



Connecticut Disability Advocacy Collaborative Bulletin

“Enhancing the effectiveness of disability activism by organizing and empowering individuals, families, groups, and organizations!”

Empowerment! Opportunity! Justice!

July-August, 2008

To include information in next month’s Bulletin please contact us!

Website: <http://www.ct-dac.org/contactus.htm>

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Urgent Alert: Tell Senators Dodd and Lieberman to Pass the ADA Amendments Act, HR 3195 Before July 26th, the 18th Anniversary of the ADA!

Advocates across the country are being called upon to call or fax a letter to their U.S. Senators, telling them to vote for the *ADA Amendments Act of 2008, HR 3195* as passed by the House on June 25th. This bill has been changed to reflect the deal the business and disability communities reached. Below is a sample phone script and letter. The Collaborative urges readers to call Senators Lieberman and Dodd and **tell them to pass the bill with no Changes, No Amendments!**

Sample Phone Script [Call: 1-800- 828-0498 or (202) 224-3121]

I am calling to express my strong support for the ADA Amendments Act of 2008, H.R. 3195. This bill would protect people with disabilities and provide a clear definition of disability under the ADA for employers. The ADA Amendments Act is supported by over 100 national disability organizations and many key business associations including the U.S. Chamber of Commerce, the National Association of Manufacturers, the Society for Human Resource Management, and the HR Policy Association. These supporters recognize that this legislation that will ensure all Americans have a fair opportunity to secure employment. I urge Senator Dodd/Lieberman to support the ADA Amendments Act of 2008 as passed by the House.

Sample Letter to Fax* [Click Here for a Directory and Contact Information.](#)

*US mail sent to Congress can be delayed by up to four weeks because of security screening. Also, because the Senate receives so many emails, some Senators have chosen to block email. Given time constraints, phone calls and faxes to Senators are preferred.

Dear Senator:

I urge you to support the ADA Amendments Act of 2008, H.R. 3195, as passed by the House of Representatives.

The Americans with Disabilities Act has transformed the nation since its enactment in 1990. The ADA was intended to protect people with disabilities from discrimination at work and in public life. Over the last decade, the promises and protections of the ADA have dissolved for people with disabilities. Judicial decisions over the last decade have excluded people with conditions such as epilepsy, diabetes, multiple sclerosis, cancer, heart disease and bipolar disorder - those who Congress clearly intended to protect under the ADA in 1990 - from seeking protections against employment discrimination under the ADA.

The ADA Amendments Act of 2008 will re-establish these protections. This legislation is supported by over 60 national disability organizations, including the National Council on Independent Living, and many key business associations such as the U.S. Chamber of

Commerce, the National Association of Manufacturers, the Society for Human Resource Management, and the HR Policy Association.

The ADA Amendments Act would give employers and people with disabilities tools for successful integration into the workplace and society. Please join in this historic partnership and help ensure that the ADA once again covers the people Congress intended to be covered. People with disabilities depend upon it. I urge you to support the ADA Amendments Act of 2008 as passed by the House.

Sincerely,

Background: On Wednesday, June 24, the US House of Representatives approved the *ADA Amendments Act of 2008, HR 3195*, formerly known as the *ADA Restoration Act*, by a vote of 402-17! [View the House-passed bill](#) (PDF). As noted above, the bill is now in the Senate and Senators Dodd and Lieberman need to hear from you. You can [reach your senators online](#) or through the Capitol Switchboard at **1-(800) 828-0498** or **(202) 224-3121**.

Because of a series of court decisions over the last few years people with epilepsy, diabetes, cancer, cerebral palsy, multiple sclerosis and other disabilities have been improperly denied protection because their conditions could be controlled by medication or were in remission. In a Texas case, for example, a federal judge said a worker with epilepsy could not be considered disabled because he was taking medications that reduced the frequency of seizures.

In deciding whether a person is disabled, the ADA Amendments Act says, courts should generally not consider the effects of "mitigating measures" like prescription drugs, hearing aids and artificial limbs. Moreover, it adds, "an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active."

The Disability Advocacy Collaborative presents the

2nd Disability Convention and Expo

Saturday September 27

10 AM – 4 PM

At the Connecticut Expo Center

**265 Reverend Moody Overpass, Hartford
(off I-91 Exit 33)**

If your agency, organization, or business is interested in having a booth at the Convention and Expo, see the DAC web site to obtain info and the necessary forms – www.ct-dac.org

Walgreens Hiring!

The new Walgreens Distribution Center in Windsor is looking for qualified individuals with disabilities for its warehouse in Windsor. Leslie Waite, the BRS Walgreens Project Manager, is a contact for anyone interested in finding out which positions are still open. You can reach her at the Bureau of Rehabilitation Services - 25 Sigourney St., 11th Floor - Hartford, CT 06106-2055 Tel. 860-424-5622. In addition, applications from BRS consumers are being accepted (by appointment) in some Bureau of Rehabilitation Services (BRS) offices.

SDE Proposes New Regs

The State Department of Education has proposed regulations to implement the 2007 law regarding the use of restraints and seclusion in schools. A public hearing on the proposed regulations will be held on Tuesday, August 19, 2008 from 9:30 a.m. to 3:30 p.m., in the SERC Classroom, located at 25 Industrial Park Road, Middletown, CT. Interested persons may submit view and arguments, in writing or orally, at this hearing.

Copies of the proposed regulations and fiscal note may be obtained from Attorney Theresa C. DeFrancis, Bureau of Special Education, by e-mail to theresa.defrancis@ct.gov or by mail to PO Box 2219, Hartford, CT 06145.

Charter Oak Health Plan

On July 1 Governor M. Jodi Rell announced the opening of applications for the new Charter Oak health insurance plan. As proposed by the Governor and approved by the General Assembly, Charter Oak offers coverage to the uninsured and to many adults experiencing financial hardship in paying unaffordable, non-group premiums on their own. The State of Connecticut is contracting with three private insurers -Aetna Better Health, AmeriChoice of Connecticut, and Community Health Network of Connecticut - to coordinate benefits and medical providers. When you join Charter Oak, you'll select one of these insurers and participating doctors. Your monthly premium and annual deductible will depend on your household income. Individual premiums will range from \$75 to \$259 and annual deductibles will range from \$150 to \$900.It's important to note that Charter Oak will cover enrollees with preexisting medical conditions (no exclusions).

To get detailed information on Charter Oak, call the toll-free customer service center at 1-877-77-CTOAK (1-877-772-8625) on Monday - Thursday, 9 a.m. to 8 p.m., Friday, 9 a.m. to 6 p.m., or Saturday, 10 a.m. to 2 p.m.). You may also visit the Charter Oak website at www.charter oakhealthplan.com.

NLDA Offers Essential Skills Workshops

The Non-Verbal Learning Disorders Association (NLDA) is inviting parents, teens, and young adults to spend “three days in the summer of 08' to get ready for life!”. The NLDA Summer Institute is specifically designed for students and parents involved in the transition process. This intensive three-day program will provide both an overview and in-depth review of specific skills with an opportunity for hands on learning. Attendants will be provided with the tools to maximize the success needed for Secondary Transition.

The Workshops will cover:

- Understanding your unique learning profile.
- Creating a learning strategies plan and tools to maximize your success.
- Determine the most effective Assistive Technology software, how and when to use it.
- Building a thinking strategies and organization plan to help with keeping it all together.
- Develop Self Advocacy Skills and Life Skills- Learn how and when to ask for support.
- Identifying your strengths and style for future career interests using About-U assessment

The workshop dates are August 5, 6, 7 and they will run from 9:00 am to 3:00 pm. They will be held at 507 Hopmeadow Street in Simsbury and the workshop fee is \$575. The registration deadline is July 22, and space is limited.

For more information, or to register, contact: Patti Carrin, NLDA President; Phone: (860) 658-5522; Email: pcarrin@nlda.org.

Upcoming Events

The next event in the series offered by the **Council on Developmental Disabilities** will be held on Friday, September 19, from 2:00 - 4:00 pm and is entitled “Culture Of Death”. It will be held at the Institute of Technology and Business Development at Central Connecticut State University. To register for the event, call 418-6157, or toll free 1-800-653-1134, or e-mail ed.preneta@ct.gov. There is no cost to attend.

The **Brain Injury Association of Connecticut** is asking you to “Save these Dates!”:

- Summer Picnic & Volunteer Awards - Tuesday, August 12th - Wickham Park in the Wickham Pavilion - 1329 West Middle Turnpike – Manchester - 3:00 – 7:00 p.m. - RSVP Required: RSVP by August 4th by calling 860-721-8111 or toll free 1-800-278-8242
- September 12, 13, & 14 for BIAC’s Personal Enrichment Retreat at the Conri Lodge in Ashford. Please register early for this popular event by calling the numbers listed above.
- October 4, 2008 for the 4th Annual BIAC United Steel Walk for Thought at Great River Park, East Hartford, Connecticut.

The **ADA Coalition of Connecticut** (ADACC) has announced that its Annual Meeting, Luncheon & Awards Presentation will be held on Thursday, October 30, 2008 from 11:30 am - 3:00 pm at the Crowne Plaza Hotel in Cromwell. The cost to attend is \$35/person and for table

sponsors the cost is \$350. Contact Project Director Lisa Caron by e-mail at adacoalition@sbcglobal.net or by phone at 860-297-4383 for more information.

The **Connecticut Commission on Culture and Tourism (CCT)**, in partnership with Young Audiences Arts for Learning Connecticut (YAC), the state's VSA arts affiliate, will be holding a statewide forum on careers in the arts for people with disabilities. The forum will be held on November 15 at the Carol Autorino Center for the Arts and Humanities at St. Joseph College.

Disability Advocacy Collaborative Regional Contacts

To get involved with one of the Collaborative's Regional Advocacy Networks, contact the following:

Northwest -- contact: Bill Knight (lackerman01@snet.net) – meetings are held at the Litchfield Arc

Southwest –contact: Carol Kana (pkana@snet.net) – meetings are held at the Norwalk Police Department

Danbury Area – contact Dale Brown (dbrown@wecahr.org) – meetings are held at Ability Beyond Disability in Bethel

North Central — contact: Candace Low (clow@independenceunlimited.org) – meetings are held at 151 New Park Avenue in Hartford – next meeting is July 28 at 10 am

Waterbury Area –contact: Mike Valuckas (mike.valuckas@independencenorthwest.org) – contact Mike for information about next meeting

Northeast Area – contact: Carolyn Newcombe (cnewcombe@charter.net) – meetings are held at the Mansfield Senior Center – next meeting July 29 at 6 pm

Bridgeport Area – contact: Tony LaCava (tlacava@drcfc.org) – meetings are on the third Thursday of the month at various sites.

Hartford Stage to Offer Audio Descriptive Events

Beth Rival and fellow members of the Connecticut Chapter of the National Federation of the Blind have been working with Hartford Stage Company to offer audio descriptive performances of events held at its theater in Hartford. *A Midsummer Night's Dream* will be presented in the audio descriptive format on Sunday, September 14th at 2 pm and 7:30 pm and *Resurrection* on Sunday, November 2nd also at 2 pm and 7:30 pm.

For more information contact Jenima Manson at 860-520-7244 or JManson@hartfordstage.com .

Note from ADAPT on Community Care Act

Denver ADAPT met with the Republican presumptive presidential candidate John McCain at a Town Hall Meeting on July 7. Six members of ADAPT, including teenagers from the Summer Youth Program, sat in the front of the auditorium to listen to McCain's policies for his administration. When he took comments from the audience he handed the microphone to

ADAPT member Dawn Russell. She explained the legislation called the Community Choice Act and asked him why he was not signed on. Mr. McCain stated he would not support the legislation. He then offered several poor reasons for his decision and ended by saying we would have to let the voters decide that one. Having recaptured the microphone he did state he supported the ADA, but had no interest in hearing that the ADA was entirely different from the CCA.

ADAPT encourages disability rights activists to attend McCain's campaign events and continue to challenge him to support the CCA! Show him disability rights supporters across the USA believe in real choice, believe in CCA and believe he needs to do the same. CCA supports family values, it supports putting control in the hands of the individual instead of Government, it supports states' ability to use limited Medicaid funds for community services which people prefer and which are more cost effective. These are all consistent with Republican values, as well as consistent with American values.

Presumptive Presidential Candidate Barak Obama has signed on as a co-sponsor to the bill already.

Appeals Court Rules in Favor of Individual with PTSD

The U.S. Court of Appeals for the District of Columbia on Wednesday reversed a district court ruling and found that post-traumatic stress disorder (PTSD) qualifies as a disability under the Rehabilitation Act of 1973. The plaintiff in the case, Martin Desmond, alleged that he was forced to resign from the FBI New Agent Training Unit in Quantico, VA when his superiors learned that he suffered from PTSD. Desmond argued that his dismissal from the program constituted discrimination based on disability, in violation of Section 501 of the Act. In its ruling, the court explained that under the Rehabilitation Act a plaintiff is disabled if "(1) he suffers from an impairment; (2) the impairment limits an activity that constitutes a major life activity under the Act; and (3) the limitation is substantial." Finding that PTSD qualified as a "mental impairment" and that sleep constituted a "major life activity," the court concluded that the condition was covered by the Act where evidence of significant sleeplessness exists. The case was remanded for further proceedings.

The Rehabilitation Act of 1973, as amended, administered by the Rehabilitation Services Administration to prevent discrimination based on disability in government agencies and federally funded programs, and foreshadowed broader legislation like the 1990 Americans with Disabilities Act and other measures aimed at increasing protection for people with disabilities in the workplace. Last week, the US House of Representatives passed the Americans with Disabilities Amendments Act of 2008 (see first article above) which will make it easier for employees with mental or physical disabilities to prove they are victims of employment discrimination. Supporters of the bill contend that the Supreme Court has interpreted the ADA in an overly restrictive manner, denying protection to a wide range of disabilities.

Steve Gold Expresses Concern about new Access Regs

“In 1990, the disability community, Congress, state officials and businesses made numerous compromises to obtain the passage of the ADA. Despite these compromises, then President Bush, disability leaders and Congress trumpeted the eventual full accessibility of public and private facilities. Sometime in the future, people with disabilities would achieve equal opportunity with nondisabled and full accessibility would be achieved.

Since 1990, we have seen some progress - curb cuts are now more the norm; ramps provide access to some stores and businesses (definitely not in every one); some public swimming pools, playgrounds, and governmental buildings provide a degree of accessibility (often begrudgingly); sports venues are more accessible.

However, by and large, neither the governmental entities (Title II of the ADA), nor private business entities (aka public accommodations) (Title III of the ADA) have taken the initiative on their own and said ‘oh, Congress has made disability a civil right, and we will do the right thing and make our facilities and programs accessible.’

Rather, progress has been slow, often requiring disability advocates to take the initiative and demand governmental and business entities to comply with the 1990 law and not make more compromises. The process is slow because disability advocates may not exist in a community, or they get frustrated that change is difficult.

On June 17, 2008, the Department of Justice issued proposed rules to the ADA's federal regulations which, if adopted, will significantly undercut the original 1990 compromises and will impose numerous regressive restrictions. Many of the proposed rules will ensure that full accessibility will be, at best, postponed indefinitely.

These proposal rules, together with all the background information, cost estimates, commentaries etc., total about 1000 pages! This Information Bulletin will address only the Title II requirement of "program accessibility ... when viewed in entirety" and the Title III requirement for removal of "readily achievable" barriers from existing facilities.

Here are two proposed changes:

Title II - Section 35.150(b) (4) and (5). The current "program accessibility" regulation requires a public entity's programs and services are accessible, when they are "viewed in their entirety."

Re: the proposed rule "Existing play areas and recreation facilities." If a public entity has "multiple play areas as part of its program," for program accessibility "only a reasonable number but at least one of such plays areas would be required to undertake structural modifications to provide access for individuals [i.e., children] with disabilities." The “reasonable number but at least one" rule applies also to swimming pools and state parks.

Does DOJ forget that "program access" for the past 18 years already implicitly required "at least one" accessible facility, or the program in it's entirety would not be accessible? With the proposed rule, wouldn't public entities shoot for the minimum - one, regardless of the changes that might make many or all of the play areas accessible?

DOJ asks if the "reasonable number, but at least one" is workable, or should DOJ provide a list of factors that a public could use to determine how many of the existing play areas or swimming pools to make accessible. Folks - these are our children with disabilities!

DOJ asks if play areas should have a "safe harbor from compliance with the applicable requirements in the 2004 ADAAG." This means that some play areas that might be in compliance with local standards could be exempt from ADAAG standards that presumably require greater accessibility.

Does anyone think DOJ would have proposed a "safe harbor" to end discrimination based on race? Gender? How can there be a "safe harbor" that perpetuates discrimination?

Doesn't DOJ remember that in the late 1980s the U.S. Department of Transportation proposed a rule that a public transportation program would have a "safe harbor" if 3% of its expenditures went for accessibility. The disability community, and the Third Circuit in its *ADAPT v. Skinner* decision, recognized that limiting accessibility and integration to "safe harbors" are an anathema to civil rights, the same as Congress and President Bush in 1990.

Related to the problem of a "safe harbor" is the DOJ question "what is the 'tipping point' at which the costs of compliance ... would be so burdensome that the entity would simply shut down the playground?" The ADA is a civil rights statute that is supposed to ensure for disabled folks the equal opportunity and the same benefits as nondisabled people. But let's get real! Does anyone know of any public entity in the entire country that has closed down any public playground or swimming pool because of inaccessibility?

DOJ wants to hear if "existing play areas less than 1,000 square feet should be exempt" from accessibility requirements. This size was chosen because of an assumption that such small areas represented 20% of the play areas located in public schools. Great! Disabled children in those schools could be effectively kept off the play areas, presumably like they're being kept out of mainstream classrooms. Every small neighborhood tot lot would be exempted.

Title III - Section 36.304. The current regulation requires removal of barriers in public accommodations when it is "readily achievable" to do so.

It is important to remember that the existing federal regulations require removal of barriers only when it is "readily achievable" - which on a case by case basis ensures that only reasonable modifications will occur. "Safe harbors" will exempt from barrier removal even those situations that are "readily achievable" to be made accessible.

A small business will receive a "safe harbor" if it spends in a given year one percent of its gross revenues on barrier removal. Advocates who have been frustrated since 1990 asking businesses to "remove barriers" by building a ramp or making a bathroom accessible, now will have the fun of arguing about a business's "gross revenues" in a given year (what, Mr. Businessman, is your basis for accounting?) and the costs of any alleged barrier removal the business claims it has made. Should advocates ask if the business took a tax deduction or received a tax credit for the barrier removal? If it claims it did, should the advocate take their word or request to read their

1040s? Then come back the next year and start the entire process again on another inaccessible element. And we thought it was difficult to get a ramp with the existing regulations.

The proposed regulations also question whether to fully enforce the Access Board's guidelines for stages, auditoriums, witness stands, assistive listening systems, golf courses, service animals, golf cars, mobility devices, auxiliary aids, captioning, video interpreting services and other areas.

You have 60 days to submit comments. All comments must be sent by 8/18/2008. Refer to Documents ID DOJ_FRDOC 0001-0025 (Title III, Public Accommodations) and DOJ_FRDOC-0001-0026 (Title II, Governmental Programs). You can find these documents at the following web address, as well as submit your comments on-line by going to <http://www.regualations.gov>.”

[Steve Gold, The Disability Odyssey continues. Back issues of other Information Bulletins are available online at <http://www.stevegoldada.com> with a searchable Archive at this site divided into different subjects. To contact Steve Gold directly, write to stevegoldada@cs.com or call 215-627-7100]

Opportunities for Involvement with NCD

The National Council on Disability (NCD) is compiling a list of people who would like to be considered for membership when vacancies occur on NCD advisory committees. NCD has three advisory committees: Cultural Diversity, International Watch, and Youth. The Cultural Diversity Advisory Committee provides advice and recommendations to NCD on issues affecting people with disabilities from culturally diverse backgrounds. International Watch shares information on international disability issues and advises NCD on the development of policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act. The Youth Advisory Committee provides advice to NCD on various issues, such as NCD's planning and priorities. All advisory committee members are appointed for two-year terms by the NCD chair. Advisory committees meet by teleconference, and there is no cost to the advisory committee member.

For more information about NCD advisory committees, please go to www.ncd.gov/newsroom/advisory/advisory.htm . Send your letter of interest by email to ncd@ncd.gov .

The NCD is also public input for a study of emerging issues and trends affecting the lives of people with disabilities. Information gathered will be used in the development of NCD's next annual progress report to the President and Congress. The Council is seeking input on disability issues including health, housing, employment, insurance, transportation, assistive technology, recreation, emergency preparedness, early intervention and education.

Suggestions should be sent to NCD by July 22, 2008 via ncd@ncd.gov . Type "Emerging Trends" in the subject line.

For three years the Bulletin was supported by a grant that the Disability Advocacy Collaborative has received from the Connecticut Council on Developmental Disabilities. In addition, in-kind

support is being provided by the UCONN Center on Disabilities, and Communitas, Inc. serves as the project's fiscal agent. To all three we extend our deep appreciation.