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July 20, 1994

MEMORANDUM FOR CAROL H. RASCO

FROM: STANLEY S. HERR

SUBJECT: The Status of the Americans with Disabilities Act

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Introduction and Scope of this Report

- I. The main goals of the ADA
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Executive Summary

The Americans with Disabilities Act is the leading civil rights law for the 49 million persons with disabilities. The gap between its promise and its practice is wide, but narrowing in some significant respects. The Federal government can take a number of steps independently and in conjunction with private sector actors, to improve ADA implementation in fact and in appearance. Those steps include:

- 1) the staging of a significant White House event to celebrate the anniversary of ADA's enactment (July 26th);
- 2) a positive campaign to publicize the importance of the ADA and the values it represents;
- 3) renewed efforts to bring the ADA to fruition through technical assistance, targeted public education, alternative dispute resolution, enforcement, and other means to improve compliance.

INTRODUCTION

The ADA represents both the symbol and the practical means of ensuring equal rights and full inclusion for the 49,000,000 Americans with disabilities. It is truly a Magna Charta for persons with disabilities.¹ As such it is both a central symbol and a practical means of redress to achieve the aspirations of this huge constituency of Americans with disabilities and their families and friends.

Although Congress adopted a finding in 1990 that there were 43 million such Americans, the Census Bureau now concludes that at least 49 million persons -- nearly one in five Americans -- has a disability. This December 1993 report defined disability as a limitation in a functional activity or a socially defined task.² Other significant demographic facts are that 1) persons with disabilities are the single largest minority in America, 2) their numbers will increase dramatically as the population ages and as medical and rehabilitation advances extend life expectancies, and 3) their ranks will also expand as disability status loses some of its historic stigma and instead affords more positive legal protection and benefits. Already we are witnessing the emergence of so-called "new disabilities," such as chemical and environmental sensitivities, cancer, AIDS, and other health or congenital conditions not traditionally associated with a disability label.³

The Clinton Administration has repeatedly affirmed its commitment to full and aggressive enforcement of the ADA. In Putting People First: How We Can All Change America, the campaign articulated our now famous disability credo and linked them first and foremost to ADA implementation. The Clinton-Gore Administration pledged not to "rest until America has a national disability policy based on three simple creeds: inclusion, not exclusion; independence, not dependence; and empowerment, not paternalism." The first of four action steps then proclaimed that we would:

- . "Work to ensure that the Americans with Disabilities Act (ADA) is fully implemented and aggressively enforced to empower people with disabilities to make their own choices and to create a framework for independence and self-determination. The ADA is not about handouts -- and it is not a giveaway -- it guarantees the civil rights of American citizens with disabilities."⁴

In his first major address to a disability audience (the May 13th commencement address at Gallaudet University), President Clinton stressed the centrality of the ADA to the rights and aspirations of persons with disabilities, both here and abroad. Per his prepared text, he stated: "For the now more than 49 million Americans who are deaf or disabled, the signing of the ADA was

the most important legal event in history. For almost a billion persons with disabilities around the world, it stands as a symbol of simple justice and inalienable human rights. " Viewing the ADA, as part of the "seamless web of civil rights" protection, President Clinton emphatically proclaimed that "as your President, I pledge to see it is fully implemented and aggressively enforced across America -- in schools, in the workplace, in Government, in public places. It is time to move from exclusion to inclusion, from dependence to independence, from paternalism to empowerment."⁵

For the variations on that theme repeatedly enunciated by President Clinton, see Part II, infra at page 8.

Despite the strong rhetoric, the implementation history of the Act is uneven. Due in part to the complexity of the statute and its regulations, as well as the relative novelty of some of its outcomes, the ADA inspires mixed reviews. There are the "cheerleading reports" such as ADA Watch -- Year One, transmitted to the President by the National Council on Disability on April 5, 1993. This report concluded that the federal government had, "overall, performed well in its ADA implementation responsibilities," that there was substantial progress in the early stages of implementing the ADA, and that no amendments to the law were needed at that time."⁶ In contrast, ideologists from the right, such as the Wall Street Journal, have produced opinion pieces that have sought to erroneously portray the ADA as a threat to public health⁷ or an assault on a profit-minded business.⁸ Although Administration spokespersons have sometimes risen to defend the ADA in the media (such as Kristine Gebbie's unpublished letter to the editor refuting the above charges of public health hazards or Assistant Attorney General Deval Patrick's published and spirited defense of the settlement of the public accommodations case in question), there is a need for consistent responsive as well as affirmative message to the various interested communities. The White House could continue to encourage such a proactive public relations campaign.

q: ADD BALANCED COMMENTARY ON IMPLEMENTATION

Notwithstanding the ideologically charged battle to define the ADA as a success or a hindrance, public and private actors are making real progress in putting ADA's principles into practice. Millions of Americans with disabilities, as well as their families and friends, are now benefitting from the ADA in numerous ways. Here are a few examples:

- . Ramps, curb cuts in sidewalks, and other signs of architectural accessibility are increasingly commonplace.
- . Telephone relay systems now operate in all 50 states and the District of Columbia and TTY machines in offices and airports now aid deaf and hard-of-hearing individuals.

- . Picture menus and illustrated signboards in fast-food restaurants offer practical help for persons with cognitive or speech limitations.
- . In institutions that range from museums to doctors' offices, and from Fortune 500 corporations to small businesses, the issues of inclusion, reasonable accommodations, and barrier removal have become pressing matters for self-evaluation, planning and action steps to meet the needs of employees, customers, and members of the general public.
- . Leaders in business, nonprofit and governmental circles increasingly recognize that compliance with the ADA is not only a legal duty and the ethically right thing to do, but an opportunity to tap the patronage, talents, and loyalties of persons with disabilities as customers, clients, voters, and employees.
- . Employment practices are becoming fairer as the ADA's employment provisions reach a larger proportion of American businesses. As of July 26th of this year, President Clinton will have the opportunity to mark not only the 4th anniversary of ADA's enactment, but the last major milestone in the extension of its employment provisions to businesses with as few as 15 employees. [The current threshold for the Act's coverage under Title I is 25 employees or more. For discussion of a White House event to mark this dual occasion, see recommendations below].

The disability community, however, has real concerns that the bright triumph of the law's enactment may be eclipsed by drift and backlash. They complain of a backlash directed at the ADA that weakens respect for the law and draws no forceful Administration response.⁹ They see a civil rights enforcement effort that has been hampered by lengthy vacancies at the top at EEOC and Justice and insufficient staffing at the investigative and enforcement ground levels. They point to needs to better coordinate technical assistance by various agencies, monitor progress, and conduct outreach in terms of public education to under-represented groups of people with disabilities such as the members of minority communities, rural communities and people with mental disabilities. They are distressed that the ADA that they prize as a civil rights law is mischaracterized in the NPR report as a prime example of an "unfunded mandate" that should be subject to limiting Presidential directive.¹⁰ They argue, with legitimacy, that civil rights laws such as the ADA advance constitutional imperatives of equal protection that should not be undermined by being cast as merely another underfinanced federal mandate.

We can take a series of steps to reassure this community now. The factors of this constituency's size, important role in mustering support for health care reform, and general harmony

with our "people first" agenda all support this recommendation. Thus, we can bolster the Administration's capabilities for immediate and longer-term strategies of vigorous but balanced enforcement. We also need to produce some type of booklet and messages to convey what we have accomplished to date and our plans for the future.

This status report has six parts. Part 1 identifies the main goals of the ADA. Part 2 recounts President Clinton's statements to date on the ADA as well as the consistent statements of support from other Administration officials. Part 3 summarizes the statutory duties of the various Federal departments and agencies under the ADA and their main activities so far. Part 4 highlights ways that the private sector can and has assisted in training, technical assistance, public education, compliance and enforcement aspects of the ADA's implementation. Part 5 offers recommendations for us to consider in the narrow context of ADA as well as the broader context of our disability rights objectives. Part 6 concludes with some observations on how the ADA can serve as one of the centerpieces of a national disability policy that largely remains to be articulated. Endnotes and appendices are provided as documentation for these conclusions.

I. MAIN GOALS OF THE AMERICANS WITH DISABILITIES ACT OF 1990

Congress articulated four national goals through findings and legislative history to the ADA. In outline form, these goals seek to:

1. provide a clear and comprehensive national mandate to end discrimination against individuals with disabilities;

. The history and ongoing effects of segregation and isolation of individuals with disabilities constitutes a serious social and legal problem.

. This discrimination continues in fields such as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services.

. This discrimination takes the forms of:

a. Intentional exclusion -- this includes refusal to serve persons with a disability in restaurants, refusal to accommodate the users of wheelchairs in theaters, exclusion of children with disabilities from parks and zoos, and exclusion of students from educational opportunities;

b. Exclusionary effects of architectural and design barriers -- this includes the design of larger buildings

currently under construction that make no accommodation for the needs of persons with disabilities, such as Braille indicators in elevators, automatic doors, and audible directories for persons with hearing impairments, as well as the failure to modify older buildings to make such accommodations;

c. Exclusionary qualifications and standards that bear no relationship to the individual's abilities -- this includes job requirements of height or abilities that bear no relation to the needs of the job, or failure to hire or promote persons with disabilities simply because it would require reasonable modifications of the job.

2. Bring persons with disabilities into the economic, cultural, and social mainstream of American life;

. People with disabilities, as a class, are severely disadvantaged socially, economically, and educationally.

. Men and women with severe disabilities are far less likely to be employed than persons with no disabilities (28% versus 81% employment rate), while those with a non-severe disability lag about 5% below their peers in employment (females 73% versus 67%; males 89% versus 84%).¹¹

. Many more persons with disabilities, however, are physically and mentally able to work and are motivated to improve their economic and social conditions, but face the barriers of intentional exclusion, exclusionary effects, and exclusionary requirements, as well as disincentives to work under the existing unreformed systems of health care, welfare and disability benefits.

. The existence of these disincentives and discriminatory barriers denies people with disabilities the opportunity to function in society on an equal basis with other persons.

. The cumulative effects of these barriers and disincentives often lead to dependency, despair and inactivity.

3. Provide enforceable standards capable of remedying discrimination against individuals with disabilities;

. The 49 million Americans with disabilities, notwithstanding their numbers and many allies among families and friends, are often politically powerless to remove the barriers of discrimination or to exert pressure commensurate with the magnitude of their problems.

. The ADA is designed to add the force of the Federal government to their cause and is consistent with the

equality imperative -- the Jeffersonian ideal of providing all Americans with equal opportunities to participate in the Nation's government, economy and civic life.

. The ADA has struck an appropriate balance by providing people with disabilities with the necessary legal support to achieve equal opportunity, while not overly burdening the employers, public entities and providers of goods and services of whom the ADA requires reasonable accommodation to the needs of persons with disabilities.

4. Ensure that the Federal government plays a central role in applying and enforcing these antidiscrimination standards;

~~The Civil Rights Division of the Department of Justice and the Equal Employment Opportunity Commission have key enforcement obligations under the ADA.~~ } ✓

. Federal law enforcers negotiate, mediate and, if necessary, go to court to seek compliance with the Act. Voluntary compliance is the preferred solution, but the ADA does permit the imposition of a range of sanctions, including injunctions, fines, fees, costs, and damages on recalcitrant individuals or entities who continue to discriminate against people with disabilities.

. These enforcement powers of the Federal government flow from the broad authority of the Fourteenth Amendment and the Commerce Clause of the U.S. Constitution.

. The ADA is thus emphatically a civil rights law grounded in the constitutional requirement of equal protection, and like other civil rights laws barring discrimination on the basis of race, gender or religion is not to be construed as an "unfunded mandate" in the terminology of current political debates. Just as the costs of dismantling "Jim Crow" segregation based on race were routinely borne by state and local governments, so the costs of achieving illegitimate segregation based on disability as a condition of birth, injury or illness.

For the full text of the Act and commentary on its provisions, see pages 265-313 of Implementing the Americans with Disabilities Act: Rights and Responsibilities of All Americans (L. Gostin & H. Beyer, eds. 1993), the book which I presented to you.

II. THE PRESIDENT'S COMMITMENT TO FULL IMPLEMENTATION OF THE ADA

Last year President Clinton marked the anniversary of the ADA by meeting with key disability leaders on July 27, 1993. According to his talking points, he emphatically stated that "our Administration is committed to [the ADA] from top to bottom, as

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the activities of Attorney-General Reno and many other government agencies yesterday showed."¹²

In October 1993, President Clinton announced "National Disability Employment Awareness Month." In so doing, he emphasized key elements that form the underpinnings of the ADA. President Clinton equated the ADA with previous Civil Rights legislation, stating, "[we will not be satisfied as a Nation until we have fully implemented the laws that offer equal opportunity for Americans with disabilities."

The President also mentioned the enormous social costs of not granting equal rights and equal responsibilities to people with disabilities: a smaller pool of talent from the nation to draw upon; the \$300 billion annual cost of keeping productive citizens dependent upon welfare and forcing them into non-productivity; and lower tax revenues resulting from fewer people in the workforce.

President Clinton emphasized the need for dignity that these Americans want and deserve, but that is too often denied them. In proclaiming October 1993 as National Disability Employment Awareness Month, the President reminded the nation of his commitment to full implementation of the ADA. As previously noted, as recently as May 13th the President reiterated that commitment -- to aggressively implement and enforce the ADA. He also referred to the ADA as signaling our standing at the threshold of a new era "for all Americans, those of us with disabilities and those of us without."¹³ The ADA, he noted was a triumph "over partisanship and prejudice" and proved "once again that the right cause can unite us."

III. THE AGENCIES' STATUTORY RESPONSIBILITIES AND ACCOMPLISHMENTS

The Act divides implementation responsibilities among five agencies: the Department of Justice, the Equal Employment Opportunity Commission, the Federal Communications Commission, the Department of Transportation, and the Access Board. This section highlights the respective duties, accomplishments, and limitations of these five agencies in respect of the President's directive to "fully implement and aggressively enforce" the ADA.

✓ Department of Justice.

Duties. DOJ has responsibility for enforcement of Title III (public accommodations) of the ADA, and shared jurisdiction over complaints concerning State and local government actions under Title II. The Attorney General has also promulgated regulations on Title II (other than transportation matters reserved for the Secretary of Transportation. such regulations are to be consistent and coordinated with Section 504 regulations under the Rehabilitation Act.¹⁴

Accomplishments. DOJ currently allocates its Title III work to its Public Access Section in the Civil Rights Division and Title II to its Coordination and Review Section. DOJ currently assigns 50 professional staff to ADA matters, but acknowledges that this is too small a complement for the load of complaints they receive. They recently added 10 people to a telephone hotline for advice and technical assistance (circa February 1994), and added 5 attorneys to the Public Access section (circa October 1993). They have entered over 150 Title III and 100 title II formal and informal settlement agreements. Some of their notable successes include:

- . the availability of sign-language interpreters and other auxilliary aids to permit students in review courses for professional licensure to learn and communicate effectively.¹⁵

- . settlement, without litigation, of a complaint that emergency medical technicians had refused to assist an individual with HIV through a remedy that includes training of the technicians and publicizing a new policy that persons with HIV/AIDS be able to benefit fully from emergency medical services.¹⁶

- . settlement of physical accessibility complaints related to ensuring access to public areas of the Empire State Building, including the lobby, observation decks, restrooms and telephones.¹⁷

Improvements. The past lack of leadership due to the vacant Assistant Attorney General for Civil Rights and deputy posts exposed the Administration to some criticism of our ADA implementation. The appointment of respected ex-NAACP litigator, Deval Patrick, has done a great deal to overcome the appearance of time lost. The initial public reaction to his nomination was quite favorable, with the Washington Post front page of Feb. 2, 1994 trumpeted his interest in "aggressively enforcing civil rights laws against lending and housing discrimination, as well as the protection and expansion of voting rights and enforcement of the Americans With Disabilities Act"¹⁸ Another sign of appropriately vigorous implementation of the ADA is the Wall Street Journal's critique of one recent settlement, and Mr. Patrick's published reply. Most complaints are settled without a lawsuit becoming necessary. However, the Department has shown its willingness to file appropriate (such as claims against a police and firefighters pension fund that excluded officers on the basis of disability, or against dentists who refused to provide dental treatment to individuals who test positive for AIDS). As these cases are adjudicated or settled, the Department will have a stronger track record of well-publicized enforcement.

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The DOJ is drastically understaffed for its mission and informal role as lead agency for ADA action. For instance, as of October 1993, a staff of 20 professionals (14 attorneys, 3 architects, and 3 paralegals) were responsible for over 950 Title III investigations. The staffing numbers are equally daunting for DOJ's Title II enforcement. Better coordination with EEOC over Title II employment claims may alleviate some of the stress, but more staff at Justice in this burgeoning and novel area of civil rights enforcement seems vital. However, recent reports about Congressional action on such appropriation requests are not encouraging, however.

Public confidence in ADA enforcement is critical for continued progress. Sometimes the ADA achieves dramatic results such as Oregon's decision to revisit its medical rationing plan when it was challenged as imposing discrimination based on disability. Some outside observers believe that businesses and other covered entities choose not to comply because the likelihood of enforcement is relatively low. Paradoxically, there are leaders in the disability community that express apprehension that the "other shoe will drop" as business and state and local government react to the ADA in terms of an unfunded mandate which may, in the future, lead them to seek a rollback of the law's requirements through statutory or regulatory amendments.

The Equal Employment Opportunity Commission

Duties. EEOC is charged with the enforcement of the employment sections (Title I) of the ADA, which prohibits discrimination against people with disabilities in private sector employment and in public sector jobs in state and local governments.

Accomplishments. Although the underlying law is a bit murky, the EEOC has had some early successes in obtaining consent agreements or preliminary rulings in ADA-based AIDS bias claims against health insurers.¹⁹ [double check]

Accomplishments of EEOC. The EEOC's new Alternate Dispute Resolution (ADR) program seeks to settle ADA and other civil rights disputes in a timely and cost-effective manner, without resort to litigation.

The EEOC has litigated some violations, however. While they may not be eager to jump into litigation, they did win their first suit outright.²⁰

Improvements. The EEOC, as enforcer of Title I, must vigorously challenge all Title I violations. If it is doing so (through ADR, other mediation, or the courts), it must be more effective in getting the word out to employers. If it is not, the EEOC must be directed to do so. Backlogs in complaint processing are

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long and said to be longer.

Department of Transportation

Federal activities to improve transportation accessibility are one of the least heralded aspects of ADA implementation. The ADA is only one source of statutory authority for such accessibility. The Air Carrier Access Act of 1986 and the Rehabilitation Act of 1973 (Section 504) also undergird efforts to create a barrier-free environment and ensure that travelers with disabilities will be treated without discrimination in mass transit, intercity rail service, inter-city buses, federally aided streets and highways, maritime transport, and aviation. Without access to the nation's transportation system, Americans with disabilities are unable to reach their jobs and places of educational, cultural, and social opportunities.

Accomplishments

every Federally-subsidized mass transit system provides some type of accessible services usable by passengers with disabilities

. about half of the nation's 52,500 fixed route buses are

2. In terms of enforcement activity, private parties have brought many of the most significant ADA cases. These victories include:

. the right of a Little League baseball coach who uses a wheelchair to coach from the coaches box and otherwise participate fully in the responsibilities of a coach as he had been doing quite successfully for the past three years. As the court noted, coach Lawrence Anderson's "significant contributions of time, energy, enthusiasm, and personal example" not only benefitted numerous children, but his work with young people taught them "the importance of focusing on the strengths of others and helping them rise to overcome their personal challenges."²¹

. the right of a blind person not to be categorically excluded from jury service. Judge Joyce Hens Green correctly reasoned that archaic attitudes and unsubstantiated prejudices should not permit a per se rule of exclusion since the very same court had the service of a blind judge as sole trier of fact, a juror could be excused from a particular trial where documentary evidence would be extensive, a juror could assess credibility based on the auditory correlates to nervousness, and a juror could benefit from reasonable accommodations such as a reader's help. The court also ordered arbitration as method of encouraging the speedy resolution of the case's remaining issues.²²

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. the right of law school graduates with severe disabilities such as a severe visual disability²³ or severe dyslexia to extra days to take the bar examination (DOJ filed an amicus curiae brief in the latter case that led to a settlement).²⁴

. the duty of municipalities to install curb cuts or slopes at intersections with curbs when resurfacing city streets. The Third Circuit has upheld the ruling in Philadelphia that such resurfacing constitutes an "alteration" under Title II of the ADA.²⁵

. inquiries into past mental health problems for professional licensure have been limited, such as The DC Court of Appeal's 5-year limit on questions about drug or alcohol treatment or hospitalization for mental illness.²⁶

. outpouring of literature in trade association magazine on how or to comply, or least to avoid penalty. My favorite: "Avoid fines: Adjust Hiring Policies to Meet ADA Requirements: Making Reasonable Accommodations" for disabled employees is now required under the A D Act, 9 Night club and Bar Magazine 40 (Aug. 1993).

VII. RECOMMENDATIONS

1. Coordination

There is a need for policy coordination, and coordination of overlapping public information, technical assistance, enforcement functions if the ADA is to be the truly "seamless web of civil rights law" that the President sketched in his Gallaudet speech.

1. Public Education

Although there have been considerable efforts to educate the American public to their rights and responsibilities under ADA, a more coordinated effort is needed. Misperceptions still abound. Ignorance of the law is still a common response to complaints. Outright distortions of its costs and purposes are sometimes encountered. Unless those misperceptions and distortions are countered, unless knowledge replaces ignorance, the risks of backlash, delays and intransigence are great.

2. Training and Technical Assistance

3. Federal government as model employer/public accommodation

4. Enforcement

5. ADR

6. White House Event

7. ADA person in the White house

8. Communications about the ADA

9. Complaint handling

10. International activities

BOUCH
BREWS

* field a little uncertain on utility of ADR techniques²⁷
 * many claims may be ill-defined and require human relations, and negotiation skills rather than litigation (e.g. W. White and fear of firing/forced resignation by older disabled workers who cling to jobs and health care benefits, and may or may not be able to discover

WORKING NOTES AND NAMES

materials requested

1. Justice Dept. 9-7

follow-up calls

two calls

received contact

Eleanor Acheson

10-22 Eldie Acheson checking to

call me back this am

514-2061

*2. HHS 8/30

*3. FCC

9-9

James Keegan -
634-1867

Jim Quello 632-
7557

Alfred Ramaz?

*4. EOC 9-29

5. transportation 10-5

Mort Downey 366-

x 6. architectural review board

2222

WORKING MEMORANDUM on the ADA

The lead agencies on implementation and enforcement of the Americans with disabilities Act appear to be:

++ Justice Department -- Civil Rights Division -- Public Access Section (Section Chief, John L. Wodatch 307-2227)

++ Health and Human Services

(Counselor to the Secretary, Peter Edelman 690-7000)

(General Counsel, Harriet Rabb, 690-7741

Civil rights, George Lyon, 619-0900)

Admin on Developmental Disabilities, Bob Williams, 690-

6590

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BARCIA
BEVILL

Query: Architectural Review Board -under DHSS or free-standing)

++ Office of Personnel Management --Q: insurance group 606-0600) policies affecting federal employees

++ OMB ???

++ Education -- Judy Heumann, Asst Sec for Spec Ed & Rehab Services 205-5465

Relationship between ADA and Section 504 enforcement appears murky; all departments have some Sec. 504 responsibilities regarding their federally assisted programs EEOC and other resources

1. Americans with Disabilities Act of 1990, 42 U.S.C. ss 12101-12213.

2. John M McNeil, Americans with Disabilities: 1991-92 Data From the Survey of Income and Program Participation [Current Population Reports, Household Economic Studies P70-33, issued Dec. 1993](US Dept. of Commerce, Bureau of the Census, Economics and Statistics Administration).

3. Irving Zola, "The Sleeping Giant in our Midst: Redefining 'Persons with Disabilities'," in Implementing the Americans with Disabilities Act: Rights and Responsibilities of All Americans (Lawrence Gostin & Henry Beyer, eds., 1993) (hereinafter implementing the ADA).

4. Governor Clinton & Senator Gore, Putting People First: How We Can All Change America 82 (1992).

5. Remarks at the Gallaudet University commencement Ceremony, 30 Weekly Compilation of Presidential Documents 1061, 1063 (May 16, 1994).

6. National Council on Disability, ADA Watch -- Year One: A Report to the President and Congress on Progress in Implementing the Americans with Disabilities Act i, 4 (April 5, 1993).

7. E.g., James Bovard, "Disabilities Law, Health Hazard: Regulatory Chokehold," Wall Street Journal, March 23, 1994, at A-14.

8. ADD Wall street journal article on Becker and his response

9. see National Council on Disability, Summary: ADA Watch Planning Meeting at 1(Feb. 10, 1994, Dirksen Senate Office Building, Washington, DC).



REF



10. Vice President Al Gore, From Red Tape to Results: Creating A Government that Works Better & Costs Less: Report of the National Performance Review 37-38 (Sept. 7, 1993):

Action: The President should issue a directive limiting the use of unfunded mandates by the administration.

As the federal deficit mounted in the 1980s, Congress found it more and more difficult to spend new money. Instead, it often turned to "unfunded mandates" -- passing laws for the states and localities to follow, but giving them little or no money to implement those policies. As of December 1992, there were at least 172 separate pieces of federal legislation in force that impose requirements on state and local governments. Many of these, such as clean water standards and increased public access for disabled citizens, are unquestionably noble goals. [emphasis added).

the recommendation goes on to question how local governments will pay

11. Census Bureau, 1993, supra note 2, at 11-13.

12.

13. 30 Weekly Compilation of Presidential Documents 1061, 1062 (quoting President I. King Jordan).

14. 42 U.S.C. s. 12134(a)-(b) (cross-referencing 29 U.S.C. s. 794).

15. U.S. v. Becker CPA Review Inc (DDC 1994) ADD SETTLEMENT CITE Qbarbri?

16. Formal settlement with Philadelphia, Pennsylvania, in US Department of Justice, enforcing the ADA: A Status Report from the department of justice 5 (April 4, 1994).

17. Empire state Building, New York City. Id. at 7.

18. Washington Post, Feb. 2, 1994, at 1. (emphasis added).

19. Milt Freudenheim, "In Minnesota, Settlement is First for AIDS Bias by Health Insurer," N.Y. Times, Dec. 22, 1993, A19. (noting settlement with damages awarded where employer reduced AIDS health insurance coverage from \$300,000 to \$5,000).

20. There are many potential reasons for their reticence to prosecute. It is possible that the EEOC is not fully committed to the ADA. It is equally plausible, however, that the EEOC sincerely wishes to keep out of court because of the drain on their resources. A third possibility is that, while eager to prosecute, the EEOC strategically waited until they had a

"winner" before filing its first suit, so as to appear the effective enforcer and "scare" others into compliance.

21. Anderson v. Little League Baseball, Inc, 794 F. Supp. 342, 345 (D. Arz. 1992).

22. Galloway v. The Superior Court of the District of Columbia, 816 F. Supp. 12, 17 (D.D.C. 1993).

23. D'Amico v. N. Y. State Board of Law Examiners, 813 F. supp. 217 (W.D.N.Y. 1993).

24. Rosenthal v. N.Y. State Board of Law Examiners, No. 92-CIV-1100 (S.D.N.Y. 199).

25. Kinney v. Yerusalem, 812 F. Supp. 547 (E.D. Pa. 1993), aff'd 9 F.3d 1067 (3rd Cir. 1993).

26. "Bar examiners respond to the ADA: Spurred by suits or the law, officials grant more test time to disabled applicants," ABAJ 20 (Nov. 1992).

27. See Loren Allison & Eric Stahlhut, "Arbitration and the ADA: Do the Two Make Strange Bedfellows?," 37 Res Gestae 168 (Oct. 1993).

3110. Gary Blumenthal

Size of Review?

political correctness?

natl conf or state legislative

natl assoc of counties

~~St.~~ Budget Directors &

How we interact w states &

st legis in KA → were bringing those who
have control over programs but
don't know much about them

* Commission specific assignments/tasks
contract w consultant

structurally - too much interest in protecting
turf → how can we ask one agency
to conclude one's their programs
better housed in ~~the~~ labor

What about contracting to research needs

~~Submit~~ Submit suggestions in writing

need input from disinterested party → CMH

becomes quality control → anticipate
groups'll come back: say they end
it to another agency isn't

need to expose some of our own
inflexibilities

incentives for insular care vs.
community care

action teams - into states - land

in systems - here are some

hundreds of streams other states use

~~HCBS~~ HCBS/medicaid/special ed/ID/

National Disability Policy Review Designated Participants

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(revised 2/13/95)

THE WHITE HOUSE
WASHINGTON

October 3, 1994

MEMORANDUM TO SECRETARY LLOYD BENTSEN
SECRETARY JESSE BROWN
SECRETARY RONALD BROWN
SECRETARY HENRY CISNEROS
SECRETARY FEDERICO PENA
SECRETARY WILLIAM PERRY
ATTORNEY GENERAL JANET RENO
SECRETARY DONNA SHALALA
SECRETARY ROBERT REICH
SECRETARY RICHARD RILEY
COMMISSIONER SHIRLEY CHATER
DIRECTOR JAMES KING

FROM: Carol Rasco 
Assistant to the President for
Domestic Policy

Alice Rivlin 
Director
Office of Management and Budget

SUBJECT:- Disability Policy

National programs affecting persons with disabilities have developed rapidly over the last quarter century. New policies, laws, and social expectations have dramatically changed the lives of those with disabilities in areas ranging from entitlements to education, civil rights to transportation. With the Census Bureau estimating that 49 million Americans have some type of disability, the issue is of obvious national importance.

Both of us believe the timing is right to organize a review of the direction of, and next steps for, national disability policy. This important undertaking will need to be inclusive and wide-ranging, seeking the views of people with disabilities, their advocates and service providers, experts in the field, members of Congress and their staff, and federal, state and local officials.

We have asked our staffs to think about how such a review could be structured and what issues could be included. The attached memorandum reflects their initial thinking, and we believe it provides an effective starting point for discussions in and out of the Administration about this review.

October 3, 1994
Page 2

We are asking that each Department designate one or more key policy officials, perhaps at the Assistant Secretary level, to serve as participants in this policy review, which we will co-chair. We are asking our staff leads to meet with your designees as part of their outreach in the next month to develop a proposal for the structure, agenda, and work plan for this review. We would greatly appreciate it if your office would notify the DPC of your designated participants by calling 456-5566 by Wednesday October 12.

We have asked the staff coordinators to complete their initial meetings prior to and to prepare a proposal for a meeting of the Domestic Policy Council in early November. We appreciate in advance your cooperation with this important undertaking.

cc: Leon Panetta
Bob Rubin
Christine Varney



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 30 1994

MEMORANDUM FOR CAROL RASCO AND ALICE RIVLIN

FROM *JA* *SH*
 Jeremy Ben-Ami and Stan Herr
 LF *RG*
 Lisa Fairhead and Richard Green
SUBJECT Draft Proposal for National Disability Policy Review

Background

You have agreed to begin planning a review of the issues surrounding Federal and national responsibilities for providing assistance to and protecting the rights of individuals with disabilities.

Below, we propose an agenda and structure for the Review, and some first organizational steps. The questions we have proposed to form the agenda are provisional; our initial conversations with key individuals will seek to validate their inclusion in the agenda, to determine what other issues must be addressed, and to set priorities for the Task Force that will undertake this effort.

I. PROPOSED AGENDA

The Task Force should be guided by the President's credo of supporting public and private initiatives to enhance the independence, inclusion, and productivity of persons with disabilities. The Task Force should answer, to the extent possible, the following questions, in order to articulate and refine the Administration's overall disability policy:

National Disability Policy:

- Can we articulate a national disability policy to animate or guide Federal law and regulations?
- What is the Federal role in a national disability policy? What is the rationale for each specific Federal responsibility (e.g., constitutional right, insurance, indemnity, need)? Do the scope and nature of the responsibilities differ based on age (children vs. adults) or severity of disability?
- What are the policies and realities in other countries (e.g., Sweden, Canada, Germany) that may offer insight and direction to our policies and programs?

Federal Disability Programs:

- How are we meeting current responsibilities? What is the current array of programs? What services/benefits are they providing? What values do they promote? How delivered? To whom? What are the gaps and overlaps? How are the Federal programs/services integrated with State and local government programs? Are there exemplary State and local government programs? How can good practices be disseminated/encouraged?
- What do we know about the effect of each program and policy on recipients? What data are we currently collecting in each area? What do we need to answer the impact questions better?

Identifying and Implementing Change:

- What changes are needed to program purposes and program structure to better meet current Federal responsibilities? Are we currently identifying and reaching those individuals in need of services? Are we providing the most effective array of services and benefits for the costs incurred by each level of government, the individual, and the private sector?
- For those responsibilities identified but not addressed, what should be done, and by whom?
- How can we make sense of eligibility criteria for various programs, to minimize overlap and duplication of services and benefits, and ease administration and assessment of program performance and move each program's focus towards participant outcomes (e.g., enhanced independence, community integration, self-sufficiency, greater productivity)?
- Are there new strategies to promote independence and self-sufficiency for persons with disabilities?

Federal Government as a Model:

- How well does the Federal Government serve as a model, in both employment policies and practices, and customer service? How can this be improved for the benefit of job applicants, employees, customers, and members of the general public with disabilities?

Program/Issue Areas:

Program areas to be reviewed would include (but need not be limited to):

- o services to infants and toddlers

- o education programs
- o cash benefit programs (insurance, income assistance, and retirement)
- o medical and other health programs
- o social services and family supports
- o school-to-work transitional services
- o rehabilitation services and training
- o employment services
- o transportation services
- o housing
- o advocacy services, information and referral
- o personal assistance
- o civil rights enforcement
- o services for older persons
- o technology-related assistance
- o programs of prevention and minimization of disability severity

The work product should take the form of a report outlining the Task Force's answers to these questions, and recommendations for further action, including actions the Administration can take through changes to law, regulation or funding priorities, grants and contracts, and administration of the Federal Government's own internal activities (e.g., employment and customer service practices). The Task Force should be charged to make recommendations that are "budget neutral."

II. TASK FORCE COMPOSITION

We recommend the following structure for the task force:

- The Task Force would be jointly directed by the White House and OMB, but would rely heavily on agency participation.
- The Task Force would be headed by the two of you, as "co-chairs."
- Each of the key agencies with an interest in disability issues (which would include at least ED, HHS, SSA, DoD, VA, OPM, DOL, HUD, and the Treasury) would be invited to participate at the policy level through designees of the agency heads, presumably Assistant Secretaries responsible for key program and policy areas. Where appropriate, more than one Assistant Secretary could be designated for an agency.

We recommend the following structure for the support team:

- Designate "co-team leaders" from OPD/DPC and OMB staff -- these are the people who would be responsible for making the task force happen. The co-team leaders would be responsible for organizing Task Force meetings and for directing the work of the support team.
- Designate as additional support team members OPD/DPC and OMB staff who are currently involved in the disability area. For OMB, PADs would designate the examiners responsible for accounts funding key disability programs to be members of the support team. The Administrator of OIRA should also designate one or more staff to join the team.
- The agencies would be asked to designate staff to participate as members of the support team. We would expect each policy official to designate two or three people from their areas to be members of the team.
- Even though this could result in a fairly large number of staff, we envision the support team dividing into small subgroups, each tasked with researching specific areas along the lines of the proposed agenda.

We recommend that the Task Force utilize the following for advice:

- Draw on the expertise of the three Presidential advisory councils -- the President's Committee on Employment of People with Disabilities, the National Council on Disability, and the President's Committee on Mental Retardation -- in the design of the agenda and how it will be carried out. These councils could also provide the forum (formally or informally) to tap disability community sentiments.
- Invite the Architectural and Transportation Barriers Compliance Board, the Equal Employment Opportunity Commission, and the Federal Communications Commission to participate as appropriate.
- Individuals with disabilities, members of their families, and their advocates should be consulted regularly (formally and informally).

III. TIME FRAME FOR ACTION

We recommend that the Task Force be constituted, the support team named, and the agenda (see above) agreed on in November. The Task Force could be initiated at a meeting of the DPC, co-chaired by the two of you, with other appropriate department or agency heads invited. We recommend that the timeframe for this Review be lengthy enough to ensure a

comprehensive and thoughtful deliberative process, and to analyze and synthesize the findings of the Task Force and support group and develop recommendations. The specific dates for interim and final reports should be determined by the Task Force. The Task Force itself would meet at least once every three months.

IV. NEXT STEPS

This National Disability Policy Review is a significant undertaking, of tremendous importance to the disability community, and no doubt will be subject to a great deal of comment and scrutiny both in and out of the Administration. To get the review off on the right foot, we propose devoting time in October and early November to laying the groundwork internally and externally through a series of meetings outlined below, before the Task Force Team begins its work. This outreach and initial leg-work will improve our design and create good will by informing and involving people on the front end and ensuring avenues for communication and input throughout the process. We will take care to make very clear that the suggestions received from this outreach process will be considered in the development of the agenda, but that we do not expect every recommendation to be included.

Pending your review and approval, we would propose the following steps and schedule:

Early October: We (working as a kind of DPC/OMB staff "advance team") would hold preliminary meetings with administration officials at key agencies to explore the idea of a Review, brainstorm about its structure, work plan, and agenda. With help from Mike Lux in the Office of Public Liaison and from the Office of Legislative Affairs, we would identify and meet with key advocates and Hill staff to give them advance notice and discuss avenues for their input and consultation throughout the Review.

We would also meet with the three existing Federal advisory groups whose mandate is to provide advice to the President in this area: the President's Committee on Employment of People with Disabilities, the National Council on Disability, and the President's Committee on Mental Retardation.

We believe it is vital to the success of the Review to ensure that there is strong ongoing communication concerning the Review with members of Congress and their staff, advocates, and persons with disabilities. The three national commissions mentioned provide a logical starting point for such communication. Based on meetings with those commissions and their staffs, the Task Force will include in its recommendations a plan for outreach and communication regarding the Review.

Early November: The two of you present the idea for a National Disability Policy Review to a special meeting of the Domestic Policy Council, also attended by other appropriate department and agency heads (e.g., Treasury, Defense), perhaps prefaced by an

PRELIMINARY WORK PLAN
Discussion Draft Only
National Disability Policy Review

January 18, 1995 -- Draft # 3

Background

In response to initial memoranda suggesting a National Disability Policy Review, the Domestic Policy Council received comments and input on the Review's proposed agenda and work plan. We have met with all the Departmental designees, first in small groups and twice as a full team. We have consulted key advocates in the disability community, Congressional staffers, the heads of three presidential advisory committees in the disability field, and other experts. In addition, we have made a presentation on the Review to the full membership of the President's Committee on Mental Retardation, reached out to the Administration's appointees with disabilities, and begun to obtain background policy papers.

Oral and written responses have emphasized that such a review is important, overdue, and should involve significant input from individuals with disabilities and their advocates. The comments also stressed the need to be realistic in setting goals and to focus on some shorter-term achievable objectives while simultaneously engaging in a long-term policy process.

On November 30th, the Review Team met to develop a proposed work plan for the first three months of the Review. On December 21, the Team met to discuss a set of Guiding Principles and additional progress to date. Based on the agreements reached at this meeting, we have revised our original draft of the work plan. The following pages outline a rewritten version highlighting the conclusions of both meetings and laying out the issue groups formed and specific assignments.

Work Plan

This draft Work Plan proposes two parallel tracks for work during the next three months. On the "Policy Track," work groups will meet and address the issues outlined below. At the same time, the "Consultation Track" will engage in outreach and coordination with the advocacy community, Congressional staff, and the Presidential advisory committees.

I. POLICY TRACK

A thorough review of all aspects of disability policy is an ambitious undertaking. Review Team members and those commenting from outside the Review have agreed that it is sensible to conduct the work in phases, initially focusing on a few discrete issues to make the work more manageable. To this end, the Review Team, at its November 30 meeting, formed five work groups:

1) Guiding Principles, 2) Accommodations, 3) Children's Issues, 4) Employment of Working-Age Adults and 5) School-to-Work Transitions.

1. *Guiding Principles* -- There was significant agreement that the Review would benefit from the early development of a set of principles articulating the values guiding the Review. This statement of principles will not predetermine the policies to be developed through the Review, but instead guide Review Team members and staff in their work. It might eventually become the preamble to the Review's final report, subject to continual modification along the way.

This work group has convened in December to draft an initial statement. The principles it develops should draw not only on Administration policy and statements and Presidential speeches, but on policies incorporated in recent legislation in this area. When the full Review Team met on December 21, a draft of this statement was discussed and reviewed. This work group is now in the process of revising the original draft in response to the input received on December 21 and in subsequent discussions.

Convenor: Bob Williams, Commissioner, Administration on Developmental Disabilities, Department of Health and Human Services.

2. *Accommodations* -- This work group will draw on the review process already in place through the *Federal Disability Accommodations Working Group*. Formed in August 1994 by the Domestic Policy Council, this group has begun to examine how the federal government can be a model of making reasonable accommodations that will benefit its customers, job applicants, employees, and the general public.

The work of this group should lead to short-term achievable administrative recommendations that help demonstrate the Administration's commitment in this area.

Convenor: Deval Patrick, Assistant Attorney General, Civil Rights Division, Department of Justice

3. *Childhood* -- This work group will examine educational, income benefit, and service programs available for children, from birth to age 18. Their work is particularly timely given the formation of the Childhood Disability Commission that will look at the SSI children's program. The group will focus on developing an administration policy that will anticipate and respond to the findings of the Commission and other actors. In addition, the Individuals with Disabilities Education Act (IDEA) is up for reauthorization this year and will certainly raise important policy issues.

Convenor: Judy Feder, Principal Deputy Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

4. *School-to-Work Transition* -- This work group will explore issues related to the transition to adulthood from education programs that serve people until they are 18 to 21 years of age. "Transitions" planning involves helping people to find employment, further schooling, independent or assisted living arrangements, and other activities that maximize their independence and potential.

Convenor: Judy Heumann, Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education.

5. *Employment of Working Age Adults* -- All participants in this process have consistently agreed that employment must be a centerpiece of the Review. This work group will focus on the problems associated with the chronic unemployment and underemployment of persons with disabilities and review policy options for helping people enter -- and remain -- in the workforce.

Convenor: Susan Daniels, Associate Commissioner for the Office of Disability, Social Security Administration.

These groups are currently meeting and will eventually develop action steps in concert with the values and commitments identified in the *Guiding Principles* document. Additional work groups will be formed as appropriate throughout the process based on the findings of these initial working groups.

II. CONSULTATION TRACK

We will proceed on several fronts externally as the policy groups begin their work.

A. Presidential Committees

Each Presidential committee has designated or will soon designate a representative to participate on the Review Team, and we anticipate these committees will be integrally involved in the Review. We look forward to working with the Committees on shared policy concerns. In particular, we expect to coordinate with them in gathering public input on these policy questions, holding public hearings and conducting ongoing outreach efforts.

B. Advocacy Organizations

Each of the five groups referred to in the Policy Track discussion should meet with a wide range of organizations representing the interests of people with disabilities to give them the opportunity to provide information and input into their work. Each work group convenor will host a meeting with the advocacy community in order to update interested groups on the substance of the Review as it relates to that particular issue.

C. Legislative Bodies

We will also meet with legislative staff from both chambers and both parties to keep them apprised of the work of the Review.

III. AN ON-GOING PROCESS

This document is a working draft that we anticipate will undergo periodic change throughout the Review. It is an on-going process which will be modified in response to the findings of various work groups and input received from interested parties.

TIMETABLE

A timetable would be as follows:

November 30	Issue groups formed.
December 21	<u>Guiding Principles:</u> Draft discussed with full Review Team.
January 27	Agencies to submit program descriptions in response to request for agency program information.

Early February

Initial background papers completed.
Key policy questions identified.

Meeting with advocacy groups and the
five work group convenors.

Guiding Principles: Discuss draft
statement and options for obtaining
public input.

February 22

Third meeting of the Review Team to
review progress of issue groups and
discuss final draft of Guiding
Principles. Overall scope of work and
timetable for the entire Review to be
discussed.

March

Review Team meets to begin to outline
options for reforming disability policy
and identify next steps for each work
group.

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February 22, 1995, room 248 OEOB, 2:00 - 3:30 p.m.
National Disability Policy Review

attendees

DENNIS DUFFY (VA) review team designee;

RON GLASER (TREAS) regularly attends meetings for designee Scott Gould;

PAUL MILLER (EEOC) has been active in guiding principles group since EEOC joined the review team in December;

ANDY IMPARATO (EEOC) regularly attends meetings for Paul M.;

GIL CASELLAS (EEOC) EEOC Chairman, has not attended past meetings;

PEGGY MASTROIANNI (EEOC) has not attended meetings in the past;

CAROLYN COLVIN (SSA) review team designee;

SUSAN DANIELS (SSA) review team designee and convenor of the employment work group;

GARY BLUMENTHAL (President's Committee on Mental Retardation) has been participating in the review since PCMR joined the team in December; his mother died two weeks ago so he has been out of town;

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JOE MEADE (USDA) recently wrote to you explaining that designee Jim Lyons has asked him to assume team membership on the review. His letter expressed enthusiasm and this will be his first meeting;

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DON TRILLING (TRANS) attending today's meeting for and has attended meetings for Kreusi in the past;

MANUEL OLIVEREZ (DEFENSE) attending today's meeting for designee Fred Pang;

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SPEED DAVIS (National Council on Disability) has been participating in the review since NCD joined the

team in December;

ELIZABETH SAVAGE (JUSTICE) attends all meetings for designee Deval Patrick who only attended the first two meetings. While Deval Patrick is convening the accommodations work group, Liz Savage attends all review meetings and is basically "acting convenor". Liz attended the 2/16 meeting with advocates to discuss guiding principles;

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RUTH KATZ (HHS) has attended meetings with Judy Feder in the past and will give today's presentation of the progress of the children's work group; Ruth attended the 2/21 meeting with advocates;

BONNIE MILSTEIN (HUD) attending today's meeting for designee Roberta Achtenberg;

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HOWARD MOSES (EDUC) regularly attends meetings with or for Judy Heumann;

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JUDY FEDER (HHS) has assumed David Ellwood's role as team designee and convenor of the children's work group; Judy attended the 2/21 meeting with advocates;

RUTH KATZ (HHS) has attended meetings with Judy Feder in the past and will give today's presentation of the progress of the children's work group; Ruth attended the 2/21 meeting with advocates;

BONNIE MILSTEIN (HUD) attending today's meeting for designee Roberta Achtenberg;

DIANE COOK-LEE (HUD) attending today's meeting for Roberta Achtenberg;

JUDY HEUMANN (EDUC) review team designee and convenor of the school-to-work group. Judy attended the 2/21 meeting with advocates.

CONNIE GARNER(EDUC) regularly attends meetings with Judy Heumann;

HOWARD MOSES (EDUC) regularly attends meetings with or for Judy Heumann;

CAROLYN GUNNEY (COMMERCE) regularly attends meetings for Larry Parks. Larry replaced Gloria Gutierrez as the team designee; however, Carolyn attends most meetings.

JOSEPHINE NIEVES (LABOR) new review team member replacing Bernard Anderson who did not attend many meetings.

PRELIMINARY WORK PLAN
Discussion Draft Only
National Disability Policy Review

January 18, 1995 -- Draft # 3

Background

In response to initial memoranda suggesting a National Disability Policy Review, the Domestic Policy Council received comments and input on the Review's proposed agenda and work plan. We have met with all the Departmental designees, first in small groups and twice as a full team. We have consulted key advocates in the disability community, Congressional staffers, the heads of three presidential advisory committees in the disability field, and other experts. In addition, we have made a presentation on the Review to the full membership of the President's Committee on Mental Retardation, reached out to the Administration's appointees with disabilities, and begun to obtain background policy papers.

Oral and written responses have emphasized that such a review is important, overdue, and should involve significant input from individuals with disabilities and their advocates. The comments also stressed the need to be realistic in setting goals and to focus on some shorter-term achievable objectives while simultaneously engaging in a long-term policy process.

On November 30th, the Review Team met to develop a proposed work plan for the first three months of the Review. On December 21, the Team met to discuss a set of Guiding Principles and additional progress to date. Based on the agreements reached at this meeting, we have revised our original draft of the work plan. The following pages outline a rewritten version highlighting the conclusions of both meetings and laying out the issue groups formed and specific assignments.

Work Plan

This draft Work Plan proposes two parallel tracks for work during the next three months. On the "Policy Track," work groups will meet and address the issues outlined below. At the same time, the "Consultation Track" will engage in outreach and coordination with the advocacy community, Congressional staff, and the Presidential advisory committees.

I. POLICY TRACK

A thorough review of all aspects of disability policy is an ambitious undertaking. Review Team members and those commenting from outside the Review have agreed that it is sensible to conduct the work in phases, initially focusing on a few discrete issues to make the work more manageable. To this end, the Review Team, at its November 30 meeting, formed five work groups:

1) Guiding Principles, 2) Accommodations, 3) Children's Issues, 4) Employment of Working-Age Adults and 5) School-to-Work Transitions.

1. *Guiding Principles* -- There was significant agreement that the Review would benefit from the early development of a set of principles articulating the values guiding the Review. This statement of principles will not predetermine the policies to be developed through the Review, but instead guide Review Team members and staff in their work. It might eventually become the preamble to the Review's final report, subject to continual modification along the way.

This work group has convened in December to draft an initial statement. The principles it develops should draw not only on Administration policy and statements and Presidential speeches, but on policies incorporated in recent legislation in this area. When the full Review Team met on December 21, a draft of this statement was discussed and reviewed. This work group is now in the process of revising the original draft in response to the input received on December 21 and in subsequent discussions.

Convenor: Bob Williams, Commissioner, Administration on Developmental Disabilities, Department of Health and Human Services.

2. *Accommodations* -- This work group will draw on the review process already in place through the *Federal Disability Accommodations Working Group*. Formed in August 1994 by the Domestic Policy Council, this group has begun to examine how the federal government can be a model of making reasonable accommodations that will benefit its customers, job applicants, employees, and the general public.

The work of this group should lead to short-term achievable administrative recommendations that help demonstrate the Administration's commitment in this area.

Convenor: Deval Patrick, Assistant Attorney General, Civil Rights Division, Department of Justice

3. *Childhood* -- This work group will examine educational, income benefit, and service programs available for children, from birth to age 18. Their work is particularly timely given the formation of the Childhood Disability Commission that will look at the SSI children's program. The group will focus on developing an administration policy that will anticipate and respond to the findings of the Commission and other actors. In addition, the Individuals with Disabilities Education Act (IDEA) is up for reauthorization this year and will certainly raise important policy issues.

Convenor: Judy Feder, Principal Deputy Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

4. *School-to-Work Transition* -- This work group will explore issues related to the transition to adulthood from education programs that serve people until they are 18 to 21 years of age. "Transitions" planning involves helping people to find employment, further schooling, independent or assisted living arrangements, and other activities that maximize their independence and potential.

Convenor: Judy Heumann, Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education.

5. *Employment of Working Age Adults* -- All participants in this process have consistently agreed that employment must be a centerpiece of the Review. This work group will focus on the problems associated with the chronic unemployment and underemployment of persons with disabilities and review policy options for helping people enter -- and remain -- in the workforce.

Convenor: Susan Daniels, Associate Commissioner for the Office of Disability, Social Security Administration.

These groups are currently meeting and will eventually develop action steps in concert with the values and commitments identified in the *Guiding Principles* document. Additional work groups will be formed as appropriate throughout the process based on the findings of these initial working groups.

II. CONSULTATION TRACK

We will proceed on several fronts externally as the policy groups begin their work.

A. Presidential Committees

Each Presidential committee has designated or will soon designate a representative to participate on the Review Team, and we anticipate these committees will be integrally involved in the Review. We look forward to working with the Committees on shared policy concerns. In particular, we expect to coordinate with them in gathering public input on these policy questions, holding public hearings and conducting ongoing outreach efforts.

B. Advocacy Organizations

Each of the five groups referred to in the Policy Track discussion should meet with a wide range of organizations representing the interests of people with disabilities to give them the opportunity to provide information and input into their work. Each work group convenor will host a meeting with the advocacy community in order to update interested groups on the substance of the Review as it relates to that particular issue.

C. Legislative Bodies

We will also meet with legislative staff from both chambers and both parties to keep them apprised of the work of the Review.

III. AN ON-GOING PROCESS

This document is a working draft that we anticipate will undergo periodic change throughout the Review. It is an on-going process which will be modified in response to the findings of various work groups and input received from interested parties.

TIMETABLE

A timetable would be as follows:

November 30	Issue groups formed.
December 21	<u>Guiding Principles</u> : Draft discussed with full Review Team.
January 27	Agencies to submit program descriptions in response to request for agency program information.

Early February

Initial background papers completed.
Key policy questions identified.

Meeting with advocacy groups and the
five work group convenors.

Guiding Principles: Discuss draft
statement and options for obtaining
public input.

February 22

Third meeting of the Review Team to
review progress of issue groups and
discuss final draft of Guiding
Principles. Overall scope of work and
timetable for the entire Review to be
discussed.

March

Review Team meets to begin to outline
options for reforming disability policy
and identify next steps for each work
group.

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(revised 1/24/95)

WHITE HOUSE DISABILITY POLICY REVIEW

CHILDREN'S ISSUES WORK GROUP

Proposed Policy Priorities

1. Health Care

- **Can we improve access to health care for uninsured children with disabilities and their families without increasing in the aggregate federal costs for disability related programs?** Suggested strategies to consider include: better coordination between Medicaid, Idea and Maternal and Child Health programs; program consolidation; insurance reform; financing experiments with vouchers or cash payments to empower families to purchase private insurance; substitution of health insurance coverage for some portion of cash assistance etc.
- **How can we induce/encourage health care providers to effectively serve children with disabilities and their families e.g., provider training, incentives to encourage health care providers to either develop proficiency in or specialize in treating people with disabilities, etc.**
- **How can we improve the willingness and capacity of managed care providers in the private sector to enroll and effectively serve children with disabilities and their families?** Suggested strategies could include: developing improved capitation methods; technical assistance around best practices regarding prevention, rehabilitation, risk management, enrollment incentives; developing and operationalizing quality assurance protections; and coordinating with personal assistance and other supportive services.
- **How can we insure that public managed care arrangements are responsive to the special needs of people with disabilities?** Suggested strategies could include: systematic evaluation of the experience of people with disabilities in Medicaid managed care; experiments with alternative financing methodologies; risk sharing between states and the federal government, etc.

2. Education

- **How can we encourage wider availability of proven early intervention services for children who can benefit from them, without increasing costs?** How can medical, educational, and social services be coordinated to improve long term outcomes for young children with disabilities, or at-risk of developing disabilities?
- **How can special education services and financing be better coordinated with health care, income support and social service systems to best serve children with disabilities?**
- **How can federal education, income support and employment policies and financing be best combined and coordinated to enhance the school to adult life transition for youth with disabilities?**
- **How can the special education emphasis on inclusion be reconciled with other programs which provide categorical services to children and youth with disabilities?**

3. **Income Supports**

- Should SSI cash assistance for children with disabilities and their families be better targeted to focus on those most in need? e.g., target eligibility to a sub-population of SSI children with the most significant disabilities or those with the greatest economic need; limit the number of cash payments which a single family unit can receive; impose a 2/3 reduction if a family unit has more than one qualifying child, etc.
- Should the provision of cash payments be carefully coordinated with the receipt of other public benefits for children to maximize the cost effectiveness of federal disability expenditures?
- Should SSI and Medicaid eligibility continue to be linked or should there be separate eligibility for each program?
- What mechanisms could improve program accountability and how could they be implemented? For instance: vouchers; limiting cash payments to documented disability related expenses, etc.
- Should AFDC and SSI be better coordinated and how?

4. **Baseline Information for Policy Development**

- What types of information are essential for policy development in this area?
- How should it be financed, collected and analyzed?

Agencies are requested to do the following:

1) Identify each program administered by the agency serving individuals with disabilities. Include all programs that:

- o provide direct Federally administered services or benefits to individuals with disabilities,
- o fund State, local, non-profit or private activities serving or benefitting individuals with disabilities,
- o mandate or regulate (without necessarily providing Federal funds for) State, local, non-profit or private behavior with regard to individuals with disabilities.

2) For each program identified, provide the following information :

- o Agency, Bureau, Account, and Program Title
- o A short description of the program. Include program goals, funding mechanisms, authorized activities, eligibility criteria, and any definitions of disability or other relevant terms (such as "impairment") established in law or regulations. Identify performance measures, if available. Provide title and citations of authorizing statute, and citations for implementing regulations.
- o Type of service or benefit provided:
 - a. cash,
 - b. medical,
 - c. vocational rehabilitation,
 - d. education or training,
 - e. research,
 - f. other (specify)
- o Number and demographics (e.g., age, socioeconomic status) of individuals with disabilities served. If participation of individuals with disabilities is incidental (e.g. health-related research), but significant, provide the proportion of individuals with disabilities served relative to the total population served, if known. (If agency cannot estimate the proportion of individuals with disabilities served, so indicate.) Briefly describe any trends or changes in demographics of populations served, and explain.
- o Budget authority and Outlays for FY 1994, and FY 1995 (estimated), relative to individuals with disabilities served. (If agency cannot estimate the proportion relative to the number of individuals with disabilities served, so indicate, and provide program

totals, or best estimate, with assumptions stated.)

- o Funding provided by non-Federal sources. (Provide break-out by entity.)
- o Nature and periodicity of data collected on services/benefits provided and populations served.
- o Roles of Federal and non-Federal entities in administering the program.
- o Major administrative and/or programmatic issues currently confronting the program.
- o Any other information about the program that would be important for policy decisions. (E.g., key advocacy groups, major Congressional supporters.)

3) Program descriptions, and list of all identified programs, should be provided in hard copy and in Wordperfect format on a diskette. Please keep materials as brief as possible, while responding in all categories.

Agencies are requested to do the following:

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NATIONAL DISABILITY POLICY REVIEW

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December 7, 1994

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MEMORANDUM FROM JEREMY BEN-AMI AND STANLEY S. HERR

TO: DESIGNEES TO THE NATIONAL DISABILITY POLICY REVIEW

DATE: December 21, 1994 -- Draft # 2

PRELIMINARY WORK PLAN
Discussion Draft Only
National Disability Policy Review
December 1994 - February 1995

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DATE: December 21, 1994 -- Draft # 2

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Discussion Draft Only
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Each of the five groups referred to in the Policy Track discussion should meet with a wide range of organizations representing the interests of people with disabilities to give them the opportunity to provide information and input into their work. Each work group convenor will host a meeting with the advocacy community in order to update interested groups on the substance of the Review as it relates to that particular issue.

C. Legislative Bodies

We will also meet with legislative staff from both chambers and both parties to keep them fully apprised of the work of the Review.

III. AN ON-GOING PROCESS

This document is a working draft that we anticipate will undergo periodic change throughout the Review. It is an on-going process which will be modified in response to the findings of various work groups and input received from interested parties.

TIMETABLE

A possible timetable would be as follows:

November 30	Issue groups formed.
December 21	<u>Guiding Principles:</u> Draft discussed with full Review Team.
January	Initial work products available for review.

Guiding Principles: Draft statement and plan for public comment.

Other work groups: Draft scope of work and timetable for each group.

Mid January

Second meeting of the Review Team to review progress of issue groups and discuss draft of Guiding Principles. Overall scope of work and timetable for the entire Review to be discussed.

Meeting with advocacy groups and the five work group convenors.

Early February

Initial background papers completed. Key policy questions identified.

Review Team meets to determine what policy options each work group should pursue and how.

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NATIONAL DISABILITY POLICY REVIEW

WORK GROUP ASSIGNMENTS

December 12, 1994

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Michael Grant/ OPM	606-2086
Fred Pang (Claiborne Haughton)/ Defense	703-697-2086 (695-0105)
Bob Williams/ HHS	690-6590
Larry Parks (Carolyn Gunney)/ Commerce	482-6055 (482-2779)

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THE WHITE HOUSE

WASHINGTON

**Second Meeting of the National Disability Policy Review
December 21, 1994
Room 248, Old Executive Office Building**

Agenda

Welcome and Introduction

Carol H. Rasco
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Alice Rivlin
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and Budget

Accommodations Group

Deval Patrick
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Guiding Principles Group

Bob Williams
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Adult Employment Group

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(revised 12/7/94)

DRAFT ONLY -- NOT FOR DISTRIBUTION

"We must not rest until America has a national disability policy based on three simple creeds: inclusion, not exclusion; independence, not dependence; and empowerment, not paternalism." Bill Clinton, 1992

Today, more than at any other time in our Nation's history, increasing numbers of Americans with disabilities are realizing their birthright: Leading lives that are central to the vibrancy of their families, communities and country. Adults with disabilities have consistently rejected society's low estimation of their worth -- a far greater barrier than any common limitation of body or mind. Along with Congress, the White House, State Houses, and the judiciary, they have worked to achieve the same rights and equal opportunities available to all Americans. These individuals, their families, and allies from across our political spectrum have redefined both what it means to have a disability in America and a full, first class United States citizen as well.

To reflect the rich heterogeneity and diversity of the 49 million Americans with disabilities, the guiding principles in designing our public policy affecting Americans with disabilities must necessarily be broad and universal. Such principles can both refine our ideals and test future specific policy proposals against those ideals and the real-world constraints we face. This draft is intended to begin a national conversation to achieve consensus on how oft-stated goals of inclusion, empowerment, and independence will be realized.

Americans with disabilities and their families are focusing on the same crucial life goals which have become synonymous with the responsibilities and the very meaning of good citizenship:

- o Getting a good education;
- o Gaining a decent job for a decent living and pursuing a career;
- o Finding ways to contribute to our family, community and nation: and,
- o Raising our children to the best of abilities and drawing upon the needed support of our family, friends and community to do so.

Individuals with disabilities and their families are thus shaping a better life and future both for themselves and for our country as a whole. There is an American success story in progress. It is one which all Americans can identify with, aspire to and work together to help realize more fully.

Due in large part to their efforts, passage of key legislation, beginning at the State level in the early 1970's, and later at the federal level, in the areas of educational access, barrier free design and employment opportunities opened doors which had been slammed shut for decades:

- o In 1975, an estimated two million children with disabilities received a totally inadequate education or were barred from attending the public schools, altogether. Today, 5 million students with disabilities receive a free and appropriate education, many alongside their nondisabled classmates.
- o In 1967, around 200,000 Americans with developmental disabilities lived in large state institutions under some of the most degrading and deplorable conditions ever known in our nation. Today, over 375,000 of these individuals and others like them are supported in family or community settings. Approximately 75,000 residents, however, still live in State institutions.
- o Throughout the 60's, 70's and even the 80's, it was common for people with disabilities to be routinely denied access to their community's schools, swimming pools, banks, restaurants and even to the voting booth. Today, these acts are now not only illegal but unconscionable in the hearts and minds of Americans of every race, region and political persuasion.

Laws such as the Americans with Disabilities Act, the Individuals with Disabilities Education Act, the Rehabilitation Act Amendments of 1992 and the Technology-Related Assistance Act have challenged age old myths and stereotypes, creating hope and opportunity in the everyday lives of Americans with disabilities and many others through out our country.

A strong legislative foundation exists to strengthen the abilities of people with disabilities to exercise their rights and responsibilities as citizens to:

- o live as independently as possible;
- o enjoy self-determination;
- o make choices;
- o pursue meaningful careers; and,
- o participate fully in the economic, political, social, cultural and educational mainstream of society.

Building upon this foundation will not be easy, however. For, despite progress in assuring equal opportunities and promoting independence for Americans with disabilities, significant gaps and contradictions exist in a wide array of federal policies and programs that affect the daily lives of these citizens.

In its historic report, *Towards Independence*, the National Council on Disability underscored a disturbing truth:

With surprising consistency, the branches of American Government, disabled individuals and their families,... have agreed that the overall goal of the nation in regard to persons with disabilities is to insure the rights of such individuals to equality of opportunity and to independence.

Confusion and inconsistency have resulted, not from lack of consensus about the goal, but from the historical and continuing failure to structure and administer some Federal laws and programs in such a way as to reflect and further the national goal... Federal programs and laws that should serve as paths toward this goal have often deviated or even retreated from it.

One of the most critical challenges we face, therefore, as a Nation and a people is to steer a clearer, steadier course towards independence and inclusion. This means that the Executive and the Congress must work together with the States, people with disabilities, their families and allies, and the American public as well to:

- o strengthen and learn from public policies and programs which provide people with disabilities and their families access to supports and reasonable accommodations which increase their capabilities to live lives of their own choosing and direction; and,
- o redirect laws and programs which infringe upon the rights and abilities of such citizens to lead full and productive lives.

Americans with disabilities and their families are no longer looking to their Federal, State or local government to simply take care of them as government has tried to do and fallen far short of doing in the past. Instead, these citizens expect something far more profound of government at all levels: They expect their government to care deeply about their individual hopes and aspirations; their fears and worst nightmares; and, to support their efforts to be independent to the greatest extent possible.

This approach will require a fundamental break with many paternalistic and destructive policies, programs and practices of the past and present. The Executive and Congress should work hand in hand with Americans with disabilities and their families to review and overhaul Federal laws and programs that impact their lives. This effort should be guided by the following fundamental principles and truths, regarding the needs, rights and abilities of Americans with disabilities:

- o Historically, people with disabilities have been subjected to pernicious and pervasive discrimination and prejudice in every aspect of their lives.
- o Continuing unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and costs the U.S. billions of dollars in unnecessary expenses resulting in dependance and nonproductivity.
- o The Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals.
- o Strong, effective and fair enforcement of the Americans with Disabilities Act, Title V of the Rehabilitation Act, the Fair Housing Act Amendments, and the Individuals with Disabilities Education Act can help to eradicate discrimination against Americans with disabilities and strengthen our Nation's communities and economy.
- o For some individuals with disabilities, lifelong access to needed supports, like personal assistance and assistive technology, is critical. In fact, for millions of Americans with disabilities, it is the only thing, that can begin to tear down, the walls of myths, prejudices and stereotypes, which would otherwise inhibit or prevent them from leading full and productive lives.
- o All children, regardless of the level of their disabilities, belong with and do best with families. There is a clear national interest in supporting the efforts of families with children with disabilities to raise their sons and daughters at home and to include them in every facet of family and community life.
- o Young infants and toddlers with disabilities have a right to receive early intervention and childhood development services along with their nondisabled playmates.
- o All children with disabilities have the right to receive and benefit from a free and appropriate public education in an integrated, well supported classroom suited to their needs.
- o Inclusive education works best for children with and without disabilities when all students and their teachers receive the support they need to learn from each other and excel both at school and in life.
- o The role of public education is the same for students with and without disabilities alike: to challenge them to do

their best, to develop to their fullest potential and to assume their rightful roles and responsibilities as productive and contributing members of their families, communities and Nation.

- o Given the unnecessarily high rates of unemployment and under-employment of working age Americans with disabilities, effective school to work strategies must be developed to offer young people with disabilities the opportunities, skills and support they need to gain work experience, a positive work history, increased self confidence and success.
- o Welfare Reform, the School-to-Work initiative and AmeriCorp National Service efforts create crucial opportunities to assist young Americans, with and without disabilities, to gain first-time job, internship and volunteer community service experiences, together.
- o It should pay for Americans with disabilities to seek out and gain meaningful employment in our economy. Accordingly, Social Security and Federal tax policies should create real incentives rather than disincentives for working-age individuals with disabilities to work and to pursue careers.
- o The fear of losing Federal health benefits, and access to such vital supports as personal assistance, is often cited by disabled Americans as a major reason why they either have never worked or do not want to "risk" returning to work. It is imperative that such massive disincentives to employment be eliminated from every vestige of Federal law, policies and programs.
- o If given the chance and the needed support, many more working-age Americans with disabilities can make work pay off in their lives. However, substantial numbers of these individuals will require on going income support as well as access to community-based supports, personal assistance and assistive technology services.
- o Welfare Reform presents critical opportunities for the Federal government and the States to develop effective strategies for addressing the links between race, minority status, disability and pervasive poverty in our country.
- o States are developing community services that are cost effective and responsive to the needs of people with disabilities and families. Often, however, these States must seek waivers from current Federal Medicaid rules to do what is right. Such underlying policies and practices should be examined and remedied.

(continued)

- o States need flexibility to work with people with disabilities and their families to fashion responsive solutions to the challenges we face as a Nation.

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the federal level, in the areas of educational access, barrier free design and employment opportunities, opened doors which had been slammed shut for decades:

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Confusion and inconsistency have resulted, not from lack of consensus about the goal, but from the historical and continuing failure to structure and administer some Federal laws and programs in such a way as to reflect and further the national goal.... Federal programs and laws that should serve as paths toward this goal have often deviated or even retreated from it.

One of the most critical challenges we face, therefore, as a Nation and a people is to steer a clearer, steadier course towards independence and inclusion. This means that the Executive and the Congress must work together with the States, people with disabilities, their families and allies, and the American public as well to:

- o strengthen and learn from public policies and programs which provide people with disabilities and their families access to supports and reasonable accommodations which increase their capabilities to live lives of their own choosing and direction; and,
- o redirect laws and programs which infringe upon the rights and abilities of such citizens to lead full and productive lives.

Americans with disabilities and their families are no longer looking to their Federal, State or local government to simply take care of them as government has tried to do and fallen far short of doing in the past. Instead, these citizens expect something far more profound of government at all levels: They expect their government to care deeply about their individual hopes and aspirations; their fears and worst nightmares; and, to support their efforts to be independent to the greatest extent possible.

This approach will require a fundamental break with many paternalistic and destructive policies, programs and practices of the past and present. The Executive and Congress should work hand in hand with Americans with disabilities and their families to review and overhaul Federal laws and programs that affect their lives. This effort should be guided by the following fundamental principles and truths, regarding the needs, rights and abilities of Americans with disabilities:

- o Historically, people with disabilities have been subjected to pernicious and pervasive discrimination and prejudice in every aspect of their lives.
- o Continuing unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and costs the United States

billions of dollars in unnecessary expenses resulting in dependance and nonproductivity.

- o The Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals.
- o Strong, effective and fair enforcement of the Americans with Disabilities Act, Title V of the Rehabilitation Act, the Fair Housing Act Amendments, and the Individuals with Disabilities Education Act can help to eradicate discrimination against Americans with disabilities and strengthen our Nation's communities and economy.
- o For some individuals with disabilities, lifelong access to needed supports, like personal assistance and assistive technology, is critical. In fact, for millions of Americans with disabilities, it is the only thing that can begin to tear down the walls of myths, prejudices and stereotypes, which would otherwise inhibit or prevent them from leading full and productive lives.
- o All children, regardless of the level of their disabilities, belong with and do best with families. There is a clear national interest in supporting the efforts of families with children with disabilities to raise their sons and daughters at home and to include them in every facet of family and community life.
- o Young infants and toddlers with disabilities have a right to receive early intervention and childhood development services along with their nondisabled playmates.
- o All children with disabilities have the right to receive and benefit from a free and appropriate public education in an integrated, well-supported classroom suited to their needs.
- o Inclusive education works best for children with and without disabilities when all students and their teachers receive the support they need to learn from each other and excel both at school and in life.
- o The role of public education is the same for students with and without disabilities alike: to challenge them to do their best, to develop to their fullest potential, and to assume their rightful roles and responsibilities as productive and contributing members of their families, communities and Nation.
- o Given the unnecessarily high rates of unemployment and under-employment of working-age Americans with disabilities, effective school-to-work strategies must be developed to offer young people with disabilities the opportunities, skills and support they need to gain work experience, a

positive work history, increased self-confidence and success.

- o Welfare Reform, the School-to-Work initiative and AmeriCorp National Service efforts create crucial opportunities to assist young Americans, with and without disabilities, to gain first-time job, internship and volunteer community service experiences, together.
- o It should pay for Americans with disabilities to seek out and gain meaningful employment in our economy. Accordingly, Social Security and Federal tax policies should create real incentives rather than disincentives for working-age individuals with disabilities to work and to pursue careers.
- o The fear of losing Federal health benefits, and access to such vital supports as personal assistance, is often cited by disabled Americans as a major reason why they either have never worked or do not want to "risk" returning to work. It is imperative that such massive disincentives to employment be eliminated from Federal law, policies and programs.
- o If given the chance and the needed support, many more working-age Americans with disabilities can make work pay off in their lives. However, substantial numbers of these individuals will require on-going income support as well as access to community-based supports, personal assistance and assistive technology services.
- o Welfare Reform presents critical opportunities for the Federal government and the States to develop effective strategies for addressing the links between race, minority status, disability, and pervasive poverty in our country.
- o States are developing community services that are cost effective and responsive to the needs of people with disabilities and families. Often, however, these States must seek waivers from current Federal Medicaid rules to do what is right. Such underlying policies and practices should be examined and remedied.
- o States need flexibility to work with people with disabilities and their families to fashion responsive solutions to the challenges we face as a Nation.

(f:\...cbw\npr.sh)

(end)

THE WHITE HOUSE

WASHINGTON

October 3, 1994

MEMORANDUM TO SECRETARY LLOYD BENTSEN
SECRETARY JESSE BROWN
SECRETARY RONALD BROWN
SECRETARY HENRY CISNEROS
SECRETARY FEDERICO PENA
SECRETARY WILLIAM PERRY
ATTORNEY GENERAL JANET RENO
SECRETARY DONNA SHALALA
SECRETARY ROBERT REICH
SECRETARY RICHARD RILEY
COMMISSIONER SHIRLEY CHATER
DIRECTOR JAMES KING

FROM: Carol Rasco *CR*
Assistant to the President for
Domestic Policy

Alice Rivlin *AR*
Director
Office of Management and Budget

SUBJECT:- Disability Policy

National programs affecting persons with disabilities have developed rapidly over the last quarter century. New policies, laws, and social expectations have dramatically changed the lives of those with disabilities in areas ranging from entitlements to education, civil rights to transportation. With the Census Bureau estimating that 49 million Americans have some type of disability, the issue is of obvious national importance.

Both of us believe the timing is right to organize a review of the direction of, and next steps for, national disability policy. This important undertaking will need to be inclusive and wide-ranging, seeking the views of people with disabilities, their advocates and service providers, experts in the field, members of Congress and their staff, and federal, state and local officials.

We have asked our staffs to think about how such a review could be structured and what issues could be included. The attached memorandum reflects their initial thinking, and we believe it provides an effective starting point for discussions in and out of the Administration about this review.

October 3, 1994

Page 2

We are asking that each Department designate one or more key policy officials, perhaps at the Assistant Secretary level, to serve as participants in this policy review, which we will co-chair. We are asking our staff leads to meet with your designees as part of their outreach in the next month to develop a proposal for the structure, agenda, and work plan for this review. We would greatly appreciate it if your office would notify the DPC of your designated participants by calling 456-5566 by Wednesday October 12.

We have asked the staff coordinators to complete their initial meetings prior to and to prepare a proposal for a meeting of the Domestic Policy Council in early November. We appreciate in advance your cooperation with this important undertaking.

cc: Leon Panetta
Bob Rubin
Christine Varney

THE WHITE HOUSE
WASHINGTON

October 3, 1994

MEMORANDUM TO SECRETARY LLOYD BENTSEN
SECRETARY JESSE BROWN
SECRETARY RONALD BROWN
SECRETARY HENRY CISNEROS
SECRETARY FEDERICO PENA
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Assistant to the President for
Domestic Policy

Alice Rivlin *AR*
Director
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cc: Leon Panetta
Bob Rubin
Christine Varney

MEMORANDUM FROM JEREMY BEN-AMI AND STANLEY S. HERR

TO: DESIGNEES TO THE NATIONAL DISABILITY POLICY REVIEW

DATE: December 20, 1994 -- Draft # 2

PRELIMINARY WORK PLAN
Discussion Draft Only
National Disability Policy Review
December 1994 - February 1995

Background

In response to initial memoranda suggesting a National Disability Policy Review, the Domestic Policy Council received comments and input on the Review's proposed agenda and work plan. We have met with all the Departmental designees, first in small groups and most recently as a full team. We have consulted key advocates in the disability community, Congressional staffers, the heads of three presidential advisory committees in the disability field, and other experts. In addition, we have made a presentation on the Review to the full membership of the President's Committee on Mental Retardation, reached out to the Administration's appointees with disabilities, and begun to obtain background policy papers.

Oral and written responses have emphasized that such a review is important, overdue, and should involve significant input from individuals with disabilities and their advocates. The comments also stressed the need to be realistic in setting goals and to focus on some shorter-term achievable objectives while simultaneously engaging in a long-term policy process.

On November 30th, the Review Team met to develop a proposed work plan for the first three months of the Review. Based on the agreements reached at this meeting, we have revised our original draft of the work plan. The following pages outline a rewritten version highlighting the meeting's conclusions and laying out the issue groups formed and concrete assignments to date.

Work Plan

work during
This draft Work Plan proposes ~~proceeding on~~ two parallel tracks for the next three months. On the "Policy Track," work groups will meet and address the issues outlined below. ~~The concurrent~~ "Consultation Track" will ~~involve outreach and~~ *At the same time,* coordination with the advocacy community, Congressional staff, and the Presidential ~~committees.~~ *advisory*

I. POLICY TRACK

A thorough review of all aspects of disability policy is an ambitious undertaking. Review Team members and those commenting from outside the Review have agreed that it is sensible to conduct the work in phases, initially focusing on a few discreet issues to make the work more manageable. To this end, the Review Team, at its November 30 meeting, formed five work groups:
1) Guiding Principles, 2) Accommodations, 3) Children's Issues, 4) Employment of Working-Age Adults and 5) School-to-Work Transition.⁵

1. *Guiding Principles* -- There was significant agreement that the Review would benefit from the early development of a set of principles articulating the values guiding the Review. This statement of principles will not predetermine the policies to be developed through the Review, but instead guide Review Team members and staff in their work. It might eventually be the preamble to the Review's final report, ~~but~~ *subject to continued modification* might also be significantly ~~modified~~ along the way.

sub
This ~~group~~ *has* will convene in December to begin drafting an initial statement. The principles it develops should draw not only on Administration policy and statements and Presidential speeches, but on policies incorporated in recent legislation in this area. When the full Review Team meets on December 21, a draft of this statement will be discussed and reviewed.

Convenor: Bob Williams, Commissioner, Administration on Developmental Disabilities, Department of Health and Human Services.

2. *Accommodations* -- This ~~work~~ *sub* group will draw on the review process already in place through the Federal Disability Accommodations Working Group. Formed in August, 1994 by the DPC, this group has begun to examine how the federal government can be a model of making reasonable accommodations that will benefit its customers, job applicants, employees, and the general public.

The work of this group should lead to short-term achievable administrative recommendations that help demonstrate the

Spelling and Domestic Policy Council

Administration's commitment in this area.

Convenor: Deval Patrick, Assistant Attorney General, *Civil Rights* Division
Department of Justice

- formation*
3. *Childhood* -- This subgroup will examine educational, income benefit, and service programs available for children, from birth to age 18. *This group* is particularly timely given *that will* the ~~creation~~ *children* of the Childhood Disability Commission ~~to look~~ at the SSI *program* and the need to develop an administration policy that anticipates and/or responds to the findings of the Commission. ~~Also~~, the Individuals with Disabilities Education Act (IDEA) is up for reauthorization this year and will certainly raise important policy issues. *factors and other*

in addition

Convenor: David Ellwood, Assistant Secretary, Planning and Evaluation, Department of Health and Human Services.

- years of age*
4. *School-to-Work Transition* -- This subgroup will explore issues related to the transition to adulthood from education programs that serve people until they are 18 ~~and sometimes to 21~~. "Transitions" planning involves helping people to find employment, further schooling, independent or assisted living arrangements, and other activities that maximize their *potential*. *independence and*

Convenor: Judy Heumann, Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education.

- All participants in this process have*
5. *Employment of Working Age Adults* -- ~~There has been~~ consistent agreement that employment must be a centerpiece of the review. This subgroup will focus on the problems associated with the chronic unemployment and underemployment of persons with disabilities and review policy options for helping people enter -- and remain -- in the workforce.

Convenor: Susan Daniels, Associate Commissioner for the Office of Disability, Social Security Administration.

These groups will meet and eventually develop action steps in concert with the values and commitments identified in the *Guiding Principles* document. Additional work groups will be formed as appropriate throughout the process based on the findings of these initial working groups.

II. CONSULTATION TRACK

We would like to proceed on several fronts externally as the policy groups begin their work.

A. Presidential Committees

Each Presidential committee has designated a representative to participate on the Review Team, and we anticipate these committees will be integrally involved in the Review. We hope the Committees will be interested in exploring the same policy areas as the Review Team and will work with us to gather public input on these policy questions, hold public hearings, and conduct ongoing outreach efforts.

B. Advocacy Organizations

Each of the five referred to in the Policy Track discussion
~~The policy groups~~ should ~~each~~ meet with a wide range of organizations representing the interests of people with disabilities to give them the opportunity to provide information and input into their work. Each work group convenor will host a meeting with the advocacy community in order to update interested groups on the substance of the review as it relates to ~~each~~ *particular* issue area.

C. Legislative Bodies

We will also meet with legislative staff from both ~~Houses~~ *Chambers* and both parties to keep them fully apprised of the work of the Review.

III. AN ON-GOING PROCESS

Space periodic
This document is a working draft which we anticipate will undergo ~~constant~~ change throughout the review. ~~The review must function as an on-going process in which its planning and direction can be modified in response to the finding of various work groups and input received from interested parties.~~ *This*

TIMETABLE

A possible timetable would be as follows:

November 30

Issue groups formed .

December 21

Guiding Principles: Draft discussed with full Review Team

WJ Early January

Initial work products available for review.

Guiding Principles: Draft statement and plan for public comment,

Other Subgroups: Draft scope of work and timetable for each subgroup,

Second week January

Second meeting of the Review Team to review progress of issue groups and discuss draft of Guiding Principles. Overall scope of work and timetable for the entire Review to be discussed.

Meeting with advocacy groups and the *five* ~~5~~ work group convenors.

Early February

Initial background papers completed. Key policy questions identified.

Review Team meets to determine what policy options each subgroup should pursue and how.

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Dear Stan-

~~I wanted to wish you a happy~~
~~and relaxing birthday~~

MEMORANDUM FROM JEREMY BEN-AMI AND STANLEY S. HERR

TO: DESIGNEES TO THE NATIONAL DISABILITY POLICY REVIEW

DATE: December 21, 1994 -- Draft # 2

PRELIMINARY WORK PLAN
Discussion Draft Only
National Disability Policy Review
December 1994 - February 1995

Background

In response to initial memoranda suggesting a National Disability Policy Review, the Domestic Policy Council received comments and input on the Review's proposed agenda and work plan. We have met with all the Departmental designees, first in small groups and most recently as a full team. We have consulted key advocates in the disability community, Congressional staffers, the heads of three presidential advisory committees in the disability field, and other experts. In addition, we have made a presentation on the Review to the full membership of the President's Committee on Mental Retardation, reached out to the Administration's appointees with disabilities, and begun to obtain background policy papers.

Oral and written responses have emphasized that such a review is important, overdue, and should involve significant input from individuals with disabilities and their advocates. The comments also stressed the need to be realistic in setting goals and to focus on some shorter-term achievable objectives while simultaneously engaging in a long-term policy process.

On November 30th, the Review Team met to develop a proposed work plan for the first three months of the Review. Based on the agreements reached at this meeting, we have revised our original draft of the work plan. The following pages outline a rewritten version highlighting the meeting's conclusions and laying out the issue groups formed and concrete assignments to date.

Work Plan

This draft Work Plan proposes two parallel tracks for work during the next three months. On the "Policy Track," work groups will meet and address the issues outlined below. At the same time, the "Consultation Track" will engage in outreach and coordination with the advocacy community, Congressional staff, and the Presidential committees.

I. POLICY TRACK

A thorough review of all aspects of disability policy is an ambitious undertaking. Review Team members and those commenting from outside the Review have agreed that it is sensible to conduct the work in phases, initially focusing on a few discreet issues to make the work more manageable. To this end, the Review Team, at its November 30 meeting, formed five work groups:

1) Guiding Principles, 2) Accommodations, 3) Children's Issues, 4) Employment of Working Age Adults and 5) School-to-Work Transition.

1. *Guiding Principles* -- There was significant agreement that the Review would benefit from the early development of a set of principles articulating the values that would guide the Review. This statement of principles will not predetermine the policies to be developed through the Review, but instead guide Review Team members and staff in their work. It might eventually become the preamble to the Review's final report, subject to continual modification along the way.

This group will convene in December to begin drafting an initial statement. The principles it develops should draw not only on Administration policy and statements and Presidential speeches, but on policies incorporated in recent legislation in this area. When the full Review Team meets on December 21, a draft of this statement will be discussed and reviewed.

Convenor: Bob Williams, Commissioner, Administration on Developmental Disabilities, Department of Health and Human Services.

2. *Accommodations* -- This work group will draw on the review process already in place through the *Federal Disability Accommodations Working Group*. Formed in August, 1994 by the DPC, this group has begun to examine how the federal government can be a model of making reasonable accommodations that will benefit its customers, job applicants, employees, and the general public.

The work of this group should lead to short-term achievable administrative recommendations that help demonstrate the

Administration's commitment in this area.

Convenor: Deval Patrick, Assistant Attorney General,
Department of Justice

3. *Childhood* -- This subgroup will examine educational, income benefit, and service programs available for children, from birth to age 18. This group is particularly timely given the creation of the Childhood Disability Commission to look at the SSI program. The group will focus on developing an administration policy that will anticipate and respond to the findings of the Commission. Also, the Individuals with Disabilities Education Act (IDEA) is up for reauthorization this year and will certainly raise important policy issues.

Convenor: David Ellwood, Assistant Secretary, Planning and Evaluation, Department of Health and Human Services.

4. *School-to-Work Transition* -- This subgroup will explore issues related to the transition to adulthood from education programs that serve people until they are 18 (and sometimes 21). "Transitions" planning involves helping people to find employment, further schooling, independent or assisted living arrangements, and other activities that maximize their potential.

Convenor: Judy Heumann, Assistant Secretary, Office of Special Education and Rehabilitative Services,
Department of Education.

5. *Employment of Working Age Adults* -- There has been consistent agreement that employment must be a centerpiece of the review. This subgroup will focus on the problems associated with the chronic unemployment and underemployment of persons with disabilities and review policy options for helping people enter -- and remain -- in the workforce.

Convenor: Susan Daniels, Associate Commissioner for the Office of Disability, Social Security Administration.

These groups will meet and eventually develop action steps in concert with the values and commitments identified in the *Guiding Principles* document. Additional work groups will be formed as appropriate throughout the process based on the findings of these initial working groups.

II. CONSULTATION TRACK

We would like to proceed on several fronts externally as the policy groups begin their work.

A. Presidential Committees

Each Presidential committee has designated a representative to participate on the Review Team, and we anticipate these committees will be integrally involved in the Review. We look forward to working with the Committees on shared policy concerns. In particular, we expect to coordinate with them in gathering public input on these policy questions, holding public hearings and conducting ongoing outreach efforts.

B. Advocacy Organizations

The policy groups should each meet with a wide range of organizations representing the interests of people with disabilities to give them the opportunity to provide information and input into their work. Each work group convenor will host a meeting with the advocacy community in order to update interested groups on the substance of the review as it relates to each issue area.

C. Legislative

We will also meet with legislative staff from both Houses and both parties to keep them fully apprised of the work of the Review.

III. AN ON-GOING PROCESS

This document is a working draft that we anticipate will undergo constant change throughout the Review. The Review must function as an on-going process in which its planning and direction can be modified in response to the finding of various work groups and input received from interested parties.

TIMETABLE

A possible timetable would be as follows:

November 30	Issue groups formed
December 21	<u>Guiding Principles</u> : Draft discussed with full Review Team
Early January	Initial work products available for review <u>Guiding Principles</u> : Draft statement and plan for public comment <u>Other Subgroups</u> : Draft scope of work and timetable for each subgroup

Second week January

Second meeting of the Review Team to review progress of issue groups and discuss draft of Guiding Principles. Overall scope of work and timetable for the entire Review to be discussed.

Meeting with advocacy groups and the 5 work group convenors.

Early February

Initial background papers completed. Key policy questions identified.

Review Team meets to determine what policy options each subgroup should pursue and how.

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MEMORANDUM FROM JEREMY BEN-AMI AND STANLEY S. HERR

TO: DESIGNEES TO THE NATIONAL DISABILITY POLICY REVIEW

DATE: December 16, 1994 -- Draft # 2

PRELIMINARY WORK PLAN
Discussion Draft Only
National Disability Policy Review
December 1994 - February 1995

Background

In response to initial memoranda suggesting a National Disability Policy Review, the Domestic Policy Council received comments and input on the Review's proposed agenda and work plan. We have met with all the Departmental designees, first in small groups and most recently as a full team. We have consulted key advocates in the disability community, Congressional staffers, the heads of three presidential advisory committees in the disability field, and other experts. In addition, we have made a presentation on the Review to the full membership of the President's Committee on Mental Retardation, reached out to the Administration's appointees with disabilities, and begun to obtain background policy papers.

Oral and written responses have emphasized that such a review is important, overdue, and should involve significant input from individuals with disabilities and their advocates. The comments also stressed the need to be realistic in setting goals and to focus on some shorter-term achievable ~~goals~~ while simultaneously engaging in a long-term policy process. *objectives*

On November 30th, the Review Team met to develop a proposed work plan for the first three months of the Review. Based on the agreements reached at this meeting, we have revised our original draft of the work plan. The following pages outline a rewritten version highlighting the meeting's conclusions and laying out the issue groups formed and concrete assignments to date.

Work Plan

This draft Work Plan proposes proceeding on two parallel tracks for the next three months. On the "Policy Track" work groups will meet and address the issues outlined below. The concurring "Consultation Track" will involve outreach and coordination with the advocacy community, Congressional staff, and the Presidential committees.

I. POLICY TRACK

RECUMS [We received a great deal of feedback that we should conduct our work in phases, focusing initially on some things and later on others. In response, the Review Team has generally agreed to begin with a few discreet pieces in order to gain a feel for the work to be done and the way to proceed.] Following the November 30 meeting, five work groups were formed to address the following issues: 1) Guiding Principles, 2) Accommodations, 3) Children's Issues, 4) Employment of Working Age Adults and 5) School-to-Work Transition.

1. *Guiding Principles* -- There was significant agreement that the Review would benefit from the early development of a set of principles articulating the values guiding the Review. This statement of principles will not predetermine the policies to be developed through the Review, but instead ~~can~~ guide Review Team members and staff in their work. It might eventually be the preamble to the Review's final report, but ~~it~~ might also be significantly modified along the way.

This group will convene ~~its first meeting~~ ⁱⁿ December ~~to~~ to begin drafting ~~the~~ initial statement. The principles ~~it~~ ^{it develops} will draw not only on Administration policy and statements, ~~speeches and comments by the President,~~ but on policies incorporated in recent legislation in this area. When the full Review Team meets on December 21, ~~the substance of this statement can be further~~ discussed and reviewed. ^{will}

A draft of this
Convenor: Bob Williams, Commissioner, Administration on Developmental Disabilities, Department of Health and Human Services.

2. *Accommodations* -- This work group will draw on the review process already in place through the *Federal Disability Accommodations Working Group*. Formed in August, 1994 by the DPC, this group has begun to examine how the federal government can be a model of making reasonable accommodations that will benefit its customers, job applicants, employees, and the general public.

The work of this group ~~could~~ ^{should} lead to short-term achievable

administrative recommendations that ~~would~~^{examine} help demonstrate the Administration's commitment in this area.

Convenor: Deval Patrick, Assistant Attorney General, Department of Justice

3. *Childhood* -- This subgroup will ~~look at the range of~~^{examine} educational, income benefit, and service programs available for children, from birth to age 18. This group is particularly timely given the creation of the Childhood Disability Commission to look at the SSI program and the need to develop an administration policy that anticipates ~~or~~^{and/or} responds to the findings of the Commission. Also, the Individuals with Disabilities Education Act (IDEA) is up for reauthorization this year and will certainly raise important policy issues.

Convenor: David Ellwood, Assistant Secretary, Planning and Evaluation, Department of Health and Human Services.

4. *School-to-Work Transition* -- This subgroup will explore ~~range of~~ issues related to the transition to adulthood from education programs that serve people until they are 18 (~~but~~^{and sometimes} 21). "Transitions" planning involves helping people to find employment, further schooling, independent or assisted living arrangements, and other activities that maximize their potential. There is a small group that has ~~already begun meeting on this issue~~, and it might make sense to fold its work into the Review.

Convenor: Judy Heumann, Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education.

5. *Employment of Working Age Adults* -- There has been consistent agreement that employment must be a centerpiece of the review. This subgroup will focus on the problems associated with the chronic unemployment and underemployment of persons with disabilities and review policy options for helping people enter -- and remain -- in the workforce.

Convenor: Susan Daniels, Associate Commissioner for the Office of Disability, Social Security Administration.

These groups will meet and eventually develop action steps in concert with the values and commitments ~~to be~~ identified in the *Guiding Principles* document ~~now in progress~~. Additional work groups will be formed ~~through consultation and review of the~~ findings of these initial working groups.

as appropriate
throughout
the process
based on
the

II. CONSULTATION TRACK

We would like to proceed on several fronts externally as the policy groups ~~are formed~~ to begin their work.

A. Presidential Committees

change as a result of team membership
We will continue to work closely with the Presidential committees to provide them the opportunity to be integrally involved in the Review. We hope the Committees will be interested in exploring the same policy areas as the Review Team and in meeting with the Review Team members and gathering public input on these policy questions.

B. Advocacy Organizations

shd refer to doing hearings, outreach
The policy groups should each meet with a wide range of organizations representing the interests of people with disabilities to give them the opportunity to provide information and input into their work. Each work group convenor will host a meeting with the advocacy community in order to update interested groups on the substance of the review as it relates to each issue area.

C. Legislative

We will also meet with legislative staff from both Houses and both parties to keep them fully apprised of the work of the Review.

III. AN ON-GOING PROCESS

This document is a working draft which we anticipate will under-go constant change throughout the review. The review must function as an on-going process in which its planning and direction can be modified in response to the finding of various work groups and input received from interested parties.

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A possible timetable would be as follows:

November 30	Issue groups formed
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plan for public comment

Other Subgroups: Draft scope of work and timetable for each subgroup

Second week January

Second meeting of the Review Team to review progress of issue groups and discuss draft of Guiding Principles. Overall scope of work and timetable for the entire Review to be discussed.

Meeting with advocacy groups and the 5 work group convenors.

Early February

Initial background papers completed. Key policy questions identified.

Review Team meets to determine what policy options each subgroup should pursue and how.

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MEMORANDUM FROM JEREMY BEN-AMI AND STANLEY S. HERR

TO: DESIGNEES TO THE NATIONAL DISABILITY POLICY REVIEW

DATE: November 22, 1994

PRELIMINARY WORK PLAN
Discussion Draft Only
National Disability Policy Review
December 1994 - February 1995

Background

In response to initial memoranda suggesting a National Disability Policy Review, the Domestic Policy Council received comments and input on the Review's proposed agenda and work plan. We have met with all the Departmental designees, first in small groups and most recently as a full team. We have consulted key advocates in the disability community, Congressional staffers, the heads of three presidential advisory committees in the disability field, and other experts. In addition, we have made a presentation on the Review to the full membership of the President's Committee on Mental Retardation, reached out to the Administration's appointees with disabilities, and begun to obtain background policy papers.

Oral and written responses have emphasized that such a review is important, overdue, and should involve significant input from individuals with disabilities and their advocates. The comments also stressed the need to be realistic in setting goals and to focus on some shorter-term achievable goals while simultaneously engaging in a long-term policy process.

On November 30th, the Review Team met to develop a proposed work plan for the first three months of the Review. Based on the agreements reached at this meeting, we have revised our original draft of the work plan. The following pages outline a rewritten version highlighting the meeting's conclusions and laying out the issue groups formed and concrete assignments to date.

Work Plan

This draft Work Plan proposes proceeding on two parallel tracks for the next three months. On the "Policy Track" work groups will meet and address the issues outlined below. The concurring "Consultation Track" will involve outreach and coordination with the advocacy community, Congressional staff, and the Presidential committees.

1. POLICY TRACK

We received a great deal of feedback that we should conduct our work in phases, focusing initially on some things and later on others. In response, the Review Team has generally agreed to begin with a few discreet pieces in order to gain a feel for the work to be done and the way to proceed. Following the November 30 meeting, five work groups were formed to address the following issues: 1) Guiding Principles, 2) Accommodations, 3) Children's Issues, 4) Employment of Working Age Adults and 5) School-to-Work Transition.

1. *Guiding Principles* -- There was significant agreement that the Review would benefit from the early development of a set of principles articulating the values guiding the Review. This statement of principles will not predetermine the policies to be developed through the Review, but instead can guide Review Team members and staff in their work. It might eventually be the preamble to the Review's final report, but it might also be significantly modified along the way.

This group will convene its first meeting on December 14 to begin drafting the initial statement. The principles will draw not only on Administration policy and statements, speeches and comments by the President, but on policies incorporated in recent legislation in this area. When the full Review Team meets on December 21, the substance of this statement can be further discussed and reviewed.

Convenor: Bob Williams, Commissioner, Administration on Developmental Disabilities, Department of Health and Human Services.

2. *Accommodations* -- This work group will draw on the review process already in place through the *Federal Disability Accommodations Working Group*. Formed in August, 1994 by the DPC, this group has begun to examine how the federal government can be a model of making reasonable accommodations that will benefit its customers, job applicants, employees, and the general public.

The work of this group could lead to short-term achievable

administrative recommendations that would help demonstrate the Administration's commitment in this area.

Convenor: Deval Patrick, Assistant Attorney General,
Department of Justice

3. *Childhood* -- This subgroup will look at the range of educational, income benefit, and service programs available for children, from birth to age 18. This group is particularly timely given the creation of the Childhood Disability Commission to look at the SSI program and the need to develop an administration policy that anticipates or responds to the findings of the Commission. Also, the Individuals with Disabilities Education Act (IDEA) is up for reauthorization this year and will certainly raise important policy issues.

Convenor: David Ellwood, Assistant Secretary, Planning and Evaluation, Department of Health and Human Services.

4. *School-to-Work Transition* -- This subgroup will explore a range of issues related to the transition to adulthood from education programs that serve people until they are 18 (but sometimes 21). "Transitions" planning involves helping people to find employment, further schooling, independent or assisted living arrangements, and other activities that maximize their potential. There is a small group that has already begun meeting on this issue, and it might make sense to fold its work into the Review.

Convenor: Judy Heumann, Assistant Secretary, Office of Special Education and Rehabilitative Services,
Department of Education.

5. *Employment of Working Age Adults* -- There has been consistent agreement that employment must be a centerpiece of the review. This subgroup will focus on the problems associated with the chronic unemployment and underemployment of persons with disabilities and review policy options for helping people enter -- and remain -- in the workforce.

Convenor: Susan Daniels, Associate Commissioner for the Office of Disability, Social Security Administration.

These groups will meet and eventually develop action steps in concert with the values and commitments to be identified in the *Guiding Principles* document now in progress. Additional work groups will be formed through consultation and review of the findings of these initial working groups.

II. CONSULTATION TRACK

We would like to proceed on several fronts externally as the policy groups are formed to begin their work.

A. Presidential Committees

We will continue to work closely with the Presidential committees to provide them the opportunity to be integrally involved in the Review. We hope the Committees will be interested in exploring the same policy areas as the Review Team and in meeting with the Review Team members and gathering public input on these policy questions.

B. Advocacy Organizations

The policy groups should each meet with a wide range of organizations representing the interests of people with disabilities to give them the opportunity to provide information and input into their work. Each work group convenor will host a meeting with the advocacy community in order to update interested groups on the substance of the review as it relates to each issue area.

C. Legislative

We will also meet with legislative staff from both Houses and both parties to keep them fully apprised of the work of the Review.

ON-GOING PROCESS

This document is a working draft which we anticipate will under-go constant change throughout the review. The review must function as an on-going process in which its planning and direction can be modified in response to the finding of various work groups and input received from interested parties.

TIMETABLE

A possible timetable would be as follows:

November 30	Issue groups formed
December 21	<u>Guiding Principles</u> : Draft discussed with full Review Team
Early January	Initial work products available for review <u>Guiding Principles</u> : Draft statement and

plan for public comment

Other Subgroups: Draft scope of work and timetable for each subgroup

Second week January

Second meeting of the Review Team to review progress of issue groups and discuss draft of Guiding Principles. Overall scope of work and timetable for the entire Review to be discussed.

Meeting with advocacy groups and the 5 work group convenors.

Early February

Initial background papers completed. Key policy questions identified.

Review Team meets to determine what policy options each subgroup should pursue and how.

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MEMORANDUM FROM JEREMY BEN-AMI AND STANLEY S. HERR

TO: DESIGNEES TO THE NATIONAL DISABILITY POLICY REVIEW

DATE: November 22, 1994

PRELIMINARY WORK PLAN
Discussion Draft Only
National Disability Policy Review
December 1994 - February 1995

Background

In response to initial memoranda suggesting a National Disability Policy Review, the Domestic Policy Council received comments and input on the Review's proposed agenda and work plan. We have met or will soon be meeting with all the Departmental designees. We have consulted key advocates in the disability community, Congressional staffers, the heads of three presidential advisory committees in the disability field, and other experts. In addition, we have made a presentation on the Review to the full membership of the President's Committee on Mental Retardation, reached out to the Administration's appointees with disabilities, and begun to obtain background policy papers.

Oral and written responses have emphasized that such a review is important, overdue, and should involve significant input from individuals with disabilities and their advocates. The comments also stressed the need to be realistic in setting goals and to focus on some shorter-term achievable goals while simultaneously engaging in a long-term policy process.

Based on these comments, we have outlined in the following pages key options and questions to be discussed by the Review Team on November 30th as it develops a proposed work plan for the first three months of the Review. We received a great deal of feedback that we should conduct our work in phases, focusing initially on some things and later on others. Although this discussion draft suggests possible ways of phasing the work, the key decisions of whether and how to stagger the work of the Team are left open for discussion on the 30th. We do hope that at that meeting or soon thereafter issue groups will be formed, members will volunteer for those groups, and concrete assignments with deadlines will be made.

Please review the attached material in advance of the meeting, prepare your concrete suggestions, and be ready to identify those tasks in which you and your staff will be able to participate. Thank you for your constructive engagement in this process so far.

Work Plan

This draft Work Plan proposes proceeding on two parallel tracks for the next three months. On the "Policy" track, the Team will break into a series of issue groups to address areas agreed to on the 30th. On the "Consultation" track, we propose outreach and coordination with the advocacy community, Congressional staff, and the Presidential committees. These two tracks are outlined in more detail below, and a timetable follows.

I. POLICY TRACK

Two possible approaches to the work of the Review have been proposed. At the meeting on the 30th, we would like to focus discussion on the potential frameworks described below, and any additional ones that Review Team members would like to suggest. Within each framework, there is the further question of whether and how to phase the work - i.e., do we start all of the subgroups working at once or do we begin some sooner than others.

A. Framework A: The "Life Cycle" Approach

One approach to the Review is to set up a series of interagency subgroups oriented around the different phases in people's lives - so that the full range of policies, programs and issues affecting people of different age groups can be looked at holistically. There are at a minimum, three clear subgroups that could be set up, but there might be more:

1. Childhood -- This subgroup would look at the range of educational, income benefit, and service programs available for children, from birth to age 18. This group would be particularly timely given the creation of the Childhood Disability Commission to look at the SSI program and the need to develop an administration policy that anticipates or responds to the findings of the Commission. Also, the Individuals with Disabilities Education Act (IDEA) is up for reauthorization this year and will certainly raise important policy issues.
2. Transition to Adulthood -- This subgroup would explore a range of issues related to the transition to adulthood from education programs that serve people until they are 18 (but sometimes 21). "Transitions" planning involves helping people to find employment, further schooling, independent or assisted living arrangements, and other activities that maximize their potential. There is a small group that has already begun meeting on this issue, and it might make sense to fold its work into the Review.
3. Adulthood -- This subgroup would focus on policies affecting

adults. A work group in this area would almost certainly focus on the problems associated with the chronic unemployment and underemployment of persons with disabilities and review policy options for helping people enter -- and remain -- in the workforce.

In addition, it might make sense to break into some narrower groups, for instance, having a group on infants and toddlers, and one on aging and the elderly.

B. Framework B: The Issue Cluster Approach

An alternative framework for the Review is to break into issue-based subgroups that would look at such areas as:

- o work and employment policies
- o housing
- o technology
- o transportation
- o childhood issues
- o administrative coordination of, for instance, applications for services, eligibility, services, and consumer information

A more complete list of potential issue clusters appears on pages 2 and 3 of the September 30th memorandum. The selection of issue clusters for the Review would be made by the Team on November 30th. Each subgroup would still be an interagency effort looking across departmental and program lines but might have a narrower substantive and strategic focus.

The Team might choose to adopt some of Framework A and some of Framework B and form some "Life Cycle" groups and some issue-based groups.

C. Discussion on November 30th

The key issues for discussion and decision on November 30th will be:

- o What general framework does the Team want to adopt to guide its work? Does the life-cycle or the issue-based approach, or some combination, make sense?
- o Given the general framework adopted, what is the best way to break into subgroups?
- o Do we want to form all the subgroups at this point, and if so, should they all begin work now, or should we phase them in over the coming months?

We hope that the end result of the meeting on the 30th will be that the Review Team forms several interagency groups, each chaired by a member of the Review Team, which any Review Team member may join. Decisions about groups can be revisited throughout the Review, as appropriate. A decision not to include an issue in the first phase should not be taken as a reflection of its importance as an issue.

D. Other Subgroups

In addition to the groups addressing policy areas as discussed above, two other suggestions have been made for potential subgroups for the Review:

1. Guiding Principles -- There was significant agreement that the Review would benefit from the early development of a set of principles articulating the values guiding the Review. This statement of principles would not predetermine the policies to be developed through the Review, but instead would guide Review Team members and staff in their work. It might eventually be the preamble to the Review's final report, but it might also be significantly modified along the way.

These guiding principles would draw not only on Administration policy and statements, speeches and comments by the President, but on policies incorporated in recent legislation in this area.

We propose forming a group on the 30th, charged with producing a short document not a lengthy discourse in consultation with all Review Team members and broadly with consumers and advocates. In addition to producing a draft for comment by the Review Team, the group would also propose a mechanism for obtaining broad public comment and a timetable for its public dissemination.

2. Federal Disability Accommodations Working Group -- In August, the DPC formed a Federal Disability Accommodations Working Group, which has just started to examine how the federal government can be a model of making reasonable accommodations that will benefit its customers, job applicants, employees, and the general public.

The work of this group could lead to short-term achievable administrative recommendations that would help demonstrate the Administration's commitment in this area.

II. CONSULTATION TRACK

We would like to proceed on several fronts externally as the policy groups are formed to begin their work.

A. Presidential Committees

We will continue to work closely with the Presidential committees to provide them the opportunity to be integrally involved in the Review. We hope the Committees will be interested in exploring the same policy areas as the Review Team and in meeting with the Review Team members and gathering public input on these policy questions.

B. Advocacy Organizations

The policy groups should each meet with a wide range of organizations representing the interests of people with disabilities to give them the opportunity to provide information and input into their work.

C. Legislative

We will also meet with legislative staff from both Houses and both parties to keep them fully apprised of the work of the Review.

TIMETABLE

A possible timetable would be as follows:

November 30	Issue groups formed
Early January	Initial work products available for review <u>Guiding Principles</u> : Draft statement and plan for public comment <u>Other Subgroups</u> : Draft scope of work and timetable for each subgroup
Second week January	Second meeting of the Review Team to review progress of issue groups and discuss draft of Guiding Principles. Overall scope of work and timetable for the entire Review to be discussed.
Early February	Initial background papers completed. Key policy questions identified. Review Team meets to determine what policy options each subgroup should pursue and how.

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PRELIMINARY WORK PLAN
Discussion Draft Only
National Disability Policy Review
December 1994 - February 1995

Background

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Oral and written responses have emphasized that such a review is important, overdue, and should involve significant input from individuals with disabilities and their advocates. The comments also stressed the need to be realistic in setting goals and to focus on some shorter-term achievable goals while simultaneously engaging in a long-term policy process.

On November 30th, the Review Team met to develop a proposed work plan for the first three months of the Review. Based on the agreements reached at this meeting, we have revised our original draft of the work plan. The following pages outline a revised version highlighting the meeting's conclusions and laying out the issue groups formed and concrete assignments to date. We received a great deal of feedback that we should conduct our work in phases, focusing initially on some things and later on others.

We hope that the end result of the meeting on the 30th will be that the Review Team forms several interagency groups, each chaired by a member of the Review Team, which any Review Team member may join. Decisions about groups can be revisited throughout the Review, as appropriate. A decision not to include an issue in the first phase should not be taken as a reflection of its importance as an issue.

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2. Federal Disability Accommodations Working Group -- In August, the DPC formed a Federal Disability Accommodations Working Group, which has just started to examine how the federal government can be a model of making reasonable accommodations that will benefit its customers, job applicants, employees, and the general public.

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Early February	Initial background papers completed. Key policy questions identified. Review Team meets to determine what policy options each subgroup should pursue and how.

Work Plan

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General #1

generally agreed
break into subgroups

- work to be done in phases
- best way to start is a few
discrete pieces to gain feel
for where to proceed

~~Describe 5 subgroups:~~

Will form ad hoc subgr as needed
on ^{ad hoc} issue areas: aspects of
review as time goes on

membership: schedule
consultors only

Consultant work -

each chair to hold mtg &
interested advocacy groups.

3. Adulthood -- This subgroup would focus on policies affecting adults. A work group in this area would almost certainly focus on the problems associated with the chronic unemployment and underemployment of persons with disabilities and review policy options for helping people enter -- and remain -- in the workforce.

In addition, it might make sense to break into some narrower groups, for instance, having a group on infants and toddlers, and one on aging and the elderly.

B. Framework B: The Issue Cluster Approach

An alternative framework for the Review is to break into issue-based subgroups that would look at such areas as:

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- o housing
- o technology
- o transportation
- o childhood issues
- o administrative coordination of, for instance, applications for services, eligibility, services, and consumer information

A more complete list of potential issue clusters appears on pages 2 and 3 of the September 30th memorandum. The selection of issue clusters for the Review would be made by the Team on November 30th. Each subgroup would still be an interagency effort looking across departmental and program lines but might have a narrower substantive and strategic focus.

The Team might choose to adopt some of Framework A and some of Framework B and form some "Life Cycle" groups and some issue-based groups.

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The key issues for discussion and decision on November 30th will be:

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- o Given the general framework adopted, what is the best way to break into subgroups?
- o Do we want to form all the subgroups at this point, and if so, should they all begin work now, or should we phase them in over the coming months?

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Jeremy: Elizabeth mass-faxed this version to our designees. It contains their edits, my clean-ups, and a little further negotiation on my part with Lisa on page 3, adding "narrower substantive and strategic focus," to point up the difference between A & B approaches.

Stan

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review: its planning - ongoing process
continually revising school plan
according to input received