



AMERICAN  
SPEECH-LANGUAGE-  
HEARING  
ASSOCIATION

March 12, 1991

The Honorable Bob Dole  
United States Senate  
141 Hart Senate Office Building  
Washington, DC 20510-1601

Dear Senator Dole:

The American Speech-Language-Hearing Association (ASHA) is a national organization of some 63,000 speech-language pathologists and audiologists working with people of all ages who have communication disorders. ASHA members provide services through the schools, in health-care settings, and in private practice. This fall you met Matthew Gardner of Olathe, when he, his parents and speech-language pathologist came to Washington as guests of ASHA after Matt won a national essay contest sponsored by the Association.

Since 1987, the ASHA-PAC has supported Members of Congress and challengers who are supportive of education, healthcare, research, training, and disability policies consistent with interests of our members and those they serve. Each year, the ASHA-PAC Board of Directors meets for two days in the Washington area to discuss fundraising plans for the coming year, determine candidate priorities, and visit representatives and senators. Our regular program includes a breakfast meeting with a Member of Congress. The meeting is informal and generally consists of a few minutes of remarks by our guest, followed by a question and answer period. The ASHA-PAC Board would be honored to have you as our guest this year. As Senate Republican Leader, as a ranking member of the Senate Finance Committee, and the leading disability advocate in the Senate, your views would be of great interest. The breakfast will be held at La Colline Restaurant on Capitol Hill, at 8:30 a.m., on Friday, April 5. We would, of course, provide an honorarium.

If you have any questions with regard to the Association, our legislative interests, or our PAC, please have your staff call me. We look forward to hearing from you and hope your schedule will permit you to join us on April 5.

Sincerely,

*Sydney Olson*  
Sydney Olson, Director  
Governmental Affairs Department

cc: Marcie Adler



# A Law That Gives the Disabled a Fair Chance

WSS  
3-29-91

By PATRICIA M. OWENS

More than half a year after it was passed, the Americans with Disabilities Act still causes fear in the hearts of much of American business. The law goes into effect in stages—the first stage, for businesses with 25 or more employees, comes in the summer of 1992. The ADA was written to remove obstacles—in particular, the obstacle of discrimination that limits employment opportunities for people with physical or mental disabilities. But detractors argue that the ADA has added problems. They envision a morass of regulation and expense for fancy technology or extra support staff.

To appraise the merits of this debate, it is important to recognize that the ADA is, in a way, a unique disability law. Its employment provisions are grounded in a supposition that is totally opposite to that of other disability entitlement programs. Disability entitlement in modern times has usually been based on a medical and legal certification of inability to perform because of a mental or physical impairment. This certification entitles the person with a disability to benefits in lieu of earnings from work he cannot do. The costs for such disability entitlements are borne by government, employers, insurance companies and private citizens.

The price for such entitlements has been high. In 1986, disability payments for the population aged 18 to 64 were \$86 billion. Elaborate disability evaluation criteria and procedures exist to ensure only those who meet certain "inability" standards are entitled to payments. Often, expensive disputes mean that people with disabilities end up struggling to prove what they cannot do.

The ADA by contrast takes a "can do" approach. Entitlement guaranteed by the ADA employment provisions requires a mirror-image way of looking at disabilities. Qualified persons with disabilities are entitled to an opportunity to perform in accordance with their abilities. From this changed perspective, employers must first look at essential job functions and then match these with a person's abilities. If a person with a disability can perform relevant work functions, the only issue is accessibility within the work place. If qualified applicants and employees with disabilities

cannot perform essential work functions or fully participate in other employment programs because of their impairment, they are entitled to have impairment-related barriers removed through reasonable accommodation.

The employer for his part need not face a terrible burden. He is not required to provide accommodation that alters his business's function, is overly disruptive, or costs more than can reasonably be afforded. A study commissioned by the Labor Department shows that one half of the accommodations identified in the study cost nothing. All that was needed was practical help—such as putting blocks under a desk so a wheelchair can roll under. An additional 30% of cases cost less than \$500.

The success of the "entitlement to perform" viewpoint hinges on the conviction that people with disabilities actually want to work. For those who argue that this is not the case, and that extensive litigation using ADA protections may extract costly settlements for work not done, there are some facts to bear in mind. The Rehabilitation Act of 1973 sets a precedent. It requires that both the federal government and certain government contractors adhere to almost identical rules as the ADA and there has not been excessive litigation under this law. (What litigation there has been provides useful guidance for ADA implementation.)

Experience has also shown that the disabled want to work—and work well. Sears Inc. has had a policy to include persons with disabilities in its work force since 1947. Paul Scher, who is a manager for the Sears Selective Placement and Rehabilitation program, maintains that persons with disabilities employed at Sears are motivated employees and do at least as well as other employees. Du Pont Co. has long been active in employment of persons with disabilities. Published studies of Du Pont's experience show that workers with disabilities perform as well as or better than co-workers and that fears of safety and absenteeism are unfounded.

Employers who are preparing for the ADA should keep the "entitlement to do" in mind. If you are an employer, first become familiar with the basic provisions of the law. Then review hiring, promotion, performance, training, benefit and other programs to ensure that they can meet the intent of the ADA and can be made accessible to persons with disabilities. Judge qualified persons with disabilities on their abilities and, on a case-by-case basis. Make candidates for employment who are disabled, as well as current employees who become disabled, aware of their rights. A reasonable nondefensive approach to the implementation of the ADA can be more

productive and cheaper than looking for detailed rules and regulations to limit or evade ADA responsibilities.

The ADA is really a straightforward law, best understood in the context of this nation's renewed drive for individuality. People in this era have fought against being limited because they are members of a category—ethnic, racial or gender. Instead they have insisted on being considered as individuals who pursue their own purposes. Persons with disabilities seeking employment are marked by their purpose. They are looking for an opportunity to do work in exchange for pay. Disability as an entitlement to a fair chance to perform in accordance with abilities deserves an investment in time and money at least comparable to disability as an entitlement to compensation.

Ms. Owens specializes in disability-related benefit and insurance issues for Thomas L. Jacobs, a division of the insurance company Unum Corp.

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## Notable & Quotable

Computer billionaire H. Ross Perot  
declining to run for president on CNN's  
"Larry King Live" on March 19:

No, I'm a businessman. I think it's important to play to your strengths. If I have a role in this world, it's to create taxpayers by creating new jobs.



**SENATOR BOB DOLE**  
**AMERICAN SPEECH-LANGUAGE-  
HEARING ASSOCIATION**  
**APRIL 5, 1991**

**GOOD MORNING. IT'S A  
PLEASURE TO MEET WITH THIS  
DISTINGUISHED GROUP OF  
SPEECH-LANGUAGE-HEARING  
PROFESSIONALS.**

**I HAVE ALWAYS BEEN  
INSPIRED BY THE STATE MOTTO  
OF KANSAS--"TO THE STARS  
THROUGH DIFFICULTIES."**

**WELL, FOR DECADES, THE  
AMERICAN SPEECH-LANGUAGE-  
HEARING ASSOCIATION HAS  
DEVOTED ITSELF TO ENSURING  
THAT PEOPLE WITH DISABILITIES  
HAVE THE OPPORTUNITY TO  
REACH FOR THE STARS...TO**

**DEVELOP TO THEIR FULLEST  
POTENTIAL...AND TO ENTER THE  
MAINSTREAM OF SOCIETY.**

**IT WAS MY PRIVILEGE LAST  
FALL TO MEET WITH ONE YOUNG  
MAN WHO YOU ARE HELPING  
REACH FOR THE STARS.**

**I MET WITH MATT GARDNER  
OF OLATHE, KANSAS, WHEN HE,  
HIS PARENTS, AND HIS SPEECH-  
LANGUAGE PATHOLOGIST CAME**



**TO WASHINGTON AS GUESTS OF  
ASHA AS THE WINNER OF YOUR  
NATIONAL ESSAY CONTEST.**

**AND ALL OF AMERICA'S  
PERSONS WITH DISABILITIES  
WERE WINNERS LAST YEAR  
WHEN CONGRESS PASSED THE  
AMERICANS WITH DISABILITIES  
ACT.**

**YOU WERE IN SUPPORT OF  
ADA'S PASSAGE FROM THE VERY**

**BEGINNING, WORKING TO SHAPE  
AND CRAFT ITS SWEEPING AND  
HISTORIC PROVISIONS.**

**AS SPEECH-LANGUAGE  
PATHOLOGISTS AND  
AUDIOLOGISTS, YOU STILL HAVE  
A LARGE ROLE TO PLAY IN THE  
PROMULGATION AND  
IMPLEMENTATION OF THE FCC  
REGULATIONS ON TITLE IV.**

**FOR ADA TO SUCCESSFULLY**

**ENSURE PEOPLE WITH  
DISABILITIES THE OPPORTUNITY  
TO PARTICIPATE IN THE  
MAINSTREAM OF AMERICAN  
SOCIETY, WE MUST MAKE SURE  
THAT CALLERS UNABLE TO USE  
VOICE HAVE ACCESS TO RAPID,  
EFFICIENT NATIONWIDE  
TELECOMMUNICATIONS RELAY  
SERVICES.**



**HOPEFULLY, THE ADA WILL  
TEAR DOWN ANTIQUATED AND  
UNNECESSARY  
COMMUNICATION BARRIERS,  
ENABLING PEOPLE WITH  
SPEECH AND HEARING  
IMPAIRMENTS TO BECOME  
INDEPENDENT CONSUMERS AND  
MEMBERS OF THE COMMUNITY.**

**IT'S AWFULLY DIFFICULT TO  
GO TO A MOVIE, MAKE AN**

**APPOINTMENT, OR EVEN FIND  
AND HOLD ONTO A JOB  
WITHOUT A TELEPHONE LINK TO  
OTHERS.**

**EMPLOYMENT IS ALSO  
CRITICAL TO THE INTEGRATION  
OF YOUR CONSTITUENCY INTO  
THE MAINSTREAM. AS YOU MAY  
KNOW, I FOUNDED THE DOLE  
FOUNDATION BECAUSE OF MY  
COMMITMENT TO ENHANCING**



# **THE OPPORTUNITIES FOR COMPETITIVE EMPLOYMENT OF PEOPLE WITH DISABILITIES.**

**WHILE THERE IS NO ONE KEY  
TO FULL PARTICIPATION IN  
SOCIETY, AN ACCESSIBLE WORK  
PLACE AND NON-  
DISCRIMINATION IN HIRING AND  
PROMOTIONS ARE VERY  
IMPORTANT COMPONENTS.**

**THE ADA IS AN IMPORTANT  
BEGINNING, GIVING US BOTH A  
FRAMEWORK AND A MANDATE  
FROM WHICH TO PROCEED.**

**HOWEVER, TO REINFORCE  
THE GOALS OF ADA AND TO  
MOVE DISABILITY POLICY  
FORWARD INTO THE NEXT  
CENTURY, IT IS CRITICAL TO  
MAINTAIN A UNITED AND SOLID  
PARTNERSHIP BETWEEN THE**



**DISABILITY COMMUNITIES AS  
WELL AS THE PUBLIC AND  
PRIVATE SECTORS.**

**I THINK IT'S OUTSTANDING  
THAT THE AMERICAN SPEECH-  
LANGUAGE-HEARING  
ASSOCIATION HAS TAKEN A  
MORE ACTIVE ROLE IN THE  
POLICY PROCESS. OUR  
COUNTRY NEEDS YOUR  
EXPERTISE AND SUPPORT--NOW,**

**MORE THAN EVER.**

**WITH THE CONTINUED  
DEDICATION OF YOUR  
MEMBERS, I'M CONFIDENT THAT  
WHEN WE GATHER NEXT YEAR  
FOR ASHA-PAC'S BOARD OF  
DIRECTORS MEETING, WE'LL BE  
ABLE TO SAY THAT COUNTLESS  
MORE AMERICANS WITH  
DISABILITIES HAVE REACHED  
FOR THE STARS.**



**THANK YOU VERY MUCH.**

April 3, 1991

TO: Senator Dole  
FROM: Andy Weis  
SUBJECT: Christian Science Monitor Article

I have attached an editorial published in the Christian Science Monitor for your perusal. While this article is similar to the Friday, March 29, Wall Street Journal piece on ADA, the Monitor editorial's content is more emotional. However, Mary Johnson still provides an excellent defense of the law's non-discriminatory intent.

# Disabilities Act – Why Business Still Carps

By Mary Johnson

**S** MALL businesses are going to be caught off guard by the Americans with Disabilities Act.

At least that's the assessment of Wendy Lechner, manager for research and policy at the National Association of Independent Business. Ms. Lechner was quoted in the current (Spring, 1991) issue of "Your Company," an American Express publication for small businesses. "Many small-business owners we've talked to have never heard of the law," she told the publication.

Is this really true? Maybe – but the business lobby in this country has sure heard of it. Their stamp is all over the law. So why are they still complaining?

The business community started fretting about this law when it was only a gleam in Congress's eye. Advocates for the disabled had for a long time sought a way to extend to people with disabilities the same kinds of protections the Civil Rights Act gave women and minorities, but the business community got significant concessions from disability-rights forces from the start. How far the resulting Americans with Disabilities Act goes toward ensuring routine access and accommodation for disabled persons still remains to be seen.

The new law is a wonder of reasonableness – or compromise, depending on your perspective.

While the law says no business operating a "public accommodation" can refuse to serve people with disabilities, the business actually has to do things like installing ramps or widening toilet stalls only when it's "readily achievable" – which the law defines as meaning "without much difficulty or expense."

While businesses cannot refuse to hire a disabled person who is qualified for a job, and must make "accommodations" for the person's

disability (like buying a deaf accountant a TDD machine so he or she can make phone calls), the law says that the company does not have to do anything that causes it "undue hardship."

That's a reasonable assumption. Business in this country has a history of excluding disabled people from jobs and services. For decades, disability-rights activists have been saying that's discrimination; last year Congress agreed. Some in the disability-rights community say business's continuing complaints, coming on the heels of concessions won in Congress, show that tendency is as prevalent as ever.

The complaints always center around cost. Nobody comes right out and says they don't want to serve disabled people. That would look bad. Instead, they say precisely what the Americans with Disabilities Act allows them to say to avoid disabled people: "We really want to serve (hire, rent our hotel rooms to) disabled people. But we just can't afford to put in that ramp, widen those doors, make our restrooms accessible."

That seems reasonable, too – until you start to examine it.

Certain costs are an accepted part of doing business. A phone line's a must – maybe several. Office furniture – desks, chairs, a file cabinet or two, a computer – have to be bought. Companies provide restrooms for employees and don't think twice about it. Restaurants and movie theaters do, too. So do shopping malls. (At one time, though, indoor plumbing – and restrooms – were the exception, not the rule.)

But you don't hear business complain about the extra cost of installing restrooms – or buying desks and phones. They're simply considered a routine part of doing business. And, believe me, installing an entire restroom from the ground up certainly costs more than making one accessible!

But from the noise they're making, it's beginning to sound as though business is still not willing to accept the cost of access as a routine part of doing business.

And that sounds a great deal like discrimination to me.

■ Mary Johnson is editor of *The Disability Rag*, Hortonville, N.Y.

**The complaints always center around cost. Nobody comes right out and says they don't want to serve disabled people.**