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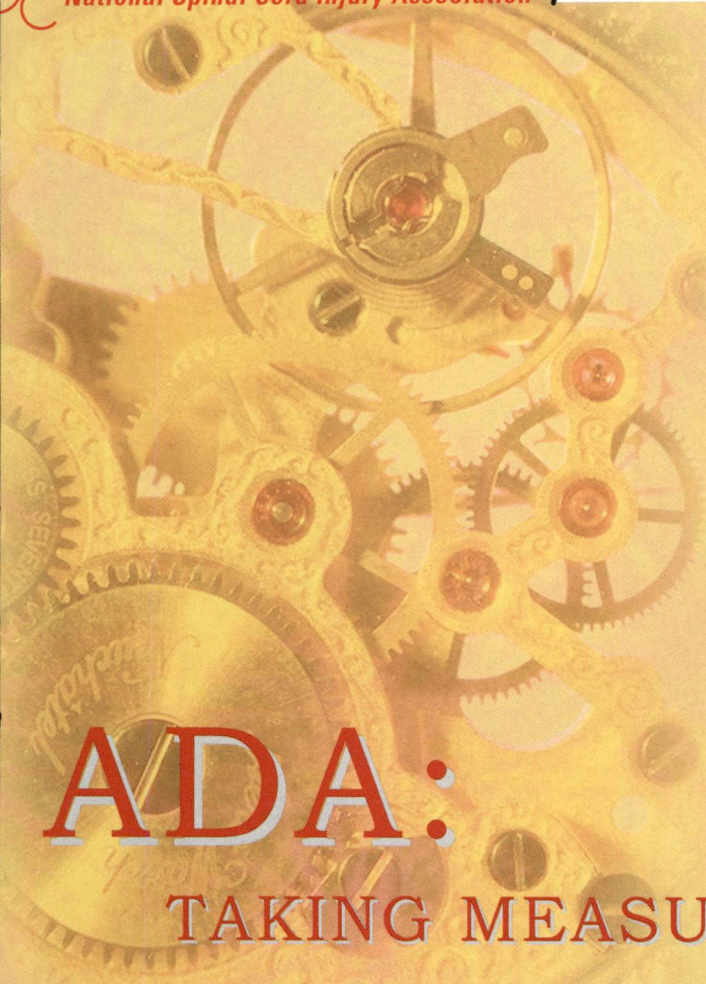
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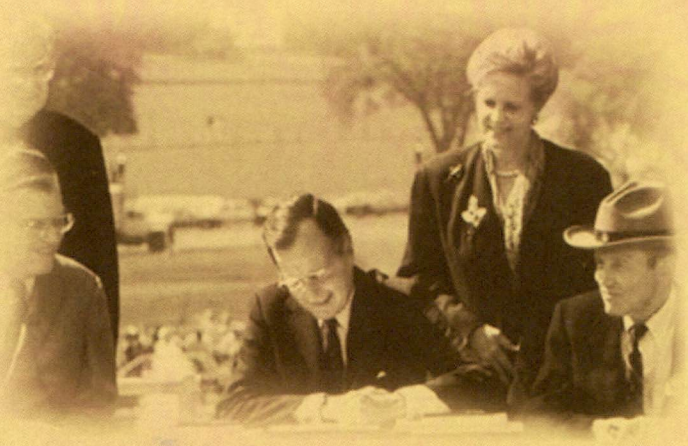
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Fall 2002 / Winter 2003

SCI LIFE

National Spinal Cord Injury Association

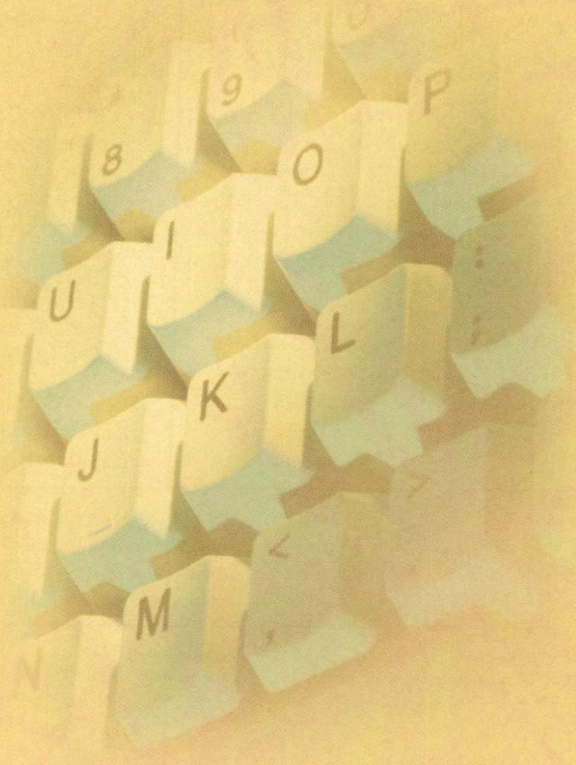




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TAKING MEASURE AFTER 12 YEARS







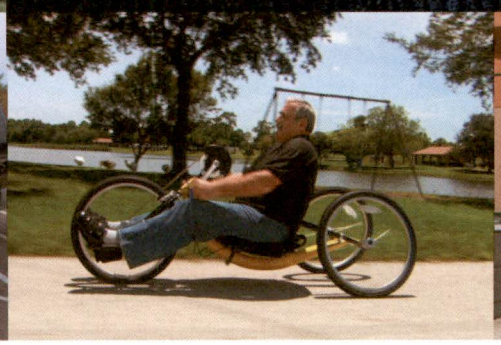






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SCI/LIFE

SCI/LIFE is a publication of the National Spinal Cord Injury Association

SCI/LIFE

SCI/LIFE is dedicated to the presentation of news concerning people with spinal cord injuries caused by trauma or disease. • We welcome manuscripts and articles on subjects related to spinal cord injuries or the concerns of persons with disabilities for publication, and reserve the rights to accept, reject, or alter all editorial and advertising materials submitted. • Manuscripts and articles must be accompanied by a self addressed stamped envelope if return is requested. • Items reviewed in New Products Announcements and advertising published in *SCI/LIFE* do not imply endorsement of organizations, products or services.

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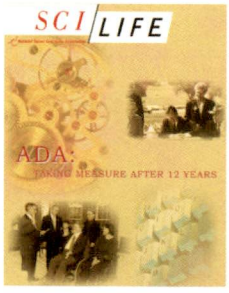
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On the cover:
Top picture: July 26, 1990: President George Bush signs the ADA into law before 3,000 people on the White House lawn, surrounded (left to right) by Rev. Harold Wilke, Evan Kemp, Sandra Perrino, and Justin Dart.

Bottom picture: September 26, 2002: With President George W. Bush observing, Lex Frieden is sworn in as chairman of the National Council on Disability in the Oval Office, surrounded (left to right) by Andrew Card, Trey O'Connor, Mac Brodie, and Joyce Frieden.



Marcie Roth
Executive Director
National Spinal Cord Injury Association

Important Changes in Association Membership

The National Spinal Cord Injury Association (NSCIA) has very exciting news to share! Beginning with our 2002 Conference, being held in Phoenix, AZ on November 14-16, individual membership dues will be ***FREE!***

FREE? How can this be? Our Board of Directors and Chapter leadership recently directed this exciting change to move us closer toward our mission; ***to enable people with SCI/D to achieve their highest level of independence, health and personal fulfillment by providing resources, services and peer support.***

It is our goal to organize the collective voice of the spinal cord injury community - those with spinal cord injuries, diseases and other dysfunction (SCI/D), their families and those who provide their SCI/D related services, to lead the way in achieving this mission. We will best succeed when we are truly reflective of the community we represent. Your membership will allow us to achieve true representation from across the SCI/D community. Thus, we need you to become a member of NSCIA. We don't want money to stand in your way.

To help us move forward, if you are already a member, you will remain so. If you are not a member, please turn to page 15 and complete the enclosed membership application and return it to our Membership office at: 901 East Willetta, Suite 2306, Phoenix, AZ 85006.

You can also email us at membership@spinalcord.org, fax us at (602) 239-6268 or call us at (602) 239-5929 or Toll Free at (877) 778-6588.

How can we afford to do this? Simply, we can't. And yet, we have decided to find a way to do this anyway. ***YOU CAN HELP.*** If this is going to work, we will all have to work together in whatever way we can to find the resources to serve our growing membership and have the kind of local, state and national impact that will yield real changes in the quality of life and opportunities for people with SCI/D.

- *If you were planning to pay for or renew membership, we would appreciate your donation of $25 (or more!). If you can't afford $25,please send what you can afford.*
- *If you are a professional, please enter a professional, rather than an individual membership.*
- *If you are associated with an organization or hospital, please have them become members, as well.*
- *Please remember us in your will, and with gifts of stocks, mutual funds and real estate.*
- *Please introduce us to others who might help support this bold and exciting move, and those who might share our commitment to our mission.*

Thanks to a recent grant from the Medtronic Foundation, look for our new Electronic Newsletter early in 2003. This newsletter will allow us to provide timely and important information to our members who are connected to the Internet. We also plan to offer a number of other exciting member benefits shortly, including discounts on many of the items people with SCI/D use regularly.

IMPORTANT! If you are a member with Internet access, please send us your e-mail address.
E-mail us at membership@spinalcord.org. This will significantly reduce printing and mailing costs and allow us to serve more members who do not have access to the Internet.

Recent NSCIA Activities

In honor of national disability employment awareness month, and the new NSCIA public service announcements (PSAs), NSCIA Chapters held "Sneak Previews" of PAX TV's original TV movie *"Anna's Dream"* in DC, Phoenix. Pittsburgh, NYC, Atlanta, Tampa, Chicago and Boston to raise awareness of our newly forming National Peer Support Network.

"Anna's Dream" tells the story of a high school student returning to school after she sustains a spinal cord injury during a gymnastics meet. The movie stars Lindsay Felton as Anna, who, with the support of loving parents (Richard Thomas, Connie Sellecca), siblings and peer support, rediscovers herself after a spinal cord injury. Connie Sellecca helped us by filming five public service announcements in support of the work NSCIA is doing to create our National Peer Support Network. These PSA's were shown across the country during the last week in September and the first week in October on major network televisions stations.

If you saw Anna's Dream, and would like to see PAX turn this movie into a TV series, please email your thoughts and suggestions to mroth@spinalcord.org.

The NSCIA National Peer Support Network is supported, in part, through a grant from the Christopher Reeve Paralysis Foundation. Look for news from this project on our website and in our electronic newsletter in the near future.

In This Issue

In this issue of *SCI Life* you will find a number of articles that pertain to the Americans with Disabilities Act (ADA) and the civil rights of the 56 million Americans with disabilities, including the quarter to half-million with spinal cord injuries (SCI) and hundreds of thousands more with spinal cord diseases and/or dysfunction.

Recently, it has been brought to our attention that the connection to SCI in recent issues of *SCI Life* is not always clear. It is anticipated that this issue, which focuses almost exclusively on the Americans with Disabilities Act (ADA) will raise similar questions.

Thus, we will take this opportunity to help readers to understand the connection and perhaps, give additional information about *SCI Life* and its publication.

SCI Life is fortunate to have Lex Frieden as our editor. Lex, a long-time leader in the disability rights and independent living movement, wears many hats. In addition to *SCI Life* editor, Lex was recently appointed by President Bush to chair the National Council on Disability (NCD). He is also: Baylor College of Medicine Professor of Physical Medicine and Rehabilitation, senior vice president at The Institute for Rehabilitation and Research in Houston, Director of the Independent Living Research Utilization Program, husband, parent and grandparent and visionary employer. Lex also happens to be a spinal cord injury survivor, after breaking his neck in 1967. Thus, he brings an amazing amalgam of personal and professional knowledge and talents to bear as he puts our magazine together.

In this issue, Lex brings together many aspects of the current and historical issues associated with the ADA. He speaks about the difference between discrimination and accommodation, saying "avoiding discrimination is one thing and actually making the necessary repairs and accommodations that are necessary to ensure that a person with a disability has equal opportunity is another." This, I believe is the essence of the vision shared by the NSCIA leadership; ***NSCIA Leads The Way in Maximizing the Quality of Life and Opportunities for People with Spinal Cord Injuries and Diseases.***

As we build our membership and the strength of our collective impact, we will lead the way in protecting and advancing the human and civil rights of people with spinal cord injuries, diseases and dysfunction. With rights come opportunities. Understanding those rights is critical. This issue of *SCI Life* is a wonderful collection of historical and current perspectives that should serve us well as we move towards the future.

THE ADA: AN OVERVIEW TO MEASURE TAKING

EDITORS



In addition to her background in law and her personal experience with disability (spinal cord injury), **Wendy Wilkinson** has worked in the field of independent living and is exceptionally knowledgeable concerning issues of disability rights and the legal nuances of ADA and its provisions. She publishes frequently on legal and ethical aspects of ADA, as well as other issues facing people with disabilities.



Lex Frieden has been appointed by three presidents--Reagan, Bush (41), and Bush (43)--to serve on the National Council on Disability. While executive director of the Council from 1984 to 1988, he was instrumental in conceiving and drafting the policy recommendation for disability civil rights legislation which became the Americans with Disability Act. In October 2002, he returned to the Council as its chair.



A member of ILRU since 1978, **Laurel Richards** is a dissemination and utilization specialist, drawing on a background of classroom instruction, journalism, graphic arts, and literature. Her appreciation for the ADA comes not only from personal experience with disability but also from over ten years experience parsing legalese as a member of the National Council for Independent Living's Rehab Act committee.

Since 1990, we have been providing intensive training and technical assistance to organizations responsible for ADA compliance and to consumers with rights under the ADA. Twelve years later, we find that there is a very low level of knowledge about the law and how it applies--among those with responsibilities and among those with rights.

We have seen instances of myths dispelled and barriers removed. But, by and large, people with disabilities are disenfranchised because they do not know their rights under the ADA. They need to know what reasonable accommodation means for them. They need to know that businesses are public accommodations and must be accessible to them. They need to know where they can get support and get their questions answered.

What would I advise supporters of the ADA? To push for more education of consumers, family members, and those working in the disability fields. Once people know what their rights are, they are better able to secure them. That should be our goal.

Wendy Wilkinson

This is the first of a two-part series on the Americans with Disabilities after 12 years. It is essentially a status report. The ADA became law in July 1990, and, for the most part, implementation began in July 1992. Enough time has passed so that we can take measure: What impact has ADA had on employment? State and local governments? Public accommodations? Communications?

Leading the editorial efforts for this issue has been Wendy Wilkinson, director of ILRU's Disability Law Resource Program. As you will see, she has obtained a number of articles from individuals involved in ADA from around the country; she has also obtained a number from the ADA specialists on staff of ILRU.

Bringing this issue to a close is our tribute to Justin Dart, the patriot's patriot, and the man who will always be identified with the ADA.

When the history of the ADA is written, chapters will cover the many close calls where the law was nearly de-railed. In ***The ADA – from Idea to Law: The View from Inside,*** Lex Frieden recounts the first make-or-break incident. It occurred in 1985, involving a report prepared by the National Council on Disability which contained a controversial recommendation on formalization of civil rights for people with disabilities.

The Americans with Disabilities Act –The Briefest of Overviews. People who live and breathe the ADA toss around phrases like, "It's a Title III issue" or "That's not sanctioned by Title I." For civilians – those of us for whom title memorization constitutes an undue hardship, Wendy Wilkinson and Aaron McCullough provide a synopsis of the ADA.

For over ten years, the National Institute for Disability and Rehabilitation Research, U.S. Dept. of Education, has funded ten ADA technical assistance centers around the country with the mission of helping people protected by the ADA as well as organizations which must comply with the ADA. In ***The National Network of ADA Technical Assistance Centers,*** contact information for each center is provided.

Title I's provisions for employment came into effect in 1992. How does it seem to be going? Two articles take very different looks. Andy Imparato asks several key questions on Title I's ten-year anniversary. How do we determine its success? Through hard facts and numbers? Through attitude and personal change? Do judicial setbacks weaken the ADA or, in

fact, emphasize its basic strengths. ***The ADA and Employment*** is a poignant, perceptive study of the first ten years.

In ***ADA's Impact on Human Resource Policies and Practices: Progress to Date and Looking Forward,*** Susanne Bruyére relates findings from a study of private and public human service personnel examining their companies' experiences in complying with ADA and in accommodating employees with disabilities. The findings are modestly encouraging.

Mark Seeger's ***The Past, the Present, and the Future of Telecommunications Access*** reviews the evolution of telecommunication accessibility from pre-1990's limited services to post-ADA standards currently in place. He also describes emerging telecommunication technology and alternative forms of communication, both of which hold great promise of accessible communication, but, he warns, the new technology is not barrier free.

Who Is a Person with a Disability under the ADA? According to Vinh Nguyen, the question of who is covered under the ADA has been the most hotly debated issue about the Act. Nguyen describes the complicating issues and examines outcomes of several court cases, including the U.S. Supreme Court.

Have a question or concern about the ADA? No problem. Use the national toll-free hotline to call your regional ADA technical assistance center. At ILRU's Disability Law Resource Project, you would reach Lea Marek. Having handled over 36,000 calls in her four years on staff, she says she's heard it all. A bit of what she's heard is in ***The ADA Hotline: Frequently Asked Questions.***

Two articles address accessibility issues concerning information technology. In ***'IT Works:' Disability and Employment in Information Technology***, Peter Blanck, Helen Schartz, Kevin Schartz, and James Schmeling discuss the promise of *accessible* IT in terms of enhancing the employability of a person with a disability, and they describe an innovative project in which linkages are fostered among IT training programs, trainees with disabilities, and employers seeking to fill IT positions.

The year 1973, says Curtis Edmonds in ***Two Revolutions, One Goal: Increasing Accessibility to Information Technology for Persons with Disabilities,*** was epochal for the disability rights movement and for the Internet. He compares the progress of these separate revolutions and how information technology could propel not just the momentum of disability rights but society as a whole.

Under Title III of the ADA, people with disabilities are as entitled to equal access to the goods, services, and facilities offered by a place of public accommodation as are people without disabilities. Pure and simple, right? Wrong. In ***Only Sticks and Bricks? Public Accommodations under Title III of the Americans with Disabilities Act,*** McCullough explains how the "public accommodation" definition has been misinterpreted and misunderstood. He clarifies.

Finally, we have an article honoring Justin Dart. So many wonderful tributes have been made that we asked Maria Soria of ILRU's Disability Law Resource Project to select a set of Web sites which were exceptionally informative. See ***In Memory of Justin Dart.***

A note on the companion issue of SCI LIFE: Our next issue will examine how the ADA has been affected by court cases. Included will be articles on the Garrett decision regarding states' immunity, a call to strengthen existing state laws which protect the rights of people with disabilities, a look at EEOC actions (how aggressive has it been in enforcing the law?), and – our candidate for the best title – *My Experience with Assistance Animals Led Me to the Dog-and-Pony Show, Allowed Me to See Pigs Fly, and Let Me Watch Monkeys Do Business: A Quick Survey of the Law.* Please join us for the next issue, entitled *The ADA after 12 Years: The Perspective from Courtside.*

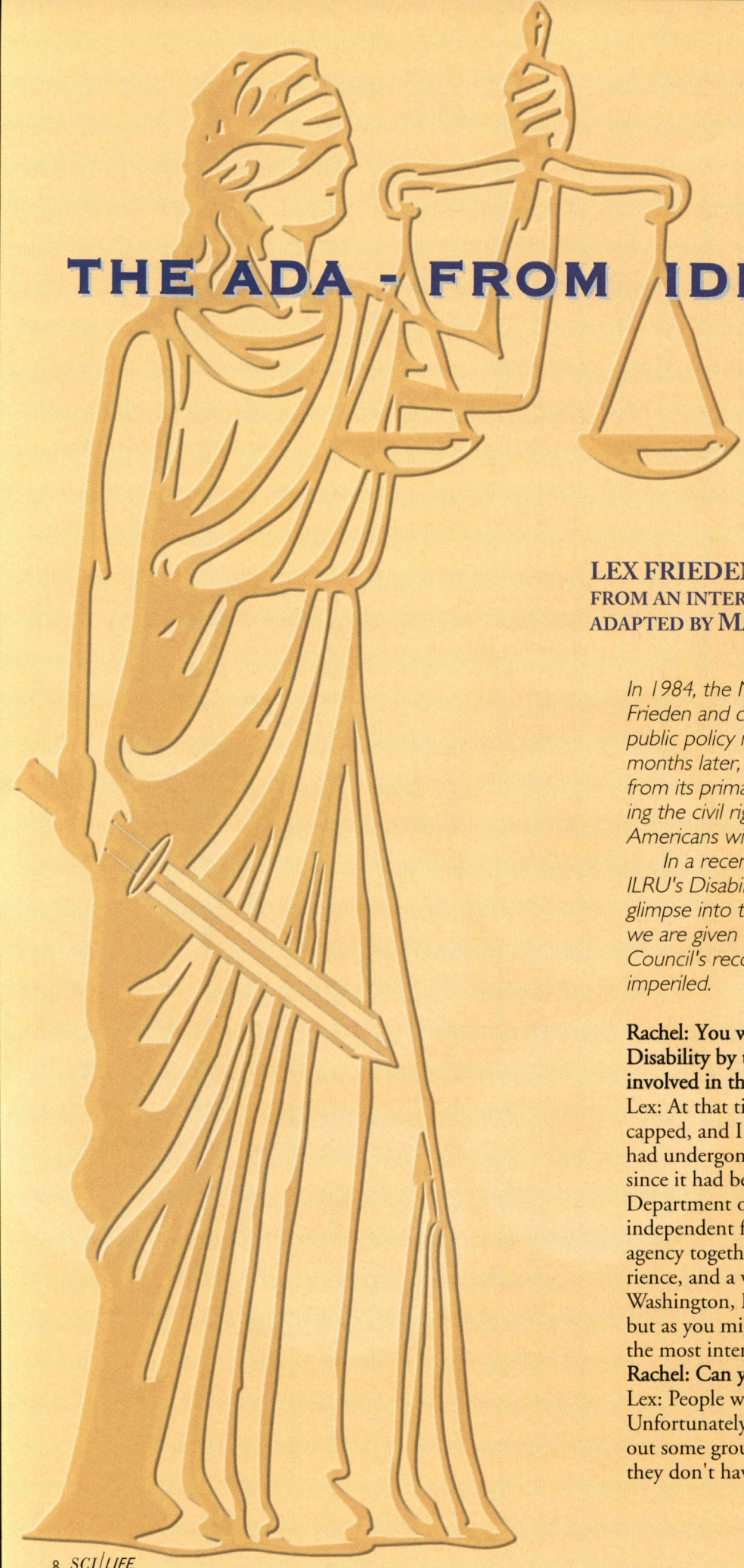
I am occasionally asked what I think of the ADA today, especially after some legislative or judicial challenge. I say that I'm pleased and happy with what's happened since July 1990. This is because I remember what life was like before the ADA.

At the same time, I understand the concerns people have, and I share the frustration of those in the disability community who recognize the many efforts to reduce the ADA's full implementation.

Still, I am excited every time I see an accessible bus, a building with a new ramp, a person in a suit and using a wheelchair coming out of a bank, a deaf person shopping at the mall, a blind person using an ATM machine.

I think what we need to do is to celebrate our progress while at the same time assure the ADA continues to protect our rights.

Lex Frieden



THE ADA - FROM IDEA TO LAW:

AN INSIDE VIEW

LEX FRIEDEN
FROM AN INTERVIEW BY **RACHEL KOSOY,**
ADAPTED BY **MARK RICHARDS**

In 1984, the National Council on Disability hired Lex Frieden and charged him with preparing a report on the public policy needs of people with disabilities. Eighteen months later, ***Toward Independence*** *was completed, and from its primary recommendation – for legislation protecting the civil rights of people with disabilities – came the Americans with Disabilities Act.*

In a recent interview[1] conducted by Rachel Kosoy of ILRU's Disability Law Resource Project, Frieden provides a glimpse into the politics and personalities of that time, and we are given insight into an historic moment when the Council's recommendation for civil rights legislation was imperiled.

Rachel: You were appointed to the National Council on Disability by then-President Ronald Reagan where you were involved in the creation of the ADA.

Lex: At that time, it was the National Council on the Handicapped, and I was its first executive director. The Council had undergone a couple of changes in name and identity since it had been started in 1978 as an advisory body for the Department of Education. In 1984, Congress made it an independent federal agency, and I was hired to put the agency together as executive director. That was a great experience, and a wonderful time for me and my family to be in Washington, D.C. Setting up the Council was a challenge, but as you might imagine, the work leading to the ADA was the most interesting aspect of our time there.

Rachel: Can you describe the time leading up to the ADA?

Lex: People with disabilities have always been in our society. Unfortunately, in this country, we have a culture of singling out some groups simply based on characteristics over which they don't have any control – particularly gender, race, and

disability. Human nature seems to make us classify "other people" into categories and to treat them differently as a result of that classification.

In our country, with The Civil Rights Act of 1964, we took action at the highest level to acknowledge that while discrimination may happen, it shouldn't. In fact, since the Civil Rights Act, we regard discrimination on the basis of race, including differential treatment, as a legal offense.

Since that time, I think that people with disabilities have asked the question: Why not us? They didn't ask this believing that there is some great benefit to being covered by anti-discrimination law, but out of awareness that the general public, business owners, employers, schools, and others sometimes made decisions based on the existence of a disability rather than what the person who had a disability was trying to do.

Rachel: At the time you were involved in creating and drafting the original ADA, these were revolutionary ideas.

Lex: Not in that sense of the word. People with disabilities and others knew that discrimination existed. I think what was revolutionary was the sense that we could create a law that would clearly define discrimination on the basis of disability and provide some measure of protection for people with disabilities.

Several years before we worked on the ADA, some members of Congress introduced legislation that would simply add disability to the existing Civil Rights Act of 1964 as a covered entity. What they didn't understand was that dealing with avoiding discrimination is one thing and actually making the necessary repairs and accommodations that are necessary to ensure that a person with a disability has equal opportunity is another.

The difference, I think, between this law and other civil rights legislation is in terms of reasonable accommodation. That was the real breakthrough that we accomplished at the Council. We engineered and developed the original recommendation for ADA and incorporated the concept of reasonable accommodation.

Rachel: Would you expand upon how this law is different from other civil rights legislation?

Lex: If someone of color is discriminated against, that discrimination is clearly based on a physical characteristic, color. There is no other obvious reason for it. The kinds of remedies one would make for such discrimination are simply to ensure that individuals have opportunities to demonstrate their skills and capabilities.

It is a little more difficult to demonstrate that a person with a disability can do a job if he or she needs an accommodation. For example, if a person in a wheelchair can't get into a workspace, his or her ability cannot be demonstrated. Therefore, you have to make an accommodation, and after that, the person has the opportunity to demonstrate his or her ability to work, and in most cases, becomes a good employee. So that's the principal difference.

The Council worked very hard and consulted with many business leaders, economists, and others to ensure that the reasonable accommodation provision was not an undue burden on the part of employers. In fact, we used the term "undue burden" in our proposal, and it exists in the law today. It's intended to protect the employers and others who are obliged to meet the requirements of the law. The last thing we wanted to do was to make the economy turn upside down because it cost too much for some people to make accommodations. So, there is a range of requirements determined by the size of the business and the resources they have available to them.

Rachel: Would you say that selling the concepts of *reasonable accommodation* for persons with disabilities and *undue burden* for the businesses was one of the chief challenges in passing the ADA?

Lex: Clearly, helping people understand those concepts was key. Helping them understand in terms to which they could relate became a real challenge. I remember one member of Congress from Texas who said that his brother owned a hardware store in a rural community in Texas which was built about 100 years ago. It had steps on it in order to avoid the frequent flooding that occurred in the community. He didn't get a lot of business. It was basically a service to the community to have the hardware store there. It wasn't earning a lot of money so, therefore, there wasn't a lot of money to build a fancy ramp in front.

So I said to him, Your brother sounds like a really great guy, and he said, Yes, he is. So I said, If a person who needed a faucet came to the hardware store and couldn't get up the steps, wouldn't your brother naturally ask what he could do to help the person? The congressman said, Yes, he would. I said, Well, wouldn't your brother naturally go back into the store and bring back a couple of samples of what was on the shelf so maybe he could sell one of those things? The congressman said, Sure, he would. So, I said, Well that's exactly what a reasonable accommodation is.

Rachel: One of the most commonly used phrases related to the ADA is reasonable accommodation. What is its origin?

Lex: In the early 1970s, I was invited to go to Washington, D.C., to help work on the regulations to implement the 1973 Rehabilitation Act's new Title V. Its sections 503 and 504 required nondiscrimination in publicly funded activities and facilities. Title V was really the basis of civil rights for people with disabilities.

During one of the work sessions, the question came up: When people make these changes, adaptations, what are we going to call that? I said, Well, wouldn't that be a reasonable accommodation? The terms kind of stuck.

Rachel: That's where it came from?

Lex: Well, that's the first time I recall hearing it.

Keep in mind that ADA was not only meant to protect people in places of employment, but also to provide access to public goods and services. It may be hard for people who have impairments or disabilities to get someplace, see something, hear something, or otherwise manage. The ADA serves as a statement that we believe that our society should do whatever is necessary and within reason to ensure that people, regardless of their characteristics, have opportunities to take full benefit of our great society.

Rachel: How did it happen that while you were its director, the Council developed what was, in effect, the basis of the ADA?

Lex: When I interviewed for the job as director of the Council, the people who interviewed me said, What do you imagine doing in this job? I said, Well, I imagine getting something done. I've watched Washington too long to not be concerned about agencies and people who work here, those that simply go round and round. I'm a faculty member of a great university [Baylor College of Medicine] and I'm accustomed to writing reports and doing studies and that's something that I would be capable of doing for the Council, if given the opportunity.

The people in the interview said, Well, as matter of fact, in the new law establishing this agency, Congress prescribed a fundamental report be prepared within 18 months that summarizes the public policy needs of people with disabilities in this country. Would that interest you? I said, Well I've had a lot of practice writing reports, and this one sounds like it would be a lot of fun to work on. So, they hired me, and we worked on that report.

We had hearings in many different parts of the country. We sought public input in many different ways. We came to the conclusion after 18 months of study that the principal need of people with disabilities in the United States at the time was protection against discrimination. We heard it over and over again from family members, people with disabilities themselves, advocates, and others. We were investing billions of dollars in rehabilitation and medical care and education for people with disabilities, and then turning around and telling them that because they were disabled, they weren't able to do anything. That didn't make much sense, and, certainly people knew that and understood it. So, when we put it all together, that was the chief recommendation that we wanted to convey in this report.

Rachel: During the hearings, you heard people with disabilities request protection from discrimination in various areas of life.

Lex: Absolutely, in every aspect of society – housing, transportation, education, employment, and on and on and on.

Congress held one hearing in Boston, and some of our colleagues brought four wheelbarrows full of letters with these stories of discrimination and difficulties living with disabilities in this country. Those who brought in these letters suggested to the members of the panel that they didn't need to come and listen to hours of testimony – they just had to read the letters.

Rachel: So, there were that many stories?

Lex: Rachel, there were hundreds and hundreds of stories offered.

We finished this report. It was called *Toward Independence*. The report's main recommendation was that there be a law protecting people with disabilities from discrimination in all these areas. By statute, the report was supposed to be done by January 26, 1986, and I was bound and determined that our little agency would finish the report and have it turned in by the time it was due.

We worked very hard to see that the report was done on time, and a few weeks before the report was due, a member of the President's staff said to me in a meeting, By the way do you realize that you have a report that has to be finished by January 26? Shouldn't you ask for an extension? I kind of chuckled and said, We don't need an extension; we're going to have the report ready by that time.

He said to me, Well, we haven't reviewed the report yet. I was sort of startled, I said, Well, I didn't know you had to review the report. The law says the Council produces and submits the report. He said, Well, you are a Presidential appointee, there is a process for that, and you cannot issue a report unless it's reviewed first by us.

Well, I was stunned, so I said, What do I need to do? He said, You need to take a draft to the disability liaison in the Domestic Policy Council in the White House. So that afternoon, I phoned this disability liaison and scheduled an appointment. In doing so, the liaison said, Will you please send a draft today? We'll take a look at it, and next week we'll meet. I said, Fine, and took the fancy finished cover off the report, wrote draft on it, and sent it over.

The next morning, about 6:00 a.m., the phone rang and my wife, Joyce, answered it, and she woke me up and said, Lex, the White House is on the line. I said, Give me a break, are you kidding me? I took the phone and it was the liaison with whom I was supposed to clear the report.

He said, Do you realize what you've done? Why this report is so radical, not even Ted Kennedy would think of offering recommendations like this! I said, Excuse me? He said, You expect the United States government to pass a law

protecting people with disabilities against discrimination?

I said, Well, yes – it seemed reasonable to us. The law required us to make a report with recommendations about the public policy needs of people with disabilities. And, protection from discrimination is number one.

He said, Well, making the observation that it is an issue of concern is one thing, but making the recommendation that there be a law goes well beyond that. I said, Well, I'm sorry, but we are doing what we were told by the Congress when they made our authorizing statute. He said, Be in my office this morning at 10:00 a.m., and I will have the head of the Domestic Policy Council, my boss, at this meeting.

Well, during the time that I was dressing and trying to remember the subway stop nearest the White House, I made some calls to see who this boss was. Turns out he was Bill Roper, a medical doctor who had worked in a rehab center in Alabama at one point in his career. Knowing that, I went to the meeting fairly confident. The first guy, the liaison, went into Dr. Roper's office and laid our report on the coffee table.

He said, This is going to have to be rewritten. I'll rewrite it. You'll rewrite it. I don't know what's going to happen, but it will not be issued in this form. We'll get an extension today, and you'll go back to the drawing board.

He said all that before he introduced me to Dr. Roper, who was sitting on the couch, but I just wasn't fazed by his reaction. Dr. Roper introduced himself and said, You've invested a lot of effort in this report. I said, Yes, we worked 18 months collecting information from people with disabilities and family members, and public officials. We have invested a lot of time in this. He said, I assume that your conclusion is that discrimination is the principal policy issue. I said, The data we have indicates that is true, and we can only report what we've learned.

He said, There seems to be some concern here about how you presented this data, in particular this recommendation. I said, Yes sir, it's obvious there is some concern. I hope we haven't provoked anybody. But the law does say, as I'm sure you're aware, that we're supposed to make this report with recommendations about what to do with the issues we discover.

He acknowledged that and said, Well, I haven't had the opportunity to read this report, but I have read the recommendation. What is your intent with this? I said, My intent is to stop wasting the billions of dollars we spend on medical rehab, vocational rehab, special education, and other kinds of accommodation to ensure that people with disabilities have opportunities and then turn around and allow discrimination to go on that prevents us, as a society, from benefitting from the great skills these people have.

He said, This administration supports that fully. This administration supports the report you are going to offer, and if you'd like, I'll schedule an appointment with the President so you can give the report to him in person on the day the law calls for it to be delivered.

Well, I nearly fell out of my wheelchair, and I'm sure that guy who called me to the meeting that morning was more than a little embarrassed. He was clearly changing colors. The lesson for me, Rachel, is how people see things. The first guy saw a threat; the second guy saw an opportunity.

This story has more turns to it – set backs which became opportunities. For instance, we were so pleased that we were going to have an opportunity to present the report to the President of the United States. But two days before we were to present the report, the Challenger space shuttle exploded, and because of that terrible episode, all of the President's schedule was cancelled for the next week. Like all Americans, we were appalled at the accident. On a much more personal level, we were sorry for the lost opportunity to get some coverage for this issue which is so important to the lives of people with disabilities. And, most importantly, we were sorry to have missed the opportunity to sensitize President Reagan to the issues and to try to get his leadership to deal with the solution.

We were told by the President's scheduler when she cancelled our meeting that the Vice President was available to meet with us at that time. So, we took our report to meet with Vice President George Bush.

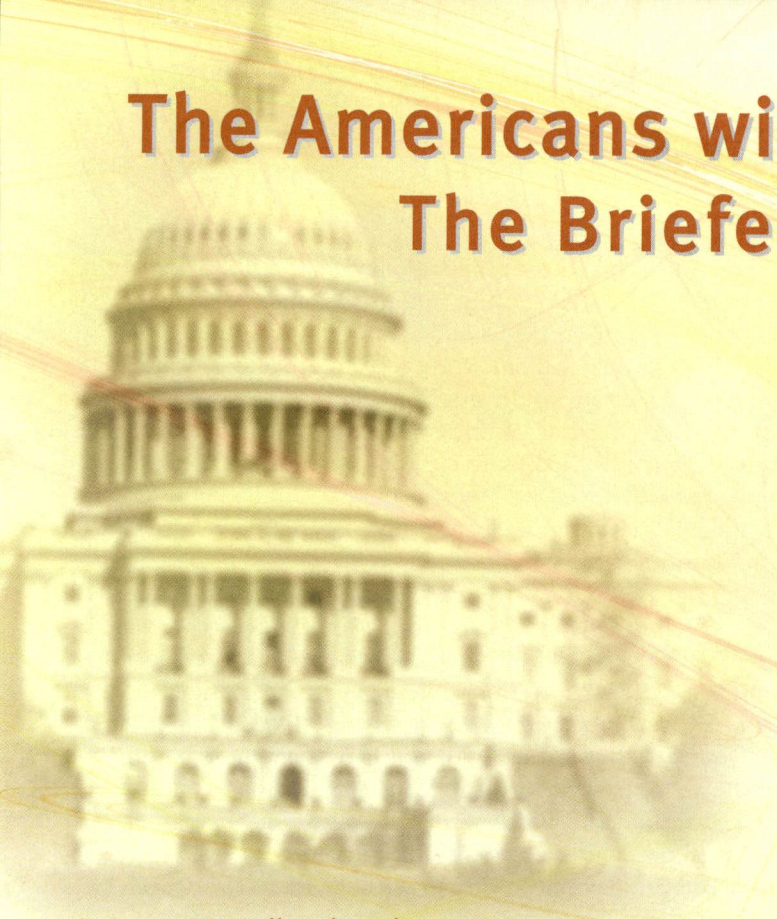
A few days before our meeting there was a lead article in the *Washington Post* asking, "Where's George?" The article was talking about how President Reagan was always the front person for the administration, and how Vice President Bush was delegated to other duties and really didn't have an opportunity to speak much to the public and so-forth. Of course, we were not as excited to meet the Vice President, but we were eager to show someone in the White House our report.

That morning while waiting to see the Vice President, I saw James Brady, the press secretary who had been injured in the assassination attempt on President Reagan. Mr. Brady, who was obviously disabled, and his attendant, were en route to his office. He greeted us and talked about the weather. He went on to work, but that gave me a warm feeling to know that there was something in this Administration and something in these halls that makes you believe they understand disability and peoples' ability to work despite their impairments.

We went in and handed Mr. Bush the report, and he said, Thank you for this copy, I'd like to have my picture taken with you. We all thought that was all there was to it. It soon became apparent, however, that he had actually read the report and that he was particularly interested in the part on nondiscrimination. It was such a wonderful meeting. We spent about 45 minutes with the Vice President. It felt so

continued on page 34

The Americans with Disabilities Act – The Briefest of Overviews



J. Aaron McCullough and
Wendy Wilkinson

In this article, we provide a quick-and-dirty synopsis of the ADA, title by title.

Title I — Employment

Understanding Title I is best achieved by defining key terms, for instance:

Covered entities:
Those employers with 15 or more employees may not discriminate against qualified individuals with disabilities.

Reasonable accommodation:
Employers must provide "reasonable accommodation" for employees and job applicants with disabilities so they can perform essential job functions, such as job restructuring, modified work schedules, reassignments, acquisition or modification of equipment, appropriate adjustment of examinations, training materials, or policies.

Undue hardship:
A potential accommodation is not "reasonable" and does not have to be provided if the employer can demonstrate that it would create an "undue hardship," an action that would impose significant difficulty or expense.

What is "reasonable" will depend on the individual needs of the worker, the entire resources of the employer, and the structure (both physical environment and nature of the job) of the workplace. To date, courts have differed on what is "reasonable" in accommodating a particular plaintiff with a disability because the statute just provides examples of accommodations that may be made to illustrate the concept. Given the individualized nature of disability as well as the differences in job requirements and workplace environments, it is impossible to say what would be considered reasonable in each case. It is a decision that is made on the facts presented in a particular case after considering each of the factors mentioned above.

Direct threat:
Employers may reject applicants or fire employees who pose a direct threat to the health or safety of other individuals in the workplace. It is important to remember that this is meant to be a very narrow exclusion. Only individuals with disabilities who pose a significant risk of immediate, substantial harm can be rejected or fired.

Drugs and alcohol:
Applicants and employees are not protected from personnel actions based on their current illegal use of drugs or established workplace policies on use of alcohol during work hours. The right of employers to administer drug testing is not affected by disability status.

Association:
Employers may not discriminate against a qualified applicant or employee because of the known disability of an individual with whom the applicant or employee is known to have a relationship. For example, and employer may not discriminate against an employee or an applicant who lives with a relative with AIDS.

Complaints may be filed with the Equal Employment Opportunity Commission. Available remedies may include back pay and court orders to stop discrimination.

Title II — State and Local Government Entities

Under Title II, all services, programs, and activities of state and local governments must be available to people with disabilities, as summarized below.

Program accessibility:
Individuals with disabilities must have access to government programs in facilities constructed before January 1992. To achieve this, programs can be relocated to accessible facilities, and other facilities can be modified to avoid expensive physical modifications of all government facilities.

Equally effective communication:
All communication with people with disabilities must be as effective as any communication with non-disabled people, unless it causes an undue financial or administrative burden

or it would result in a fundamental alteration in the nature of its program or activity. The government agency may need to provide such auxiliary aids as qualified sign language interpreters, assistive listening devices, note takers, Brailled materials, as well as other aids and services.

New construction:

All government facilities must be accessible, consistent with the requirements of the ADA Accessibility Guidelines (ADAAG) or the Uniform Federal Accessibility Standards (UFAS).

Complaints may be filed with federal agencies designated by the Attorney General, or private lawsuits may be brought.

Title III — Places of Public Accommodation (Businesses, Professional Offices, Non-Profits, etc.)

Title III of the ADA prohibits discrimination on the basis of disability by "private entities" operating places of "public accommodation." This refers to both for-profit and non-profit organizations (see listing of "places" covered by Title III in the article, "Only Sticks and Bricks?" in this issue). Exempted from ADA coverage are private clubs and religious organizations.

Businesses must make reasonable changes in policies, practices, and procedures to avoid discrimination, such as providing auxiliary aids for customers with hearing impairments and removing physical barriers in existing facilities, if removal is *readily achievable* (that is, easily accomplished and able to be carried out without much difficulty or expense). If not, alternative methods of providing the services must be offered, given the readily-achievable exception.

Individuals may bring private lawsuits to obtain court orders to stop discrimination, but money damages cannot be awarded. Individuals may also file complaints with the U.S. Department of Justice, which may then file lawsuits to stop discrimination and obtain money damages and penalties.

Transportation

Public bus systems, public rail systems, privately operated bus and van companies are covered by either Title II (if publicly owned) or Title III (if privately owned).

Since August 1990, new buses are required to be accessible to individuals with disabilities. Transit authorities must provide comparable paratransit or other special transportation services to individuals with disabilities who cannot use fixed route bus services, unless an undue burden would result.

New bus stations must be accessible. Alterations to existing stations must be accessible, and when alterations to primary areas are made, accessible pathways must be provided to the altered area, as well as to bathrooms, drinking fountains, and telephones.

Complaints may be filed with the Department of Transportation or private law suits brought.

Title IV — Telecommunications Relay Services

Companies offering telephone service to the general public must offer telephone relay services to individuals who use telecommunications devices for the deaf (TTYs) or similar devices.

Complaints may be filed with the Federal Communications Commission.

Title V — Miscellaneous

This section addresses a number of separate issues, including insurance underwriting, ADA coverage of Congress, obtaining attorney fees, and exclusions from the definition of disability.

Insurance underwriting:

The section addressing insurance underwriting practices has been the subject of some litigation and scrutiny. It states that the ADA is not intended to change insurance underwriting practices; however, such practices cannot be used to evade the protections of the ADA. Employers cannot use it to deny a person with a disability a job because their disability would not be covered or because the cost of their insurance would increase. Insurance plans cannot charge different rates, limit coverage available or refuse to insure individuals unless they can prove their actions are justified by sound actuarial principles or based on actual experience. In 1993, the EEOC issued Interim Guidance on Americans with Disabilities Act & Health Insurance, covering the EEOC's position on the application of the ADA to disability-based distinctions in employer provided health insurance.

Congress meeting ADA provisions:

Title V states that both the House and the Senate of Congress are covered by the ADA. Details on remedies and complaint processing against these entities are explained in this section.

On what constitutes disability:

Title V stipulates that individuals who are currently using illegal drugs are not considered persons with disabilities. A number of other exclusions from the definition of disability are contained in this section, including kleptomania, compulsive gambling, and pyromania.

In Closing

Far more information exists about all of these titles (there are lawyers involved, you know). If you are interested in a specific aspect of the ADA, you should visit the Web site of ILRU's Disability Law Resource Project at: www.dlrp.org. Posted are numerous documents approved by the Department of Justice and other responsible agencies which address an incredible range of ADA subjects. Also, if you wish more information on any of the guidelines cited in this article, they, too, will be listed on the Web site, or you may go directly to the Web site of the federal agencies specified. A third option is to call the toll-free ADA hotline to present your question to an ADA specialist in your region. As you will see many times in this issue, the number is 800-949-4ADA for voice and TTY.

ABOUT THE AUTHORS

J. Aaron McCullough is a licensed attorney on staff of ILRU's Disability Law Resource Project. He is currently pursuing a master's degree in political social work.

Wendy Wilkinson is the director or ILRU's Disability Law Resource Project. She is a practicing lawyer and certified dispute resolution specialist who became a member of ILRU's staff in 1991.

The National Network of ADA Technical Assistance Centers

ILRU'S Disability Law Resource Project is one of ten regional ADA technical assistance centers established in 1992 and charged with providing technical assistance, education and training, materials development and distribution, information dissemination, and public awareness events on the Americans with Disabilities Act and other disability related laws.

All of the centers have the same toll free number, 800-949-4ADA (that's 949-4232), and the number is for voice and TTY. By calling this hotline, one may pose questions and obtain technical assistance and resource materials produced by U.S. Departments of Labor and Justice, the Equal Employment Opportunity Commission, and other federal agencies. All calls are kept confidential.

Many of the resources offered by the ADA centers are available on their individual Web sites through which they disseminate large volumes of materials electronically, maintain numerous listservs and e-bulletins, and host message boards for responses to technical assistance questions. Additionally, a number of the ADA centers have developed distance learning opportunities via the Web, teleconferences, and a mixture of these technologies.

To find out about the resources your regional ADA center has to offer, call 800-949-4232. Your call will be directed to the center that serves your area. Or, visit any of the Web sites to find out about the range of resources, opportunities for training, and network membership your center offers. The box below provides contact information for each of the ten centers.

The centers are funded through the National Institute for Disability and Rehabilitation Research, U.S. Department of Education. It is important to recognize that David Esquith both championed and advocated for the national network of ADA TA centers. Esquith was the ADA centers' first project officer at NIDRR, a position he held for a number of years. The current project officer, who is also highly supportive of the ADA centers' efforts to promote voluntary compliance with the ADA, is Carol Cohen.

TEN REGIONAL DISABILITY & BUSINESS ADA TECHNICAL ASSISTANCE CENTERS

Region 1 (CT, ME, MA, NH, RI, VT)
New England DBTAC
Adaptive Environments Center, Inc.
374 Congress Street, Suite 301
Boston, MA 02210
(617) 695 0085 (V/TTY)
(617) 482 8099 (Fax)
adainfo@newenglandada.org
http://www.newenglandada.org

Region 2 (NJ, NY, PR, VI)
Northeast DBTAC
Cornell University
107 ILR Extension Building
Ithaca, NY 14853-3901
607 255 6686 (V/TTY)
607 255 2763 (Fax)
northeastada@cornell.edu.
http://www.northeastada.org

Region 3 (DE, DC, MD, PA, VA, WV)
Mid Atlantic DBTAC
TransCen, Inc.
451 Hungerford Drive, Suite 607
Rockville, MD 20850
(301) 217 0124 (V/TTY)
(301) 217 0754 (Fax)
adainfo@transcen.org.
http://www.adainfo.org.

Region 4 (AL, FL, GA, KY, MS, NC, SC, TN)
Southeast DBTAC
Center for Assistive Technology & Environmental Access Georgia Tech
490 Tenth St.
Atlanta, GA 30318
(404) 385 0636 (v/tty)
(404) 385 0641 (fax)
sedbtac@catea.org
http://www.sedbtac.org .

Region 5 (IL, IN, MI, MN, OH, WI)
Great Lakes DBTAC
University of Illinois/Chicago
1640 West Roosevelt Road
Chicago, IL 60608
(312) 413 1407 (V/TTY)
(312) 413 1856 (Fax)
gldbtac@uic.edu.
http://www.adagreatlakes.org.

Region 6 (AR, LA, NM, OK, TX)
Disability Law Resource Project
ILRU Program
2323 S. Shepherd Boulevard, Suite 1000
Houston, TX 77019
(713) 520 0232 (Voice)
(713) 520-5136) (TTY)
(713) 520 5785 (Fax)
ilru@ilru.org.
http://www.ilru.org/dlrp

Region 7 (IA, KS, MO, NE)
Great Plains DBTAC
University of Missouri/Columbia
100 Corporate Lake Drive
Columbia, MO 65203
(573) 882 3600 (V/TTY)
(573) 884 4925 (Fax)
adalh@showme.missouri.edu.
http://www.adaproject.org.

Region 8 (CO, MT, ND, SD, UT, WY)
Rocky Mountain DBTAC
Meeting the Challenge, Inc.
3630 Sinton Road, Suite 103
Colorado Springs, CO 80907
(719) 444 0268 (V/TTY)
(719) 444 0269 (Fax)
RegionVIII@mtc inc.com.
http://www.ada infonet.org.

Region 9 (AZ, CA, HI, NV, Pacific Basin)
Pacific DBTAC
California Public Health Institute
2168 Shattuck Avenue, Suite 301
Berkeley, CA 94704-1307
(510) 848 2980 (V)
(510) 848 1840 (TTY)
(510) 848 1981 (Fax)
adatech@pdbtac.com.
http://www.pacdbtac.org.

Region 10 (AK, ID, OR, WA).
Northwest DBTAC
Northwest ADA/IT Center
P.O. Box 574
Portland, Oregon 97207-0574
(503) 494 4001(V)
(503) 418-0296 (TTY)
(503) 418-0785 (FAX)
nwada@ohsu.edu
http://www.nwada.org

The ADA and Employment

Andy Imparato

On July 26 of this year, we celebrated the 10th anniversary of implementation of ADA's Title I, the employment provisions. After ten years of civil rights protections in the workplace, what impact has the ADA had?

Some scholars suggest the ADA's impact on the workplace should be measured by the extent of the increase in employment rates among working age people with disabilities. By this standard, existing data would show that the ADA has had little impact on increased employment rates, at least among those with severe disabilities. Accordingly, they would argue that the employment provisions of the ADA have been a failure.

Another measure of the ADA's impact is the expectations for jobs and careers of young people with disabilities leaving school. Although I am unaware of any quantitative research in this area, I am convinced that the ADA's vision of full participation has had a profound impact on young people with disabilities. They have high expectations, and they are breaking down barriers. For example, I recently had the pleasure of meeting the first Yale Medical School student to complete medical school as a wheelchair user.

Much attention has been given to the line of U.S. Supreme Court decisions that have narrowed the scope of the protected class under ADA and generally made it more difficult for victims of disability discrimination in the workplace to prevail. Some in the disability rights movement have argued that the Supreme Court has "gutted" the employment provisions in the ADA and that what is left provides little protection. Although the Supreme Court has definitely undermined Congressional efforts to ban employment discrimination on the basis of disability, it is important to recognize that disabled workers and job applicants continue to enjoy important rights and continue to use the ADA successfully to challenge discrimination.

Some sub-populations within the disability community have been particularly hard hit by the Supreme Court rulings, including state workers, individuals who are able to function well with medications or other "mitigating measures," people with well controlled epilepsy, diabetes, depression, and other physical and mental health conditions.

At some point, perhaps very soon, the diverse coalition that passed the ADA will need to reassemble and recruit new allies to fix some of the damage done by the Supreme Court and the lower federal courts. More important, from my perspective, disability advocates and leaders will need to reform the disability benefit and health care systems so that they consistently promote work and economic empowerment.

However, even if these reforms don't occur for years, the ADA has redefined the disability experience in the U.S., and most employers have come to accept the rightful place of disabled individuals within our society. In recent years, I have seen a growing recognition by business of the large disability market, and I believe this recognition is due in large part to the increased political visibility of disabled people and their families that accrued from the effort to pass and implement the ADA.

As Dr. Martin Luther King observed with regard to the civil rights movement, "the greatest victory of this period was . . . something internal. . . . The greatness of this period was that we armed ourselves with dignity and self respect."

ABOUT THE AUTHOR

Andy Imparato is president and CEO of the American Association of People with Disabilities, a cross disability membership organization committed to total integration of people with disabilities into all aspects of society (see www.aapd.org).

cut out & return

THE NATIONAL SPINAL CORD INJURY ASSOCIATION

The National Spinal Cord Injury Association (NSCIA) is a non-profit membership organization for people with spinal cord injuries, diseases and dysfunction, their families, their related service providers, policy makers, organizations, hospitals and others interested in the issues affecting the spinal cord injury community. Our Mission is ***to enable people with spinal cord injuries, diseases and dysfunction to achieve their highest level of independence, health and personal fulfillment by providing resources, services and peer support.***

NSCIA Member Services
901 East Willetta, Suite 2306
Phoenix, AZ 85006
Phone (602) 239-5929
Toll free (877) 778-6588
Fax (602) 239-6268
e-mail: membership@spinalcord.org
web site: www.spinalcord.org

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- ☐ Individual SCI Service Provider FREE!
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- ☐ International (US Funds only) $100.00
- ☐ Silver (Org/Hosp, budget less than $1 million). $250.00
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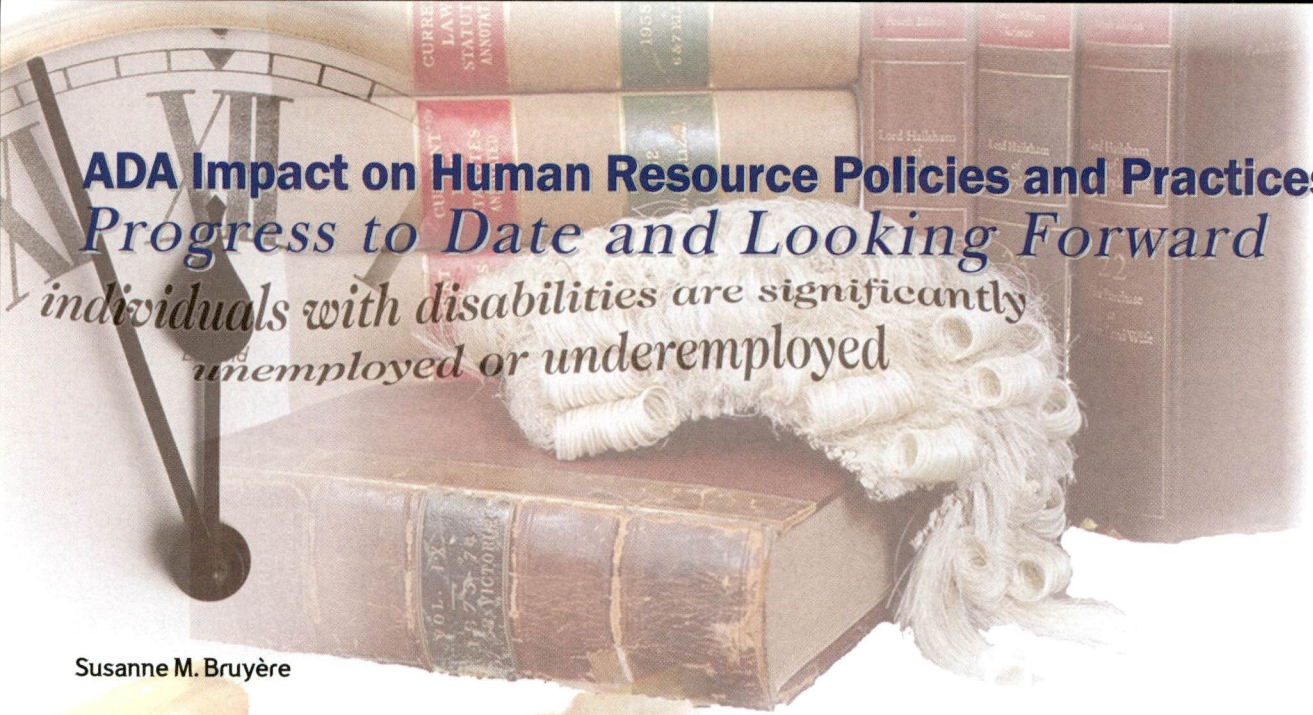
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ADA Impact on Human Resource Policies and Practices: *Progress to Date and Looking Forward*

individuals with disabilities are significantly unemployed or underemployed

Susanne M. Bruyère

Introduction

It is estimated that 14% of Americans are people with disabilities, approximately one in every seven of us.[1] Compared with their non-disabled peers, individuals with disabilities are significantly unemployed or underemployed, and this represents a significant loss of willing and able talent to both private and public sector organizations, as well as loss of income and social and economic participation for people with disabilities. This is true despite the fact that it has been over a decade since the passage of the Americans with Disabilities Act.

Over the past four years, Cornell University has been studying how disability discrimination legislation like the ADA impacts employer policies and practices regarding hiring, retaining, and accommodating applicants and employees with disabilities. In this article, we will focus on study findings with regard to accommodations employers have made for applicants and employees with disabilities – as viewed by employers' human service personnel. In addition, we will discuss the perceptions of these human resource personnel on remaining barriers to people with disabilities, employer-recommended ways to address these barriers, and implications of these findings for future considerations, in light of the ever-increasing information technology requirements of the workplace.

About the Cornell University Study

The method used to obtain this information involved sending a ten-page survey to a random sample of the membership of the Society for Human Resource Management (SHRM).[2] The survey asked questions about issues dealing with the employment provisions of the ADA, including

- the reasonable accommodation process;
- recruitment, pre-employment screening, testing, and new employee orientation;
- health and other benefits of employment;
- opportunities for promotion/training;
- disciplinary process/grievance, dismissal or termination;
- interaction with labor/industrial/collective bargaining issues and other employment legislation;
- personnel training on the ADA;
- resources used and found most helpful in handling disability nondiscrimination and accommodation disputes; and
- the role of disability management programs in contributing to the accommodation process and workplace acceptance of employees with disabilities.

Of the human resource representatives sent the survey, a total of 813 (73%) of the SHRM sample responded.

Study Findings[3]

Nondiscrimination Considerations in Recruitment and Hiring Processes

Respondents were presented with a number of nondiscrimination compliance considerations in the applicant interview process and asked how familiar their organizations' interview staff is with each of these elements *(see Figure 1)*. In general, respondents reported the highest levels of familiarity with framing questions about job tasks, restrictions on eliciting medical information, when to ask about how the applicant would perform job tasks, and restrictions on obtaining medical information. Respondents were much less familiar with accommodations for people with visual or hearing impairments, such as adapting print materials for people with visual impairments, use of a reader for a person with a visual impairment, and use of TTY/text telephones to set up interviews.

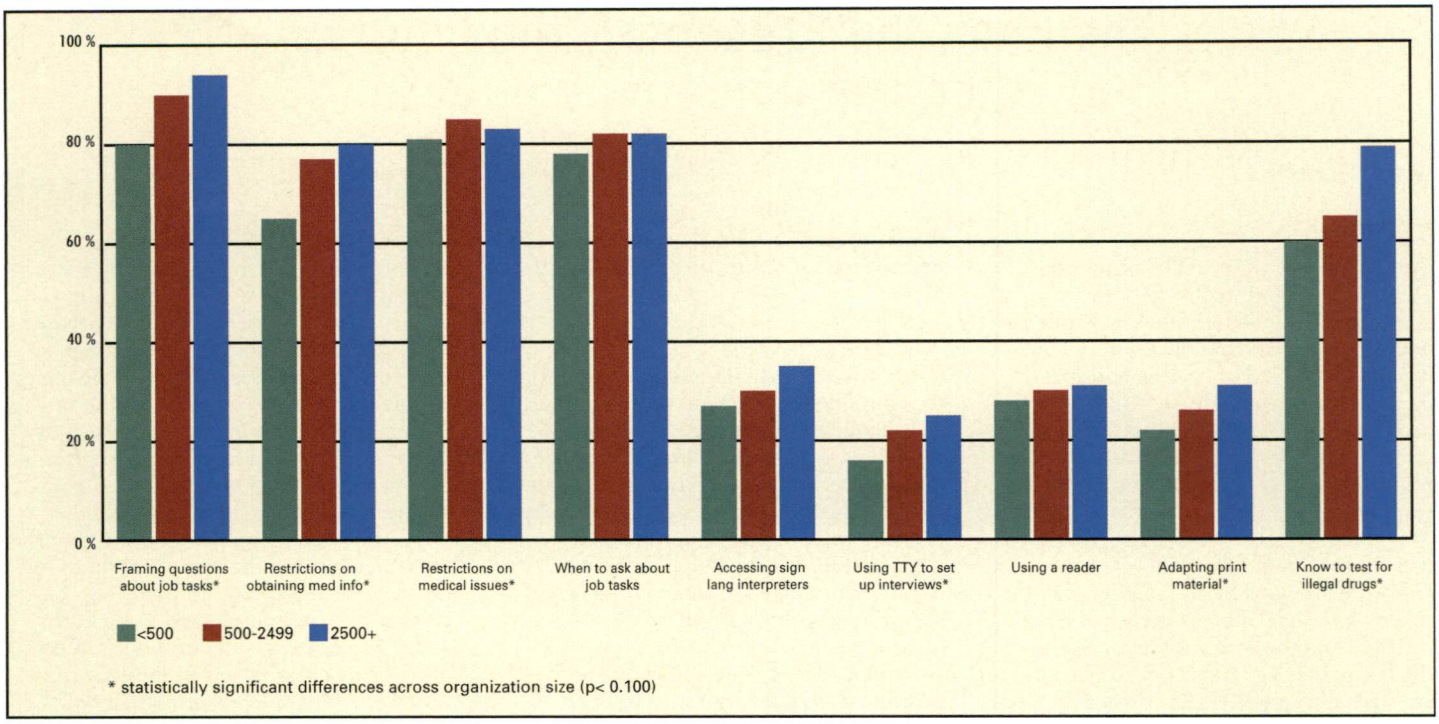
Many Accommodation Considerations Made[4]

Many organizations have made accommodations for their employees with disabilities. Approximately eight out of ten respondents reported that their organizations made existing facilities accessible to employees with disabilities (82%) and have been flexible in the application of HR policies (79%). In addition, approximately two out of three respondents' organizations restructured jobs or modified work hours (67%), made parking or transportation accommodations (65%), and provided written job instructions (63%) to their employees with disabilities.

Remaining Barriers to Employment and Advancement

In our study, respondents were presented with seven possible barriers to the employment and advancement of people with disabilities *(see Figure 2)*. Interestingly, cost of training, supervision, and accommodations for applicants or employees with disabilities were least likely to be rated as significant continuing barriers, compared to other areas. Areas in which continuing barriers to employment and advancement for persons with disabilities were reported were in the areas of lack of related experience (51%) and lack of requisite skills and training in the applicant or employee with a disability (40%). The next most often cited was supervisor knowledge of how to make accommodations (31% in the private-sector respondents). Attitudes or stereotypes among coworkers and supervisors

Figure 1 - Percentage saying Familiar or Very Familiar with Applicant Interviewing Issues



toward persons with disabilities were seen as next in ranking as a remaining barrier (22%).

Those surveyed were also asked if they had made certain changes in the workplace in order to meet the needs of employees with disabilities and were asked to rate the degree of difficulty in making those changes. The change most often made, but also seen as the most difficult to make, was changing co-worker or supervisor attitudes toward the employee with a disability (32% of private sector indicated this change was "difficult" or "very difficult").

Ways to Address These Employment Barriers

Not only were respondents asked to identify possible employment and advancement barriers, but they were also asked to rate the effectiveness of six methods of reducing such barriers. The primary means identified was visible top management commitment (82%). The next three most popular means to reduce barriers were staff training (63%), mentoring (60%), and on-site consultation or technical assistance (59%). Tax incentives were seen as the least effective means to reduce such barriers; indeed, only 25% reported these as effective or very effective in reducing barriers.

Looking Forward

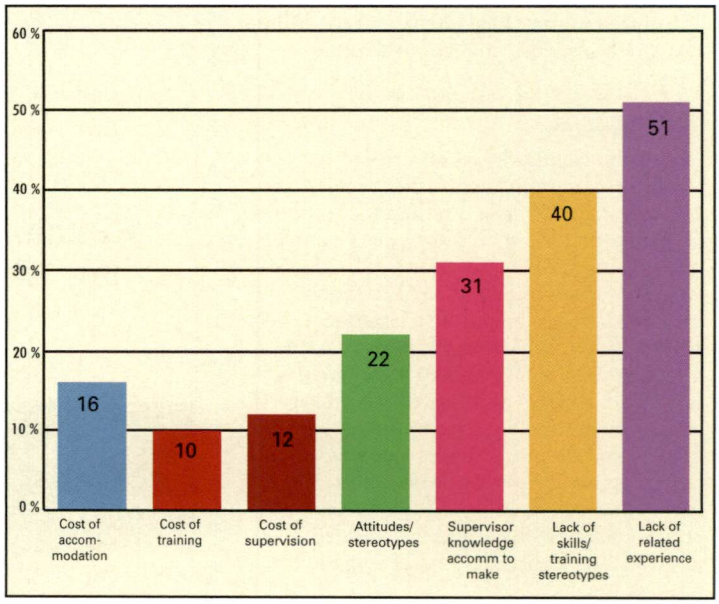
Results from this Cornell University research confirm the positive impact which disability employment nondiscrimination legislation such as the ADA can have on improving workplace policies and practices by minimizing needless discrimination and maximizing opportunities for applicants and employees with disabilities. However, with an ever-changing workplace and economy, people with disabilities and their advocates must continually look to the future for ways to maximize employment access and equalize opportunities.

One of the areas in which further research is not only needed but is critical, is the expanding use of Web-based technologies in the workplace and exploration of the impact such technologies may have on applicants and employees, specifically those with disabilities. Online recruiting and job postings are rapidly becoming the medium of choice for many companies. Business organizations are using the Internet for recruitment and screening their new employees, as well as for facilitating ongoing employee communication and delivery of personnel information and staff development.

Such information technology applications may provide great advantages for some persons with disabilities, but they also have the potential to be significant barriers for those who have vision impairments, hearing problems, or limited dexterity for mousing/navigating, unless the applications are designed to be accessible. People with disabilities need to inform themselves about uses of this new technology and to equip themselves with the skills needed to be competitive in this new Web-based environment. Similarly, employers must design these new systems with the needs of individuals with disabilities in mind, so that they do not needlessly preclude access to the many individuals with disabilities who are seeking jobs, as well as those already within the workplace.

continued on page 23

Figure 2 - Percentage Reporting Barriers to Employment or Advancement for Persons with Disabilities



The Past, the Present, & the Future of Telecommunications Access

Mark Seeger

The Past

Prior to passage of the ADA in summer 1990, only a handful of states offered equal access to the public telephone network 24 hours a day, seven days a week for people who are deaf, hard of hearing and speech impaired. Those unable to gain access often had to rely on friends, families and business associates to complete routine calls to people like their doctors, mechanics or employers.

Then, Title IV of the ADA mandated that telecommunications relay services (TRS) be provided by July 1993 for all 50 states. Through rules promulgated by the Federal Communications Commission (FCC), millions of Americans began enjoying state administered relay services across the nation.

Minimum standards at the time included being able to secure an operator within 10 seconds or less, 85 percent of the time. Typing speeds of servers were generally required to be in excess of 45 words per minute, ensuring telephone users a standard flow of communication when placing calls. Also included were two methods to address the specific communication needs of people who were hard of hearing or speech impaired and wished to use their residual hearing or speech in the making of calls. One method was "voice carry over," which enables a person who is hard of hearing to speak directly to the receiving party and to receive responses in text form through the relay service operator, without requiring typing by either party. Another was "hearing carry over" relay service, which enables a person with a speech disability to type his or her part of the conversation on a TTY, which the relay operator then reads to the called party, and the caller hears responses directly from the other party.

The Present

Minimum standards were increased recently as the FCC proposed further regulations to address emerging technologies. Some additions include speech-to-speech service, a re-voicing service that allows individuals who are speech impaired to have much greater access to the public telephone network. Video relay service was also added, allowing individuals whose native language is American Sign Language to communicate more naturally via video interpreters. Typing speeds and answer times were also tightened, to ensure continued improvements in quality. Internet-based relay communications have also been added, allowing any web-enabled user to gain direct access to a relay operator without the need of specialized text telephone equipment.

The Future

Trials are currently underway using voice recognition technology to replace typing skills required of the relay operator position. This is being combined with voice over text technology, easily allowing individuals who are hard of hearing to hear a person's voice and read simultaneous text when making phone calls. The implications of this technology are far-reaching, since only a small percentage of people who are hard of hearing have chosen to taken advantage of traditional TRS due to the additional steps inherent in making a phone call with current technologies available.

Emerging third generation high-speed wireless technologies, combined with newly added Internet Protocol Relay Service and VRS access, bring anticipated abilities to connect with a relay operator or a video interpreter regardless of location or hard-wire landline availability. Two-way text pagers are also shifting the paradigm of what is required to communicate effectively via the public switched telephone network. Growing numbers of individuals who are deaf and hard of hearing are also relying on alternative forms of communication, such as electronic messaging or instant messaging, and relying less on traditional plain old telephone service to best meet their communication and convenience needs.

While new technologies bring promise of greater communication possibilities for the masses, they often bring inherent barriers that were not considered in the early adoption of the product or service. Continued regulatory review of industry innovation is essential to ensuring that equal access continues to be redefined as our universal opportunities exponentially unfold.

ABOUT THE AUTHOR
Mark Seeger is special assistant to the CEO for strategic planning, CSD - Communication Services for the Deaf.

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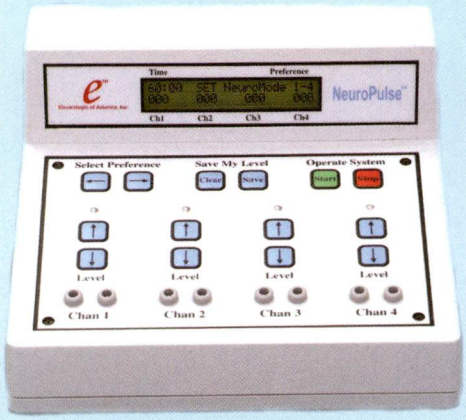
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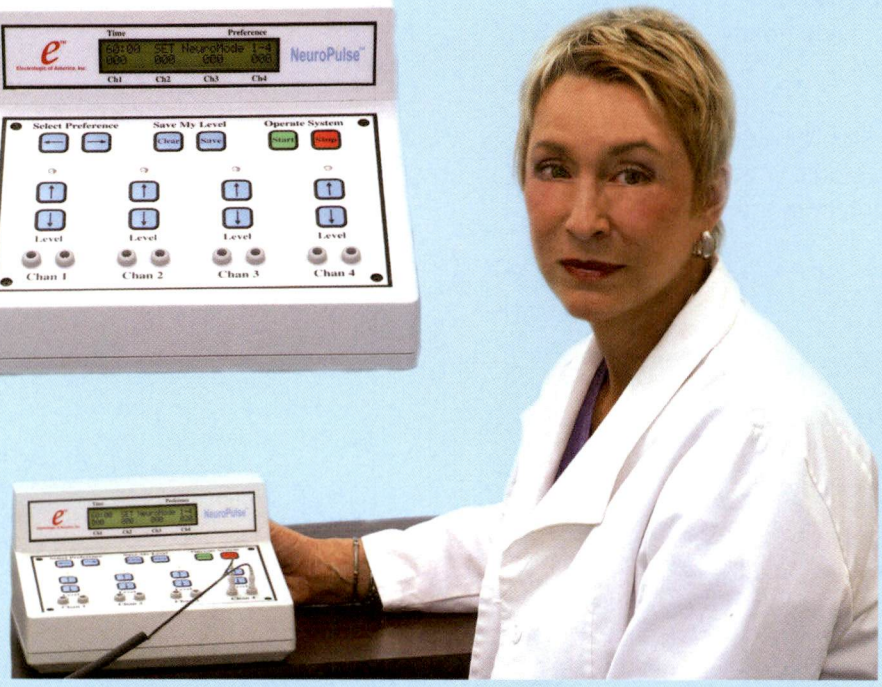
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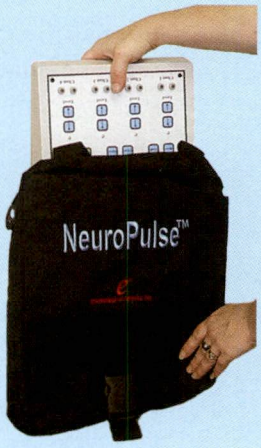
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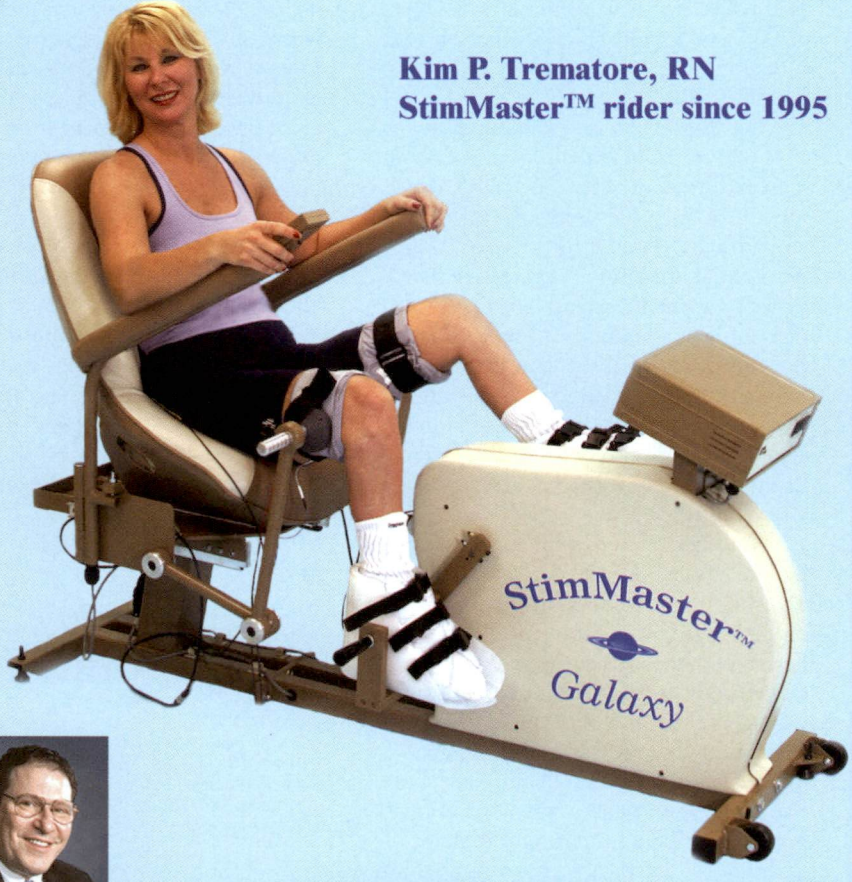
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Who Is a Person with a Disability under the Americans with Disabilities Act?



Vinh Nguyen

In order to be protected by the ADA, a person must:

a) have a disability,
b) be on record as having a disability, or
c) be regarded by others as having a disability.

The question of who is protected or covered under the ADA has been the most hotly debated issue about the Act since its passage.

Determining who is a person with a disability as defined by Title I of the ADA (as opposed to a Social Security or a Worker's Compensation disability determination) is a complex exercise. One cannot draw a bright line around the community of individuals entitled to protection under the ADA.

In gender and race discrimination cases there is no question of coverage. People of a particular race or gender possess immutable traits. The same thing cannot be said of all individuals with disabilities.

The class of individuals potentially defined as persons with disabilities under the ADA is an extremely diverse group. It includes people with many different types of impairments which have varying degrees of impact on an individual. The manifestations of many types of disabilities are dynamic in nature, so the degree of impairment may change with time – a factor that does not change the overall impact of the disability on the person.

The Act itself does not contain a list of disabilities that are automatically covered by the ADA. In everyday life, you cannot look across a crowded room and always tell whether that person you are making eye contact with has a disability. In fact, you could be working and socializing with persons with disabilities and not be aware of it.

The tricky question is what exactly is a disability? One can easily identify a person who is blind, deaf, or in a wheelchair as having a disability. But what about a person who needs glasses in order to have 20/20 vision? Or a person with a history of heart problems? Does the ADA protect them?

According to the ADA, a disability is an impairment that substantially limits a major life activity. The U.S. Supreme Court has continuously emphasized the legal definition set forth in the Act and has held that determination of disability be made on a case-by-case basis. For example, a person who has carpel tunnel syndrome (CTS) certainly has an impairment but does not necessarily have a disability. In litigation, a jury must consider how CTS affects some major aspect of a person's life in determining whether or not it is a disability.

The Supreme Court has issued divisions that impact the definition of disability in seven different cases.[1] In 1998,[2] the Supreme Court interpreted the terms "impairment," "major life activity, " and "substantial limitation" expansively, holding that a woman with asymptomatic HIV infection had a disability. The next year, in three different cases, the Court held that corrective measures such as eyeglasses, hearing aids, drugs, or even a body's natural adaptation must also be considered in determining whether or not an impairment is a disability.

However, persons who have disabilities that are "mitigated" or "corrected" in some way, should not be discouraged from asserting their rights or pursuing claims. Instead, they should factor in the degree to which the behavior, medication, or corrective really impacts their disability. In addition, some mitigating measures may, in fact, have side effects that are debilitating. For example, certain types of medication may impose additional limitations on major life activities.

Unresolved issues in determining the existence of a disability still exist, for instance, determinations of major life activities. Major life activities are activities that are of central importance to life. Seeing, breathing, hearing, walking, and reproduction are some examples of major life activities that courts have accepted. However, activities such as interacting with others and working are being debated by courts as to their importance to life. It is likely that much future litigation will focus on major life activity determinations.

Other problems arise when people rely on working as a major life activity, as often happens in employment discrimination cases. A person is said to be substantially limited from working only if he can't perform a range of jobs. An employer may believe that an impairment prevents a worker from performing a particular job. Does that necessarily mean that the employer wrongfully believes the impairment prevents the person from working any jobs? This tough question asks juries to go into the mind of an employer to decide whether he had behaved wrongfully under the ADA. Most lawsuits involving this premise fail because of the difficulty in obtaining this proof.

If you are interested in finding out more about this and other legal issues involving the ADA, please contact the Disability Law Resource Project at ILRU and request to be placed on the Legal E-Bulletin e-mailing list for free updates.

REFERENCES

[1] Bragdon v. Abbott, 524 U.S 624 (1998).
Sutton v. United Airlines, 527 U.S. 471 (1999).
Murphy v. United Parcel Service 527 U.S. 516 (1999).
Albertson's, Inc. v. Kirkingburg, 527 U.S. 555 (1999).
Cleveland v. Policy Management Systems Corp., 526 U.S. 795 (1999).
Toyota Motor Mfg., Kentucky, Inc. v. Williams, 534 U.S. 184 (2002).
Chevron U.S.A. Inc. v. Echazabal, S.Ct., 2002 WL 1270586 (June 10, 2002).
[2] Bragdon v. Abbott, 524 U.S 624 (1998).

ABOUT THE AUTHOR

Vinh Nguyen serves as a legal specialist with ILRU's Disability Law Research Project. He is an attorney who has an M.B.A. and--a proud Canadian--a bachelors' degree from McGill University.

ADA Impact..., continued from page 17

Current research on these issues is a part of the Cornell University agenda at this time,[5] as well as a part of a national training and technical assistance initiative of the U.S. Department of Education.[6] Given the growth of online recruiting and the frequency with which Web inaccessibility problems are reported, there is a very real potential for certain populations of disabled individuals to be all but cut off from one of the most promising avenues for job searches and applications.

None of the issues presented by Web accessibility considerations are insurmountable or expensive to correct, and, if corrected, they can significantly improve Web access for persons with disabilities. It is vital that we work now to ensure information technology applications are made accessible so all individuals, including those with disabilities, have access to this excellent resource for employment possibilities.

REFERENCES

[1] U. S. Bureau of the Census (2000) Supplementary Survey Summary Tables, QT 02. Profile of Selected Social Characteristics: 2000.

[2] The U.S. Department of Education National Institute on Disability and Rehabilitation Research (NIDRR) funded this study to Cornell University as a research and demonstration project (grant No. H133A70005); this was a collaborative effort with the Society for Human Resource Management (SHRM), the Washington Business Group on Health (WBGH), and the Lewin Group.

[3] A complete copy of this report, entitled The ADA at Work: Implementation of the Employment Provisions of the Americans with Disabilities Act is available from the Society for Human Resource Management (SRHM) at the SHRM Store at 1-800-444-5006 or www.shrm.org (ask for Item code 62.17023).

[4] A Cornell University on-line resource for employers on accommodating applicants and employees with specific disabilities can be found at the Web site www.hrtips.org.

[5] A copy of reports from this research, entitled E Human Resources: A Review of the Literature and Implications for People with Disabilities and A Review of Selected E Recruiting Sites: Disability Accessibility Considerations are available from Cornell University at e-mail ilr_ped@cornell.edu.

[6] Further information about this initiative and the Americans with Disabilities Act and Information Technology Centers (ADA&ITCs) can be obtained by calling 800-949-4232 or from the web at www.adata.org.

ABOUT THE AUTHOR

Susanne M. Bruyère, Ph.D., CRC, SPHR, is director of Cornell University's Program on Employment and Disability in the School of Industrial and Labor Relations Extension Division.

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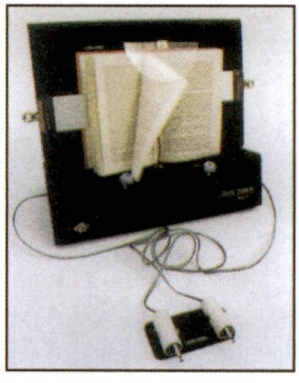
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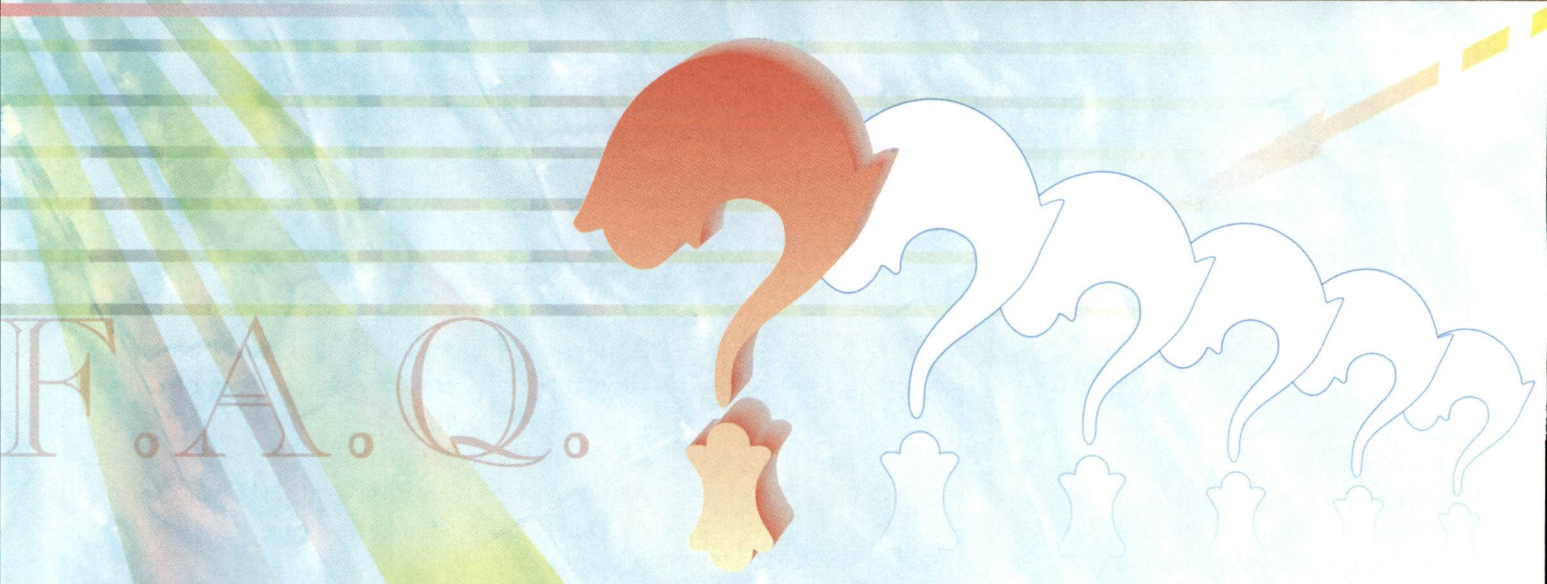
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The ADA hotline:

Frequently Asked Questions

Lea Marek

Over 35 ADA-focused telephone calls are fielded daily at ILRU's Disability Law Resource Project. People using the toll-free hotline to request information are not just persons with disabilities inquiring about their rights under this law. We regularly receive calls from architects wanting technical information on physical accessibility standards, attorneys who need clarification on the ADA, business owners striving to ensure their businesses are in compliance with the law, employers who want to learn exactly what their responsibilities are, as well as many other callers with varying levels of understanding on the ADA.

As the ADA technical assistant for the project, I am the person on the other end of the hotline. Having served in this position for four years, I have handled some 36,000 calls – and, I have pretty much heard it all.

To provide an idea of the kinds of issues people have questions about, I have compiled a list of the most commonly asked questions we receive. There is no particular order, and we receive an equal number of inquiries relating to each of these issues.

Frequently Asked Questions about the Americans with Disabilities Act

What exactly does the ADA cover?

The Americans with Disabilities Act protects persons with disabilities from discrimination in employment, state and local government programs, and places of public accommodations such as restaurants, movie theaters, and retail stores, just to name a few.

What does it mean to be disabled under ADA?

A person would have to meet one of three criteria to be considered disabled under the ADA.

- ✓ Possess a condition that substantially limits the person in one or more major life activities, like walking, breathing, hearing, learning and so forth. A person has to be extremely limited in daily activities. The condition cannot be temporary in nature.
- ✓ Have a record of having a disability. For example, if a person had cancer 10 years ago but is now cancer free, he or she would still be protected if an entity caused discrimination against the individual knowing the history of cancer.
- ✓ Does not have a disability but is regarded as having a disability. An employee may have had a heart attack and has fully recovered but the employer treats him or her differently because of fears and misconceptions about the condition.

I have a disability and am not able to do the job that I was hired to do. Don't they have to find me another job that I can do? What are my employment rights as a person with a disability?

Not necessarily. It is not enough to be considered a person with a disability under the ADA, you also have to be able to perform the main functions of the job for which you were hired. The employer's obligation is to accommodate you, if needed, to enable you to perform those job duties. Under the ADA, an employer would have to accommodate a person

under reasonable conditions, but they would not have to accommodate if doing so would create an undue burden.

If a person is no longer able to perform the essential duties of their job, even with an accommodation, then the employer needs to see if there is a vacant position that the employee would be qualified for, but they do not have to create a position.

I am a restaurant owner and I only employ seven people. Do I still have to comply with the non-discrimination requirements under the ADA?

For the employment standards of the ADA you would not have to comply with the ADA in your employment practices because you employ less than 15 persons. However, you are still a place of public accommodation and would still have to meet all the requirements for accommodating customers with disabilities. These are two completely different obligations.

Does the ADA cover private apartments and private homes?

No, the ADA does not apply to private apartment communities or private homes. Only the leasing office of an apartment community would have to comply with the provisions under the ADA because a leasing office is a place of public accommodation. Apartment communities have to comply with the regulations under the Fair Housing Act. You can learn more about your rights by calling the Fair Housing Hotline at 800-669-9777.

I am deaf and I want my real estate agent to provide me with an interpreter, don't they have to under the ADA?

The ADA requires places of public accommodation to provide effective communication to individuals with substantial hearing loss. Effective communication is just that, it is effective. Examples of effective communication could mean interpreting services, captioning service, or it could be as simple as writing with pen and paper.

Consideration needs to be taken into the severity of the communication and the disabled person's preferred method of communication. For example, a deaf person going into a convenience store could communicate with the clerk with pen and paper, while the same person going to a doctor's office for a serious ailment may require the use of an interpreter.

Does my 20-year-old building have to be accessible? Isn't there a "grandfather" clause?

There is no such thing as a "grandfather" clause under the ADA. Pre-ADA buildings still have to make modifications to their facilities, this is called readily achievable barrier removal. The definition of "readily achievable" is without much difficulty or expense. For example, it may not be reasonable to put in an elevator in a two-story building, but it could be reasonable to provide accessible parking and access into the facility.

Does the ADA provide financial assistance?

No. The ADA is a civil rights law that protects a person from discrimination. It does not provide financial assistance for items like college tuition or home loans.

However, there are some tax credits for employers who employ persons with disabilities, and there may be tax credits available for businesses that are striving to make their facilities more accessible.

Persons without disabilities are constantly parking in accessible parking places, isn't that a violation of the ADA?

The ADA does not regulate the enforcement of parking, which is the sole responsibility of the business owner. The ADA regulates how many parking places each business should have as well as their location in relation to the entrance. The ADA also gives specific guidelines on dimensions of each accessible parking place.

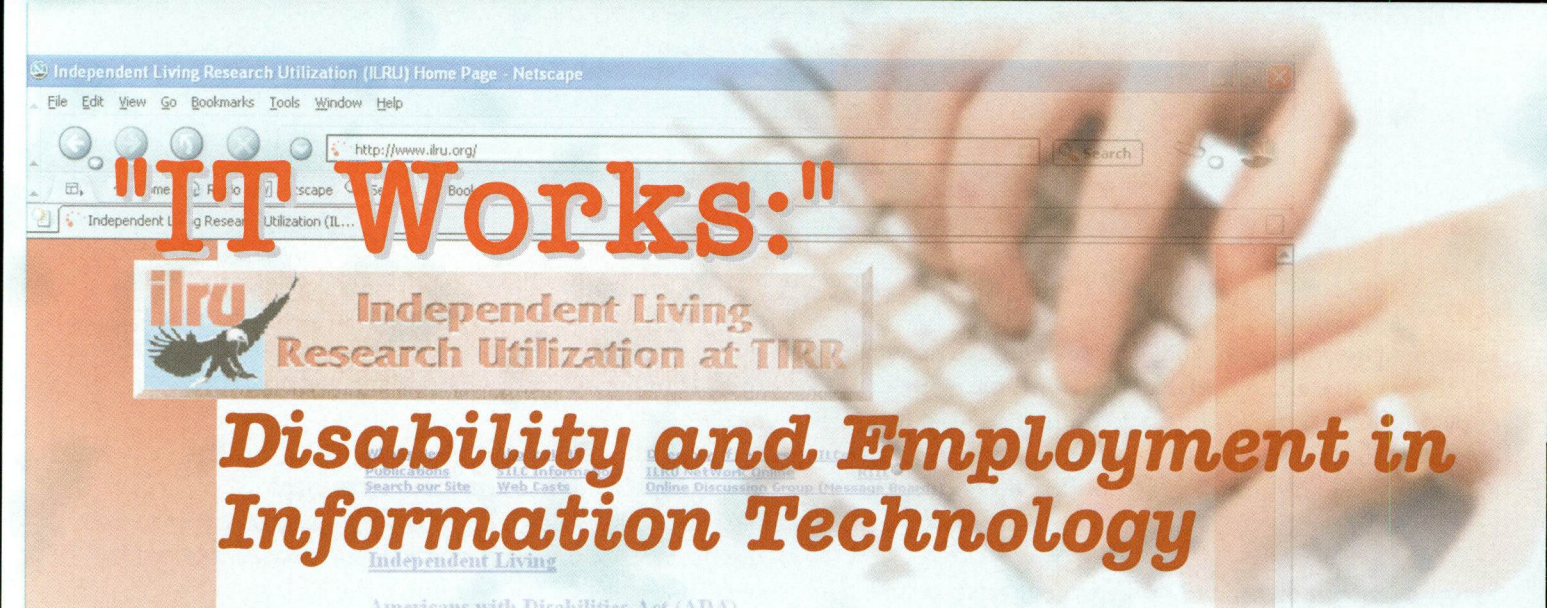
I have a service dog that I use to help me because of my disability. Our local restaurant will not allow my dog to come in because they say it is against the health department codes. Don't I have a right to bring my service dog in?

The ADA defines a service dog as any animal individually trained to assist a person with a disability. A service animal should not be excluded or prohibited from entering places of public accommodation such as restaurants and so forth. Furthermore, certification is not required nor is a person with a disability obligated to show any proof of training. The animal and its behavior is the sole responsibility of the owner at all times. If the animal creates a disturbance, the business may be permitted to exclude the animal at this point.

Each of the ten federally funded ADA technical assistance centers in the country has a toll-free hotline, and if you have any questions or wish to obtain information and resource materials, do not hesitate to call. The number is the same nationwide: 800-949-4232 (V&TTY). If you reside in Texas, Arkansas, Louisiana, New Mexico, or Oklahoma, you will reach me. Let me know that you saw this article. I look forward to hearing from you.

ABOUT THE AUTHOR

Assisting Lea on the job is her service dog, Molly, who Lea, a paraplegic, trained herself. Among Molly's many remarkable skills is delivering telephone messages to members of the ADA staff. She is ILRU's internal hotline, and there is absolutely no question as to who is the most beloved among all ILRU staff members.



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Disability and Employment in Information Technology

Peter Blanck, Helen A. Schartz, Kevin Schartz, & James Schmeling

Introduction

Every day, tens of millions of people use the Internet – for research, to purchase products, search for jobs, participate in educational and job training programs, and stay in contact with friends and family. For many individuals with disabilities, such as those with sensory or hearing impairments, equal access to the Internet requires "assistive technology" or special computer software (Blanck & Sandler, 2000).

Individuals who are blind, or those who have learning disabilities or brain injuries, may use assistive devices to access the Internet such as a screen reader, which is a specialized computer software package that converts text on a web page to an audible or Braille format. Individuals with manipulative or mobility impairments may use voice recognition software to control their computer with voice commands instead of the keyboard or mouse. Persons with severe physical impairments may use head sticks to type on the keyboard.

Research shows that since the passage of the Americans with Disabilities Act (ADA) in 1990, the research and development of assistive technology devices to enhance computer access for individuals with disabilities has increased significantly (Berven & Blanck, 1998, 2000). This article highlights the importance of accessible computer and Internet technology to the equal employment and full inclusion into society of persons with disabilities.

Overcoming the Internet's "Digital Divide"

Despite advancements in assistive and computer software technology, many individuals with disabilities remain "off line" compared to their non-disabled peers. In 2000, Stephen Kaye found that non-disabled individuals were more than four times as likely to use the Internet, and more than three times as likely to have Internet access at home, than individuals with disabilities. This discrepancy has been in part due to the lack of accessibility of the Internet and other information technology, as well as to other economic and social barriers facing disabled persons. Some researchers estimate that at least 90% of existing websites present access barriers to individuals with physical or cognitive disabilities (Klein and Blanck, forthcoming; Moeller, 1998).

The accessibility (or lack thereof) of the Internet was brought to the public eye in 1999 when the National Federation of the Blind (NFB) filed a lawsuit alleging that America Online, Inc. (AOL) had violated the ADA by not making its online services accessible to blind users. (No. 99CV12303EFH (D. Mass. Filed Nov. 4, 1999); Blanck & Sandler, 2000). NFB alleged that AOL's private Internet services violated ADA Title III because the Internet was "a place of public accommodation" under that title and AOL's services were not readily accessible to visually impaired individuals (42 U.S.C. § 12182(a); Blanck & Sandler, 2000). AOL's blind customers claimed that their screen readers could not read text embedded in the site's graphic displays, such as on sign-up forms, welcome screens, and in chat rooms.

Although NFB and AOL eventually settled their dispute, an issue left unresolved was whether private Internet sites and online services generally are public accommodations under ADA Title III, and thus, subject to the law's anti-discrimination provisions. One promising development in the public sector in regard to web and computer accessibility has been the implementation of Section 508 of the Rehabilitation Act (incorporated into the Workforce Investment Act of 1998). Section 508 requires that federal government websites be accessible to individuals with disabilities (29 U.S.C. 794d, available at www.section508.gov). It also mandates that federal government purchasing officers evaluate the accessibility of electronic and information technology and where possible purchase accessible technology.

Accessibility Stick or Carrot

As a general matter, the litigation stick has not been particularly effective for enforcing the access rights of individuals with disabilities, particularly in light of narrow interpretations of the ADA by the U.S. Supreme Court (see, e.g., Colker, 1999; Dispenza, 2002). One alternative has been to develop incentives (carrots) for employers and persons with disabilities to increase the inclusion and labor force participation of individuals with disabilities in the information technology (IT) industry. To the extent that software developers and web designers then become increasingly aware of the business and technological case for accessibility, all involved benefit.

National employment statistics support this contention. The Department of Labor's Bureau of Labor Statistics (DOL, Winter 1999) projects a need for an additional 577,000 systems analysts and 439,000 computer support specialists by the year 2008. In

2001, DOL reported that computer-related jobs will continue to be among the fastest growing occupations. Despite the downturn in the economy, the Information Technology Association of America (ITAA, May 2002) projects a demand for more than one million IT workers in 2002, of which almost 600,000 positions will go unfilled because of a lack of qualified applicants.

Yet, despite the need for IT employees, individuals with disabilities are underrepresented in the labor market and in computer-related jobs in particular (Blanck, 2000). The 2000 Harris Poll commissioned by the National Organization on Disabilities (NOD) found that 32% of individuals with disabilities between the ages of 18-64 work full- or part-time, compared to 81% of people without disabilities. The National Science Foundation (2000) estimates that the science and engineering labor force has 5.6% individuals with disabilities, despite the fact that persons with disabilities make up at least 20% of the U.S. population.

The IT field provides an environment in which qualified people with disabilities may work with the assistance of accessible technology or tele-commuting strategies. The IT environment supports the use of innovative hardware and software applications. If they prefer, individuals with disabilities may work from home by telecommuting. Benefits to employers and employees include lower transportation costs, greater access to personal assistants, and flexible time management. IT employment provides opportunities for people with intellectual and mental impairments (e.g., learning disabilities, brain injuries, and episodic illnesses) where computerized assistive technology enhances learning and the presentation of information. Research shows that IT employment and related workplace accommodations also enhance return-to-work and injury prevention programs, and benefit workers with and without disabilities and their employers (Blanck, 1994; Blanck & Steele, 1998).

"IT Works"

The Law, Health Policy and Disability Center (LHPDC) at the University of Iowa, under a grant from the U.S. Department of Education's National Institute on Disability and Rehabilitation Research (NIDRR), has established the "IT Works" project. IT Works explores the interfaces among IT training programs, individuals with disabilities who have participated in such programs, and employers who have hired individuals with disabilities in IT jobs. The project is guided by an expert panel comprised of representatives from education and training sectors, employers and representatives from the IT industry, individuals with disabilities working in IT, and representatives of federally funded IT training projects. The Information Technology Association of America (ITAA) is a partner in the grant, representing IT employers and providing access to IT companies.

IT Works examines ways that IT can dismantle barriers to the employment of individuals with disabilities, including technical, attitudinal, and environmental barriers. A central project goal is to identify barriers and seek solutions to enhance hiring, advancement, and retention of individuals with disabilities in the IT workforce. LHPDC and ITAA have created a national awards program to promote employment of individuals with disabilities. The program honors IT firms that develop strategies to enhance employment in the area. Large and a small IT firms will be recognized for their work in recruiting, hiring, developing accessible IT products, and career advancement and training (see www.its.uiowa.edu/law/lhpdc/projects/it_works.html).

Conclusion

This article highlights the importance of accessible electronic IT to the inclusion of persons with disabilities into the labor force and everyday life. This goal is consistent with federal policy set out in the ADA and Section 508 (as well as in other policies such as the Ticket to Work and Work Incentives Improvement Act of 1999) that are designed to prevent discrimination against and promote the inclusion into society of people with disabilities.

True inclusion of persons with disabilities must involve people with disabilities, employers, policymakers, IT companies, researchers and others. The "IT Works" project will help achieve this goal by identifying promising practices and long standing barriers, and disseminating information about the inclusive labor force of the future.

REFERENCES

American Bar Association, Study Finds Employers Win Most ADA Title I Judicial and Administrative Complaints, Mental & Physical Disability L. Rep. 22, 403-404 (1998).

Berven, H.M. & Blanck, P.D. (1998). The Economics of the Americans with Disabilities Act: Part II: Patents, Innovations and Assistive Technology. Notre Dame Journal of Law, Ethics & Public Policy, 12(1), 9-120.

Berven, H.M. & Blanck, P.D. (2000). Unanticipated Economic Gains and the ADA: Assistive Technology Patent Trends, in P.D. Blanck, (ed.), Employment, Disability, and the Americans with Disabilities Act: Issues in Law, Public Policy, and Research, 329-55, Northwestern University Press.

Blanck, P.D. (1994). Communicating the Americans with Disabilities Act: Transcending Compliance – A case report on Sears Roebuck & Co., The Annenberg Washington Program, White Paper, Washington, D.C. Reprinted (1996). In Driving Down Health Care Costs (J. Burns, ed.), pp. 209-241, Panel Publishers: New York.

Blanck, P.D. (ed.)(2000). Employment, Disability, and the Americans with Disabilities Act: Issues in Law, Public Policy, and Research, 329-55, Northwestern University Press.

Blanck, P.D. & Sandler, L.A. (2000). ADA Title III and the Internet: Technology and Civil Rights, Mental & Physical Disability Law Reporter, 24(5), 855-59.

Blanck, P.D. & Steele, P. (1998). The Emerging Role of the Staffing Industry in the Employment of Persons with Disabilities – A Case Report on Manpower Inc. Iowa CEO and Law, Health Policy and Disability Center, Iowa City, IA.

Colker, R. (1999). The Americans with Disabilities Act: A Windfall for Defendants, Harvard Civil Rights – Civil Liberties Law Review, 34(Winter), 99-162.

Dispenza, M. L. (2002). Overcoming a New Digital Divide: Technology Accommodations and the Undue Hardship Defense Under the Americans with Disabilities Act, Syracuse Law Review (52), 159-181.

Harris, L., & Associates (2000). National Organization on Disability/Harris Survey of Americans with Disabilities. New York, NY: Author.

Kaye, H. S. (2000). Computer and Internet Use Among People with Disabilities. Disability Statistics Report (13). Washington D.C.: U.S. Department of Education, National Institute on Disability and Rehabilitation Research.

Klein, D., & Blanck, P. D. (Forthcoming). Iowa School Website Accessibility for People with Disabilities, Behavioral Sciences and the Law.

Moeller, M. (May 11, 1998). Disabling Web Barriers, PC Week, 25.

Information Technology Association of America (May 2002). Bouncing Back: Jobs, Skills and the Continuing Demand for IT Workers, available at: www.itaa.org.

National Science Foundation (2000). Women, Minorities, and Persons with Disabilities in Science and Engineering: 2000. Arlington, VA: Author (NSF 00-327).

U.S. Department of Labor, Bureau of Labor Statistics (Winter 1999). Occupational Outlook Quarterly. Washington, D.C.: Author.

U.S. Department of Labor, Bureau of Labor Statistics (2001). Occupational Outlook Handbook. Washington, D.C.: Author.

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James Schmeling, J.D., is the Associate Director of the LHPDC.

TWO REVOLUTIONS, ONE GOAL:
INCREASING ACCESSIBILITY TO INFORMATION TECHNOLOGY FOR PEOPLE WITH DISABILITIES

Curtis D. Edmonds

1973 was a landmark year for both the disability rights movement and the Internet. In 1973, Congress passed the Rehabilitation Act, the first law protecting the civil rights of people with disabilities in federally funded programs. Also in 1973, the ARPANET, one of the predecessors of the Internet, connected with universities in Britain and Norway to form the first international computer network.

Since 1973, both the disability rights and the information technology (IT) revolutions have changed how we live, work, and play. American society has become more accessible and welcoming for everyone thanks to the great strides in disability rights symbolized by the passage of the Rehabilitation Act, the Americans with Disabilities Act (ADA), and other laws protecting the civil rights of persons with disabilities. The great advances in electronic and information technology and the advent of e-mail and the World Wide Web have changed the lives of millions of people worldwide in countless ways.

Although these two revolutionary social trends have developed over the same time frame, they have not always intersected. Many people with disabilities face significant barriers in accessing IT products and services. People who are blind cannot access the information on many Internet sites, especially those that do not provide text descriptions for graphic images. People who are deaf may experience difficulty accessing multimedia files that are not captioned. People who have difficulty using a mouse, or who have cognitive disabilities, may not be able to navigate Internet sites with poorly designed or confusing navigation.

Despite the increased availability of assistive technology to help people with disabilities better access information technology, significant barriers still exist that keep some people with disabilities from participating fully in the information technology revolution.

Just as legislation was needed to help remove the attitudinal, social, and architectural barriers that faced people with disabilities in 1973, legislation was needed to help remove the electronic barriers that currently faced people with disabilities. In 1998, Congress amended the Rehabilitation Act of 1973 to include accessibility requirements for electronic and information technology in federal programs. The new amendments to Section 508 of the Rehabilitation Act required federal agencies to change their purchasing policies so that any IT products purchased were accessible to federal employees with disabilities, absent an undue burden. Additionally, Section 508 required that federal Internet sites provide accessibility to visitors with disabilities, absent an undue burden.

The Access Board, a federal agency that researches and establishes standards on disability issues, developed Section 508 standards in 2001. These standards set forth simple, common sense guidelines for industry and federal IT professionals to follow. These standards apply to a wide range of products and services, from copiers, fax machines and televisions to computers, software, and Internet sites. Unlike other sections of the Rehabilitation Act, Section 508 does not apply to entities that contract with the federal government. However, vendors wishing to sell electronic and information technology to the federal government must ensure that their products meet the Section 508 standards. Section 508 provides a great marketing opportunity for IT vendors to show that people with disabilities who are working in a variety of jobs in both the public and private sectors can use their products.

Mimi Kessler, project director for the Information Technology Technical Assistance and Training Center (www.ITTATC.org), funded by the National Institute on Disability and Rehabilitation Research (NIDRR) which is a division of the Department of Education, stated that: "Many features that make a product accessible to people with disabilities also makes the product more useable and attractive to all consumers. Some of these features are relatively easy to implement and the cost is not prohibitive."

By its terms, Section 508 does not specifically apply to state governments or state-funded educational institutions. However, the federal Assistive Technology Act contains a requirement that states provide access to information technology for people with disabilities, and the U.S. Department of Education has interpreted this requirement as saying that states should comply with Section 508. Many states and educational entities are working to remove

electronic barriers for people with disabilities. Additionally, many states have passed laws relating to purchasing accessible IT and including access features in state Internet sites.

The ADA, the most comprehensive civil rights law affecting persons with disabilities, does not specifically address accessibility to IT. In 1996, Assistant Attorney General Deval Patrick wrote a letter regarding the applicability of the ADA to the Internet. "Covered entities under the ADA are required to provide effective communication, regardless of whether they generally communicate through print media, audio media, or computerized media such as the Internet," Patrick wrote. "Covered entities that use the Internet for communications regarding their programs, goods, or services must be prepared to offer those communications through accessible means as well." The Department of Justice subsequently wrote an amicus brief in a Texas case indicating that the ADA applied to the actions of a company that provided online services.

Absent specific federal guidance, businesses, private schools, and other places of public accommodation who want to comply with the ADA in this area can choose to voluntarily comply with the Section 508 standards. Voluntary compliance with Section 508 is evidence of a good-faith effort to comply with the ADA and provide accessible products and services for people with disabilities.

Aside from the legal requirements, making IT products and Internet sites accessible to everyone is just good business. Making products and services accessible for people with disabilities allows businesses to market to a large population that would otherwise not be served. Products that meet the Section 508 requirements are easier to operate for all users. Web sites designed with accessibility in mind work better with Internet search engines and new wireless technology. "Accessibility for competitive advantage is a slogan used by industry proponents of accessibility," Kessler added. "In reality, people will want to buy products or buy a higher priced product that is simply easier to use and accessibility features make the products more useable."

Most importantly, though, removing these electronic barriers helps fulfill the goals of both the disability rights movement and the information technology revolution. Accessible IT helps people with disabilities participate more fully in this important new arena. And providing access to technology to a wider range of individuals helps make information more widely available to everyone. After thirty years of progress, providing access to information technology for people with disabilities is a revolutionary idea whose time has come.

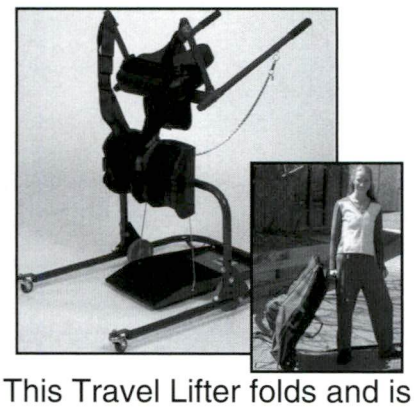
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Curtis D. Edmonds is an attorney and technology specialist at the Center for Assistive Technology and Environmental Access at Georgia Tech in Atlanta.

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Only Sticks & Bricks?

Public Accommodations under Title III of the Americans with Disabilities Act

J. Aaron McCullough

Title III of the ADA makes it quite clear that discrimination is prohibited in places where people go to shop, obtain services, and recreate.

The ADA holds that people with disabilities, just as people without disabilities, are entitled to equal access to the "goods, services, facilities, privileges, advantages, or accommodations" offered by a place of public accommodation. Responsibility for ensuring that the place of public accommodation is not discriminatory belongs to the one who owns, leases, leases to, or operates the place.

Title III provides a list of 12 categories of these private establishments, from veterinarians to movie theaters to malls to banks to funeral homes to zoos, and so on.

These 12 categories notwithstanding, public accommodations have some intriguingly murky areas involving boundaries, specifically, is there a line beyond which public accommodation prohibitions do not apply?

Variations of this question are now being explored through litigation, such as what kinds of places fall under the definition of public accommodation, and does the ADA apply to the goods offered in those places. Title III does not specify physical boundaries, and courts are divided over whether or not places of public accommodation are limited to spaces with tangible boundaries.

In four cases that have come before the courts to date, however, it was found in each case that the organization was a place of public accommodation and, thus, was prohibited from excluding people with disabilities. As can be seen from the following summaries of the cases, these organizations' boundaries are not strictly sticks and bricks:

- a youth baseball program: The youth baseball league refused to allow a child with cerebral palsy to play in a younger league, making the decision solely on its assumed and untested beliefs about possible risk of injury.[1]
- a public tour of a manufacturing facility: A beer brewery refused to allow a guide dog to accompany his visually impaired owner on a public tour of the facilities in the presence of open vats of beer meant for distribution.[2]
- the National Collegiate Athletic Association (NCAA): The NCAA declared a student athlete with a learning disability academically ineligible to play college football.[3]
- the Professional Golf Association (PGA): The PGA refused to allow Casey Martin to use a golf cart as a reasonable accommodation, citing its rule forbidding the use of such carts.[4]

It should be noted that the PGA v. Martin case has been the U.S. Supreme Court's only decision on this issue, and, of course, it found that golf tours sponsored by the PGA are places of public accommodation.

Another Title III area involving boundaries – or lack thereof – concerns insurance policies, specifically, do the contents of insurance policies constitute goods or services provided by a public accommodation. The issue has to do with underwriting practices and policies of life and health insurance which treat people with disabilities differently than non-disabled people. Cases have surfaced in a number of circuit and lower court. It seems destined to make it to the Supreme Court. When and how this issue might be resolved remains to be seen.

REFERENCES

[1]Shultz v. Hemet Youth Pony League, Inc., 943 F. Supp. 1222 (C.D. Cal. 1996).
[2]Johnson v. Gambrinus Company/Spoetzl Brewery, 116 F.3d 1052 (5th Cir. 1997).
[3]Matthews v. NCAA, 179 F. Supp. 2d 1209 (E.D. Wash. 2001).
[4]PGA Tour, Inc. v. Martin, 121 S. Ct. 1879 (U.S. 2001).

ABOUT THE AUTHOR

J. Aaron McCullough is a licensed attorney on staff of ILRU's Disability Law Resource Project. He is currently pursuing a master's degree in political social work.

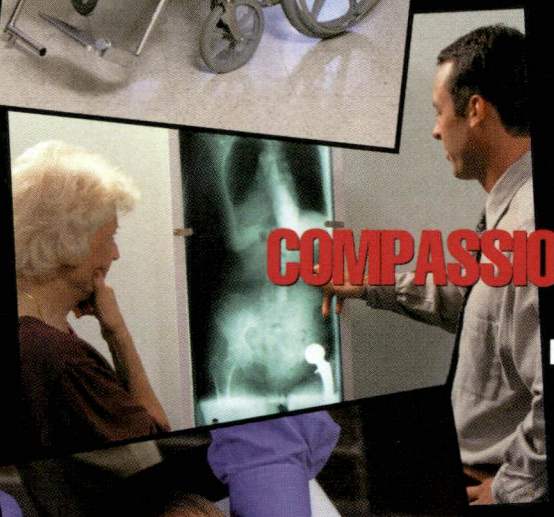
EXAMPLES OF PUBLIC ACCOMMODATION FROM TITLE III

The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce:

- ✓ an inn, hotel, motel, or other place of lodging;
- ✓ a restaurant, bar, or other establishment serving food or drink;
- ✓ a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
- ✓ an auditorium, convention center, lecture hall, or other place of public gathering;
- ✓ a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
- ✓ a laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, office of a health care provider, hospital, or other service establishment;
- ✓ a terminal, depot, or other station used for specified public transportation;
- ✓ a museum, library, gallery, or other place of public display or collection;
- ✓ a park, zoo, amusement park, or other place of recreation;
- ✓ a nursery, elementary, secondary, undergraduate or postgraduate private school, or other place of education;
- ✓ a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and
- ✓ a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

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In Memory of Justin Dart

August 29, 1930 – June 22, 2002

Maria Soria, with contributions by Laurel Richards

We find it impossible to talk about the ADA without talking about Justin Dart. Following his death in June of this year, innumerable tributes were given by national leaders as well as those of us in the rank and file, recognizing his role in the ADA, his leadership in the disability rights and independent living fields, his bona fide egalitarianism, his generosity, his courtesy. To honor his memory, we selected a few of the tributes that have been posted on the Web. Here's our salute to the patriot's patriot.

The JD sanctioned obituary Fred Fay and Fred Pelka

This wonderful obituary was written at Justin Dart's request. The authors cover his life story from the wealthy family he was born into, contacting polio in 1948, then to his involvement and accomplishments not only in the disability rights movement, but also as an entrepreneur: www.halftheplanet.com/departments/new_content/jdart_oblituary.html.

The iCan! site has the same article by Fay and Pelka and also includes the memorable picture of JD at the 2000 March for Justice in Washington, D.C.: www.icanonline.net.

A Tribute to Justin Dart

This Web site, compiled by Liberty Resources CIL, has a marvelous ensemble of information on his life and accomplishments: www.libertyresources.org/dc/dart-index.html.

Add your thoughts about Justin Dart

At this site, anyone and everyone is given opportunity to post thoughts and feelings about JD. This is a touching site, even just to read through: www.ican.com/guestbookjd.cfm.

JD remembered by the disability community and the nation

NOD's Web site has a number of articles about JD's life, but the article that may really touch your heart is his final written message: www.nod.org.

Other Web sites of note

- The Web site established for the JD Memorial and Celebration: www.unitedadvocacy.org
- Obituaries in the Washington Post and the New York Times:
  - www.washingtonpost.com
  - www.nytimes.com

  [Note: for the NY Times, you will need to register, but there is no cost, and you will have continued access to the Times.]
- Two remarkable articles which include descriptions of the early and self described profligate Justin Dart and how he changed into the selfless man who made lasting contributions to the quality of life for all of us may be found on the following Web sites:
  - By his niece: www.abilitymagazine.com/carroll_dart.html (This is just the initial portion of the article; one must subscribe to Ability Magazine to obtain the rest. It may well be worth it.)
  - By Jean Dobbs for New Mobility magazine: www.aacpdm.org/ profiles/justindart.html

Two Last Items to Bring to Your Attention:

Our favorite Web site

Of course, we believe that the single not to be missed site is ours at ILRU. Dawn Heinsohn led our efforts to set up a JD commemorative page. It includes a videotape of the July 26 memorial service, a videotape of a Lex Frieden conducted interview with JD from summer 2001, coverage of JD's Presidential Medal of Freedom award ceremony, NPR's interview with Lex Frieden on JD's death, and more: www.ilru.org/news/Announcements/Dart/

Dart in the Smithsonian

In 1999, the Smithsonian Institution asked for and received:

- his trademark cowboy hat and boots,
- his pen that signed the ADA, and
- his Freedom Medal.

ABOUT THE AUTHORS

Maria Soria, of ILRU's Disability Law Resource Program, is a first generation American whose family comes from Mexico. Fluent in Spanish and having a native understanding of Hispanic communities, she provides a crucial link to meeting ADA needs of this under served population.

Laurel Richards is a member of ILRU who first met Justin and Yoshiko Dart in the late 1970's when they met with ILRU staff prior to their first national road trip to visit independent living centers around the country.

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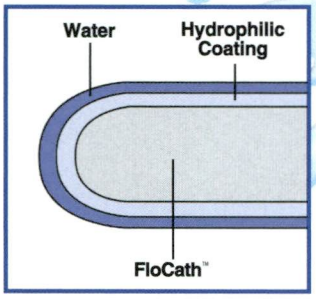
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The ADA... continued from page 11

great that someone in a leadership position like his, the Vice President of the United States, actually understood what it was we were trying to do.

Rachel: I believe he actually had some personal experience with disabilities in his family.

Lex: He did, of course, as most families do. He said as we were leaving, You know this is a wonderful report, I'll share it with the President. He said, apologetically, I'm sorry I can't do more but you've probably read the newspapers, and as you know, I'm just George.

It was almost prophetic, because as we were leaving, he said, If I have an opportunity to help you with this in the future, I'll do it. Two years later in his first address to the country, he said, One of the things I want to do is to make sure there is a law in this country that protects people with disabilities from discrimination. And two years later, he signed the ADA.

Rachel: It's really an incredible story, and I know there are wonderful stories about all of the negotiations involved in getting the ADA legislation through Congress.

Lex: Oh, great stories Rachel. People might be surprised to learn that there are so many little stories that don't make the headlines. I recall Congressman Stenny Hoyer literally crawling around on hands and knees behind other members of Congress in a committee mark-up session, lobbying to get the committee to vote to approve the ADA before its passage. So many little things that lead up to something big – passage of the Americans with Disabilities Act. In the end, it was passed by an overwhelming majority. Only two members of the Senate failed to vote for it, and in the House, it was passed by one of the largest majorities ever recorded.

It is landmark legislation, and I think that it has demonstrated through the years its ability to meet many of its objectives. It's not perfect. No law is, I suppose, and it will probably need to be refined in the future. However, the concept is enduring.

I think that as a result of the ADA, people with disabilities who have had experiences, as you and I have, can go forward with their lives, believing that there is formal acknowledgment that we should have the opportunity to benefit, just like everybody else, from our work and from our good fortune to live in this great country.

ABOUT THE AUTHORS

An accomplished trainer and interviewer, Rachel Kosoy joined ILRU's Disability Law Resource Project in 1999 and currently serves as its deputy director.

Mark Richards joined ILRU in 2002 as a program associate specializing in research information dissemination and utilization after retiring as a senior chief petty officer from the U.S. Navy.

Lex Frieden is director of ILRU, senior vice president of TIRR, and professor in the departments of physical medicine and community medicine of Baylor College of Medicine. He founded ILRU in 1977.

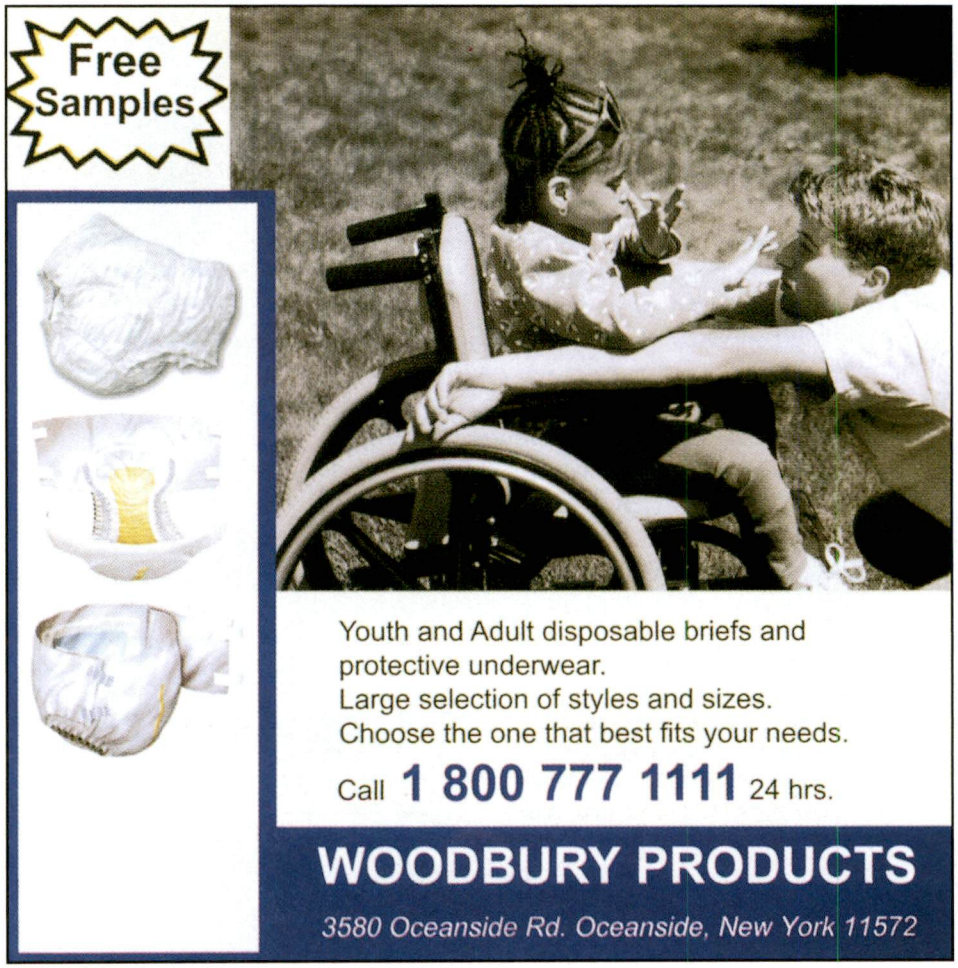
REFERENCES

[1]Note: this was adapted from an April 2002 edition of the television program, *Focus on Ability*, broadcast on Houston's Municipal Channel Cable Network and was sponsored by the Disability Law Resource Project with funding from the National Institute for Disability and Rehabilitation Research, U.S. Department of Education. The opinions stated in this article and on the television program are the opinions of the author, and endorsement by NIDRR or the U.S. Department of Education should not be inferred.

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* Alabama Support Group is no longer active; contact person will answer calls re: local needs only.

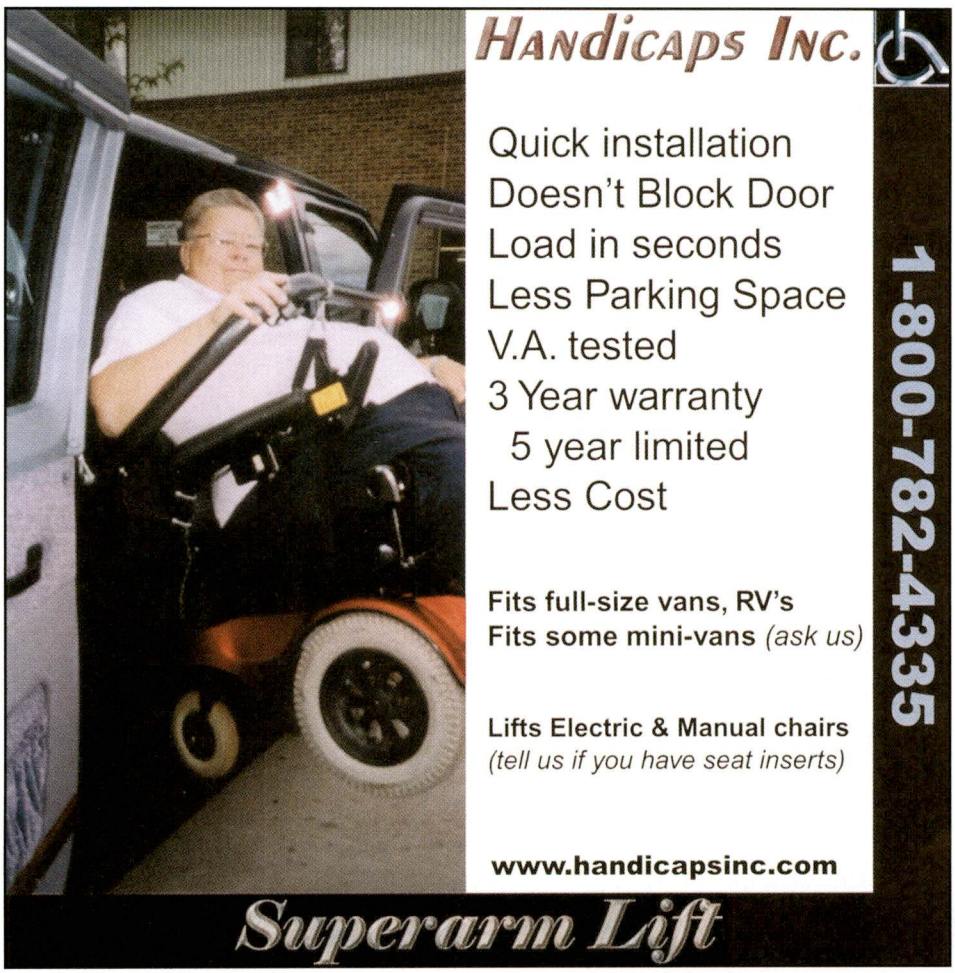
If you cannot find a support group in your area, why not start your own. Contact the National Office for assistance on our business line (301) 588-6959 or our Helpline: (800) 962-9629.

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