

Fact Sheet about the Americans with Disabilities Act of 1988

- The Americans with Disabilities Act of 1988 was a key recommendation of the National Council on the Handicapped in its 1986 report, *Toward Independence*.
- The Act prohibits discrimination on the basis of handicap in areas such as employment, housing, public accommodations, travel, communications, and activities of State and local governments.
- The Act covers employers engaged in commerce who have 15 or more employees; housing providers covered by Federal fair housing laws; public accommodations; transportation companies; those engaged in broadcasting or communications; and State and local governments.
- The Act specifically defines discrimination, including various types of intentional and unintentional exclusion; segregation; inferior or less effective services, benefits or activities; architectural, transportation, and communication barriers; failing to make reasonable accommodations; and discriminatory qualifications and performance standards.
- The Act specifies those actions that do not constitute discrimination. They include unequal treatment wholly unrelated to a disability or that which is the result of legitimate application of qualifications and performance standards necessary and substantially related to the ability to perform or participate in the essential components of a job or activity.
- The Architectural and Transportation Barriers Compliance Board will issue minimum accessibility guidelines. Other regulations will be issued by the Attorney General, the U.S. Equal Employment Opportunity Commission, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Federal Communications Commission, and the Secretary of Commerce.
- The Act will not repeal Sections 503 and 504 of the Rehabilitation Act of 1973 and all regulations issued under those sections will remain in full force and effect.
- Enforcement procedures include administrative remedies, a private right of action in Federal court, monetary damages, injunctive relief, attorney's fees, and cutoffs of Federal funds.

Why not? →

The Americans with Disabilities Act of 1988

Section by Section Summary

Section 1—Short Title

Provides that the law may be cited as the Americans with Disabilities Act of 1988.

Section 2—Findings and Purpose

Subsection (a) presents Congressional findings about people with disabilities, their disadvantaged status in our society, the seriousness of discrimination against them, and the costliness of such discrimination to our country.

Subsection (b) provides a statement of the overall purposes of the Act centering on the establishment of a clear and comprehensive National mandate for the elimination of discrimination against persons with disabilities.

Section 3—Definitions

Provides definitions of key terms used in the Act, including “on the basis of handicap,” “physical or mental impairment,” and “reasonable accommodation.” The former are defined consistently with their definition in existing regulations under Section 504 of the Rehabilitation Act of 1973. The definition of “reasonable accommodation” is drawn from *Accommodating the Spectrum of Individual Abilities*, a report issued by the U. S. Commission on Civil Rights.

Section 4—Scope of Discrimination Prohibited

Tells what persons and agencies are prohibited from discriminating against persons with disabilities. Provides broad scope of coverage in line with other types of civil rights laws. Includes, among others, employers engaged in commerce and having 15 or more employees, housing providers covered by Federal Fair Housing laws, public accommodations, transportation companies, those engaged in broadcasting or communications, and State and local governments.

Section 5—Forms of Discrimination Prohibited

Subsection (a) tells what actions constitute discrimination prohibited by the law. These include various types of intentional and unintentional exclusion; segregation; inferior or less effective services, benefits, or activities; architectural, transportation, and communication barriers; failing to make reasonable accommodations; and discriminatory qualifications and performance standards.

Subsection (b) specifies that certain actions do not constitute discrimination. These include unequal treatment that is wholly unrelated to a person’s disability, or is the result of the legitimate application of qualifications and performance standards that are necessary and related to the ability to perform or participate in the essential components of the job or activity involved.

3/18/88

THE AMERICANS WITH DISABILITIES ACT OF 1988

A DRAFT BILL

To establish a clear and comprehensive prohibition of discrimination on the basis of handicap.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Americans with Disabilities Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) some 36,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate persons with disabilities, and, despite some improvements, such forms of discrimination against persons with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against persons with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communications, recreation, institutionalization, health services, voting, and access to public services;

(4) every day, people with disabilities encounter various forms of discrimination, including outright, intentional exclusion and the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, refusal to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(5) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(6) persons with disabilities are a discrete and insular minority who have been saddled with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such persons and resulting from stereotypic assumptions not truly indicative of the individual ability of such persons to participate in, and contribute to, society;

(7) the Nation's proper goals regarding persons with disabilities are to assure

equality of opportunity, full participation, independent living, and, wherever possible, economic self-sufficiency for such citizens; and

(8) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive National mandate for the elimination of discrimination against persons with disabilities;

(2) to provide a prohibition of discrimination against persons with disabilities parallel in scope of coverage with that afforded to persons on the basis of race, sex, national origin, and religion;

(3) to provide clear, strong, consistent, enforceable standards addressing discrimination against persons with disabilities; and

(4) to invoke the sweep of congressional authority, including its power to enforce the fourteenth amendment, to regulate commerce, and to regulate interstate transportation, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ON THE BASIS OF HANDICAP.—The term “on the basis of handicap” means because of a physical or mental impairment, perceived impairment, or record of impairment.

(2) PHYSICAL OR MENTAL IMPAIRMENT.—The term “physical or mental impairment” means—

(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more systems of the body including the following:

(i) the neurological system;

(ii) the musculoskeletal system;

(iii) the special sense organs, and respiratory organs, including speech organs;

(iv) the cardiovascular system;

(v) the reproductive system;

(vi) the digestive and genitourinary systems;

(vii) the hemic and lymphatic systems;

(viii) the skin; and

(ix) the endocrine system; or

(B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(3) PERCEIVED IMPAIRMENT.—The term "perceived impairment" means not having a physical or mental impairment as defined in paragraph (2), but being regarded as having or treated as having a physical or mental impairment.

(4) RECORD OF IMPAIRMENT.—The term "record of impairment" means having a history of, or having been misclassified as having, a physical or mental impairment.

(5) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" means providing or modifying devices, services, or facilities, or changing standards, criteria, practices, or procedures, for the purpose of providing to a particular person with a physical or mental impairment, perceived impairment, or record of impairment the equal opportunity to participate effectively in a particular program, activity, job, or other opportunity. *"Undue Hardship" criteria.*

SEC. 4. SCOPE OF DISCRIMINATION PROHIBITED.

(a) IN GENERAL.—No person shall be subjected to discrimination on the basis of handicap in regard to—

(1) employer practices, employment agency practices, labor organization practices, and training programs covered by Title VII of the Civil Rights Act of 1964;

(2) the sale or rental of housing covered by Title VIII of the Civil Rights Act of 1968;

(3) any public accommodation covered by Title II of the Civil Rights Act of 1964;

(4) transportation services rendered by a person, company, or agency engaged in the principal business of transportation of persons, goods, documents, or data;

(5) the actions, practices, and operations of a State, or agency or political subdivision of a State; and

(6) broadcasts, communications, or telecommunications services provided by a person, company, or agency engaged in the principal business of broadcasting or of communication by wire, as defined in Section 153 of the Communications Act of 1934, as amended (47 U.S.C. 153 (a) and (o)).

(b) CONSTRUCTION.—

(1) REHABILITATION ACT.—Nothing in this Act shall be construed to affect or change the nondiscrimination provisions contained in Title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.), or to affect or change regulations issued by Federal agencies pursuant to Title V of such Act.

(2) OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit any other Federal law or any law of a State or political subdivision of a State or jurisdiction that provides greater protection of rights for persons with physical or mental impairments, perceived impairments, or records of impairment than are af-

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fording by this Act.

SEC. 5. FORMS OF DISCRIMINATION PROHIBITED.

(a) IN GENERAL.—Subject to the standards and procedures established in sections 6 through 9 of this Act, the actions or omissions described in this subsection constitute discrimination on the basis of handicap.

(1) SERVICES, PROGRAMS, ACTIVITIES, BENEFITS, JOBS, OR OTHER OPPORTUNITIES.—

(A) IN GENERAL.—It shall be discriminatory to subject a person, directly or through contractual, licensing, or other arrangements, on the basis of handicap, to any of the following:

(i) Denying the opportunity to participate in or benefit from a service, program, activity, benefit, job, or other opportunity.

(ii) Affording a person an opportunity to participate in or benefit from a service, program, activity, benefit, job, or other opportunity that is not equal to that afforded others.

(iii) Providing a person with a service, program, activity, benefit, job, or other opportunity that is less effective than that provided to others.

(iv) Providing a person with a service, program, activity, benefit, job, or other opportunity that is different or separate, unless such action is necessary to provide the person with a service, program, activity, benefit, job, or other opportunity that is as effective as that provided to others. or equal.

(v) Aiding or perpetuating discrimination by providing significant assistance to an agency, organization, or person that discriminates.

(vi) Denying a person the opportunity to participate as a member of planning or advisory boards.

(vii) Otherwise limiting a person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others.

(B) LEVELS OF ACHIEVEMENT.—For purposes of this section, services, programs, activities, benefits, jobs, or other opportunities, to be equally effective, are not required to produce the identical result or level of achievement for persons with physical or mental impairments, perceived impairments, or records of impairment, and persons without such impairments, but such services, programs, activities, benefits, jobs, or other opportunities shall afford persons with such impairments an equal opportunity to obtain the same result, to gain the same benefits, or to reach the same level of achievement, in the most integrated setting appropriate to the needs of the person.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, a person with a physical or mental impairment, perceived impairment, or record of impairment shall not be denied the opportunity to participate in such

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programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—A person, company, or agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration—

(i) that have the effect of discrimination on the basis of handicap;

(ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the services, programs, activities, benefits, jobs, or other opportunities provided with respect to persons with physical or mental impairments, or records of impairment; or

(iii) that perpetuate the discrimination of others who are subject to common administrative control or are agencies of the same State.

(2) BARRIERS.—It shall be discriminatory—

(A) to establish or impose; or

(B) to fail or refuse to remove; *relief it.*

any architectural, transportation, or communication barriers that prevent the access or limit the participation of persons on the basis of handicap.

(3) ACCOMMODATION.—It shall be discriminatory to fail or refuse to make a reasonable accommodation to permit an individual with a physical or mental impairment, perceived impairment, or record of impairment to apply, have access to, or participate in a program, activity, job, or other opportunity.

(4) STANDARDS AND CRITERIA.—It shall be discriminatory to impose or apply any qualification standards, selection criteria, or eligibility criteria that—

(A) screen out or disadvantage an individual because of a physical or mental impairment, perceived impairment, or record of impairment; or

(B) disproportionately screen out or disadvantage persons with particular types of physical or mental impairments, perceived impairments, or records of impairment;

unless such criteria or standards can be shown to be necessary and substantially related to ability to perform or participate in essential components of the particular service, program, activity, benefit, job, or other opportunity.

(5) RELATIONSHIPS OR ASSOCIATIONS.—It shall be discriminatory to exclude or otherwise deny equal services, programs, activities, benefits, jobs, or other opportunities to a person because of the relationship to, or association of, that person with another person who has a physical or mental impairment, perceived impairment, or record of impairment.

(b) ACTIONS NOT DISCRIMINATORY.—It shall not be considered to be discrimination on the basis of handicap to exclude or otherwise deny equal services, programs, activities, benefits, jobs, or other opportunities to a person—

(1) for reasons wholly unrelated to the existence of or consequences of a physical or mental impairment, perceived impairment, or record of impairment; or

(2) based on a legitimate application of qualification standards, selection criteria, performance standards, or eligibility criteria that are both necessary and substantially related to the ability to perform or participate in the essential components of the particular job, program, activity, or opportunity, and such performance or participation cannot be accomplished by a reasonable accommodation.

SEC. 6. DISCRIMINATION IN HOUSING.

Fair Housing Bill?

(a) IN GENERAL.—Notwithstanding the requirements of section 5(a), it shall be an act of discrimination in regard to housing—

(1) to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a physical or mental impairment, perceived impairment, or record of impairment of—

(A) such buyer or renter;

(B) a person residing in or intending to reside in such dwelling after it is so sold, rented, or made available; or

(C) any person associated with such buyer or renter; or

(2) to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a physical or mental impairment, perceived impairment, or record of impairment of—

(A) such person;

(B) a person residing in or intending to reside in such dwelling after it is so sold, rented, or made available; or

(C) any person associated with such person.

(b) REMOVAL OF BARRIERS IN HOUSING.—For purposes of subsection (a), discrimination includes—

(1) a refusal to permit, at the expense of a person with a physical or mental impairment, perceived impairment, or record of impairment, reasonable modifications of existing premises occupied, or to be occupied, by such person if such modifications may be necessary to afford such person full enjoyment of the premises;

(2) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(3) a failure to design and construct qualified multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of this Act, in such a manner that—

(A) the public and common use portions of such dwelling are readily accessible to, and usable by, persons with physical and mental impairments;

(B) all the doors into and within all premises within such dwellings are sufficiently wide to allow passage by persons in wheelchairs; and

(C) all premises within such dwellings contain basic universal features of

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The Americans with Disabilities Act of 1988

adaptive design.

(c) DEFINITION.—As used in this section the term “qualified multifamily dwellings” means—

(1) buildings consisting of two or more units if such buildings have one or more elevators; and

(2) those units in other buildings consisting of two or more units that are on the ground floor.

SEC. 7. LIMITATIONS ON THE DUTIES OF ACCOMMODATION AND BARRIER REMOVAL.

(a) EXISTENCE THREATENING ALTERATIONS.—

(1) IN GENERAL.—The failure or refusal to remove architectural, transportation, and communication barriers, and to make reasonable accommodations required under section 5(a) shall not constitute an unlawful act of discrimination on the basis of handicap if such barrier removal or accommodation would fundamentally alter the essential nature or threaten the existence of the program, activity, business, or facility in question. *Undue hardship.*

(2) OTHER ACTION.—In the event that barrier removal is not required because it would result in a fundamental alteration or threaten the existence of a program, activity, business, or facility, there shall continue to be a duty to conform to other requirements of this Act and to take such other actions as are necessary to make a program, activity, or service, when viewed in its entirety, readily accessible to and usable by persons with physical and mental impairments, perceived impairments, or records of impairment.

(b) TIME FOR ALTERATIONS.—

(1) IN GENERAL.—If substantial modifications to existing buildings and facilities are necessary in order to remove architectural, transportation, and communication barriers, as required under section 5(a), such modifications shall, unless required earlier by other law or regulation, be made within a reasonable period of time, not to exceed 2 years from the date of enactment of this Act.

(2) EXCEPTION.—Regulations promulgated pursuant to section 8 of this Act may allow up to 5 years from the date of enactment of this Act where reasonably necessary for the completion of such modifications to particular classes of buildings and facilities.

(c) MASS TRANSPORTATION.—

(1) IN GENERAL.—If substantial modifications to existing platforms and stations of mass transportation systems are necessary in order to remove architectural, transportation, and communication barriers, as required under section 5(a) of this Act, regulations promulgated pursuant to section 8 of this Act may, unless required earlier by other law or regulation, allow a reasonable period of time, in no event to exceed 10 years from the date of enactment of this Act, for such modifications to be made.

(2) EFFECT.—Paragraph (1) shall not affect the duty of providers of transportation services to conform to other requirements of this Act, including the requirement of removing other types of architectural, transportation, and communication barriers, and the application of such requirements to vehicles and rolling stock.

SEC. 8. REGULATIONS.

(a) ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.—Within 6 months of the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines, to supplement the existing Minimum Guidelines and Requirements for Accessible Design, to establish requirements for the architectural, transportation, and communication accessibility of buildings, facilities, vehicles, and rolling stock subject to the requirements of this Act.

(b) ATTORNEY GENERAL.—

(1) IN GENERAL.—Within 1 year of the date of enactment of this Act, the Attorney General shall promulgate regulations for the implementation and enforcement of the requirements of this Act as it applies to States and agencies and political subdivisions of States.

(2) MINIMUM GUIDELINES.—The Attorney General of the United States shall coordinate the timely development of regulations required under this section and shall issue, within 6 months of the date of enactment of this Act, minimum guidelines for the development of such regulations.

(c) EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.—

(1) EMPLOYER PRACTICES.—

(A) IN GENERAL.—Within 1 year of the date of enactment of this Act, the Equal Employment Opportunity Commission shall promulgate regulations for the implementation and enforcement of the requirements of this Act as it applies to employer practices, employment agency practices, labor organization practices, and job training programs.

(B) PROHIBITIONS.—The regulations promulgated under subparagraph (A) shall prohibit discrimination in regard to job application procedures, the hiring and discharge of employees, employee compensation, advancement, job training, and other terms, conditions, and privileges of employment.

(2) REQUIREMENTS.—The regulations promulgated under subparagraph (A) shall include a requirement of outreach and recruitment efforts to increase the workforce representation of individuals with physical or mental impairments, or records of impairment, and shall establish a process and timelines for the development, implementation, and periodic revision of such outreach and recruitment efforts.

(3) PREEMPLOYMENT INQUIRIES.—

(A) IN GENERAL.—The regulations promulgated under paragraph (1)(A) shall include a requirement that employers may not conduct a preemployment medical examination and may not make a preemployment inquiry of an applicant as

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to whether such applicant has a physical or mental impairment, perceived impairment, or record of impairment, or as to the nature or severity of such impairment.

(B) PERMITTED INQUIRIES.—An employer—

(i) may make a preemployment inquiry into the ability of an applicant to satisfy legitimate qualification standards, selection criteria, performance standards, or eligibility criteria as permitted under section 5(b)(2);

(ii) may condition an offer of employment on the results of a medical examination conducted prior to the entrance to duty of the applicant, if—

(I) all entering employees are subjected to such an examination regardless of physical or mental impairment, perceived impairment, or record of impairment; and

(II) the results of such an examination are used only in accordance with the requirements of this section;

(iii) taking remedial action to correct the effects of past discrimination, or engaged in outreach and recruitment efforts to increase the participation of persons with physical or mental impairments, (may invite employment applicants to indicate whether, and to what extent, such applicants have a physical or mental impairment, if—

(I) the employer states clearly on any written questionnaire used for employment purposes, or makes clear orally if no written questionnaire is used, that the information requested is intended for use solely in connection with such remedial action or outreach and recruitment activities; and

(II) the employer states clearly that the information is being requested on a voluntary basis, that such information will be kept confidential as provided in subparagraph (C), that refusal to provide such information will not subject the applicant or employee to any adverse treatment, and that such information will be used only in accordance with the requirements of this section.

(C) CONFIDENTIALITY.—Information, as to the medical condition or history of the applicant, obtained in accordance with this paragraph shall be collected and maintained on separate forms that shall be accorded the same confidentiality as are medical records, except that—

(i) supervisors and managers may be informed of restrictions on the work or duties of persons with physical or mental impairments and of necessary accommodations for such persons;

(ii) first aid and safety personnel may be informed, where appropriate, if such a condition may require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request.

(d) SECRETARY OF HOUSING AND URBAN DEVELOPMENT.—Within 1 year of the date of enactment of this Act, the Secretary of Housing and Urban Development

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shall promulgate regulations for the implementation and enforcement of the requirements of this Act as it applies to sellers, landlords, and other providers of housing.

(e) SECRETARY OF TRANSPORTATION.—

(1) IN GENERAL.—Within 1 year of the date of enactment of this Act, the Secretary of Transportation shall promulgate regulations for the implementation and enforcement of the requirements of this Act as it applies to State and local transit systems and to those engaged in the business of transportation.

(2) STANDARDS.—The regulations promulgated under paragraph (1) shall include standards regarding the accessibility of vehicles and rolling stock that are consistent with the requirements of paragraph (3).

(3) REQUIREMENTS.—With respect to State and local transit systems, rail and light rail services, and bus companies, the standards issued under paragraph (2) shall—

(A) ensure that all vehicles or rolling stock that are purchased, leased, renovated, or otherwise placed into service after one year from the date of enactment of this Act shall be accessible to and usable by persons with physical or mental impairments, including wheelchair users;

(B) permit a reasonable period of time, not to exceed 7 years, for such transportation operators to purchase, acquire, or modify sufficient vehicles and rolling stock so that the peak fleet of such operators has at least 50 percent of vehicles and rolling stock that are accessible to and usable by persons with physical or mental impairments, including wheelchair users; and

(C) ensure that the use of paratransit and other specialized transportation services for persons with physical or mental impairments shall be used as a supplement to other forms of transportation, but shall not affect the requirement that transportation systems and services available to members of the public shall be accessible to and usable by persons with physical or mental impairments, including wheelchair users.

(f) SECRETARY OF COMMERCE.—Within 1 year of the date of enactment of this Act, the Secretary of Commerce shall promulgate regulations for the implementation and enforcement of the requirements of this Act as it applies to places of public accommodation.

2 (g) FEDERAL COMMUNICATIONS COMMISSION.—Within 1 year of the date of enactment of this Act, the Federal Communications Commission shall promulgate regulations for the implementation and enforcement of this Act as it applies to those engaged in the business of broadcasting or of communication by wire. In regard to television broadcast stations, such regulations shall include requirements for progressively increasing the proportion of programs, advertisements, and announcements that are captioned.

(h) EFFECTIVE COMMUNICATION.—Regulations promulgated under this section shall include requirements for the prohibition or removal of communication barriers, and for making reasonable accommodations to assure effective communication with a

particular person with a physical or mental impairment, consistent with the following:

(1) **COMMUNICATION BARRIERS.**—The term “communication barriers” means:

the absence of devices, services, systems, or signage and information media, or modifications of devices, services, systems, or signage and information media that are necessary to achieve effective communication with persons with a physical or mental impairment in regard to a service, program, activity, benefit, job, or other opportunity.

(2) **EXAMPLES OF REQUIREMENTS.**—In appropriate circumstances, prohibition or removal of communication barriers or making a reasonable accommodation may require:

(A) the provision and maintenance of such devices as Telecommunications Devices for the Deaf (TDDs), visual aids such as flashing alarms and indicators, decoders, and augmentative communication devices for nonvocal persons such as language symbol or alphabet boards;

(B) the provision of such services as interpreting, reading, audio or video taping, and notetaking, by qualified personnel;

(C) the development and effective operation of such systems as captioning; assistive listening systems, including audio induction loops, and infrared, FM, or AM communications; and telephone relay services systems;

(D) the development and effective use of alternative signage and information media, such as brailled or audio information, and visual alerts for audio announcements and other information; and

(E) the modification of devices, services, systems, and signage and information media, such as audio input/output on a computer terminal, adapted software, flashing lights as an attachment to a telephone, and amplifiers on telephone handsets.

SEC. 9. ENFORCEMENT.

(a) ADMINISTRATIVE ACTIONS.—

(1) Any person who believes that he or she or any specific class of individuals is being or is about to be subjected to discrimination on the basis of handicap in violation of this Act, shall have a right, by himself or herself, or by a representative, to pursue such administrative enforcement procedures and remedies as are available in connection with the regulations issued pursuant to Section 8 of this Act.

(2) **REMEDY.**—Agencies enforcing such regulations shall have the authority to order all appropriate remedial relief, including compliance orders, cutoff of Federal funds, rescission of Federal licenses, monetary damages, and back pay.

(b) CIVIL ACTIONS.—

(1) **RIGHT TO FILE.**— Any person who believes that he or she or any specific class of individuals is being or is about to be subjected to discrimination on the basis of

handicap in violation of this Act, shall have a right, by himself or herself, or by a representative, to file a civil action for injunctive relief, monetary damages, or both in a district court of the United States.

(2) ADMINISTRATIVE ENFORCEMENT.—The exhaustion of administrative enforcement procedures and remedies as contemplated in section 9(a) shall not be a prerequisite to the filing of a civil action under this subsection, except in regard to employer practices, employment agency practices, labor organization practices, and training programs, covered by section 4(a)(1) of this Act, for which such exhaustion shall be required unless—

(A) administrative enforcement procedures and remedies as contemplated in section 9(a) are not available; or

(B) such enforcement procedures are not concluded within 180 days after the filing of a complaint of discrimination prohibited under this Act.

(c) ADDITIONAL EVIDENCE.—In any action brought under this section, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(d) JURISDICTION.—The district courts of the United States shall have jurisdiction of actions brought under this Act without regard to the amount in controversy.

(e) IMMUNITY.—A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act. In a suit against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State.

(f) ATTORNEY'S FEES.—In any action or administrative proceeding commenced pursuant to this section, the court, or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee in addition to costs, and the United States shall be liable for costs the same as a private person.

(g) BURDEN OF PROOF.—In any administrative proceeding or civil action brought under this Act, the burden of proving the legitimacy of any qualification standard, selection criteria, or eligibility criteria at issue in a case, and of proving the defense that a particular reasonable accommodation or removal of an architectural, transportation, or communication barrier would fundamentally alter or threaten the existence of the program, activity, business, or facility in question, shall be on the person, agency, or entity alleged to have committed an act of discrimination, and shall not be on the complainant.

SEC. 10. EFFECTIVE DATE.

This Act shall become effective on the date of enactment.

The Americans with Disabilities Act of 1988

FACT SHEET

SECTION-BY-SECTION SUMMARY

prepared by

The National Council on the Handicapped

Fact Sheet about the Americans with Disabilities Act of 1988

- The Americans with Disabilities Act of 1988 was a key recommendation of the National Council on the Handicapped in its 1986 report, *Toward Independence*.
- The Act prohibits discrimination on the basis of handicap in areas such as employment, housing, public accommodations, travel, communications, and activities of State and local governments.
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- The Act specifically defines discrimination, including various types of intentional and unintentional exclusion; segregation; inferior or less effective services, benefits or activities; architectural, transportation, and communication barriers; failing to make reasonable accommodations; and discriminatory qualifications and performance standards.
- The Act specifies those actions that do not constitute discrimination. They include unequal treatment wholly unrelated to a disability or that which is the result of legitimate application of qualifications and performance standards necessary and substantially related to the ability to perform or participate in the essential components of a job or activity.
- The Architectural and Transportation Barriers Compliance Board will issue minimum accessibility guidelines. Other regulations will be issued by the Attorney General, the U.S. Equal Employment Opportunity Commission, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Federal Communications Commission, and the Secretary of Commerce.
- The Act will not repeal Sections 503 and 504 of the Rehabilitation Act of 1973 and all regulations issued under those sections will remain in full force and effect.
- Enforcement procedures include administrative remedies, a private right of action in Federal court, monetary damages, injunctive relief, attorney's fees, and cutoffs of Federal funds.

Section 6—Discrimination in Housing

This section provides standards regarding the application of nondiscrimination requirements in housing. The standards are drawn from the current version of the disability portions of the Federal Fair Housing Amendments bill in the Senate Judiciary Committee. Their primary focus is upon accessibility in future design and construction of housing.

Section 7—Limitations on the Duties of Accommodation and Barrier Removal

Subsection (a) provides that barrier removal or reasonable accommodations are not required to be made if to do so would fundamentally alter or threaten the existence of the program, business, activity, or facility in question.

Subsection (b) permits a reasonable period of time, not to exceed two years, for making substantial modifications to existing buildings and facilities in order to remove barriers. This period may be extended up to five years through regulations governing particular classes of buildings and facilities.

Subsection (c) provides that regulations may permit a reasonable period of time, not to exceed ten years, for making substantial modifications to existing platforms and stations of mass transportation systems.

Section 8—Regulations

Subsection (a) calls for the Architectural and Transportation Barriers Compliance Board to issue minimum guidelines for accessibility of buildings, facilities, vehicles, and rolling stock. The remainder of the Section calls for Federal agencies to issue regulations for implementing and enforcing the requirements of the Act, including the following:

Employment	Equal Employment Opportunity Commission
Housing	Secretary of Housing & Urban Development
Transportation	Secretary of Transportation
Public accommodations	Secretary of Commerce
Communications	Federal Communications Commission
State and local governments, and coordination	Attorney General (Department of Justice)

Section 9—Enforcement

Establishes enforcement procedures for the requirements of the Act. These include administrative remedies, a private right of action, monetary damages, injunctive relief, attorney's fees, and cutoffs of Federal funding.

Section 10—Effective Date

Provides that the Act shall take effect on the date of its enactment.



CONNECTICUT
COALITION OF
CITIZENS WITH
DISABILITIES

NEWSLETTER

Vol. 13, No. 3
July-August-September 1988

Americans with Disabilities Act: Front Burner

Passage of the Americans with Disabilities Act of 1988 (ADA) could be the most important stride for persons with disabilities since Sec 504 became law more than 10 years ago. Passage of the ADA could end, or drastically reduce, legal discrimination against persons with disabilities. All too often, disability-rights groups encounter a problem, and upon researching it, find that no laws have been broken. The ADA will put persons with disabilities on an equal status with other minority groups. This gives us access to all buildings--not just state and federally funded agencies.

CCCD plans to make its efforts toward passing the ADA a priority in the coming year. First, on Sept 10, our membership meeting will focus on explaining the ADA and how it can be used as an organizing tool. Watch for a flyer in the mail and please make every effort to attend.

CCCD is collecting disability discrimination diaries. They can cover a day, a week or stories collected over a lifetime of the discrimination we have faced. This can range from being forced to enter one's office from the back door to being fired from or denied a job. This can include being denied a free and appropriate education. This can also include the financial oppression we face. Share only what you feel comfortable with, but please write a diary! This is

part of a national effort and numbers really do count. Send yours to CCCD, 27 Washington St, Middletown CT 06457.

In late September or early October there will be a regional rally in Boston to show support for the ADA. CCCD will be working with independent living centers and other groups to organize people and help with transportation.

Laws are only as good as their enforcement, but without laws to protect us we don't have a fight. Without a strong united lobbying effort this crucial legislation will not pass. It is you--the CCCD member or friend--who helped pass Sec 504, the Constitutional amendment and the Civil Rights Restoration Act. It is you who can help ADA 88 become law.

If you live near an independent living center, they are all organizing ADA campaigns as well. Please call if you can help in any way.

CCCD--Julie Reiskin, 346-3878

DNEC--Melissa Marshall, 823-1898

Independence Northwest--Ilene Horndt,
274-9241

Independence Unlimited--Paul Zupen,
549-1330

Center for Independent Living of SW CT--
Nancy Durkin, 376-6977

--Julie Reiskin

CCCD Mission Statement

To advocate for the full participation of all persons with disabilities within their local community and society at large by challenging the conditions that limit such participation.

Disability Rights Groups Need *You!*

Disabled Individuals League for Advocacy is going strong and actively participating with other community groups in organizing a candidates forum for the fall. Meanwhile, they are also advocating on a variety of community issues and are recruiting new members. For more information, call Carolyn Newcombe at 429-2661. (DILA covers northeastern Connecticut.)

Greater New Haven Disability Rights Activists have their pens rolling as they write the grant that may get them the next Center for Independent Living. They are also involved in transportation, housing, barrier reduction and other advocacy in the New Haven area. To join, call Patti Deak at 789-1688; to join their women's support group, call Barb Hunt at 387-3510.

Greater Hartford Advocates for Change and ADAPT of Connecticut... well, just watch the news to see what they are up to. They are actively changing discriminatory practices of local, statewide and national institutions; not to mention any names but Greyhound was the most recent ADAPT issue (see separate article). If you are into it, call Clay Jones at 569-7727 (GHAC) or Lynda Hanscom at 643-4452 (ADAPT).

RAMP IT, a new disability rights group in Manchester, has received training in the state Building Codes and is ready to make East of the River accessible. To join, call Lynda Hanscom at 643-4452.

Central CT Citizens for Disability Rights, a new group in the Meriden/Wallingford area, is growing rapidly. With 15 people attending their second meeting, they are focusing on educating themselves and are hosting monthly educational issue meetings. For more information, call Ray Asselin at 634-4426.

CT League of Citizens with Disabilities for Independence in the Bristol and Farmington area is forming committees to work on housing, barrier elimination, transportation and voter registration. They may plan a candidates forum for the fall. They already have over 50 members, but they need more to get active! Call Jim Collins at 589-0292 if you can help.

There are rustlings of a group beginning in the Stamford area. Call Julie at the CCCD office if you are from Fairfield County and

want to get involved (346-3878) or she can be reached at 456-8225.

Hey, Danbury-area people! We need you too! Call Julie at 346-3878 or 456-8225 if you are from the Danbury area and want to get involved.

--Julie Reiskin

*Would you like to receive a monthly calendar of events in the Disability Rights Movement? Do you have information to put on such a calendar? CCCD member Lynda Hanscom has been producing this wonderful informational item. Call her at 643-4452.

*Are you a citizen who wants accessible transportation? Join CAT, Citizens for Accessible Transportation, a statewide grassroots lobbying group that is seeing to it that all ConnDOT buses will be lift-equipped by 1996.

*There are several coalitions working on housing issues throughout the state on both the statewide and local levels. This is an important issue--affordable, accessible and decent housing is almost nonexistent in Connecticut.

*Keep September 10 free for the next CCCD membership meeting. Watch for a flyer in the mail.

This is only part of what is going on in Connecticut. If you want to join a group, start a group, work on an issue, work on including people previously excluded from the movement--now is the time to get involved. Call Julie at 456-8225 or 346-3878.

Fairfield County Advocacy Group

Advocacy for Persons with Disabilities in Southwest Fairfield County wants to hear about the unmet needs of people who live between Fairfield and Greenwich. For more information, call Steve Jubyna in Stamford at 322-1048.

Laws Guarantee Voting Rights

With the upcoming presidential election right around the corner, people with disabilities should be aware of the two federal laws that affect their voting rights directly. The first is the Voting Rights Act of 1965, as amended, which provides that any voter requiring assistance in the polling booth may receive it from a person of their own choosing--except that the person cannot be the voter's employer or a representative of the voter's labor union.

The second law, which became effective Dec 31, 1985, is the federal Voting Accessibility for the Elderly and Handicapped Act. This law is more all-encompassing, promoting the fundamental right to vote by improving "access for elderly and handicapped individuals to registration facilities and polling places in federal elections."

Key provisions include:

- all polling places for federal elections must be accessible to persons with disabilities, except for emergency situations or when no existing site can be made temporarily accessible. The final determination is to be made by the state's chief election official. When an accessible site is not provided, the voter must be assigned to an accessible polling place, or provided an alternate means of voting on election day.

- by Dec 31 of every even-numbered year, each state's chief election official must submit a report to the federal election commission identifying the accessible and

inaccessible polling places in their state and the reasons for any that are inaccessible. This report is a matter of public record.

- accessible voter registration sites must be provided, except for those states that provide for registration by mail or at the person's home.

- accommodation must be made by means of large-print materials and TDD equipment for people with visual disabilities and hearing impairments, respectively.

- enforcement is provided for through the office of the US Attorney General or by the person with a disability through legal action in federal court.

Connecticut has its own law dealing with polling place accessibility. It is more stringent than the federal law in that it requires that a waiver be obtained before a polling place can remain accessible. The waiver will be granted only if a hardship can be demonstrated, and it can be proven that there are **no** other sites available in the voting district that are accessible. The Secretary of State's office and the Office of Protection and Advocacy must both approve polling-place waivers. Complaints regarding a violation of this law should be filed with the Secretary of State's office through the State Elections Commission, as well as with P&A.

Remember: All these guarantees are meaningless if you don't register and vote on Election Day.

DON'T FORGET TO VOTE

Voter Group Active

Disabled But Able to Vote is a national, nonprofit, nonpartisan organization devoted to helping persons with disabilities, their advocates and parents of children with disabilities to involve themselves in all aspects of the political process. DBATV's work includes voter education, voter registration and get-out-the-vote drives; teaching persons with disabilities how to work in political campaigns and how to advocate for themselves; encouraging them to run for office; and educating candidates

and the public on disability issues.

If you want DBATV representation at a voter registration meeting (or help in planning one), or if you want more information, call or write: DBATV, 2111 Wilson Blvd, Suite 400, Arlington VA 22201, tel 703-525-3268.

Voter Registration Hotline

The National Organization on Disability voter registration hotline is 1-800-248-ABLE.--GEMS

Relationships: A Matter of Self-Esteem

By Bobb Hess

Every time I come across a book or magazine or even a movie which deals, in some way, with the lives of people with disabilities, a tiny voice inside my head whispers, "Hey, you should take a look at this. Maybe it has something to say about... you know."

"You're right," I reply, "but you don't have to whisper. I'm interested in reading about what others have to say about how a disability can affect the process of forming a relationship with someone special. You know, a relationship that can start with a simple introduction, then lead to a get-together for a drink or dinner, eventually sitting down and getting to know each other through conversation, learning to care for one another, sharing love and commitment and..." Yikes, I'm talking to myself because of that stupid voice! No wonder people stare.

But seriously, I always find myself looking for the type of an article or story, fiction or nonfiction, which features people with disabilities in a social, recreational, informal type of way. I have had some luck with The Disability Rag, Accent on Living, The Source Book for the Disabled by Glorya Hale, Silver Bullet by Stephen King (maybe that's where that voice comes from), and Loose Tails by Berke Breathed.

Although some of these resources are informative and/or entertaining, they do not seem to satisfy me. I guess I just want someone to address the lives and times of single people with disabilities in just the right way to help bring the topic out into public awareness a bit more.

It recently occurred to me though, that through some recent gains in literary power, I myself may be able to discuss some of the obstacles and achievements that I have encountered as a single person with a disability; in my case, a bachelor-on-wheels.

To start off, let me say that it is difficult to pursue a relationship with confidence with some of the attitudes that still exist in society. I will never forget a discussion I had with someone when I was in college over a woman I was interested in. I was not having much luck and I said, "I'll never find a girlfriend at this rate," just as another resident of our dorm walked by. She overheard me, came over, patted me on the head, and said, "Don't

worry about things like that, Bobb, everybody loves you," and walked away, satisfied with the fact that she made me feel better. Feel like a puppy dog, yes; feel better, no.

Attitudes like this helped send my self-esteem to the cellar when I was in college. I did not see myself as someone who could be considered attractive or appealing to anyone else. If I became interested in someone and later learned there was another gleam in her eye, I considered the whole possibility to be over. I did not think I would ever be chosen over anyone else, especially someone without a disability.

Fortunately, someone came along in my life to change all that: a roommate, PCA, coach and lifelong friend, all rolled into one. By coach I mean he was someone who lit a fire underneath me and taught me how to be more assertive when it came to expressing my feelings. It was my last year at college and I met a woman who I was attracted to. Normally, I would let it go at that and leave the rest to fate but my coach taught me what to do and when to do it. First step: ask her over for ice cream. Nice and easy, nonthreatening, simple, right? Ha! A seismograph would have definitely sounded an alarm if it was near me when I asked the question.

"You wouldn't, no, I just thought, well, maybe, no, forget it, you know, if you're not doing anything, you probably are, but, I shouldn't ask, ice cream tomorrow night, my place?"

"Sure, what time?"

"I didn't think so... what?"

Next step: first date. This brought a whole new issue to light. Transportation (ugh, the "T" word). I did not have my van when I was in college. As we huddled, my coach and I decided to tackle this problem on a temporary basis by limiting possible dining sites to those within walking/wheeling distance. Pizza it was.

I had the invitation stage down to a science by then. Richter readings were down to the 3.0 to 4.0 range. The weather cooperated so that the 10-minute walk was pleasant. I knew the restaurant was accessible so that would be no problem, unless of course a car was parked next to the ramp---"Oh no!"

A tad of humiliation came into play as I asked my date if she could help me up the

curb. A great deal of laughter came into play when we realized that, although she had the strength to get my front wheels up onto the curb, she could not muster the muscle to push up the remainder of the load. There we were, bellowing with laughter at the sight of me sitting at a 45-degree angle until a couple (definitely enjoying a more successful date) exited the restaurant and helped us out.

Fortunately, the meal went well (I was pleased that pizza was something I could eat without the need to ask for assistance) and the walk back was easier, and longer, as I intentionally took a different route.

Well, by this time my coach was certain that it was time for the next step. It was pretty elaborate, so I will save it for next issue. Coming up: "Dial-A-Ride and Dating; The Perfect (Ahem!) Combination."

New Exhibit at Lions Gallery

Once More with Feeling: Art Quilts, Collages and Wall Hangings to View and Touch will be on display at the Lions Gallery/Wadsworth Atheneum, 600 Main St, Hartford, from Sept 11 to Jan 8. Admission is free. For more information, call 278-2670 ext 326.

Wireless Remotes Offered

Several cable TV companies in the state offer free wireless remote control converters to persons with physical disabilities. For more information, contact your local cable company.

Looking for Psychiatric Patients

If you are a former or current psychiatric inmate angered by coercive psychiatric "treatment," I'd like to hear from you.

--Stephen Mendelsohn, 171 Hartford Rd, Apt 19A, New Britain CT 06053, tel 827-8003. (Electroshock survivors can also contact Pam Maccabee, 85 Douglas Rd, Glastonbury CT 06033, tel 659-4635.)

Hello, Bill?

Want to make your feelings known to Gov O'Neill? The Governor's office TDD phone number is 566-1374.--CDHInfo

Upcoming

Sept 17: Special Education Resource Center (SERC) annual instructional resources exhibit, Ramada Inn, East River Dr, East Hartford. Steve Krasner, 632-1485.

Sept 22: CT Rehabilitation Assn annual fall conference, "Cooperation is Working," Waterbury Sheraton. Leslie Waite, 566-2788.

Sept 27: "Success in Working," a conference on vocational services for people with traumatic brain injuries, Howard Johnson Conference Center, Windsor Locks. Call the Hartford Rehab Center, 243-9741.

Sept 30-Oct 1: Spinal Cord Injury: The Challenge from Within, 1½-day course for rehabilitation health professionals interested in clinical management of spinal cord injury from trauma through all aspects of rehabilitation and community reentry. Held in conjunction with Fitness Festival Oct 2. Tuition \$175 for professionals, \$50 for students, to Accounting Office, Gaylord Hospital, Wallingford CT 06492, or call 284-2875 for more information.

Sept 25-30: Hemlocks/MS Society Vacation Week, Hemlocks Outdoor Education Center, Hebron. For information, call 1-800-233-7617.

Oct 2-4: American Assn on Mental Retardation regional conference, Treadway Hartford Hotel, Cromwell, "Hospitality: Welcoming People with Disabilities into Community Life." Call George Ducharme, 653-4166.

Oct 29: CT Assn of Children and Adults with Learning Disabilities annual conference, Trumbull Marriott. Call CACLD, 838-5010.

Oct 31: Conference on integration of students with severe disabilities into neighborhood public schools. Call Linda Grant at CT Parent Advocacy Center, 739-3089.

Nov 16-17: Critical Issues in Supported Employment, Treadway Hotel, Cromwell. Contact ConnARF, 1080 Elm St, Rocky Hill CT 06067, tel 257-7909.

"Regular Lives" to Air

The video, "Regular Lives," will be aired at 5 PM Sunday, Sept 18 on Connecticut Public Television. "Regular Lives" is a 28-minute documentary affirming the value of integration of persons with developmental disabilities in typical school, work and recreational settings.--Dimensions

Able-PAC: A Way to Make Our Voices Heard

This fall will be a very exciting time on the political scene. We are not only choosing a new President, but we will also elect a new State Legislature. Who wins and who loses the elections on the state level will have a great bearing on how successful we are over the next two years in our efforts to improve services for persons with disabilities.

In an effort to have some impact on the composition of the next legislature, a group of advocates has formed a Political Action Committee called Able-PAC. The PAC will endorse candidates for the legislature and assist endorsed candidates win their races. CCCD Board member Arthur Pepine is the Chairperson and former CCCD Board member Marion Keller is Treasurer.

Here is how Able-PAC will work:

- 1) We register as a Political Action Committee with the Secretary of State and open a checking account.
- 2) We seek contributions to Able-PAC which are deposited in the account.
- 3) We formulate a questionnaire and mail it to all candidates.
- 4) Based on the responses, we interview a handful of candidates.
- 5) We endorse several who we feel confident will represent our issues and ideals in the State Legislature.
- 6) We contribute money to our endorsed candidates' campaign funds.
- 7) We announce our endorsements with press releases to all newspapers and radio stations in our endorsed candidates' districts.

8) We urge people with disabilities and advocates who live these districts to volunteer to help our endorsed candidates get elected. This might include volunteering to help with phone banks, helping stuff envelopes, having a lawn sign or bumper sticker, volunteering to work at headquarters or at the polls on election day, and letting neighbors, friends and relatives know what a great legislator our endorsed candidate will be.

We hope our efforts will result in a state legislature that is sensitive to disability issues. However, the benefits will be far greater than simply electing strong and supportive candidates. For Able-PAC supporters, the working on a political campaign can be an exhilarating experience, a way to make new friends, a way to become involved in community affairs. For the community, your help will be needed and appreciated. For the disability-rights movement, your involvement will enhance the public image of people with disabilities, and will most likely give the population at large first-hand experience with our issues, such as accessibility.

If you would like to participate in the candidate selection process or give your time to support endorsed candidates, please contact Merrill Eisenberg at 342-0393. In addition, contributions are needed now. Checks should be made out to "Able-PAC" and mailed to Marion Keller, 5 Knollwood Rd, Bloomfield, CT 06002.

Dr Jordan Speaks at ASD Commencement

Dr I. King Jordan, recently appointed president of Gallaudet University, was the commencement speaker at the 171st Commencement Exercises of the American School for Deaf in West Hartford in June. Dr Jordan, who had been dean of the college of arts and sciences at Gallaudet, is the first deaf president of the school, the world's only liberal arts college for students who are deaf. The appointment of Dr Jordan, in March, concluded a week in which a group of students and other members of the deaf community seized control of the university and transformed their protest into a national campaign for deaf rights.--ASD News Release

Low-Income Housing Available

The Corporation for Independent Living has recently taken over management of a 48-unit apartment complex in the Parkville section of Hartford. The apartments are designed to house persons with low incomes and persons with disabilities. Applicants must be eligible for a one-bedroom unit under Section 8 Housing Assistance Program.

For more information, contact Christine Devine, CIL, 30 Jordan Ln, Wethersfield CT 06109, tel 563-6011.



CCCCD in the News

Under the headline, "Women Work for Revolution in Way Disabled are Treated," an article published in the Middletown Press brought CCCC's recent activities to the attention of its readers. CCCC staff (Community Organizer Julie Reiskin and Manager Betsy Moss) were interviewed in the CCCC office on Washington Street in Middletown. The article appeared Aug 2.

CCCCD Elects New Officers, Directors

CCCCD members elected three new members of the Board of Directors at the annual meeting held at Wadsworth Falls State Park in Middletown in June. Elected to the Board for three-year terms were Jim Albert of New Haven, Eugenia Evans of West Hartford and Melissa Marshall of Manchester. Those reelected were Alice Campbell of Willimantic, Joel Kleinman of Meriden and Suzanne Tucker of Hamden.

As can be seen from the photo, it was a pleasant (if warm) day, and there was plenty of food, drink and camaraderie.

The CCCC Board elected its officers for 1988-89 at its June meeting. Hearty congratulations to Kathryn Coffin of East Hartford, who was elected president, and to Suzanne Tucker of Hamden who will serve as secretary. Vice President Bob Gelbach of Hamden and Treasurer Steve Frazzini of West Hartford were reelected.



(Photo by Betsy Moss)

ADAPT to Sponsor Followup Rally Sept 5

On Monday, Sept 5, there will be a rally at the Hartford Greyhound bus station. This is part of a national protest against Greyhound's discriminatory policies. On this day, throughout the country, people will be making it known to Greyhound that we demand equal access.

Did you know that Greyhound currently requires persons with disabilities to:

- present a doctor's note giving permission to travel

- be accompanied by an attendant

Did you know that Greyhound currently refuses to:

- transport battery-operated wheelchairs
- install lifts on their US buses

Support ADAPT, and join the protest against these policies.

For more information, contact Lynda at 643-4452.

CCCCD Officers

President: Kathryn Coffin, 91 Montague Circle
East Hartford CT 06118, tel 569-3561

Vice President: Bob Gelbach, 64 Hall St
Hamden CT 06517, tel 624-1856

Secretary: Suzanne Tucker, 100 Furman Rd
Hamden Ct 06514, tel 387-6176

Treasurer: Steve Frazzini, 129 Sedgwick
Rd, West Hartford CT 06107, tel 561-4856

Fair Housing Bill Pending

In the last CCCD Newsletter, we reported that for the first time people with disabilities were being considered for inclusion in federal housing antidiscrimination protections. Since then, the Fair Housing Amendments Act passed the House with only minor revisions and was sent to the Senate for consideration.

The bill that passed the House would prohibit the denial of access to housing on the basis of handicap. It also requires that landlords overseeing federally funded housing units allow tenants to make reasonable modifications to their units in order to make their living environment more accessible. Finally, it requires minimum levels of accessibility in all federally funded multi-family housing units, implementing the adaptability concept on a federal level.

At our deadline, word came that the bill had passed the Senate. Next stop: The House of Representatives. Please contact your congressperson, either by phone or letter, to express your support for this important legislation.

Scholarships Available from NFB of CT

There's a Sept 1 deadline to apply for any of four different scholarships offered by the National Federation of the Blind of Connecticut, Inc. For more information, write Scholarships, NFB of Connecticut, 135 Burnside Ave, A-2, East Hartford CT 06108, tel 289-1971.

AFB Scholarships

The American Council of the Blind has awarded 1988 scholarships totaling \$11,000 to eight outstanding blind students. For information about the 1989 ACB scholarships, contact the ACB National Office, 1010 Vermont Ave, NW, Suite 1100, Washington DC 20005, tel 202-393-3666. Application deadline is April 1, 1989.

DRS Hotline

The Division of Rehabilitation Services (DRS) has established a statewide toll-free information hotline. Members of the public or recipients of DRS services are encouraged to call 1-800-537-2549 to obtain information or offer input.

Clinical Services in Eastern CT

A new program has been established in the 11-town Windham area that provides clinical services to a group of individuals who have not previously used or felt comfortable with traditional clinical treatment programs.

The Clinical Outreach Program provides mobile, flexible and informal community-based clinical treatment to people who have been discharged from Norwich Hospital and people who are at risk of hospitalization or in need of treatment for a psychiatric illness.

A similar program is to be based at Day Kimball Hospital in the 10-town north-east area.--The US Link

Movin'

These organizations are sporting new addresses:

Connecticut Assn of Rehabilitation Facilities (ConnARF): West Office Commons, 1080 Elm St, Rocky Hill CT 06067, tel 257-7909.

Connecticut Parent Advocacy Center: 5 Church Ln, Suite 4, East Lyme CT 06333, tel 739-3089 or, toll-free for parents, 1-800-445-CPAC.

CT Union of Disability Action Groups (CUDAG): 30 Jordan Ln, Wethersfield CT 06109, tel 257-4371.

United Cerebral Palsy Assn of SE Conn: 240 Oral School Rd, Mystic CT 06355, tel 536-4289.

WeCAHR: Lake Ave Ext, Danbury CT 06811, tel 792-3540.

--DD Dimensions

The CCCD Newsletter

Editor: Joel P. Kleinman

Contributing Editors: Lisa Blumberg, Bobb Hess

Contributors to this issue: Stan Kosloski, Julie Reiskin, Charles Hine, Stephen Mendelsohn

Special thanks to Ace Printery, Shelly Chrisjohn, The American Radio Relay League

Lifts on 'hounds—Now!

July 8 was a hot day in Hartford, as about 30 demonstrators put the heat on Greyhound to make their buses--and their policies--accessible to persons with disabilities. Six persons were arrested when they refused to leave the Hartford bus station. All were freed after several hours in custody.

The protesters passed out flyers pointing out Greyhound's restrictive policies.

Specifically, it is Greyhound's policy to

- 1) require people who use wheelchairs to get written permission from their physician before they can ride the bus;

- 2) require people who use wheelchairs to ride with a companion; and

- 3) deny transport to wet-cell battery-operated wheelchairs.

In addition, Greyhound buses are not generally lift-equipped.

ADAPT of Connecticut sponsored the rally, which also drew a strong media contingent.

CCCD Community Organizer Julie Reiskin, who attended the demonstration as an ADAPT member not as CCCD staff, made this statement at her arraignment: "The real injustice is with a system that systematically excludes people with disabilities from services designed for the general public. Transportation services are one example. We are taxpaying, voting citizens and refuse to be treated as less than equal. We, American Disabled for Accessible Public Transportation, have made a conscious choice not to accept the extreme, outrageous and illegal behavior of Greyhound and all other forms of public transportation. We will not tolerate the government backing this abuse. On these grounds, the grounds of moral necessity, we feel that we are not guilty of anything."

Others who had been arrested made similar statements that were made part of the court's public record.



CCCD Board member Eugenia Evans explains to the media why she's sitting behind a large bus on a hot day when the bus has its engine going.



Part of the group that made its point loud and clear: Greyhound discriminates!

It took two Hartford police to carry the chain cutters that had just liberated a Greyhound bus from Clay Jones' chair.



Federal Law and Building Access

A variety of laws and regulations govern the accessibility of buildings to persons with physical disabilities. Some of these mandates are created at the federal level; others at the state level. What follows, in question and answer format, is a brief review of **federal** laws that affect the accessibility of public buildings. Please note that there is wide applicability of these laws to people with disabilities; this analysis deals only with the access aspects of these laws.

What is Sec 504 and how does it apply to building accessibility?

Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112) is a federal law mandating that programs that benefit from federal financial assistance must provide services to qualified persons with disabilities which are accessible. Typical recipients of federal financial assistance include most state agencies, most town government functions, hospitals, school systems, colleges and universities, libraries and many private, nonprofit agencies.

Under 504, if a program can be made accessible to persons with disabilities in an equally effective way without making structural changes, then that particular structure does not need to be changed. The **services** provided people with disabilities in this way **must not be inferior or unequal** to the services provided people who do not have disabilities.

If changes do not need to be made to the building in order to comply with Sec 504, then the federal American National Standards Institute (ANSI A117.1-1986) standards apply (ANSI's address: 140 Broadway, New York, NY 10018).

What are the ANSI Accessibility Standards?

The ANSI standards are federal guidelines that are not as precise as the state Building Code (the standards refer to a reasonable number of handicapped parking spaces, a reasonable number of accessible bathrooms, etc). Please note that if the reconstruction of a building housing a federally assisted program also fits the category of substantial renovation as defined by the State Building Code, or if there is a change of use group, then the Building Code also would apply.

What is the Civil Rights Restoration Act and does it increase the power of Sec 504?

The Restoration Act was passed by Congress in April 1988. It broadens the power of Sec 504 to include not only programs directly receiving federal financial assistance, but also the entire institution within which the program is located. For example, one department within a college or university may benefit from federal financial assistance while others do not. Under the Act, all departments, units or divisions are required to follow 504 and discrimination cannot occur anywhere in the institution without redress under federal law. State laws also may provide antidiscrimination protections in those situations where federal law applies.

How do you file a Sec 504 complaint if you feel a building is not adequately accessible?

You first need to find out whether or not the noncomplying agency or program benefits from federal financial assistance. If it does, then you need to find out which federal agency provides the support. This information should be available to the public simply by asking the agency's director or chief executive officer. Once you have this information, write the federal agency's Office for Civil Rights and provide them as much information as possible to support your complaint. Be sure to give them your name, address and phone numbers, the inaccessible place where the discriminatory act occurred, and the reasons you believe you were discriminated against.

Two OCR offices most frequently used to file complaints are: US Dept of Health and Human Services, Office for Civil Rights, JFK Federal Bldg-Room 2403, Boston MA 02203, tel 1-718-565-1340, and US Dept of Education, Office for Civil Rights, McCormack Post Office and Court House Bldg-Room 222, Boston MA 02109, tel 1-617-227-2400.

What is Sec 503 and how does it apply to accessibility?

Sec 503 of the Rehab Act of 1973 is a federal law that prohibits discrimination by federal contractors against people with disabilities in employment. It also requires federal contractors to take affirmative steps to employ qualified persons with dis-

abilities. Sec 503 applies to all federal contractors with contracts of \$2500 or more. There are many federal contractors in Connecticut, including Pratt & Whitney Aircraft, Electric Boat and Hamilton Standard.

Sec 503 requires federal contractors to make structural changes to buildings and provide other accommodations when necessary in order to meet the needs of qualified employees or job applicants with disabilities. It is not an affirmative action statute in that it does not require a contractor to meet certain quotas or to make structural changes without there being a demonstrated need on the part of an employee for such changes.

What is the Architectural Barriers Act and how does it apply to accessibility?

The Architectural Barriers Act of 1968 (amended in 1970 and 1976) is a federal law that requires any structures built, leased or renovated **with federal monies** be built or renovated according to certain federal standards. The Uniform Federal Accessibility Standard is used in this particular case. Again, this act applies only to buildings built, leased or renovated with federal money. Enforcement of this law is provided by the Architectural and Transportation Barriers Compliance Board in Washington DC (1111 Eighteenth St NW, Suite 501, Washington DC 20036). The Board was established under Sec 502 of the Rehab Act of 1973.

(Excerpted from a publication of the Office of Protection and Advocacy that is now being printed dealing with state and federal access mandates.)

Job Coach Training

Graduation ceremonies were held in March marking the completion of a 10-week program in Job Coach Training. The program was sponsored by the New England Assn of Business, Industry and Rehabilitation (NEABIR) and the New Haven Private Industry Council (PIC).

The program consisted of 10 weeks of intensive training to prepare PIC-eligible individuals to become entry-level job coaches employed by private nonprofit agencies serving people with disabilities. The job coach works with workers with disabilities in an actual work setting performing a variety of tasks that includes job instruction, coordination of the worker's job duties with the employer, ensuring that the work is performed correctly and facilitating integration of the employee into the worksite.

DRS Performance Audit Underway

Metametrics, Inc of Washington DC has been chosen by the state Office of Policy and Management to conduct the performance audit of the Division of Rehabilitation Services. The audit was mandated by the state legislature to help address widespread problems that exist within the agency.

During August and September, Metametrics will conduct an in-depth review of DRS. The mission of the agency, its organization and activities, as well as the outcomes of the service it provides will be analyzed. By Oct 1, an appropriate administrative location and organizational structure will be recommended to OPM by Metametrics.

CCCD was actively involved in advocating a change in the administrative location of DRS from the state Dept of Education to the state Dept of Human Resources during the 1988 legislative session. The legislature chose not to make a change this year and authorized the audit instead. Undoubtedly, the 1989 session will again deal with the issue, this time with the benefit of the Metametrics review.

ILC Conference Tapes

Several disability-rights activists from Connecticut, including CCCD Community Organizer Julie Reiskin, attended the National Conference on Independent Living in Washington DC in May. Audio tapes of Conference sessions are available for \$8 apiece. Some subjects: Legislative and Research Developments in Personal Assistance, Generating Revenue for IL Services, Services for Deaf-Blind Individuals, A Formal Debate on Civil Disobedience, Americans with Disabilities Act and Addressing Problems of Minority Persons with Disabilities to IL. For a complete list, write Visual Aids Electronics, 2831 Fifteenth St NW, Washington DC 20009.

IUI Computer Bank

Independence Unlimited Inc has started a computer bank for equipment. If you have adaptive equipment to sell or would like to buy some, contact Independence Unlimited, 23 High St, Hartford CT 06103. Information will be placed on a computer file. Those listed will be contacted with prospects. This service is free of charge.

Festival Stresses Human Worth, Dignity and Respect

By Julie Reiskin

"I'm disabled, I'm a Lesbian and I am proud" were the final words of CCCD member Patti Deak at the recent Gay and Lesbian Pride Festival in Hartford. Patti and Carol Meyer, both CCCD members, were among five speakers at this event. They spoke of "homophobia in the disability rights movement" and of "ableism in the gay rights movement." Both stressed the importance of unity in their powerful speeches, which were greeted with a loud round of applause.

Speaking of persons with disabilities, Carol said, "We are a group which has historically been disenfranchised from the community... assumptions have been made about our disabilities, including about our sexuality." She went on to explain that people's own feelings of vulnerability leads to the fear of people with disabilities, and how society takes these fears and creates policies that damage the lives of persons with disabilities.

"Ableism," she said, "can be seen when community centers, musical events, religious services and support groups are not made accessible. Accessibility is a civil rights issue! We are here today to tell you that we want to work with you to build bridges and mend trust that has been broken. We can overcome fear and discomfort." She spoke of the great strides that have been made in the gay and lesbian communities and urged their continuance.

Patti spoke of the common themes faced by people who have disabilities and by people who are gay and lesbian. She reminded the audience that "we are the only groups of people who can legally be discriminated against." She spoke of a governmental genocide of people who are gay--in the deliberate ignorance of the AIDS virus for years--and of people with disabilities--in the systematic murdering of babies with disabilities. She pointed out the similar difficulties both groups have in adopting children.

Perhaps most importantly, she said, "We are the only two groups which can include anyone regardless of race, sex, age, religion or socioeconomic background. So as you see," she continued, "we have more similarities than differences, so I would like to urge everyone to accept each other as brothers and sisters and together we will proclaim our rights and live in freedom."

These women spoke of something at the

core of civil rights for all people. They spoke of human worth, value, dignity, and respect for who you are as a person. CCCD members and staff worked with members of the Gay Pride planning committee to help make this day accessible to all people. Simultaneously, we are trying to raise consciousness within the disability-rights community to make it a socially accessible community to all people.

People have asked, "Why is this a priority for CCCD; why not just stick to disability issues?" There are several reasons. Currently, CCCD's organizing efforts are funded in part by a grant from the Developmental Disabilities Council. This grant was offered by the DD Council and applied for by CCCD to work to include people previously excluded from the disability rights movement. Of course, this goes hand in hand with ongoing work toward full community integration.

This initiative came from a realization on the part of many in the movement that partial civil rights is like being partially pregnant... impossible! First, there is the fact that people with disabilities fall into just about every other group. Also, many people with disabilities are excluded from our movement for a variety of reasons. We need to take affirmative action steps to remedy this (as we ask others to do for us).

However, of most importance, we of all people should understand the societal loss which occurs when anyone is oppressed. There is a wonderful bumper sticker that says "No one is free when others are oppressed." No single statement has ever been more true. Historically, people and groups who have been victimized have in turn hurt others. Why is this? Power... internalized hurt and oppression... who knows? The point is that this practice has cost society as a whole dearly.

The disability-rights movement can break this pattern if we choose. We can act as a role model for others. We can take affirmative action steps to include all of our own, and we can support and encourage the empowerment of other minorities. Those of us who fit into one or more minority groups must not fight with each other, but join together. Remember the idea of the Rainbow Coalition and think of what a rainbow looks like. To me it looks like a giant ramp of many colors with a slight emphasis on purple.

Resources

Voting with Ease is a short booklet that serves as a guide to the voting booth. Information about voting by absentee ballot is included as well. For a copy, contact the State of Connecticut, Secretary of the State, 30 Trinity St, Hartford CT 06106, tel 566-2668.

Travel Tips for Hearing Impaired Persons is a pamphlet of helpful tips on how to make reservations, and information on amplification and visual alert devices. For a free copy, send an SASE to Travel Tips for Hearing Impaired Persons, American Academy of Otolaryngology--Head and Neck Surgery, Suite 302, 1101 Vermont Ave NW, Washington DC 20005.

Silent News is a monthly newspaper by and for persons who are deaf or hearing impaired. Subscriptions are \$10 per year, from Silent News Inc, 198 Bellingham Dr, Williamsville NY 14221.

The Disabled Angler, the official newsletter of the CT Disabled Anglers Club, c/o Frank McKane Jr, 14 Beverly Pl, Bridgeport CT 06610. (No charge to join, but a \$3 donation to cover postage is appreciated.)

Products for People with Vision Problems, 1988-89 edition of the catalog published by the American Foundation for the Blind, 15 W 16th St, New York NY 10011, tel 1-800-232-5463. Indicate print or braille.

Handicapped Parking--Questions and Answers is the first of eight new publications being produced by the Office of Protection and Advocacy to help persons with disabilities and their families understand their rights and available services. For a copy, contact the P&A Office at 90 Washington St, Hartford 06106, tel 566-7616 (Hartford area), 1-800-842-7303 (toll free) or 566-2102 (TDD).

Head Injury: A Guide to Functional Outcomes in Occupational Therapy is available for \$49.50 (plus \$3 handling) from Aspen Publishers, 1-800-638-8437.

National Spinal Cord Injury Assn, CT Chapter membership is \$10 (individual), \$15 (family), \$100 institutional. Sponsors peer assistance program, Connecticut Resource Directory and monthly newsletter. NSCIA, CT Chapter, Inc, c/o Gaylord Hospital, Gaylord Farms Rd, Wallingford CT 06492.

You Seem Like a Regular Kid to Me is a new publication of the American Foundation for the Blind (address above). Written in question and answer format, it addresses common concerns of adults who work with or come into contact with children who are blind.

The Shirley Frank Foundation, 659 Gerge St, New Haven, tel 787-2771 (V/TDD) offers a special program for individuals in the deaf community who have problems with alcohol. An open AA meeting for the deaf community and family members is held every Thursday from 7 to 8 PM at the First Church of Christ Congregational, Farmington Ave and South Main St, West Hartford.--CDHInfo

1988/89 CT Directory of Self Help/Mutual Support Groups is a guide to over 300 groups in the areas of Addictions, Adoption, Bereavement, Health/Disabilities, Mental Health, Parenting, Seniors, Separation/Divorce and Victims' Rights. Send check for \$10 payable to Community Consultation Board, Inc, to CT Self Help Network, 19 Howe St, New Haven CT 06511, tel 789-7645.

Research Center at West Haven VA

The PVA/EPVA Center for Neuroscience and Regeneration Research of Yale University opened in May. Located at the West Haven Veterans Assn Medical Center, it will focus on the ways in which the nervous system adaptively responds to injury. Spinal cord injury and disease, and multiple sclerosis are the major areas of investigation, with an emphasis on the mechanisms underlying functional recovery following damage to the nervous system and the mechanisms that can be employed to enhance functional recovery. This entails the study of nerve cell growth, regeneration, conduction of nerve impulses and the supportive structure of the nervous system.

The goal of the research is to develop new therapies that will promote functional recovery. In addition, the Center will train researchers who will continue to work toward functional recovery, a cure for persons with spinal cord injury and disease, and new approaches to the care of spinal cord injuries.

Confined to a Wheelchair By Psychiatry

By Stephen Mendelsohn

As a survivor of psychiatric assault who must struggle daily against oppressive mentalist language, I can heartily support the efforts of people with disabilities to get rid of such handicapist rhetoric as "wheelchair bound" and "confined to a wheelchair." However, let us not forget that some people are quite literally confined to wheelchairs--by coercive psychiatrists.

According to the lead article in the June 27 Hartford *Courant*, (misleadingly) entitled "A Long Wait for Help," psychiatric inmates "often spend hours or days strapped to wheelchairs or gurneys in hospital emergency rooms."

There are two important issues to consider here. The first is the proper use of language. Whereas "confined to a wheelchair" and "wheelchair bound" falsely imply that people with disabilities not subject to psychiatric coercion are forcibly manacled to wheelchairs, currently fashionable psychiatric jargon such as "mental health consumer" conceals the very real chains psychiatric inmates are subjected to, including imprisonment in "hospitals," physical restrains, "seclusion," and the chemical straightjackets called neuroleptics. (For a more detailed analysis, see my article, "Plain English versus Psychiatric Jargon," in the Summer

1988 issue of *The P&A Update*.)

The other issue involves iatrogenic disability. While the American Psychiatric Assn annually votes to claim such bogus entities as "ego-dystonic homosexuality," "young adult chronic schizophrenia," "paraphilic coercive disorder," and "periluteal phase dysphoric disorder" as bona fide diseases, psychiatrists cause real brain damage through coerced drugging, electroshock and lobotomy. Peter R. Breggin, MD, writes, "Psychiatry has unleashed an epidemic of neurologic disease on the world. Even if tardive dyskinesia were the only permanent disability produced by these drugs, by itself, this would be among the worst medically induced disasters in history."

Indeed, a number of people have been rendered unable to walk as a result of brain-disabling psychiatric interventions. Depending on whether they are still under psychiatric control, such individuals may or may not be confined to their wheelchairs.

Psychiatric survivors and people with disabilities have much in common. We are constantly looked on as helpless pathetic cripples who cannot possibly live independently. We are incessantly viewed as disabled first (whether the disability is real or is a figment of the psychiatric imagination and only then, if at all, human beings. Let us work together to end our common oppression.

Hartford Housing Program

The City of Hartford has funds available for home improvement and correcting Housing and Building Code violations. If you are a Hartford homeowner who is 62 or older or have a disability, and have a moderate income, you may qualify for a \$5000 interest-free Home Improvement Loan. If you own a 1- to 4-family house in Hartford, you might qualify for up to an \$18,000 loan, with an interest rate of from 3 to 9%, for 10 years. Other loans are available for multifamily property owners.

For more information, call the City of Hartford Dept of Housing and Community Development at 722-6400.

(Maybe folks in other towns would be interested in starting a similar program.

--Ed.)

Adaptive Computer Conference

A day-long conference in July at Southern CT State University explored the ever-expanding field of adaptive computer technology for persons with disabilities. Carl Brown, director of the High Tech Center for the Disabled in California, demonstrated some current uses of adaptive computer technology and discussed its future applications. Brown is the author of *Computer Access for Students with Disabilities*. He and Dewitt Zuse, of Creative Computing in Guilford, discussed recent developments in adaptive computer technology for persons with severe disabilities.

Children Deserve Honesty

By Charles L. Hine

Children can really piss me off sometimes with their damn honesty and inquisitiveness! When will statements such as "He looks funny, mommy" and questions such as "What's wrong with HIM?" be outlawed? I don't know these people so THEY obviously have no rights as far as I'm concerned. Am I not correct? After all, when these children grow up we will refer to them as tactless and snoop (two qualities which most of us dislike in adults). The child who comments odiously about someone's disability may be slapped later on in life for uttering those same words but since he/she is a child we let it go with a nervous smile or a silent (or maybe not) groan. Brutal and cutting words are in a child's unwitting nature.

These comments, when directed at me in my younger days, either spawned an insatiable urge to clobber the little tyke or tended to have me side wholeheartedly with the mother when she invariably scolded the child for saying such things and whisked him/her home for a swift spanking. I definitely resented the child and celebrated the mother's actions after these episodes even though, in retrospect, I probably felt a touch a guilt for feeling the way I did ... or maybe not.

Today, I will do things differently when confronted with a situation of child

honesty. Age has a way of giving one perspective and my perception of those past experiences tell me that those children were merely thirsting for knowledge. I still cringe and grimace to myself but I feel more and more comfortable responding to the child's questions. I now know that education of children about various forms of disabling conditions is an obligation everyone has to undertake if we are ever going to have full integration. Attitudes are shaped at a young age and if my fellow adults with disabilities shy away from genuine curiosity then any future adults will not be any more caring or sensitive about disability than present adults.

Bury our pride for the sake of the children and respond in any honest way to an honest question. Children **can** say the darndest things and they will pursue a subject if given a chance--especially if the subject is as unfamiliar to many of them as disability.

Our silence is usually a result of our own reluctance to accept our role as a person with a disability, but I have grown to believe that this reluctance is really quite selfish. Talk is **not** cheap when it is used to educate children and when we talk we might even educate some adults along the way.

New Law Prohibits Discrimination

A new state law that takes effect Oct 1 prohibits discrimination in housing, stores, theatres and other public accommodations because of mental disability. The act does not apply to two-family houses when the owner or a member of his family lives in one of the apartments or two the rental of rooms in a house or apartment occupied by the lessor or a member of his family. The act, PA 88-288, authorizes the Connecticut Human Rights and Opportunities Commission Authority (CHRO) to use its existing enforcement authority to investigate.

CIL Offers Loans For Accessibility

Since 1984, the Corporation for Independent Living has offered low-interest loans to Connecticut homeowners for the purpose of making their property accessible. The funds are made available through the Dept of Housing. Persons who have physical disabilities are eligible to apply. To date, over \$300,000 has been used or committed to individuals and landlords. CIL has recently requested \$500,000 from the Dept of Housing to continue providing this service.

If you or a family member is in need of a less restrictive environment, contact Jane Lowy at 563-6011 in Wethersfield.

Join Us! We're Fighting for Your Rights!

Once again we ask you to become an active supporter of CCCD. Now more than ever we need your gifts and membership dues. Our most important support must come from *within the movement*. That means those of us close to and aware of the concerns, issues, needs and battles for justice and equality.

Can we expect your continuing help and support?

Your CCCD Membership dues or gift is used in direct support of the Disability Rights Movement in Connecticut. We, the volunteers and staff, feel good about the progress we've made, but much, much more needs to be done. *We're working for you.*

Ready to contribute? Use the handy coupon, or a copy. Want to volunteer? Call Betsy Moss at our office in Middletown at 346-3878.

I want to support CCCD's leadership in the disability-rights movement. I've enclosed a check or money order payable to CCCD. Mail to CCCD Membership, 27 Washington St, Middletown, CT 06457.

<input type="checkbox"/> Basic membership: \$10	<input type="checkbox"/> Special rate, May 1-Oct 1: \$ 5
	<input type="checkbox"/> Family: \$15
	<input type="checkbox"/> Agency: \$25

Please note: All CCCD memberships expire September 30th.

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THE AMERICANS WITH DISABILITIES ACT OF 1988

FACT SHEET

-- The Americans with Disabilities Act of 1988 was a key recommendation of the National Council on the Handicapped in its 1986 report, Toward Independence.

-- The Act prohibits discrimination on the basis of handicap in areas such as employment, housing, public accommodations, travel, communications, and activities of State and local governments.

-- The Act covers employers engaged in commerce who have 15 or more employees; housing providers covered by Federal fair housing laws; public accommodations; transportation companies; those engaged in broadcasting or communications; and State and local governments.

-- The Act specifically defines discrimination, including various types of intentional and unintentional exclusion; segregation; inferior or less effective services, benefits or activities; architectural, transportation, and communication barriers; failing to make reasonable accommodations; and discriminatory qualifications and performance standards.

-- The Act specifies those actions that do not constitute discrimination. They include unequal treatment wholly unrelated to a disability or that which is the result of legitimate application of qualifications and performance standards necessary and substantially related to the ability to perform or participate in the essential components of a job or activity.

-- The Architectural and Transportation Barriers Compliance Board will issue minimum accessibility guidelines. Other regulations will be issued by the Attorney General, the U.S. Equal Employment Opportunity Commission, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Federal Communications Commission, and the Secretary of Commerce.

-- The Act will not repeal Sections 503 and 504 of the Rehabilitation Act of 1973 and all regulations issued under those sections will remain in full force and effect.

-- Enforcement procedures include administrative remedies, a private right of action in Federal court, monetary damages, injunctive relief, attorney's fees, and cutoffs of Federal funds.

THE PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES WASHINGTON, D.C. 20036-3470

FACT SHEET ON: AIDS IN THE WORKPLACE AND ITS IMPACT ON HEALTH INSURANCE AND OTHER CORPORATE POLICIES REGARDING INDIVIDUALS WITH DISABILITIES

The Question

- o Will companies develop resistance to employing persons with disabilities as a result of possible elevation of health insurance costs due to coverage of workers with AIDS?

NO - According to a recent survey made by the Medical, Health and Insurance Committee of the President's Committee on Employment of People With Disabilities.

- o The President's Committee, concerned about the impact AIDS would have on corporate human resource policies and the effect these policies would have on the hiring of persons with disabilities, conducted a short employer survey to provide a more thorough understanding of the effect AIDS may be having on current employer practices.

o Action

Large employer groups were selected from the Fortune 100 listing and questionnaires were sent to all groups on this listing. Sixty-seven of the one hundred companies surveyed responded. Respondents were assured that the specific practices of their employers would remain confidential. Therefore, the survey results do not identify individual company's practices but a section is devoted to remarks which present the beliefs and practices of the companies.

o Results

Generally, companies are treating AIDS as they would any other disability of a life-threatening nature. Overall, we can conclude that the vast majority of large size employers who responded treat AIDS as they would any other illness and are not planning to change their personnel policies toward persons with disabilities as a result of the AIDS epidemic.

- o Only three percent of the companies surveyed are contemplating changes in personnel policies due to corporate concern about AIDS. Five percent of the companies anticipate some changes in general corporate policy because of AIDS. These changes will center around the development of written corporate policies for life-threatening illnesses and employee education about AIDS.

A minority of those surveyed are contemplating testing their employees for the AIDS virus (7.5%); and 4.5% are considering limitations to benefit programs. The questions and responses follow.

Question 1

Has your company made any changes in personnel policies or practices related to the hiring of persons with disabilities due to concern over AIDS?

65 (97.5%) said NO, 2 responded YES.

Question 2

If YES to question 1, please explain what changes have been made.

The responses for the 2 companies that have made changes in personnel policies related to the hiring of persons with disabilities are:

"Security personnel and other employees trained in CPR have been given information about AIDS, instructed in the use of masks, etc. Medical department personnel wear gloves."

"Clarified under what circumstances employees with infectious diseases would be prohibited from food handling."

Question 3

If NO to question 1, is your company planning on making any changes?

61 (94%) answered NO. 3 (5%) answered YES (with 1 abstention).

Question 4

If yes to question 3, what changes is your company contemplating?

The responses from the 3 companies that are planning changes in personnel policies are:

"A new personnel policy on life threatening illnesses has been written for review and comment."

"We will formally publish a policy which states company policy for all serious illnesses."

"We plan to initiate efforts to increase awareness and promote a better understanding by employees of the AIDS disease and its impact on the workplace."

Question 5A

Has or will your company be establishing any personnel procedures specific to the AIDS epidemic such as:

o the testing of new or existing employees for the AIDS virus?

62 (93%) answered NO* with 3 (5%) answering YES and 2 responding POSSIBLE.

* Three companies responded NO and added -

"The above represents our present position. This may change as practices in other companies and court rulings evolve."

"Info on AIDS will be communicated to employees."

"Still studying the implications (primarily financial) of AIDS Hospitalization costs in the Medical Plan."

Question 5B

o any special limitations in your benefit program for AIDS coverage?

64 (96%) responded NO with 2 (3%) answering YES with 1 POSSIBLE.

If YES, will these limitations apply to people with disabilities as well?

Only 1 company of the 3 answering YES to question 5A responded to Question 5B, and the response is unknown at this time.

Comments

A section of the questionnaire was left blank to allow room for any comments on the subject. Fourteen companies responded with the following comments:

"We treat people with AIDS the same as we would treat anyone with a disability. We accommodate them to the extent we can reasonably do so. We have developed a training program to help educate co-workers who may be fearful of working alongside employees with AIDS."

"We will continue to treat AIDS as a Medical Disability and will accommodate employees with AIDS to the extent that is practical."

"Hiring will continue to be based upon ability to do the job."

"Any AIDS cases will be handled as any other chronic illness according to the terms of the Benefit Plans."

"We plan to treat AIDS as any other illness."

"AIDS is treated like any other illness at the worksite."

"AIDS will be treated like any other disability under the company's benefit plans."

"We are treating AIDS as any other life-threatening illness."

"We regard AIDS like any other illness and/or disability."

"We do not anticipate changes at present. But we are continuing to study the situation."

"Handling the same as any other serious illness for all purposes."

"AIDS is treated like any other disabling condition."

The President's Committee on Employment of People With Disabilities

1111 20th Street, NW, Suite 636

Washington, D.C. 20036-3470

202/653-5044 (voice), 202/653-5050 (TDD)

All public documents produced by the
President's Committee on Employment of
People With Disabilities are available on
cassette tape, Braille text and large print.

January 1, 1989



National Council on the Handicapped

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QUESTIONS AND ANSWERS

REGARDING

THE AMERICANS WITH DISABILITIES ACT OF 1988

Revised 7/28/88

RLB

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INTRODUCTION OF THE BILL

Q: When was the Americans with Disabilities Act introduced?

A: Identical bills to create "The Americans with Disabilities Act of 1988" were introduced in the United States Senate on April 28, 1988, and in the House of Representatives on April 29, 1988.

Q: What are the bill numbers and to what committees were the bills assigned?

A: The Senate bill, S. 2345, was introduced by Senator Lowell Weicker, on behalf of himself, Senator Tom Harkin (Chairman of the Subcommittee on the Handicapped) and 12 of their Senate colleagues. The bill was referred to the Senate Committee on Labor and Human Resources.

The House bill, H.R. 4498, was introduced by Representative Tony Coelho, on behalf of himself, Representative Silvio Conte, Representative Major Owens (Chairman of the Subcommittee on Select Education), Representative James Jeffords, and 30 other House colleagues. The bill was referred jointly to the House Committees on Education and Labor; the Judiciary; Energy and Commerce; and Public Works and Transportation.

IDEA FOR THE BILL

Q: Where did the idea for the equal opportunity bill originate?

A: The Council recognized the need for a comprehensive civil

rights law for Americans with disabilities in Toward Independence. The Council has heard countless testimonies from people with disabilities concerning the discrimination which they face on a day to day basis. Moreover, parents of disabled children and youth have often been overwhelmed by the barriers which their children face in their attempts to achieve equality. This proposed legislation attempts to redress the inherent inequalities which exist in our society for Americans with disabilities.

COUNCIL'S STATUTORY AUTHORITY

Q: Is proposing such a bill within the Council's statutory mandate?

A: In the 1986 Amendments to the Rehabilitation Act, Congress added to the duties of the Council, " (8) provide to the Congress on a continuing basis advice, recommendations, legislative proposals and any additional information which the Council or the Congress deems appropriate." Congress also directed the Council to assess to what extent Federal programs (a) provided incentives or disincentives to the establishment of community-based services for individuals with disabilities; (b) promoted the full integration of such individuals in the community, schools and the workplace; and, (c) contributed to the independence and dignity of such individuals. After lengthy study of these issues, the Council concluded that the best means of achieving the goals implicit in those mandates is the

enactment of a strong, unequivocal law banning discrimination against people with disabilities.

NEED FOR THE BILL

Q: Why is this bill necessary?

A: Although there are a number of statutes, rules and regulations that prohibit discrimination on the basis of handicap or against people with disabilities, too many gaps in coverage and inconsistencies exist, and too few situations and people are covered. Basic societal guarantees that include the pursuit of employment and educational opportunities, the enjoyment of public facilities, transportation and accommodations are still denied too many of our citizens because nondiscrimination on the basis of handicap has not been a clear, national policy.

SECTION 504

Q: Doesn't the Rehabilitation Act of 1973 provide sufficient coverage?

A: Section 504 of the Rehabilitation Act, as amended, is a landmark piece of legislation that has provided, and will continue to provide, opportunities for many people with disabilities. Section 504 does not, however, prohibit discrimination by private employers, in housing, public

accommodations and interstate transportation or by State and local governments. This bill will accomplish these goals.

Q: How does this bill differ from Section 504?

A: This bill uses the term "on the basis of handicap," paralleling language in other civil rights statutes and making proof of class membership less critical. It also defines discrimination, specifically proscribing, for example, the failure to make reasonable accommodations, and the use of discriminatory qualifications standards. The primary difference, however, is that this bill has much more comprehensive coverage, encompassing many types of programs and activities not subject to Section 504.

Q: Will this Act repeal Section 504?

A: No. "The Americans with Disabilities Act" specifically provides that it will not affect or change Section 504. It also leaves intact all Section 504 regulations that have been issued.

CIVIL RIGHTS RESTORATION ACT

Q: How does this bill relate to the Civil Rights Restoration Act?

A: The Civil Rights Restoration Act, enacted in March, 1988, over President Reagan's veto, clarifies the prohibition of discrimination in any program or activity of an entity receiving Federal funds by defining "program or activity" to mean all of

the operations of any such entity. The Restoration Act affects the Rehabilitation Act of 1973, the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975. In a 1984 decision, Grove City College v. Bell, the United States Supreme Court had interpreted the phrase "program or activity" narrowly to refer only to the specific activity or portion of an institution receiving the Federal funds and not the entire organization or institution. Under the Court's ruling, a college could, for example, discriminate in a program not receiving any Federal money and would not risk losing any Federal money that it received for other programs. The Restoration Act restored the broad scope of coverage and interpretation of the statutes affected by the Court's decision. The Council testified in support of the broadened interpretation established in the Restoration Act. The Americans with Disabilities Act does not affect the prohibition of discrimination on the basis of handicap in programs or activities that receive Federal financial assistance, but prohibits such discrimination in many other types of services, programs, activities, benefits, jobs or other opportunities that are not currently covered by Section 504.

COMPARABILITY TO CIVIL RIGHTS LAWS

Q: What value is there in having parallel coverage with other civil rights laws?

A: The basic rights underlying this Act are the same as those underlying other civil rights statutes. They include the rights

to be free from discrimination in employment, housing, travel, public accommodations and activities of State and local governments. The legal standards to be applied to discrimination on the basis of handicap, however, must differ from those addressing other types of discrimination.

UNINTENTIONAL DISCRIMINATION

Q: Why does the bill prohibit unintentional discrimination?

A: So many of the things that exclude people with disabilities from participation in society are the result of unconscious acts. Each flight of stairs constructed is surely not a deliberate attempt to exclude people with mobility impairments but, in fact, it does. Unfortunately, these barriers have as deleterious an effect on people with handicaps as ruling certain jobs off-limits to people with hearing or visual impairments. Such unintentional discrimination limits the lives of Americans with disabilities and ultimately requires them to live as second class citizens.

ORGANIZATIONS SUPPORTING THE BILL

Q: Are other organizations supporting the bill?

A: At the time of its introduction, the bill had been endorsed by more than 50 national organizations representing people with various disabilities, and had received the support of the Leadership Conference on Civil Rights, an umbrella organization

representing 185 organizations active in the area of civil rights.

POTENTIAL OPPOSITION

Q: Are there any organizations that are likely to oppose the bill?

A: Yes. A number of organizations opposed the enactment of the Civil Rights Restoration Act -- the most recently enacted piece of Federal legislation strengthening the rights of people with disabilities. The list entered into the Congressional Record included the following:

Ad Hoc Committee in Defense of Life
American Association of Christian Schools
American Conservative Union
American Pharmaceutical Association
Apostolic Coalition
Assemblies of God
Association of Christian Schools International
Association of Pro-America
Bott Broadcasting Company
Catholic League for Religious and Civil Rights
Christian Action Council
Citizens for America
Citizens for Educational Freedom
Citizens for Reagan
Coalition for America
College Republicans
Committee to Protect the Family
Concerned Women for America
Conservative Alliance
Conservative Caucus
Contact America
Coral Ridge Ministries
Council for National Policy
Eagle Forum
Family Research Council
Focus on the Family
Free Congress
Heritage Foundation
Intercessors for America
International Christian Media

Lutheran Church -- Missouri Synod
Moral Majority
National American Wholesale Grocers Association
National Apartment Association
National Association of Evangelicals
National Association of Homebuilders
National Association of Manufacturers
National Black Coalition for Traditional Values
National Center for Public Policy Research
National Family Institute
National Grocers Association
National Religious Broadcasters
Public Advocate
Rutherford Institute
Save Our Schools
United Families
United Pentecostal Church
U.S. Business and Industrial Council
U.S. Chamber of Commerce

(Congressional Record, March 22, 1988, p. S 2758)

Some of the organizations listed above may oppose the ADA.

Q: Are all of the preceding organizations likely opponents of the bill?

A: Not at all. The reasons for groups opposing the Restoration Act were many and varied. Some of the opposition had nothing whatever to do with the disability implications of the bill, but rested on other grounds, such as concerns about abortion or impact on religious freedom. Many such organizations will hopefully become supporters of the ADA, particularly if they receive appropriate information about the need and rationale for the bill.

As one example, the National Association of Home Builders opposed the Restoration Act. But after lengthy negotiations with disability organizations and Congressional staff in regard to the Fair Housing Act Amendments bill, NAHB has endorsed the

accessibility requirements in that bill. Since the housing provisions of the ADA are based upon the provisions in the Fair Housing bill, NAHB is very unlikely to oppose the ADA.

Some opposition may arise from managerial and planning professionals who have not yet been exposed to the value of eliminating unnecessary barriers which daily confront 36 million Americans with disabilities. Other potential opponents may be concerned about the costs of implementing the bill. Some of their fears may be alleviated when they learn that this bill creates no new programs or agencies and that the conversion of tax-users into taxpayers strengthens the economy of the country.

COSTS

Q: What are some of the most common modifications and what will they cost?

A: The costs of modifications to permit the participation of individuals with disabilities are usually much less than might be expected. Widening doorways and installing ramps are not particularly expensive, and even modifications to bathrooms and lifts where necessary can be secured at relatively modest prices. Many devices for assuring effective communication with individuals with disabilities can be obtained at very reasonable prices. For example, a telecommunications device for the deaf (TDD), a ready-to-use device which enables one to have telephone communications with deaf people, can be purchased for about \$150.

Q: Are there any financial incentives involved?

A: The Tax Code permits an annual deduction of up to \$35,000 for costs incurred in removing barriers to people with disabilities.

Q: In some cases, though, won't the Bill require massive alterations?

A: The duties to remove architectural, transportation, and communication barriers, and to make individualized reasonable accommodations are explicitly limited to those that would not threaten the existence or fundamentally alter the nature of a business or activity. A business or agency is excused from performing such barrier removal or accommodation as would threaten its fiscal viability. So at the very least, nobody will have to go out of business because of this Act.

Q: Do you have any indication from those in private industry as to their experience with the costs involved in employing people with disabilities?

A: Surveys of employers with disabled employees have shown that costs associated with the employment of a person with a disability are usually quite small. The Harris poll of employers found that 75 percent of managers reported that the average cost of hiring a person with a disability is about the same as the cost of employing a nondisabled person. Du Pont, a major U.S. corporation with an excellent record of hiring disabled employees, reports that workplace accommodations frequently cost little or nothing.

Q: Won't the cost of providing accessible housing be prohibitive?

A: The expenses associated with the accessibility features for new housing construction required under this bill are relatively small. Estimates are that, at most, such requirements would entail well less than one percent of construction costs. Officers of the National Association of Home Builders have declared that they can build in such features at "very little cost." Such costs are expected to decline even further once they become uniform within the housing industry.

Q: Isn't the modification of transportation systems very costly?

A: The requirements regarding accessibility of new vehicles and rolling stock of transportation agencies are not extravagant. Accessibility features represent but a small percentage of the costs of purchasing new vehicles. The issue often is a question of purchasing slightly fewer accessible vehicles or a slightly greater number of inaccessible ones. Taking buses as an example, although costs can vary somewhat, a lift on a new bus currently costs about 6 to 9 percent of the total cost of the bus. Thus, for the same price, a company can either purchase approximately ten new accessible buses or eleven buses without lifts.

Q: What about the costs involved in modifying existing stations?

A: Perhaps the most difficult and costly modifications contemplated by the bill are those associated with existing stations and platforms of mass transit systems. There is no doubt that making such changes to permit access by people with disabilities will entail substantial expenses in some locales. But the bill allows the changes (and consequently their costs) to be spread over a period of up to ten years. The Act does not require full access immediately, but gives transit systems the opportunity to plan for and spread out the refurbishment and capital expenditures necessary to achieve accessibility. And again, the limitations section of the bill prevents the requirement of modifications on a timetable that would threaten the existence of a transportation operator.

Q: What benefit is derived from eliminating discrimination against persons with disabilities?

A: The costs associated with the requirements of this bill are not dramatic; the costs associated with discrimination against persons with disabilities are staggering. Over 60 billion dollars of our annual Federal budget are spent on disability-related programs. Disability is second only to defense as the largest category of Federal budget expenditures. And 95% of the money that this country spends on disability is spent for maintaining people in dependent situations. A Department of Transportation study indicated that providing

accessible transportation alone would result in SSI benefit savings of \$276 million a year due to increased employment.

Q: Won't the costs of providing accommodations such as readers, equipment, modifications in work hours, and making workplaces accessible outweigh any benefits derived from employment of people with disabilities?

A: No. According to a recent Lou Harris poll conducted in conjunction with the Council and the President's Committee on Employment of the Handicapped, eight out of ten managers say that the costs of employing both disabled and nondisabled people are about the same. Another study showed that most accommodations (81%) cost less than \$500 and that half cost nothing. Furthermore, various studies have shown, and the Council has concluded, that increased earnings by people with disabilities and additional tax revenues are certainly more cost-effective than maintaining people in a dependent situation.

COST TO FEDERAL GOVERNMENT

Q: What will this bill cost the Federal Government to implement?

A: Very little, actually. This bill creates no new programs or agencies. Those agencies that currently have the responsibility for enforcing nondiscrimination provisions of other statutes will, as they do with those, promulgate regulations under and enforce the provisions of this Act.

NUMBER OF PEOPLE COVERED

Q: Approximately how many people will be affected by this Act?

A: In Toward Independence, the Council reviewed existing data and concluded that the most reliable estimates are that approximately 36 million Americans have one or more physical or mental disabilities. That number is expected to increase as the population as a whole grows older. This is the figure cited in the "Findings" section of this Act.

DISABILITY AND POVERTY

Q: Is there a correlation between disability and poverty?

A: Absolutely. According to the Harris poll, half of all the disabled people surveyed had incomes of \$15,000 or less compared to a quarter of the nondisabled population.

TYPES OF DISABILITIES COVERED

Q: What types of disabilities are covered under the bill?

A: The definition of "physical or mental impairment" contained in the bill is identical to the definition in Section 504 regulations. That definition lists certain diseases or conditions that are covered under 504 and will be under this bill as well. The definition is intended to be very broad.

AIDS

Q: Will people who have AIDS be covered by this Act?

A: Yes. AIDS is not explicitly mentioned in the bill. Persons are protected under this bill if they are subjected to discrimination because of a physical or mental impairment, perceived impairment, or record of impairment. In defining these terms, the bill relies upon definitions currently in effect in regulations issued under Section 504 of the Rehabilitation Act. The definition of "physical or mental impairment" under the Rehabilitation Act does not delineate AIDS specifically, but recent interpretations and court decisions have concluded that, in particular circumstances, AIDS, AIDS Related Complex, and seropositivity may constitute an impairment.

In adopting the Section 504 definition of physical or mental impairment, the Council appropriated terminology with an established history of judicial and administrative interpretation. The expectation that the prior interpretation of this definition would guide its interpretation under the ADA was expressly stated by Senator Weicker and other sponsors of the bill during their introductory remarks. One aspect of that interpretation is the inclusion of people infected by the AIDS virus. At the time of the introduction of the bill, the Council, the Congressional sponsors of the bill, and the endorsing disability organizations were all aware of the

judicial interpretation of the Section 504 definition to include persons infected with the AIDS virus.

Q: Does coverage of people infected by the AIDS virus mean that such individuals can never be excluded under any circumstances?

A: No. The inclusion of someone as having a condition that meets the definition of a physical or mental impairment is not the end of the inquiry under the ADA. Even though a person qualifies as having a physical or mental impairment, that individual may still be excluded or otherwise treated unequally in certain circumstances. An individual with a physical or mental impairment may be excluded or disadvantaged for some other reason having no connection to the existence of the impairment. And perhaps more significantly, a person may be treated unequally because of a physical or mental impairment if this is pursuant to the legitimate application of qualifications standards, selection criteria, performance standards, or eligibility criteria, as for example a vision criterion for a job as bus driver. Such standards that disadvantage people with particular disabilities must be both necessary and substantially related to the ability to perform or participate in the essential components of the particular job or activity in question.

Therefore, under the ADA, inquiries regarding unequal treatment of persons with disabilities can be viewed as entailing two different levels. First, is the individual being treated unequally because of a physical or mental impairment,

perceived impairment, or record of impairment? This determination is based upon the definition of physical or mental impairment drawn from the Section 504 regulations and upon the facts of the case. Second, is the unequal treatment permitted under the Act? This will depend upon whether there are legitimate standards or criteria justifying the unequal treatment, whether such standards are necessary and can be shown to be sufficiently connected to essential components of the job or activity, and whether such criteria or standards have been properly applied to the particular individual with a disability.

Q: How would these principles be applied to a person with HIV infection?

A: If an employer or service provider could show, in particular circumstances, that a person with a certain disability such as AIDS poses a substantial risk to the health or safety of co-workers or other participants, it would be permissible to establish qualifications standards or selection criteria that screen out such individuals. The employer or service provider would, however, have to have adequate evidence to establish that such standards or criteria were necessary and that they were substantially related to the essential components of the job or activity. The employer or service provider would also have to demonstrate that the particular individual in question failed to meet the standards or criteria, e.g., that the individual really did endanger the health or safety of others. Mere irrational prejudice or unfounded fears could not justify such an exclusion or unequal treatment.

Q: Is there a need for nondiscrimination protection for people infected by the AIDS virus?

A: In the early years of our nation's experience with AIDS, initiatives to prohibit discrimination against HIV-infected persons were controversial. Some individuals misunderstood the impact of nondiscrimination laws and mistakenly thought that such laws might force the inclusion of people with AIDS into dangerous situations or into positions where they they could not competently perform necessary duties. Such misunderstandings of the law, coupled with ignorance and misguided fears about the AIDS virus and its transmission, led some to vociferously oppose nondiscrimination protection for those infected by the AIDS virus. Recently, with more information and education (including the nationwide mailing to all households of the AIDS information packet and the issuance of the report of the Presidential Commission on the Human Immunodeficiency Virus Epidemic), a consensus seems to be emerging in favor of antidiscrimination measures to protect HIV-infected people. Proponents of such nondiscrimination protection include the U.S. Surgeon General, C. Everett Koop; the Presidential Commission on the Human Immunodeficiency Virus Epidemic; the Secretary of Health and Human Services; the American Medical Association; the Public Health Service; the Centers for Disease Control; the National Institutes of Health; and Vice President George Bush.

Q: What did the report of the President's AIDS Commission say about discrimination against people with AIDS-virus infection?

A: The Presidential Commission concluded that

antidiscrimination measures were necessary not only as a matter of justice or equity, but also for pragmatic reasons; without such protection, the Nation's efforts to control the AIDS epidemic could not succeed. The Commission stated:

Throughout our investigation of the spread of HIV in the United States, the Commission has been confronted with the problem of discrimination against individuals with HIV seropositivity and all stages of HIV infection, including AIDS. At virtually every Commission hearing, witnesses have attested to discrimination's occurrence and its serious repercussions for both the individual who experiences it and for this nation's efforts to control the epidemic. Many witnesses have indicated that addressing discrimination is the first critical step in the nation's response to the epidemic.

HIV-related discrimination is impairing this nation's ability to limit the spread of the epidemic. Crucial to this effort are epidemiological studies to track the epidemic as well as the education, testing, and counseling of those who have been exposed to the virus. Public health officials will not be able to gain the confidence and cooperation of infected individuals or those at high risk for infection if such individuals fear that they will be unable to retain their jobs and their housing, and that they will be unable to obtain the medical and support services they need because of discrimination based on a positive HIV antibody test.

As long as discrimination occurs, and no strong national policy with rapid, and effective remedies against discrimination is established, individuals who are infected with the HIV will be reluctant to come forward for testing, counseling, and care.

Subsequent to the issuance of the Commission's report, Vice President George Bush was one of many public officials who endorsed the Commission's call for antidiscrimination protection for people with HIV infection.

Q: What were the Commission's formal recommendations regarding nondiscrimination legislation?

A: The Commission's formal recommendations called for:

Comprehensive federal anti-discrimination legislation which prohibits discrimination against persons with disabilities

in the public and private sectors, including employment, housing, public accommodations, and participation in government programs, should be enacted. All persons with symptomatic or asymptomatic HIV infection should be clearly included as persons with disabilities who are covered by the anti-discrimination protections of this legislation.

Q: Did the Commission's report discuss the ADA specifically?

A: The Commission expressly endorsed the Americans with Disabilities Act as proposed by the Council; the report declared:

The National Council on the Handicapped, an independent federal agency comprised of 15 members appointed by the President to make recommendations on public policy issues affecting people with disabilities, included a proposal for a comprehensive federal law of this kind in their January 1988 report to the President. Their proposal, the Americans with Disabilities Act of 1988, was recently introduced in the United States Congress. The Commission believes that this type of comprehensive, disability anti-discrimination legislation should serve as a model for federal legislation in this area.

Q: Are there any guidelines regarding discrimination against people with HIV-infection in the Federal workforce?

A: Yes, nondiscrimination measures have already been developed in regard to the Federal workplace. In 1986, a Task Force of the General Accounting Office, appointed by the Comptroller General, proposed employment policies to assure that HIV-infected employees be treated "fairly and humanely." Following up on that proposal, in March of 1988, the Office of Personnel Management (OPM) issued comprehensive guidelines which outline employment policies for federal workers who are HIV-infected. The OPM guidelines include statements that

"HIV-infected employees should be allowed to continue working as long as they are able to maintain acceptable performance and do not pose a safety or health threat to themselves or others in the workplace," and that "agencies are encouraged to consider accommodation of employees' AIDS-related conditions in the same manner as they would other medical conditions which warrant such consideration." Further, the guidelines declare, "there is no medical basis for employees refusing to work with such fellow employees or agency clients who are HIV-infected."

SMALL BUSINESSES

Q: How will the bill affect small business owners?

A: Small business owners will not be adversely affected by the bill. The bill specifies that any modification or barrier removal that would fundamentally alter the essential nature or threaten the existence of a business would not be required. In addition, the bill provides two to five years, depending on circumstances, for businesses to make substantial modifications to existing buildings. Moreover, an increased volume of sales as a result of accessibility for disabled Americans could be expected. For businesses opening up in new locations, accessibility features included in the original construction program would constitute only one-tenth of 1 percent of the total construction cost. In some states, local codes and ordinances already require these accommodations. It is anticipated that when small business owners realize how useful

such barrier elimination can be, they will be in support of the bill because of its applicability as a sound and valuable business practice.

EMPLOYMENT

Q: Will this bill require affirmative action programs for people with disabilities?

A: /This bill, noting both past and present discrimination, includes among its findings that discrimination against people with disabilities persists in employment and that they are, as a group, severely disadvantaged vocationally and economically. Based on those findings, the bill requires employers having 15 or more employees to engage in outreach and recruitment efforts.

Q: Are we talking about quotas?

A: No. The extent of discrimination on the basis of handicap cannot be measured as simply or precisely as in the case with race or sex, for example, and would render strict numerical analysis unusable. While underrepresentation of blacks or women in a workforce could certainly be considered an indicia of discriminatory practices at some point in the process, similar underrepresentation of people with specific impairments would not on its face indicate the presence or absence of unlawful discrimination. Qualifications criteria that are reasonably necessary and related to the ability to participate in the essential components of a job may lawfully exclude people with certain disabilities from certain jobs. Each situation must be

examined carefully. A criterion that applicants possess a high level of visual acuity may lawfully exclude those with visual impairments; the same criterion may not be used to exclude everyone with a physical or mental impairment. Identifying underrepresentation in this area will require further study and analysis in order to determine whether it is the result of legitimate, job-related criteria; refusal to make reasonable accommodations; or barriers that make participation difficult or impossible.

Q: Won't employers have to lower their standards?

A: Absolutely not. At most, employers will have to reexamine their criteria for recruitment, hiring and promotion to ensure that essential components of each job are clearly defined and that the qualifications to perform each component are reasonable and related to the job. If recent history is indicative, what they will end up with is a streamlined, more efficient program and a larger, more diverse pool from which to draw, both boons to good management.

Q: Aren't the costs associated with employing disabled people very high?

A: Harris found that the overwhelming majority of managers in private industry polled reported that the cost of employing a disabled employee is about the same as the cost of employing a nondisabled employee.

Q: What types of accommodations are most often required?

A: By far, the most common accommodation is the removal of architectural barriers. In addition, half of the companies polled by the Harris researchers reported purchasing special equipment and half also adjusted work hours or restructured jobs.

HOUSING

Q: What types of modifications are required under this Act in regard to housing?

A: This Act focuses on making future housing accessible, rather than focusing on retrofitting existing housing. It requires that public and common use portions of certain multifamily dwellings be accessible and usable; that doors be wide enough for people in wheelchairs to use; and, that all premises within covered dwellings have basic universal features of adaptive design.

Q: Aren't the costs of providing accessible housing prohibitive?

A: No. In fact, the General Accounting Office concluded in a report to Congress that "the additional cost for accessibility features included in the original construction program may only be one-tenth of 1 percent of total construction cost."

FAIR HOUSING AMENDMENTS

Q: What are the differences between the section of this Act that addresses discrimination in housing and the amendments to the Fair Housing Act pending before Congress?

A: There are no differences between this section 6 of this Act and the Senate Judiciary Committee's version of the Fair Housing Amendments. The section was included in this Act to provide consistency in this vital area and, as the Act does throughout, to explain with specificity what constitutes discrimination. As changes are negotiated in the language of the Fair Housing Act Amendments bill as it applies to accessibility in new housing construction, such modified language will be presumably be incorporated into section 6 of the ADA.

Q: What happens to section 6 if the Fair Housing Act Amendments bill is enacted?

A: If the Fair Housing Act Amendments become law with the new housing construction accessibility provisions in tact, then the requirements of section 6 of the ADA would become redundant, and would presumably be deleted from the Act.

PUBLIC ACCOMMODATIONS

Q: Do people with disabilities have problems with public accommodations such as restaurants?

A: Many people with disabilities do not have access to, for example, restaurants, places of entertainment, or cultural activities of their choice. In addition to obvious problems with steps and inaccessible restrooms, some of these places may segregate people with disabilities or refuse admittance to a guide or service dog. This bill prohibits such discrimination in public accommodations.

Q: What are "places of public accommodation?"

A: Pursuant to existing civil rights laws, "public accommodations" include inns, hotels, motels, or other lodging establishments; restaurants, cafeterias, lunchrooms, lunch counters, soda fountains, or other dining establishments; gas stations; and motion picture houses, theaters, concert halls, sports arenas, stadiums, or other places of exhibition or entertainment. Under the ADA, all of these will be prohibited from discriminating against people with disabilities.

COMMUNICATION BARRIERS

Q: What does the bill say about communication barriers affecting people with hearing impairments, visual impairments, and other impairments that can impede the ability to communicate?

A: The bill requires the taking of appropriate steps to remove communication barriers, through providing or modifying

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How much
needs to be
done? what
are discriminatory
practices?

appropriate devices, services, systems, or information media. It provides examples of methods which can be used to enhance communication, including TDDs, captioning, interpreters and readers, amplifiers on telephone handsets, brailled or taped information, and others.

CAPTIONING OF TELEVISION PROGRAMS

Q: What requirements does the bill establish in regard to the captioning of television programs?

A: The bill gives the Federal Communications Commission the responsibility to issue regulations under the Act in regard to broadcasters and others in the communications industry.

Regarding the issue of captioning, the bill provides that the F.C.C. regulations shall include requirements for "progressively increasing the proportion" of captioned programs. This approach was adopted rather than having the bill try to set a specific percentage or number of hours per week of captioned programming.

AIR TRAVEL

Q: Is anyone claiming that people with disabilities are being denied access to air travel?

A: The effect of barriers throughout transportation systems often precludes someone with a disability from using them at all. People with disabilities are also often provided disparate or unequal treatment that either demeans or segregates to such

an extent that someone unable to take full advantage of an opportunity may forgo it completely. To take air travel as an example, people with disabilities who attempt to fly are often not even permitted to choose their own seats; usually have their wheelchairs taken from them and replaced with tottering, unsafe devices; may have to be carried to and from the boarding area to the plane; and, often cannot use the restrooms, which may preclude flying altogether. This bill will prohibit discrimination by any company engaged in interstate transportation.

*How does this fit
with Air Carrier
Act?*

MASS TRANSPORTATION

Q: Aren't the costs of making urban transportation systems accessible prohibitive?

A: The costs vary widely according to the scope of the service provided, the number of people who use it and the maintenance required. There are, however, enough localities with successful, accessible public transit systems in place that an assessment of their collective and individual successes certainly suggests that cost-effective alternatives are viable and available. Furthermore, limiting the ability of people with disabilities to travel in and around urban areas negatively affects employment and educational opportunities. The Department of Transportation has estimated that approximately \$800 million in net benefits to society would result from eliminating transportation barriers.

Q: Have any local governments succeeded in providing effective accessible transportation?

A: Many have. In Toward Independence, the Council cited Seattle, Washington; Champaign-Urbana, Illinois; Dayton, Ohio; significant and, Pennsylvania; and Palm Beach, Florida as examples of localities that have made significant and successful efforts to provide accessible transportation. To focus on one widely-discussed accomplishment, the city of Seattle, Washington, created a cost-effective transit system responsive to a wide range of identified needs. After modifying many of its bus zones, Seattle Metro began equipping many of its buses with lifts, The system is now 53 percent accessible and averages 242 one-way lift trips per day. The Metro system also operates subsidized taxi and van programs.

Q: Are cost figures available for the initial outlay and maintenance of Seattle's system?

A: Seattle Metro estimates its start-up costs at \$171,000. Maintenance of lift-equipped buses is \$355 per bus per year; operating costs per lift trip in 1984 was \$3.46. Metro's average subsidy in its taxi program was \$2.89 per trip in 1982. The van program, operating primarily in suburban and rural areas, averaged \$4.15 per trip during the same time period.