

# **NCD and the Americans with Disabilities Act: 15 Years of Progress**

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*This paper discusses the National Council on Disability's role in the passage of the Americans with Disabilities Act (ADA) and the continuing efforts of the Council in evaluating the implementation, effectiveness and impact of the ADA.*

Since its inception in 1978, the National Council on Disability (NCD) has been at the forefront in advocating for effective policy that establishes equal opportunities for people with disabilities. The Americans with Disabilities Act (ADA) of 1990 was the watershed event for advancing the civil rights of people with disabilities. The ADA's "clear and comprehensive national mandate for the elimination of discrimination against people with disabilities" in which sweeping protections were provided in employment, public services, public accommodations and services operated by private entities, transportation and telecommunications has been the impetus for a revolution in the inclusion, integration and empowerment of Americans with disabilities.

## ***Past is Prologue***

In 1986, NCD released *Toward Independence*, a report that recommended the enactment of federal legislation that would address the discrimination experienced by people with disabilities. Although many of NCD's recommendations from the report were fulfilled, the most vital recommendation—the enactment of an anti-discrimination statute—had yet to be realized. By 1987, NCD, determined to push for enactment, embarked on drafting an ADA bill with the hope that a member of Congress would introduce the legislation as his or her own. However, after completion of the draft, no member was inclined to sign on, fearing that there would be a lack of support by their colleagues. NCD then decided to include the ADA draft in its new report, *On the Threshold of Independence*, which was released in early 1988. With the release of the report, many members of the disability community advocated for the legislation by lobbying their members of Congress. These efforts eventually proved successful, and Senator Lowell Weicker introduced the ADA in the Senate, and Congressman Tony Coelho introduced the bill in the House in April 1988.

While the bill was introduced too late in the congressional session to be voted on by both chambers, NCD continued to play a pivotal role in the passage of the ADA. NCD members continued to meet with various members of the disability community, and NCD released another report, *Implications for Federal Policy of the 1986 Harris Survey of Americans with Disabilities*, which evaluated poll results and made recommendations based on the findings. On Capitol Hill,

Congressman Major Owens created the Congressional Task Force on the Rights and Empowerment of Americans with Disabilities, which researched the extent of discrimination. The chairperson of the Task Force was former NCD vice chairperson Justin Dart and its coordinator was former NCD executive director Lex Frieden. By the time Congress returned for the next session and revisions were made to the initial draft, with the assistance of national disability consumer organizations, there was strong bipartisan support for the ADA. The House and Senate passed similar bills, and in mid-July, both chambers passed the final version. With NCD members and staff present, President George H. W. Bush signed the bill into law on July 26, 1990, proclaiming that “together we will not accept, we will not excuse, we will not tolerate discrimination in America....Let the shameful wall of exclusion finally come tumbling down.” NCD has chronicled the history of the ADA in its 1997 report *Equality of Opportunity: The Making of the Americans with Disabilities Act*. More information about NCD’s role with respect to the ADA is also described in the 2004 report *National Council on Disability: 20 Years of Independence*.

### ***Forward to the Future***

Since the passage of the ADA in 1990, NCD has continually reviewed the implementation of the ADA to determine its effectiveness in advancing the civil rights of Americans with disabilities. NCD’s 1992 report, *Wilderness Accessibility for People with Disabilities*, examined the ADA’s interplay with the Wilderness Act and other relevant federal policies and regulations. In 1993, NCD issued *ADA Watch - Year One and Furthering the Goals of the Americans with Disabilities Act Through Disability Policy Research in the 1990s*. In 1995, NCD released *The Americans with Disabilities Act: Ensuring Equal Access to the American Dream* and *Voices of Freedom: Americans Speak Out on the ADA*, which provided the perspectives and recommendations from people across the country regarding their experiences with the Act. The reports concluded that five years after the ADA, dramatic improvements in the lives of Americans with disabilities had occurred throughout the country. Five years later, NCD issued *Promises to Keep: A Decade of Federal Enforcement of the Americans with Disabilities Act*. This report focused on the effectiveness of federal enforcement of the ADA and made recommendations for improvement of federal implementation and enforcement of the law. In 2002, NCD issued *Supreme Court Decisions Interpreting the ADA*. NCD published in 2003 *The Application of the ADA to the Internet and the World Wide Web*. In 2003 and 2004, NCD issued a series of policy briefs and final report entitled *Righting the ADA*, which examined problematic U.S. Supreme Court ADA decisions and proposed the ADA Restoration Act of 2004. In addition, NCD has commented on the ADA in its annual Progress Reports, several *amicus* briefs, and other position papers.

It has been 15 years since the enactment of the ADA, and while it is clear that the legislation has assisted countless people, there are still major obstacles that prevent equal access for people with disabilities. But the question remains: just how much has the ADA impacted the lives of Americans with disabilities?

### ***ADA Impact Study***

Later this year, NCD will issue its latest ADA report, *The ADA Impact Study*, which focuses on

the effectiveness of the Act in achieving equal access goals. The study focuses on the four overarching goals of the ADA—equality of opportunity, full participation, independent living, and economic self-sufficiency—as categories in which to measure the achievements and failures of the Act since its passage in 1990. Using these categories as parameters, researchers collected data by conducting seven focus groups, including five groups of specific disability populations and two groups of employers; administering five full-day public forums around the country with people with disabilities, family members, and disability advocates; and by collecting e-mail statements from people who were unable to attend the forums. In addition, individual in-depth interviews were conducted to elicit a wide range of information and perspectives from ADA stakeholders. Raw data from Louis Harris surveys of people with disabilities in 1994, 1998, 2000, and 2004, also was used in determining the impact of the ADA on the lives of Americans with disabilities.

The preliminary findings of NCD's ADA Impact study indicate that significant strides have been made in such areas as transportation and accessible public facilities, including restaurants, theaters, stores, and museums.

- Telephone relay services are being used at high levels, and changes in technology are making usage easier.
- Public transit systems in the United States have made dramatic progress in becoming more accessible, especially to wheelchair users.
- The percentage of Americans with disabilities voting in 2004 increased dramatically.
- The education gap between people with disabilities and people without disabilities is shrinking and people with disabilities are attending post-secondary institutions in record numbers.
- People with disabilities are experiencing less discrimination in employment.

NCD's *ADA Impact Study* also indicates that a number of barriers remain, such as the lack of affordable housing for people with disabilities, which have slowed the realization of the ADA's objectives. NCD's study will contain recommendations aimed at fulfilling the promise of the ADA.

### ***ADA Implementation Study***

In addition to the *ADA Impact Study*, NCD will initiate this month an ADA implementation project. This project comprises two distinct undertakings: stakeholder dialogue and ADA information and awareness strategies.

The ADA implementation project will bring together ADA stakeholders for input into developing recommendations for improving the implementation of the ADA. The project will also address litigation-related issues that have been identified as having a detrimental impact on ADA implementation and which are in need of immediate attention. These issues include class

action cases brought under the ADA in which the plaintiffs do not adequately protect the interests of the class at large; the growing concern about the number of ADA lawsuits and administrative settlements in which the parties settle, but the defendant never follows through with the accessibility improvements promised and no follow-up enforcement action occurs; and the appearance of certain people and their attorneys to be making a career out of suing establishments for ADA violations that some consider minor infractions, even alleging the same injuries incurred in many places on the same day.

The second part of the project will assess information and outreach strategies used to inform the public about the ADA. Researchers will collect input from relevant stakeholders about public awareness of the requirements of the ADA and will work with pertinent experts to develop strategies promoting awareness of the ADA, including the development of a prototype for an effective public information and awareness campaign to improve stakeholder awareness and understanding of ADA requirements.

### ***Our Destination***

Since the passage of the ADA, NCD has been committed to working with all ADA stakeholders to monitor and evaluate the impact and success of the Act and to search for ways to move us closer to full achievement of the ADA's goals. The past 15 years have been fruitful because of the tireless efforts of dedicated people working together. In the years ahead, we will continue to collaborate in making real Justin Dart's expectation of an ADA that provides for the full liberty and justice for all.

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