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President's Committee on Employment
of People with Disabilities

*I believe these
events indicate
progress for
disability rights.
Congratulations!
Justin*

Washington FAX

An update of activities, programs and projects of the President's Committee

August 1993

Special ADA Anniversary Issue
by
Justin Dart

Vol. 1, No. 9

HISTORIC FACE-TO-FACE DIALOGUES WITH PRESIDENT AND ATTORNEY GENERAL, LANDMARK PRESIDENTIAL APPOINTMENTS, NEW YORK MARCH, MAJOR MEDIA FOCUS, VICTORY FOR AIRLINE ACCESS HIGHLIGHT NATIONWIDE ADA BIRTHDAY CELEBRATIONS

Colleagues, ADA had a great third birthday party. President Clinton and Attorney General Reno came through for justice. Many major media entities came through for justice. Most importantly, thousands of you came through for justice. People with disabilities still face a long, perilous march to the promised land of full equality and full empowerment. But the last few days have demonstrated once again the potential of united advocacy and people first democracy. My mind and spirit are lifted from the cloudy probable to the shining possible.

I could not begin to list all of your magnificent ADA birthday events; this is a summary of happenings in which I was privileged to participate -- or of which I have personal knowledge.

JULY 23, PRESIDENT CLINTON ISSUES A SPECIAL HAPPY BIRTHDAY ADA MESSAGE TO THE NATION: "Our country doesn't have a single person to waste, and we must invest in each person's enormous potential by fully implementing the Americans with Disabilities Act. . . . My Administration is committed to shifting disability policy away from exclusion, towards inclusion; away from dependence, towards independence; away from paternalism and towards empowerment."

JULY 26, THE PRESIDENT ADDRESSES A CHICAGO CONFERENCE ON THE WORKPLACE OF THE FUTURE: "There is one group of American workers I really want to acknowledge today. This is the third anniversary of one of our most important civil rights laws, the Americans with Disabilities Act. For more than 40 million people, the law is clearing the barriers to full participation in American life. . . ." Marca Bristo, National Council on Disability Chairperson-Designate, was chosen to be one of 12 Americans serving with the President on the gathering's showcase panel.

JULY 26, THE PRESIDENT ANNOUNCES A LANDMARK APPOINTMENT: BOB

NEWS

FOR IMMEDIATE RELEASE
Friday, July 23, 1993

CONTACT: Reginald Welch
Nicole Spiegelthal
(202) 663-4900
TDD (202) 633-4494

EEOC MARKS FIRST YEAR OF ENFORCING THE AMERICANS WITH DISABILITIES ACT IN THE WORKPLACE

WASHINGTON -- In its first year of enforcing the employment provisions (Title I) of the Americans with Disabilities Act, the U.S. Equal Employment Opportunity Commission has taken in almost 12,000 discrimination charges, informed millions about their rights and responsibilities under the law, and continues to develop policy and guidance to aid and ensure compliance.

Called the most sweeping civil rights legislation since the Civil Rights Act of 1964, the law known simply as the ADA extends anti-discrimination protections for people with disabilities -- estimated at 43 million Americans -- to the private sector and state and local governments.

Equal Employment Opportunity Commission Chairman Tony E. Gallegos said the ADA is "a tremendously timely and important law," and confidently predicted that "its impact has only begun to be felt."

In announcing the most current enforcement statistics for Title I of the ADA, which cover the period from the effective date of July 26, 1992 through June 30, 1993 (full year data will not be available until mid-August), director of Program Operations James H. Troy cautioned that, while some basic information can be gleaned from the data, it is too soon to talk in definite terms about ADA enforcement trends or what the ultimate impact of the ADA will be on the overall work force. "At this time we're looking at the numbers to see where our resources should be directed in terms of training, education, policy matters and personnel to best execute our enforcement responsibilities," he said.

The data show 11,760 ADA charges have been filed with EEOC nationwide. This is about 15 percent of the approximately 79,689 charges filed with the agency under all statutes for the same 11-month period.

- more -

First Year (cont'd.) -- Page 2

Following the pattern of all statutes that EEOC enforces, the largest percentage of ADA charges -- 48.6 percent -- have been based on alleged discriminatory discharge. The second largest category, and one unique to the ADA, is reasonable accommodation, on which 21.9 percent of charges are based.

Resolutions of ADA charges total 2,279, which include charges that resulted in charging parties receiving settlements and various benefits, those found to be without merit, or charges resolved administratively before a determination on the merits of the charge was made. Monetary benefits to charging parties come to over \$11 million.

EEOC has filed two ADA lawsuits in federal district courts, one resulting in a \$222,000 judgment against AIC Security Investigations, Inc. in Chicago. The other suit is against Mason Tenders District Council Welfare Fund, a New York-based self-insured health and welfare organization, which singled out AIDS for lower coverage than for other disabilities. EEOC's interim enforcement guidance on disability-based distinctions in employer-provided health insurance plans, which was issued on June 8, served as the basis for this suit.

Philip B. Calkins, EEOC's acting director of Communications and Legislative Affairs, and among a cadre of individuals directly involved in the ADA's passage, summarized EEOC's broad role in enforcing Title I: "The Commission certainly is first and foremost a law enforcement agency, but -- and this is especially true with a new law -- it is an educator, a provider of technical assistance, and a promoter of voluntary compliance as well."

The dates of enactment of the ADA (July 26, 1990) and implementation of Title I (July 26, 1992 for employers of 25 or more, and July 26, 1994 for employers of 15 or more) provided time to educate the public and employers about the law prior to its taking effect. Additional funds were earmarked for this -- a \$1.4 million supplemental appropriation to EEOC's fiscal year 1993 budget for ADA technical assistance and outreach.

But first, EEOC had to issue regulations detailing how the employment provisions of the act would be implemented. It also had to issue extensive guidance explaining the major provisions of the regulations. After a series of meetings with disability rights groups, various organizations, employers and employer groups and associations, final regulations were issued and published in the Federal Register, as mandated, within one year of the act taking effect, on July 25, 1991.

Anticipating the influx of calls about the ADA after the regulations were issued, a help line was established to handle the hundreds of calls a day that the agency received.

- more -

Meanwhile, to make sure EEOC staff was up to speed on the law, comprehensive training was undertaken by investigators, litigators, headquarters personnel and support staff in intensive, week-long training sessions. Concurrent with the first year of ADA enforcement, EEOC recently issued its first "Refresher Training Module" to field offices as part of an ongoing program to keep investigators and others current on enforcement guidance and other developments that impact ADA case handling.

Carrying out its mandate to inform the public, employers and others affected by the act, EEOC has distributed millions of information booklets, manuals, fact sheets, posters and other materials explaining Title I, and available in alternate formats for individuals with certain disabilities.

Through a national Technical Assistance Program Seminar initiative, EEOC field offices across the country are providing training to primarily small employers on complying with the ADA and all other EEOC-enforced laws. The agency predicts that over the next two years about 10,000 employers will attend these seminars conducted by experts in EEO laws and regulations.

More direct outreach efforts are being achieved as a result of EEOC spearheading the training of 400 individuals who go into their communities and train employers and other persons. Approximately 5,000 persons with disabilities and 4,000 employers and other entities covered by the ADA have had the training. EEOC has extended the contract with the Disability Rights Education and Defense Fund for a second year to continue this program.

In addition, over 2,000 presentations were given to various groups on the law and how it affects their industry or constituency in 1990-1992 alone. These presentations are ongoing.

Emphasis was placed on getting information about the ADA into the workplace. Mailings to 5.9 million businesses were made through the IRS. Employers were informed about their basic responsibilities under the act and told how to get EEOC's comprehensive ADA Technical Assistance Manual and Resource Guide at no charge to them.

In addition to Title I of the ADA, which prohibits discrimination against people with disabilities in the private sector and state and local governments, EEOC enforces prohibitions against discrimination affecting individuals with disabilities in the federal government; Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin; the Age Discrimination in Employment Act; the Equal Pay Act; and sections of the Civil Rights Act of 1991.

* * *

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AMERICANS WITH DISABILITIES

"Opportunity is critical to what we have to do as a nation to meet the great challenges we face and to move forward into the next century...We will not allow Americans with disabilities to be kept from realizing their dreams by closed doors or narrow minds."

President Bill Clinton

July 26, 1995

President Clinton came to Washington with a plan to put people first by making the government more accountable and accessible to all Americans, including those with disabilities. From the White House to every federal agency, this Administration has demonstrated an unprecedented commitment to address the concerns of Americans with disabilities. The President is committed to supporting the 49 million Americans with disabilities in their efforts to exercise their full rights and responsibilities, to live as independently as possible and to be productive throughout their lives.

A RECORD OF ACCOMPLISHMENTS:

- **Fighting Discrimination:** Under President Clinton, federal agencies have vigorously enforced the Americans with Disabilities Act, the Individuals with Disabilities Education Act and other critical civil rights laws that prohibit discrimination against people with disabilities in schools, workplaces and public areas across the nation. President Clinton strongly opposes attempts to weaken these laws.
- **Protecting Health Care:** The Clinton Administration refuses to go backwards on health care coverage for Americans with disabilities and has rejected proposals to end the Medicaid guarantee to meaningful health benefits for people with disabilities. President Clinton has preserved Medicaid coverage for 6 million persons with disabilities, including 1 million children. Without Medicaid, many families would have to impoverish themselves to pay for a child's medical care, give up their jobs to stay home to care for a child or seek placement in an institution. Medicaid is often the only form of health care available to people with disabilities and allows many children and adults to receive services at home rather than in institutions.
- **Improving Education for Children with Disabilities:** President Clinton is fighting to increase the Individuals with Disabilities Education Act's focus on educational results for children and cutting unnecessary paperwork so that more time can be spent on teaching and learning. The Administration has recommended a 12% increase above the 1996 funding level for the basic state grant program and opposes weakening the guarantee of a right to education for children with disabilities.
- **Increasing Home and Community-Based Programs:** The Clinton Administration's flexibility in granting state waivers has spurred an increase in home and community-based services. As a result, the number of people with developmental or cognitive disabilities served in home and community waiver programs nearly doubled to 122,000 in 1994.

- **Support for Families:** President Clinton fought for and enacted the Family and Medical Leave Act making workplaces more accommodating for many families that include a child or adult with a disability. In 1995, the President vetoed a budget bill that would have significantly cut cash assistance to most families with disabled children on Social Security -- families who are struggling to care for a child at home and face extra costs for home modifications, equipment and income lost because a parent is unable to work full-time.
- **Increasing Access:** By enacting the National Voter Registration Act and the Telecommunications Reform Act, President Clinton has made voting easier and communications technology more accessible for Americans with disabilities.
- **Transportation and Housing:** The Clinton Administration is helping to connect people with disabilities to employment, educational opportunities and a full range of public activities by ensuring that Americans with Disabilities Act and Fair Housing Act requirements for accessible bus and rail transit systems, paratransit services and housing are fully implemented.
- **Employment of People with Disabilities:** The Clinton Administration is offering individuals with disabilities the opportunity to increase their independence through rehabilitation services and work incentive programs.
- **Appointees with Disabilities:** The President has appointed an impressive group of people with disabilities to high-level policy-making positions, including many people prominent in the disability community. Many of these appointments are to key positions that are not directly related to disability issues.

THE CHALLENGES AHEAD:

- Under President Clinton, federal agencies will continue to vigorously enforce the Americans with Disabilities Act with a balanced approach that emphasizes voluntary compliance wherever possible.
- The President has proposed a balanced budget that maintains meaningful health benefits for people with disabilities and supports insurance reforms to prohibit insurance companies from denying coverage because of pre-existing conditions.
- President Clinton is committed to expanding employment options for people with disabilities and challenging all Americans to understand that people with disabilities can contribute to this country when given access to the workplace, health care, community services and technology.
- The Clinton Administration will work to maintain a strong Individuals with Disabilities Education Act for children with disabilities and to improve educational results for students with disabilities.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

31-Jul-1996 12:20pm

TO: Elizabeth Berman

FROM: Diana M. Fortuna
 Domestic Policy Council

CC: Dorothy K. Craft

SUBJECT: Last two cites for disability issue brief

Here are my last 2 citations:

3rd bullet: "The Administration has recommended a 12% increase above the 1996 funding level for the basic state grant program":

o President's FY1997 Budget, p. 401; and "Justification of Appropriation Estimates to the Congress, FY1997, Dept. of Education, page F-12.

4th bullet: "flexibility in granting state waivers has spurred an increase in home and community-based services....the number of people with developmental or cognitive disabilities served in home and community waiver programs nearly doubled to 122,000 in 1994."

o "Medicaid waivers approved during the Clinton Administration," Department of Health and Human Services summary document, June 1996.

o Prouty and Lakin, eds., "Residential Services for Persons with Developmental Disabilities, Status and Trends through 1995," University of Minnesota study. Same data just cited in GAO report, "Medicaid: Waiver Program for Developmentally Disabled is Promising but Poses Some Risks," July 1996.

My previous e-mail to you notes that the numbers in this bullet can be updated to read "more than doubled to 149,000 in 1995."

Americans with Disabilities

- o **"Federal agencies have vigorously enforced the ADA, the IDEA, and other critical civil rights laws...."**

- o Department of Justice quarterly reports, "Enforcing the ADA: A Status Report". Includes data on lawsuits, amicus briefs filed, cases settled, either formally or informally, and public education efforts. Published quarterly since April 1994.

Note: DOJ encourages us not to measure vigorous enforcement simply by the number of lawsuits, since their emphasis is on voluntary compliance and education wherever possible.

- o Equal Employment Opportunity Commission, Report from General Counsel, "Litigation of Cases Under Title I of the ADA", February, 1996
- o Department of Transportation, "Implementing the Americans with Disabilities Act, A Report on the Department of Transportation's Accomplishments: Americans with Disabilities Act, and Related Laws," July 12, 1996.
- o Federal Communications Commission, "Building Bridges to the Information Superhighway: Annual Report of the Disabilities Issues Task Force," April 26, 1996.

The FCC notes that it relies partly on complaints to enforce the ADA, and that it has received only a handful of complaints.

- o Individuals with Disabilities Education Act: IDEA Implementation Monitoring Reports for various states, such as New York State's 1993 report, Massachusetts 1994 report, California's 1995 report; Department has filed three amicus briefs, such as Holland vs. Sacramento; Report to Congress on IDEA, annually; Department action to withhold funds from the state of Virginia

Note: The Department stresses partnership with states in its enforcement efforts, rather than litigation.

- o **"preserved Medicaid coverage for 6 million persons with disabilities, including 1 million children"**
- o Analysis by Medstadt (consulting firm) of Health Care Financing Administration (HCFA) data (HCFA 20-82 report) from 1994 for SSI recipients, adjusted by staff from HHS Assistant Secretary for Planning and Evaluation office to reflect other than SSI data.

- o "increase IDEA's focus on educational results for children and cutting unnecessary paperwork"
 - o Testimony by Secretary Richard W. Riley, before the House Committee on Economic and Educational Opportunities Subcommittee on Early Childhood, Youth and Families, June 20, 1995.
- o "The Administration has recommended a 12% increase above the 1996 funding level for the basic state grant program [IDEA]"
 - o President's 1997 budget (pages still being determined)
- o "flexibility in granting state waivers has spurred an increase in home and community-based services....the number of people with developmental or cognitive disabilities served in home and community waiver programs nearly doubled to 122,000 in 1994."
 - o Still getting citation
- o "By enacting ... the Telecommunications Reform Act, President Clinton has made ... communications technology more accessible"
 - o Federal Communications Commission, "Building Bridges to the Information Superhighway: Annual Report of the Disabilities Issues Task Force," April 26, 1996.
- o "ensuring that ADA and Fair Housing Act requirements for accessible bus and rail transit systems, paratransit services and housing are fully implemented."
 - o Transportation: Department of Transportation, "Implementing the Americans with Disabilities Act, A Report on the Department of Transportation's Accomplishments: Americans with Disabilities Act, and Related Laws," July 12, 1996.
 - o Housing: I do not know who inserted this part of the statement and, unless there is some evidence I am not aware of, I recommend it be dropped since I don't think we can substantiate it.

DPC
follow
up

[

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

30-Jul-1996 07:05pm

TO: Elizabeth Berman

FROM: Diana M. Fortuna
 Domestic Policy Council

CC: Dorothy K. Craft

SUBJECT: Changes

The following are the changes I would propose to make:

AMERICANS WITH DISABILITIES:

1st bullet: This change is optional: drop "and other critical civil rights laws that" (and clean up so it flows). But if this has already gone out to the disability community, I would be reluctant to make this change.

4th bullet: This is an update: change last phrase to read: "programs more than doubled to 149,000 in 1995."

5th bullet "Support for Families": It is possible we should drop the second sentence on SSI. The welfare reform bill that will soon come to us for signature or veto cuts 315,000 disabled children off the SSI rolls. We reluctantly support this, and disability groups are very upset about it. The 2 bills we vetoed had even worse things in them. We got a lot of credit for the vetoes, but they are getting to be old news. So, while this statement is entirely correct, it may rub salt in the wound given that we ARE willing to cut this program substantially. However, if this issue brief already went out, I would be concerned about appearing to backtrack by dropping this.

Minor change in that same sentence (if we keep it): there were two vetoes, one a budget bill in late 1995, and the other a welfare bill in early 96. So we could say "Twice the President vetoed bills..."

7th bullet "Transportation and Housing": As I said in my citations, I didn't add housing, and I am concerned the statement as it stands is too strong. I would say "implementing the ADA and Fair Housing Act requirements for accessible bus and rail transit systems, paratransit services, and housing."

CHILDREN AND FAMILIES:

Page 2: Helping Families Move From Welfare to Work: updated waiver numbers are 69 waivers in 41 states.

Page 3: "Removing Barriers to Adoption": second to last sentence: This may have come from HHS because I didn't write it. If there is no source found for it, I would think it should be dropped.

Page 4: "Increased Funding for Nutrition": drop this bullet. The reason: if you factor in the position we have taken in welfare reform, the numbers don't go up.

"Reaching Full Participation in WIC": Change last sentence to read: "Every dollar invested in WIC benefits for pregnant women has been proven to save approximately \$3 in health care costs." Reason: Department changed its mind.

"Reforming the School Lunch Program": I think Dorothy Craft has given you an updated number for the number of Team Nutrition schools.

WELFARE REFORM:

1st bullet: again, update waivers to 69 waivers in 41 states.

4th bullet "Tough New Sanctions for Refusing to Work": say "The President has changed" because the reg was finally published.

Thanks so much for your patience with this. I still owe you citations for 2 facts.

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**OPERATION PEOPLE FIRST:
TOWARD A NATIONAL DISABILITY POLICY**

**A REPORT OF
THE PRESIDENT'S COMMITTEE ON EMPLOYMENT OF
PEOPLE WITH DISABILITIES'
1993 TELECONFERENCE PROJECT**