

**Policy, Social Justice  
&  
Diversity**

## **OVERVIEW: POLICY, SOCIAL JUSTICE, AND DIVERSITY**

The previous section, HBSE, illustrated theoretical constructs which often turn on issues of policy, social justice, and diversity. Although viewed separately, these three areas are interrelated and converge to inform practice. In this section it is suggested that students first examine policies as they flow from legislation. To whet students' appetites in this area, a "test your knowledge" activity is presented supplemented with an applied case example ("Alexander"). A summary of relevant legislation is provided and can be used to target learning opportunities revealed from the activities. This section then turns to social policy and diversity as the use of people first language is examined. An exercise designed to reveal student feelings of exclusion (Social Darwinism v. Social Inclusions/Strengths) fits nicely here. The nexus of policy, discrimination, and diversity is then explored through handouts related to social action to end discrimination, diversity and policy abstracts, and selected resources.

### **AMERICAN WITH DISABILITIES ACT: TEST YOUR KNOWLEDGE**

1. The ADA prohibits discrimination on the basis of disability in  
(Check all that apply)
  - a. Employment
  - b. Public accommodations
  - c. Commercial facilities
  - d. Transportation
  - e. Telecommunications
  - f. State and Local Government and US Congress
  
2. A person who does not have a disability may still be protected under the ADA.
  - a. True
  - b. False
  
3. Which of the following is true:
  - a. The ADA lists specific disabilities that are covered.
  - b. According to the ADA, to be considered an individual with a disability a person must have a physical or mental impairment that substantially limits one or more major life activities.
  - c. A person who has a history of having an impairment or who is perceived by others as having an impairment is protected by the ADA.
  - d. A and b

4. An employer is advised to ask about an applicant's disability before a job offer is made in order to determine whether accommodation will be needed.
  - a. True
  - b. False
  
5. Employers with 15 or more employees must:
  - a. Make reasonable accommodations to the known physical or mental limitations of otherwise qualified individuals with disabilities regardless of whether it constitutes a hardship or not.
  - b. Make reasonable accommodations as noted above only if it does not result in undue hardship.
  - c. Make reasonable accommodations unless they are a religious entity.
  
6. Employment (Title 1) complaints:
  - a. Have no time limitations
  - b. Can be filed directly in federal court
  - c. Can be filed with the U.S. Equal Employment Opportunity Commission within time limits.
  
7. Title II of the ADA refers to State and Local Government Activities. Which of the following is true:
  - a. A local government does not have to provide people with disabilities equal opportunity to benefit from programs and services if it does not receive federal funds.
  - b. Services and opportunities covered include education, employment, transportation, health care, and voting – but does not include social services and recreation.
  - c. State and local governments are required to follow specific architectural standards in new construction or building alterations and provide access to services in inaccessible older buildings and communicate effectively with people who have hearing, vision, or speech disabilities.
  
8. Public transportation authorities must:
  - a. Comply with accessibility in newly purchased vehicles
  - b. Make good faith efforts to purchase or lease accessible used buses
  - c. Remanufacture buses in an accessible manner
  - d. Provide paratransit where they operate fixed-route bus or rail systems unless it would result in an undue burden
  - e. All of the above
  - f. None of the above
  
9. The ADA requires telephone companies to establish interstate and intrastate telecommunications relay services (TRS) 24 hours a day, 7 days a week.
  - a. True
  - b. False

10. ADA suits are flooding the courts.

- a. True
- b. False

11. Restaurants must provide menus in Braille.

- a. True
- b. False

12. Which of the following is true:

- a. The ADA does not protect people who need reasonable accommodation due to obesity.
- b. The ADA protects people with a history of alcoholism who are judged by/evaluated by their employers based on stereotypes and fears rather than abilities.
- c. The ADA requires an employer to hire someone who is a sex offender because that is considered a disability.
- d. All of the above

## AMERICAN WITH DISABILITIES ACT QUIZ: ANSWERS

1. All of these are included in the ADA.
2. True. The ADA protects a person with a disability or someone who has a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. An example of someone who has an association with an individual with a disability: A police officer is hesitant to respond to a call to a certain address because there is a resident there who has AIDS – the person in need of law enforcement may be resident who has AIDS or the parent/sibling/roommate, etc – that person is protected by the ADA in this instance as would be the person who has AIDS.
3. C – see above. The ADA does not specifically name all the impairments that are covered.
4. False. The ADA restricts questions that can be asked about an applicant’s disability before a job offer is made.
5. B -The ADA requires that employers make reasonable accommodation unless it results in undue hardship. What constitutes undue hardship may vary from employer to employer depending on circumstances. Religious entities are covered under title I.
6. C – Title I complaints must be filed with the US Equal Employment Opportunity Commission (EEOC) within 180 days of the date of discrimination, or 300 days if the charge is filed with a designated State or local fair employment practice agency. Individual may file a lawsuit in Federal court only after they receive a “right to sue” letter from the EEOC.
7. C – Title II covers all activities of State and local governments regardless of the government entity’s size or receipt of Federal funding. It requires that governments give people with disabilities an equal opportunity to benefit from all their programs, activities, and services (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting, and town meetings). State and local governments are required to follow specific architectural standards in new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision, or speech disabilities. Public entities are not required to take actions that would result in undue financial and administrative burdens. They are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being performed. An example of reasonable accommodation/modification in law enforcement would be simplifying the language in the Miranda Warning as needed for someone with a cognitive disability, or handcuffing in front of the body rather than behind to allow someone to sign.
8. All of the Above. Note: paratransit is a service where individuals who are unable to use the regular transit system independently (due to physical or mental impairment) are picked up and dropped off at their destinations.
9. True. TRS enables callers with hearing and speech disabilities who use telecommunications devices for the deaf (TDDs or teletypewriters-TTYs), and callers

who use voice telephones to communicate with each other through a third party communications assistant. Title IV also requires closed captioning of Federally funded public service announcements.

10. False. According to US Dept. of Justice, a surprisingly small number of lawsuits – only about 650 nationwide in 5 years has occurred. -considering the 6 million businesses, 666,000 public and private employers, and 80,000 units of state and local government that must comply.
11. False. Wait staff can read the menu to customers who are blind.
12. B – As far as obesity, just being overweight is not enough – modifications to policies must be made if they are reasonable and do not fundamentally alter the nature of the program or service provided. The Justice Department has received only a handful of complaints about obesity. The ADA does cover people with conditions such as severe depression or history of alcoholism who are treated unfairly based on these conditions rather than ability to perform the job. Sex offending is not considered a disability under the ADA.

#### STUDENT ACTIVITY: APPLYING POLICY

Alexander is a 22-year-old male who uses a wheelchair to get from place to place. He has just gotten a job with Acme Business Systems. His first day on the job he discovered that there is no stall in the company bathroom wide enough to accommodate his chair. When he asked the Human Resources Department for help in resolving this situation, they told him that was not Acme's problem, since the building was built before the ADA. On the web, find resources that can help support Alexander's contention that Acme has a responsibility to make some changes.

#### **Reference**

Shuman, Sherry and Camille Catlett from a presentation handout, “Stump the Experts OR How to Infuse Disability Issues/Adapt Existing Curricula.”

# RELEVANT LEGISLATION OVERVIEW

## DISABILITY RIGHTS

People with disabilities have fundamental civil and human rights guaranteed by the United States Constitution and by various federal and state laws.

### ***The Americans with Disabilities Act***

#### ***Purpose***

The Americans with Disabilities Act (ADA), PL 101-336 is modeled after the Civil Rights Act of 1964 and Title V of the Rehabilitation Act of 1973. The purpose of the ADA is to extend to people with disabilities civil rights similar to those now available on the basis of race, color, national origin, sex and religion through the Civil Rights Act of 1964. It prohibits discrimination on the basis of disability in:

- Employment,
- Services of State and Local Government,
- Public Accommodations,
- Transportation, and
- Telecommunications.

#### ***Employment***

The ADA prohibits discrimination against a qualified individual with a disability in employment and includes specific features related to reasonable accommodation, qualification standards and other labor-management issues. “No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.”

#### ***Public Services***

The ADA addresses services and activities of State and local governments including public transportation. Transportation provisions of the ADA are intended to improve access in equipment (buses, rail coaches), facilities, and demand response systems. Some of these requirements include: the purchase of new accessible public transportation equipment, special

transportation services that are comparable to fixed-route services, modification of key existing facilities to assure access, and inter-city and commuter-rail accessibility improvements.

“No qualified individual with a disability shall, by reason of such disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or a local government.” ***Public Accommodations***

The ADA addresses public accommodations and businesses and services operated by private entities. Privately owned transportation is also included. Specific features of the Act vary from section to section laying out how equal access is to be achieved by particular entities.

“No individual shall be discriminated against on the basis of disability in the full and quality enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation.”

### ***Telecommunications***

The ADA mandates that telecommunications relay services be offered by private companies and includes services operated by States.

“...shall ensure that interstate and intrastate telecommunications relay services are available...to hearing-impaired and speech-impaired individuals in the United States.”

### ***ADA’s Impact on Employment***

ADA prohibits discrimination against workers with disabilities. ADA employment provisions apply to private employers, State and local governments, employment agencies, labor organizations, and joint labor-management committees.

ADA requires equal opportunity in selection, testing and hiring of qualified applicants with disabilities. ADA requires equal treatment in promotion and benefits. ADA requires reasonable accommodation for workers with disabilities when such accommodations would not impose an “undue hardship.” Reasonable accommodation is a concept already familiar to and widely used in today’s workplace.

### ***For more information and regulations contact:***

ADA Regulations for Title I—Employment contact:  
Equal Employment Opportunity Commission  
1801 L Street, NW  
Washington, DC 20507  
800-669-3362- Voice  
800-800-3302- TTY  
Alternative formats are available.

### ***Information on making job accommodations contact:***



JAN (Job Accommodation Network)  
800-526-7234—U.S. (Voice/TTY)

***ADA Regulations for Title III—Public Accommodations contact:***

U.S. Department of Justice  
PO Box 66738  
Washington, DC 20035-6738  
202-514-0301- Voice  
202-514-0383- TTY  
Alternative formats are available.

***ADA Accessibility Guidelines for Buildings and Facilities and those for Transportation Vehicles contact:***

1331 F Street, NW  
Suite 1000  
Washington, DC 20004-1111  
202-272-5434- Voice  
202-272-5449- TTY  
800-872-2253- Voice/TTY  
Alternative formats are available.

***ADA Regulations for Title IV—Telecommunications contact:***

Federal Communications Commission  
Office of Public Affairs  
1919 M Street, NW  
Room 254  
Washington, DC 20554  
202-632-7000- Voice  
202-632-6999- TTY

***For more information visit:***

[www.ADABasics.org](http://www.ADABasics.org)  
[www.Adaaction.com](http://www.Adaaction.com)  
The Job Accommodation Network at West Virginia University  
[www.jan.wvu.edu](http://www.jan.wvu.edu)

***For a challenging game featuring questions on the ADA and real-life applications visit:***

[www.adagame.org](http://www.adagame.org)

**Reference**

Taken from: [Disability awareness guide of west virginia inclusion campaign](http://www.wvdhhr.org/wvic) available at:<http://www.wvdhhr.org/wvic>

# PROTECTION FROM DISCRIMINATION IN

## TRANSPORTATION

Title II of the ADA specifically covers publicly funded programs, activities and services on the federal, state and local levels. This includes transportation rights.

The ADA protects the right of people with disabilities to use public transportation, regardless of their disabilities. You do not have to be in a wheelchair, use a scooter or have any visible signs of a disability to be covered under the law. Disability may be physical, psychological or developmental in nature. The ADA defines disability as any “impairment that substantially limits one or more major life activities.” Medical documentation, however, usually is needed.

Public modes of transportation that are covered under the ADA include the following:

- Urban transit
- Paratransit (door-to-door transport service)
- Rail systems and transit facilities (such as Amtrak)
- Buses
- Boats, ships or ferries
- All government-funded transportation

ADA coverage does not extend to air travel because air travel rights already are protected by the Air Carrier Access Act.

The right to transportation also is protected by the ADA if a person uses any privately owned transportation system or service whose “primary business is transporting the general public.” One example is a privately owned bus company. Businesses that offer transportation to the general public also must provide services to all people regardless of disability. Examples include the following:

- Hotels
- Private colleges
- Funeral homes
- Social centers
- Day care centers

Other federal, state and local laws exist to further protect people with disabilities and their right to transportation.

Implementing ADA standards takes time and may sometimes be costly. For example, vehicles covered under the law may need to be structurally altered or new vehicles may need to be purchased or rented. “Reasonable accommodations” such as paratransit services may have to be provided by some transportation services that do not meet ADA standards. However, exceptions

exist. For example, while taxis cannot deny service to people with disabilities, they do not have to structurally alter their vehicles to accommodate wheelchairs and scooters.

For more information on the specifics of the ADA, to ask questions or to file a complaint, visit the United States Department of Justice at: [www.usdoj.gov/crt/ada/adahom1.htm](http://www.usdoj.gov/crt/ada/adahom1.htm)

You may also contact the U.S. Department of Transportation:  
400 7th Street, S.W.  
Washington, D.C. 20590  
202-366-4000  
[www.dot.gov](http://www.dot.gov)

## **Reference**

Taken from: [Disability awareness guide of west virginia inclusion campaign](http://www.wvdhhr.org/wvic) available at:<http://www.wvdhhr.org/wvic>

# PROTECTION FROM DISCRIMINATION IN PUBLIC

## ACCOMMODATIONS

Title III of the ADA protects the right of people with disabilities to access the same public accommodations as the general public, regardless of physical or mental disabilities. These include the following:

- Places of lodging (hotels, inns, motels)
- Places of exhibition or entertainment (movies, theaters, concert halls, stadiums)
- Places of public gathering (auditoriums, conventions centers, lecture halls)
- Places of public display or collection (museums, libraries, galleries)
- Places of recreation or entertainment (parks, zoos, amusement parks)
- Places of exercise or recreation (gymnasiums, health spas, bowling alleys, golf courses)
- Places of education (nursery, elementary, secondary, undergraduate or postgraduate schools, including private)
- Establishments serving food or drink (restaurants, cafes, bars)
- Sales or rental establishments (Stores, shopping centers, malls)
- Service establishments (hospitals, health care providers, laundromats, dry cleaners, banks, beauty parlors, barbershops, repair shops, gas stations, funeral parlors, and offices of accountants, lawyers, insurance agents)
- Social service establishments (day care or senior citizen centers, homeless shelters, battered women's shelters, food banks, adoption agencies)
- Stations used for public transportation (terminals, depots)

People with disabilities are also protected from discrimination in public accommodations that are privately owned.

The rights of people with disabilities go beyond access to buildings. People with disabilities have the right to the same services, programs and activities offered to the general public. For example, people with disabilities cannot be held to different standards or requirements nor screened from participating due to disability. They may not be segregated from the general public unless doing so offers equal opportunity access and then only if the disabled person chooses to do so. Safety requirements may be established but only if they indeed offer protection; they cannot be based upon stereotypes or fears of the disabled.

Title III of the ADA establishes the building requirements for all public accommodations. These include making changes to "architectural barriers" when "readily achievable." Examples of this may include modifying or removing curbs or steps; widening doorways, aisles and bathroom stalls; lowering telephones and drinking fountains; adding ramps and grip bars; and when necessary, relocating programs and services.

All new buildings must be accessible to people with disabilities. Elevators, however, usually are not required in buildings “under three stories or with fewer than 3,000 square feet per floor.” Exceptions to this would include public transit stations, shopping malls and health care facilities. Structures must pass local building code requirements as well.

Private clubs and religious organizations are exempt from ADA requirements. Private residences (apartments and homes) also are exempt.

However, people with disabilities are protected from discrimination in both renting and selling practices under the Fair Housing Amendments Act of 1988 (FHAA). The Department of Housing and Urban Development, often known as simply “HUD,” administers the FHAA.

For more information on the ADA and protection from discrimination in public accommodations, or to file a complaint, visit the United States Department of Justice at: [www.usdoj.gov/crt/ada/adahom1.htm](http://www.usdoj.gov/crt/ada/adahom1.htm).

## **Reference**

Taken from: Disability awareness guide of west virginia inclusion campaign available at:<http://www.wvdhhr.org/wvic>

## **SECTION 504 OF THE REHABILITATION ACT**

### ***What is Section 504?***

Section 504 of the Rehabilitation Act Amendments of 1973 is a civil rights statute that states in part:

“No otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . .” (29 U.S.C. § 794[A])

### ***Who is an “individual with a disability” under Section 504?***

An “individual with a disability” is any person who (i) has a physical or mental impairment which substantially limits one or more of such person’s major life activities, (ii) has a record of such impairment, or (iii) is regarded as having such an impairment. (29 U.S.C. § 706[8][B])

### ***What physical or mental impairments qualify as “disabilities”?***

Under Section 504, “[p]hysical or mental impairment” means

(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (34 C.F.R. 104.3[j][2][i])

### ***What is the relationship between Section 504 eligibility and special education?***

Section 504 is a broader category than special education. Every child who is entitled to services under special education is deemed to be an “individual with a disability” under Section 504. But many persons who are “individuals with a disability” under Section 504 are not covered by special education statutes.

### ***What educational rights does an individual with a disability have under Section 504?***

Under Section 504 a recipient [of Federal funds] that operates a public elementary or secondary education program shall provide a free appropriate public education [FAPE] to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap. (34 C.F.R. 104.33[a])

A free appropriate public education (FAPE) under Section 504 entails provision of educational and related services without cost to the handicapped person or to his or her parents or guardian, except for those fees that are imposed on nonhandicapped persons or their parents or guardian. (34 C.F.R. 104.33[c][1])

### ***What procedural rights does a student who may have a § 504 disability have?***

Section 504 requires that a person who may have a qualifying disability is entitled to a pre-placement evaluation. That evaluation must be conducted by means of "tests that have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer; . . . [that are ] tailored to assess specific areas of educational need . . . ; and . . . are selected and administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure . . ." (34 C.F.R. 104.35[b][1]-[3])

Moreover, Section 504 requires that the placement decision [for a student who may have disability] is made by "a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options . . ." (34 C.F.R. 104.35[c][3])

### ***What if a parent or guardian is dissatisfied with the child's § 504 evaluation and placement?***

Section 504 provides that there must be a "system of procedural safeguards that includes notice [to the parent/guardian of the assessment's outcome], an opportunity for the parent or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure." (34 C.F.R. 104.36)

#### ***For more information visit:***

U.S. Department of Education, Office of Special Education and Rehabilitative Services: [www.ed.gov/offices/OSERS](http://www.ed.gov/offices/OSERS)

### **Reference**

Taken from: [Disability awareness guide of west virginia inclusion campaign](http://www.wvdhhr.org/wvic) available at: <http://www.wvdhhr.org/wvic>

# **THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT**

## ***What is the Purpose of IDEA?***

The Individuals with Disabilities Education Act (IDEA) is an education act which provides federal financial assistance to State and local education agencies to guarantee special education and related services to eligible children with disabilities.

## ***Who Is Protected?***

Children ages 3-21 who are determined by a multidisciplinary team to be eligible within one or more of 13 specific categories of disability and who need special education and related services. Categories include autism, deafness, deafblindness, hearing impairments, mental retardation, multiple disabilities, orthopedic impairments, other health impairments, serious emotional disturbance, specific learning disabilities, speech or language impairments, traumatic brain injury, and visual impairment.

## ***What is a Free, Appropriate Public Education?***

A Free, Appropriate Public Education (FAPE) is defined to mean special education and related services. Special education means “specially designed instruction, at no cost to the parents, to meet the unique needs of the child with a disability....” Related services are provided if students require them in order to benefit from specially designed instruction. States are required to ensure the provision of “full educational opportunity” to all children with disabilities.

IDEA requires the development of an Individualized Education Program (IEP) document with specific content and a required number of specific participants at an IEP meeting.

## ***What are the Procedural Safeguards of IDEA?***

IDEA requires written notice to parents regarding identification, evaluation, and/or placement. Further, written notice must be made prior to any change in placement. The Act delineates the required components of the written notices.

## ***What are Evaluation/Placement Procedures?***

A comprehensive evaluation is required. A multidisciplinary team evaluates the child, and parental consent is required before an initial evaluation. IDEA requires that reevaluations be conducted at least every three years. A reevaluation is not required before a significant change in placement.

For evaluation and placement decisions, IDEA requires that more than one single procedure or information source be used; that information from all sources be documented and carefully considered; that the eligibility decision be made by a group of persons who know about the



student, the evaluation data, and placement options; and that the placement decision serves the student in the least restrictive environment. An IEP review meeting is required before any change in placement.

### ***What are Due Process Rights under IDEA?***

IDEA delineates specific requirements for local education agencies to provide impartial hearings for parents who disagree with the identification, evaluation, or placement of a child.

#### ***For more information visit:***

U.S. Department of Education, Office of Special Education and Rehabilitative Services: [www.ed.gov/offices/OSERS](http://www.ed.gov/offices/OSERS)

### **Reference**

Taken from: Disability awareness guide of west virginia inclusion campaign available at:<http://www.wvdhhr.org/wvic>

## SEMINAL LEGISLATION

<u>ACT</u>	<u>YEAR</u>	<u>SUMMARY</u>	<u>FEDERAL ENFORCEMENT AGENCY(IES)</u>
<p>Americans With Disabilities Act (ADA) [42 U.S.C. 12101, et seq.]</p> <p>[28 CFR Part 35] <a href="http://www.access.gpo.gov">www.access.gpo.gov</a> <a href="http://www.usdoj.gov">www.usdoj.gov</a></p>	1990	<p>ADA is a wide-ranging law intended to make American society more accessible to qualified individuals with disabilities. The law consists of five titles covering employment; public services, public accommodations, telecommunications, and anti-retaliation provisions. Title II, Public Services, is the title that is most applicable to public higher education as an instrumentality of State Government. Title II prohibits denying services to people with disabilities or participation in programs or activities which are available to people without disabilities.</p>	<p>Equal Employment Opportunity Commission (EEOC)</p> <p>U.S. Department of Justice</p>
<p>The Family and Medical Leave Act (FMLA) [29 U.S.C. 2601, et seq.]</p> <p>[29 CFR Part 825; 41 CFR Part 50, et seq.] <a href="http://www.access.gpo.gov">www.access.gpo.gov</a> <a href="http://www.dol.gov">www.dol.gov</a></p>	1993	<p>The FMLA covers employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year and all public agencies, including State, local and Federal employers, and local education agencies. The law makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by this law which allows for: entitlement of up to 12 workweeks of unpaid leave for maternity or serious personal or family health condition; maintenance of health benefits during leave; job restoration after leave; sets forth notification and certification requirements; protection of employees requesting leave; and certain employer record keeping requirements.</p>	<p>Wage and Hour Division</p> <p>Employment Standards Administration</p> <p>U.S. Department of Labor</p>
<p>Occupational Safety and Health Act (OSHA) [29 U.S.C. 651, et seq.]</p>	1970	<p>The OSHA Act of 1970 established the Occupational Safety and Health Administration (OSHA) and the National Institute of Occupational Safety and Health (NIOSH) as a supporting body to do research and develop standards. Every employer engaged in commerce who has one or more employees is covered by the act. In order to implement the acts specific standards were established regulating</p>	<p>Occupational Safety and Health Administration</p>

<p>[29 CFR Part 1900, et seq.]  <a href="http://www.access.gpo.gov">www.access.gpo.gov</a>  <a href="http://www.dol.gov">www.dol.gov</a></p>		<p>equipment and working environments. Section 5a(1) of the act has come to be known as the "general duty" clause which states that employers have a general duty to provide safe and healthy working conditions for their employees. <i>Note: The definition of "employer" in the act exempts federal, state, and local governments.</i></p>	
<p>Fair Labor Standards Act (FLSA)  [29 U.S.C. 201, et seq.]</p> <p><a href="http://www.dol.gov">www.dol.gov</a>  <a href="http://www.opm.gov">www.opm.gov</a></p>	<p>1938</p>	<p>The FLSA of 1938 establishes minimum wage, overtime pay, and child labor standards. The Act covers private and public sector employers. With some exceptions, most federal, state, and local government employers are subject to the Act. Military personnel, volunteer workers, and other limited groups are exempted from coverage. The Act requires accurate time records on all employees subject to the Act. Special rules apply to State and local government employment involving fire protection and law enforcement activities, volunteer services, and compensatory time off in lieu of cash overtime pay.</p>	<p>Wage and Hour Division, U.S. Department of Labor, for all private employment, State and local government employment, and Federal employees of the Library of Congress, U.S. Postal Service, Postal Rate Commission, and the Tennessee Valley Authority.</p> <p>Office of Personnel Management, for all other federal employees</p>
<p>Drug-Free Workplace Act of 1988  [41 U.S.C. 701 and 702]</p> <p><a href="http://www.dol.gov">www.dol.gov</a>  <a href="http://www.access.gpo.gov">www.access.gpo.gov</a>  <a href="http://www.law.cornell.edu">www.law.cornell.edu</a></p>	<p>1988</p>	<p>The Drug-Free Workplace Act of 1988 requires some Federal contractors and all Federal grantees to agree that they will provide drug-free workplaces as a condition of receiving a contract or grant from a federal agency. Section 701 applies generally to federal contractors, and Section 702 generally applies to federal grantees. Requirements of the Act vary based on whether the contractor or grantee is an individual or an organization. The requirements for organizations are more extensive, because organizations have to take comprehensive, programmatic steps to achieve a workplace free of drugs. Failure to provide a drug-free workplace may be grounds for suspension, termination, or debarment of federal grants.</p>	<p>Enforcement of this Act is delegated to each federal grantor or federal contracting agency.</p>
<p>Crime Awareness and Campus Security Act</p>	<p>1990</p>	<p>The "Campus Security Act" requires all public and private colleges and IHEs</p>	<p>U. S. Department of Education</p>

<p>[20 U.S.C. 1092]</p> <p>[34 CFR Part 668] <a href="http://www.ed.gov">www.ed.gov</a> (regulations)</p>		<p>receiving federal financial assistance to collect and report information about crime that occurs on their campuses. Each September all eligible post-secondary institutions must publish and distribute comprehensive reports detailing campus security policies, procedures, prevention efforts, and crime statistics detailing murder, sex offenses, robbery, aggravated assault, burglary, vehicle theft, certain hate crimes, and data on arrests where drugs, alcohol, and weapon possessions were involved. Institutions that do not comply with the Campus Security Act may lose federal funding.</p>	
<p>The Family Educational Rights and Privacy Act of 1974 (FERPA) a.k.a. "The Buckley Amendment" [20 U.S.C. 1232g]</p> <p>[34 CFR Part 99] <a href="http://www.law.cornell.edu">www.law.cornell.edu</a> <a href="http://www.ed.gov">www.ed.gov</a></p>	<p>1974</p>	<p>The Family Educational Rights and Privacy Act is a federal law designed to protect the privacy of a student's education records. The law applies to all schools that receive federal funds through the U.S. Department of Education. FERPA also gives parents the right to inspect and review all of the student's education records. The law clarifies what information may be disclosed without written consent, who may have access to this information, and in what circumstances this information may be disclosed.</p>	<p>U.S. Department of Education</p>
<p>Employee Retirement Income Security Act (ERISA)</p>	<p>1974</p>	<p>ERISA is a comprehensive and reticulated statute that protects an individual debtor's pension benefits from creditors, whether in or out of bankruptcy.</p>	<p>Equal Employment Opportunity Commission (EEOC)</p>
<p>Health Insurance Portability and Accountability Act (HIPAA) 1996</p>		<p>HIPAA was passed requiring the secretary of HHS to publicize standards for the electronic exchange, privacy and security of health information. Due to fear of electronic information theft, the HHS issued what is known as the Privacy Rule to help implement HIPAA. The major goal of the Privacy Rule is to assure that individuals' health information is protected while allowing the flow of health information needed to promote high quality health care. The Privacy Rule requires covered entities (health plans, health care clearinghouses, and any other health care provider who transmits health information electronically) to implement standards to protect and guard against</p>	<p>Civil Violations - Office of the Inspector General</p> <p>Criminal Violations - FBI</p>

		<p>the misuse of individual identifiable health information. With regard to the mentally disabled, the privacy Rule requires an entity to treat a “personal representative” the same as the individual, with respect to uses and disclosures of the individual’s rights under the rule. A personal representative is defined as a person legally authorized to make health care decisions on an individual’s behalf.</p> <p>Department of Health and Human Services (DHHS)</p>	
<p>Social Security Act Amendments</p> <p>Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter’s Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004</p>	1965	<p>Authorized health benefits for eligible elderly individuals or individuals with disabilities. “Part A” reimbursed hospitals or other covered entities. Part “B” provides supplemental medical insurance benefit. Title XIX Authorized grants-in-aid to the states for the establishment of a medical assistance program to improve the accessibility and quality of medical care for individuals with low income.</p>	<p>Social Security Administration</p> <p>Department of Health and Human Resources</p>
<p>Architectural Barriers Act</p> <p>Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter’s Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004</p>	1968	<p>Legislation requiring buildings and facilities which are designed, built or leased with the use of federal funds to comply with federal standards for accessibility.</p>	<p>The Access Board (Independent Federal Agency)</p>
<p>Developmental Disabilities Assistance and Bill of Rights Act</p> <p>Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter’s Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004</p>	1970	<p>Provided first functional definition of developmental disabilities and the funding to support people who want to live in their communities. It describes the right of self-determination and the right to free from abuse and exploitation. It provides guidelines for federally funded programs to provide high quality supports to people with developmental disabilities and their families.</p>	<p>Administration on Developmental Disabilities, Department of Health and Human Services</p>
<p>Rehabilitation Act</p>	1973	<p>First created to prohibit discrimination on the basis of disability in federal programs or programs receiving federal funding</p> <ul style="list-style-type: none"> <li>• Section 105: Created consumer directed and controlled State Rehabilitation Councils.</li> <li>• Section 501: Requires affirmative action and prohibits discrimination by</li> </ul>	<p>U.S. Department of Labor Office of the Assistant Secretary for Administration and Management</p> <p>Section 508</p>

<p>Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter's Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004</p>		<p>federal agencies of the executive branch.</p> <ul style="list-style-type: none"> <li>• Section 504: States that no qualified individual with a disability in the United States shall be excluded from, denied benefits of, or be subjected to discrimination under any program or activity that receives Federal Funding.</li> <li>• Section 508: Requires electronic and information technology created by federal agencies be accessible to people with disabilities.</li> <li>• Promotes a philosophy of independent living including consumer control, peer support, self help, self-determination, equal access, and individual and system advocacy. It provided states with funding to improve independent living services, and develop statewide networks of Centers for independent living.</li> <li>• Section 705: Created consumer directed and controlled Statewide Independent Living Councils to advocate for, plan and monitor state independent living services.</li> </ul>	
<p>Protection and Advocacy for Individuals with Mental Illness Act (PAIMI)</p> <p>Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter's Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004</p>	<p>1986</p>	<p>Legislation which expanded the scope of the state Protection and Advocacy agencies to cover mental illnesses. It protects the statutory and constitutional rights of people with serious mental illness who are in a treatment facility and/or residential program. It was expanded in 2000 to include people with significant mental illnesses who live in the community.</p>	<p>United States Department of Health and Human Services / Substance Abuse and Mental Health Services Administration /Center for Mental Health Services.</p>
<p>Air Carrier Access Act</p> <p>Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter's Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities</p>	<p>1986</p>	<p>Legislation which prohibits discrimination against qualified individuals with disabilities by domestic and foreign airlines. It only applies to airlines that provide regularly scheduled services to the public. It addresses a wide range of issues including boarding assistance and some accessibility features in newly built aircraft and new or remodeled airports.</p>	<p>United States Department of Transportation Office of Aviation Enforcement and Proceedings</p>

Council. 2004			
Fair Housing Act  Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter's Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004	1988	Prohibits housing discrimination on the basis of race, color, religion, gender, disability, familial status and national origin. Coverage includes private housing, housing that receives federal funding, and state and local government housing.	United States Department of Housing and Urban Development
Mental Health Parity Act  Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter's Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004	1996	Legislation attempts to end the long held practice of providing less insurance coverage for mental illnesses and brain disorders than is provided for equally serious medical conditions. The Act does not require group insurance providers to offer coverage for mental health services	United States Department of Health and Human Services / Center for Medicare and Medicaid Services
Individuals with Disabilities Education Act  Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter's Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004	1997	This Act requires the public school systems to develop appropriate Individualized Education Programs (IEP's) for each child. The IEP must include a description of education and related services needed by the child. It must be developed by a team of knowledgeable individuals, including the child's parents and it must be reviewed annually. IDEA is an amendment of PL 94-142 (1975) The Education of All Handicapped Children Act.	United States Department of Education / Office of Special Education and Rehabilitative Services
	2004	Revised by Public Law 108-446 of the No Child Left Behind Act and other legislation.	
Olmstead Decision  Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter's Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004	1999	U.S. Supreme Court Decision for the civil rights of people who have disabilities and their right to receive community integrated services and supports. State Olmstead plans are created to assist people with disabilities in nursing homes and other facility based, Long-term care institutions to understand their right to live in inclusive community-based settings.	Stare Decisis
Ticket to Work and Work Incentives Improvement Act  Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter's</u>	1999	Created to assure that people with disabilities no longer have to choose between having access to health coverage and working in the competitive job market. It provides employment preparation and placement services to individuals with disabilities	United States Department of Health and Human Services / Centers for Medicare and Medicaid Services

<p><u>Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004</p>		<p>to enable them to: reduce their dependence on cash benefit programs; encourage states to adopt Medicaid Buy-In programs; and establish a return to work ticket program that will allow people with disabilities to obtain the services necessary to retain employment.</p>	
<p>New Freedom Initiative</p> <p>Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter's Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004</p>	<p>2001</p>	<p>A comprehensive national plan to help assure that people with disabilities have the opportunity to live and work in their communities, make choices about their daily lives and participate fully in the life of their community. The goals of the initiative are to: increase access to community life. The initiative led to the creation of the New Freedom Commission on Mental Health which is designed to improve America's mental illness and children with serious emotional disturbances</p>	<p>United States Department of Health and Human Services / Centers for Medicare and Medicaid Services</p>
<p>Community Based Alternatives for Individuals with Disabilities Executive order 13217</p> <p>Southall, Betsy. Ed. Steve Wiseman. <u>A Reporter's Guide: Reporting About People With Disabilities.</u> Charleston: West Virginia Developmental Disabilities Council. 2004</p>	<p>2001</p>	<p>Order which called for the Federal government agencies for evaluate policies, programs, statutes, and regulations to determine necessary revisions to improve availability of community based services for qualified individuals with disabilities. The Order recognized that community based services for individuals "advance the best interests of the United States."</p>	<p>United States Department of Health and Human Services / Centers for Medicare and Medicaid Services</p>
<p>No Child Left Behind Act (NCLB) H.R. 1 (2001)</p>	<p>2001</p>	<p>The purpose of the NCLBA is "to ensure that all children have a fair, equal and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments." 20 U.S.C. § 6301. The NCLBA, which is aimed a strengthening elementary and secondary schools, is a comprehensive education reform statute. 20 U.S.C. §§ 6301(1)-(12). The NCLBA's purpose is to be accomplished through a variety of means including, among other things, holding schools, local educational agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that</p>	<p>United States Department of Education</p>



		have failed to provide a high quality education to their students, while providing alternatives to students in such schools to *341 enable the students to receive a high-quality education. 20 U.S.C. § 6301(4).	
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## LEGAL PRECEDENTS

<b>SUBJECT</b>	<b>SOURCE</b>	<b>SUMMARY</b>
Duty to Warn	<i>Tarasoff v. Regents of University of California</i> , 17 Cal.3d 425, 551 P.2d 334 (1976)	The California case in which a therapist was informed by his client that he intended to harm a third party. The case established a legal duty for psychotherapists to warn or otherwise protect an identified person who is threatened with serious danger of violence by a client. Whether one agrees with the decision or not, it is indisputable that <i>Tarasoff</i> established a new standard of care for psychotherapists. The essential elements that support compliance with a court-established standard of care are (a) the legitimacy of the issue to the profession, (b) widespread publicity of the case, making psychotherapists considerably more willing to notify people who might be in danger from clients who threatened harm, and (c) an unacceptable risk to the psychotherapist for noncompliance. It is important to note that this precedent was established in a California State Supreme Court decision and as such is not binding on other states. Many states have accepted this as their controlling precedent; however, other states have declined to follow this case or have modified it. For example, Florida has stated that this duty does not apply to voluntary outpatients <i>Boynton v. Burglass</i> 590 So.2d 446.
Confidentiality	<i>MacDonald v. Clinger</i> , 84 A.D.2d 482; 446 N.Y.S. 2d 801 (Sup. Ct. 1982)	A New York case, in which the court recognized a legal compensable injury due to an unauthorized disclosure of information, concluding, "it will be assumed that, for so palpable a wrong, the law provides a remedy." In cases since <i>MacDonald</i> , public policy and privacy arguments have provided the rationale for the decisions against therapists. Regardless of the theory, courts have strongly backed the expectation of confidentiality.
Mandated	State Statutes	Most states have laws in place that require social

Reporters		workers to report incidences of abuse and neglect of children, adults, and the disabled. Also, other groups have received similar status, e.g., victims of rape, domestic violence, and hate crimes. With the exception of child abuse and neglect, states differ significantly in how these are handled.
Malpractice	In General	Can be tort or criminal law; usually involves a breach in the standard of care. An action usually includes (1) a duty of care, (2) a breach of that duty, (3) causation, (4) damages. Courts have also included foreseeability in their analysis.
Defamation	In General	Defamation is the publishing of a statement about another person that is untrue, misleading, malicious, and damaging to the person being written about. In the content of mental health, the claim of defamation is frequently part of a malpractice or breach of contract claim. Clients and others who file a lawsuit for defamation usually target the unauthorized release of records that publish false statements.
Social Worker Privilege	<i>Jaffe v. Redmond</i> , 116 S. Ct. 1923 (1996)	Established a therapeutic relationship between the social worker and the client. The court stated: "Making the promise of confidentiality contingent upon a trial judge's later evaluation of the relative importance of the patient's interest in privacy and the evidentiary need for disclosure would eviscerate the effectiveness of the privilege . . . [P]articipants [in therapy] must be able to predict with some degree of certainty whether particular discussions will be protected. An uncertain privilege, or one which purports to be certain but results in widely varying applications by the courts, is little better than no privilege at all." It is important to note that this decision specified that federal courts recognize this privilege. Therefore, states may decline to recognize this or may assert their own precedent as Georgia has done <i>Price v. State Farm Mut. Auto. Ins. Co.</i> 235 Ga.App. 792, 510 S.E.2d 582.
Ending Treatment	Medical Abandonment in General	Claims for abandonment usually fall into three areas: (1) negligent care, (2) terminations by social workers based on self-interest, (3) terminations of clients due to necessity or life events. In all cases, when terminating a client who continued to need treatment, the social worker has an obligation to take reasonable steps to ensure that the client receives the necessary treatment. A simple referral is oftentimes not enough.

Record Keeping	In General	Records are to be accurate, adequate, complete, and timely, detailing an account of the therapeutic process, documenting the standard of practice, and appropriate follow-up. Records are usually not the main cause-of-action, but sources of evidence.
Health Care Decisions Acts	Various	The purpose is to ensure that a patient's right to self-determination is protected; and sets forth a process that includes the use of advance directives. Each state has laws in place to effectuate the policy of self-determination.
Scope of Title II	<i>Olmstead, Commissioner, Georgia Department of Human Resources, et al. v. L.C., by Jonathan Zimring, guardian ad litem and next friend, et al.</i> 527 U.S. 581, 119 S.Ct. 2176	The court concluded that under Title II of the ADA, states are required to place persons with mental disabilities in community settings rather than in institutions when the state's treatment professionals have determined that community placement is appropriate, the transfer from institutional care to a less restrictive setting is not opposed by the affected individual, and the placement can be reasonably accommodated, taking into account the resources available to the state and the needs of others with mental disabilities.
Reasonable Accommodation	<i>U.S. Airways, Inc. v. Barnett</i> , 122 S. Ct. 1516 (2002)	When an employee with a disability seeks reassignment as an accommodation under the ADA, does that employee's right to reasonable accommodation trump another employee's seniority rights when the employer has a seniority system? In the court's view, the seniority system will prevail in the run of cases. As the statutes were interpreted it shows that a requested accommodation conflicts with the rules of a seniority system is ordinarily to show that the accommodation is not "reasonable." Hence such a showing will entitle an employer/defendant to summary judgment on the question-unless there is more.
SSDI plus ADA	<i>Cleveland v. Policy Management Systems Corp</i> , 526 U.S. 795 (1999)	Pursuit, and receipt, of SSDI benefits does not automatically stop a recipient from pursuing and ADA claim or erect a strong presumption against the recipient's ADA success. However, to survive a summary judgment motion, an ADA plaintiff cannot ignore her SSDI contention that she was too disabled to work, but must explain why that contention is consistent with her ADA claim that she can perform the essential functions of her job, at least with reasonable accommodation. However, the court recognized in <i>Roloff v. Commissioner of Dept. of Employment and Economic Development</i> 668

		N.W.2d 12 that the <i>Cleveland</i> court “was addressing the interplay between two federal statutes.” Based on this reasoning, the <i>Roloff</i> court stated that it did not abrogate a state statute in Minnesota.
Disability Defined	ADA and Section 504	A disability is generally defined as a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment

## DISABILITIES LANGUAGE

Although not all disability rights advocates and disability experts agree on the use of People First Language, proponents believe that such language emphasizes the person rather than the label. A person is much more than just one characteristic, but when a label is placed in front of the person, that label can become the defining characteristic of that individual. Language shapes the way we think, and thus it is important to consider the words that we use. Some language may be preferable than other language when referring to disability – but keep in mind that it is often not necessary to refer to the person’s disability at all. Ask, is it relevant?

As noted above, not all disability rights advocates agree with People First Language. For example, Depoy and Gilson note that People First Language only seems to apply when the descriptor is seen as a negative. Many veterans prefer “disabled veterans” and have a sense of pride related to their disability. “Deaf community” is similarly preferred by some. The WV Developmental Disabilities Council and WV MR/DD Waiver Program (Division of Developmental Disabilities) provide the following guidelines:

### Avoid:

**Able-bodied/Normal** – instead use “person without a disability” or “non-disabled person”.

**Autistic, epileptic...** instead use person with autism, person with epilepsy....

**Birth Defect** – instead use “congenital disability” or “person born with a disability”

**Confined to a wheelchair/wheelchair bound** – instead use “uses a wheelchair”

**Cripple or crippled** – instead use “person with a physical disability” or “person with a disability”.

**The disabled, the blind, the epileptics, the retarded, etc.** – instead use descriptive terms as adjectives, not nouns.

**Handicapped** – instead use “person with a disability”

**Handicapped parking/bathroom** – replace with “accessible parking or bathrooms

**Invalid, mongoloid, defective, special person, afflicted with, deaf and dumb, mute** – these terms have negative connotations and devalue the person.

**Retarded** – “person with cognitive disabilities” is preferred although “persons with mental retardation may be acceptable.

**Schizophrenic:** instead use “person with schizophrenia” or “person living with a mental illness”

**Stricken with or suffers from:** assumes the person with the disability has a reduced quality of life compared to a non-disabled person.

**Vegetable/vegetative** – these terms are offensive and imply that people with disabilities are less than human. “Comatose”, “non-responsive”, or “profound disability” are preferable.

**Victim** – disabilities are a natural part of the human experience – better to say “person with a disability

## **STUDENT DISCUSSION ACTIVITY**

### **PEOPLE FIRST LANGUAGE: YES OR NO?**

#### **YES**

Placing the disability label first leads to defining that person as his/her disability. By placing the person first, recognition is given to the fact that the person is much more than a label. Disability is just one aspect of who a person is – it does not define who that person is. Words are powerful and shape the way we think. Society tends to place stigma and view disability in a negative, problematic way, it is important to use language in a way to create a more positive image.

#### **NO**

By promoting people first language, one is accepting that disability is a bad word or a negative characteristic rather than a source of pride. It seems to be promoted only for terms that we would consider problematic or negative. Elizabeth DePoy and others argue that it is euphemistic. “If the modifier is so heinous as to require personhood to be asserted before it, the devaluation of the modifier is pretty obvious.” (DePoy).

***What do you think?***

**STUDENT ACTIVITY:  
SOCIAL DARWINISM V. SOCIAL  
INCLUSIONS/STRENGTHS**

**Imagine a typical day when you were in high school – your friends, the conversations you had, and the clothes you wore. Imagine more deeply – the way you felt, laughed, and the things that made you anxious, nervous, and self-conscious.**

**Now identify:**

What made you different from those around you?

Identify what makes you different today?

What makes you the same?

**We are all both different and the same: biologically—predisposition, human genome; sociologically—families, diverse, traditions/myths; psychologically—perception in reality, origin/development. Of the differences:**

What should the law “class” as exceptional?

What does the law “class” as exceptional?

## SOCIAL POLICY ABSTRACTS

The following materials are organized in two sections; the first drawn from an American perspective and the second providing information with an international viewpoint. The inclusion of the global perspective provides a view of the topic that illustrates both the progressive aspects of the American experience and also areas for further development of the American response to inclusion. It is noted that the diversity of policy analysis research for the topic is relatively limited in scope as evidenced by a literature review for the time period 2000-2006.

### *From the American Perspective*

#### **Overview**

These articles provide insight to policy issues in a number of ways. Braddock's work reviews historic influences on present policy and the related public and private trends in the states. The role of activism by persons with disabilities to influence policy and practice changes through participation/advocacy/civil disobedience is highlighted in two articles by Bradley and DePoy. Attention to legitimacy theory (DePoy) and the disability discrimination model (May) highlight the application of theory to policy analysis as an alternative to the traditional paternalistic model. Fox provides an important overview of the implementation of the Olmstead decision in 20 states and the results of the "New Freedom" initiative of 2003. The literature review noted only one article focusing on research application to practice in this topic (LeRoy). Concerns about long-term care are raised by Palley. Parish and Lutwick note an "impending crisis" in long-term care issues for persons with disabilities and while stressing advocacy, the tone is somewhat paternalistic in contrast with the model counseled by May. The story of Jack Eldon Baker offers a unique first person account to help inform our thinking on the topic but unfortunately the NASW policy offering provide no new approaches from the organizations previous (2003) ideas.

#### ***Braddock, David. 2002. Disability at the Dawn of the 21st Century and The State of the States. American Association on Mental Retardation. Washington, DC.***

This resource provides a comprehensive historical based cross disability perspective overview from ancient times to the present focusing on public support for the disabled at the beginning of the 21<sup>st</sup>. century. The second section reviews the state of the states in public support for public and private efforts and the trends in public financing of community services. Included is a state by state summary of emerging trends. The final section provides a comparative study of the forces shaping developmental disability services in the states including the methodology utilized and the use of a case study (Michigan) to address the roles of politics, legislative influences, public officials, and the role of advocacy groups in changes to services in this state. Overall, this resource is an excellent summary of the historical and contemporary influences for policy in developmental disabilities.



**Bradley, Valerie J. 2000. *Changes in Services and Supports for People with Developmental Disabilities: New Challenges to Established Practice.* Health & Social Work, Aug 2000, Vol. 25 Issue 3, p191, 10p.**

The article explores the implications of the ideals, the ways in which systems of support for *people with* developmental disabilities are fueling initiatives, the challenges that constrain their full realization, and the steps that must be taken to keep the developmental disabilities system moving in a progressive direction. The notion of inclusion, in one form or another, has been a motivating force for reform in the field of developmental disabilities through the past 25 years. Conceptually, inclusion has evolved from an aspiration linked to "place" to one tied to participation, choice, and relationships. Concepts that stressed integration and "community-based" *services* influenced public policy, which in turn influenced *practice*. As a profession social workers celebrate the emerging models of self-determination and customer choice that are taking root in many parts of the country. However, the gap between our aspirations and practice is still great, and it will take more than additional conversions of the uninitiated to bring current practice into line with these ideals.

***DePoy, Elizabeth and Gilson, Stephen F. 2004. Rethinking Disability: Principles for Professional and Social Change. Belmont, CA: Thompson/Brooks Cole.***

This introductory text on disability provides an overview of legitimacy theory and of interest to those interested in policy, a general overview of the history of disability policy and a section (pp33-40) on social policy development in the 20<sup>th</sup> century.

***Fox-Grage, Wendy, Coleman, Barbara, Folkemer, Donna. 2004 The States' Response to the Olmstead Decision: A 2003 Update. Retrieve from: [http://www.allhealth.org/recent/audio\\_06-21-\\_4/NCSL%20State%20Response%20to%20Olmstead.pdf](http://www.allhealth.org/recent/audio_06-21-_4/NCSL%20State%20Response%20to%20Olmstead.pdf)***

This report categorizes current *Olmstead*-related plans, the role of the federal systems change grants, legislative initiatives, structural changes and implementation barriers. The report reflects activity as of December 2003. To obtain accurate and timely information, NCSL relied on telephone interviews with key state contacts; a survey of significant online planning documents, budget analyses and press announcements; and a database review of state legislation that was enacted during the 2003 legislative sessions. State planning efforts and the federal grants to states that have resulted from the President's New Freedom initiative are two of the most significant state and federal activities in direct response to the *Olmstead* Supreme Court decision.

Twenty-nine states have issued an *Olmstead*-related plan or report. Of this total, 20 states published their plans between 2000 and 2002. Nine states--Arkansas, California, Delaware, Georgia, Kentucky, Maine, North Carolina, Oklahoma and Virginia--released their plans during 2003. Four states--Alabama, Illinois, Louisiana and West Virginia--were working on their plans during 2003 but did not release them. Several states have task forces that are working on various

*Olmstead*-like activities but do not intend to write a plan. (See the state profiles section of this document and Table 1 in this report for details on the 29 state plans, many of which can be accessed online.)

**LeRoy, Barbara W; Johnson, Donna M; Israel, Nathaniel. 2004. *The Perceptions of Welfare Reform by Michigan Families Whose Children Have Disabilities and Welfare Caseworkers. The Social Policy Journal, Vol.3, (1), 23-37.***

This article examines family & caseworker perceptions of welfare reform & services as they relate to families who have a child with a disability. Interviews were conducted with 39 families & 77 caseworkers. Family questions addressed their perceptions of the welfare system, factors impacting their self-sufficiency, & their perceptions of needed program changes. Caseworker questions addressed their perceptions of welfare practices & policies & their education needs related to serving families who have children with disabilities. Familial perceptions of the welfare system were validated by caseworker reports. Implications for service improvement are discussed.

**Malone, D. Michael; McKinsey, Patrick D.; Thyer, Bruce A.; Straka, Elizabeth. 2000. *Social Work Early Intervention for Young Children with Developmental Disabilities.* *Health & Social Work, Aug., Vol. 25 Issue 3, p169-181.***

Social workers' awareness of and formal involvement in family-centered early intervention for infants and toddlers who are at risk of or who have developmental disabilities has increased considerably during the past 15 years. The functional role that social workers can play on early intervention teams and as coordinators of early intervention services is underscored by the formal recognition of the discipline in the Individuals with Disabilities Education Act. Despite the relevance of social work to early intervention, personnel often enter early intervention practice without the benefit of formal preparation related to very young children with developmental disabilities. This article provides an overview of the definition and identification of developmental disabilities, and discusses the role of and challenges to social work in early intervention.

**May, Gary E.; Raske, Martha B. (eds). 2005. *Ending Disability Discrimination: Strategies for Social Workers.* NY, Pearson Education.**

Recently published, this compilation provides two chapters relevant to policy. Chapter one, "Academic Debates and Political Advocacy: The US Disability Movement", authored by Harlan Hahn, analyzes the background of the current state of policy based on the concept of a "disabling environment". His orientation is to focus on the role of advocacy and civil disobedience as a catalyst for change and the emergence of activism as a key factor in this social change. In spite of paternalism and "covert resistance from the non-disabled majority", the movement broke through the "legacy of charity" and identification as the "deserving poor" to affect broad scale changes in social policy. A thorough linkage of the legal process to advance access is provided along with the disappointments associated with this avenue for change.

Chapter 7 (authored by May) addresses policy practice utilizing the disability discrimination model. This model is oriented to viewing disability as "...a social construction rather than an immutable, objective reality". Such an approach argues that "...deviations from normal expectations...are defined as limiting and excluding". Reframing disability away from a medically-

oriented perspective, he argues, provides an orientation to policy practice that provides an alternative to previous models of advocacy.

***National Association of Social Workers. 2006. People with Disabilities. Social Work Speaks: National Association of Social Workers Policy Statements. NASW, Washington, DC. pp. 284-289.***

Providing a brief background and overview of relevant public policy issues related to disabilities, this article focuses on the core policy issues of the movement and recommendations for policy. As a basis of these recommendations is the Code of Ethics and the areas of attention are independent living, housing, and transportation; community accessibility; education; employment; and income and health care. Unfortunately, the new policy statements reflect no change, modification, or revision from the 2003-2006 document on the subject.

***Palley, Howard A.; Van Hollen, Valerie. 2000. Long-Term Care for People with Developmental Disabilities: A Critical Analysis. Health & Social Work, Aug., Vol. 25 Issue 3, p181-190.***

This article explores how the trends toward long-term community care affecting people with developmental disabilities developed. Appropriateness of care and quality of life issues are discussed. The article also reviews the development of long-term care for frail and disabled elderly people and explores the arguments for a continuum of care that have developed in this area. The authors conclude that future policies with respect to meeting long-term care needs for people with developmental disabilities must be addressed flexibly on an individual basis, related to individual needs, and must provide a continuum of care services.

***Parish, Susan L.; Lutwick, Zachary E. 2005. A Critical Analysis of the Emerging Crisis in Long-Term Care for People with Developmental Disabilities. Social Work Volume 50, Number 4, October, pp. 345-354.***

These authors argue there is an impending crisis in long-term care for people with developmental disabilities. The demand for care will likely outpace the supply for decades to come. Factors, such as limited existing long-term care resources, increased life expectancy for people with developmental disabilities, changing family demographics, legal actions, and competition for resources with the elderly population are driving the crisis. Virtually every domain of social work practice will face challenges in this area. This article advocates for an immediate response from the social work community in several areas. The profession needs to provide social workers with expanded training in family-centered approaches to working with people with developmental disabilities, develop new interventions, create new organizational supports, and practice assertive advocacy.

***Remembering Community Inclusion: Stories From the Life of Jack Eldon Baker. Rehabilitation Counseling Bulletin 04/01/2005, Vol. 48 (3), p177***

This first person account, tells the story of Jack Eldon Baker who was born, lived, and died in Gilbert, Arkansas. The story of his life is retold in excerpts from a memorial publication published by the people of the town. This article also makes the case that his story is an example of community inclusion. Through the voices of those who knew him, we see Jack as a person who gave to the community according to his talents and was supported by the community according to his needs. Although our social services system would have identified him as a person with a significant developmental disability, neither Jack nor his community found such labels meaningful. The importance of Jack's contribution to his town and the implications for the rehabilitation counseling profession are discussed.

## *From the International Perspective*

### **Overview**

The following articles provide insights useful to understanding policies related to the experiences of persons with disabilities from other countries. Bigby's overview of the results in Australia of barriers experienced as a result of life long intellectual disabilities and the resulting gaps in inclusion and services parallels the American experience. In Hong Kong, Chou notes that neither central or local authorities are "seriously involved" in policy modifications to meet needs and that informal care by female family members without policy support is the norm. Similarly, Ngan's research on four dimensions of inclusion of persons in Hong Kong (n = 692) shows patterns similar to the U.S. and a call for empowerment. Doha raises a paradox for a world-wide issue affecting both the aging and disabled individuals: People are living better and longer yet family resources are "ill suited" to assist these persons. The Norwegian experience (Meyer), historically a model for inclusion, notes the shift to "community-invested services" imbedded in the national goal of normalization that emerged in the 1970's has not been without challenges. The devolution of services to the family and community has been difficult for townships and municipalities as competing demands for funds and barriers to social inclusion have emerged. In her cross-Canada analysis of policy, Pedlar sees limited leadership, fewer resources that are "market oriented", and resulting in a "commodification of disability". Her prescription, as noted by several other researchers, is empowerment.

***Bigby, Christine. Dec2002. Ageing people with a lifelong disability: challenges for the aged care and disability sectors. Journal of Intellectual & Developmental Disability. Vol. 27 Issue 4, p231-241, 11p.***

Australia is experiencing a rapid increase in both the absolute numbers and proportion of people who are ageing with a lifelong disability. Aged care and disability are the two key social policy sectors that impact most directly on formal services available to this group. Potentially they may be included or excluded from either sector. This paper compares and contrasts Australian policy directions in aged care and disability. Using people with intellectual disability as an exemplar of those who are ageing with a lifelong disability, the paper analyses their location within and the services offered to them by each sector. The paper argues that neither sector adequately addresses the issues raised by the needs of this group and suggests why this is so. Directions for policy and service developments necessary to ensure that the needs of this growing population are met are suggested. These are broadly categorized as; systematically bridging existing gaps with specialist services; supporting inclusion and ensuring older people with lifelong disability are visible within the aged care system; adapting and resourcing the disability sector to facilitate

ageing in place; and developing partnerships and joint planning aimed at the removal of cross- and intra-sector obstacles to accessing appropriate services.

***Chou, Yueh-Ching; Kroger, Teppo. 2004. Community Care in Taiwan: Mere Talk, No Policy. Social Work in Mental Health. Vol. 2, Number 2-3, 139-156.***

This article explores the policy definitions & the funder roles of central & local governments in community care in Taiwan. The notion of community care has been adopted in Taiwan following the model of Hong Kong but the main question of the article is whether this has resulted in actual service provisions at the community level, forming an alternative to institutional care. The data has been collected from several sources: policy documents, official statistics, surveys, general reports, funding provision reports, & empirical studies. The results show that neither central nor local authorities are seriously involved in caring for elderly people or persons with disabilities in Taiwan's communities. In Taiwan, community care for these groups of people still means, in practice, informal care provided by female family members without any support from public policies.

***Doka, Kenneth J.; Lavin, Claire. The Paradox of Ageing with Developmental Disabilities: Increasing Needs, Declining Resources; Ageing International, Spring2003, Vol. 28 Issue 2, p135, 20p.***

There is a new, still somewhat hidden population - persons ageing with developmental disabilities. This population, though estimates of size vary, has survived to later life due to better health care and deinstitutionalization. Yet as this population of persons with developmental disabilities ages, it will raise new challenges for gerontologists and specialists in the field of developmental disabilities. The situation of persons ageing with developmental disabilities is characterized by a paradox. As persons with developmental disabilities age, they are likely to experience cognitive and physical deficits that increase their need for services and support. Yet their family-based support systems (who are also ageing) may be less available and social services may be ill suited to assist. The growing numbers of persons aging with developmental disabilities may call into question not only the policies and programs designed to serve this emergent population, but also the very ways we educate and train professionals working in the fields of gerontology and developmental disabilities.

***Meyer, Jan. 2004. Goals, Outcomes, and Future Challenges for People with Intellectual Disabilities in a Noninstitutional Society: The Norwegian Experience. Journal of Policy and Practice in Intellectual Disabilities, Vol. 1 (2).***

The Norwegian Welfare System and how its programs support Norwegians with intellectual and developmental disabilities is described and proffered as a case example of how one nation's public policy shifted to provide community-invested services for people with lifelong disabilities. The foundation of Norway's shift to complete reliance on home and community supports for its citizens with intellectual disabilities lies in the health and welfare system that is in place for all Norwegians. Social change began in the mid-1970s when a governmental commission examined Norwegian social policy for people with developmental disabilities using four factors: (1) the ideological tenets of the principle of normalization, (2) the government's commitment to decentralization of services, (3) the goal of the integration of persons with disabilities, and (4) moving toward a broader definition of developmental disabilities as a target group for services. The commission's recommendations of closure of institutions and the devolution of services led to

a reliance on local townships and municipalities. However, this process was not without its problems, such as competing demands for public services and local economies, and dealing with barriers posed by resistance to social integration and inclusion. The author explores the Norwegian experience and the dilemmas faced by local communities in attempting to meet the national goals of a non-institutional society.

***Ngan, Raymond. 2004. Community Integration of Older People with Developmental Disabilities in Hong Kong Journal of Social Work in Disability & Rehabilitation, Feb., Vol. 2 (2-3), p101.***

To understand the community integration of adults with developmental disabilities in Hong Kong, a comprehensive measure includes four dimensions, pertaining to social activity, social services, interpersonal behavior, and people involved in social interaction. Applying this measure to 692 adults (aged 15-62), the territory-wide study finds that these adults lack company for out-of-home activities and community activities despite their higher knowledge, assertiveness, social interaction, and feeling accepted in the community. With the strengthening of many conditions (including knowledge and community support) for community integration, the adults tend to have greater need for empowerment to enhance their active participation in community activities.

***Pedlar, Alison; Hutchison, Peggy. 2000. Restructuring Human Services in Canada: commodification of disability. Disability & Society, June, Vol. 15 Issue 4, p637- 651, 15p.***

The human service system in Canada has undergone significant changes as a result of the dismantling of provisions that was once in place to ensure access to services by society's more vulnerable citizens. This paper draws on a cross-Canada examination of services to adults with developmental disabilities to report on the response of service providers in this time of turbulence. Qualitative analysis provides insight into the ways in which services have responded to shrinking budgets. Without leadership and lacking a social policy framework from senior levels of governments, the changing face of human services has been accompanied by the arrival of a new market-orientated service provider group that has deepened the commodification of disability. The examination concludes with the introduction of an approach to support which resists the trend toward commodification and re-establishes the social good, allowing the individual with a disability the right to participate more fully in community life alongside other members of society.

## **DIVERSITY ABSTRACTS**

***Ferrari, M. (2002). Development is also experienced by a personal self who is shaped by culture. Behavioral and Brain Sciences, 25(6), 755.***

Abstract:

The author agrees with Thomas & Karmiloff-Smith (T&K-S) in their critique of Residual Normality. However, he insists, first-person data must be integrated into their account of neurobiological development of disabilities. Furthermore, psychological development itself is not only about an individual's brain and how it interacts with the world; rather, development depends crucially on the sociocultural context in which (normal and abnormal children develop.

***Tallal, P. (2002). Are developmental disabilities the same in children and adults. Behavioral and Brain Sciences, 25(6), 768.***

Abstract:

Thomas & Karmiloff-Smith (T&K-S) raise an issue of considerable theoretical importance: Are developmental disorders like cases of adult brain damage? However, a related question: Are developmental disabilities the same in children and adults? Is rarely addressed. Failure to consider the cumulative and differing effects of aberrant development across the life span confounds the current literature on both developmental dyslexia and Specific Language Impairment.

***Nabors, N.A., Pettee, M.F. (2003). Womanist therapy with African American women with disabilities. Women & Therapy, 26(3/4), 331.***

Abstract:

African American women are at increased risk for disabilities. There is very little information available, however, regarding psychological interventions with African American women with disabilities. The purpose of this article is to discuss psychological

intervention in working with African American women with acquired disabilities from a womanist perspective. Themes and interventions are discussed. Recommendations for working with African American women with disabilities in a therapeutic context are offered.

***Parette, H.P., Brotherson, M.J. (2004). Family-centered and culturally responsive assistive technology decision making. Infants and Young Children, 17(4), 355.***

Abstract:

A family-centered approach is recommended practice for assistive technology (AT) decision making with families who have infants and toddlers with disabilities. Involving families in AT decision making involves careful gathering of information needed to address the family strengths, needs, and priorities, and to match the AT decision-making process with the family's culture. It also involves matching the infant or toddler with a disability to AT and the natural environments and activities where the devices and services will be used. Assistive technology can also enhance opportunities for infants and toddlers to develop early skills of self-determination when this is consistent with a family's cultural values. The article discusses (a) the role of AT in the service planning process; (b) issues related to working with families across cultures; (c) issues related to effective AT decision making when working with culturally and linguistically diverse families who have infants and toddlers with disabilities; and (d) a process of cultural reciprocity for meaningful information gathering during the AT decision-making process. Future issues for family-centered research and personnel preparation training are discussed for infants and toddlers with AT needs and their families.

***Rueda, R., Monzo, L., Shapiro, J., Gomes, J., Blacher, J. (2005). Exceptional Children, 71(4), 401.***

Abstract:

This study used several focus groups to examine culturally based variation in attitudes, beliefs, and meaning of transition. Sixteen Latina mothers of young adults with disabilities participated in the study, recruited from an agency serving low-income, predominantly Spanish-speaking communities. Data analysis identified five primary themes: (a) basic life skills and the social adaptation, (b) the importance of the family and home rather than individualism and independence, (c) the importance of the mother's role and expertise in decision making, (d) access to information and (e) dangers of the outside world. The overarching theme was a view of transition as home-centered, sheltered adaptation as opposed to a model emphasizing independent productivity. The findings and the implications for future research and practice are discussed.



## SELECTED INTERNET RESOURCES-POLICY ISSUES

**<http://www.kidstogether.org/leg.htm>**

An overview of policy resources for development and education, health, income, housing and supports, rights, transportation, and work on the federal, state, and local levels.

**<http://www.usdoj.gov/crt/ada/cguide.htm>**

A Guide to Disability Rights Laws. September 2005.

Table of Contents: [Americans with Disabilities Act](#), [Telecommunications Act](#), [Fair Housing Act](#), [Air Carrier Access Act](#), [Voting Accessibility for the Elderly and Handicapped Act](#), [National Voter Registration Act](#), [Civil Rights of Institutionalized Persons Act](#), [Individuals with Disabilities Education Act](#), [Rehabilitation Act](#), [Architectural Barriers Act](#), [General Sources of Disability Rights Information](#), [Statute Citations](#).

**<http://www.acf.hhs.gov/programs/add/>**

US Administration on Developmental Disabilities-an in-depth and detailed overview of policy and services on the Federal level.

**[http://www.federalgrantswire.com/university\\_centers\\_for\\_excellence\\_in\\_developmental\\_disabilities\\_education\\_research\\_and\\_service.html](http://www.federalgrantswire.com/university_centers_for_excellence_in_developmental_disabilities_education_research_and_service.html)**

University Centers for Excellence in Developmental Disabilities Education, Research, and Service.

**Objectives:** To defray the cost of administration and operation of programs that: (1) Provide interdisciplinary training for personnel concerned with developmental disabilities; (2) demonstrate community service activities that include training and technical assistance and may include direct services, e.g., family support, individual support, personal assistance services, educational, vocational, clinical, health and prevention; (3) conduct research (basic and applied), evaluation and analysis of public policy in areas affecting individuals with developmental disabilities; and (4) disseminate information as a national and international resource.

**<http://www.dds.ca.gov/general/links.cfm>**

From the state of California, Dept. of Developmental Services, this excellent web site provides links to a wide range of web resources for policy issues.

**[http://www.law.cornell.edu/wex/index.php/Disability\\_law](http://www.law.cornell.edu/wex/index.php/Disability_law)**

This Cornell Law School Legal Information Institute disability law site provides a wide range of information about legal policy issues and a range of relevant links.

**[http://www.opm.gov/disability/appempl\\_4-02.asp](http://www.opm.gov/disability/appempl_4-02.asp)**

The Federal Office of Personnel Management provides information about Federal Employment of People with Disabilities and a wide range of links to programs and services and policies that address the efforts of many government agencies and programs.

**[http://www.c-c-d.org/legislative\\_news.htm](http://www.c-c-d.org/legislative_news.htm)**

The Consortium for Citizens with Disabilities address a broad range of federal legislative and legal issues. Click individual task force names to jump to their page to get detailed information including their mission, how to contact them, and a complete listing of announcements, articles, and reports. Information on policy issues related to housing, employment, fiscal policy, health, etc. are included.

# RESOURCES FOR TEACHING DISABILITY

Compiled by  
MARISSA JOHNSON

## **Projects, Curricula, & Lesson Plans**

### **YIELD the Power to the Youth Curriculum**

Access Living

*Contains several lessons and activities related to disability history and culture.*

[www.accessliving.org](http://www.accessliving.org)

Access Living of Metropolitan Chicago  
614 W. Roosevelt Rd.  
Chicago, IL 60607  
312-253-7000

### **Disability Rights History Pilot Project**

*A project created by the Disability Rights Education Defense Fund (DREDF) to teach 5<sup>th</sup> and 6<sup>th</sup> graders about disability history. Includes an activity involving interviewing adults with disabilities in the area.*

[www.dredf.org](http://www.dredf.org)

To receive a full report about the project, including a detailed curriculum narrative, project reports, etc., contact Kenneth Stein at DREDF: [kstein@dredf.org](mailto:kstein@dredf.org) (510) 644-2555.

### **Anti-Defamation League Disability Curriculum, lesson 5**

*The purpose of this lesson is for students to examine how past prejudicial attitudes and social exclusion of people with disabilities led to the rise of a nation wide, grassroots movement for the recognition of equal rights, equal access and equal treatment of people with disabilities. Students will consider how ableist assumptions are rooted in past stereotypical portrayals of disability, and will be challenged to reflect on their own assumptions and attitudes towards people with disabilities. Students will also learn about current day issues concerning the disability community, and will work in concert with disability advocates to take action in their own community on a disability rights issue.*

[http://www.adl.org/education/curriculum\\_connections/fall\\_2005/fall\\_lesson\\_5\\_2005.asp?cc\\_section=lesson\\_5](http://www.adl.org/education/curriculum_connections/fall_2005/fall_lesson_5_2005.asp?cc_section=lesson_5)

### **Teaching History and Disability Studies**

*This research list is compiled from information provided by Douglas Bayton, Assistant Professor, University of Iowa, with a joint appointment to the Department of History and the American Sign Language Program, University of Iowa, has written extensively on the history of the deaf in the U.S.*

<http://www.disabilitystudies.com/history.htm>

## **Audio & Video**

### **Beyond Affliction: The Disability History Project**

*Beyond Affliction: The Disability History Project is a four hour documentary radio series about the shared experience of people with disabilities and their families since the beginning of the 19th century. This Web site includes excerpts from the Shows as well as many of the primary source documents - extended interviews, images, and texts- from which the on-air programs were developed.*

<http://www.npr.org/programs/disability/>

### **The Power of 504**

*A video documenting the 26-day take over of the Federal HEW building in California in 1977 to get the regulations for section 504 of the Rehabilitation Act of 1973 signed.*

### **My Country**

*Tracing a path from civil rights to disability rights (and the ADA), this awareness training profiles three people faced with vision and developmental disability or war service that resulted in paralysis. They become disability advocates while pursuing their own career paths. Hosted by concert conductor James DePriest, who confronted polio in his 20s, My Country is a Disability SuperFest Best of Festival winner. Now available in DVD!*

<http://www.pdassoc.com/disaw.html>

### **When Billy Broke His Head and Other Tales of Wonder**

*This breakthrough film blends humor with politics, and individual experience with a chorus of voices, to explore what it is really like to live with a disability in America — where pervasive discrimination and bureaucracy too often keep people with disabilities trapped in a labyrinth of government rules and legislated poverty.*

[http://www.fanlight.com/catalog/films/136\\_wbbhh.php](http://www.fanlight.com/catalog/films/136_wbbhh.php)

### **Vital Signs: Crip Culture Talks Back (selections)**

*This edgy, raw documentary explores the politics of disability through the performances, debates and late-night conversations of activists at a national conference on Disability & the Arts. Including interviews with well known disability rights advocates such as Cheryl*

*Marie Wade, Mary Duffy and Harlan Hahn, Vital Signs conveys the intensity, variety and vitality of disability culture today.*

[http://www.fanlight.com/catalog/films/230\\_vs.php](http://www.fanlight.com/catalog/films/230_vs.php)

## **Readings – Print Materials**

**No Pity** by Joseph Shapiro

*A chronology of the disability rights movement written for adults.*

*With 35 million disabled Americans, the American with Disabilities Act and its implications are here to stay. Shapiro, a U.S. News & World Report journalist, explores in depth the thoughts, fears, and facts behind the disability rights movement. The premise throughout this compelling historical account is that there is no pity or tragedy in disability--it is society's myths, fears, and stereotypes that make being disabled difficult. Shapiro's coverage is thorough, ranging from the movement's beginnings in Berkeley in the 1960s to the issues that will emerge in the future. Those interested in gaining a basic understand of the disability rights movement, will find this title is well organized, thoroughly researched, and thought-provoking.*

*Three Rivers Press, New York (1994). ISBN: 0812924126*

<http://www.amazon.com/gp/product/0812924126/102-8005319-8634520?v=glance&n=283155>

**The Disability Rights Movement** by Deborah Kent

Ages 9-12

*Traces the development of the disability-rights movement in fighting discrimination against people with disabilities and in securing civil rights for people with disabilities.*

*Children's Press (1996). ISBN: 0516066323*

[http://www.amazon.com/gp/product/0516066323/qid=1149516846/sr=1-2/ref=sr\\_1\\_2/102-8005319-8634520?s=books&v=glance&n=283155](http://www.amazon.com/gp/product/0516066323/qid=1149516846/sr=1-2/ref=sr_1_2/102-8005319-8634520?s=books&v=glance&n=283155)

**A People's History of the Independent Living Movement**

*Writing by Chava Willig Levy*

<http://www.independentliving.org/docs5/ILhistory.html>

**The Self-Advocacy Movement**

*Writing by Bonnie Shoultz, Center on Human Policy*

<http://web.syr.edu/~thechp/selfadv.htm>

## **Deaf President Now Resolution**

*Resolution by Gallaudet University Faculty supporting the Deaf President Now Protest and Demands* <http://pr.gallaudet.edu/dpn/ISSUES/exhibitb.html>

## **A History Lesson**

History from Ragged Edge Online  
<http://www.ragged-edge-mag.com/0900/0900editorial.htm>

## **"Coming Home" to Disabled Country**

Writing by Sarah Triano and Laura Obara about their first ADAPT action  
<http://www.jfanow.org/cgi/getli.pl?1409>

## **Web Sites**

### **Disability History Museum**

*The Disability History Museum's mission is to promote understanding about the historical experience of people with disabilities by recovering, chronicling, and interpreting their stories. Our goal is to help foster a deeper understanding of disability and to dispel lingering myths, assumptions, and stereotypes by examining these cultural legacies.*

<http://www.disabilitymuseum.org/>

### **Disability Social History Project**

An opportunity for disabled people to reclaim our history and determine how we want to define ourselves and our struggles.

<http://www.disabilityhistory.org>

### **Smithsonian Virtual Exhibition: The Disability Rights Movement**

*This exhibition looks at the efforts - far from over - of people with disabilities, and their families and friends, to secure the civil rights guaranteed to all Americans.*

<http://americanhistory.si.edu/disabilityrights/>

### **Institute on Disability Culture**

*People with disabilities have forged a group identity. We share a common history of oppression and a common bond of resilience. We generate art, music, literature, and other expressions of our lives and our culture, infused from our experience of disability. Most importantly, we are proud of ourselves as people with disabilities. We claim our disabilities with pride as part of our identity. We are who we are: we are people with disabilities.*

<http://hometown.aol.com/sbrown8912/index.html>

### **A Chronology of the Disability Rights Movements**

*A timeline of events important in disability history.*

<http://www.sfsu.edu/~hrdpu/chron.htm>

### **504 Sit-In 20<sup>th</sup> Anniversary Site**

*In 1997, a grand celebration was held commemorating the 20th Anniversary of the 504 Sit-In in S.F. and subsequent signing of the 504 Regulations. Over 600 people attended. We used the opportunity to record video recollections of many of the participants of the sit-in.*

<http://www.dredf.org/504/504home.html>

### **US Holocaust Memorial Museum Pamphlet: “Handicapped”**

*Describes the Nazi treatment of handicapped people from 1933-1945.*

<http://holocaust-trc.org/hndcp.htm>

### **Image Archive on the American Eugenics Movement**

*We invite you to experience the unfiltered story of American eugenics – primarily through materials from the Eugenics Record Office at Cold Spring Harbor, which was the center of American eugenics research from 1910-1940.*

<http://www.eugenicsarchive.org/eugenics/list3.pl>

### **Parallels in Time: A History of Developmental Disabilities**

*Parallels In Time contains over 150 pages of information about the history of society's treatment of persons with developmental disabilities. It also features numerous video and audio clips, and each page is linked to an audio reading of that page.*

<http://www.mncdd.org/parallels/menu.html>

## **APPLICATION OF MODELS OF CONCEPTUALIZING DISABILITY TO SOCIAL WORK PRACTICE**

### ***Medical Model***

Intervention based on the medical model would aim to cure, rehabilitate, or change something about the individual as the target of change. The medical model is not strictly “medical”, in that it also refers to other professionals who approach disability from this perspective.

### ***Social Role Valorization***

Social Role Valorization (SRV) asserts that people who are devalued by society suffer damage from this devaluation and are more likely than others to be clients of social service agencies. Communities and even some social service agencies perpetuate the harm through rejection, isolation, scapegoating, de-individualization, infliction of loss of autonomy and freedom, and exclusion in full participation in society and control over their own lives. From this perspective, SRV strategies include prevention(not devaluing people), remediation (reducing the harm that has occurred), and compensation (“adding value and competencies to that party”). Strategies would include shaping roles so that they are seen by others as having higher value and enhancing competencies needed to fill valued roles. From a social image standpoint, SRV strategies would serve to enhance social image by “arranging physical and social conditions so as to enhance positive perceptions”, and from a personal competencies perspective, “arranging physical and social conditions so as to enhance competencies. Examples would include promoting valued and age-appropriate activities, providing services in valued locations, enhancing positive personal appearance and body integrity, promoting individuation, and enhancing



intellectual skills. SRV also promotes juxtaposing of people in devalued roles with positive images. SRV strategies focus on changing people's perception of devalued populations. (Wolfensberger, W. Syracuse University Training Institute, Social Role Valorization Workshop, Charleston, WV, 2006).

Wolfensberger is critical of the concepts of "empowerment" and "self-determination". Empowerment is viewed as coercive and/or reliant on a conflict model, whereas SRV "relies largely on educational and persuasive strategies that change people's mind content about certain classes of other people by changing their perceptions, expectations, and attitudes". He argues that people have a better chance of "getting the good things in life" by occupying social roles that are valued by others than by "exercising power, autonomy, and self-determination". (Wolfensberger, W. 2002).

### ***The Disability Discrimination Model***

Social work practice within this model would focus on changing the way people with disabilities are treated in society. Disability related impairment is seen as a social construct rather than an objective reality. This model promotes positive connotations to the label of "disability" rather than the negative stereotypes and assumptions that exist. People can be proud of their whole being – including "disability".

Consistent with the strengths perspective, empowerment perspective, and resiliency model, intervention would include focus on the larger environment as the target for change. This does not deny the need for medical services or resources (the medical model), but stresses that those services can exist while social workers also work to transform the environment including intervening to eliminate discrimination, stigma, and oppression. Social work practice in accordance with this model includes: flexibility in worker/client roles, including role-reversal; expanding collaborative partnerships to include advocates and critics beyond client family and friends and organizational staff; setting an intervention triad that includes individual, relationship, and societal targets for all clients in all organizations; and providing cultural and clinical supervision for practitioners, supervisors, and administrators to address issues of oppression and discrimination in addition to clinical services". (May, 2005). This is consistent with generalist social work practice that addresses all size systems: micro, mezzo, and macro.

May writes "the Disability Discrimination Model makes an essential distinction between the disability and impairment and views impairment as a socially constructed phenomenon. From this perspective, disability becomes disabling, or impairment, where an observed or perceived atypical appearance or functional characteristic intersects with a negative, stereotypic, limiting expectation set. Typically, the possessors of the atypical appearance or functional characteristics are labeled "disabled" and the holders of the negative, stereotypic, limiting expectations are labeled, "non-disabled". Such a depiction allows the person with a disability to continue to "own" and even celebrate the disability, and implicitly, membership in the disability culture, and explains deferential treatment, and limiting elements of the social and physical environment. Interventions are enacted in a broader field and necessarily include the important human elements of the client's

experience. These other important human elements will need to be educated about the importance that they have in quality of life of the client.” (Gary May, 2006)

### ***Explanatory Legitimacy Theory***

DePoy and Gilson’s perspective does not view diversity as group specific and equivalent to oppression and marginalization. Rather, disability is one of many elements of human diversity. Disability is seen as “ a contextually embedded, dynamic grand category of human diversity. Thus, who belongs and what responses are afforded to category members are based on differential, changing, and sometimes conflicting judgments about the value of explanations for diverse human phenomena.”

Explanatory legitimacy theory distinguishes among descriptive, explanatory, legitimacy aspects of the categorization of human diversity and analyzes the interaction of these factors. Description refers to human activity (what people do or do not do and how they do it), appearance, and experience. It includes the dimension of what may be considered typical or atypical and the dimension of what is observable versus what is known through inference only (reportable). Explanation is the set of reasons for atypical doing, appearance, and experience. Legitimacy is the “set of beliefs, value judgments, and expectations attributed to the explanation”.

DePoy and Gilson describe the use of “human description mapping” to explore multiple explanations and consequences related to problems. Through this process, logical solutions can be implemented to meet the needs of the individual. This process can be applied at many levels of professional practice including social action. The author’s view social change as “a collaborative effort among individuals who are self-determining and who together hold and share a full complement of skills, knowledge, and values that they bring to advance a progressive community legitimacy agenda.” (DePoy & Gilson, 2004)

### **References**

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