

**National Council on Disability
Government Performance and Results Act
Annual Report to the President and Congress
Fiscal Year 2003**



February 10, 2005

National Council on Disability
1331 F Street, NW, Suite 850
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Government Performance and Results Act Annual Report to the President and Congress
Fiscal Year 2003

This report is also available in alternative formats and on NCD's award-winning Web site
(<http://www.ncd.gov>).

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The views contained in this report do not necessarily represent those of the Administration, as this agency and NCD documents are not subject to the A-19 Executive Branch review process.

In accordance with 31 USC Sec. 1116 (f), this program performance report was prepared solely by federal employees.

Letter of Transmittal

February 10, 2005

The President
The White House
Washington, DC 20500

Dear Mr. President:

The National Council on Disability (NCD) is pleased to submit its *Annual Performance Report to the President and Congress Fiscal Year 2003*, as required by the Government Performance and Results Act (31 USC Sec. 1116).

As a leader in the development and analysis of disability policy, the National Council on Disability (NCD) conducted a variety of activities in Fiscal Year (FY) 2003, with an authorized budget of \$2,839,423. This report compares actual performance with the projected levels of performance set out in NCD's annual performance plan. As a public policy agency with no programs or services, it is often difficult, but not impossible, to measure the effectiveness of the recommendations NCD makes to the President and Congress. Therefore, NCD is pleased to inform you that the findings of this report show a positive link between the allocated resources and NCD's performance. NCD has either met or exceeded the projected levels in its performance plan. NCD's planning, project execution, and reporting show a high level of accountability for the performance actually achieved.

NCD's FY 2003 activities continued to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature or severity of the disability. These efforts were based on NCD's strategic goals: 1) Enhance the lives of people with disabilities of all ages and backgrounds through the development of policy recommendations; 2) Educate the public and elected officials on disability issues; 3) Promote effective delivery of federal services and programs to underrepresented populations such as culturally diverse communities, rural residents, and youth with disabilities; and 4) Make NCD a high performance organization.

Through its efforts, NCD was able to have a significant impact on the lives of people with disabilities and their families all over the world. Today, there are more than 54 million Americans with disabilities, a full 20 percent of the U.S. population. About half of these individuals have a severe disability, affecting their ability to see, hear, walk, or perform other basic functions of life.

Significant barriers still exist for people with disabilities who try to participate fully in American society. People with disabilities want to be employed, educated, and actively involved in the

community. Unfortunately, on average, Americans with disabilities have a lower level of educational attainment, and are poorer and more likely to be unemployed than those without disabilities. In today's new global economy, America must be able to draw on the talents and creativity of all its citizens.

With your support and your New Freedom Initiative, NCD will continue to foster the production, distribution, and application of unique information and knowledge leading to policies that enhance the lives of people with disabilities.

Sincerely,

Ethel D. Briggs
Executive Director

(The same letter of transmittal was sent to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives)

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Contents

Overview	5
NCD Brief Description	9
Strategic Plan	12
Strategic Goals, Objectives, and Results	13
I. Enhance the lives of people with disabilities of all ages and backgrounds through the development of policy recommendations	13
II. Educate the public and elected officials on disability issues	22
III. Promote effective delivery of federal services and programs to underrepresented populations such as people from diverse cultures, rural residents, and youth with disabilities	24
IV. Make NCD a high performance organization	26
Federal Managers' Financial Integrity Act Signed Assurance Statement	28
Conclusion	29

My Administration is committed to tearing down the barriers to equality that face many of the 54 million Americans with disabilities...My New Freedom Initiative will help Americans with disabilities by increasing access to assistive technologies, expanding educational opportunities, increasing the ability of Americans with disabilities to integrate into the workforce, and promoting increased access into daily community life.

President George W. Bush in the Forward to the New Freedom Initiative

Overview

Background

NCD is an independent federal agency making recommendations to the President and Congress on issues affecting 54 million Americans with disabilities. NCD is composed of 15 members appointed by the President and confirmed by the U.S. Senate.

In its 1986 report, *Toward Independence*, NCD first proposed that Congress should enact a civil rights law for people with disabilities. Today, there are more than 54 million Americans with disabilities, a full 20 percent of the U.S. population. About half of these individuals have a severe disability, affecting their ability to see, hear, walk, or perform other basic functions of life.

In 1990, the Americans with Disabilities Act (ADA) was signed into law. Since that time, ADA has worked to guarantee equal opportunity for people with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. In 1992, Congress modified NCD's authorizing legislation, Title IV of the Rehabilitation Act of 1973, giving NCD a monitoring role in the enforcement, implementation, and effectiveness of ADA. In 1996, NCD convened a policy summit that included a diverse group of more than 300 leaders from the disability community. These leaders encouraged NCD to monitor and evaluate federal enforcement efforts of ADA and other civil rights laws.

In FY 2003, NCD continued to review and evaluate new and emerging policy issues that impact people with disabilities. NCD continued to identify the overall needs and concerns of people with disabilities by conducting hearings, forums, and conferences throughout the country, and by responding to thousands of telephone, e-mail, and written inquiries on ADA and other disability civil rights issues.

NCD also concluded its Disability Civil Rights Monitoring Project and began work on a new series of reports known as Investing in Independence, which interrelate with centerpiece initiatives presented in President Bush's New Freedom Initiative. These reports focus on delinquency prevention and juvenile justice; universal design in information and assistive technology; consumer oriented/directed health care; long-term health care; and effective return-to-work strategies.

Major activities for FY 2003 also included the release of an inaugural paper that addresses specific topics raised by U.S. Supreme Court rulings on the Americans with Disabilities Act

(ADA). NCD also published several significant reports and papers including: *Rehabilitating Section 504*; *TANF and Disability: Importance of Supports for Families with Disabilities in Welfare Reform*; *Addressing the Needs of Youth with Disabilities in the Juvenile Justice System: The Status of Evidence-Based Research*; *National Disability Policy: A Progress Report*; *People with Disabilities on Tribal Lands: Education, Health Care, Vocational Rehabilitation, and Independent Living*; *Olmstead: Reclaiming Institutionalized Lives*; and *Foreign Policy and Disability: Legislative Strategies and Civil Rights Protections to Ensure Inclusion of People with Disabilities*.

In addition, six of President Bush's nominees to NCD were confirmed by the U.S. Senate. They were: Glenn B. Anderson, Ph.D., Little Rock, AR; Milton Aponte, Cooper City, FL; Barbara Gillcrist, Santa Fe, NM; Graham Hill, Arlington, VA; Joel I. Kahn, Ph.D., Wyoming, OH; Anne M. Rader, New York, NY; Marco Rodriguez, Elk Grove, CA; David Wenzel, Scranton, PA; and Linda Wetters, Columbus, OH.

Fiscal Year 2003

Influencing the policy making process is increasingly important to NCD in the work that it supports. Informing and influencing federal policy making and implementation is a core activity of NCD.

Because of the varied nature of NCD's work and the range of arenas in which it operates, one needs to take into account the various activities and projects to build a picture of NCD's work and impact in this regard.

One may consider public policy making and implementation as a set of processes, including at least: (a) the setting of an agenda, (b) the specification of alternatives from which a choice is to be made, c) an authoritative choice among those specified alternatives, and (d) the implementation of decisions. NCD recognizes that decision making occurs at various levels and is carried out by a broad range of decision makers: from heads of businesses to policy directors in community agencies, to government policymakers.

As a leader in the development and analysis of disability policy, NCD conducted numerous activities in Fiscal Year (FY) 2003, with an authorized budget of \$2,839,423. NCD promoted policies, programs, practices, and procedures that guaranteed equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability. They supported the President's New Freedom Initiative and also helped individuals with disabilities realize the promise of ADA by empowering them to achieve economic self-sufficiency, independent living, inclusion, and integration into all aspects of society.

In FY 2003, NCD reviewed and evaluated new and emerging policy issues that affect people with disabilities. NCD continued to identify the overall needs and concerns of people with disabilities by conducting hearings, forums, and conferences throughout the country, and by responding to literally thousands of telephone, e-mail, and written inquiries on ADA and other disability civil rights issues.

Major activities for FY 2003 also included the release of several other reports. They are:

- *Students with Disabilities Face Financial Aid Barriers*
- *People with Disabilities and Postsecondary Education*
- *Tennessee v. Lane: The Legal Issues and the Implications for People with Disabilities*
- *Understanding Disabilities in American Indian and Alaska Native Communities: Toolkit Guide*
- *Application of the ADA to the Internet and the Worldwide Web*
- *School Vouchers and Students with Disabilities*
- *Language Assistance Plan for Implementation of Executive Order 13166—Improving Access to Services for Persons with Limited English Proficiency*

Communications

In addition, it should be noted that due to its reinvigorated communications strategy, NCD continued to generate a high volume of publicity in FY 2003. During the year, NCD received thousands of news clips from its news clipping service, reflecting a high degree of interest by the media in NCD's initiatives and activities. This symbiotic relationship between NCD and the media helps disseminate important disability-related information that affects all Americans with disabilities and their families.

Performance Results

Many NCD project and program objectives reflect the expectation that the policy work supported at NCD will and should have an impact on the policy process. Within projects and programs, for example, NCD staff promote various means of linking research to policy, and research supported is often reported to have enhanced decision makers' awareness of policy options or to have been otherwise taken into account in policy processes.

During FY 2003, NCD has increasingly relied on its ability to provide cost-effective and efficient dissemination of its work through the use of information technology (i.e., its Web site). For example, during the fiscal year, NCD's Web site received in excess of 4,000,000 visits, including an increasing number of first time visitors.

An increasing number of visitors to NCD's Web site are interested in downloading copies of NCD's reports, policy briefs, etc. During FY 2003, thousands of reports were downloaded, saving thousands of dollars in printing alone. In terms of first-class postage, NCD estimates a conservative savings of \$50,000. Other NCD products receive similar treatment. All NCD reports are accessible to all people with disabilities. NCD provides all of its documents in braille, large print, on cassette and diskette, and on the Internet. NCD publishes some of its reports in languages other than English, such as Spanish, Chinese, Vietnamese. NCD also offers rough language translation for all of its Web documents.

NCD members and staff promote various means of linking their activities to Federal Government policy and the work undertaken and supported is often reported to have enhanced decision

makers' awareness of policy options or to have been otherwise taken into account in policy processes.

Overall, the findings of this annual performance report clearly indicate that NCD has either met or exceeded the projected levels in our performance plan.

NCD Brief Description

Overview and Purpose

NCD is an independent federal agency led by 15 members appointed by the President of the United States and confirmed by the U.S. Senate.

The overall purpose of NCD is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

Specific Duties

The current statutory mandate of NCD includes the following:

- Reviewing and evaluating, on a continuing basis, policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, as amended, or under the Developmental Disabilities Assistance and Bill of Rights Act; as well as all statutes and regulations pertaining to federal programs that assist such individuals with disabilities, in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities.
- Reviewing and evaluating, on a continuing basis, new and emerging disability policy issues affecting individuals with disabilities at the federal, state, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for individuals to seek and retain employment.
- Making recommendations to the President, the Congress, the Secretary of Education, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of federal agencies, respecting ways to better promote equal opportunity, economic self-sufficiency, independent living, and inclusion and integration into all aspects of society for Americans with disabilities.
- Providing the Congress, on a continuing basis, advice, recommendations, legislative proposals, and any additional information that NCD or Congress deems appropriate.
- Gathering information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
- Advising the President, the Congress, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services within the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under the Rehabilitation Act of 1973, as amended.

- Providing advice to the Commissioner with respect to the policies and conduct of the Rehabilitation Services Administration.
- Making recommendations to the Director of the National Institute on Disability and Rehabilitation Research on ways to improve research, service, administration, and the collection, dissemination, and implementation of research findings affecting persons with disabilities.
- Providing advice regarding priorities for the activities of the Interagency Disability Coordinating Council and reviewing the recommendations of this Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;
- Preparing and submitting to the President and Congress an annual report titled National Disability Policy: A Progress Report.
- Preparing and submitting to Congress and the President an annual report containing a summary of the activities and accomplishments of NCD.

International

In 1995, NCD was designated by the Department of State to be the official contact point of the U.S. government for disability issues. Specifically, NCD interacts with the special rapporteur of the United Nations Commission for Social Development on disability matters.

Consumers Served and Current Activities

While many government agencies deal with issues and programs affecting people with disabilities, NCD is the only federal agency charged with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities regardless of age, disability type, perceived employment potential, economic need, specific functional ability, status as a veteran, or other individual circumstance. NCD recognizes its unique opportunity to facilitate independent living, community integration, and employment opportunities for people with disabilities by ensuring an informed and coordinated approach to addressing the concerns of persons with disabilities and eliminating barriers to their active participation in community and family life.

NCD plays a major role in developing disability policy in America. In fact, it was NCD that originally proposed what eventually became ADA. NCD's present list of key issues includes improving personal assistance services, promoting health care reform, including students with disabilities in high-quality programs in typical neighborhood schools, promoting equal employment and community housing opportunities, monitoring the implementation and enforcement of ADA, improving assistive technology, and ensuring that people with disabilities from culturally diverse backgrounds fully participate in society.

Statutory History

NCD was initially established in 1978 as an advisory board within the Department of Education (Public Law 95-602). The Rehabilitation Act Amendments of 1984 (Public Law 98-221) transformed NCD into an independent agency.

Strategic Plan

Vision

The United States of America will be a stronger country when its 54 million citizens with disabilities are fully integrated into all aspects of American life. The United States has made significant progress in recent years in furthering opportunities for education, employment and independent living for people with disabilities through a broad range of programs that protect the rights of individuals with disabilities from discrimination in education, employment, housing and transportation. Yet significant barriers to achieving the goals of independence, inclusion and empowerment for all persons with disabilities still remain. Conflicting, poorly designed or outdated government programs and policies combine with service gaps and continued negative attitudes toward people with disabilities serve to marginalize the 54 million Americans with disabilities.

The effects of these barriers on both people with disabilities and society are enormous. Physical and spiritual isolation rob individuals of energy, creativity and productivity. Society loses by not enjoying the benefits of their talents and by incurring large costs in supporting them.

Through collaboration with its stakeholders, NCD will pursue a focused agenda that will promote government programs and policies in support of full inclusion of all people with disabilities into the educational, economic and social fabric of the American community. NCD will use the expertise of its diverse membership and well-trained and -managed staff to identify barriers to inclusion and independence and to develop solutions. NCD will listen to people with disabilities across the country to identify emerging issues that need a response.

As the only agency in the Federal Government that addresses the issues of all people with disabilities, regardless of type or severity, NCD will be aggressive and resolute until the day arrives when people with disabilities in every corner of the land no longer are distinguished by a disability label, but are known as students, workers, parents, neighbors and friends.

Mission Statement

The mission of the National Council on Disability is to promote the full inclusion, independent living and economic self-sufficiency of people with disabilities of all ages and backgrounds by providing advice, analysis, and recommendations on disability policy to the President, Congress, and other federal entities.

Strategic Goals, Objectives, and Results

I. Enhance the lives of people with disabilities of all ages and backgrounds through the development of policy recommendations.

Objectives:

- 1.1 Develop and refine policy recommendations at least annually.
- 1.2 Gather and record information on policy matters affecting people with disabilities through the use of forums, hearings, teleconferences, the Internet, independent studies, and interagency information sharing.
- 1.3 Monitor the effectiveness of the implementation of the Americans with Disabilities Act and other civil rights laws.

Results:

- 1.1 NCD reviewed and evaluated new and emerging policy issues affecting people with disabilities at the federal, state, and local levels, and in the private sector, and developed policy recommendations where needed. During FY 2003, NCD produced 15 reports and papers containing specific policy recommendations and one amicus brief to the U.S. Supreme Court. They include *Rehabilitating Section 504; TANF and Disability: Importance of Supports for Families with Disabilities in Welfare Reform; Addressing the Needs of Youth with Disabilities in the Juvenile Justice System: The Status of Evidence-Based Research; National Disability Policy: A Progress Report; People with Disabilities on Tribal Lands: Education, Health Care, Vocational Rehabilitation, and Independent Living; Olmstead: Reclaiming Institutionalized Lives; Foreign Policy and Disability: Legislative Strategies and Civil Rights Protections to Ensure Inclusion of People with Disabilities; Students with Disabilities Face Financial Aid Barriers; People with Disabilities and Postsecondary Education; Tennessee v. Lane: The Legal Issues and the Implications for People with Disabilities; Understanding Disabilities in American Indian and Alaska Native Communities: Toolkit Guide; Application of the ADA to the Internet and the Worldwide Web; School Vouchers and Students with Disabilities; Language Assistance Plan for Implementation of Executive Order 13166—Improving Access to Services for Persons with Limited English Proficiency.*

Approximately 48,000 hard copies were distributed by NCD's mailing house, while the number of copies downloaded from the NCD Web site was significantly higher.

- 1.2 NCD gathered information and identified the overall needs and concerns of people with disabilities in a variety of ways that included hearings and conferences, and by responding to literally thousands of telephone calls, e-mail messages, and written inquiries.

NCD released the *Righting the ADA* inaugural paper along with a series of policy documents addressing specific topics raised by detrimental rulings of the U.S. Supreme Court on the Americans with Disabilities Act (ADA).

Righting the ADA (<http://www.ncd.gov/newsroom/publications/2003/policybrief.htm>), explains NCD's rationale for undertaking this comprehensive examination, the high expectations it had for the ADA, NCD's role regarding the ADA, the impact of the ADA, and an overview of this series of policy briefs.

NCD published a request for proposals (RFP) in Federal Business Opportunities (<http://www.fedbizopps.gov/>) seeking an independent contractor to evaluate the extent and type(s) of evidence-based federal and state health care reforms and changes for people with disabilities, in both the private and public sectors, that make health care more consumer-driven and include some of the following features: (a) adequate information to empower consumers to make informed decisions when choosing a health plan or provider; (b) quality standards (e.g., health care report cards) that are developed in collaboration with people with disabilities and are responsive to the clinical and information needs of consumers with disabilities; c) adequate appeals and grievance processes to enable consumers to challenge health plans and health provider decisions, including arbitration mechanisms, ombudsmen independent of health plans, and private rights of action; and (d) consumer governance in which consumers and purchasers, not providers and payers, dominate the governing of the health care system through purchasing cooperatives and various oversight mechanisms.

To that end, NCD was interested in funding a study and conducting research to address the following main items related to the issue of consumer-oriented health care in the context of Medicare/Medicaid reform as it relates to Americans with disabilities. NCD was interested in looking at a range of practices and programs that may represent the extent of best-evidence to emerging-evidence of effectiveness in terms of results or outcomes for consumers. The estimated contract period of performance is 10 months.

NCD published a request for proposals seeking an independent contractor to evaluate the design, production, marketing, and sale of a number of technology products to determine whether the most commonly stated obstacles to technology accessibility (such as cost, difficulty, and timing of built-in accessibility features) are supported by research. This study will look at a range of technology products and examine cost-effectiveness, consumer input at the design stage, the development process, customer use and perceptions, idiosyncratic and standardized industry protocols, and current business and industry practices related to universal design, as well as barriers to implementation. The study will also examine the philosophical, economic, industry, and technological rationales that currently drive the development of universal design and will document examples of successful and unsuccessful practices. The evaluation will rely primarily on qualitative research strategies, although some quantitative research approaches may be

used for economic analysis involving cost data. The estimated contract period is 10 months.

The NCD project *People with Disabilities on Tribal Lands: Education, Health, Rehabilitation, and Independent Living*, which inquires about current conditions and practices that seem promising, includes focus groups as well as. Focus groups met at the annual conferences for the National Congress of American Indians and the Consortia of Administrators of Native American Rehabilitation (CANAR). The focus groups were facilitated by the NCD contractor (Kauffman and Associates, Inc.) and members of the project's advisory group, who are also tribal community people with disabilities. NCD was also invited by the CANAR executive board to participate in the keynote panel for its conference.

The NCD Youth Advisory Committee (YAC) released its recommendations to NCD on the reauthorization of the Individuals with Disabilities Education Act (IDEA).

YAC developed and disseminated an inquiry that asked youth with disabilities to tell the committee about their special education experiences under IDEA. In response, YAC received direct communication from across the country. Respondents included students and former students with disabilities, parents/guardians, and others. YAC members used the data to develop recommendations for those interested in the implementation of IDEA. The findings and recommendations address issues of student empowerment, public education about IDEA, professional development, and cultural diversity.

NCD members were sworn in by U.S. Equal Employment Opportunity Commission (EEOC) chair Cari M. Dominguez. During her remarks, Dominguez described the Mediation Technical Assistance Project that NCD and EEOC have agreed to undertake. The project will enhance the use of mediation by people with disabilities to resolve employment disputes and will highlight the importance of reasonable accommodation in the alternative dispute resolution process. EEOC has dealt with these issues in its highly regarded mediation program for resolving employment discrimination claims. NCD examined mediation issues in its ADA report *Promises to Keep* (http://www.ncd.gov/newsroom/publications/2000/promises_1.htm) and has worked with mediators on accessibility issues. EEOC and NCD will combine their experience and expertise to provide technical assistance on disability issues in the mediation of employment discrimination disputes.

NCD announced its support of President Bush's proposal of a \$1.75 billion, five-year program to help Americans with disabilities transition from nursing homes or other institutions to community living settings.

NCD applauds the President's new proposal, which is to be included in the FY 2004 budget for his New Freedom Initiative. When enacted, this new proposal will help eliminate many barriers to full participation in community life for people with

disabilities. NCD supports the President's commitment to changing policies that unnecessarily confine people with disabilities to living in institutions. This is a significant step in the right direction.

NCD cosponsored an international dialogue at the World Bank Building that focused on the development of a United Nations convention on the rights of people with disabilities and efforts to promote a disability-inclusive foreign assistance policy in the United States.

NCD released its findings that five federal agencies (Departments of Education, Health and Human Services, Justice, Labor, and State) responsible for enforcement of disability rights provided by Section 504 of the Rehabilitation Act have given the task low priority and minimal leadership, although some progress has been made. Section 504 of the 1973 Rehabilitation Act is acknowledged as the first national civil rights law to view the exclusion and segregation of people with disabilities as discrimination. NCD's findings are contained in its report, *Rehabilitating Section 504* (<http://www.ncd.gov/newsroom/publications/2003/section504.htm>).

Section 504 is a powerful enfranchisement tool for people with disabilities if used with due diligence, but that has not been the case. Although a number of these issues are now being addressed by some of the agencies, more needs to be done.

NCD chairperson Lex Frieden spoke at the National Press Club Morning Newsmaker Program and addressed community-based services for people with disabilities, the implications of health care reform for people with disabilities, and the development of an International Convention on the Rights of People with Disabilities, coming before the United Nations in June.

NCD released a new position paper calling for Congress to strengthen the ability of states to assist families with disabilities on welfare to transition from welfare to work.

This position paper summarizes research about people with disabilities and TANF and some of the proposals being offered for consideration to improve how TANF-funded programs address the needs of families with a member with a disability.

The paper, *TANF and Disability: Importance of Supports for Families with Disabilities in Welfare Reform*, is available at <http://www.ncd.gov/newsroom/publications/2003/familysupports.htm>.

NCD announced its opposition to the Americans with Disabilities Act (ADA) Notification Act (H.R. 728), which was introduced in the U.S. House of Representatives on February 12, 2003.

NCD is deeply concerned about the proposed ADA Notification Act. The Act proposes to amend the ADA to require that an individual alleging a business is inaccessible provide written notice to the business about the specific ADA violation ninety days before bringing suit, and will not allow for attorneys' fees and costs. In fact, President George W. Bush declared his opposition to the ADA Notification Act in an interview with *Business Week Online*.

NCD challenged policy makers and education leaders to ensure that any development of school vouchers is based on the direct input of parents, positive results for students with disabilities, sound empirical research of its effectiveness as a policy option, and in accordance with applicable federal (and state) law and civil rights regulations.

NCD released a research study entitled *Addressing the Needs of Youth with Disabilities in the Juvenile Justice System: The Status of Evidence-Based Research* (<http://www.ncd.gov/newsroom/publications/2003/juvenile.htm>). The report evaluates the emerging status of key policies and programs that affect children and youth with disabilities who have often been overlooked by service and research programs.

NCD conducted a news conference to discuss the importance of a United Nations convention on the human rights of people with disabilities.

NCD released a policy paper, *When the Americans with Disabilities Act Goes Online: Application of the ADA to the Internet and the Worldwide Web* (<http://www.ncd.gov/newsroom/publications/2003/adainternet.htm>) that analyzes and answers the critical question: Does ADA apply to commercial and other private sector Web sites, and if so, what does it require?

NCD analyzed all the legal background to the ADA and Internet access issue, pointing out authorities and scholarship on both sides of the question, and identifying as carefully and precisely as possible what these authorities actually do and do not say.

Through this process, the narrow legal issues, bearing mostly upon the definition of the word "place" in Title III of the ADA, are brought into clear focus. The paper also analyzes the meaning and application of this term, in light of the ADA's legislative history, its plain meaning, and court decisions applying this term in nontechnology-based settings.

Finally, the paper explains the practical and economic arguments that should guide those who may be called upon to apply the law, suggesting strategies by which the accessibility principle can be broadly implemented without disruption and with benefit to consumers and businesses alike.

NCD commended the President's New Freedom Commission on Mental Health report on the status of America's mental health system. The Commission's report concluded that

the nation's mental health system was broken and in need of immediate attention. Among a number of recommendations, the report emphasized early intervention, ongoing supports and services for people with mental illness, and a recovery-oriented frame of reference.

NCD's 2002 report *The Well Being of our Nation: An Inter-Generational Vision of Effective Mental Health Services and Supports* (<http://www.ncd.gov/newsroom/publications/2002/mentalhealth.htm>), calling for fundamental reform in a mental health system in crisis, reached these same conclusions.

The report issued from NCD concludes that people with disabilities made some progress, but more needs to be done.

NCD's annual report, *National Disability Policy: A Progress Report* (http://www.ncd.gov/newsroom/publications/2003/progressreport_final.htm), reviews federal policy activities by issue areas and covers the period from December 2001 through December 2002.

As noted in the progress report, NCD has observed many examples of progress in disability policy. Among these are enactment of the Help America Vote Act for increasing access to elections for Americans with disabilities; establishment of the President's New Freedom Commission on Mental Health to examine and recommend changes in our nation's mental health system; and the Supreme Court's ban on execution of persons with mental retardation.

Despite reforms in disability policy intended to improve the lives of people with disabilities, many challenges remain for our citizens with disabilities who wish to be more independent, more productive and more engaged in their families and communities. Far too many Americans with disabilities are undereducated and unemployed. Many of them are desperately trying to improve the quality of their lives, but they are frustrated by a lack of affordable and accessible housing, transportation, personal assistance services, medical rehabilitation and job opportunities.

The Administration's New Freedom Initiative provides a road map to increase investment in and access to assistive technologies and a high-quality education, and to help integrate Americans with disabilities into the workforce and into community life. NCD will continue to work with the Administration and Congress to ensure that every individual with a disability has access to the American dream.

NCD participated in a celebration of the 13th anniversary of the Americans with Disabilities Act (ADA) at the Renaissance Washington DC Hotel. The event was hosted by Easter Seals Project ACTION, the Federal Transit Administration, the U.S. Department of Transportation, the National Institute on Disability and Rehabilitation Research, and NCD. During the event, NCD chairperson Lex Frieden presented the

Chairperson's Award to Secretary of Transportation Norman Y. Mineta and former Congressman Steve Bartlett for outstanding leadership in promoting the rights and independence of people with disabilities. As members of Congress, both Mineta and Bartlett helped guide the ADA to its final passage.

NCD conducted a groundbreaking one-day forum, "Outreach for All: Paths to Support Empowerment of People with Disabilities from Diverse Cultures." The forum identified concrete actions that can enhance existing efforts to reach and engage people with disabilities from diverse cultures in federal programs and services.

NCD released its report, *People with Disabilities on Tribal Lands: Education, Health Care, Vocational Rehabilitation, and Independent Living* (http://www.ncd.gov/newsroom/publications/2003/tribal_lands.htm), which documents that American Indians and Alaska Natives (AI/AN) with disabilities living in tribal lands are not receiving the services they are entitled to.

The report reflects the results of a project that was developed and guided to completion in collaboration with AI/AN representatives of people with disabilities, their families, and tribal community leaders.

NCD commends the Administration for its newly proposed "New Freedom Initiative Medicaid Demonstrations Act of 2003," which would help Americans with disabilities transition from nursing homes or other institutions into community-based living settings.

NCD applauds the President's new legislative proposal, which will help eliminate many barriers to full participation in community life for people with disabilities. NCD supports the President's commitment to changing policies that unnecessarily confine people with disabilities to living in institutions. Helping people with disabilities who want to live in their own homes by providing community-based programs that foster independence and community participation is good public policy. Congress should act quickly to enact this proposal.

NCD released a comprehensive, online analysis of federal and state implementation of the Supreme Court's *Olmstead* decision, saying community-based services work, but more needs to be done.

The report, *Olmstead: Reclaiming Institutionalized Lives* (<http://www.ncd.gov/newsroom/publications/2003/reclaimabridged.htm>), measures progress to date in the implementation of the landmark U.S. Supreme Court decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999), and related federal and state government initiatives.

Overall, progress to varying degrees has occurred in the implementation of the *Olmstead* decision. However, given the many areas where progress has not yet been achieved and

in recognition of the relatively brief time since the decision was rendered and governmental initiatives were undertaken, it is clear that further efforts are necessary to increase public awareness of *Olmstead*. It is also necessary to provide education and clarification regarding the applications and implications of the decision to relevant entities, and provide resources necessary to both encourage and to ensure effective adherence to the spirit and intent of *Olmstead*.

Members of ADAPT addressed the NCD board and staff at their quarterly meeting in Houston, Texas, on MiCASSA (S. 971 and H.R. 2032). ADAPT also addressed other important related issues, including the implementation of *Olmstead* and the Money Follows the Individual Act of 2003 (S. 1394).

NCD released its report, *Foreign Policy and Disability: Legislative Strategies and Civil Rights Protections to Ensure Inclusion of People with Disabilities* (<http://www.ncd.gov/newsroom/publications/2003/foreign03.htm>), concluding that the inclusion of people with disabilities in U.S. foreign policy will be achieved only when specific legislation is enacted.

The report examines legislative changes that will ensure the inclusion of people with disabilities in all foreign assistance programs under the direction of the U.S. Department of State and the United States Agency for International Development. It is a follow-up to NCD's 1996 *Foreign Policy and Disability* (<http://www.ncd.gov/newsroom/publications/1996/foreign.htm>) report that found continued barriers to access for people with disabilities in U.S. foreign assistance programs.

NCD acknowledged the significance of the Medicaid Community-based Attendant Services and Supports Act (MiCASSA) activities of September 17, 2003, by and on behalf of all people committed to freedom and independence for all. NCD applauds the unwavering dedication of people with disabilities to the spirit of freedom that all Americans hold near and dear.

As our nation's population ages, the costs and alternatives for community living, long-term care, and support services have become a subject of growing attention and concern. For many people with disabilities, including people living in institutions because of the lack of community-based or in-home alternatives and those at risk of entering institutional care settings against their will, the issues take on pressing personal significance.

Fortunately, there are some initiatives that have garnered attention and momentum in our nation that can correct this nationwide problem. The first is MiCASSA; the second is *Olmstead*. Together, these two initiatives represent a community imperative and a vision for promoting the independence of people with disabilities in all walks and circumstances of American life.

Under the Federal Advisory Committee Act, NCD conducted several teleconferences and meetings with its advisory committees—International Watch, Youth, and Cultural Diversity.

NCD continued its interagency policy liaison activities with the National Institute on Disability and Rehabilitation Research, the Rehabilitation Services Administration, the Office for Special Education and Rehabilitative Services, the Office of Disability Employment Policy, the Centers for Disease Control and Prevention, the National Center for Medical Rehabilitation Research, the Office of Disability Employment Policy, and the U.S. General Services Administration.

- 1.3 During FY 2003, NCD concluded its Disability Civil Rights Monitoring Project. Title IV of the Rehabilitation Act requires NCD to gather information about the implementation, effectiveness, and impact of ADA, among other duties. Three hundred leaders from NCD's 1996 policy summit encouraged NCD to monitor and evaluate federal enforcement efforts of ADA and other civil rights laws. In March 1999, NCD produced its first report, *Enforcing the Civil Rights of Air Travelers with Disabilities*. The second report, *Back to School on Civil Rights*, on the enforcement of the Individuals with Disabilities Education Act, was issued in January 2000. In June 2000, NCD produced its third report, titled *Promises To Keep: A Decade of Federal Enforcement of the Americans with Disabilities Act*. The fourth report, *The Accessible Future*, on the status of enforcement of various federal laws dealing with electronic and information technology accessibility, was issued in June 2001. In November 2001, NCD produced its fifth report, *Reconstructing Fair Housing*, which looks at the Fair Housing Amendments Act of 1988 (FHAA) and Section 504 as they relate to one key federal agency, namely, the U.S. Department of Housing and Urban Development (HUD). In February 2003, NCD released its sixth report, *Rehabilitating Section 504*, which looks at Section 504 of the Rehabilitation Act of 1973 enforcement activities of five key federal agencies: the Department of Education, the Department of Labor, the Department of Health and Human Services, the Department of State, and the Department of Justice.

Overall, the results of NCD's civil rights assessment studies indicate: (a) a lack of federal leadership by executive agencies in the enforcement of key disability civil rights laws; (b) an absence of a detailed and comprehensive commitment by Congress and the federal government in improving the infrastructure of federal agencies responsible for federal disability civil rights enforcement; and c) the general neglect of key federal executive agencies in coordinating the development and implementation of federal disability policies and programs, including the need to address cross-cultural disparities.

In fulfilling its statutory and public charge of addressing, analyzing and making recommendations to the President and Congress on issues of disability policy, NCD should continue to monitor the federal implementation and enforcement of key civil rights laws and President George Bush's New Freedom Initiative. NCD has heard an expectation from Congress and the public that NCD's evaluative research reports should

continue to be a cardinal NCD function. NCD also needs to work to identify and inform the President and Congress about systems and programs that positively impact the lives of Americans with disabilities. At the same time, NCD recognizes that there are emerging policy issues (e.g., genetic discrimination) that are rapidly gaining momentum in the legislative and judicial branches of our government. NCD believes that NCD must be prepared to engage such emerging topics at their nascent stages.

II. Educate the public and elected officials on disability issues.

Objectives:

- 2.1 Strengthen NCD's communication plan by drawing upon new technologies and reaching targeted underrepresented populations.
- 2.2 Disseminate newsletters and reports on disability policy issues.
- 2.3 Hold federal partners meetings with Cabinet secretaries, appointees, and other key individuals to review and promote NCD's recommendations.
- 2.4 Participate in interagency working groups with federal partners on priority issues.
- 2.5 Serve as the focal point for international activities around the dissemination of information on disability policy in the United States of America and throughout the world.

Results:

- 2.1 NCD's Web site (<http://www.ncd.gov>) is fully accessible to all people with disabilities. All NCD reports, papers, newsletters, etc. are available to the public on the NCD Web site. Some are published in languages other than English. The NCD Web site also offers rough translation of all posted NCD material into other languages.

NCD continued to refine its communications strategy, which promotes NCD's recommendations and provides greater opportunities for advancing public awareness of disability issues, especially for people from culturally diverse backgrounds. With the assistance of a public relations firm, NCD was able to accomplish its goal of reaching targeted populations that often go unnoticed or unserved. Through the standard use of a newspaper clipping service, NCD was able to realize a huge increase in the number of minority-owned newspapers that ran stories relating to NCD and disability policy.

NCD continued to work with civil rights organizations, such as the Leadership Conference on Civil Rights, the National Urban League, and the National Council of La Raza to provide information to targeted culturally diverse populations and organizations focused on underrepresented disabilities. Members of civil rights

organizations appeared often at NCD events and news conferences delivering messages of support for people with disabilities. NCD continued to work with the White House Initiative on Asian Americans and Pacific Islanders.

- 2.2 NCD gathered information from its board, staff, and other sources for inclusion in its monthly newsletter, *NCD Bulletin* (<http://www.ncd.gov/newsroom/bulletins/2003/03bulletins.htm>). NCD disseminated the *Bulletin* to more than 9,000 people each month by U.S. Mail and another 3,000 copies to the NCD listserv. NCD distributed its reports to more than 48,000 people. NCD's news releases and monthly newsletter also appear on U.S. Newswire, which disseminates this information electronically to thousands of news outlets across the country and to each Congressional office.

During FY 2003, NCD released two of its reports by news conference or press availability. Both reports, *Foreign Policy and Disability: Legislative Strategies and Civil Rights Protections to Ensure Inclusion of People with Disabilities*, and *Rehabilitating Section 504* received extensive news coverage.

- 2.3 During FY 2003, NCD met with key administration officials to encourage their adoption of and action on key recommendations within the general policies and procedures of their departments. NCD met with congressional staff and members of Congress on numerous occasions to discuss new and emerging disability policy issues. NCD testified at a joint oversight hearing on transportation services and people with disabilities before the U.S. House of Representatives, Committee on Transportation and Infrastructures and the Committee on Education and the Workforce.
- 2.4 NCD continued its interagency policy liaison activities with the National Youth Leadership Network, the National Institute on Disability and Rehabilitation Research, the Rehabilitation Services Administration, the Office for Special Education and Rehabilitative Services, the Office of Disability Employment Policy, the Centers for Disease Control and Prevention, the Department of Transportation, and the National Center for Medical Rehabilitation Research.
- 2.5 As the original author of the Americans with Disabilities Act, NCD continued to be the focal point for international activities around the dissemination of information on disability policy in the United States and throughout the world. To that end, NCD continued to serve as the official point of contact with the U.S. government for disability issues. NCD's International Team and International Watch (<http://www.ncd.gov/newsroom/advisory/international/international.htm>) advisory committee, which is an on-going activity, met on several occasions to discuss international disability policy. NCD also published its report *Foreign Policy and Disability: Legislative Strategies and Civil Rights Protections to Ensure Inclusion of People with Disabilities*. The report examines legislative

changes that will ensure the inclusion of people with disabilities in all foreign assistance programs under the direction of the U.S. Department of State and the United States Agency for International Development. It is a follow-up to NCD's 1996 *Foreign Policy and Disability* report that found continued barriers to access for people with disabilities in U.S. foreign assistance programs. The 2003 report reviews a number of models that Congress has adopted for linking human rights and foreign policy that can be adapted to ensure the inclusion of people with disabilities. This report looks primarily at the U.S. Department of State and USAID.

III. Promote effective delivery of federal services and programs to underrepresented populations such as people from culturally diverse backgrounds, rural residents, and youth with disabilities.

Objectives:

- 3.1 Monitor federal agencies having civil rights responsibilities to evaluate their efforts to serve underserved populations such as people from culturally diverse backgrounds, rural residents, and youth with disabilities, and develop recommendations to enhance services to these populations.
- 3.2 Promote best practices programs of education and empowerment regarding disability rights for people from culturally diverse backgrounds, rural residents, and youth with disabilities.
- 3.3 Provide an opportunity for leadership development for youth with disabilities.
- 3.4 Establish relationships with national organizations serving these underrepresented populations.

Results:

- 3.1 NCD's Cultural Diversity Advisory Committee (<http://www.ncd.gov/newsroom/advisory/cultural/cultural.html>) continued to provide advice and recommendations to NCD on issues affecting people with disabilities from culturally diverse backgrounds. Specifically, the committee assisted in identifying issues, expanding outreach, infusing participation, and elevating the voices of underserved and unserved segments of this nation's population to help NCD develop federal policy that will address the needs and advance the civil and human rights of people from diverse cultures.

This advisory committee is an on-going activity.

NCD is also represented on the Interagency Working Group and the Coordinating Committee for the White House Initiative on Asian Americans and Pacific Islanders.

NCD coordinated and promoted efforts to focus attention on integration and inclusion of cultural diversity issues across all federal programs monitored by NCD.

- 3.2 NCD promoted best practices programs of education and empowerment regarding disability rights for people from culturally diverse backgrounds, rural residents, and youth with disabilities by meeting with stakeholders and representatives of disability and traditional civil rights groups to discuss the unique issues faced by culturally diverse people with disabilities.
- 3.3 NCD released *Students with Disabilities Face Financial Barriers*, a report from NCD's Youth Advisory Committee (YAC) that catalogs the successes and obstacles in financing higher education based on narratives from students with disabilities and college financial aid officers. NCD's YAC sought to understand whether the Higher Education Act provides for the needs of students with disabilities.

NCD's Youth Advisory Committee (<http://www.ncd.gov/newsroom/advisory/youth/youth.html>) met several times, providing advice to NCD on various issues, such as NCD's planning and priorities. NCD is seeking this type of input in order to make sure NCD's activities and policy recommendations respond to the needs of youth with disabilities.

This advisory committee is an on-going activity.

- 3.4 During FY 2003, NCD continued its relationships with national organizations serving underrepresented populations, such as the Leadership Conference on Civil Rights, National Council of La Raza, National Urban League, and the NAACP, to name a few.

NCD collaborated with Native American leaders to plan steps that promote dialogue with appropriate tribal entities and key federal officials. NCD also collaborated with the White House Initiative on Asian Americans and Pacific Islanders.

IV. Make NCD a high performance organization.

Objectives:

- 4.1 Provide the necessary tools and training to achieve a highly skilled and high-performing work force.

- 4.2 Provide a physical environment that promotes the health and well-being of employees.
- 4.3 Prepare budget testimony.
- 4.4 Provide support to NCD teams.
- 4.5 Maintain accurate accounting of all NCD obligations and expenditures.
- 4.6 Arrange for NCD quarterly meetings.
- 4.7 Conduct personnel evaluations.
- 4.8 Produce weekly news clips.

Results:

- 4.1 In order for NCD staff to stay current with critical issues facing people with disabilities and improve their technical skills, participation in training programs is necessary. Specific training needs were identified for individual staff development plans. Staff attended training programs in one or more of the following areas, such as contract management, computer technology, financial management, supervision, management, media relations, and other areas.

NCD held monthly staff and team building sessions, which led to the development and promotion of new processes for administration.

- 4.2 NCD developed budget priorities and submitted its request to the Office of Management and Budget.

NCD is a leader in providing a physical environment that promotes the health and well-being of its employees. All accommodations that are necessary for employees with disabilities to perform at the highest levels are made. These accommodations may include braille printers, telecommunications devices for the deaf, sign language interpreters, special lighting, large screen computer monitors, ergonomic furniture, etc. NCD is also located in a very accessible building in Washington, DC. Every effort is made to create a physical atmosphere that equates to productive employees.

- 4.3 NCD contacted Congressional subcommittee staff regarding NCD's budget submission. NCD submitted its budget request in a timely fashion to Congress. Meetings were held to brief Congressional staff.

- 4.4 NCD staff provided administrative and policy support to its teams, keeping team members abreast of new developments in their issue areas. NCD arranged meetings and teleconferences to facilitate team work.
- 4.5 NCD conducted its biannual financial audit and developed management discussions and analysis for inclusion in the audit report. Financial procedures have been updated to conform with current accounting practices. Worked with the GSA Heartland Finance Center staff to make sure all financial information was provided.
- 4.6 NCD coordinated and conducted four quarterly meetings in FY 2003:
December 4-5, 2002, Washington, D.C.
March 5-6, 2003, Alexandria, VA
June 23, 2003, New York, NY
August 21-22, 2003, Houston, TX
- 4.7 NCD conducted staff evaluations for all employees and in some cases provided individualized development plans.
- 4.8 NCD produced weekly clips of news accounts of NCD activities for members, staff, and contractors.

Federal Managers' Financial Integrity Act Signed Assurance Statement

February 10, 2005

The Honorable Josh B. Bolten, Director
Office of Management and Budget
Executive Office Building
17th Street and Pennsylvania Avenue, NW
Washington, DC 20503

Dear Mr. Bolten:

On the basis of the National Council on Disability's (NCD) management control process, I am pleased to certify, with reasonable assurance, that NCD's systems of accounting and internal controls are in compliance with the internal control objectives in OMB's Bulletin Number 01-02. I also believe these same systems of accounting and internal controls provide reasonable assurance that the Agency is in compliance with the provisions of the Federal Managers' Financial Integrity Act.

The Federal Managers' Financial Integrity Act requires agencies to provide an annual statement of assurance regarding management controls and financial systems. NCD is pleased to report continued progress in strengthening management controls. The continuous improvement of program and operational management process is ongoing. Agency financial management controls and systems, taken as a whole, provide reasonable assurance that accounting systems comply with appropriate federal requirements. This conclusion is based on the review and consideration of internal analyses, reconciliations, reports, and other information.

Prior to the enactment of the Accountability of Tax Dollars Act, NCD had established a policy to conduct an audit biannually. NCD conducted an audit of its FY 2003 financial statement in accordance with the Accountability of Tax Dollars Act. NCD received a clean opinion from independent auditors on its financial statements.

If there are any questions or additional information needed, please contact the NCD office, 202-272-2004.

Sincerely,

Ethel D. Briggs
Executive Director

Conclusion

In conclusion, the National Council on Disability continues to be a leader in the development and analysis of disability policy. The use of the *Annual Performance Report to the President and Congress Fiscal Year 2003*, as required by the Government Performance and Results Act, has greatly assisted NCD in carrying out its mission. The findings of this report clearly indicate that NCD has either met or exceeded the projected levels in its performance plan.