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July 26, 1994

**CELEBRATION OF THE FOURTH ANNIVERSARY OF
THE AMERICANS WITH DISABILITIES ACT**

DATE: Wednesday July 27th, 1994
TIME: 10:30 AM
LOCATION: The White House South Lawn
From: Mike Lux
Debbie Fine
through Alexis Herman

I. PURPOSE

The purposes of this event are:

- 1) to celebrate the fourth anniversary of the Americans with Disabilities Act (ADA) and implementation of the final phase of the law;
- 2) to make the connection between universal health coverage and the ADA, whereby guaranteed insurance for all Americans helps make the promise of the ADA a reality; and
- 3) to restate the importance of universal coverage, achieved by building on the current employer based system of shared responsibility.

II. BACKGROUND

This event, with approximately 3,000 participants, is the largest event we have yet done at the White House. Water bottles and fans will be provided for each participant, with the following printed on each: "INDEPENDENCE....SECURITY... With Universal Health Coverage and the ADA... Americans with Disabilities Act Anniversary 1994."

On Health Care and the ADA

According to the Bureau of Census there are 49 million people with disabilities. The anniversary of the ADA is called Independence Day for people with disabilities. People with disabilities and their families cannot become truly independent until they achieve economic independence. For many, their disability status -- compounded by the lack of available and affordable assistance -- renders them unable to get health insurance, and therefore hurts their job prospects. They are either not hired because of the insurance 'risk' they pose, or they opt not to work because they fear losing the health benefits they now get through Medicaid. Passage of a health care bill that achieves universal coverage with no pre-existing conditions and no life-time limits on care would eliminate a strong disincentive for employment, and

help make what the Americans with Disabilities Act aims to achieve into reality.

As a major piece of civil rights legislation, one of the goals of the ADA is to include people with disabilities in mainstream society. Universal health coverage extends this principle of inclusion in another form for people with disabilities.

Health care that provides long-term home and community-based care is also directly connected to achieving independence for people with disabilities. Many people with disabilities require some form of personal assistance services in order to work. Judy Heumann, Assistant Secretary at the Department of Education for the Office of Special Education and Rehabilitative Services, is an example of someone who has been able to develop an effective and successful career because of personal attendant services.

Those who fought to pass the ADA in 1990, say that the health care insurance piece was severely weakened with compromise language early on because of the sense that it was politically unrealistic. The community recognizes this administration's fight for universal coverage and its role in making health care reform a possibility; they are very grateful for this.

Health Care Activity

The disability community has been very active in the health care reform debate and in general has been supportive of the administration's approach to health care reform, although initially much of the community was more sympathetic to the single payer approach. The disability rights activists have been working to educate and activate the grassroots network.

Since May 2nd, when both the Bridge to Freedom March and Rally and your event with people with disabilities at the White House were held, the disability community has markedly stepped up its level of activity. You asked them to take the lead in the fight for health care reform, and they responded. They have been very active on Capitol Hill and are working hard to heighten the level of grassroots activity. They have also participated in the Health Security Express bus tour.

Some of the activities on health care this week include a "Real Health Care For All" rally on Capitol Hill organized by Senator Kennedy. The National Council on Disability also released a report on its findings on what the disability community wants from health care reform, which support the administration's approach to reform. Throughout this week, many of the participants of the White House event are going to Capitol Hill to lobby Members of Congress to pass a health care reform bill that achieves universal coverage, in addition to home and community based long term care and other issues of importance to the community.

The community should be acknowledged for accepting your challenge from May 2nd, and urged to do much more in the coming critical weeks -- both on Capitol Hill and in their communities.

Issues to Highlight on Health Care

The issues in the health care debate most important to the disability community are:

- universal coverage with no pre-existing conditions and no life-time limits;
- a defined comprehensive benefits package; and
- home and community-based long-term care, with personal assistance services.

Two aspects of the Health Security Act that the disability community considered critical and that they have pursued on Capitol Hill are:

- A broad range of personal assistance services will be available to children and adults with severe disabilities, through the home and community based long term care. Personal assistance services has been the primary goal for the disability community because it is identified as the mechanism that allows people with disabilities to participate in society.
- Tax credits for employees with disabilities who require personal assistance with daily tasks.

On the ADA This Year

As you know, the ADA, signed into law in 1990, eliminates discrimination in access, employment, transportation and communications for Americans with disabilities. This year marks the fourth anniversary of enactment of the Americans with Disabilities Act and implementation of the final phase of the law -- which requires small businesses that employ fifteen or more employees to comply with the employment provisions of the law. This will affect an additional 400,000 private businesses and 100,000 organizations and non-profits this year, amounting to a total of two million businesses covered by the ADA. (Businesses with 25 or more employees were required to comply by July 26, 1992.)

According to the United Cerebral Palsy Associations 1994 ADA Report Card on America, employment of people with disabilities is lagging behind in both full and part time jobs and in perceived commitment from employers. Some cite the small business requirement as being the most important because it opens the door to job opportunities for people with disabilities in small businesses, which according to the Dole Foundation employ 86% of America's workforce.

Furthermore, by making businesses accessible for customers with disabilities, UCPA cites that there has been a 12% increase in customer base in the retail and hospitality industry alone.

History of the ADA

The passage of the ADA was driven by a growing realization that government was spending far too much on custodialism and medical and income support in ways that perpetuated the isolation and dependency of people with disabilities, while spending far too little on measures that would enable people with disabilities to live productively and independently.

July 26, 1990: The ADA was signed into law.

January 26, 1992: Public accommodations were required to have facilities accessible. Local municipalities and state governments were required to be accessible.
Paratransit services were required.

July 26, 1992: Businesses employing 25 or more workers were prohibited from discrimination against qualified individuals with disabilities in all aspects of employment.

July 26, 1993: Telephone relay services were required at all times in all states. Some transit and commuter stations were required to comply with some exceptions extended up to 20 years.

July 26, 1994: Small businesses employing fifteen or more employees must comply with the ADA employment provisions.

Some of the transportation provisions are phased in until 2010.

Issues of Concern with the Administration and Enforcement of the ADA

Department of Justice: Throughout the last two years, disability rights groups and Members of Congress have expressed concerns about limited resources dedicated to ADA enforcement that have resulted in an inability to investigate every complaint received against public accommodations.

Department of Transportation: The Department of Transportation recently extended the date by which the Washington D.C. metro system had to comply with the ADA by 6-12 months. Currently many of the metro stations have platforms without any system that signals the edge of the platform for blind people (i.e. building in a truncated dome at the edge of all platforms). The leadership of the disability community has perceived this as "backing away" from the ADA. A meeting with disability leaders and Secretary Pena is scheduled for Tuesday, July 26.

Reinventing Government: The ADA is often cited by the administration as an example of unfunded mandates. The disability rights community views this as a negative definition of the ADA, and continue to argue that "unfunded mandate" is a mis-classification for civil rights legislation.

Political Background on the Disability Community

With the signing of the ADA in 1990, George Bush and the Republican Party got a lot of credit in the disability community. Although there were many Democratic Representatives and Senators who worked very hard to pass the ADA -- they were not recognized for their efforts at the Bush signing ceremony. (Democrats did not even have reserved seats, while the Republican Members of Congress did.)

The politics of the disability community are complicated and often volatile. During the campaign, leaders on both the national and the grassroots level were periodically disappointed

with the perceived lack of inclusion of people with disabilities in speeches and events. There have also been issues around personnel, with leaders in the community feeling we haven't done a good job of placing people with the disabilities into jobs. The administration has increasingly reached out to the community on several issues, including health care, which has resulted in a very good relationship with the community. This is the fourth Presidential event, Mrs. Clinton has participated in several health care events with the community, and Mrs. Gore is viewed as a hero in the mental health and developmental disability community.

We would also note that this community is particularly sensitive to being treated differently from others and to any hint of being patronized. Describing people with disabilities as any more "courageous" or "inspirational" than anyone else should be avoided, as should people being described as "frail" or "fragile". The phrase "shackles of a wheelchair" is another one that definitely sets people off.

Statistical Background

Following are some relevant statistics:

- While 15% of people with no disability are without coverage; 35 % of people with disabilities (including severe and non-severe) are without coverage. (Bureau of Census 1/94)
- Due to a variety of physical, mental and emotional conditions, an estimated 49 million noninstitutionalized Americans have a disability (20%). Of these persons, 24 million have a "severe" disability. (Bureau of Census 1/94)
- Severe disabilities reduce employment chances. Those with disabilities constituted 13% of all employed persons; those with a severe disability comprised 3%. Although having a less than severe disability does not have a large effect on one's chance of being employed, having a severe disability does. Among person 2-64 years old, 81% without a disability and 76% with a disability that was not severe were employed. However, just 23% with a severe disability worked. Data show that persons with a disability -- particularly a severe one -- earn less than those without one. (Bureau of Census 1/94)
- According to the Dole Foundation, two-thirds of Americans with disabilities between the ages of 16 and 64 are not working. The cost to America is estimated \$200 billion dollars annually in private and public payments and an additional \$100 billion in unrealized wages and taxes.

III. PARTICIPANTS

From the White House:

The President

The Vice President

Hillary Rodham Clinton

Mary Elizabeth Gore

From the Administration: (None have speaking roles.)

Attorney General Reno

Secretary Pena

Secretary Riley

Secretary Shalala

Secretary Jesse Brown

Dr. Lee Brown, Director of the Office of National Drug Control Policy

Deval Patrick, Assistant Attorney General for Civil Rights

Judy Heumann: (HUMAN) Assistant Secretary for the Office of Special Education and Rehabilitation Services at the Department of Education. She is on stage because of her significant contribution to passage of the ADA, rather than because of her position in the administration. She is a great example of someone with a disability who was able to develop a successful career because of personal assistance services. She has been a long-time, loyal supporter of yours, and was a key advisor to us during the campaign.

NOTE: Of the above mentioned representatives of the administration, only the Attorney General, Secretary Pena and Assistant Attorney General for Civil Rights have enforcement responsibilities of the ADA. The others have technical assistance and education responsibilities.

From the Community (None have speaking roles):

Marca Bristo: She was recently confirmed as Chair of the National Council on Disability, although she has not yet been sworn in. She has been a longtime ADA and health care activist, as well as a strong supporter of the administration.

Judi Chamberlin: She works at the National Empowerment Center in Lawrence, Massachusetts and leads the psychiatric survivors movement in Boston. She was very active in the ADA movement and continues to be very active now in the health care reform debate.

Brian Clukey: He is the President of People First of Northern Virginia, who recently chaired a 700 person People First national conference. People First is an organization of citizens with developmental disabilities who are learning to advocate for their rights and become actively involved in their communities. He attended the May 2nd health care event with people with disabilities, and is active in the health care reform debate. He works at a Washington D.C. law firm in a support capacity.

Tony Coehlo: Chair of the President's Committee on the Employment of People with

Disabilities. As you know, he has epilepsy and his struggle with the disease was a major factor in influencing his career. He introduced the original version of the ADA in the House, and after leaving Congress was a leader in the campaign for its passage. We would note that the President's Committee took a lead role in helping organize and fund this event. They have devoted tremendous staff resources to developing the invitation list and sorting through problems that have arisen with the list. They are also providing staff to assist at the gate for the event.

Justin Dart: As you know, he is the former Chair of the President's Committee on the Employment of People with Disabilities. He and Pat Wright are thought of as the two key champions responsible for passage of the ADA. He is a life-long Republican and friend and appointee of President Bush, but he is one of your strongest supporters on health care and has invested significant resources into the debate via existing coalitions and the DNC. You have met him several times.

I. King Jordan: He is currently President of Gallaudet University, and is the first deaf president of Gallaudet. He was a key player in the passage of the ADA. He participated in the meeting you had in honor of the ADA last year, and you also met him at your speech to Gallaudet earlier this year.

Rebecca (Becky) Ogle: (OH-GUL) Director of Project Accessibility at NAMES, and Co-chair of The Real Health Care For All Campaign, which is the coalitional grassroots network. She was Disability Access Coordinator for the Inaugural.

Paul Schroeder: (SHRAYDER) Director of Governmental Affairs for the American Council of the Blind. He was active in working for passage of the ADA and continues to be active in the fight for health care reform. He is also working on the National Information Infrastructure in the disability community.

Patrishia (Pat) Wright: She is Director of Government Affairs at the Disability Rights Education and Defense Fund. She and Justin Dart are considered the key champions of passage of the ADA; she is sometimes referred to as the mother of the ADA.

From Congress: (No speaking roles)

Representative Hamilton Fish (R-NY): He was named by Congressman Hoyer as the most helpful Republican of those who are still in Congress. (The main Republican floor manager of the ADA was Steve Bartlett, who is currently mayor of Dallas, Texas.)

Speaker of the House Foley (D-WA)

Senator Tom Harkin (D-IA): He was the chief Senate sponsor of the ADA bill.

Senator Orrin Hatch (R-UT): He managed the bill for the minority in the Senate, and was named by Harkin as the most helpful Republican in passage of the ADA.

Representative Steny Hoyer (D-MD): He was the chief sponsor of the ADA bill in the House.

Majority Leader George Mitchell (D-ME)

Members of Congress Seated in the Audience

Chairman Edward Kennedy (D-MA)

Senator Howard Metzenbaum (D-OH)

Senator James Jeffords (R-VT)

Representative Don Edwards (D-CA)

Representative Major Owens (D-NY)

Chairman Jack Brooks (D-TX)

Representative Bill Goodling (R-PA)

Representative Steve Gunderson (R-WI)

Chairman Bill Ford (D-MI)

Representative John Lewis (D-GA)

Chairman Joseph Moakley (D-MA)

Representative Jerrold Nadler (D-NY)

Representative Alan Mollohan (D-WV)

The Audience

The audience is comprised of approximately 3,000 disability rights advocates from all over the country, approximately 30 political appointees with disabilities, and approximately 30 key agency and department personnel who run disability related programs.

IV. PRESS PLAN

This event will be open to the press. An extensive list of disability specialty press have also been invited. Following the event, the participants from the community on stage and approximately 12 previously identified leaders from key states will be available for interviews by all press, including regional and specialty. All of those available for interview plan to underscore the importance for health care reform that achieves universal coverage for successful implementation of the ADA.

V. SEQUENCE OF EVENTS

- You will proceed to the Map Room from the Oval Office following completion of the telephone call to Dr. Glenn Anderson, to join the Vice President, Mrs. Clinton and Mrs. Gore for a logistics briefing.

- You will all proceed to the Diplomatic Reception Room to greet the stage participants.
- Members of Congress will be announced onto stage, followed by members of the Cabinet, followed by disability rights leaders.
- You, the Vice President, the First Lady and Mrs. Gore will be announced onto stage.
- Mrs. Clinton will welcome the participants, recognize the Cabinet, make remarks and introduce Mrs. Gore.
- Mrs. Gore will recognize the disability rights leaders, make remarks, and introduce the Vice President.
- The Vice President will make remarks and introduce you.
- You will recognize Members of Congress present and deliver remarks.
- You will exit the stage and work the ropeline.

VI. REMARKS

Speech to be provided by David Kusnet.



ENFORCING THE ADA: 1994 HIGHLIGHTS

Title I

U.S. v State of Illinois — The Department sued the state of Illinois, the City of Aurora, and its police and fire pension funds for excluding police officers and firefighters from its pension funds on the basis of disability. Under the challenged system, police officers and firefighters are required to undergo separate physical examinations after they are hired to determine eligibility for retirement and disability benefits. The Department's investigation resulted from the complaint of an Aurora police officer who was ruled ineligible for pension benefits because he has diabetes.

Title II

Philadelphia, Pennsylvania — The City of Philadelphia entered an agreement resolving a complaint alleging that emergency medical technicians (EMT's) of the Philadelphia Fire Department had refused to assist an individual when they learned that he had HIV. The City agreed to conduct mandatory training of the Department's 2,300 EMT's and firefighters regarding universal precautions to prevent the transmission of HIV/AIDS, as well as to provide HIV/AIDS sensitivity training. The City will also develop and publicize a written policy stating that individuals with disabilities shall be given the opportunity to benefit fully from its emergency medical services. The policy will include disciplinary measures for any individual who fails to follow the City's guidelines. In addition, the City will provide \$10,000 in compensatory damages and a written apology to the individual denied services.

Los Angeles, California — The City of Los Angeles has agreed to take major steps to improve the accessibility of its 9-1-1 emergency telephone services to persons who use telecommunication devices for the deaf (TDD's). The formal agreement resolves a complaint alleging that the City failed to respond to a 9-1-1 call made by a mother who is deaf. After her two-year-old son suffered a head injury, the mother called 9-1-1 on a TDD. After three tries to reach the 9-1-1 center by TDD, she gave up and took her son to the hospital herself. In the settlement agreement, the City agreed to install TDD-compatible equipment at approximately 30 answering stations; properly maintain TDD accessible features, with backup systems in place in the event that the equipment becomes inoperable; provide training for emergency services call-takers in the proper operation of TDD's; and undertake a public education program to promote the use of 9-1-1 by individuals who use TDD's. Assistant Attorney General Deval L. Patrick has sent a letter to 250 mayors informing them of the Los Angeles / 9-1-1 agreement and reminding them of their obligation to provide direct access for TDD users to their 9-1-1 systems.

The Department of Justice issues quarterly *Status Report Updates* summarizing its comprehensive ADA enforcement efforts. These publications can be obtained by calling the Department's ADA Telephone Information Line (800/514-0301; 800/514-0383 (TDD)).

Mental Health Inquiries — The Department has spurred reform efforts nationwide by participating in legal challenges to the mental health inquiries made of applicants for professional licenses (law and medicine) by State licensing officials. In New Jersey, Florida, Virginia and Connecticut, the Department has argued that broad questions pertaining to a history of treatment or counseling for mental, emotional, or nervous conditions that are not drawn to focus on current impairments of an applicant's fitness to practice a given profession are discriminatory under title II of the ADA. In response, many States have eliminated or substantially narrowed the questions asked of individuals seeking professional licenses.

In scores of other cases across the country in 1994, the Department achieved greater access for people with disabilities to the activities and services of State and local governments. These cases involved the issues of program accessibility, communications access, and discriminatory policies in a wide variety of settings, including town halls, courts, and police departments.

Title III

Avis Inc., Garden City, New York — Through a negotiated settlement agreement, Avis, Inc., the country's second largest car rental establishment, has agreed to provide rental vehicles equipped with hand controls to persons with disabilities at all corporately-owned locations. Hand controls will be available on eight hours notice in all major airport locations and on 24 or 48 hours notice at other facilities, depending on certain factors. Avis agreed to provide training at all corporate locations. Avis will urge all existing licensees to adopt the same measures and will require all new franchisees and those renewing their contracts to follow the agreement. The agreement also references two previously-resolved investigations where Avis has made substantial changes to its rental policies to

accommodate persons with disabilities. When renting to persons who do not use credit cards, Avis will allow persons who are unemployed due to a disability to substitute verifiable disability-related income in lieu of a verifiable employment history. Also, persons who cannot drive due to a disability will now be able to rent cars in their own name and maintain financial responsibility for a car rental when they are accompanied by a licensed driver.

United States v. Becker C.P.A. Review — In a consent decree resolving the first lawsuit filed by the Department of Justice under the ADA, Becker C.P.A. Review, which prepares over 10,000 students annually to take the national certified public accountant exam, agreed to amend its auxiliary aids policy. Becker will no longer limit its offered auxiliary aids to audiotape transcripts prepared for the instructors' use and will provide appropriate auxiliary aids and services, including qualified sign language interpreters and assistive listening devices, to students who are deaf or hard of hearing. The company may require a student to attend a consultation meeting at which time the student would explain his or her individual needs and means of communication. Becker would explain the nature of the class and the proposed aid or service. However, Becker may request that the student try its proposed aid or service at a Becker class prior to the session that the student wishes to attend. If the student can articulate, based on experience or skills, why the proposed aid or service will not provide effective communication, the student will not be required to try out the proposed auxiliary aid or service. Becker also agreed to appoint a national ADA coordinator and train its staff regarding the policy revision; pay \$20,000 to the Department of Justice to be distributed to deaf and hearing impaired students; and establish a \$25,000 scholarship fund for accounting students who have hearing impairments and attend California State University.

United States v. Harcourt Brace Legal and Professional Publications, Inc. — A consent decree resolved this suit against the auxiliary aids policies of Harcourt Brace Legal and Professional Publications regarding Bar/Bri, the nation's largest preparatory course for individuals studying for bar examinations. The Department's complaint alleged that the Bar/Bri course failed to provide appropriate auxiliary aids to students with vision and hearing impairments. Harcourt Brace agreed to establish a detailed set of procedures for identifying and providing appropriate auxiliary aids and services, including qualified sign language interpreters, assistive listening devices, and Brailled materials, to students with disabilities. In addition, Harcourt Brace Legal has agreed to pay \$28,000 in compensatory relief. This award is divided among two students; the California Department of Rehabilitation, which provided the interpreter for one of the students; and the individual who converted the course material into Braille for the other student. Harcourt Brace also agreed to pay \$25,000 in civil penalties to the United States, adopt and implement a formal written policy ensuring that auxiliary aids and services are promptly and properly provided, educate Bar/Bri staff regarding students with disabilities, and include information regarding the availability of auxiliary aids and services for students with disabilities in its advertising materials.

Educational Testing Service, New York, New York — The Educational Testing Service (ETS) and the College Entrance Examination Board agreed to provide additional opportunities for students with disabilities to take the new version of the Scholastic Assessment Test (SAT-I) in the spring of 1994. Students had complained that the testing schedule set up by ETS and the College Board prevented students with disabilities, including students with learning disabilities, from taking the SAT-I in May or June 1994 even though virtually all other students were given those opportunities. Approximately 2,600

students with disabilities took an old version of the SAT in March 1994. Under the agreement, ETS will notify them of the opportunity to cancel those scores and take the new SAT-I in June 1994.

United States v. Venture Stores, Inc., Illinois — The Department entered into a consent decree resolving its lawsuit against Venture Stores, Inc., a St. Louis, Missouri, firm that operates more than 90 discount department stores in eight states. Venture agreed to modify its policy of permitting only customers with drivers' licenses to pay for merchandise with a personal check, and will now permit individuals who do not drive because of a disability to pay by check if they have a non-driver state ID card. Venture also agreed to make payments to four individual complainants.

Empire State Building, New York, New York — The owners and operators of the Empire State Building agreed to take wide-ranging measures to ensure access to public areas of the building. The agreement mandates changes to the lobby, entrance, observation decks, restrooms and telephones, but does not cover any privately leased office space in the building. The complaint alleged that the Empire State Building was operating in violation of the ADA because its owners and operators failed to remove architectural barriers where such removal was readily achievable.

United States v. Reunion Hotel/Tower Joint Venture, et al. — The Department filed, and resolved by consent decree, a lawsuit involving accessibility problems at the Hyatt Regency Dallas Hotel. Under the consent decree, the Hyatt Corporation and the owners and asset managers of the Hyatt Regency Dallas Hotel agreed to provide 28 fully accessible guest rooms; modify three sets of restrooms on the first, second, and third floors of the hotel to make them accessible; and construct ramps providing access to the hotel's swimming pool

Title III

and hot tub areas. The defendants will also offer 24 individuals with disabilities compensation in the form of either a return visit to the hotel at the defendants' expense or \$1,500 in cash. The suit alleged that the Hyatt Corporation, which operates the facility, violated title III of the ADA by failing to remove architectural barriers to access where it is readily achievable to do so. Also named as a defendant was the partnership that owns the facility, and its asset manager, the Woodbine Development Corporation. The lawsuit arose from a complaint filed with the Department by several children and adults who attended a conference of the Spina Bifida Association of America at the landmark hotel in June 1992.

The Department's enforcement efforts in 1994 under title III have reached all areas of the country and have addressed a wide range of issues. Resolution of complaints has led to the removal of physical barriers, the provision of auxiliary aids, and the elimination of discriminatory policies in many types of public accommodations, including restaurants, hotels, retail stores, museums, medical offices, health clubs, service stations, and theaters.

Certification

State of Washington — On December 6, 1994, the Department issued a preliminary determination that the Washington State Regulations for Barrier Free Design meet or exceed the new construction and alterations requirements of the Americans with Disabilities Act. This is the Department's first preliminary determination of the equivalency of a State code. The Department is now beginning the process toward final certification of the Washington code. The remaining steps before a final determination in the certification process will include public notice, a sixty-day public comment period, and informal public hearings in the State of Washington and in Washington, D.C.

The Washington State request for certification was the first received by the Department. The Department's initial review showed that the Washington code was highly progressive regarding accessibility issues and was nearly equivalent to the ADA requirements. The Department provided extensive technical assistance to the Washington Building Code Council to assist in the development of a fully equivalent code. In August 1994, in response to comments by the Department, the Building Code Council proposed amendments to the Washington code to address the remaining areas of nonequivalency. Those amendments received final approval in November.

ADA Telephone Information Line

The Department of Justice now provides toll-free "800" service for both voice and TDD callers who have questions about title II and title III of the ADA, including the Standards for Accessible Design. Under its expanded hours of operations, operators may be reached from 10:00 a.m. to 6:00 p.m. (EDT), Monday through Friday (except Thursdays, 1:00 p.m. to 6:00 p.m.). The system has been upgraded to accommodate a larger number of callers simultaneously and to provide Spanish language service. Callers may hear recorded information and order materials at any time day or night. **The Information Line numbers are:**

Nationwide

1-800-514-0301 (voice)

1-800-514-0383 (TDD)

This document is available through the ADA Telephone Information Line in standard print, Braille, audiotape, and computer disk formats.

Nancy Flinn✓
File 1994
ADA

To: Debbie Fine - The White House
From: Nancy Flinn - 202-296-9128
Date: July 23, 1994
Re: ADA

Hello Debbie

Here goes all the information that I have been supplying to my media contacts on what is happening with ADA in 1994.

As you know, we feel that next week marks a milestone for the ADA. 1994 is a very important year for the Americans with Disabilities Act. On July 26th - Tuesday - small businesses that employ 15 or more are then required to implement and comply with the employment provisions of the law. This adds an additional 400,000 private businesses and 100,000 organizations and nonprofits to the rolls of businesses who can no longer discriminate in the workplace against the nation's largest minority 49 million Americans.

Here is some of the information that I have pulled together on ADA and Small Business for The Dole Foundation on Employment of People with Disabilities and as well, the release on the just completed United Cerebral Palsy Associations (UCPA) ADA Report Card on America.

To make the ADA work, I keep telling my friends in media that we need their help to get the word out to the public nationally on what is working and what isn't. Where ADA has been embraced by American businesses, it is working and at nominal cost (unlike the initial fear and warnings that it would cost business too much money).

Rick and I left a great life in Vermont because we know this is so important. We have been devoting all our energy, time and life toward trying to spread the word on ADA and make it work out there in grass roots America. The slow but definite progress is making it worthwhile.

If you need specific contacts, want to take a look at the status of this civil rights law in America, get the perspective of business, small business, disability rights leaders, government leaders etc., I can help.

ADA is a great, great law- people with disabilities want and need to be full contributing, productive employed citizens paying, not using taxes and I believe we are part of that evolution. Thanks for all your help on making this White House event happen. Rick is really psyched about it. Let me know if I can be of help.

.1 m street n/w washington dc 202-296-9128 202-331-9770 (



UNITED
CEREBRAL

PALSY For Immediate Release :
ASSOCIATIONS

Advancing the independence of people with disabilities

Contact: Nancy Flinn
(202) 296-9128

IS ADA WORKING ?

ADA REPORT CARD ON AMERICA

1994 Progress Report on ADA in American Businesses

(July 21, 1994, Washington D.C.) Results from the fourth national **A D A Report Card on America**, conducted by United Cerebral Palsy Associations (UCPA) affiliates in 21 major U.S. markets, indicate there has been definite but slow progress, at little cost to business, over the last two years. Compliance with the Americans with Disabilities Act (ADA) in the 21 markets reporting has worked to improve access to public accommodations, ADA Title III; while under Title I (Employment Provisions) of the law, employment of America's 49 million citizens with disabilities is still lagging behind in both full and part time jobs and in perceived commitment from America's employers. Ironically, business reports nominal costs in ADA implementation, while many companies, due to cost fears, are dragging their feet in complying with the landmark civil rights ADA legislation.

The **1994 A D A Report Card on America** is the result of the fourth national study of American business' progress in implementing and complying with the Americans with Disabilities Act (ADA). The Report Card, conducted by affiliates of United Cerebral Palsy Associations, took place during June and July of this year. The 21 locales participating include: Birmingham AL, Mobile AL, San Francisco CA, greater Washington D.C. area (including northern Virginia), Prince George/Montgomery counties MD, Detroit MI, St. Louis, MO, Trenton NJ, Hamilton NJ (Mercer County area), New Orleans LA, Albany NY, Commack NY (Suffolk County), New York NY, New City NY, Cleveland OH, Philadelphia PA, Spring Church PA (Western Pennsylvania), Austin TX, Dallas TX, Milwaukee WI, and Seattle WA (King Snohomish counties).

"Our **A D A Report Card on America** information is particularly relevant this year," said John D. Kemp, Executive Director of United Cerebral Palsy Associations, based in Washington D. C. "1994 is a pivotal year as 500,000 new businesses and organizations employing 15 or more employees come into compliance with the second phase of ADA Title I - Employment on July 26th. This brings a total of 2 million businesses into ADA employment compliance. Small business owners and managers can look at our data, dollars and results and see that being able to tap America's entire qualified workforce makes good business sense."

ADA Report - 2

The **ADA Report Card on America** is organized and sponsored by United Cerebral Palsy Associations (UCPA), based in Washington D.C., to focus attention on the status of compliance and implementation of the historic civil rights legislation, the Americans With Disabilities Act (ADA). The ADA, signed into law in 1990, eliminates discrimination in access, employment, transportation and communications for America's 49 million citizens with disabilities.

This year, the **ADA Report Card** took a close look at what the landmark civil rights legislation, the Americans with Disabilities Act, means for employers, employees with disabilities, their supervisors and co-workers across the country. To determine employment data, representatives from UCPA affiliates called on businesses and visited job sites of workers with disabilities, most of whom (81 %) were employed within the past two years. Employees with disabilities were interviewed as well as their supervisors and co-workers.

To get a snapshot of ADA access and day to day barriers and accommodations in the marketplace, the interviewing teams accompanied employees with disabilities as they ate lunch, shopped and transacted business as customers representing the large consumer base of 49 million Americans with disabilities. Using uniform checklists assessing access under the law, UCPA affiliates interviewed businesses in 21 cities from coast to coast to test and report on ADA progress. The access checklists, developed by the national UCPA office, assessed approach and entry, interiors, customer service, amenities and site specific factors such as accessible rest rooms in restaurants, theatres, hotels and malls or stores.

"The issue of accessibility to customers seems to be one area which businesses are most aware of and comfortable with," said Kemp. "ADA access is opening doors to a new market of consumers -- a 12 % increase in customer base in the retail and hospitality industry alone. But there is a dichotomy with businesses in their ADA employment practices. Businesses in many cities that hired or retained an employee with a disability found their fears around workplace accommodation costs were unfounded. Over and over, costs of reasonable accommodation were less than \$100. Yet, some employers continue to indicate that concern about costs prevents them from hiring and accommodating a person with a disability."

In determining access for each business, approach, interior, amenities and customer service were graded with **A** being Accessible, **B** - Basically Barrier Free, **C** - Can be maneuvered, and **D** - Difficult or inaccessible. The greatest hurdles for people with disabilities prove to be **approaches** and **entries** where the lack of a curb cut or even a two inch lip at the door might as well be the Berlin Wall. The weight of entry doors (when leveraged from a wheelchair) made them often difficult to use and, without assistance, in many cases proved to be an impossibility.

Accessible parking spaces are a concern nationally. In some cities, parking spaces still are not 13 thirteen feet in width or accessible parking is not enforced. In the **1994 ADA Report Card**, 89 % of public accommodations visited had accessible parking spaces designated and readily available at the place of business. Curb cuts were available in 85 % of the locations visited. Doors continue to be a barrier in many businesses. Approximately 25 % of the "technically" accessible entrances had doors that were too heavy, thresholds too high, or

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doorways too narrow to allow a person using a wheelchair to enter with ease. The numbers of **accessible restrooms** are increasing in many cities. Accessible restrooms (for those who used a conventional wheelchair) were available in 75 % of the places visited. For those who used a power chair or scooter, only 60 % of restrooms were accessible.

More **T D D s / T T Y s** (telecommunications devices that allow a person with a hearing or speech disability to communicate by phone) are needed for people who are deaf or have hearing impairments. Only 14 % of the businesses visited had TDDs/TTYs; 53 % of businesses did have alternate methods of communicating readily available to assist customers with speech or hearing disabilities. The number one alternative communication for these businesses consisted of a pad and pen/pencil (66 %).

Suprisingly, 1994 customer service grades are lower than comparative data from the 1992 and 1993 Access Report Cards. The first **ADA Report Card** on ADA access was conducted in 12 cities by United Cerebral Palsy Associations in January of 1992 and the second in 15 cities in 1993. Customer service grades are based on criteria including talking to the customer with a disability and not a non-disabled companion, availability of TDDs/TTYs, sensitivity to speech disability, adequately marked and clear entrances and exits, staff responsiveness, and reasonable accommodation plans when access to products or services is difficult or impossible. In 1992, in most markets, regardless of geographic area, the rating of customer service was an A. In the **1994 ADA Report Card on America**, 33 % of businesses surveyed ranked an A, compared to 38 % in 1993; 48 % ranked a B, compared to 56 % the previous year; 9 % scored a C, compared to 4 % in 1993, and another 9 % scored a D compared to 1 % in 1993. Customer service drives away or brings back customers, and nearly all businesses surveyed need improvement.

The **1994 ADA Report Card** checklist covering the employment provisions of the law asked employees with disabilities, their supervisors and co-workers in the surveyed business to identify types and costs of job accommodations in the workplace, types of jobs, salary, benefits and hours, level of co-worker support and acceptance, job satisfaction, productivity and employers' practices regarding applications, interviews, medical exams, reasonable accommodations and responsibility for providing training and support.

The **1994 ADA Report Card on America** focused as well on the attitudes, accommodations, work habits, practices, work and social interactions of employees, supervisors and co-workers on the job site. 30 % of employees with disabilities received A s (very productive) for their work productivity from supervisors while over half - 58 %- received A s from their co-workers. 20 % received B s ("somewhat more productive" than other employees) from supervisors and 10 % received B s from co-workers. 33 % of employees earned C s ("as productive "as other employees) from supervisors and 18 % were graded C from co-workers. 15 % were rated D ("somewhat less productive" than other workers) from supervisors and 12 % of employees with disabilities received Ds from co-workers. Not one employee received an E ("Not productive") from either supervisors or co-workers.

Although 78 % of employees with disabilities reported they regularly ate lunch with co-workers, only 55 % were included in work-related social activities. Only 28 % indicated they take part in employer sponsored activities such as recreational events, sporting leagues and company outings.

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58 % of businesses responding to the 1994 ADA employment part of the Report Card had provided ADA training for human resource personnel and management up from 55 % in 1993 but significantly down from 74 % in 1992. 41 % of the 1994 businesses surveyed on employment provisions had provided disability awareness trainings for staff compared to 48 % in 1993 and 51 % in 1992.

Employees with disabilities accounted for .1 % of the total number of employees of businesses polled. In most instances (61 %), there was only one employee with a disability in a given cohort. 18 % of the firms had at least two employees with disabilities, 13 % had three, 2 % had four and 2 % had 6 or more.

Supervisors indicated that 77 % of employees with disabilities were hired to perform the essential functions of existing jobs. 50 % of those hired performed all functions (essential and non-essential); 20 % performed all of the essential functions; and 30 % performed most of the essential functions of the job. "This indicates that these are real jobs for real people," said Kemp. "These hires reflect smart business policy - looking at the entire pool of qualified candidates to fill positions with people who can and will do the job."

In 1994, 76 % of surveyed businesses with employees with disabilities made some type of accommodation to the workplace compared with 70 % in 1993. Of those businesses that had hired employees with disabilities, 33 % found a need to restructure job duties (70 % in 1993); 75 % modified work schedules (67 % in 1993); only 33 % needed to modify workstations in 1994 (66 % in '93); 24 % needed to remove barriers (in 1993, 62 %); 24 % purchased some type of assistive technology to accommodate their employee's needs (35 % in 1993). 71 % of businesses indicate they hold interviews in accessible locations and 61 % no longer require medical examinations prior to an offer of employment.

In 1993, when asked what were the greatest concerns to successfully implementing the employment provisions of the ADA, businesses listed these concerns: 36 % of employers reported job accommodations as their greatest concern, followed by health care and insurance at 20 %, followed by reactions of other employees to accommodations made for employee with disability at 13 %, and finally, workers compensation concerns at 12 %.

In 1994, survey teams found repeatedly that, as in previous **ADA Report Cards**, the good news about employment of people with disabilities is that business owners' and managers' great fears around the cost of employing people with disabilities were not valid. The **ADA Report Card** found that businesses surveyed stated they were surprised with the low cost, low tech of reasonable accommodations in the workplace. The good news for businesses polled, as well as for people with disabilities seeking employment, currently employed or returning to work, is that the cost of approximately 73 % of job accommodations (compared to 60 % in 1993) is less than \$100 with most job accommodations costing little or nothing.

In this new **1994 ADA Report Card**, 30 % of the participating respondents with disabilities need some type of personal assistance services in order to be employed. For 23 % of these employees, the assistance required was directly work related and provided by a job coach through supported employment projects of public or private agencies. For the remaining 7 %, the services needed related to personal hygiene, and grooming, and transportation necessary to get ready and get to work.

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Salaries ranged between a low of \$4.25 an hour to a high of \$16.00 an hour. Most of the respondents (40 %) earned between \$4 and \$4.95 an hour. 22 % earned between \$5 - \$6 per hour; and 14 % earned between \$6 - \$7 an hour. 6 % of the respondents receive more than \$7 / hour and 11% declined to give salaries. Only 23 % of the employees interviewed for this ADA Report card were employed full time or between 30 to 40 hours a week; 23 % were employed between 20-30 hours a week; 41% were employed between 10-20 hours a week; and 13 % were employed 10 or fewer hours a week.

The fact that over half of the employees (53 %) interviewed worked 20 hours or less may explain why 66 % or 2/3 of employees with disabilities interviewed do not receive health insurance or other benefits through their employer. (Employees who work 20 hours or less are considered part time workers and are often ineligible for health insurance and other benefits) 59 % of employees interviewed receive benefits from other sources - Medicaid (13 %), Medicare (56 %), both Medicaid and Medicare (17 %), and private insurance, either through their families (8 %) or to supplement their Medicare/ Medicaid benefits (5 %) and 7 % receive no benefits at all.

66 % or 2/3 of the employees responding to the **ADA Report Card** are eligible for and receive SSI payments; 10 % receive SSDI and 5 % receive both SSI and SSDI. Other benefits received by the respondents include housing (20 %) and food stamps (15 %). Only one employee respondent is participating in an SSA-approved PASS (Plan to Achieve Self-Sufficiency) Program .

"The ADA is a big step toward economic independence for Americans with disabilities. Unfortunately, disincentives to employment for those of us with disabilities still exist and must be changed," said Kemp (who was born without arms and legs, uses prostheses and a scooter as accommodation). "As doors open to employment, millions of Americans with disabilities who want to work are forced to deal with the disincentives that tie them to the economic dependency they want to leave. That dependency costs our country an estimated \$200 billion a year in public and private payments and another \$100 billion annually in unrealized wages and taxes. This must change to make the promise of ADA a reality for America."



THE DOLE FOUNDATION

FOR EMPLOYMENT OF PEOPLE WITH DISABILITIES

For Immediate Release:

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WHAT'S HAPPENING WITH THE ADA IN 1994

(Washington D.C., July, 1994) On July 26, 1994, four years after the landmark civil rights bill, the Americans with Disabilities Act (ADA) was signed into law, implementation of the final and very important phase – employment of people with disabilities in small businesses across America – takes effect. On July 26, 1994, ADA Employment, Title I requires small businesses that employ 15 or more employees to comply with the law. An estimated 400,000 private businesses and 100,000 nonprofits come into compliance with ADA on this date. Small business employers with 15 or more employees can no longer discriminate in hiring, interviewing and accommodating people with disabilities in the workplace.

"People with disabilities consider this the most important phase of ADA implementation," said Paul Hearne, President of The Dole Foundation for Employment of People with Disabilities, based in Washington D.C. "Small businesses in America employ 86% of our nation's work force. Having access to jobs within small businesses will open more doors to independence for the nation's 49 million people with disabilities."

According to experts at the Dole Foundation, two-thirds of Americans with disabilities between the ages of 16 and 64 are not working. The majority of people with disabilities in this age range say they want to work but have faced discrimination in the workplace that, until implementation and enforcement of ADA, was legal and exclusive. "The cost to the nation to keep people with disabilities in dependence is an estimated \$200 billion dollars annually in private and public payments and an additional \$100 billion is lost in unrealized wages and taxes," said Hearne. "Last year, in 1993 alone, the Social Security Administration spent over \$54 billion dollars in SSI and SSDI payments to Americans with disabilities. This is money spent to keep people home and not working. It makes no economic sense."

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compliance with ADA. The ADA specifically permits small businesses (under 30 full time employees and less than \$1 million gross receipts) to receive a tax credit for certain costs of compliance with the ADA. Small businesses may claim a credit of up to 50% of eligible expenditures that include access costs as well as costs of job accommodations such as providing readers, interpreters, and other auxiliary aids and acquiring or modifying equipment or devices.

Many small business owners have concern about the costs of accommodations for employees with disabilities. However, most job accommodations are found to cost little or nothing, particularly in small businesses where moving a piece of furniture, exchanging or sharing job duties or flexible schedules are the most common accommodations. Recent studies have shown that 79% of small businesses employing 100 or fewer employees indicate they have made some accommodations in their businesses to comply with Title III, the access part of ADA and Title I, ADA's employment title -- many indicating removal of architectural barriers only. Of those small businesses reporting job accommodations for employees with disabilities, 60% said they had restructured job duties, 58% modified work schedules, 54% provided personal assistive services, 41% modified workstations, 40% removed barriers and less than 20% had purchased devices or equipment. 72% reported the cost of accommodation in their workplace was less than \$100. The Dole Foundation through a special grant has created a resource book on accommodations, The Workplace Workbook 2.0. An Illustrated Guide to Workplace Accommodations and Technology, available through the foundation's office in Washington, D.C.

"Making the ADA work for small businesses is key to the independence of Americans with disabilities in their local communities," said Hearne. "At The Dole Foundation, we encourage partnerships between the business and disability communities. It makes great economic sense for America today and tomorrow. Future generations of people with disabilities will be tax payers, not tax users and recognized as qualified employed citizens with the potential to make money and spend it, becoming one of America's largest consumer groups."

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For the past ten years, The Dole Foundation for Employment of People with Disabilities has encouraged employment for Americans with disabilities by awarding approximately 272 grants to non-profit organizations and businesses totaling over \$5.5 million dollars. "Since our beginning in 1984, over tens of thousands of people with disabilities have benefitted from Dole Foundation grants and gained employment," said Hearne. "As a result of our funded projects, approximately \$60 million in taxes has been returned to local, state and federal tax bases - that's about \$12 for every \$1 invested. Economic data like this help sell the ADA and employment of people with disabilities. Employment for people with disabilities helps create an additional economic force -- the 49 million Americans with disabilities are consumers of products."

The July 26, 1994 ADA Title I - Employment provisions successful small business implementation and compliance is paramount to the success of the civil rights movement and inclusion for America's 49 million people with disabilities.

Small businesses are where the jobs are. According to SBA statistics, small businesses provided 100% of all new jobs in America from 1987 to 1992. Small businesses were 99.7% of all employers in 1990. There are nearly 5 million small businesses with under 100 employees generating \$733,577,405 in payroll. 4.5 million small businesses have fewer than 20 employees and generate \$382,544,608 in payroll.

"We are looking closely at how small business will comply with the law," said Hearne. "Most of us in the disability community know the myths and stereotypes that have paved the way to fear for small business owners in the employment of people with disabilities. Overcoming negative attitudes and stereotypes is a major challenge as we are included in the workplace and marketplace."

Small business owners need to know there are tax breaks as incentives to make ADA work. A deduction of up to \$15,000 per year for expenses associated with the removal of architectural and transportation barriers is granted to all businesses to help pay their cost of



THE DOLE FOUNDATION

FOR EMPLOYMENT OF PEOPLE WITH DISABILITIES

From The Dole Foundation

ADA HISTORIC DATELINES

July 26, 1990

The Americans with Disabilities Act (ADA) was signed into law by President George Bush on the White House lawn in the largest signing ceremony in the history of the United States. Some 3000 + people attended in celebration.

January 26, 1992

Title III (Public Accommodations) of the law became effective and public accommodations (business and service providers) were required to have their facilities or their services accessible to individuals with disabilities.

On this same date, Title II (Local and State Governments) went into effect and local municipalities and state governments were required to be accessible.

(Public Transportation) On this date, paratransit services were required. Access to new transit stations built after this date was also required.

July 26, 1992

Title I (Employment) - Businesses employing twenty-five or more workers were prohibited from discrimination against qualified individuals with disabilities in all aspects of employment.

July 26, 1993

Title IV (Telecommunications) - Telephone relay services had to be available 24 hours per day in all states.

(Public Transportation) - Key transit stations and key commuter stations were required to be retrofitted for access by this date with some exceptions extended for up to twenty years.

July 26, 1994

Employment Title I - On this date America's small business employing fifteen or more employees must comply with ADA's employment regulations.

July 26, 1995

Public Transportation - The one car per train rule will be implemented for accessible seating on Amtrak and commuter rail, buses, light and rapid rail.



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FOR EMPLOYMENT OF PEOPLE WITH DISABILITIES

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1994 ADA & SMALL BUSINESS FACT SHEET

- * On July 26, 1994, under ADA Title I, Employment, small businesses employing 15 or more employees can no longer discriminate against qualified people with disabilities in interviewing, hiring, promoting or accommodating in the workplace.
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- * There are 49 million Americans with disabilities, according to 1992 U. S. Dept. of Commerce Census data - (20% of U.S. population or 1 out of 5)
- * 2/3s of Americans with disabilities between the ages of 16 and 64 do not work and say they want to work - (an estimated 26 million)
- * \$200 Billion annually in public and private payments is the estimated cost to the nation of keeping Americans with disabilities in dependence.
- * \$100 Billion annually is lost to the economy in estimated wages and taxes.
- * The Social Security Administration spent over \$54 Billion dollars in SSI and SSDI payments to people with disabilities in 1993.
- * By the year 2000, the nation will experience a shortage of qualified workers according to the U.S. Dept. of Labor report - "Workforce 2000"
- * 73% of job accommodations for employees with disabilities cost less than \$100 for all large and small businesses. In small businesses alone, 75% say their accommodation costs are under \$100.
- * Most small business ADA accommodations - such as moving furniture, modifying work hours, work duties, etc. - cost nothing at all.
- * ADA offers small business owners tax breaks as incentives.
 - \$15,000 per year can be deducted for expenses associated with removal of architectural and transportation barriers.
 - small businesses under 30 full time employees receive tax credits for certain costs of ADA compliance. Up to 50% of eligible expenditures including access costs, job accommodation costs such as readers, interpreters, auxiliary aids and acquiring or modifying equipment.

from The Dole Foundation

2.

1994 ADA & Small Business Fact Sheet

* On July 26, 1994, some 400,000 private businesses and 100,000 nonprofits become eligible for compliance with ADA Title I Employment regulations.

* Small businesses employs 86% of the nation's workforce.

* Small business provided 100% of all new jobs in America from 1987 to 1992.

* Small businesses were 99.7% of all employers in 1990.

* Small business generating the greatest number of new jobs from 1991 to 1992 (increase shown in thousands) include in ranking order:

- eating and drinking places	118.1
- physicians offices	42.5
- child care services	37.0
- new and used car dealers	34.2
- special construction trade contractors	28.1
- individual and family services	27.4
- residential care	27.1
- employment agencies	16.9
- job training and related services	15.2
- mailing and reproduction services	13.2

* Fastest growing small businesses and % change in employment from 1991 to 1992 include:

- child day care services	8.4%
- school buses	7.8%
- employment agencies	7.7%
- millwork, plywood and structural members	7.6%
- meat and fish markets	6.6%
- holding and other investment companies	6.6%
- wood kitchen cabinets making and manufacturing	6.5%
- sporting goods and bicycle shops	6.4%
- job training and related services	6.1%
- social services	5.7%