

Alabama Disabilities Advocacy Program

March 2010

ADAP will Participate in Independent Evaluation

by Ellen B. Gillespie, PhD

One of the largest programs at ADAP is our advocacy on behalf of children and adults who have developmental disabilities. We use the acronym PADD for this program – Protection and Advocacy for Individuals with Developmental Disabilities. PADD was the first funding source for ADAP, and it remains the largest.

Funding for PADD comes from the Department of Health and Human Services, the Administration for Children and Families, the Administration for Developmental Disabilities. The Administration for Developmental Disabilities is obtaining an independent evaluation for their programs, including the Protection and Advocacy agencies, the State Councils on Developmental Disabilities, and the University Centers for Excellence in Developmental Disabilities. Alabama was randomly selected to be one of 20 states in this review. Our review will take place the week of March 29, 2010, and we will be the first in the na-

tion to complete this process.

The evaluation process includes submission of material to the review team before the site visit and interviews with representatives of various stakeholder groups (ADAP staff, collaborators, Advisory Council members, and clients). We have already spent a great deal of time preparing for the visit, and the evaluation is a priority for our work in March. While the purpose is an assessment of DD programs nationwide, and not an individual assessment of ADAP work, we feel responsible to do an excellent job in preparing and sharing the details of our diverse DD work. We continue to do a wide range of individual and systemic work for Alabamians with developmental disabilities, and we intend for the evaluators to leave Alabama with an understanding of the quality and quantity of work performed by ADAP. We may be asking for your help with an interview or information.

Part I

Special Education Planning for Adult Students

by Nancy Anderson, Senior Staff Attorney

Under the Individuals with Disabilities Education Act (IDEA), all rights provided to parents under the IDEA transfer to their child when the child reaches the age of majority. It is presumed that an adult student is capable of making his or her own educational decisions.

In Alabama, the age of majority is 19. When a student turns 18 in Alabama, parents and students must be advised of the impending transfer of rights. Students should be educated about those rights to ensure he or she understands them.

While the IDEA requires a child's school to respect the educational decisions he or she makes as an adult student, this doesn't mean that a parent can't continue to be involved in the student's education. The IDEA requires the school to provide all special education notices to both the adult student and his or her parents. There's nothing in the IDEA that prevents the student from taking ad-

vice from family, teachers, or people on whom they have always relied.

Is Your Child Prepared?

As a child moves through school, self-advocacy training needs to be intensified so the student is well-prepared to speak for him or herself once the student becomes an adult. Here are resources that can help parents, students and IEP Teams prepare the student to be a strong self-advocate, especially as the advocacy pertains to school plans:

- **Age of Majority: Preparing your child for making their own choices**
Source: http://www.ncset.org/publications/parent/NCSETParent_May02.pdf
- **Students Get Involved! – resources compiled by the National Dissemination Center for Children with Disabilities**
Source: http://www.nichcy.org/EducateChildren/transition_adulthood/Pages/student-involvement.aspx
- **Student Involvement in Transition Planning**
Source: <http://transitioncoalition.org/transition/tcfiles/files/docs/asktheexpert1213213446.pdf/asktheexpert.pdf>



Coming Up...

The transfer of rights previously described above takes place unless an adult student has been determined to be incompetent under Alabama law or has been determined unable to provide informed consent with respect to his/her educational program. The next part of this series will address this situation.

Are We Paying Attention to Students?

*Research conducted at the University of Oklahoma found that many special education teachers thought their students participated a lot during IEP meeting discussions. But, direct observations of high school IEP meetings found that students on average talked only 3% of the time!**

How likely is it that an IEP reflects the needs and wishes of students if they only talk 3% of the time at their own IEP meetings?

Parents and schools need to enhance the self-advocacy skills of students so that the students can participate in – if not direct – their own IEP meetings.

Check out the listed resources for more information on how to supercharge the participation of youth at their own IEP meetings.

* Martin, J.E., Van Dycke, J.L., Greene, B.A., Gardner, J.E., Christensen, W.R., Woods, L.L., & Lovett, D.L. (2006). Direct observation of teacher-directed IEP meetings: Establishing the need for student IEP meeting instruction. *Exceptional Children*, 72(2), 187-200.

Help ADAP - Check your Polling Place Accessibility

By Patrick Hackney, Senior Staff Attorney



Under ADAP's PAVA program, ADAP works to ensure persons with disabilities have equal access to the voting process. You can assist ADAP in improving access to the voting process by completing a short polling place accessibility survey when you go vote at your polling place this summer and fall. The survey contains questions regarding the accessible features of your polling site including parking, entrance, path of travel, and the voting process itself. ADAP will review all accessibility surveys that it receives in an effort to identify any common barriers that limit a person's access to vote. Using the surveys, ADAP may also contact the appropriate election officials to explain the existing barriers to the voting process for persons with disabilities and offer solutions to remove the barriers.

If you are interested in assisting ADAP by completing an accessibility survey for your polling site, please print a copy of the survey from the spotlight section of ADAP's website www.adap.net, complete the survey when you go to vote on election day, and return the form to ADAP by mail or fax as instructed on the survey. By completing a polling site survey, you will assist ADAP in its goal of ensuring every person has the ability to exercise the right to vote.



Arts 'n Autism at Covenant Presbyterian Church

By Pamela Olson, Case Advocate

Quality child care and summer camp experiences for children diagnosed with autism spectrum disorder (ASD) are often difficult to find which adds to the stresses and burdens placed on the families of those children. Six years ago Covenant Presbyterian in Tuscaloosa began an after-school program called Arts 'n Autism to serve children ages 6-12. The program was initially small in scope and numbers of children



Dowling

served—programming was offered one day per week and twelve children were enrolled. The need for additional days was seen almost immediately and the numbers of children registering for the program also increased. Today Arts 'n Autism serves fifty children between the ages of two and a half to twenty-one and meets three days each week. In addition, Covenant offers a two week summer camp experience for the children enrolled in the program.

Arts 'n Autism was the brainchild of Suzanne Dowling, a parent of a child with autism, and Jan Sikes, a Tuscaloosa City Schools special education

teacher. The program offers the children opportunities to practice their social skills in a variety of different activities. Currently Arts 'n Autism offers drama, visual art, karate, cardio kick, dance, music that includes a drumming circle, piano lessons, and music therapy, and biblio-therapy for the younger children that uses books to learn to express emotions appropriately. The middle school and high school aged children are part of the Ambassadors program and participate in activities such as bowling, swimming, and community service projects. This year Arts 'n Autism became a vendor for Alabama Department of Rehabilitation Services – Vocational Rehabilitation and began offering job skills and life skills to students who have graduated from high school but are not yet ready to move on to higher education or retain employment. The students participating in this program named it LIFE (Learning Independence for Further Education and Employment).

Covenant Presbyterian continues to look for and find innovative ways to meet the needs of families who have children with ASD. This year the church (Arts 'n Autism continued on page 5)

Arts 'n Autism continued from page 4)

expanded their supports to Sunday morning, Wednesday evening and once a month respite services through its Worship Without Worry ministry. The church employs certified special education teachers and trained assistants to provide



children with ASD with opportunities to worship, participate in Christian education, sing in choir, and socialize with the congregation. Family members are offered the opportunity to worship without worrying about their child's behavior or safety. Respite services are offered the second Saturday of each month between 5:30 pm and 10:00 pm and is scheduled in conjunction with the Autism Society of Alabama's Tuscaloosa Chapter parent support group which also meets at Covenant.

For additional information about Arts 'n Autism or Worship Without Worry, contact Covenant Presbyterian Church at (205) 758-1193.

Adaptive Seating Systems: Posturing or Restraint?

By Christy Johnson, Senior Case Advocate

An Internet search for "adaptive equipment" will reveal a number of companies that offer various types of seating and positioning support. One such well-known company is Rifton. While ADAP does not endorse any one company, testimonials found on the Rifton website suggest that many teachers, parents and users find that a particular device, the Rifton Seating System, offers "secure, comfortable and functional seating in the classroom and at home." This type of support system appropriately used can greatly benefit the educational and functional needs of a child in the school setting.

However, last year ADAP received calls from concerned parents reporting that their children's schools were using a seating system like the Rifton as a form of physical restraint. These children had no known physical disabilities that would warrant the support of this type of adaptive equipment. In fact, in each situation, ADAP determined that the school used the seating system as a behavioral intervention to restrict the children's movement in class. This, despite the fact that the Rifton company even includes a warning in its user manual stating: "Some people use straps, trays or supports to restrict a child's movement. This is a behavioral restraint and may raise ethical and legal issues which you should check with your particular facility. Rifton Equipment is not intended for this use."

Each school district with whom ADAP worked eventually decided the use of a Rifton or other similar seating system for the purpose of physical restraint is not in the best interest of children or the district. As a result, the seating systems were either removed altogether or use was discontinued with children for restraint purposes.

Alabama, along with many other states and the federal government, is moving to adopt stronger language to protect children from the use of seclusion and restraint in school settings. We ask parents to contact ADAP if your child's school is using a seating system or another adaptive device as a behavioral restraint. We urge school districts and other providers to inventory the adaptive equipment used in your facilities and to assess whether you are using this type of equipment appropriately.

“Yes, We Are Open”

By Patrick Hackney,
Senior Staff Attorney

Part 1 of 3
Title III of the Americans
with Disabilities Act

This is the first article of a three part series discussing Title III of the Americans with Disabilities Act, access to places of public accommodations for persons with disabilities, and focuses on what is considered a place of public accommodation. Future articles will discuss what constitutes discrimination under Title III and reasonable accommodations for persons with disabilities.

Many businesses and other places used by the public advertise that they are open for business using a sign on the door. Are they really “open” to all persons, including persons with disabilities? Since the Americans with Disabilities Act (ADA) became law in 1990, they should be. Title III of the ADA prohibits discrimination against people with disabilities by places of public accommodation. The rights provided by Title III of the ADA cannot be understated. Title III of the ADA affords persons with disabilities one tool to be fully integrated into community life. Persons with disabilities possess the right, under Title III of the ADA, to visit and use places open to the public.

Under the ADA, what is a place of public accommodation? The regulations implementing the ADA list 12 broad categories of places of public accommodation:

- (1) An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor;
- (2) A restaurant, bar, or other establishment serving food or drink;
- (3) A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
- (4) An auditorium, convention center, lecture hall, or other place of public gathering;
- (5) A bakery, grocery store, clothing

store, hardware store, shopping center, or other sales or rental establishment;

(6) A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(7) A terminal, depot, or other station used for specified public transportation;

(8) A museum, library, gallery, or other place of public display or collection;

(9) A park, zoo, amusement park, or other place of recreation;

(10) A nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(11) A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(12) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

28 C.F.R. §36.104.

In other words, virtually any place that is open to the public falls within Title III's non-discrimination requirements. The only public entities not explicitly covered by Title III are private clubs and religious organizations.

Think about the places you regularly visit: banks, fast food restaurants, movie theaters, hotels, or even a golf course. Now, imagine being turned away from any or all of these places because of a disability. Suppose, for example, the door is too narrow to accommodate your wheelchair. Under Title III, each place should be accessible for persons with all types of disabilities.

As a person with a disability, I often notice whether places I visit are accessible. Whenever I see accessible parking spaces, ramps, Braille signs, or other accessible features, I have a sense of gratification because I know the ADA has pushed progress along. Not every place used by the public, including persons with disabilities, is fully accessible. Many places are more accessible for persons with disabilities, however, as a direct result of the ADA. Hopefully, the "Yes, We Are Open" sign will one day apply to everyone.

National Training held in Alabama

Angie Allen, Case Advocate

Our national organization, the National Disability Rights Network, recently hosted a training event in Alabama. Staff from Protection and Advocacy agencies around the country converged at the Hotel Capstone in Tuscaloosa for four days of intensive training on the PABSS program (Protection and Advocacy for Beneficiaries of Social Security). Three ADAP staff members (Angie Allen, Barbara Lawrence, and Delshonda Thomas) attended the training. Other attendees came from Pennsylvania, California, Massachusetts, Texas, Florida, Mississippi, Delaware, New Mexico, and Missouri. We were surprised that P&A staff from as far away as Guam and the Northern Mariana Islands also came to Alabama to participate. Persons who attended the full training are now certified in the PABSS program, and those who attended a two-day version concentrated on learning about employment law.

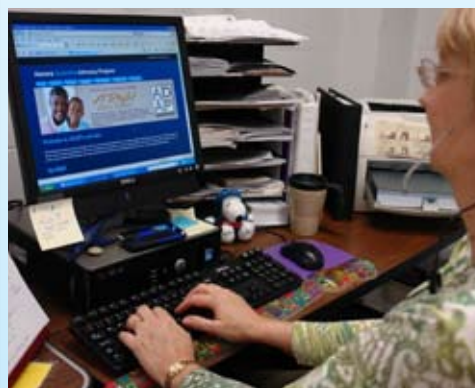
Trainers for the event included Cheryl Bates-Harris, David Hutt, and Ken Shiotani of the National Disability Rights Network in Washington, and Linda Landry from the Disability Law Center in Massachusetts.

This is the first time NDRN has held a national event in Alabama, and we hope the hospitality and arrangements will persuade them to come back!

adap.net update!

Web Site Update

ADAP is in the process of updating their website, go ahead and take a look...adap.net



Disability Information

We think you will find lots of helpful information, brochures and contact information on disability issues.

Priorities Survey

Don't forget the link on the front page for ADAP's Priority: http://www.surveymonkey.com/s.aspx?sm=AMdMh8RJc1vTSpWxGnsn1A_3d_3d