



MENTAL HEALTH "PARITY"

Alabama Coalition Efforts

*R. Emmett Poundstone III, Chairperson
Alabama Coalition for Mental Health Parity*

During the 2000 regular session of the Alabama Legislature, Act 2000-386 was passed and signed into law by Governor Don Siegelman. With this Act, Alabama joins over 30 states that have enacted legislation to require some sort of "parity" in health insurance coverage between physical health problems and mental health problems. The passage of Act 2000-386 is a result of the efforts of many organizations and individuals who worked to get this legislation enacted.

Progress began in 1997 when the Alabama Department of Mental Health and Mental Retardation, the National Alliance for the Mentally Ill in Alabama, the Mental Health Consumers of Alabama, and the Alabama Mental Health Association formed a coalition in an attempt to get "parity" legislation enacted in Alabama. A parity bill was introduced in the 1998 regular session of the Alabama Legislature, but the Coalition was unsuccessful in getting it passed. In 1999, the original four organizations

decided to expand the coalition membership in an effort to gather more support for passage. As a result the "Alabama Coalition for Mental Health Parity"* was formed.

After prolonged negotiations between the Coalition and Blue Cross/Blue Shield (BC/BS), and with active support and assistance from Governor Siegelman, a revised bill was introduced in the 2000 Legislative session. The primary sponsors of the bill were Senator Jack Biddle in the Senate and Representatives Marcel Black and Gerald Allen in the House. As a result of hard work by the Coalition membership, the bill's sponsors and the Governor, Act 2000-386 was enacted.

Act 2000-386 required all group health insurance plans and policies issued after January 1, 2001 to offer mental health benefits "under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illnesses." The Act covers employers with 50 employees or more.

Recently a BC/BS spokesperson has indicated that the provisions of Act 2000-386 do not apply to BC/BS. In order to make sure BC/BS is subject to the Act, the Coalition intends to work with Representative Black, Senator Biddle and Governor Siegelman to introduce legislation to clarify this matter. The Coalition will monitor compliance with the Act and

develop a plan to educate and encourage employers to purchase full mental health benefits.

ADAP joins the Coalition this spring to continue work on parity.

*Coalition Organizations:

Mental Health Consumers of Alabama
National Alliance for the Mentally Ill of Alabama
Alabama Directions Council
Mental Health Association of Alabama
VOICES of Alabama
Alabama Department of Mental Health and Mental Retardation
Alabama Disabilities Advocacy Program
Alabama Mental Illness Planning Council
Alabama Council for Community Mental Health Boards
Department of Mental Health and Mental Retardation Management Steering Committee
Alabama Psychiatric Society
Alabama Psychological Association
Alabama State Nurses Association
Autism Society of Alabama
Alabama Pharmacy Association
Alabama AFL-CIO
Alabama Coalition of Professional Social Workers
Governor's Office on Disabilities
Eli Lilly
Alabama Mental Health Counselors Association
Association of Licensed Psychologists of Alabama

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Last Minnesotans Leave State Institutions

This article was published in the December 2000 issue of *Community Services Reporter* of the National Association of State Directors of Developmental Disabilities Services, Inc., and is reprinted with their permission.

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Minnesota recently became the tenth and most populous state thus far to have transferred all people with developmental disabilities from state-run institutions to the community. The movement of the last residents from state Regional Centers was recently celebrated at an event in the State Capitol Building in St. Paul.

The transition to community-based care began in the early 1970s, when advocates for persons with developmental disabilities started to lobby for the elimination of large residential institutions in favor of integrating individuals into community life. A 1974 U.S. district court decision in a class action lawsuit (*Welsch v. Likens*) called for Minnesota to reduce the number of persons with developmental disabilities in state hospitals. During the 1980s, state officials embarked on a plan to close state-run institutional programs for persons with developmental disabilities and to return people to community based residential supports. This plan received further impetus in 1984 with the initiation of Medicaid home and community based waiver services as well as in 1987 when a negotiated settlement in the *Welsch* lawsuit called for further downsizing regional treatment centers. The goals of the settlement agreement were incorporated in [to] Minnesota law in 1989.

In 1965, 6,080 Minnesotans with developmental disabilities were living in state institutions. By July 2000, the remaining twenty residents with developmental disabilities had been transitioned to community homes. A public celebration was held at the state capitol on November 14, 2000. Sponsored by the Department of Human Services, this event marked this milestone in Minnesota's history of serving persons with mental retardation and developmental disabilities. For more information contact Patrice Vick, Information Officer, Minnesota Department of Human Resources, 651/582-1889.



Beginning April 12, volunteers from across Alabama will unite in Birmingham to help build the Habitat Hope House—the first habitat home in the nation built entirely by persons and their families with mental health issues. The home will be built in partnership with a deserving family and Greater Birmingham Habitat for Humanity (GBHFH).

The Habitat Hope House is co-sponsored by Compeer of Birmingham, a non-profit agency that

matches caring volunteers in a one-to-one supportive friendship with adults and children who are receiving treatment for mental or emotional problems. The project will serve as a model for breaking down stigma and barriers among all people and prove that all people can come together for the common goal of helping a fellow human in need.

Registration is now open for volunteers and family members overcoming mental health challenges who want to take part in this landmark event. Vol-

ALABAMIANS WITH DISABILITIES ACT IS COMING

Senator Wendell Mitchell's (D-Luverne) comments announcing the bill he will introduce in this Legislative Session:

More than 850,000 Alabamians have a significant disability. Disability is equal opportunity in its impact on people and families. It does not know age, gender, race or economic status. But people with disabilities and their families have to face unequal barriers to participation in the everyday lives of our communities—and many of these barriers are man-made. The Alabamians with disabilities Act will help us challenge those barriers and find ways to accommodate disability instead of excluding it. It will parallel much of the 10-year-old Americans with Disabilities Act (ADA). Portions of that historic civil rights legislation are currently being challenged in the U.S. Supreme Court, and citizens with disabilities fear the loss of opportunity that may result. While our proposed state legislation cannot fully take the place of the ADA, it is important that we take swift action to protect the hard-earned gains of the last ten years.

ADAP will distribute a special edition of Airmail dedicated to this historic proposed bill. The special edition will provide information about the bill and an opportunity for people to educate themselves about a bill that protects the rights of Alabamians with disabilities.



ADAP is a statewide, independent program established to protect, promote and expand the rights of adults and children with disabilities.

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication, plus editorials. Inquiries may be sent to Segail I. Friedman, Information Specialist, at the address printed below.

Airmail is published by Alabama Disabilities Advocacy Program (ADAP) of The University of Alabama School of Law Clinical Programs.

unteers can build for a day or for an entire week. Work days will be Thursday through Saturday with typical shifts from 8:00 a.m. to 12:00 noon and 12:00 to 4:00 p.m.

THE KICKOFF CELEBRATION will be on April 12th in the new Edgewater Oaks subdivision. This area was ravaged by the tornado of 1998 and will eventually be the site of an 80-home subdivision. "The combined efforts of all persons with mental health issues and the rebuilding of an area

damaged by nature demonstrates that if we all pull together we can overcome any adversity," says Jan Bell, GBHFH board chair. "What a beautiful way to celebrate Easter weekend with renewed HOPE!"

For registration information, please contact Greater Birmingham Habitat for Humanity by calling 205-780-1234; Compeer of Birmingham at 205-444-0076; or writing Habitat Hope House Project, P.O. Box 540, Fairfield, AL 35064.

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ADAP ADOPTS PRIORITIES FOR FY 2001

In October, ADAP staff revised the 2001 priorities. The revisions and additions are noted in color.

With input from consumers, advocates, advisory councils, and the public at large, ADAP adopted the following priorities for FY 2001. Thank you to everyone who provided the information for the establishment of the following priorities.

Children's Issues

(PADD, PAIMI, PAIR)

- * Protection of the rights of children with disabilities who are placed in or at risk of being placed in foster care
- * Protection of children from abuse and neglect in residential facilities
- * Advocating for provision of appropriate services for children with multiple needs

Education

(PADD, PAIR, PAIMI)

- * Advocating for the education of children with disabilities in the least restrictive environment with appropriate supports and services
- * Advocating for development and implementation of appropriate education programs for children aged 3 to 21, pursu-

ant to the Individuals with Disabilities Education Act and Section 504

- * Advocating for appropriate practices, procedures and policies with respect to the discipline of children with disabilities

Residential Placements

(PADD, PAIMI)

- * Ensuring that residential facilities are safe and that residents are free from abuse and neglect
- * Advocating for appropriate community placements and supports for individuals in institutions and for appropriate transitional services for those persons
- * Advocating for appropriate treatment for persons in state-operated institutions and in community placements

ADA/Discrimination

Issues

(PAIR, PADD, PAIMI)

- * Assist in access to housing through coordination with Fair Housing Centers in Alabama and other organizations
- * Advocating for access to state and local government programs and services
- * Advocating for access to public accommodations

Assistive Technology

(PAAT)

- * Advocating for Medicaid payment for augmentative communication devices for children with disabilities and for power wheelchairs for adults with disabilities
- * Advocating for provision of AT to children with disabilities in special education

ADAP's four programs are designated as follows:

- PADD = Protection and Advocacy for Persons with Developmental Disabilities
- PAIMI = Protection and Advocacy for Individuals with Mental Illness
- PAIR = Protection and Advocacy for Individual Rights
- PAAT = Protection and Advocacy for Assistive Technology

ADAP WORKS TO REDUCE BARRIERS FACED BY STUDENTS WITH DISABILITIES AT HUFFMAN HIGH SCHOOL

Lorrie C. Herrington, Student Advocate

In the spring of 1999, a situation was brought to ADAP's attention concerning a student with disabilities who attended Huffman High School in Birmingham, Alabama. The student used a wheelchair, had blindness and faced physical and program barriers each day.

Because of these barriers, a number of the School's programs and activities were inaccessible to the student. ADAP investigated and found that the School was not in compliance with the accessibility requirements of Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act. ADAP made numerous attempts to resolve this matter directly with Huffman High School and the Birmingham City School District. Unfortunately, the District continually failed to respond in a substantive and timely manner to these efforts.

Consequently, ADAP filed a formal complaint on behalf of the client and other similarly situated students with the United States Department of Education's Office for Civil Rights (OCR) in January of 2000. OCR investigated and in June of 2000 conducted an on-site investigation. OCR's review revealed the following accessibility problems:

1. The existing parking designated for individuals with disabilities was not accessible.
2. Some sidewalks were inaccessible because they were too steep.
3. There was no appropriate signage.
4. Each building did not contain at least one accessible male and female restroom.

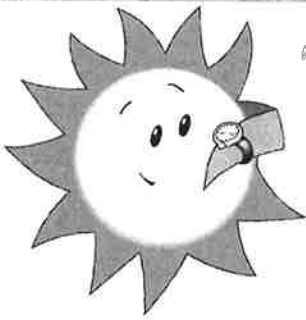
5. There were no audio/visual alarms in the restrooms.
6. Many water fountains were not accessible.

In addition to the above problems, OCR identified additional accessibility problems relating specifically to two buildings at Huffman High School.

During the course of the investigation, OCR found that students with disabilities were located in portable trailers, whereas students without disabilities were not. The segregation of students with disabilities from other students violates Section 504 and Title II. OCR concluded that the District was not in compliance with Section 504 and Title II because students with disabilities were treated differently from students without disabilities.

The Birmingham City School District entered into a settlement agreement with OCR to resolve all violations by September 28, 2001, with a report submitted to OCR by October 30, 2001. For a complete timeline to resolve the violations contact David Gamble at 800/826-1675.

As this particular case demonstrates, even in the 21st Century, many barriers exist to the integration of persons with disabilities. Through the provision of advocacy, ADAP continues to address these barriers in an effort to promote the full and equal participation of individuals with disabilities in all areas of society.



"It's Never Too Early!!"

Alabama Department of Rehabilitation Services
Alabama Early Intervention System
Diane Roberts - Early Intervention Specialist

Consider the excitement and planning that a new baby brings! Together family members anticipate the birth of the child and plan how best to meet his or her needs. When the new baby has a special need, families may require assistance in planning how to best care for the newest member.

Early entry into a statewide system of resource access, support and appropriate services exists in Alabama for families who have children under the age of three with special needs and/or developmental delays. Alabama's Early Intervention System (AEIS), a division of the Alabama Department of Rehabilitation Services, provides a coordinated, family-focused system of supports and services. In the last fiscal year more than 3,535 families were served by AEIS through 64 organized programs, 11 service coordination agencies, and over 100 approved private vendors. EI supports and appropriate services are comprehensive, encourage active involvement of the family and, whenever possible, are provided in environments that are inclusive and natural for children within the family's local community.

In Alabama, infants and toddlers from birth through age two are eligible to receive EI supports and services if they have a 25% delay in one of the following areas: cognitive, physical, communicative, social, emotional or adaptive, or if they have a diagnosis of a physical and or medical condition that will likely result in developmental delay. AEIS works with advocacy organizations such as ADAP, professional service personnel, families, and agency members to continually provide awareness of the availabil-

ity of this system to new and potentially eligible families. The Alabama EI system is accessible by simply calling the statewide toll free **EI Child Find** number **1-800-543-3098** or by calling the Alabama Department of Rehabilitation Services at (334) 281-8780. Families may also enter the program through community EI programs or medical community referrals.

Family members, agency heads and staff from ten state agencies, experts in personnel and child development, and service providers have worked diligently since 1986 to create a family-focused system of supports and services for eligible children with developmental delays, and their families. This system has been created under federal legislation—Individuals with Disabilities Education Act (IDEA)—and is intended to promote a system of services for eligible children and their families by coordinating and supplementing programs and services that are *already* in place in our state. The federal government, state government, other state agencies, and third-party payers provide financial assistance for the development and implementation of this system.

As with other federal education programs, eligible children and parents are protected under state and federal regulations by rights which ensure that supports, services, activities and proce-

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dures are planned with full involvement of the child's parents and other family members and are delivered in the best interest of the child and his or her family.

In Alabama, the rights of eligible children and families include parental consent, complaint procedures, confidentiality, access to records and due process procedures. Each eligible child and family also must have a written plan—the Individualized Family Service Plan (IFSP)—that describes the resources, services and goals for the child and family. The plan must be developed within 45 days of the referral for services and must be developed in cooperation with a team which includes the family, providers, and community resource individuals. Federal and state laws also require that each family receives the support of a service coordinator—a named individual who offers guidance to the family and helps them to identify their strengths and needs, access needed resources, and make informed decisions.

Under the federal law, each state is charged with deciding the most appropriate lead agency for its EI system. In Alabama, the lead agency for early intervention is the **Alabama Department of Rehabilitation Services (ADRS)**, the agency charged with the mission of helping Alabama's children and adults with disabilities achieve their maximum potential. ADRS works closely with the Governor's Interagency Coordinating Council (ICC), which is composed of families, early intervention service providers, agencies and childcare and legislative representatives. The ICC meets quarterly to advise and assist the lead agency in the development of Alabama's Early Intervention System.

To find out more about AEIS, visit the ADRS website at www.rehab.state.al.us or contact Betsy Prince, AEIS Coordinator, at (334) 281-8780.

Parking Violation
sample ticket

THIS IS NOT A TICKET BUT A REMINDER YOU ARE PARKED

- [] in a space reserved for people with disabilities
- [] across a ramp for people who cannot step up or down curbs or who use wheelchairs

This parking space is provided for people whose disabilities make its use a necessity.

The new Alabama State law enables police officers to ticket cars improperly parked in accessible spaces on private and public property.

If you would like information about the American with Disabilities Act (ADA) or rights of people with disabilities contact:



Alabama Disabilities
Advocacy Program (ADAP)
Box 870395
Tuscaloosa, AL 35487-0395
800/826-1675 or
adap@law.ua.edu

Thank You!

Don't put up with insensitive drivers parking in the "accessible" spaces in parking lots or on city streets. ADAP now has brightly colored, attention grabbing "tickets" that can be tucked under the windshield wiper of those pesky vehicles. Included on the "ticket" is ADAP's contact information so apologetic drivers who want to learn more about the rights of persons with disabilities may do so. Anyone wanting bundles of 10 or 20 "tickets" may write, e-mail, or call ADAP at: Box 870395, Tuscaloosa, AL 35487-0395, (205) 348-4928 or 1-800-826-1675; or adap@law.ua.edu.

March is Alabama's Developmental Disabilities Awareness Month
The respect of HUMANITY,
the strength of DIVERSITY,
the foundation of COMMUNITY,
belong to EVERYONE.

Excerpts from Governor Don Siegelman's Proclamation designating March as Alabama's Developmental Disabilities Awareness Month.

"... WHEREAS: Over 78,800 individuals with developmental disabilities live in our state where the Alabama Council for Developmental Disabilities works in partnership with consumers, their families, advocacy organizations and policymakers to enhance the quality of life for individuals with developmental disabilities; where the vision is for all Alabamians, regardless of disability, to live, learn, work and play in inclusive communities where the worth of every individual is valued, individual needs are supported, opportunities are barrier free, and individuals may live to their fullest potential; and,

WHEREAS: Great effort continues in Alabama to create a climate for positive societal change by advocating for people with developmental disabilities and their families, by providing them with access to vital information, by empowering them with knowledge to make informed choices and to exercise control over their own lives; and by calling Alabamians into action to support and conduct opportunities for self-determination, independence, productivity, integration, and inclusion into all facets of community life;

... [I] call on Alabama governmental agencies, the medical and legal communities, public and private organizations, businesses, and the people of Alabama to observe this month with forums, programs, and activities designed to encourage Alabama recognition of and support for people with developmental disabilities."

[Signature]
Don Siegelman, Governor

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Greater Birmingham
Habitat for Humanity



Compeer



TOGETHER WE CAN

Over 30 million people in the United States, one in five adults, are currently affected by mental illnesses. With appropriate treatment and support, they can lead fulfilling lives. However, negative stereotypes and stigmas associated with mental illness often hinder those with mental illness from seeking treatment.

PEOPLE WITH MENTAL ILLNESS VOLUNTEER TO BUILD A HOME AND BRING NEW HOPE

*Habitat Hope House Helps
De-Stigmatize Mental Illness*

The Greater Birmingham Habitat for Humanity (GBHFH) and Compeer, a nonprofit agency that matches volunteers with adults and children being treated for mental or emotional conditions, are working to change that. It is important for communities to confront the attitudes, fears, and misunderstandings that create barriers to treatment and then offer support to those dealing with mental illness. As a member of the planning committee for the Habitat Hope House, Alabama Disabilities Advocacy Program, the federally mandated statewide protection and advocacy system, is elated to be a part of this outstanding effort.

Construction of Habitat Hope House is the first Habitat for Humanity home in the nation to be built exclusively by volunteers with mental illnesses, their families, and mental health caregivers. The house idea originated with Compeer of Birmingham and is funded by a grant from Forest Laboratories, a national pharmaceutical company.

“As the Hope House walls are raised, myths and stereotypes about persons with mental illness will be torn down,” says Jan Bell, GBHFH Board Chair.

The Habitat Hope House project serves as a model for breaking down the stigma of mental illness and demonstrates that people can come together to help others. “Forest is committed to supporting education and awareness of mental illness. It is our hope that projects like Habitat Hope House will draw attention to mental illness and demonstrate that people dealing with mental illness can lead productive lives,” said Tom Hatchett of Forest

Laboratories. “We believe this project sets an example of people from various walks of life joining together to overcome misperceptions.”

The individuals benefiting from this project are the Williams and Taylor families. Darryl Taylor and his family currently live in substandard conditions and have put in over 300 hours of “sweat equity” towards a downpayment for their home. A recent widower, Mr. Taylor was left alone with his two-year old daughter, Angel. His mother-in-law, Ms. Williams, is helping care for the child and assisted in the selection of carpet and vinyl colors. The family is thrilled and said, “We are blessed; it is a wonderful partnership of people helping people.”

Compeer of Birmingham unites the community in its effort to understand and cope with mental illness by bringing together the therapist, the

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Alabama Respite Network Development Project Begins

The Alabama Council on Developmental Disabilities has awarded United Cerebral Palsy of Huntsville and Tennessee Valley a grant funding a three-year project to develop and implement a system that establishes and facilitates a network of respite service resources.

Don Bjornstad, Project Coordinator



Increasing the availability and accessibility of high quality respite services for Alabama families who care for someone with developmental disabilities is the mission of a new project in Alabama. The project, Alabama Respite Resource Network (ARRN), begins the first year with its primary objective to develop a strategic plan for accomplishing goals for respite in Alabama.

Examples of respite services are any support options provided on a short-term basis for the purpose of relief to the primary caregiver who provides care to an individual of any age with disabilities, and/or a child or an adult at risk of abuse or neglect.

The project is currently in the information gathering and analysis phase of the planning process. Collection of information on existing respite resources in Alabama, best practices in respite programs or networks and potential funding sources will result in a comprehensive database and network of respite services available in Alabama.

Development of a written strategic plan is the major activity for this project year. The project will be aided by a statewide volunteer task force whose members include individuals with disabilities, parents, other consumers of respite services, and representatives from state agencies and organizations whose clients use, or could benefit from, respite services.

Our task force convened for its first meeting on March 21 in Montgomery. Liz Newhouse, former Assistant Director of the Texas Respite Resource Network and ARRN Project Consultant, spoke about the accomplishments and lessons learned during her 15 years of experience in developing and operating a successful statewide respite network.

A major issue for respite programs is funding. The ARRN Project will assist in identifying possible funding streams from the federal and state governments that could be used to underwrite respite services. Foundations operating in Alabama will be surveyed to inquire whether they accept applications for grants to fund respite services.

The Alabama Respite Resource Network needs your assistance in identifying and locating respite programs. If you are a Respite Care Provider or know of a respite program, please contact Don Bjornstad, Project Coordinator, at 1-800-225-2012, ext. 112.

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U.S. SUPREME COURT ISSUES RULING IN *GARRETT v. UNIVERSITY OF ALABAMA*

Patrick Hackney, Staff Attorney



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On February 21, 2001, the United States Supreme Court issued its ruling on *Garrett v. University of Alabama*. The *Garrett* case is actually two cases that have been consolidated. Patricia Garrett, a former nurse at UAB with breast cancer, and Milton Ash, a corrections officer with asthma and other disabilities, sued the State of Alabama because both claimed they suffered job discrimination due to their disabilities. The issue in *Garrett* is whether state employees can recover monetary damages in a suit under Title I of the Americans with Disabilities Act (ADA). The State of Alabama argued that Congress exceeded its authority when it enacted the ADA. The Supreme Court agreed with Alabama and held that Congress did not have the constitutional authority to waive a state's sovereign immunity, which is protected by the Eleventh Amendment.

The Court concluded that Congress did not have the authority under the Fourteenth Amendment (Equal Protection Clause) to waive a state's immunity. In reaching this conclusion, the Court applied a two-part test: (1) whether the ADA was designed to remedy a history of unconstitutional conduct and (2) whether the remedy contained in the statute was "proportionate" to the history of constitutional violations. The Court answered both questions in the negative. According to the Court, Congress needed to demonstrate that the states themselves had engaged in a "pattern of unconstitutional discrimination." The Court called the legislative record compiled by Congress "unexamined anecdotal accounts" not entitled to the status of "legislative findings." The Court went on to say that even if there had been a sufficient record of discrimination, the remedies set forth in the ADA far exceed those which are required to remedy state unconstitutional conduct. Discrimination based on disability is only entitled to "rational basis" scrutiny, which means a state only needs to have a rational reason for treating persons with disabilities differently. As Justice Rehnquist noted in the majority opinion, it would "be entirely rational and therefore constitutional for a state employer to conserve financial resources by hiring employees who are able to use existing facilities."

Justice Breyer wrote a strongly worded dissent, which three other Justices joined. Justice Breyer found that "the legislative record . . . indicates that state governments subjected those with disabilities to seriously adverse, disparate treatment . . ." The dissent also found that the majority "improperly invade[d] a power that the Constitution assigned to Congress."

The *Garrett* decision raises disturbing questions regarding the validity of Title II of the ADA and other disability rights statutes. However, the immediate implications are somewhat limited. It only affects the ability of persons with disabilities to sue state employers in federal court for money damages in employment discrimination cases. The decision does not prevent individual suits against a state employer for injunctive relief. The decision does not bar suits initiated by the federal government for money damages. The decision likewise does not bar suits for money damages against local governments or private employers. The decision does not affect the validity of Title II of the ADA. There continue to be other legal avenues for pursuing employment discrimination claims against the state, including suing for money damages under Section 504 of the Rehabilitation Act. While *Garrett* has somewhat weakened civil rights protections for persons with disabilities, the majority of legal prohibitions against disability discrimination remain intact.

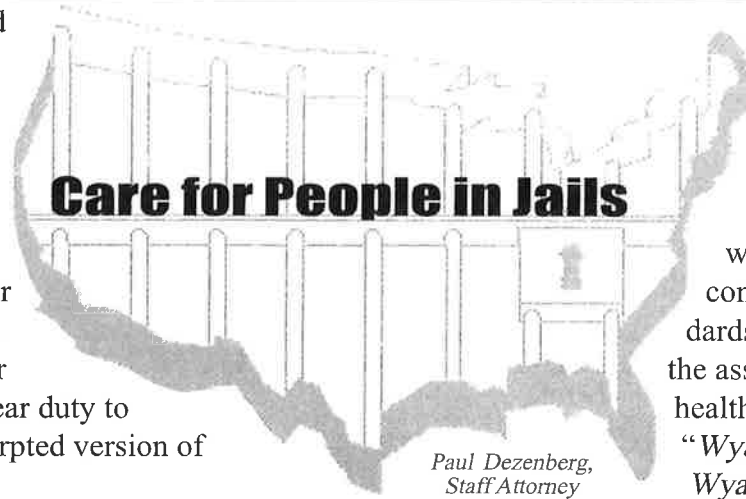
ADAP recently filed an amicus brief before the United States Court of Appeals for the Eleventh Circuit concerning the provision of psychiatric care to persons in county jails. In that case, a prisoner had been denied psychiatric care, and jail personnel later claimed that they had no clear duty to provide such care. An excerpted version of the amicus brief follows.

“JR tells a jailer that he needs psychiatric counseling or the jail might have a body on its hands. Four hours later, JR is escorted from his cell and taken to the drunk tank. He is placed in belly chains. He remains in the drunk tank for nearly nineteen hours. He is not offered any counseling. He is not given any water, or a bathroom break. No medical personnel monitor JR, or check on his physical condition. No medical personnel are involved in the decision to place or keep JR in chains.

Jail personnel claim that nothing out of the ordinary occurred, that they had no clear duty to do anything differently. Because their argument glosses over significant, compelling precedent pertaining to an institutionalized individual’s right to medical care, and the circumstances under which restraints may be used on an institutionalized individual, this Amicus Brief outlines the contours of those rights. Put succinctly, this Court has acknowledged that the right to medical care carries with it the implicit requirement that qualified medical personnel be involved in the provision of that care.

FEDERAL COURTS IN ALABAMA HAVE SET FORTH STANDARDS PERTAINING TO THE USE OF RESTRAINTS ON PERSONS WITH MENTAL ILLNESS IN INSTITUTIONS.

In the landmark decision of *Wyatt v. Stickney*, 325 F. Supp. 781 (M.D. Ala. 1971), the federal district court found that Bryce Hospital used “scientifically and medically inadequate” treatment programs for involuntarily confined



citizens. Accordingly, the court in 1972 enjoined Alabama officials to bring facilities into compliance with minimum constitutional standards developed with the assistance of mental health experts (the “Wyatt” standards). *Wyatt v. Stickney*, 344 F. Supp. 373 (M.D.

Ala. 1972), *aff’d in relevant part*, 503 F.2d 1305 (5th Cir. 1974). The *Wyatt* standards have become a model used throughout the nation.

The *Wyatt* standards recognize the individual dignity of each person. One key component of the standards is the right of persons with mental illness to be free from unreasonable restraint or isolation. Institutionalized individuals are particularly vulnerable to potential abuse by persons with authority over them. To prevent this from occurring, a mental health professional must be consulted within the hour in conjunction with the use of restraints and must review the need for restraints on a continuing basis. Every hour, the patient must be provided bathroom breaks, and his or her physical condition must be monitored by qualified personnel. While *Wyatt* laid the foundation for constitutional standards of care for persons with civil commitments, this Circuit has applied a similar analysis in defining the rights of prisoners to psychiatric care.

THE ELEVENTH CIRCUIT HAS RULED THAT PRISON INMATES HAVE A CONSTITUTIONAL RIGHT TO PSYCHIATRIC CARE.

In *Rogers v. Evans*, 792 F.2d 1052 (11th Cir. 1986), the Eleventh Circuit held that the Eighth Amendment to the United States Constitution protects prison inmates from deliberate indifference to psychiatric needs. *Rogers* involved a claim brought by the parents of a woman who committed suicide in prison. The

Continued on page 5

Court held that the parents could proceed with their claim against a consulting psychiatrist.

Subsequent to *Rogers*, the Eleventh Circuit has addressed other claims of deliberate indifference to psychiatric needs. See, e.g., *Greason v. Kemp*, 891 F.2d 829 (11th Cir. 1990) (action allowed to proceed against prison officials and mental health officials for prisoner's suicide); *Belcher v. Foley*, 30 F.3d 1390 (11th Cir. 1994) (denial of summary judgment reversed as to police chief and police officers for prisoner's suicide less than two hours after entering jail); *Steele v. Shah*, 87 F.3d 1266 (11th Cir. 1996) (prisoner allowed to proceed with claim against prison psychiatrist for discontinuing prisoner's psychotropic medicine); *Campbell v. Sikes*, 169 F.3d 1353 (11th Cir. 1999) (summary judgment affirmed on claims brought by prisoner against prison official and mental health personnel). Except for *Belcher v. Foley*, in which the arrestee was in jail for less than two hours prior to committing suicide, and was regularly monitored by police officers at the jail, the remaining Eleventh Circuit cases had medical personnel involvement. Indeed, the prisoner in each of these remaining cases had received psychiatric care; at issue was the quality of the care provided.

In the present case, the prisoner had received no psychiatric care at the time of his restraint. Indeed, he only obtained access to a counselor several weeks later by independently approaching a counselor who happened to be at the prison. Thus, the issue of quality of care had not yet been reached.

THE ELEVENTH CIRCUIT HAS ADDRESSED THE USE OF RESTRAINTS AGAINST PRISON INMATES.

Although not the least restrictive alternative, one method used to prevent suicide for persons with mental illness in prison is the use of restraints. The Eleventh Circuit addressed the use of restraints against prison inmates in *Campbell v. Sikes*, 169 F.3d 1353 (11th Cir. 1999). In that case, the Eleventh Circuit held that a prisoner had failed to establish a claim under the Eighth

Amendment where security officers checked her every fifteen minutes when she was restrained, a nurse assessed the prisoner's condition every few hours, and a medical doctor evaluated, and re-evaluated every twenty-four hours, the need for restraints.

Implicit in this decision is a recognition that medical personnel input is required whenever restraints are used to prevent suicide. The patient's physical condition must be monitored, and the reasons for using the restraints must be medically sound.

THE EIGHTH CIRCUIT HAS HELD THAT A PRISONER HAS A CONSTITUTIONAL RIGHT TO MEDICAL APPROVAL OF RESTRAINTS.

In *Buckley v. Rogerson*, 133 F.3d 1125 (8th Cir. 1998), a prisoner complained that he was routinely placed in segregation or restraints on a non-emergency basis without any medical input. The United States Court of Appeals for the Eighth Circuit ruled that the prisoner's constitutional right to specific medical approval for the use of restraints was clearly established as early as 1988. In so ruling, the Eighth Circuit noted that the Eleventh Circuit's decision in *Rogers* supported its decision.

BASED ON PAST PRECEDENT, THIS COURT SHOULD AFFIRM A SUICIDAL PRISONER'S RIGHT TO BE FREE FROM BODILY RESTRAINTS WITHOUT APPROPRIATE MEDICAL REVIEW.

Given the fact that some prisoners will, on occasion, threaten, attempt, or succeed in committing suicide, as well as the fact that restraints sometimes are used as a preventive measure, this Court should follow the Eighth Circuit and state directly what it has implicitly applied all along — the right to medical treatment carries with it the accompanying right to medical personnel involvement. For JR, it was the failure to have medical personnel involvement in the decision to restrain and continue restraining, as well as the failure of medical personnel involvement in the monitoring of JR's physical condition, which led to the deprivation of his Constitutional rights." ■

Homeownership and Section 8 Vouchers



Effective October 12, 2000, Housing and Urban Development (HUD) released the final rule that allows individuals and families to use Section 8 Vouchers for Homeownership.

There is much to celebrate in this new rule. The use of Section 8 vouchers for homeownership will give many Americans who have low incomes the opportunity to purchase their own homes. In addition, the use of Section 8 vouchers for homeownership will provide many new opportunities for people to contribute to their local economy. Homeownership will allow individuals and families to obtain loans from their local banks, hire members of their communities to perform maintenance and repair work on their homes, and pay property taxes that contribute to the purchase of local services enjoyed by community members. Homeowners express a feeling of greater safety, security, and belonging in their communities.

Public Housing Authorities (PHAs) that choose to participate in the Homeownership Program can:

1. Allow eligible individuals and families to convert current Section 8 vouchers from rental supplements to mortgage supplements, and
2. Allow future eligible individuals and families to choose between mortgage subsidies and rental subsidies.

HUD anticipates that mortgage lenders will consider the Section 8 assistance when underwriting a loan. The homeownership option will assist families in two types of housing:

1. A unit owned by the family—One or more family members hold title to the home.
2. A cooperative unit—One or more family members hold membership shares in the cooperative.

A complete copy of the new Section 8 Homeownership Rule can be viewed and downloaded in both text and PDF formats from the National Home of Your Own Alliance website at: <http://alliance.unh.edu> or call 1-800-220-8770.

A new statewide project called **MEET YOUR NEIGHBOR**, which introduced people in Alabama to their neighbors with developmental disabilities, was launched in March. The project is sponsored by the Civitan International Research Center at the University of Alabama at Birmingham (UAB) and the Alabama Council for Developmental Disabilities (ACDD).

Ellen Dossett, Ph.D. and assistant professor of psychiatry with the Civitan Center at UAB states, "If people are more aware of individuals with disabilities living in their communities, hopefully they will be more accepting of them and will welcome them to participate in community activities. The need for this project is especially evident in the employment status of people with disabilities. Although unemployment is at an all-time low in Alabama, approximately 75% of people with disabilities, who are of working age, are unemployed," says Dossett. "They are not recognized as contributing members of society. They want to work but are seen as disabled and unable."

It is important that all Alabamians become aware of the issues facing people with disabilities and how positive change can be achieved. Children also play a key role in the project as they learn about inclusive attitudes and actions.



Displaying the Meet Your Neighbor posters at the April Guiding Council meeting are (l-r) Ellen Dossett, Isabel Rubio, Billy "Grayfox" Shaw and Kenneth Brown.

Continued on page 8

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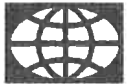
consumer, and the volunteer - each one a unique representative of the community. Compeer is always in need of volunteers. Please contact (205) 444-0076 or visit the website: www.compeerbham.org for more information.

Compeer

Habitat for Humanity International is an ecumenical Christian ministry dedicated to eliminating poverty housing. Founded by Millard Fuller and his wife, Linda, Habitat for Humanity International and its affiliates have built and sold more than 100,000 homes to partner families with no-profit, zero-interest mortgages in more than 2,000 communities in 76 nations.



Forest Laboratories (FRX : NYSE) develops, manufactures and sells pharmaceutical products. Forest Laboratories made a donation of \$45,000 to purchase materials needed to build the four-bedroom house.



ADAP's own carpenters, Segail Friedman and Ross Perdue



Pamela Trammell and Donald Popwell at groundbreaking



TO VOLUNTEER OR FOR ADDITIONAL INFORMATION CONTACT: Heidi Alvey at Compeer 205/444-0076 or Greater Birmingham Habitat for Humanity 205/965-9830.

"We are . . . Alabama, Get to Know Us!"

At a March 27, 2001, press conference, DMH/MR Commissioner Kathy Sawyer officially kicked off the statewide community education campaign titled "*We are Alabama, Get to Know Us!*" The campaign responds to a commitment in the agreement with the Alabama Disabilities Advocacy Program to settle the 30-year-old *Wyatt* case. The settlement was approved by Federal Judge Myron Thompson in May 2000.

"We are very excited about this campaign, and gratified that plaintiffs' attorney James Tucker of ADAP and Judge Thompson agreed with us that public education is a vital component in successful community living for persons with mental illness and mental retardation," said Commission Sawyer.

The DMH/MR community education campaign will carry through the course of the *Wyatt* implementation plan, which ends September 30, 2003. The first year of the education campaign uses the mass media, including radio, television, newspapers and outdoor advertising, to communicate campaign themes to the general public. "Years two and three target particular groups such as businesses, physicians, consumers and families, as well as the legislative and judicial branches of government and other stakeholders," said Sawyer.

For further information, contact the Office of Public Information and Community Relations at 334/242-3417 or visit the DMH/MR website at www.mh.state.al.us.

Welcome Robert Kuehn

The University of Alabama is pleased to announce the appointment of Robert Kuehn as Professor of Law and Director of Clinical Programs. Professor Kuehn started and directed Tulane Law School's Environmental Law Clinic and has visited at the University of Michigan, the University of Utah, and Washington University (St. Louis) law schools. Prior to coming to Tulane, he was a trial attorney with the U.S. Department of Justice and a Special Assistant U.S. Attorney. While at Tulane, he received the Graduate Professor of the Year and Tulane University Professor of the Year Awards. The environmental law clinic at Tulane was the first recipient of the ABA's Award for Distinguished Achievement in Environmental Law and Policy and was Runner-Up for the National Law Journal's 1998 Lawyer of the Year Award. His responsibilities at The University of Alabama will include oversight of the law school's children's rights, civil, criminal defense, disability (ADAP), elder, and pension clinics.



Continued from page 6

The grass-roots communications effort will include informational pieces in English, Spanish and Braille. "We want to target populations which have traditionally been under-represented, including rural, black, Hispanic, Asian and Native American communities," says Dossett.

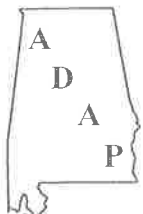
People are most afraid of what they don't know, but if they will get to know their neighbor—get to know someone with a disability—they will find out that people with disabilities have a lot to offer, and their communities and workplaces will be better for it.

For posters and more information contact
the Civitan Center at
205/934-2965.

Airmail is funded 100% with federal funds through: • Administration on Developmental Disabilities (PADD) • Center for Mental Health Services (PAIMI) • U.S. Department of Education/Rehabilitation Services (PAIR and PAAT)

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ALABAMA DISABILITIES ADVOCACY PROGRAM

ADAP Helps Coordinate Draft of *Alabamians with Disabilities Act*

Working closely with the Governor's Office on Disability (GOOD), ADAP provided valuable assistance in drafting the *Alabamians with Disabilities Act*, a bill that has been introduced into the Alabama State Senate during the current legislative session. The *Alabamians with Disabilities Act, Senate Bill 435*, which is sponsored by Senator Wendell Mitchell, provides protections to Alabamians with disabilities similar to those found in the Americans with Disabilities Act (ADA).

GOOD and ADAP both realized the need for a state law that provides for the protection of the basic civil rights of persons with disabilities in Alabama. Recently, major portions of the ADA have been closely scrutinized by the federal courts, and, in some cases, portions of the ADA have been declared unconstitutional. In response, people with disabilities and their advocates felt the need for a state law that will provide civil rights protections for Alabamians with disabilities. Full text of the *Alabamians with Disabilities Act, Senate Bill 435*, is found in this *Airmail* special edition.

The *Alabamians with Disabilities Act* was initially drafted by ADAP staff with the assistance of the Governor's Office on Disability and Dr. Al Miles, a professor at the University of Alabama and an expert in employment discrimination. **Senate Bill 435** attempts to incorporate sections of disability protection statutes from other states, including Oregon, Nevada, California and Massachusetts. The *Alabamians with Disabilities Act* mirrors the "best" sections of various state statutes to provide the strongest possible protections for Alabamians with disabilities. The Alabama disAbilities Commission further developed the draft with ADAP, GOOD and people with disabilities and their advocates. If Senate Bill 435 is enacted, Alabama will have a strong state law in the area of disability discrimination protections.

Historic Senate Bill 435 Introduced: *Alabamians with Disabilities Act*

SYNOPSIS: Currently, the federal Americans with Disabilities Act provides certain rights and protections to persons with disabilities.

This bill would provide for a state law, the Alabamians with Disabilities Act, to enumerate rights to public access, employment, public accommodation and housing for persons with disabilities; and would provide architectural standards and other rights to persons with disabilities, and to prescribe penalties for violations.

Bill sponsored by: Senator Wendell Mitchell and co-sponsored by Senators: Smitherman, McClain, Steele, Langford, Preuitt, Little (T), Bedford, Denton, Clay, Escott-Russell, Butler, Means, Dial, Enfinger, Baron, Smith, Callahan, Waggoner, Biddle, and Figures.

Full text of **Senate Bill 435** begins on Page 2. Take Action Today!!



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A BILL TO BE ENTITLED AN ACT

Providing for the Alabamians with Disabilities Act; to define terms; to declare public policy concerning rights of persons with disabilities; to provide full access for persons with disabilities as for the general public; to provide access to employment for persons with disabilities; to provide interviewing and hiring guidelines; to establish public accommodation and housing rights and guidelines for persons with disabilities; to prescribe mandates for accessible buildings and facilities to grant certain authority to the Director of the Governor's Office on Disability; and to prescribe penalties for violations.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Title. This act shall be known and may be cited as the "Alabamians with Disabilities Act."

Section 2. (a) Definitions. As used in this act unless the context requires otherwise, the following definitions shall apply:

(1) AMERICANS WITH DISABILITIES ACT (ADA). The Americans with Disabilities Act of 1990 found at 42 U.S.C. Section 12101, et seq.

(2) ARCHITECTURAL BARRIERS. Physical design features that restrict the full use of affected buildings and their related facilities by persons with disabilities.

(3) DIRECTOR. The Director of the Governor's Office on Disability.

(4) DIRECT THREAT. A significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(5) EMPLOYER. Any person or public or private entity that employs 15 or more persons, including the state, counties, cities, districts, authorities, public corporations, and entities and their instrumentalities.

(6) ESSENTIAL FUNCTION. A function without which the job could not be successfully done. Since persons involved in the job and their supervisors are best prepared to list the essential functions, the employer shall decide what the essential functions of a job are.

(7) FAIR HOUSING ACT. The Fair Housing Act of 1968, found at 42 U.S.C. Section 3604, et seq.

(8) ILLEGAL USE OF DRUGS. Any current use of drugs, the possession or distribution of which is unlawful under state law or under the Controlled Substances Act, 21 U.S.C. Section 812, as amended, but does not include the use of a drug taken under supervision of a licensed health care professional, or other uses authorized under the Controlled Substances Act or under other provisions of state or federal law.

(9) JOB DESCRIPTION. The preselection criteria for a job such as education, work experience, standards, skills, prior training, and abilities needed for the job plus a complete listing of all the essential functions which are required to do the job. Marginal functions may or may not be included in a job description.

(10) KNOWN DISABILITY. A disability that is made known either by: a. inquiry knowledge, in which an inquiry about the disability is made, or b. by constructive knowledge in which a job-related disability is obvious and no inquiry is needed.

(11) MARGINAL FUNCTION. A function that may be included but is not essential.

(12) MUNICIPALITY. A city, county, or other unit of local government otherwise authorized by law to enact building codes.

(13) OFFICE. The Governor's Office on Disability.

(14) PERSON WITH A DISABILITY. A person who has a cognitive, physical or mental impairment which substantially limits one or more major life activities has a record of such an impairment or is regarded as having such an impairment. For the purposes of this act, the same exclusions to the definition of disability found at 42 U.S.C. Section 12211 (a), (b) shall apply. The following definitions shall apply:

a. Major life activity. Those activities that the average person in the general population can perform with little or no difficulty. These include, but are not limited to: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, thinking, learning and working. This list is not exhaustive.

- b. Has a record of such an impairment, a history of, or a misclassification as having, a cognitive, mental or physical impairment that substantially limits one or more major life activities.
- c. Is regarded as having such an impairment. The term includes any of the following conditions:

- 1. The person has a cognitive, physical or mental impairment that does not substantially limit major life activities but is treated as having such a limitation.
- 2. The person has a cognitive, physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment.
- 3. The person has none of the impairments described in this subdivision but is treated as having a cognitive, mental or physical impairment that substantially limits one or more major life activities.

d. Substantially limits. The term includes either of the following conditions:

- 1. The impairment renders the person unable to perform a major life activity that the average person in the general population can perform.
- 2. The impairment significantly restricts the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform the same major life activity.

(15) PUBLIC ACCOMMODATION. A facility or other entity, including related facilities, having operations that affect commerce and fall within at least one of the following categories:

- a. Places of lodging or housing not including owner-occupied establishments renting fewer than five rooms.
- b. Establishments serving food or drink.
- c. Places of exhibition or entertainment.
- d. Places of public gathering.
- e. Sales or rental establishments.
- f. Service establishments.
- g. Public transportation terminals, depots, or stations.
- h. Places of public display or collection.
- i. Places of exercise or recreation.
- j. Places of education.
- k. Social service center establishments.
- l. Gasoline stations.
- m. Privately owned entities offering examinations or courses related to applications, licensing, certification, or credentials for secondary or postsecondary education, professional, or trade purposes.
- n. Any other establishment, service or place to which the public is invited or which is intended for public use.
- o. Any building, facility, program or service of the state or of a political subdivision, district, authority, board or public corporation or entity of the state.
- p. Any establishment physically containing or contained within any of the establishments described in this subdivision, which holds itself out as serving patrons of the described establishments. The provisions of this title shall not apply to private clubs or establishments exempted from coverage under Title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a (e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

(16) QUALIFIED PERSON WITH A DISABILITY.

- a. With respect to eligibility for programs and services, a person with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity or public accommodation.
- b. With respect to employment, a person with a disability who satisfies the requisite experience, education and other job related requirements of the employment position such individuals holds or desires, and who can perform the essential functions of such position job with or without reasonable accommodations.



ADAP is a statewide, independent program established to protect, promote and expand the rights of adults and children with disabilities.

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication, plus editorials. Inquiries may be sent to Segail I. Friedman, Information Specialist, at the address printed below.

Airmail is published by Alabama Disabilities Advocacy Program (ADAP) of The University of Alabama School of Law Clinical Programs.

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(17) REASONABLE ACCOMMODATIONS.

a. With respect to employment, accommodations made for a person with a known disability in order for the person to be able to do the essential functions of a job. Reasonable accommodations may include:

1. Modifications or adjustments to a job application process that enable a qualified job applicant with a disability to be considered for the position which such qualified applicant desires;
2. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position.
3. Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

b. Reasonable accommodations shall be determined according to the following conditions:

1. Requests for effective accommodations shall be made by the job applicant or current employee with a disability.
2. Each governmental entity and private business covered under this act shall have a written policy describing the process for requesting reasonable accommodations and for consideration of such requests. The policy shall identify the person, persons or entity charged with ADA compliance and coordination within the state institution or private business. The employer and employee are required to engage in an interactive process when discussing reasonable accommodations.

3. If medical inquiries are needed in the consideration of accommodations, a release of a medical information form, to cover the specific cognitive, mental and physical disabilities in question, shall be signed by the person seeking the accommodations and the release shall be filed by the employer.

4. Medical files shall be kept separate from personnel files.

5. If the request for accommodations is determined to be an undue burden, this determination shall be communicated to the applicant before the decision is made to reject the request, in keeping with the requirement for an interactive process.

6. The accommodation request may also be rejected on the grounds of business necessity, which means that the business requires certain skills for tasks which must be done. If the applicant cannot do these tasks, either with or without accommodations, the request may be rejected.

7. If the applicant for accommodations is found to be a direct threat to himself or herself or others, even with an accommodation, the request may be rejected.

8. The employer shall determine what constitutes a reasonable accommodation, and may use the defenses of undue burden, business necessity, or direct threat in denying a request for accommodation. The employer shall assume the burden of proof to defend a denial based on these defenses.

(18) RELATED FACILITIES. Building site improvements including, but not limited to, parking lots, passageways, roads, or any other real or personal property located on the site.

(19) UNDUE HARDSHIP or UNDUE BURDEN. An action requiring significant difficulty or expense, when considered in light of the factors set forth in subsection a. The terms "undue hardship" and "undue burden" may be used interchangeably for the purposes of this act.

a. Factors to be considered in determining whether an accommodation would impose an undue hardship on a covered entity to be considered include:

1. The nature and cost of the accommodation needed under this act.
2. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility.
3. The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities.
4. The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

Section 3. Policy. It is declared to be the public policy of Alabama as follows:

(1) Persons with disabilities are guaranteed the fullest possible participation in the social and economic life of the state to engage in remunerative employment, to use, enjoy and participate in government programs, services and facilities, places of public accommodation or services, resort, or amusement, and to secure housing accommodations of their choice, without discrimination.

(2) Persons with disabilities are guaranteed the right to otherwise lawful employment without discrimination because of disability whether in the public or private sector, and the right to use and enjoy places of public accommodation or services, resort, or amusement, to use, enjoy and participate in government programs, services and facilities, and to purchase or rent property without discrimination because of disability are hereby recognized and declared to be the right of all the people of this state.

(3) The Alabamians with Disabilities Act should be construed to effectuate the policies set out herein regarding the rights of persons with disabilities.

Section 4. Prohibition of Discrimination.

(1) Persons with disabilities shall be entitled to full and equal access, as are other members of the general public, to accommodations, services, advantages, facilities, medical facilities, including hospitals, clinics, and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances, or modes of transportation, whether private, public, franchised, licensed, contracted, or otherwise provided, telephone facilities, adoption agencies, insurance, licensing and testing entities, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation and applicable alike to all persons.

(2) It shall be unlawful for any entity to deny insurance coverage to a person with a disability based upon myths, fears and/or stereotypes. All decisions regarding insurance coverage must be based on current and sound actuarial data (SAD). Insurers may classify risks based on SAD.

(3) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise discriminate against, any individual because that individual is a person with a disability, or to classify or refer for employment any individual because that individual is a person with a disability.

(4) It shall be unlawful for any covered entity to apply a surcharge to an individual with a disability for the provision of access or accommodations as provided for in this act. A surcharge is an additional charge above the ordinary or usual cost of services.

(5) It shall be unlawful to discriminate against any individual based upon association with a person with a disability.

Section 5. Employment. To be covered by this section, a person must have a disability which is known and must be qualified to do the job by being able to do the essential functions with or without reasonable accommodations.

(1) All provisions in the ADA and the EEOC Guidelines, including provisions on employment facilities and auxiliary aids and services, EEOC Final Guidelines on Preemployment Disability-Related Questions and Medical Examinations, EEOC Enforcement Guidance on the Americans with Disabilities Act and Psychiatric Disabilities, EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act) are incorporated and included in this act.

(2) At a minimum, the following actions during the job advertising, interviewing, testing and hiring process are specifically prohibited:

a. A covered employer shall not apply qualifications, standards, tests or selection criteria that screen out or tend to screen out or otherwise deny a job or employment benefit to an individual with a disability unless those qualifications, standards, tests or selection criteria have been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished with reasonable accommodation.

b. A covered employer shall not conduct inquiries of job applicants as to whether such applicant is an individual with a disability or as to the nature or severity of such disabilities. A covered employer may make preemployment inquiries into the ability of an applicant to perform job-related functions.

c. A covered employer shall not limit, segregate or classify a job applicant or employee in such a way that adversely affects the opportunities or status of such applicants or employee because of a disability.

(3) A contract to which this state or a political subdivision or agency of this state is a party shall contain a covenant by the contractor and any subcontractors not to discriminate against an employee or applicant for employment with respect to hire, tenure, term, conditions, or privileges of employment, or a matter directly related or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of this covenant shall be regarded as a material breach of contract.

Section 6. Architectural Barriers and Building Accessibility.

(1) The primary purpose of this section is to provide, subject to the limitations set forth in this section, for the removal and elimination of architectural barriers to persons with physical disabilities in public buildings and facilities, including those housing public accommodations, designed or renovated after July 1, 1973, in order to encourage and

facilitate the employment of persons with physical disabilities and to make public buildings accessible and usable by persons with physical disabilities.

(2) It is the intent of the Legislature that insofar as possible all buildings and facilities used by the public shall be accessible to, and functional for, persons with physical disabilities, without loss of function, space, or facility where the general public is concerned.

(3) All construction or renovation of public accommodations, buildings and facilities after July 1, 1973, shall provide facilities and features for persons with physical disabilities so that buildings that are normally used by the public are constructed so that public areas have entrances, toilet facilities, drinking fountains, doors, and public telephones accessible to and usable by persons with physical disabilities. Such buildings and facilities shall conform to minimum ADA Standards for Accessible Design-(ADAAG) Appendix A to 28 CFR Part 36 or, alternatively, to the Uniform Federal Accessibility Standards (UFAS) until the adoption of new ADA Standards for Accessible Design by the U.S. Department of Justice on or after March 6, 2001.

(4) For buildings constructed on or before July 1, 1973, each service, program, or activity offered in such buildings, when viewed in its entirety, shall be readily accessible to and usable by persons with disabilities. This requirement may be accomplished through such means as redesign of equipment, reassignment of services to an accessible location, delivery of services at alternate accessible sites, alteration of existing facilities, or construction of new facilities, curbside service, or any other methods that result in making the services, programs, or activities readily accessible to and usable by individuals with disabilities.

Section 7. Service Animals.

(1) It shall be unlawful for a place of public accommodation to engage in any of the following activities:

- a. Refuse admittance or service to a person with visual, aural, cognitive, physical, or mental disability because he or she is accompanied by a guide dog, hearing dog, helping dog, or other animal in the service of such person.
- b. Refuse admittance or service to a person in the act of training such an animal to be a service animal.
- c. Charge an additional fee for such an animal.

(2) A guide dog, hearing dog, helping dog, or other service animal may not be presumed dangerous by reason of the fact that it is not muzzled.

(3) This section does not relieve a person with a disability or a person who trains such an animal for such purposes from liability for damage caused by his or her guide dog, hearing dog, helping dog, or other service animal.

(4) Persons with disabilities who are accompanied by guide dogs, hearing dogs, helping dogs, or other service animals are otherwise subject to the same conditions and limitations that apply to persons who are not so disabled and accompanied.

Section 8. Housing.

(1) No person, because of a disability of a purchaser, lessee, or renter, a disability of a person residing in or intending to reside in a dwelling after it is sold, rented, or made available, or a disability of any person associated with a purchaser, lessee, or renter, may discriminate by any of the following actions:

- a. Refusing to sell, lease, rent, or otherwise make available any real property to a purchaser, lessee, or renter.
- b. Evicting a lessee or renter.
- c. Making any distinction or restriction against a purchaser, lessee, or renter in the price, terms, conditions, or privileges relating to the sale, rental, lease, or occupancy of real property or the furnishing of any facilities or services in connection therewith.
- d. Attempting to discourage the sale, rental, or lease of any real property.

(2) For purposes of this section, discrimination includes either of the following actions or omissions:

- a. A refusal to permit, at the expense of the person with a disability, reasonable modifications of premises and related facilities, existing prior to March 13, 1991, occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
- b. Failure to construct premises after March 13, 1991, in accordance with the Fair Housing Act Technical Requirements.

c. A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy the premises.

(3) No person shall publish, circulate, issue, or display or cause to be published, circulated, issued, or displayed any communication, notice, advertisement, or sign of any kind relating to the sale, rental, or leasing of real

property which indicates any preference, limitation, specification, or discrimination against a person with a disability.

(4) No person or other entity whose business includes engaging in residential real estate related transactions shall discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of a disability.

(5) No real estate broker or salesperson shall accept or retain a listing of real property for sale, lease, or rental with an understanding that the purchaser, lessee, or renter may be discriminated against solely because a person is a person with a disability.

(6) No person shall assist, induce, incite, or coerce another person to permit an act or engage in a practice that violates this section.

(7) No person shall coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section.

(8) No person shall, for profit, induce or attempt to induce any other person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons with a disability.

(9) Any violation of this section is an unlawful practice.

Section 9. Compliance.

(1) The director of the Governor's Office on Disability or the designated representative of the director shall cooperate with and receive the assistance of all persons, all appropriate elective or appointive public officials, and all state or governmental agencies in carrying out the responsibilities of the director under this act.

(2) The director of each state agency shall make all proposed administrative rules or other regulation that may have an impact on the rights and privileges of persons with disabilities, as described in this act, available to the office for review at least 30 days prior to their publication or final adoption.

(3) The office or its designee shall, upon the request of an individual or organization, offer education and training programs to organizations in understanding the requirements of this act.

(4) The office shall be authorized to mediate disputes regarding compliance with the provisions of this act.

Section 10. Violations.

(a) The provisions of this act and rules adopted under it shall be considered part of the state code and violations shall be subject to the provisions of civil and criminal actions in this act.

(b) A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) also constitutes a violation of this act.

(c) A person who commits any of the following actions is guilty, at a minimum, of a Class A misdemeanor:

(1) Intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with any right or privilege secured by this act.

(2) Punishes, or attempts to punish, any other person for exercising or attempting to exercise any right or privilege secured by this act.

Section 11. Penalties.

(1) A person who commits any of the acts prohibited under Section 10 or otherwise violates any of the provisions of this act is liable to the person whose rights under this act are affected for actual damages, to be recovered by a civil action in a court of competent jurisdiction.

(2) In any civil action brought under this act, the court may:

a. Grant any equitable relief it considers appropriate, including temporary, preliminary, or permanent injunctive relief against the defendant or defendants.

b. Grant compensatory and punitive damages.

c. Award costs and reasonable attorney's fees to the prevailing party.

Section 12. No criminal or civil action authorized by this act may be brought after the expiration of two years from the date of the act complained of.

Section 13. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 14. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Alabamians with Disabilities Act Senate Bill 435

In a state with more than 850,000 individuals with significant disabilities, Alabamians have the opportunity to ensure equal opportunity for all individuals. Senator Wendell Mitchell (D) District 30, introduced the *Alabamians with Disabilities Act, Senate Bill 435*, in the current legislative session. This bill is a major step in providing Alabamians with disabilities equal opportunities in their lives and community. Its passage will help tear down walls of discrimination and inequity.

It is essential that supporters take the appropriate measures to **see Senate Bill 435** passes. As Alabamians must ask local senators and representatives to support this bill, and make it law. Please contact your local senator and representative and enlist his/her support for **Senate Bill 435**, the *Alabamians with Disability Act*.

Reach
Out
and



Touch Your Legislator:

There are two main ways to contact your legislators:

1. Visit the following website which will take you directly to the page with every legislator's name and phone number:
www.legislature.state.al.us/senate/senators/senateroster_alpha.html
2. Call the Alabama Senate Information number 334/242-7800

**You can make a difference!
Action is needed now!!**

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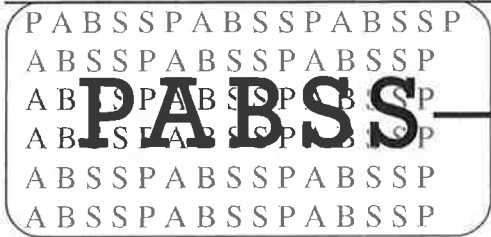
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ALABAMA DISABILITIES ADVOCACY PROGRAM - THE UNIVERSITY OF ALABAMA SCHOOL OF LAW CLINICAL PROGRAMS

Special Edition 2001 - 8 - ADAP Airmail



IT'S NEW AND COULD BE FOR YOU

Ross Perdue, Social Security Advocate

ADAP received federal funding for a new protection and advocacy program, the Protection and Advocacy for Beneficiaries of Social Security (PABSS). With funding this grant will allow ADAP, through the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIA), to assist eligible clients.

During the first fiscal year of the grant, ADAP will focus on outreach and training about PABSS and TWWIA. ADAP will be networking with stakeholders on TWWIA, Social Security and employment issues.

The purpose of PABSS is to assist individuals with disabilities, who receive Social Security Disability Insurance (SSDI) or Supplemental Security Insurance (SSI) Benefits, to obtain information and or referral regarding vocational rehabilitation and employ-

ment issues. Beneficiaries will be able to obtain advocacy or other services to assist in securing or re-training for gainful employment.

This grant will enable ADAP to support the costs of development, expansion, technical assistance, training and program implementation, plus focusing on protection and advocacy for beneficiaries with disabilities. The services of ADAP will be provided under PABSS.

The priorities of the PABSS are as follows:

- Provide assistance and individual representation to Social Security Beneficiaries with disabilities who are seeking vocational rehabilitation services, employment services and other support services from employment networks and other service providers.
- Provide consultation to and legal representation on behalf of beneficiaries when such services become necessary to protect their rights.
- Provide information and referral to Social Security beneficiaries with disabilities about work incentives and employ-

ment, including information on the types of services and assistance that may be available to assist them in securing or regaining gainful employment.

- Advocate to identify and correct deficiencies in entities providing vocational rehabilitation services, employment services and other support services to beneficiaries with disabilities.

The Ticket-to-Work and Self-Sufficiency Program will be phased in nationally over a 3-year period. The first tickets have been issued to beneficiaries in the states of Arizona, Colorado, Delaware, Florida, Illinois, Iowa, Massachusetts, New York, Oklahoma, Oregon, South Carolina, Vermont, and Wisconsin.

Alabama is still in the implementation process and the effective date for "The Ticket" remains unknown. At this time, the projected time of implementation is early 2002.

The authorization of these grants are implemented in section 1150 of the Social Security Act, as added by section 122 of Public Law 106-170, the Ticket To Work and Work Incentives Improvement Act of 1999 (TWWIA). For more information about ADAP's new program, PABSS, call Ross Perdue at ADAP at 800-826-1675.

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Ready . . . Set . . . Go . . . Times are a-changing

Adapted from *Disability Buzz*, Office of Protection and Advocacy for Persons with Disabilities,
Hartford, CT, Winter 2001

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This edition of *Airmail* highlights a number of recent policy reforms that significantly improve employment prospects for people with disabilities. Some of these policies are set out in federal law. Some are designed to meet specific concerns of people with disabilities, while others are intended to streamline employment services generally and are more generic in scope. Some have already taken effect in states, while others are still “works-in-progress” for implementation over the next several years.

- The federal Workforce Investment Act (W.I.A.) consolidated a spectrum of federally funded employment programs, resulting in “One-Stop Centers,” and statewide and regional planning through Workforce Competitiveness Boards.
- The federal Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA) [*Airmail* Vol. 5, Issue 2] removes work disincentives and establishes new vocational training options.
- The Rehabilitation Act Amendments Act of 1998 and related regulations require that rehabilitation services be driven by consumer goals.

Keeping this new terminology straight is challenging, even for “professional” advocates who are actively involved in efforts to develop and enact these programs. Nevertheless, learning the new vocabulary is important. Indeed, tracking the status of these initiatives, learning their rules and administrative structures, and following the experience of those who use them should prove to be of interest for everyone with a stake in reversing the discouraging unemployment statistics that have dogged more traditional disability employment efforts.

Currently, it is important to understand the fundamentally different roles and responsibilities these measures contemplate for consumers and for agencies. Taken together, these reforms represent a pattern—a collective expression of high expectations for achievement, earnings, financial security, economic contribution, and self-determination. These measures represent a giant leap forward and leave behind the “hurry up and wait” practices associated with more traditional employment approaches.

With unemployment among working-age people with disabilities still outrageously high—estimates hover between 65% - 70%—there is definitely a long way to go before victory can be declared. As the President’s Commission on Employment of Persons with Disabilities reported last year, issues such as the availability of accessible public transportation, housing patterns, inadequate special education transition planning, and old-fashioned discrimination all contribute to these dismal statistics. Removing major direct disincentives to seeking work and insisting that individual voices be listened to, these new policies are making it possible for hundreds of citizens with disabilities to realize their personal dreams. The times are a-changing and we must be ready and set to go.





ADAP is a statewide, independent program established to protect, promote and expand the rights of adults and children with disabilities.

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication, plus editorials. Inquiries may be sent to Segail I. Friedman, Information Specialist, at the address printed below.

Airmail is published by Alabama Disabilities Advocacy Program (ADAP) of The University of Alabama School of Law Clinical Programs.

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In December 1999, President Clinton signed into law legislation enabling more persons with disabilities to return to work or enter the work force for the first time. The Ticket to Work and Work Incentives Improvement Act is to remove employment barriers that have kept many individuals with disabilities dependent on federal subsidies and out of the work force.

October 1, 2000:

- States have the option of providing Medicaid coverage to persons with disabilities earning above 200% of the federal poverty level (\$16,704 per year for an individual, \$22,512 for a couple). Individuals are now able to buy into Medicaid, even though they are no longer eligible for SSI or SSDI because of "medical improvement."
- Medicare Part A (hospital) coverage is extended for four and a half years beyond the current four-year limit for Social Security disability beneficiaries who are working.

January 1, 2001:

- If an individual's cash benefits have ended because of his/her ability to work, and they become unable to continue working because of a medical condition, they can request an *expedited reinstatement* of benefits. Their medical condition must be the same or related to the original condition that first qualified the person for disability benefits. Requests must be filed within 60 months (5 years) of the date the individual was last entitled to benefits. To further support the employment objective, the Social Security Administration will grant up to six months of benefits while they are making the reinstatement decision.

The new legislation does not take into account termination due to employment discrimination or the inability to obtain the necessary employment supports. Individuals should be alert to this possible gap in coverage. If either of these situations occur, legal advice should be sought immediately.

- The substantial gainful activity amount for SSDI recipients has been increased to \$740 per month, and individuals must earn at least \$530 in a given month before it is considered a trial work period.

Coming in 2002:

One very important component of the new federal legislation is the "Ticket to Work." Administered by the Social Security Administration, TWWIA is a voluntary program that will offer participants far greater choice in obtaining the rehabilitation services and employment supports needed to return to work. **The Alabama Social Security office reports the projected implementation date for Alabama's Ticket to Work is early 2002.**

Once the program is in place, participants will be given a paper document called a "Ticket." They will then be able to go to an employment network of public and private rehabilitation providers and select the provider they would like. Individuals will be permitted to change providers if they become dissatisfied. Individuals should be vigilant and check with their local Social Security office or online at www.ssa.gov/work for updates on the implementation of this program.

Also scheduled to begin in 2002 is the postponement of disability reviews for SSDI beneficiaries who have received benefits for at least 24 months and have returned to work. Individuals should note, however, that their cash benefits might be affected if their earnings exceed the substantial gainful employment level.

Special Education



Parent Advocacy Tip:



How to Use Your Child's Report Cards

Nancy Anderson, Staff Attorney



A report card is a powerful tool for you to use as you advocate for your child's special education needs. Your school's report cards and progress reports can help you develop meaningful IEPs and allow you to monitor your child's progress during the year on his/her IEP goals.

First, some basics about what federal and state law say about school reports: If your child receives special education services, his/her school must track his/her progress towards reaching his/her IEP annual goals and report this information to you. How the school will collect this information and when the school will report to you must be written in the IEP. At a minimum, you have the right to receive reports about your child's progress at least as often as the school reports to parents of children without disabilities.

Depending on your child's needs, more frequent reports may be appropriate. Under what circumstances would it be useful to have extra reporting requirements included in an IEP? An IEP team might feel that weekly behavioral reports would help the school and home respond better to a child's behavioral needs. Or, imagine a child who receives physical therapy (PT) services. On a monthly basis, this child's physical therapist visits the school to monitor his/her progress and to consult with the person who delivers the PT service. It might be appropriate for the therapist to jot down some brief notes regarding the results of these monthly visits to share with the child's parents. At your child's IEP meeting, explore what reporting options might best support your child's needs.

Through the year, when you get a progress report or report card, compare it to your child's IEP. Check to see if each annual goal is addressed in the report (see sidebar). Does the report reference the IEP benchmarks and describe whether there's been sufficient progress to date on the benchmarks to allow your child to reach the annual goal by the end of the year? If not, make sure you discuss these issues with your child's teacher and ask her to provide a written report that does reference the annual goals and their benchmarks.

Have you already filed away your child's year-end report card for safekeeping? If so, dig it out and take some time to review it, keeping in mind the IEP goals that you just recently drafted for the coming school year. In light of your child's progress and accomplishments this year, are

Are your child's IEP goals and benchmarks measurable?

Each annual goal on your child's IEP should have a series of benchmarks which mark progress towards achieving that goal.

Federal and state laws require that goals and benchmarks be measurable. What does "measurable" mean?

Think of it this way: if an IEP goal simply said that your child's reading level was "to improve," how would you know how *much* it was to improve and by *when*? If your child's goals and benchmarks aren't measurable, then these two questions cannot be answered and any school report that you were given would be of little value.

If your child's goals and benchmarks are not measurable ask for an IEP meeting so that they can be revised.

Continued on page 5

Continued from page 4

you confident that the IEP goals for the 2001-2002 school year are realistic and appropriate? If you have concerns, you may want to discuss them with your child's teacher or ask the IEP team to reconvene.

When school opens in the fall, pay attention to that first marking period report card. During the beginning weeks of school, it's normal for children to spend a fair amount of time catching up on skills lost during the long summer vacation. But, is there any indication on the first report card that your child lost so many of the skills learned during the last school year that he/she wasn't able to sufficiently recover them during this first reporting period? If so, it might be that your child should be considered for extended school year services. Again, this would be an appropriate issue to bring up at an IEP meeting.

Report cards and progress reports, like the IEP itself, are tools designed to help improve your child's education. Like any tool, however, they are powerless by themselves. Use the reports and the IEP to check on your child's progress. If you have questions about the report, don't hesitate to ask your child's teachers or call for an IEP team meeting. Don't pass up this great opportunity to involve yourself in your child's education!

CASEY MARTIN WINS

In a 7-2 opinion, the Supreme Court ruled that:

- (1) Title III of the ADA, by its plain terms, prohibits the Professional Golfer's Association PGA from denying Martin equal access to its tours on the basis of disability, and
- (2) Allowing Martin to use a golf cart, despite PGA's walking requirement, is not a modification that would "fundamentally alter the nature" of the PGA competition.

The case is available on Westlaw at 2201 WL 567717, and should shortly be posted on the Supreme Court's website www.supremecourtus.gov.

The Alabama Disabilities Advocacy Program (ADAP) is a co-sponsor of the one-day Symposium "*Garrett*, Disability Policy, and Federalism" on October 26, 2002 in Tuscaloosa at The University of Alabama School of Law. This Symposium focuses on *Garrett* and other recent U.S. Supreme Court cases on federalism and the separation of powers, and their implications for disability and civil rights initiatives in the future. Additional information can be found at www.law.ua.edu/garrettsymposium as well as the upcoming August issue of *Airmail*.

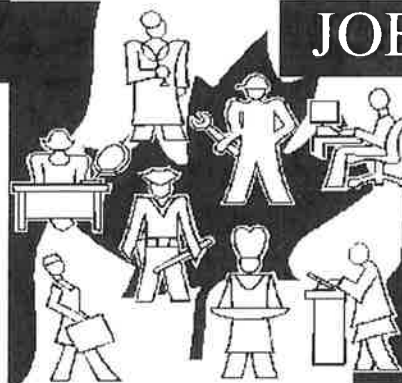
ONE STOP

In 1998, Congress passed the Workforce Investment Act (WIA) to consolidate and improve employment, training, literacy, and vocational rehabilitation programs. The new legislation requires a nationwide, integrated, workforce preparation and employment system that meets the need of employers for skilled workers and the training, education, and employment needs of job seekers, including persons with disabilities.

A major feature of WIA is the One Stop concept featuring locally based, consumer-friendly centers that incorporate the Job Service/Unemployment Office and vocational rehabilitation programs and activities. Core services of the One Stops include information about job vacancies, job search and placement assistance, career options, employment trends, initial assessment of skills and needs, and some follow up services. Intensive services may consist of comprehensive assessments, development of individual employment plans, group and individual counseling, case management, and short-term pre-vocational services.

A powerful provision of WIA promotes individual responsibility and personal decision-making through "Individual Training Accounts." Adult job seekers, including adults with disabilities, will be able to use the accounts to purchase training they feel will help them acquire the skills and credentials necessary to succeed in local labor markets.

Alabama has 22 One Stop Career Centers located in all areas of the state. Core services are available to all individuals seeking employment assistance. Job seekers may also receive intensive services; however, if the funding of the One Stop is limited, priority for intensive services must be given to recipients of public assistance and other low-income programs. Low income youth, ages 14-21, who meet certain criteria, may also qualify for assistance with post secondary training or employment.



JOB SHOPPING

WIA websites:

Updates and copy of the actual

legislation: www.usworkforce.org

Copies of the regulations:

www.access.gpo.gov/su_docs/acesj/acees140.html

Federal agency overseeing the implementation of WIA:

www.ttrc.doleta.gov/onestop

The Alabama Department of Economic and Community Affairs (ADECA) oversees Alabama's One Stop Career Centers. Listed below are the Centers:

Ms. Sylvia Lowery
Alabaster Career Center
549 Highway 119 South
Alabaster, AL 35007
205/663-7133 phone
205/620-6713 fax

Mr. Tommy Austin
Albertville Career Center
5850 Highway 431, Suite 14
Albertville, AL 35950
256/891-1300 phone
256/891-7722 fax

Mr. Pat Fletcher
Birmingham Career Center
3420 - 3rd Avenue South, Suite 200
Birmingham, AL 35222
205/854-3442 phone
205/254-2783 fax

Ms. Felicia Williams
Decatur Career Center
1819-B Bassett Avenue, SE
Decatur, AL 35601
256/350-6500 phone
256/350-6509 fax

Ms. Beverly Walker
Demopolis Career Center
1074 Bailey Drive
P.O. Box 656
Demopolis, AL 36732
334/289-4228 phone

Ms. Judy Carroll
Dothan Career Center
1950 Reeves St., Suite 1 & 2
Dothan, AL 36303-6202
334/793-6709 phone
334/794-4914 fax

Ms. Mary Bruce
Enterprise Career Center
1540 Parker Land, Hwy. 84 W
P.O. Box 311265
Enterprise, AL 36331-1265
334/393-3783 phone
334/308-2325 fax

Ms. Ann Blondheim
Eufaula Career Center
123-D E. Barbour St.
P.O. Box 189
Eufaula, AL 36027-0189
334/687-8251 phone
334/687-7661 fax

Ms. Sandra Rhodes
Hanceville Career Center
801 Main Street
P.O. Box 1087
Hanceville, AL 35077-1087
256/352-2803 & 256/352-2809 phone
256/352-9744 fax

Ms. Dorothy Fuller
Huntsville Career Center
2535 Sparkman Drive
Huntsville, AL 35810
256/859-9360 phone
256/85-9364 fax

Jackson Career Center
1280 Highway 43
P.O. Box 1382
Jackson, AL 36545
334/246-6713

Ms. Peggy Bridges
Lee County Area Career Center
2312 Center Hills Drive, Suite B
P.O. Box 1589
Opelika, AL 36803-1589
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334/749-5031 fax

Mr. Bill Parker
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334/660-6524 fax

Continued on page 7

Continued from page 6

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1075 Drewry Road
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334/575-7013 phone
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Pell City, AL 35125
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Russellville Career Center
101 Washington Avenue, SW
P.O. Box 637
Russellville, AL 35653
256/332-7672 phone
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Ms. Renmee Simmons
Scottsboro Career Center
3509 S. Broad Street
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256/259-1608 fax

Ms. Susan Cosby
Selma Career Center
1114 Water Avenue
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334/875-8909, 8910, 8911 phone
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Mr. Jim Cook
Sheffield Career Center
500 S. Montgomery Ave., Suite 101
Sheffield, AL 35660
256/381-0611 phone
256/381-9972 fax

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100 Johnson Avenue N. Unit 106-B
P.O. Box 6165
Talladega, AL 35161
256/362-8058 phone
256/362-5747 fax

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1023 S. Brundidge St.
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Troy, AL 36081-0509
334/566-9030 phone
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Ms. Gina Nichols
Walker Career Center
2604 Viking Drive
P.O. Box 1401
Jasper, AL 35502-1404
205/384-4557 phone
205/384-0260 fax

'RED BOOK' HELPS PEOPLE WITH DISABILITIES WHO WANT TO WORK

Social Security has released a new tool to help people with disabilities return to work. It is the latest version of its "Red Book," a guide for educators, advocates, rehabilitation professionals, social workers, counselors and others who advise individuals with disabilities.

The Red Book presents the employment support incentives of Social Security's disability insurance and Supplemental Security Income programs. One of Social Security's highest priorities is helping people with disabilities achieve independence by taking advantage of employment opportunities.

Congress intended the employment support provisions of the Social Security disability program and Supplemental Security Income to provide individuals with disabilities the assistance needed to move from benefit dependency to independence. Social Security's employment support protects their eligibility for cash payments and/or health care until they can achieve their goals.

The Red Book is available on Social Security's Internet Web site, www.ssa.gov. Additional information about employment support will be posted on the Internet at www.ssa.gov/work.

Adapted from an article by Rufus Lewis, Tuscaloosa Social Security Manager.



1976-2001
25 YEARS



CELEBRATING
ADVOCACY
800-826-1675

LOOK FOR THE SILVER LABEL

Celebrating its 25th Anniversary, ADAP is sponsoring a Disability Summit on Friday, August 3, 2001.

In honor of ADAP's 25th Anniversary, there will also be an art exhibit in the Ferguson Center Art Gallery from June 15 - August 31, 2001. Exhibits include selected photographs from *Just As I Am*, art works from Very Special Arts for Alabama, and the Visionary Guild of Alabama. The art gallery is located on The University of Alabama campus.

This is a very special exhibit by very special people for the outstanding people of Alabama. You and everyone you know have a special invitation to attend. Check with the Ferguson Center to find out gallery hours, however, the exhibit can be seen through the glass walls.

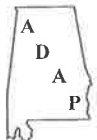
Friday, August 3, 2001 is the "official" day to celebrate ADAP's 25th Anniversary. There will be a reception in the art gallery beginning at 3:00 p.m.

Also planned for that day is a Disability Summit. Ann Marshall, Coordinator of Outreach and Training, is planning the Summit and details will be forthcoming. Call her at 800-826-1675 for information.

Airmail is funded 100% with federal funds through: • Administration on Developmental Disabilities (PADD) • Center for Mental Health Services (PAIMI) • Social Security Administration (PABSS) • U.S. Department of Education/Rehabilitation Services (PAIR and PAAT)

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Bryce Hospital ca. 1908

West Wing of Bryce Hospital

Institutions and Change

People with disabilities have lived in institutions too long. This is the story of how they got there and the changes that are taking place to get them out.

Guest Article by Amy Hinton

The history of social policy towards persons with disabilities in the United States is a fascinating snapshot of the various social and political value systems, regional cultures and identities, and medical practices that have shaped America since its earliest years. It is ironic that remarkable changes in social policy and rights protection towards other various disenfranchised groups in American culture managed to

completely bypass the disability community.

The evolution of change in disability policy has been less dramatic and more incremental than changes experienced by other more noticeable civil rights movements. Perhaps this is due to the relative political weakness of the disability community or to the socially proscribed roles the nondisabled population has constructed for their peers with disabilities. Nonetheless, impressive changes have occurred. While these changes address myriad issues—human rights, environmental conditions, access to services, educational and occupational opportunities – the one common denominator shared by changes in American disability policy is the institution as a normative model.

Institutional life is not new to the United States. Leper colonies

and debtor’s prisons are two examples of European institutions. The refusal of the Founding Fathers to permit the social practice of the debtor’s prison in colonial America led to the creation of the “almshouse” or “poorhouse,” which sheltered the chronically ill, the unemployed poor, and people with various types of disabilities. At that time, primitive medical practices and deplorable environmental conditions in the colonies were mitigating circumstances for many health conditions, including various types of disabilities. Factor in the presence of people with mental illness, a group that withstood unspeakably cruel social treatment, and it becomes obvious that a large number of almshouse residents at any given time had some form of disability. It should be noted that a person with a disability in co-

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PAAT SEEKS TO SECURE MEDICAL FUNDING FOR POWER WHEELCHAIRS



By Joe Duncan, Law Student

The Protection and Advocacy for Assistive Technology (PAAT) program is involved in an initiative to secure Medicaid funding for power wheelchairs for adults with severe mobility impairments. PAAT is an ADAP program that assists in obtaining assistive technology for persons with disabilities.

als over age 21. Power wheelchairs substantially exceed this amount. Therefore, Medicaid eligible adults with severe mobility impairments are effectively precluded from obtaining medically necessary motorized mobility devices. PAAT seeks to ensure that these individuals have access to such devices.

Currently, Alabama Medicaid has a wheelchair cost limit of \$1,050 for individu-

If you or someone you know could benefit from this initiative, please contact David Gamble at ADAP, 1-800-826-1675.

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Director of Clinical Programs and Professor of Law

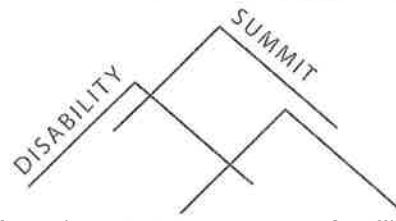
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ADAP HAS HUGE SUCCESS WITH DISABILITY SUMMIT AND 25TH ANNIVERSARY CELEBRATION

More than 200 consumers, families, friends and advocates gathered in Tuscaloosa, August 3rd to voice their opinions on public policy and disability issues. They also celebrated ADAP's 25 years of service to Alabamians with disabilities. More details will be forthcoming in the next issue of *Airmail*.



Barbara Crozier, Director of the Governor's Office on Disabilities (GOOD) presents Reuben W. Cook, Director of ADAP a plaque honoring ADAP's 25th Anniversary.



James Tucker, Attorney with the Southern Poverty Law Center and William Gamble with the Mobile Independent Living Center.

ADAP Receives IOLTA Grant

“A”

ccess Communities in Alabama

By Patrick Hackney, Staff Attorney

The Alabama Disabilities Advocacy Program (ADAP) is pleased to announce that it has received an IOLTA grant to undertake a statewide campaign to promote and ensure accessibility for persons with disabilities entitled “Access Communities in Alabama.” The primary goal of the “Access Communities in Alabama” is to further assist persons with accessing places of public accommodation, state and local government programs, and entities receiving federal funds. This project will focus on access to places of public accommodation, polling places, and recreation facilities.

ADAP, the State of Alabama protection and advocacy system, is extremely excited about the possibility of having accessible facilities throughout the State of Alabama. These facilities include malls, restaurants, and polling places to name a few. Regardless of the place, access to places of public accommodation is an important aspect of everyday life for the average citizen. Persons visit places of public accommodation for every part of daily life including entertainment, employment, and voting.

The “Access Communities in Alabama” project proposes to open the “front door” of citizenship to all residents of Alabama through an aggressive accessibility campaign which will make a number of places of public accommodation or polling places fully accessible to persons with disabilities. One way to facilitate the goal of full participatory citizenship for all persons is to make the communities of Alabama and the state programs located therein accessible to persons with disabilities. Because many of the tasks are imperative to being able to lead an independent life, it is crucial that the communities of Alabama be accessible to persons with disabilities so that they may acquire indepen-

dence in their daily lives. Something as simple as getting gas is impossible for many residents of Alabama with disabilities due to an inability to make communities accessible.

Titles II and III of the ADA became effective January 1992 and prohibit discrimination by any state or local government or by any place of public accommodation against any qualified individual with a disability. State agencies and places of public accommodation must now modify policies and procedures, remove architectural and communication barriers, and provide accessible services to prevent disability discrimination. The basic rule of Titles II and III is that the entity, whether public or private, must operate each project so that, when viewed in its entirety, the program is readily accessible and usable by persons with disabilities. The steps that organizations must take to achieve accessibility generally involve very little cost.

ADAP plans to address statewide access in two ways: individual case advocacy and public education. The primary means of advocating individual rights is through case advocacy. Under the grant, ADAP proposes to help at least 60 clients with at least 20 of each of the accessibility problems present in commercial facilities, recreation facilities, and polling places. Working with facility owners and operators, ADAP will provide technical assistance on bringing the facilities into compliance.

In order to achieve the goals of the program, ADAP plans to hold at least 15 seminars with various community groups including service, disability advocacy, and business organizations. ADAP will educate the attendees on the rights of persons with



ADAP is a statewide, independent program established to protect, promote and expand the rights of adults and children with disabilities.

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication, plus editorials. Inquiries may be sent to Segail I. Friedman, Information Specialist, at the address printed below.

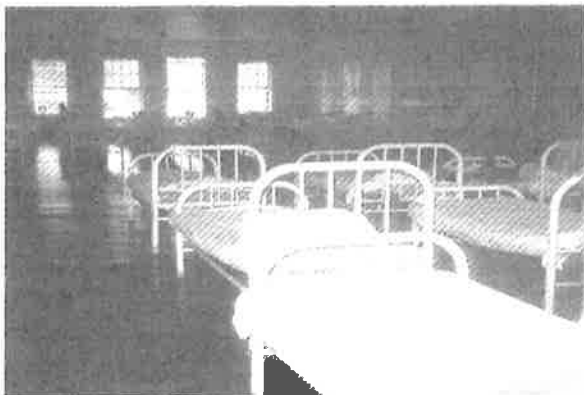
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Continued on page 7

lonial America was likely to be viewed as “social baggage” in that the person was probably unable to work the hard physical labor necessary to sustain life, particularly in the region’s hard winters. Unfortunately, this “social baggage” philosophy eventually became ingrained in our cultural identity and contributed greatly to the mushrooming of institutions in the United States in later years.

The great reform era of the 19th century was responsible for the development, implementation and growth of the residential institution as a solution to the “problem” of people with disabilities. The frequent boom-and-bust cycles that marked the American economy continued as the nation struggled with new social problems stemming from rapid industrialization, the settlement of the western United States, and the growth of the federal bureaucracy. The idea that people with disabilities were useless because they were



Early Ward at Bryce Hospital

economically unproductive was eventually supplanted by the idea that people with disabilities could be trained to be economically productive. Thus, the new prevailing philosophy tied the economic productivity of an individual to their human worth. Gone were the “Idiot

Asylums” and “Insane Asylums,” replaced by “State Schools” and “Training Schools.” In fact, many institutions kept the “State School” suffix as part of their facility name well into the 20th century. During this time, the residents of institutions were increasingly referred to as *inmates*, rather than *students*, even at



Original Entrance at Bryce Hospital

the institutions claiming to be training schools.

Unfortunately, at this time, Americans believed that vice and immoral behavior contributed to the presence of disabilities in offspring – the familiar “sins of the parents” argument. They also believed that people with disabilities, particularly mental disabilities, were uniquely susceptible to negative influences from the criminal element and chronically unemployed in the almshouses. Therefore, they reasoned that separate facilities should be constructed to keep those with disabilities safe from errant behaviors and bad influences. The fact that residents would be forced to work

for no pay on the upkeep of the institutions while training for a certain type of low-level vocation was seen as an added convenience. The final and most egregious mainstream belief about people with disabilities was the “menace” they presented to the nondisabled gene pool. The so-

cial response to this “menace” represents one of the darkest periods in the history of disability policy.

The American eugenics movement reached its peak during the late 19th and early 20th centuries. Many states had laws mandating the castration of male residents of institutions and the sterilization of female residents with no requirement for informed consent. In fact, the 1927 decision of the United States Supreme Court in *Buck v. Bell*¹ held that such practices were constitutional. Carrie Bell, a resident in a Virginia institution, was the daughter of a “feeble-minded” mother and later gave birth herself to an “illegitimate feeble-

minded” child. Chief Justice Oliver Wendell Holmes, writing for the majority, held that the forced sterilizations were constitutional and that the State of Virginia had a compelling interest in preventing further burdens on public funds, as well as preventing hereditary transmission of mental disability—a utilitarian benefit of this type of social engineering. “Three generations of imbeciles are enough,” he noted.

By the 20th century, several national crises came in rapid succession. The 1929 Stock Market crash, the Great Depression and World War II rapidly and dramatically changed the social fabric of America. However, disability policy began to stagnate and the policy response was to cut state budgets and fill state institutions. The 20th century witnessed remarkable backpedaling in this respect and, unfortunately, Alabama became the foremost national example.

When *Wyatt v. Stickney*² was filed in 1971, the populations at Alabama’s state facilities were

Continued from page 5

pushed beyond maximum capacity, the living conditions were filthy and degrading, and the facility staffing ratios were woefully inadequate to provide necessary treatment and care for residents. It should be noted that Alabama was not the only state to inadequately fund and staff its public mental health system. In fact, a multitude of voluntary changes in other state systems resulted from Judge Frank M. Johnson's detailed "Wyatt standards," which focused on quality-of-life and quality-of-care issues, as well as staffing and personnel. Revisions to commitment law procedures³ have dramatically reduced facility census numbers, particularly in Alabama. Moving beyond reform within institutional walls, the U.S. Supreme Court has held⁴ that maintaining an individual in an institution when that person is a suitable candidate for community services is unconstitutional and violates Title II of the Americans With Disabilities Act.

Contemporary disability policy has been marked by a reliance on the federal courts to inter-

pret and implement policy directives, which is unlikely to change in the immediate future. Years of inadequate and/or level funding of state systems coupled with the initial costs associated with widespread shifts from institutional-based to community-based models of treatment and care have frequently resulted in programs that suffer from poor planning and offer limited ser-



Bakery at Bryce Hospital

As consumers and family members become more vocal and politically empowered, they have sought remedy from the courts. Since Wyatt, rulings

in this area have resulted in a plethora of decisions that have fundamentally altered the fabric of disability policy and have continued to shift the policy focus away from the institution.

A raging policy debate is ongoing, pitting advocates pushing for total closure of all institutions against those who argue that institutions serve a social need and that closing them would represent a governmental failure to properly care for a specific population. It is critical, however, that the policy focus remain on the individual and his or

her unique needs. The disability community is multi-faceted and complex, something that must not be forgotten when developing policy solutions. Otherwise, the result will be continued rights violations, protracted litigation, and a shameful legacy of failure we will answer for in the future.

¹ (274 U.S. 200) It is impossible to determine the types or the severity of claims of disability due to the paucity of primary historical sources and the lack of accurate medical diagnoses and terminology.

² 325 F. Supp. 781 (M.D. Ala., 1971)

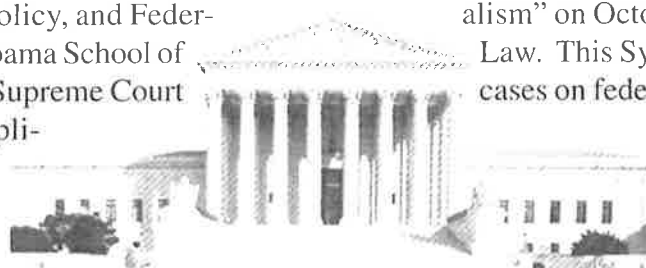
³ See *Lynch v. Baxley* 744 F.2d 1452, 1456-57 (11th Cir. 1984).

⁴ See *Olmstead v. L.C.* (No. 98-536). Decided June 22, 1999.

Photographs courtesy of the Alabama Department of Mental Health and Mental Retardation Archives & Library at Bryce Hospital.

Amy Hinton graduated *cum laude* in English and History from Huntingdon College and has a Master's degree in Public Administration from Auburn University Montgomery. She is a doctoral student in public policy at Auburn University where her dissertation research focuses on mental disability policy with a special emphasis on the *Wyatt v. Stickney* case. She is employed by the Alabama Department of Mental Health & Mental Retardation as a Community Relations Specialist III. She lives in Montgomery with her husband, Brian.

The Alabama Disabilities Advocacy Program (ADAP) is a co-sponsor of the one-day Symposium "Garrett, Disability Policy, and Federalism" on October 26, 2001 in Tuscaloosa at The University of Alabama School of Law. This Symposium focuses on *Garrett* and other recent U.S. Supreme Court cases on federalism and the separation of powers, and their implications for disability and civil rights initiatives in



alism" on October 26, 2001 in Tuscaloosa at Law. This Symposium focuses on *Garrett* cases on federalism and the separation of powers, and their implications for disability and the future.

W ADA T C H

DISABILITY ADVOCATES LAUNCH INTERNET SITE TO PROTECT (ADA) AMERICANS WITH DISABILITIES ACT

Disability rights advocates are launching ADA WATCH.org, an Internet destination to respond to threats to the civil rights of people with disabilities. The site will be an informational network and an advocacy tool of the ADA WATCH coalition of disability rights organizations united to protect the ADA. The group also released a letter requesting President Bush meet with them to hear their concerns regarding implementation of the Olmstead Executive Order.

As America celebrates the 11th Anniversary of the ADA, people with disabilities are faced with serious threats. There is proposed legislation in Congress which advocates feel will weaken the ADA including the ADA Notification Act introduced by Congressman Mark Foley (R-Fla) which requires a 90-day waiting period before people with disabilities can get their rights to equal access enforced. The bill would discourage voluntary compliance of the ADA and allow offenders to delay accommodations without consequence. The site includes a petition against the ADA Notification Act.

ary compliance of the ADA and allow offenders to delay accommodations without consequence. The site includes a petition against the ADA Notification Act.

THE ADA WATCH.ORG MISSION STATEMENT

- ★ The ADA WATCH campaign is a nonprofit informational online network designed to activate the disability community's grassroots in response to threats to civil rights protections for people with disabilities.
- ★ The ADA WATCH campaign educates and informs people with disabilities, disability advocates, members of the general public, the business community, policy makers, and the media regarding threats to civil rights protections for people with disabilities.
- ★ The ADA WATCH campaign seeks to build an online community of empowered citizens united against attempts to roll back civil rights protections for people with disabilities.

ADA WATCH coalition organizations include the ADAPT, American Association of People with Disabilities (AAPD), Bazelon Center for Mental Health Law, Disability Rights Center, National Association of Protection and Advocacy Systems (NAPAS), National Council on Independent Living (NCIL), National Disabled Student Union (NDSU), National Organization on Disability (NOD), and many others. ADA WATCH.org is supported in partnership with www.wiredonwheels.org, a nonprofit site for rating accessibility.

WIRED ON WHEELS is dedicated to making it easier for people with physical disabilities to decide about places to visit. "We're starting with restaurants, and we need your help. The next time you're out dining of just out and about town, note your local establishments' accessibility. Then, just go to www.wiredonwheels.org or AOL Keyword: WOW, and rate the accessibility from **No Access** to **WOW!**"

It will make a difference to the next person with a physical disability who visits your city. Pass the word—share this article with a friend! WOW's motto is "Together we can rate America for accessibility!"



Rate a local destination today – and help someone with a physical disability make an informed decision tomorrow! Go to www.wiredonwheels.org or AOL Keyword: WOW.

Rate your local restaurant:



SPEAK UP! ALABAMA

Friday, September 7, 2001

At a Location Near You – 2:00 - 4:00 p.m.

It is time for people with disabilities, their families, friends, and advocates to come forward and **SPEAK UP!** ADAP is launching a state-wide public hearing by way of an interactive videoconference. The videoconference will be September 7 from 2 – 4 p.m. We want to listen to the issues you think ADAP should include in its priorities.

This event gives you the opportunity to tell us:

- ★ How are the rights of persons with disabilities violated?
- ★ In what ways are persons with disabilities discriminated against?
- ★ What are the barriers that prevent persons with disabilities from participating in the community, as do persons without disabilities?
- ★ In what ways are persons with disabilities denied the opportunity to make informed decisions or have meaningful choices?

Your input is key for the development of ADAP's work plan. Help ADAP identify problems and concerns across the State of Alabama. We are providing several locations in different areas of the state for your convenience.

The videoconference will allow you to hear the concerns and experiences being presented by those at the other locations, as well as give you the opportunity to present your own issues of concern and experience. More information about specific locations will be addressed in a newsletter coming soon. Get ready to **SPEAK UP!**

Continued from page 3

disabilities and the requirements for of an accessible facility. The seminars will be held throughout the state over the next year. ADAP is available to provide technical assistance to organizations or businesses that wish to make their facilities accessible to persons with disabilities. Also, if a person with a disability has been denied their rights as a result of discrimination then ADAP can advise them on administrative and legal avenues that they may take to ensure accessibility in their daily lives. If anyone is interested in participating in the seminars, wishes to make their facilities ADA compliant, or has been denied their rights based on their disability, he/she can contact Patrick Hackney at ADAP by calling 1-800-826-1675.

ALABAMA PARTICIPANTS AT RECENT OLMSTEAD TRAINING IN ATLANTA, GA. THEY ARE SHOWN WITH THE TWO WOMEN FOR WHOM THE OLMSTEAD CASE WAS FILED, L.C. AND E.W.



(l-r) seated: Ryan Colburn, Jessie Teranchi; 2nd row: L.C., Susan Colburn, Beth McGuire, E.W., Ann Marshall; back row: Judy Roy (not visible), Jerry Oveson, Dan Kessler.

PRESIDENT BUSH SIGNS OLMSTEAD EXECUTIVE ORDER – On June 18, President Bush signed an executive order promoting community-based alternatives—rather than institutions—for people with disabilities. On June 22, 1999, the U.S. Supreme Court handed down a landmark decision in *Olmstead v. L.C.*, 527 U.S. 581. The Court recognized that unjustified isolation and segregation of persons with disabilities in institutional settings is a form of discrimination prohibited by the Americans with Disabilities Act (ADA). The Court sent a simple yet profound message that long-term services and supports for people of all ages must be based on what is appropriate for and desired by the individual. The promise of an Olmstead executive order is contained in the President’s New Freedom Initiative (www.whitehouse.gov/news/freedominitiative/).

Airmail is funded 100% with federal funds through: • Administration on Developmental Disabilities (PADD) • Center for Mental Health Services (PAIMI) • Social Security Administration (PABSS) • U.S. Department of Education/Rehabilitation Services (PAIR and PAAT)

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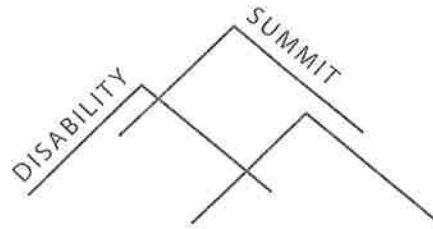
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Celebrating 25 Years of Advocacy

Jennifer Killingsworth, Student Assistant



The Alabama Disabilities Advocacy Program celebrated its 25th Anniversary by sponsoring a Disability Summit on Friday, August 3, 2001 at the University of Alabama's Ferguson Center. The all day event began with opening remarks at 8:30 A.M. and ended with a Celebration Presentation at 4:00 P.M.

The Summit was a great success with more than 200 people in attendance at the Anniversary Celebration. The Summit gave people with disabilities an opportunity to be heard by Alabama's citizens and its leaders. ADAP expressed its vision of a society where persons with disabilities are valued, have equal opportunity, and exercise meaningful choices.

The Summit consisted of five break out sessions with facilitators, which began at 9:00 A.M. or immediately following the opening remarks and ended at noon. Each participant selected two of the sessions specific to his or her interests. The topics of the sessions were:

- Special Education
- Alabama's Olmstead Plan
- Alabamians with Disabilities Act and ADA Issues
- Systemic Initiatives: Medicaid/New State Grants/Funding
- Voting and Electoral Process for People with Disabilities

The Plenary Sessions allowed everyone to collect information, his or her thoughts and opinions about the earlier events of the day. This particular session allowed all of those who were interested in other break out sessions (beyond their chosen two) to get feedback about them.

From 3:00 to 6:00 the groups migrated to the Art Gallery for the Celebration Presentation and the

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Reception. The Art Gallery housed art exhibits of works by people with disabilities. The art works were from Very Special Arts for Alabama, the Visionary Guild of Alabama, Brewer-Porch Children's Center and *Just As I Am*. The exhibition was on display from June 15 through August 31.

With the help of the facilitators, ADAP staff, interpreters and a growing public interest, the celebration was a step forward in understanding the views of persons with disabilities in Alabama.

Summit proceedings are being compiled and will be printed in a later issue of *Airmail*.



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The Alabama Council for Developmental Disabilities is currently seeking applications from interested persons who have a developmental disability or who are parents of young children with developmental disabilities to participate in the 2002 Partners in Policymaking Program (PIPA).

Partners in Policymaking of Alabama is a leadership training program for self-advocates and parents. It provides state-of-the art knowledge about disability issues and builds the competencies necessary to support advocates who can effectively influence public officials.

Partners learn about current issues and best practices and become familiar with the policy making and legislative processes at the local, state and federal levels. The overall goal is to achieve a productive partnership between people needing services and using services and those in a position to make policy and law. Partners attend two-day training sessions (Friday and Saturday) eight times a year, beginning in January 2002 and ending in August 2002. Each session is devoted to specific topics with nationally known experts and presenters.

Topics include:

- < History of Disability Movements: Parents, People First, Independent Living
- < Inclusive and Quality Education
- < Supported Employment/Supportive Living
- < Leadership Skills/Vision
- < State Policymaking
- < Federal Policy and Legislative Issues
- < Assistive Technologies
- < Community Organizing & Advocacy

Partners are expected to complete assignments between sessions and to commit to one major assignment, e.g., organizing a letter writing campaign or organizing special receptions or town meetings for public officials, etc.

Applications can be requested from the DD Council, or by contacting Jayne Chase at 800-846-3735, e-mail: jchase1040@aol.com. The Council's Partners in Policymaking Selection Committee will select 35 participants for the Partners Program. Applications must be postmarked by **November 30, 2001** to be eligible. Final selection will be made by December 11, 2001 and participants selected will be notified by December 18, 2001.

ADA TECHNICAL ASSISTANCE



ADAP is a statewide, independent program established to protect, promote and expand the rights of adults and children with disabilities.

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication, plus editorials. Inquiries may be sent to Segail, I. Friedman, Information Specialist, at the address printed below.

Airmail is published by Alabama Disabilities Advocacy Program (ADAP) of The University of Alabama School of Law Clinical Programs.

The ADA required the Department of Justice to provide technical assistance to entities and individuals with rights and responsibilities under the law. The Department encourages voluntary compliance by providing education and technical assistance to businesses, governments and members of the general public through a variety of means. Activities included providing direct technical assistance and guidance to the public through the ADA Information Line, ADA Web Site, and Fax on Demand, developing and disseminating technical assistance materials, undertaking outreach initiatives and coordinating ADA technical assistance government wide.

THE ADA WEB SITE

The ADA Web Site is operated by the Department on the Internet's World Wide Web (www.usdoj.gov/cfrt/ada/adahom1.htm). The home page provides information about:

- ◆ the toll-free ADA Information Line,
- ◆ the Department's ADA enforcement activities,
- ◆ the ADA technical assistance program,
- ◆ the ADA mediation program,
- ◆ proposed changes in ADA regulations and requirements, and
- ◆ certification of state and local building codes.

The home page also provides direct access to:

- ◆ ADA regulations and technical assistance materials (which may be viewed online or downloaded for later use),
- ◆ Freedom of Information Act (FOIA) ADA materials, and
- ◆ Links to the Department's press releases and Internet home pages of other Federal agencies that contain ADA information.

ADA INFORMATION LINE

The Department of Justice operates a toll-free ADA Information Line to provide information and free publications to the public about the requirements of the ADA. Automated service, which allows callers to order publications for delivery by mail or fax, is available 24 hours a day, seven days a week. ADA specialists are available to answer specific questions on Monday, Tuesday, Wednesday and Friday from 10:00 a.m. until 6:00 p.m. and on Thursday from 1:00 p.m. until 6:00 p.m. (Eastern Time). Spanish language service is available.

Box 870395
Tuscaloosa, Alabama
35487-0395
205-348-4928 - V/TTY
205-348-3909 - FAX
800-826-1675 - V/TTY
e-mail
ADAP@law.ua.edu
website
<http://www.adap.net>

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MiCASSA - Introduced in Senate

Judy Roy, Birmingham Independent Living Center

Once again the Medicaid Community Attendant Services and Support Act (MiCASSA), has been introduced in the U.S. Senate. The bill contains the features of last session's MiCASSA legislation, and adds a pilot project to improve services for people eligible for both Medicaid and Medicare.

The new bill has a five-year phase-in, during which the states can get a higher percentage of federal Medicaid dollars, if they provide community attendant services and supports. After five years, all states would be required to provide community attendant services and supports.

The bill is sponsored by Senators Edward Kennedy (D-MA), Arlen Specter (R-PA), Thomas Harkin (D-IA), Joseph Biden (D-DE) and Hillary Clinton (D-NY).

Whether a child is born with a disability, an adult has a traumatic injury or a person becomes disabled through the aging process, Alabama citizens want services provided in their own homes. The current Medicaid system has a history of heavy institutional funding. Medicaid is the primary payment source of long term care. In 2000, the long term care expenditures were 5% for the personal care option, 18% for waivers, 3% for home health care, 59% for nursing homes and 15% for intermediate care facilities for persons with mental retardation.

MiCASSA - S. 1298

1. Provides community-based attendant services and supports with

- activities of daily living (eating, grooming, dressing, bathing, transferring),
- instrumental activities of daily living (meal planning and preparation, managing finances, shopping,

- household chores, phoning, participating in community and
- health-related functions.

- 2. Includes hands-on assistance, supervision and/or cuing, as well as help to learn, keep and enhance skills to accomplish such activities.**
- 3. Requires services to be provided in the most integrated setting appropriate to the needs of the person.**
- 4. Provides Community-based Attendant Services and Supports that are:**
 - based on functional need, rather than diagnosis or age;
 - provided in home and community settings like - school, work, recreation or religious facility;
 - selected, managed and controlled by the consumer of the service;
 - supplemented with backup and emergency attendant services;
 - furnished according to a service plan agreed to by the consumer; and
 - that include voluntary training on selecting, managing and dismissing attendants.
- 5. Allows consumers to choose among various service delivery models including vouchers, direct cash payments, fiscal agents and agency providers. All of these models are required to be consumer controlled.**
- 6. For consumers who are not able to direct their own care independently, MiCASSA allows for "individual's representative" to be authorized by the consumer to assist. A representative might be a friend, family member, guardian, or advocate.**

Continued on page 5

7. **Allows health-related functions or tasks to be assigned to, delegated to, or performed by unlicensed personal attendants, according to state laws.**
8. **Covers individuals' transition costs from a nursing facility or ICF-MR to a home setting, for example: rent and utility deposits, bedding, basic kitchen supplies and other necessities required for the transition.**

Other provisions cover quality assurance, increase federal funding, and planning activities.

Advocates may express their views of the legislation by contacting Senators Shelby and

Sessions or to ask them to sign-on as co-sponsor of **MiCASSA - S. 1298.**

Senator Richard Shelby
110 Senate Hart Office Building
Washington, D.C. 20510
Phone: 202/224-5744
Fax: 202/224-3416
senator@shelby.senate.gov

Senator Jeff Sessions
493 Senate Russell Building
Washington, D.C. 20510
Phone: 202/224-4124
Fax: 202/244-3149
senator@sessions.senate.gov



Senior Wheels USA

The Senior Wheels USA Program makes electric wheelchairs available to qualified senior citizens, 65 and older, and people with disabilities at no cost.

The power wheelchairs are provided to those who cannot walk and cannot self-propel a manual wheelchair, and who meet the additional guidelines of the program. No deposit is required. If the person's need is for use in the home, please call for more information. If the person does not meet all the requirements of the program, the program may still be able to help through the donation program. For more information, call 800-246-6010.



ALABAMA DISABILITIES ADVOCACY PROGRAM SEEKS COUNCIL MEMBERS

The Alabama Disabilities Advocacy Program (ADAP) is seeking applicants to serve on the agency's advisory councils. The Protection and Advocacy for Developmental Disabilities (PADD), Protection and Advocacy for Individuals with Mental Illness (PAIMI), and Protection and Advocacy of Individual Rights (PAIR) programs each has an advisory council. They are primarily composed of people with disabilities and family members, along with a number of advocates and professionals.

Applicants should be people with disabilities, family members of persons with disabilities, or individuals with knowledge of disability issues. ADAP promotes cultural diversity and invites minorities and people of diverse cultures to submit applications.

If you are interested, please send your resume and a letter of interest to Reuben W. Cook, Director, or Ann Marshall, Coordinator of Outreach and Training, Box 870395, Tuscaloosa, AL 35487-0395

EMERGENCY EVACUATION

In light of the recent national disaster, we are even more aware of the need for emergency evacuation of people with disabilities. It is one of the best-known stories of the World Trade Center disaster: Michael Benfante and a friend plucking a woman from her wheelchair in a 68th-floor office and taking her to safety.

It is not clear how common special evacuation provisions for workers with disabilities are in such buildings. Experts say that concern should not be used to limit where people with disabilities can work, but recommended that employees with special needs take an active role in making sure their needs are anticipated. People with disabilities need to be consulted and at the table as plans for evacuation are put together, reviewed and practiced.

INTERNET SITES THAT DISCUSS EMERGENCY PROCEDURES

Federal publication, *Emergency Procedures for Employees with Disabilities in Office Occupancies:* www.usfa.fema.gov/usfapubs/pubs-display.cfm [ed.note: when verifying this site it could not be found. By now the site may be up and running or check on the <http://www.usfa.fema.gov>]

Red Cross information, www.redcross.org/services/disaster/beprepared/disability.html

Disaster preparedness information for people with disabilities: www.jik.com/disaster.html

Report: *Disaster Mitigation for Persons with Disabilities:* www.its.uiowa.edu/law

New Publications

ADA TECHNICAL ASSISTANCE ON CD-ROM The U.S. Department of Justice has made available a free CD ROM on the Americans with Disabilities Act (ADA). Providing a complete collection of the Department of Justice's ADA materials, it includes the Department's regulations, architectural design standards, and technical assistance publications. Full details can be found at <http://www.usdoj.gov/crt/ada/adahom1.htm>

ADA STANDARDS FOR ACCESSIBLE DESIGN now in Acrobat PDF format with formatted text and graphics, and links to figures, graphics and cross-referenced sections. New July 25, 2001 at www.usdoj.gov/crt/ada/stdspdf.htm

THE 2001 EDUCATIONAL KIT--With Ability--produced by the U.S. Department of Labor's Office of Disability Employment Policy is available at www.dol.gov/dol/odep/public/media/reports/ek01/toc.htm

SURGEON GENERAL'S REPORT ON MENTAL HEALTH: CULTURE, RACE & ETHNICITY. The 200-page report and related fact sheets are available on the Surgeon General's Website at www.surgeongeneral.gov

Continued from page 3

To obtain general ADA information, get answers to technical questions, order free ADA materials, or ask about filing a complaint, please call: 800-514-0301 (voice) 800-514-0383 (TTY).

ADA FAX ON DEMAND

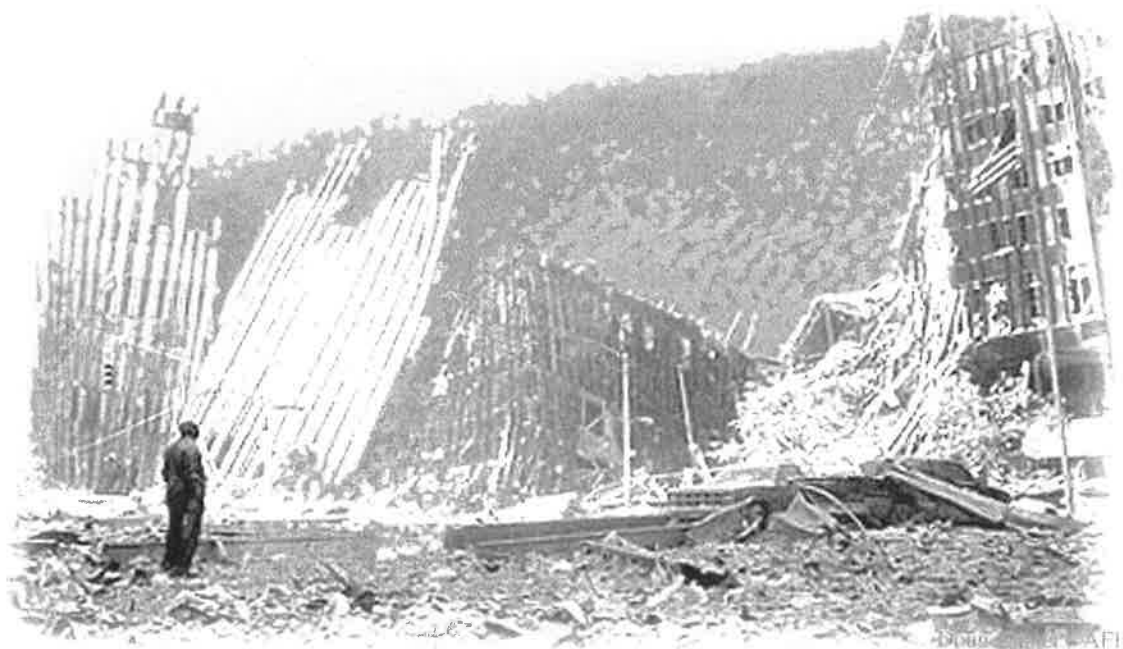
The ADA Information Line Fax Delivery Service allows the public to obtain free ADA information by fax 24 hours a day, seven days a week. By calling the number above and following the directions, callers can select from among 32 different ADA technical assistance publications and receive the information, usually within minutes, directly on their fax machines or computer fax/modems. A list of available documents and their code numbers may also be ordered through the ADA Information Line.



**Summit
2002**

Let's repeat the success--mark your calendar NOW to attend next year's Disability Summit--**August 9, 2002**--on the University of Alabama campus at Ferguson Center. Share your thoughts, ideas and suggestions to make 2002 even better and more exciting . Contact Ann Marshall, Coordinator of Outreach and Training, to start the climb up to the next Summit.

Phone - 205/348-4928 (v/tty) • Fax - 205/348-3909 • E-mail - adap@law.ua.edu



Please join us as we remember the thousands of Americans who lost their lives and their families.

September 11, 2001

God bless America

Airmail is funded 100% with federal funds through: • Administration on Developmental Disabilities (PADD) • Center for Mental Health Services (PAIMI) • Social Security Administration (PABSS) • U.S. Department of Education/Rehabilitation Services (PAIR and PAAT)

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ALABAMA DISABILITIES ADVOCACY PROGRAM - THE UNIVERSITY OF ALABAMA SCHOOL OF LAW CLINICAL PROGRAMS

October 2001 - 8 - ADAP Airmail



ADAP REDUCES BARRIERS FACED BY STUDENTS WITH DISABILITIES AT SPRING HILL COLLEGE

David Gamble, Case Advocate

In early 2001, a situation was brought to ADAP's attention concerning a student with a disability who attended Spring Hill College in Mobile. The student had a double amputation, used a wheelchair, and faced innumerable physical and program barriers at the College. A majority of the College's programs and services were inaccessible to the student. The student exercised exhaustive efforts to persuade Spring Hill College to remedy these discriminatory acts. Unfortunately, the College refused to respond to these efforts.

ADAP investigated and found that the College was not in compliance with the accessibility requirements of Section 504 of the Rehabilitation Act. Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance. The College receives Federal financial assistance and is, therefore, subject to the provisions of Section 504.

ADAP filed a formal complaint on behalf of the client and other similarly situated students with the United States Department of Education's Office for Civil Rights (OCR) in April of 2001. OCR conducted an on-site inspection of 13 facilities at Spring Hill College that contain the College's essential programs and activities. OCR's review revealed that 12 of these facilities were either inaccessible to persons with mobility impairments or contained interior features that preclude access to services.

In order to ensure that persons with disabilities are provided access to the College's programs and activities, the College voluntarily entered into a resolution agreement with OCR. The agreement is broad in scope. It stipulates that corrective action shall be taken with respect to pedestrian walkways, parking, bathrooms, labs, entrances, lobbies, the campus bookstore, the mailroom, the cafeteria, the recreation center, the office of student life, campus sponsored events, classrooms, locker rooms, and campus apartments. Implementation of the resolution agreement began on November 12, 2001 and will be fully implemented by the end of 2003. For a copy of this agreement, contact David Gamble at 800-826-1675.

As this case demonstrates, discrimination against persons with disabilities continues to be a serious and pervasive problem. Through the provision of protection and advocacy services, ADAP continues its efforts to ensure that persons with disabilities have equal access and opportunity in all areas of community life.

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Student Service Reviews

Special education monitoring for quality and compliance

Nancy Anderson, Staff Attorney

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Information Specialist

Checking the paperwork – that’s basically all that the Alabama State Department of Education has been doing for years when it went out to school districts to monitor how they were fulfilling their legal obligations under the Individuals with Disabilities Education Act (IDEA). Little attention was paid to the quality of the services being offered to children or the outcomes that were being achieved by children served through special education services. A new special education monitoring system being piloted this year seeks to balance procedural compliance issues with more of an emphasis on quality and outcomes for children.

How does this new system, called Student Service Reviews (SSR) work? Based on special education enrollment data, the State Department of Education (SDE) randomly chooses six to twelve students from the school district up for review. When the monitoring team for that school district visits, approximately three weeks after the children’s names are chosen, it spends a week in the district reviewing the children’s records. More importantly, the team extensively interviews, according to proscribed protocols, the children’s teachers and other service providers, their parents and even the children themselves if appropriate. Because of confidentiality concerns and the fact that parental input is so important to the process, a child will not be reviewed by the team unless the parent gives his permission.

In doing its review, monitoring team members are seeking answers to the following types of questions:

- How well is the student doing now and what is the outlook for the student’s future?
- Does the student have access to school-wide programs, services and opportunities?
- How does the IEP reflect access to the general education curriculum?
- Is the student’s classroom placement his appropriate “least restrictive environment”?
- Does the school system understand the student’s situation?
- Is the IEP adequate?
- Is the school district providing the services that the student needs?
- Is the school district responsive to changes in the student’s needs?

Continued on page 3



Before the ADA—there was the Voting Accessibility for the Elderly & Handicapped Act

Source: National Council on Disability

The Voting Accessibility for the Elderly and Handicapped Act of 1984 generally requires polling places across the United States to be physically accessible to people with disabilities for federal elections. Where no accessible location is available to serve as a polling place, a political subdivision must provide an alternate means of casting a ballot on the day of the election. This law also requires states to make registration and voting aids available for disabled and elderly voters, including information by text telephones.

For more information contact:
U.S. Department of Justice
Civil Rights Division
Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128
800-253-3931 (V/TYY)
Website: www.usdoj.gov/crt/voting



ADAP is a statewide, independent program established to protect, promote and expand the rights of adults and children with disabilities.

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication, plus editorials. Inquiries may be sent to Segal I. Friedman, Information Specialist, at the address printed below.

Airmail is published by Alabama Disabilities Advocacy Program (ADAP) of The University of Alabama School of Law Clinical Programs.

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Continued from page 2

At the close of the week, team members come together and share their impressions about the strengths and weaknesses of the school district's special education services based on the conclusions drawn about the status of the children who were examined and the system's responsiveness to the children's needs. Areas of needed improvement are identified and improvement strategies are suggested with follow-up monitoring as needed. The SDE's report will be made public so that the community is aware of the health of their special education system and to help spur its input into helping improve services. The report will **never** contain any identifying references to children who were the focus of the monitoring; safeguarding the confidential nature of the personal information that is gathered is vital to team members.

Many issues regarding the SSR process still need to be explored and fine-tuned particularly the SDE's plans and capacity to provide technical assistance to school districts. Still, SSRs hold much promise for improving services to children with disabilities in Alabama. For the first time, the SDE is actually looking at kids, not just checklists. Eventually, all parents of children with special needs will be given the opportunity to participate in monitoring through community-wide focus groups.

ADAP has participated in both the design and piloting of this SSR process and we welcome any questions or comments. In addition, if you'd like to know when your district is going to be monitored, please feel free to contact us.

Alabama Disabilities Advocacy Program Adopts Priorities for FY 2002

With input from consumers, advocates, advisory councils, and the public at large, ADAP adopted the following priorities for FY 2002. Thank you to everyone who provided the information for the establishment of the following priorities.

Assistive Technology

PAAT

- * Promote the provision of assistive technology to vocational rehabilitation (VR) clients with traumatic brain injury (TBI).
- * Advocate for Alabama Medicaid funding of power wheelchairs for eligible adults with severe mobility impairments.
- * Advocate for Alabama Medicaid funding of incontinent supplies for eligible individuals with disabilities.
- * Advocate for special education provision of assistive technology to students with disabilities.

ADA/Discrimination Issues

PAIR

- * Advocate for access to state and local government programs for persons with disabilities.
- * Advocate for access to places of public accommodation for persons with disabilities.
- * Advocate for access to transportation services for persons with disabilities.

Children's Issues

PADD, PAIMI, PAIR

- * Protection of the rights of children with disabilities who are placed in or at risk of becoming placed in foster care.
- * Advocating for provision of appropriate services for children with multiple needs.

Education

PADD, PAIR, PAIMI

- * Advocating for the education of children with disabilities in the least restrictive environment with appropriate supports and services.
- * Advocating for development and implementation of appropriate education programs for children ages 3 to 21, pursuant to the Individuals with Disabilities Education Act and Section 504.
- * Advocating for appropriate practices, procedures and policies with respect to the discipline of children with disabilities.

Forensics Issues

PAIMI

- * Continue Task Force on Forensics Issues

Residential Placements

PADD, PAIMI


- * Ensuring that residential facilities are safe and that residents are free from abuse and neglect.
- * Advocating for appropriate community placements and supports for individuals in institutions and for appropriate transitional services for those persons.
- * Advocating for appropriate treatment for persons in state-operated institutions and in community placements.

Return to Work Issues

PABSS

- * Provide information on programs, services and supports available
- * Provide information about work incentives helpful in obtaining meaningful employment
- * Cooperate with professionals to explain how returning to work affects benefits and future planning.
- * Provide technical assistance if problems are encountered in obtaining supports and services.
- * Advocate to resolve conflicts with service providers or employers.

ADAP's programs are designated as follows:

- PADD = Protection and Advocacy for Persons with Developmental Disabilities
 - PAIMI = Protection and Advocacy for Individuals with Mental Illness
 - PAIR = Protection and Advocacy of Individual Rights
 - PAAT = Protection and Advocacy for Assistive Technology
 - PABSS = Protection and Advocacy for Beneficiaries of Social Security
- 

THE ALABAMA RESPITE RESOURCE NETWORK

The Alabama Respite Resource Network (ARRN) is currently developing a network of respite providers around the State. Working from a grant funded by the Alabama Council for Developmental Disabilities, ARRN is a project of UCP of Huntsville and Tennessee Valley.

Collecting information on respite resources will be an ongoing project, but currently known providers will be compiled into a directory that can be accessed easily by toll free number and internet site.

At the same time, the ARRN Task Force is conducting a needs assessment survey, targeting agencies, families and other stakeholders around the State to identify gaps in service.

If you would like more information on the project, or can offer information on respite in your area please contact:

Linda Lamberth, Project Manager
2505 Inverness Lane
Birmingham, Alabama 35242
205-991-0927

email—alabamarespite@aol.com

website—<http://hometown.aol.com/alabamarespite/myhomepage/business.html>

GOVERNOR'S OFFICE ON DISABILITY G.O.O.D.

Public Forums 2001

Discussion Topics

Alabamians with Disabilities Act
Alabama Olmstead Initiative Update
Voter Registration Project

All forums 10:00 a.m. - 12:00 noon

Monday, December 10—Huntsville
*JC Community Building
2180 Airport Road*

Tuesday, December 11—Birmingham
*Botanical Gardens
2612 Lane Park Road*

Thursday, December 13—Montgomery
*Old Archives Room, State Capitol
600 Dexter Avenue*

Friday, December 14—Mobile
*Fred Delchamps Center
2401 Gordon Smith Drive*

For more information, contact GOOD at
1-888-879-3582 or swatson@good.state.al.us

UPDATE

A

In the Equity Funding Lawsuit, the Circuit Court had entered an Order requiring the Defendants to submit a proposed remedy plan by October 15, 2001. On that date, the State Department of Education filed a document with the Court which admittedly was not complete. Therefore, the Circuit Court entered an order for an additional scheduling conference to be held on December 5, 2001.

C

E

It is anticipated that the Court will permit the Defendants until March 2002 to submit their plan.

YOU CAN BECOME YOUR OWN MEDICAID PROVIDER



The Inclusion Research Institute (IRI) was awarded a grant as a Project of National Significance. The project is to educate individuals with disabilities, families, local, state and federal representatives on Self-Directed Support Corporations (SDSC-Microboards). Using this model, a person can receive Medicaid funding directly by forming a board around the person with the disability, incorporate the board and become a Medicaid provider.

For more information, please contact Jackie Golden, Executive Director, Inclusion Research Institute, at jlgolden@bellatlantic.net or 410-262-1276.

New Security Requirements Preserve & Respect Rights of People with Disabilities

The Air Carrier Access Act (ACAA) and the Department of Transportation's implementing rules prohibit discriminatory treatment of persons with disabilities in air transportation. Since the terrorist hijackings and tragic events of September 11, the Federal Aviation Administration (FAA) has issued directives to strengthen security measures at airline checkpoints and passenger screening locations. In securing our national air transportation system, steps were also taken to ensure that the new security procedures preserve and respect the civil rights of passengers with disabilities. The following are a few examples of the types of accommodations and services that must be provided to passengers with disabilities. These examples are not all-inclusive and are simply meant to provide answers to frequently asked questions since September 11 concerning the air travel of people with disabilities.

Check-in

Air carriers must provide meet and assist service (e.g., assistance to gate or aircraft) at drop-off points. The lack of curbside check-in has not changed the requirement for meet and assist service at drop-off points.

Screener checkpoints

Individuals assisting passengers with disabilities are allowed beyond the screener checkpoints. These individuals may be required to receive a "pass" allowing them to go through the screener checkpoint without a ticket.

Ticketed passengers with their own oxygen for use on the ground are allowed beyond the screener checkpoints with their oxygen canisters once the canisters have been thoroughly inspected.

The limit of one carry-on bag and one personal bag (e.g., purse or briefcase) for each traveler does not apply to medical supplies and/or assistive devices. Passengers with disabilities generally may carry medical equipment, medications, and assistive devices on board the aircraft.

All persons allowed beyond the screener checkpoints may be searched. This will usually be done through the use of a hand-held metal detector, whenever possible.

Service animals, once inspected to ensure prohibited items are not concealed, are permitted on board an aircraft.

Assistive devices such as walking canes, once inspected to ensure prohibited items are not concealed, are permitted on board an aircraft. Assistive devices such as augmentative communication devices and Braille 'N Speaks will go through the same sort of security screening process as used for personal computers.

Syringes are permitted on board an aircraft once it is determined that the person has a documented medical need for the syringe.

Personal wheelchairs and battery-powered scooters may still be used to reach departure gates after they are inspected to ensure that they do not present a security risk. Personal wheelchairs will still be allowed to be stowed on board an aircraft.

Air carriers must ensure that qualified individuals with a disability, including those with vision or hearing impairments, have timely access to information, such as new security measures, the carriers provide to other passengers. Alternative formats are necessary to ensure that all passengers, especially deaf persons, understand new security measures.

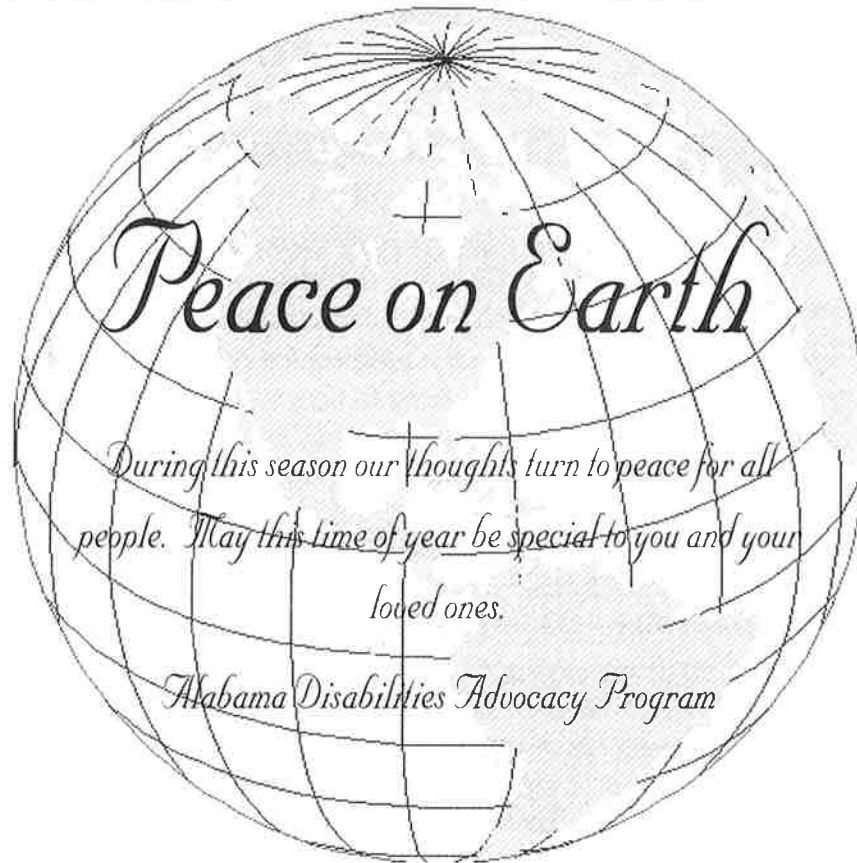
Members of the public, who feel they have been the subject of discriminatory actions or treatment by air carriers, may file a complaint by sending an email, a letter, or a completed complaint form to the Aviation Consumer Protection Division (ACPD).

E-mail: airconsumer@ost.dot.gov

Mailing address: Aviation Consumer Protection Division, U.S. Department of Transportation, Room 4107, C-75, Washington, DC 20590.

Complaint forms may be downloaded and/or printed from: <http://www.dot.gov/airconsumer/problems.htm>

This information was issued on 10/29/01 by the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings and its Aviation Consumer Protection Division.



**J. Paul Chase
Alabama Youth Leader
Chosen for Department of Labor Council**

During the U.S. Department of Labor's 11th anniversary celebration of the Americans with Disabilities Act, U.S. Secretary of Labor Elaine L. Chao announced the creation of the Youth Advisory Council. The Youth Advisory Council is part of the Presidential Task Force on Employment of Adults with Disabilities.

"I am pleased to announce the names of 15 outstanding appointees to the Youth Advisory Council," Chao said. "These young men and women will bring unique and creative ideas to the Administration to identify and solve some of the complex issues affecting young Americans with disabilities." J. Paul Chase, a leader in Alabama's Youth with Disabilities was selected. Chase is the son of long time Alabama advocate, Jayne Chase. Chase is director of the Partners in Policymaking of Alabama, which is funded by the Alabama Developmental Disabilities Council.

Through the President's Task Force, the Council will advise the Secretary of Labor and her designees, including the Office of the 21st Century Workforce and the Office of Disability Employment Policy, on education, training, employment, health and rehabilitation and independent living issues affecting young people with disabilities. In addition, the Youth Advisory Council will make recommendations to increase positive employment outcomes for young people with disabilities.

Congratulations J. Paul Chase.



A DATE TO REMEMBER - AUGUST 9, 2002

Mark your calendar **NOW** to attend next year's Disability Summit – share your thoughts, ideas and suggestions to make 2002 even better and more exciting. Topics for seminars are being accepted. If you want to be a leader or facilitator or work on the Summit, please contact ADAP. Plans are under way now and your help is needed.

Contact Ann Marshall, Coordinator of Outreach and Training, to start the climb up to the next Summit.

Phone - 205-348-4928 (v/tty) • Fax - 205-348-3909 • E-mail - adap@law.ua.edu

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