow -- indeed, encourage -- individuals to circumvent the EEOC's conciliation process, the sponsors of the ADA have opted for an enforcement scheme which ignores the heart of the Civil Rights Act of 1964. The inclusion of the Section 1981 procedures and remedies makes it fair to ask whether the first priority of the ADA is opportunities in the workplace, or opportunities to win large damage awards in the courthouse?

The Section 1981 procedures provide individuals an incentive to circumvent the conciliation process. As the Supreme Court recognized in Johnson v. Railway Express, 421 U.S. 454, 461 (1975), the filing of a lawsuit under Section 1981 can tend to deter efforts at conciliation. Indeed, when Congress established the current enforcement scheme for Title VII, it deliberately selected cooperation and voluntary compliance as the preferred means for achieving the goal of eliminating employment discrimination. See Alexander v. Gardner-Denver Co., 415 U.S. 36, 44 (1974). See also Ford Motor Co. v. EEOC, 458 U.S. 219, 228 (1982), indicating that voluntary compliance can end "discrimination far more quickly than could litigation proceeding at its often ponderous pace."

Courts construing the Age Discrimination in Employment Act have recognized that claims for compensatory and punitive damages would interfere with statutorily-mandated conciliation. See e.g., Rogers v. Exxon Research & Engineering Co., 550 F.2d 834, 840-41 (3d Cir. 1977), cert. denied, 434 U.S. 1022 (1978). That court noted that introducing the "vague and amorphous concept" of pain and suffering damages into the administrative setting "might strengthen the claimant's bargaining position," but it also would "introduce an element of uncertainty which would impair the conciliation process." 550 F.2d at 841. The court also observed that "[t]he possibility of recovering a large verdict for pain and suffering will make a claimant less than enthusiastic about accepting a settlement for only out-of-pocket loss in the administrative phase of the case." Id.

The motivation behind combining these two distinct enforcement schemes of Title VII and Section 1981 appears to be simply a desire to assure that individuals with disabilities have available to them whatever rights and remedies might be available to other victims of employment discrimination. This simple logic has only superficial appeal, however. In fact, not all of the protected groups have access to Section 1981, which is a race discrimination statute that has been interpreted to include some forms of religious or national origin discrimination. But, it clearly provides no rights to a victim of sex discrimination, or age discrimination. In addition, the prohibitions on sex, race, national origin and age discrimination do not contain any requirement comparable to the "reasonable accommodation" aspect of the prohibition on disability discrimination which requires employers to respond on an individual basis. That unique aspect of the ADA would seem to dictate the need for a consistent administrative scheme, with courts playing a role only as a last resort.

A better approach would seem to be to proceed on the basis of the years of experience we already have, under Title VII as well as under the Rehabilitation Act, to assess what enforcement structure is most likely to be effective and efficient in producing the desired goals of this legislation. While there is currently an open issue in Patterson v. McLean Credit Union, (U.S. No. 87-107), with regard to whether Section 1981 properly applies to claims of private sector employment discrimination at all, few would maintain that Section 1981 has been the most effective law in our arsenal against employment discrimination. The remedies offered by Section 1981 may be attractive on an individual basis as a potential windfall for a plaintiff, but there is an inherent conflict between that law and the provisions of Title VII.

Alternative Dispute Resolution. In setting up an enforcement framework, the drafters have failed, surprisingly, to include one of the provisions of the Rehabilitation Act regulations which has been a most useful and efficient mechanism. Those who have had experience in working with the procedures of Section 503 generally acknowledge that one of the better devices included in the Rehabilitation Act enforcement scheme is the provision which allows the agency, upon receipt of a complaint of discrimination, to refer the matter to the employer's internal complaint procedure for up to sixty days. See 41 CFR § 60-741.26(b). This can assure an opportunity for the parties to resolve the complaint where the alleged discrimination is the result of an oversight or misunderstanding. The addition of such a provision to the ADA procedures would be a positive step for employers and employees, as well as for the enforcement agency and the courts.

Drug and Alcohol Abuse

By virtue of reworking certain definitions, the ADA changes the approach to issues of drug and alcohol abuse currently found in the Rehabilitation Act. The existing law under the Rehabilitation Act excludes from coverage as an "individual with handicaps" any person who is an alcoholic or drug abuser and whose current use of drugs or alcohol prevents the individual from performing the duties of the job in question. The existing definition also excludes from coverage any alcoholic or drug abuser whose current use would constitute a direct threat to property or the safety of others. See 29 U.S.C. § 706.

Abuse Permitted If No Direct Threat To Safety of Others. The ADA takes a somewhat different approach. The issue of coverage of drug addicts and alcoholics is not addressed as part of the basic definition of who is an individual with a disability. Rather, the ADA provides that as part of its "qualification standards," an employer may require that the current use of alcohol or drugs by an alcoholic or drug abuser does not pose a direct threat to property or the safety of others in the workplace. Under the ADA, "qualification standards" which tend to identify or limit individuals with disabilities must be shown by the employer to be necessary and substantially related to the ability of the individual to do the job in question. Thus, the approach of the ADA clearly places on the employer the burden of demonstrating that a drug addict who is currently using drugs poses a direct threat in the workplace. Otherwise, that individual presumably is protected by the ADA.

The combination of this new definition and the ADA's restriction on tests which "tend to identify" individuals with disabilities could arguably restrict employer drug screening practices. An individual screened out by such a test arguably would be able to challenge the exclusion and thereby put the employer in the position of having to demonstrate that the exclusion is necessary and substantially related to the ability of an individual to perform the essential functions of the particular job.

Conflict With Drug-Free Workplace Laws. This approach of the ADA also appears to be in conflict with the responsibilities placed on employers under the Drug-Free Workplace legislation passed by Congress last year. That law requires covered government contractors to certify that they are maintaining a drug-free workplace. A false certification, or failure to carry out the specific requirements of the law, can subject the contractor to debarment from future government contracts for up to five years. The ADA, however, appears to create a situation where a contractor who becomes aware of an employee's drug use can take no action to remove that employee from the job unless the employer can demonstrate that the employee poses a direct threat to others in the workplace.

Contagious Diseases

The ADA's approach to AIDS and other contagious diseases is the same as that explained above for drug and alcohol abusers. That is, the employer may adopt a qualification standard which requires that individuals with a currently contagious disease not pose a direct threat to the health or safety of other individuals in the workplace. The ADA, thus, would take an approach somewhat different from the Rehabilitation Act, which was amended last year to exclude from the definition of "individual with handicaps" any person whose currently contagious disease constituted a direct threat to the health or safety of others in the workplace. 29 U.S.C. § 706.

General Prohibitions

One of the most ambiguous segments of S. 933 is Title I, which is a series of general prohibitions on disability discrimination. The essence of these provisions is drawn from the regulations issued under Section 504 of the Rehabilitation Act. (See 45 CFR § 84.4). Title I provides that it shall be discriminatory to subject any individual or any class of individuals either directly or through contractual, licensing, or

other arrangements, on the basis of disability to any of the following:

- denying full participation in, denying benefit from, or not providing a service, program, activity, benefit, job or other opportunity;
- denying the opportunity to participate as a member of boards and commissions;
- otherwise limiting the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others.

In addition, Section 101(a)(1)(C) of ADA prohibits providing an individual with disabilities a job which is "less effective" than the job provided to others. Section 101(a)(2) provides an explanation of the meaning of "effective" in terms of benefits and services, but nowhere in the bill is the term "effective" defined as it relates to a job.

Another aspect of the general provisions which raises questions is the language in Section 101(a)(1)(E) which makes it illegal to provide significant assistance to an organization or individual that discriminates. Again, the apparent genesis of this provision is in regulations which related to programs which were funded by federal grants. An entity which takes federal grant money and then uses it to support another organization which discriminates runs the risk of losing its federal funding. Section 504 regulations have been interpreted to prohibit providing support to a community recreation group or social organization which discriminates against handicapped persons. See 45 CFR § 84, Appendix A. But, how is this provision to be applied in the context of the private employers to be covered by the ADA?

For example, if an employer has made significant financial contributions to an educational institution, and that institution is accused of handicap discrimination, is the employer subject to some sort of joint or vicarious liability under the ADA? Is the standard one of strict liability, or does the employer first have to be aware of the discrimination? Are there any limitations on the reach of this provision? Is it limited to financial support or does it apply to other forms of support? For example, if a manager of a little league team excludes an individual with disabilities from that team, would that individual be able to file a lawsuit in federal court against the employer which provided all the uniforms and equipment to the league? If an employer allows a community social organization to meet on its premises, is that employer subject to a federal lawsuit if that organization excludes an individual with a disability from participating? While the sponsors have said nothing to indicate

that they intend to impose expansive vicarious liability, the plain language of the legislation says nothing to indicate that there are any limitations.

These prohibitions appear to be extremely open-ended and would give a plaintiff's lawyer fertile ground in which to develop novel legal theories. Further, there seems to be no limitation either on the types of suits that could be brought under these provisions or the types of persons against whom such suits would be brought. Accordingly, it would appear that Title I has been inserted in the bill only as a bargaining chip to be thrown away in subsequent negotiations, and that the sponsors have no real intention of seeing it enacted.

Disparate Impact

The provisions in Title I as well as language in Title II appear to envision the application of the disparate impact theory as a means of proving discrimination. In simple terms, the disparate impact theory which permits an individual to make out a prima facie case of discrimination simply on the basis of statistics, without any showing of discriminatory intent. This theory does not appear specifically in the language of Title VII of the Civil Rights Act of 1964, but was devised by courts as a means of scrutinizing the discriminatory impact of certain facially-neutral selection criteria -- such as a height requirement or a requirement that an individual have a high school diploma -- which did not specifically exclude women or minorities, but which did have a disproportionate impact on a protected group.

The manner in which the disparate impact theory has been incorporated into the ADA raises several concerns. First, unlike the disparate impact theory under Title VII, which applies to practices which disproportionately exclude women or minorities from job opportunities, the drafters of the ADA have applied the theory to standards, tests or criteria which tend to <u>identify or limit</u> any class of qualified individuals with disabilities.

The inclusion of the term "identify" is new. That term does not appear in the Section 504 regulations. What is a test which tends to identify individuals with disabilities? Is this provision intended as a subtle prohibition on the use of pre-employment physical examinations? Last year's version of the bill specifically prohibited such examinations. Does the language in this year's version also prohibit the use of post-employment physicals, used by many employers as a baseline examination? None of the explanatory materials provided by the sponsors discusses the term "identify."

For example, government contractors subject to Section 503 of the Rehabilitation Act are required routinely to give individuals an opportunity to identify themselves as an "individual with handicaps." The Section 503 regulations spell out language that is used to advise a handicapped individual that the employer has an affirmative action plan and to inquire about any accommodations that might be made. See 41 CFR § 60-741, Appendix B. This approach properly recognizes identification as the first step, and a necessary step, toward providing reasonable accommodation. An individual who chooses not to identify himself or herself as an "individual with handicaps" is free to decline the invitation to self-identify and to work without any employer-provided accommodation.

Of course, there is a basic tension between the desire of the drafters to not have individuals with disabilities identified and the desire of the drafters to apply the disparate impact theory which requires employers to count people according to categories. The adverse impact approach as applied under Title VII of the Civil Rights Act of 1964 requires adequate statistical information about the number of minorities and females in the relevant labor market with appropriate qualifications for a particular job. These statistics are then used as a basis of comparison with the number of minorities and females identified in the employer's workforce. There is at this time no adequate source of comparable statistics about the availability of qualified individuals with disabilities. Moreover, given the number of individuals with a particular disability in comparison to the overall workforce, it is doubtful that such statistical analysis would have legal or practical significance.

Apart from the "identify" issue, there are other serious questions about the manner in which the ADA has incorporated the disparate impact theory, such as whether the Supreme Court's decision in Alexander v. Choate, 469 U.S. 287 (1985) is to be overruled. The Supreme Court was very clear in its unanimous decision in Alexander v. Choate that there are limitations in the way the disparate impact theory can be applied under the Rehabilitation Act. That case involved a challenge to a Medicaid rule which limited the number of days of inpatient services which were covered during a year. It was argued that such a limitation was illegal under the Rehabilitation Act because it had a disproportionate effect on handicapped persons. The Supreme Court, in an opinion by Justice Marshall, rejected this argument stating that Congress would have to give some indication in the form of statutory language or legislative intent if it wanted to require each recipient of federal funds to evaluate the effect on the handicapped of every proposed action that might touch the interests of the handicapped, and then consider alternatives for achieving the same objectives with a less severe impact on the handicapped. Without such a clear signal from Congress, the

Court was reluctant to rule that Section 504 embraced all claims of disparate impact discrimination. Is the language in the ADA designed to give the courts that signal? Are there any limitations on the disparate impact theory embraced by the ADA? The sponsors have not made their intentions clear.

Revision of Traditional Disparate Impact Theory. In examining the ADA's requirements with regard to proof of discrimination based on the effects of an employer's job criteria or tests, it should be noted that the burden of proof allocation in the ADA is not consistent with either the standard applied under the Section 504 regulations or the standard applied by the Supreme Court in race and sex discrimination cases.

Under the Section 504 regulations issued by the Department of Health and Human Services, for example, a recipient of federal funding has the obligation not to use any selection criterion that screens out handicapped persons, unless the recipient could show the criterion "to be job-related for the position in question." The burden of demonstrating the existence of alternative criteria with less discriminatory impact was placed on the enforcement agency (that is, the Director of the Office of Civil Rights At HHS). See 45 CFR § 84.13.

In transporting this theory into the ADA, several changes have been made. First, the burden on the employer is described not as showing that the criterion is job-related, but rather the employer is expected to demonstrate that it is "both necessary and substantially related to the ability of the individual to perform ... the essential components of such particular ... job." Section 101(b). Is the change from "job-related" to "substantially related" intended to increase the burden on the employer who must justify a selection criterion?

Second, the ADA shifts the burden with respect to alternative criteria, requiring the employer to demonstrate that "the essential components cannot be accomplished by applicable reasonable accommodation, modifications, or the provision of auxiliary aids or services." Section 101(b)(1). This shifting of the burden with respect to available alternatives is not only contrary to the Section 504 regulations, it is also a departure from the traditional theory of disparate impact discrimination as applied by the Supreme Court since 1971. See Albemarle Paper Company v. Moody, 422 U.S. 405, 425 (1975) ("it remains open to the complaining party to show that other tests or selection devices, without a similarly undesirable racial effect, would also serve the employer's legitimate interest... ."). The analysis of the bill prepared by the sponsors does not address this departure from established law.

Definitions and Drafting Issues. Finally, with regard to this aspect of the bill, there are again several drafting inconsistencies that need to be pointed out because they raise uncertainty about how the ADA might be interpreted and applied. One of these has to do with the term "essential components" which is used in Section 101(b) of the ADA, referred to above. In Section 201 (5), the ADA defines a qualified individual with a disability as one who can perform the "essential functions" of the job, but the employer's burden is described in Section 101 (b) in terms of "essential components." Is there a distinction intended by the use of these different terms?

In Section 101(b), the ADA sets forth the employer's burden to demonstrate that the essential components of the job cannot be accomplished with the use of "auxiliary aids or services." This term, "auxiliary aids or services" is specifically defined in the ADA, Section 3(1), as meaning qualified interpreters for individuals with hearing impairments, qualified readers for individuals with visual impairments, and various other devices and services traditionally thought of as accommodations. Of course, the employers duty to provide an accommodation is subject to the reasonableness standard. However, the reasonableness standard does not appear either in the definition of auxiliary aids and services, or in the statement of the employer's obligation with respect to such aids and services.

Duplication In Coverage

As noted above, the ADA is intended to be an addition to, not a replacement for, existing prohibitions on handicap discrimination. Employers who are government contractors, for example, will be expected to comply with both Section 503, enforced by the Department of Labor, and with the ADA, enforced by the EEOC and private lawsuits. In addition, there are 44 states which have current prohibitions on handicap discrimination, many of which include requirements for accommodation of individuals with disabilities. Section 601 of the ADA specifically provides that the new law should not be interpreted as reducing the scope of the Rehabilitation Act. Thus, for many employers, the ADA will provide at least a third layer of enforcement with respect to handicap discrimination issues.

No Preemption. Proponents of the ADA have argued that the 44 state laws vary so greatly from one to another that these state laws are no substitute for a comprehensive federal statute establishing national standards. Indeed, the proponents are correct in stating that there are significant differences among the various state laws in this area. But there is nothing in the ADA to protect employers from these multiple layers of enforcement or from simultaneous enforcement actions in different forums. Moreover, nothing in the bill assures a government contractor that the Department of Labor and the EEOC will both reach the same conclusion with respect to whether a particular accommodation is sufficient or insufficient. And, even when the employer has satisfied both the EEOC and the DOL, there is no assurance that the employer's accommodation will be accepted as satisfactory by a federal court in a private suit under the ADA, or by the state agency which also has jurisdiction over the same workplace. The unnecessary duplication created by having multiple agencies with overlapping jurisdiction means that resources are not being used as efficiently as they might be to promote opportunities and accommodations for individuals with disabilities.

CONCLUSION

A careful review of the new ADA indicates four major areas of potential controversy. First, the bill's emphasis on litigation reflects a preference for lawsuits, as opposed to conciliation and voluntary compliance as the preferred manner of achieving the bill's laudable goals. Second, the new draft of the bill does not simply take the law as it stands under the Rehabilitation Act, but rather seeks to make significant changes in that law by a series drafting changes in the commonly-understood interpretations of the Rehabilitation Act. Third, to the extent that the ADA does incorporate existing law from the Rehabilitation Act, it is adopting law which has been developed in the context of federal grant programs and applied to organizations which were the recipients of federal funding, not private sector workplaces. There are refinements which must be made in these provisions if they are to be practical, realistic standards for private employers.

Finally, the new draft of the ADA has not responded to the concerns about multiple layers of enforcement which were clearly expressed in response to last year's proposal. This year's version again seeks to impose a layer of enforcement on top of existing disability discrimination requirements without eliminating any of the burden, or seeking to assure consistent enforcement for those employers who would be subject to multiple enforcement schemes.

FEDERAL EFFORTS TO SERVE PERSONS WITH DISABILITIES

This paper provides an overview of Federal efforts to meet the needs of persons with disabilities in the United States. Part I provides information on Federal grant programs that provide services to disabled persons. Because well over 50 Federal programs provide money and services to persons with disabilities, this overview is quite general. Part II contains information about Federal efforts to enforce existing civil rights laws that prohibit discrimination on the basis of handicap. Information about these Federal civil rights laws was provided in the paper sent to the Working Group on May 4, 1989. Part III contains information about several Federal entities that have been established either by Congress or the President to coordinate information and make recommendations about Federal laws concerning persons with disabilities.

Part I - Federal Grant Programs Affecting Persons with Disabilities

The Federal Government provides a wide variety of grant programs that benefit individuals with disabilities. In fact, recent data shows that the Federal Government spends approximately $50 billion each year on providing income support and services to persons with disabilities. Although there are more than 50 different Federal statutes, for ease of discussion these programs have been grouped into several major areas: income support, health care, education, and vocational rehabilitation. More detailed information on the specific grant programs is provided in the chart contained in the appendix.

A. Income Support

The major income support programs are Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI), and Veterans Compensation for Service-Connected Disabilities. Most of the money that the Federal Government spends on persons with disabilities is disbursed under these three programs. In fact, approximately 75% of the Federal Government's outlays for disabled persons is for income support.

The SSDI program, administered by the Department of Health and Human Services (HHS), replaces part of the earnings lost because of a physical or mental impairment severe enough to prevent a person from working. It serves approximately three million disabled persons and one million dependents for a total cost of about $20 billion.[1] The maximum monthly benefit is $909

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1 Data contained here and in the charts provided in the appendix are based on fiscal year 1986 estimates compiled by the National Council on Disability.

for an individual and $1364 for an individual with eligible dependents. Average monthly payments are $454 and $885, respectively. SSDI is part of the Social Security System, which is financed by the payroll taxes paid by workers and employers. An individual's eligibility for SSDI is based on his or her length of covered employment, and the amount of benefits depends on the amount of earnings on which taxes were paid.

The SSI program, also administered by HHS, provides a minimum guaranteed income for disabled individuals who meet a means test and who are unable to engage in substantial remunerative activity. About 70 percent of its $9.2 billion in benefits goes to approximately two million disabled recipients. The maximum monthly payments are $325 for an individual and $488 for an individual with a spouse. The average monthly payment is $199.

The Veterans Compensation program provides $8.2 billion of direct payments to over two million disabled veterans with service-connected disabilities. The maximum monthly payment is $3697.

B. Health Care

Another major area of Federal involvement is health care. The Medicare program provides approximately $9 billion in insurance payments to nearly three million disabled persons to cover hospital and medical costs. Eligible persons include those who have qualified for SSDI coverage for 24 months or for railroad retirement benefits based on disability for 29 consecutive months. The Medicaid program, which is limited to poor individuals, provides nearly $9 billion in benefits to more than three million disabled persons.

C. Education

The Federal Government also provides substantial support to the education of disabled children. The Department of Education furnishes over $1 billion in grants to States to assist them in providing a free appropriate public education for over four million handicapped children. Per student outlay by the Federal Government is about $265. Of every $16 spent on special education, $1 is from the Federal Government. The Federal Government also provides an additional $150 million for the education of handicapped children in State-operated or State-supported schools. The average Federal payment per student in such schools is $592.

In addition, the Government contributes over $50 million in grants to States and other entities for programs including Handicapped Early Childhood Education, Deaf-Blind Centers, Secondary Education and Transitional Services for Handicapped

Youth, Postsecondary Education Programs for Handicapped Persons, and Innovative Programs for Severely Handicapped Children. In addition, ten percent ($72 million) of Federal support for vocational education goes to disabled students.

D. Vocational Rehabilitation

Vocational rehabilitation is another major area of Federal involvement. The program provides more than $1 billion to States to enable them to offer counseling and related services to disabled persons. The Federal outlay per person per year is approximately $1200. Eighty cents of every dollar spent on vocational rehabilitation is furnished by the Federal Government.

In addition, the Veterans Administration provides vocational rehabilitation services to over 35,000 disabled veterans. The maximum monthly payment is $310 for a single veteran and $452 for a veteran with two dependents. Noninterest-bearing loans up to a maximum of $620 per enrollment period are also available.

E. Other

The Federal Government contributes over $100 million to provide for the construction of housing units for elderly and handicapped persons. Approximately 100,000 disabled persons receive $400 million in low income rent subsidy payments.

The Government also provides $64,000,000 in grants to assist States in furnishing cross-cutting services and protection-and-advocacy assistance to persons with severe disabilities occurring prior to age 22.

The Federal Government invests considerable resources in conducting research on issues concerning disabled persons. It is difficult to compile specific research information and financial resources because research responsibilities have been diffused throughout the Federal Executive branch. In recognition of this problem, Congress established in 1978 the National Institute on Disability and Rehabilitation Research. The National Institute's budget in FY 1987 was $49 million. In addition to conducting research and demonstration projects, the National Institute is charged with coordinating rehabilitation research efforts across the Federal Government. Recent research activity has been conducted on the use of non-aversive management of behavioral disorders, on a comprehensive service delivery system for persons with acute spinal cord injuries, and on applying engineering knowledge to such areas as blindness aids and the design and manufacture of wheelchairs.

PART II - Civil Rights Enforcement

A. Section 504: Nondiscrimination in Federally-funded programs and activities

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of handicap in any program or activity that receives Federal financial assistance. Twenty-six agencies administer more than 600 programs that provide financial assistance to thousands of recipients, which range from units of State and local government, local school districts, and institutions of higher education and hospitals, on the one hand, to small businesses, community service organizations, and individual researchers, on the other. Each agency has published a regulation that spells out the obligations of its recipients and has established a compliance program to enforce the statute's requirements.

Enforcement responsibility usually rests with each agency's civil rights office. In FY 1988, approximately 1500 staff carried out the Federal Government's "external" (i.e., other than discrimination in Government employment) civil rights compliance program with respect to section 504 and the other major "crosscutting" civil rights statutes that prohibit discrimination on the basis of race, color, national origin, sex, and age in programs receiving Federal financial assistance.

Complaint investigations and compliance reviews (both pre-award application reviews and post-award reviews of recipient activities) constitute the major components of each agency's compliance program. In FY 1988, agencies logged 7,712 complaints of discrimination in Federal financial assistance programs; 2,460 (32 percent) alleged violations of section 504. The agencies made 1,500 findings of compliance and 1,041 findings of noncompliance in FY 1988. Nearly all findings of noncompliance (994, or 95 percent) were resolved through negotiations culminating in a voluntary compliance agreement whereby the recipient agreed to cease its discriminatory practices or correct procedural deficiencies. If voluntary compliance cannot be achieved, the funding agency can proceed to terminate funds through the administrative hearing process or refer the case to the Department of Justice for possible litigation.

Pre-award reviews verify, through the review of signed assurances, that the applicant is aware of its obligations to operate the program for which it seeks assistance in a nondiscriminatory manner. The agencies also seek to determine if there have been complaints or judgments against the applicant that warrant further investigation before an award is made. An agency can focus its pre-award reviews on particular aspects of a program, as the Department of Health and Human Services did by concentrating on the approval of health care facilities for

participation in the Medicare program. In FY 1988, Federal agencies conducted more than 19,000 pre-award reviews of which 873 involved on-site reviews. Compliance findings totaled 17,507; all but one of the 1,876 findings of noncompliance were resolved by written corrective action agreements.

Post-award compliance reviews generally are more detailed and broader in scope, and include on-site investigations, interviews, and data collection. These reviews are undertaken when an agency has reason to believe that discrimination is occurring in a federally assisted program. They can focus on key compliance issues, such as program accessibility, or on overall compliance with respect to the operation of the agency's larger or more complex program areas. A total of 389 post-award reviews in FY 1988 resulted in findings of noncompliance that involved discrimination or discriminatory practices (as opposed to procedural or administrative deficiencies). Of these 389 noncompliance findings, 387 were resolved by written remedial agreements that subsequently were monitored by the funding agency.

Comprehensive agency compliance programs also include training and technical assistance components to inform beneficiaries of their rights and to assist recipients in complying voluntarily with civil rights laws. For example, the Department of Education received 1,844 requests for technical assistance in FY 1988; most involved section 504 concerns. More than 140,000 copies of civil rights publications were distributed by the Department of Education during FY 1988 though direct mailings, dissemination at meetings, direct delivery to recipients, and information booths at conventions.

Section 504 also applies to the programs of the Federal Executive branch. Since 1983, the Department of Justice has been working with over 90 Federal Executive agencies on issuance of regulations to implement the 1978 amendment to section 504 that extended its application to federally conducted programs and activities. To date, 79 agencies have published final regulations and 5 others have published proposed regulations. The regulations apply to all programs and activities conducted by the agencies. In simple terms, a federally conducted program is anything a Federal agency does. Aside from employment, covered activities include those involving general public contact (the public's use of an agency's cafeteria or library, telephone contacts, office walk-ins) and those directly administered by an agency for program beneficiaries (the national park system, the social security system, Federal prisons, etc.).

In addition to establishing substantive requirements, the regulations establish procedures for handling complaints and require the agencies to do self-evaluations of their policies and practices and to make necessary corrections. As part of the

self-evaluation process, agencies are conducting surveys of the physical accessibility of their facilities and making plans for any required physical alterations, as well as addressing needs for accessible communications by installation of TDD's (telecommunications devices for persons who are deaf). A number of Federal agencies have altered their buildings to make them accessible, have purchased and installed TDD's, and have made other changes to their policies and practices to open Federal programs to disabled persons.

B. Education

In order to receive funds under the Education of the Handicapped Act (EHA), States must ensure that local school systems provide a free, appropriate public education to all handicapped children. To meet this obligation, school officials must develop an individualized educational plan (IEP) for each identified handicapped child.

In 1986, 4,370,244 handicapped children received special education and related services nationwide, 92 percent of whom were mainstreamed in the public schools. There are over 274,000 special education teachers and another 226,000 personnel providing related services. The related services most frequently provided are transportation, followed by diagnostic and psychological services.

To ensure compliance with the requirements of the EHA, the Office of Special Education and Rehabilitative Services of the Department of Education reviews and approves State plans and conducts on-site reviews and monitoring of their implementation. The 1987 annual report indicates completion of 18 comprehensive reviews. Seventeen States were cited for inadequacies in the establishment of IEP's. All 18 were cited for failure to provide services in the least restrictive environment. Seventeen were cited for failure to provide adequate due process and procedural safeguards for parents asserting the rights of their children under the EHA.

C. Section 501: Federal Employment

Section 501 of the Rehabilitation Act expressly requires affirmative action and implicitly provides for nondiscrimination in the Federal employment of individuals with handicaps. Section 501 requires Federal Executive agencies, the U.S. Postal Service, and the Postal Rate Commission to develop and implement affirmative action plans for hiring, placing, and advancing individuals with handicaps, and to submit such plans annually to the Equal Employment Opportunity Commission, which is responsible for enforcing section 501.

Each Federal agency is responsible for investigating and resolving individual complaints of discrimination in employment. Nondiscrimination includes making reasonable accommodation to the individual's handicap by providing a reader or sign language interpreter, making a building accessible, providing special equipment, or restructuring a job so that the applicant or employee can perform the essential functions of the job.

D. Section 503: Nondiscrimination in employment under Federal contracts

Section 503 of the Rehabilitation Act provides that contractors in any Federal procurement contract for personal property or personal services (including construction) in excess of $2,500 shall take affirmative action to employ and advance qualified handicapped individuals. This requirement also applies to subcontracts in excess of $2,500 entered into by prime Federal procurement contractors. The statute provides that any handicapped individual who believes that a contractor has failed to comply with this requirement may file a complaint with the Department of Labor. The statute sets forth the conditions under which the President can waive this requirement when special circumstances in the national interest so require.

Labor's Office of Federal Contract Compliance Programs (OFCCP) enforces section 503, along with other authorities that mandate nondiscrimination and affirmative action in Federal contracting with respect to minorities, women, and veterans. OFCCP's 800 compliance officers are located in 64 cities nationwide. In FY 1988, OFCCP received 981 complaints alleging violations of section 503. As a result of its section 503 complaint investigations and compliance activities, including conciliation efforts and other judicial or administrative actions, OFCCP entered into 234 settlement agreements totaling $3,813,977. One hundred seventy-nine (179) of these agreements provided for $3,637,768 in cash benefits to 227 persons. Of this amount, $1,353,481 involved back pay to 93 individuals.

E. The Architectural and Transportation Barriers Compliance Board

Section 502 of the Rehabilitation Act established the Architectural and Transportation Barriers Compliance Board (ATBCB) to ensure compliance with standards issued under the Architectural Barriers Act of 1968. The Act requires most buildings and facilities designed, constructed, or altered with Federal funds to be accessible to individuals with physical handicaps. The Board's Office of Compliance and Enforcement is responsible for investigating and resolving complaints of violations of the Architectural Barriers Act. The 200 complaints received by the Board in FY 1988 brought to 1,935 the number of complaints the Board has received since 1977. Of these, 1,588

(82 percent) have been closed. The other 347 (18 percent) are being actively investigated, have had "intent to close" letters sent, or have corrective action plans being monitored.

Of the 1,588 closed complaints, corrective action was taken in 534 (33.6 percent) of these cases. In the remaining closed cases, 962 (60.5 percent) were closed for lack of jurisdiction (usually because no Federal funds which trigger the Architectural Barriers Act were involved or because no design, construction, or alteration occurred after 1968), and 92 (5.8 percent) for no violation.

FY 1988 complaints cited a range of accessibility problems including frequently cited barriers such as inaccessible entrances, curb cuts/ramps, or an insufficient number of accessible parking spaces. The Board experienced two areas of increased complaint activity during the fiscal year: transit facilities (airports, train, and subway stations) and recreational areas and structures. The Board recently filed a citation before an administrative law judge seeking an order to make two Philadelphia subway stations accessible.

The Board also participates in research projects concerning architectural, transportation, attitudinal, and communication barriers and provides extensive technical assistance to Federal and State agencies and to the private sector.

F. Federal Litigation

The Federal Government also ensures the effective enforcement of Federal civil rights statutes prohibiting discrimination on the basis of handicap by bringing cases in the Federal courts.

Housing - With enactment of the Fair Housing Amendments Act of 1988, it is now unlawful for a landlord to refuse to allow a handicapped person, at that individual's own expense, to make reasonable physical modifications necessary for full enjoyment of the premises or to refuse to make necessary reasonable accommodations in rules, policies, practices, or services. Beginning in 1991, newly constructed multifamily dwellings will be subject to accessibility and adaptability requirements specified in the Act.

Primary authority for investigating and adjudicating complaints is vested in the Secretary of Housing and Urban Development. The Attorney General has authority to file suit in cases involving a pattern or practice of discrimination and in certain individual cases as well. The Housing and Civil Enforcement Section of the Civil Rights Division of the Department of Justice is currently conducting seven investigations in matters involving discrimination on the basis

of handicap. A number of these cases concern the legality of local zoning ordinances as applied to group facilities for handicapped persons.

Persons in Institutions - The Civil Rights of Institutionalized Persons Act (CRIPA) authorizes the Attorney General to file suits to protect the constitutional rights of persons residing in institutions operated by State or local governments. Institutions covered by the statute include nursing homes and institutions "for persons who are mentally ill, disabled, or retarded, or chronically ill or handicapped," as well as correctional institutions. The Civil Rights Division aims to obtain safe conditions, adequate medical care, and sufficient care, treatment, and training to avoid undue risks to the personal safety of residents as well as to insure freedom from unreasonable bodily restraint.

Since enactment of the statute, the Division has initiated CRIPA investigations at 101 institutions housing some 120,000 persons in 32 States and two territories. Most investigations disclosing unconstitutional conditions are settled by a judicially enforceable consent decree. The Department is currently monitoring 19 such decrees.

Section 504 - Although primary responsibility for enforcing section 504 with respect to federally assisted programs and activities lies with the agencies administering the grant programs, one method of enforcement available to them is referral to the Department of Justice for litigation. For example, a referral from the Department of Education recently resulted in a successful section 504 suit against the University of Alabama. The court held that section 504 required the university to pay for sign language interpreters needed by hearing-impaired students and that these costs could not be billed to the students.

Part III - Federal Entities that Provide Advice and Recommendations

Over the past thirty years, the President and Congress have established numerous entities to review and provide advice on Federal policies affecting disabled persons. Although the list of entities discussed below is not exhaustive, it does detail the activities of the major committees and agencies.

A. Interagency Coordinating Council

The Interagency Coordinating Council was established by the Rehabilitation Act to coordinate Federal implementation of the civil rights provisions contained in title V of that Act. Eight Federal agencies with major enforcement responsibilities with respect to title V are represented on the Council: the

Departments of Education, Justice, Labor, Health and Human Services, and the Interior; the Equal Employment Opportunity Commission; the Office of Personnel Management; and the Architectural and Transportation Barriers Compliance Board. The Council's function is to "maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of [title V]."

The Council has worked on resolving difficult questions of interpretation of title V, such as treatment of persons with AIDS and related conditions. In 1987, it issued a policy statement clarifying that temporary impairments may be considered handicaps: the expected duration of a condition may be a factor in determining whether it is a substantial limitation, but the fact that a condition is not permanent does not mean it is not a handicap. The Council has also drafted policy guidance on use of alternative formats (such as Braille, audiotape, or large print) to make Government publications and other printed material accessible to persons with vision impairments, and has also worked on proposed legislation to prohibit discrimination on the basis of handicap in private employment.

B. Interagency Committee on Handicapped Employees

The Interagency Committee on Handicapped Employees (ICHE) was established by section 501 to provide a focus for Federal employment of individuals with handicaps, and, in cooperation with EEOC, to monitor Federal efforts to implement the affirmative action requirements of the Rehabilitation Act. The ICHE makes recommendations to the EEOC for policy, procedural, regulatory, and legislative changes that will improve employment opportunities for qualified persons with disabilities. The ICHE is co-chaired by the EEOC and the Department of Education. Other agencies represented are the Departments of Defense, Labor, Veterans Affairs, and Health and Human Services; the Office of Personnel Management; the General Services Administration; and the Federal Communications Commission.

C. National Council on Disability

The National Council on Disability (formerly the National Council on the Handicapped) is comprised of 15 members appointed by the President with the advice and consent of the Senate. The Council was originally established in 1978 as an advisory board within the Department of Education; however, in 1984 it was reestablished as an independent agency by the Rehabilitation Act Amendments of 1984.

The Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting disabled individuals and making such recommendations as it deems necessary to the President, the Congress, the Secretary of Education, the Commissioner of the Rehabilitation Services Administration, and the Director of the National Institute of Handicapped Research (NIHR). The Council is given explicit authority to establish general policies for the NIHR and to monitor its performance. The Council also reviews and approves standards concerning the Independent Living Project and Projects with Industry established under the Rehabilitation Act.

A 1986 report of the Council, Toward Independence, recommended enactment of "a comprehensive law requiring equal opportunity for individuals with disabilities, with broad coverage and setting clear, consistent, and enforceable standards prohibiting discrimination on the basis of handicap," to be called the "Americans with Disabilities Act." This recommendation, which the Council followed up on with a 1988 report, On the Threshold of Independence, was a major source for the current "Americans with Disabilities Act."

D. President's Committee on Mental Retardation

The President's Committee on Mental Retardation (PCMR) was originally established in 1966. It provides advice and assistance to the President and the Secretary of Health and Human Services with respect to the adequacy of the national effort to combat mental retardation.

The PCMR is chaired by the Secretary of Health and Human Services and is composed of the Attorney General, the Secretary of Labor, the Secretary of Housing and Urban Development, the Director of ACTION, and not more than 21 members from the public or private sector that are appointed by the President for three-year terms. Most recently, PCMR has undertaken efforts to aid in the prevention of mental retardation and to examine the effectiveness of community integration of persons with mental retardation. PCMR plans next to examine and distribute information concerning programs serving criminal offenders who are mentally retarded.

E. President's Committee on Employment of People with Disabilities

The President's Committee on Employment of People with Disabilities (PCEPD) (originally the President's Committee on Employment of the Handicapped) was established by Executive Order. The mission of PCEPD is to provide advice and information to the President related to the development of maximum employment opportunities for people who are physically disabled, mentally retarded, and mentally ill.

The PCEPD is composed of a Chairman and not more than four Vice Chairmen who are appointed by the President. The remaining members of PCEPD are appointed by the Chairman for three-year terms. The PCEPD holds an annual meeting of disabled persons and employers that has become a major vehicle for the exchange of ideas on disability policy in the employment area.

MAJOR DISABILITY PROGRAMS

	USDA	DOT	RRB	HUD	VA	DOL	HHS	ED
Income Support			*Social Insur. for Railroad Workers (57.001)		*Vet. Comp. for Service Connected Disab. (64.109) *Pension for Non-Service Conn. Disab. (64.104)	*Coal Miners Workers Comp. (17.307) *Longshore & Harbor Workers Comp. (17.302)	*Social Security Disability Insur. (SSDI) (13.802) [SSA] *Supplemental Sec. Income (13.807) [SSA]	
Health Insurance							*Medicare (13.773,774) [HCFA] *Medicaid (13.714) [HCFA]	
Transportation		*Urban Mass. Transp. Cap. Improv. Grants (20.500)					*Social Services Block Grant (13.667) *Special Prog. for the Aging-Grants for Supp. Ser. & Sr. Cent. (13.633)	
Housing	*Very Low & Low Income Housing Loans (10.410) *Very Low-Inc. Hous. Repair Loans & Grants (10.417)			*Low Inc. Hous. Asst. [Sec. 8] (14.156) *Hous. for Elderly & Handic. [Sec. 202] (14.157)	*Specially Adapted Hous. for Disab. Vets (64.106) *Vet. Hous.-Direct Loans to Disab. Vets (64.118)			
Education, Training, Voc. Ed., Voc. Rehab.					*Voc. Rehab. for Disab. Vets (64.116) *Blind Vets Rehab Centers (64.007)	*Job Training Partnership Act (17.250)	*Developmental Disab. Univ. Affiliated Facilities (13.632) *Develop. Disab. Special projects (13.631)	*Education of Handicapped Children (84.027) *Voc. Rehab. - Basic Support (84.126) Voc. Rehab. - Service Projects (84.128) *Education of Handic. Children in State-operated or supported schools (84.009) *Vocational Education-Basic Grants to States (84.048) *Centers for Independent Living (84.132) *Handicapped Early Childhood Educ. (84.024) *Deaf-Blind Centers (84.025) *Secondary Educ. & Transit. Services for Handic. Youth (84.158) *Postsecon. Educ. Prog. for Handic. Persons (84.078) *Innov. Progr. for Severely Handic. Child. (84.086)

APPENDIX

MAJOR DISABILITY PROGRAMS

	USDA	DOT	RRB	HUD	VA	DOL	HHS	ED
Income Support			*Social Insur. for Railroad Workers (57.001)		*Vet. Comp. for Service Connected Disab. (64.109) *Pension for Non-Service Conn. Disab. (64.104)	*Coal Miners Workers Comp. (17.307) *Longshore & Harbor Workers Comp. (17.302)	*Social Security Disability Insur. (SSDI) (13.802) [SSA] *Supplemental Sec. Income (13.807) [SSA]	
Health Insurance							*Medicare (13.773,774) [HCFA] *Medicaid (13.714) [HCFA]	
Transportation		*Urban Mass. Transp. Cap. Improv. Grants (20.500)					*Social Services Block Grant (13.667) *Special Prog. for the Aging-Grants for Supp. Ser. & Sr. Cent. (13.633)	
Housing	*Very Low & Low Income Housing Loans (10.410) *Very Low-Inc. Hous. Repair Loans & Grants (10.417)		*Low Inc. Hous. Asst. [Sec. 8] (14.156) *Hous. for Elderly & Handic. [Sec. 202] (14.157)	*Specially Adapted Hous. for Disab. Vets (64.106) *Vet. Hous.-Direct Loans to Disab. Vets (64.118)				
Education, Training, Voc. Ed., Voc. Rehab.				*Voc. Rehab. for Disab. Vets (64.116) *Blind Vets Rehab Centers (64.007)		*Job Training Partnership Act (17.250)	*Developmental Disab. Univ. Affiliated Facilities (13.632) *Develop. Disab. Special projects (13.631)	*Education of Handicapped Children (84.027) *Voc. Rehab. - Basic Support (84.126) Voc. Rehab. - Service Projects (84.128) *Education of Handic. Children in State-operated or supported schools (84.009) *Vocational Education-Basic Grants to States (84.048) *Centers for Independent Living (84.132) *Handicapped Early Childhood Educ. (84.024) *Deaf-Blind Centers (84.025) *Secondary Educ. & Transit. Services for Handic. Youth (84.158) *Postsecon. Educ. Prog. for Handic. Persons (84.078) *Innov. Progr. for Severely Handic. Child. (84.086)

APPENDIX

INCOME SUPPORT

	Agency	Approx. Cost for Dis. (Millions)	Population Served: Disab. Per. Benefitting (Thousands)	Eligibility: Work Credits	Eligibility: Means Test	Other Benefits: Medicare	Other Benefits: Medicaid	Other Benefits: VA Medical	Other Benefits: Other Medical	Other Benefits: Voc. Rehab.	Termination of Income Benefits During Work: Unaffected	Termination of Income Benefits During Work: Phase-Out	Termination of Income Benefits During Work: 1:1 Reduction	Termination of Income Benefits During Work: Other Reduction	Termination of Income Benefits During Work: Demonstration	Medical Benefits During Work: Medicare	Medical Benefits During Work: Medicaid	Medical Benefits During Work: VA Medical	Medical Benefits During Work: Other Medical	Medical Benefits During Work: Demonstration	Reinstatement: Auto.	Reinstatement: Waiting Period
Social Security Disability Insur. (SSDI) 13.802 42 USC 420-426	HHS (SSA)	19,566	3,900	X		X after 24 mos.				X		X 2 yrs. (9+15 mos.)				X 2 yrs. after end of ins. benef.						X 5 mos. unless w/in 5 yrs. (incl. Medicare)
Supple. Security Income (SSI) 13.807 42 USC 1381-1383c	HHS (SSA)	6,400	1,927		X		X (except in 20 states)			X		X 2 yrs. (9+15 mos.)			X 1619(a)		X 2 yrs. (9+15 mos.)			X 1619(b)		
Coal Mine Workers Comp. 17.327 30 USC 901-962	DOL	632	190	X					X Rel. to Bl. Lung	X			X									
Longshore & Harbor Workers Comp. 17.302 33 USC 901-952	DOL	4.5	14.25	X					X Emp. or Ins. Co.	X		X 5 yrs.		X $ of lost wages					X Emp. or Ins. Co.		X	
Vets. Comp. for Service-Connected Disab. 64.109 38 USC 310, 331	VA	8,210	2,220	X				X		X	X							X				
Pension for Non-Service Connected Disabilities 64.104 38 USC 511,512, 521	VA	2,350	676		X			X					X					X			X	
Social Insurance for Railroad Workers 20.601 45 USC 231-231n	RRB	775	104.5	X		X							X			X 2 yrs.						

EDUCATION, TRAINING, VOCATIONAL EDUCATION, VOCATIONAL REHABILITATION

	Agency	Approx. Cost for Disabled (millions)	Disabled Persons Benefitting (thousands)	All Disabilities	Specific Disabilities	Age	Basic Educ.	Educational Related Services	Job Skills	Employment Support	Personal & Indep. Living Skills	Noneduc. Related Services	Transitional Services	Medical	Income Support	Advocacy	Demonstration & Innovative Projects
Education of Handicapped Children (84.027) 20 U.S.C. 1401-1419	ED	1,164	4,200		X	3-21	X	X									X (serv. proj. only)
Voc. Rehabilitation *Basic Support (84.126) 29 U.S.C. 701 *Service Proj. (84.128)	ED	1,100 29.3	931.8	X		Working age			X	X	X	X	X	X	X		
Education of Handicapped Children in State Operated or Supported Schools (84.009) 20 U.S.C. 3804	ED	150.17	247		X	Preschool-21	X	X							X		
Vocational Education-Basic Grants to States (84.048) 20 U.S.C. 2331-2342	ED	72	490		X	Not specif.	X	X	X	X							
Centers for Independent Living (84.132) 29 U.S.C. 796e	ED	27	26		X severe	Not specif.			X	X	X	X		X		X	
Handicapped Early Childhood Educ. (84.024) 20 U.S.C. 1423	ED	27.5	18		X	0-8	X	X									X
Deaf-Blind Centers (84.025) 20 U.S.C. 1422	ED	12	6.1		X deaf-blind	Children & Youth	X	X	X	X	X		X				
Secondary Educ. & Transitional Services for Handicapped Youth (84.158) 20 U.S.C. 1425	ED	6.33			X	Youth	X	X	X	X			X				X
Post Secondary Educ. Programs for Handicapped Persons (84.078) 20 U.S.C. 1424a	ED	5.3			X	Not specif.	X	X	X	X							X
Innovative Programs for Severely Handicapped Children (84.086) 20 U.S.C. 1424	ED	4.3	4.730		X Severe	Children & Youth											
Vocational Rehabilitation for Disabled Veterans (64.116) 38 U.S.C. 1502	VA	116	35	X		Veteran			X	X	X	X		X	X	X	
Blind Veterans Rehabilitation Centers (64.007) 38 U.S.C. 601, 3021	VA	8.205	.734		X Blind	Veteran					X	X		X			
Job Training Partnership Act (17.250) 29 U.S.C. 1501	DOL			X		Adult & Youth	X	X	X	X	X		X				
Developmental Disabilities - University Affiliated Facilities (13.632) 42 U.S.C. 6061	HHS	9			X Develop. Disab.	Not specif.	X	X	X	X	X	X	X				X
Developmental Disabilities - Special Projects (13.631) [Incl. clinic. recess.] 42 U.S.C. 6001	HHS	2.7			X Develop. Disab.	Not specif.	X	X	X	X	X	X					X

HOUSING

	Agency	Approx. Cost for Disabled (Millions)	Disabled Persons Benefitting (Thousands)	All Disabilities	Specific Disabilities	Supportive Services	Means	Rent Subsidy	Accessibility Standard	Construction or Rehabilitation		Purchase		Demonstration	Tie-Ins	Current Status
										Loan	Grant	Loan	Grant			
Very Low & Low Income Housing Loans (10.410) 42 USC 1472	USDA			X			X			X		X				
Very Low-Inc. Housing Repair Loans & Grants (10.417) 42 USC 1474				X			X			X	X					
Specially Adapted Housing for Disabled Veterans (64.106) 38 USC 801-08	VA	12	405		X Severe						X					
Lower Income Housing Assistance [Sec. 8] (14.156) 42 USC 1401-1435,1437	HUD	400	100	X		X Indep. group resid.	X	X	X New Const.					X Vouchers		Not for new construction or substantial rehabilitation
Housing for Elderly and Handicapped [Sec. 202] (14.157) 12 USC 1701q	HUD	110	2700 units	X		X			X		X				Project must qualify for Sec. 8	1986: 2 yr. moratorium

TRANSPORTATION

	Destination			Type			
	Agency	Work	Other	Mass Transit (Accessible vehicle or station	Special Van or Paratransit	Allowance	Reduced Fare
Urban Mass Transportation Capital Improvement Grant (20.500) 49 USC 1602, 1612	DOT	X	X	X	X		X
Social Services Block Grant (13.667) 42 USC 1397-1397e	HHS	X	X		X	X	
Special Programs for the Aging-Grants for Supportive Services and Senior Centers (13.633) 42 USC 3022-3030d	HHS	X	X		X	X	