



National Council on Disability

An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

Letter of Transmittal

October 31, 2011

The President
The White House
Washington, DC 20500

Dear Mr. President:

On behalf of the National Council on Disability (NCD), I am pleased to submit the enclosed report, *National Disability Policy: A Progress Report*. In this report, NCD assesses the current state of people with disabilities in America and how emerging trends and government policies are impacting the quality of their lives. The report offers a broad range of recommendations for reforms designed to enhance the independence and self-sufficiency of people with disabilities.

Over the past year, NCD has been actively engaged with our stakeholders across the country. NCD sponsored a variety of opportunities to bring stakeholders and other partners together to exchange information, build collaborations, and develop solutions to long-standing and emerging challenges. Based on what we learned from this extensive community engagement, as well as a review of the most recent national disability data, we found that vast disparities exist between people with and without disabilities in the United States. Overall, people with disabilities have lower rates of employment, lower annual earnings, lower educational attainment and achievement; lack adequate access to housing, transportation, technology, and health care; and are more likely to live in poverty. Furthermore, the current economic downturn is having a disproportionate negative impact on people with disabilities, and national trend data indicate a decline in many aspects of their quality of life.

NCD also identified a number of recent advances in public policy that, when fully implemented, will have the potential to improve aspects of quality of life for people with disabilities. Some examples include:

- Improved access to health care and health insurance under the Affordable Care Act;
- Increased access to federal employment opportunities as a result of the Executive Order on increasing federal employment of people with disabilities;
- Increased public awareness of the need for home- and community-based care instead of institutional care that has resulted from advocacy efforts by the disability community; and

- Increased community participation as a result of upcoming regulations of the Americans with Disabilities Act (ADA) to improve access to leisure and recreation facilities and public rights-of-way, as well as upcoming regulations from the Federal Communications Commission to improve access to television and video programming.

A strong federal commitment to the implementation and enforcement of these efforts will be critical to their success. Still, we acknowledge that these are difficult economic times. As a result, we have taken care to include both short- and long-term priorities within our report. Some of our recommendations—such as ending the institutional bias in Medicaid—are long-standing priorities of the disability community, which we urge the federal government to recommit itself to in the years to come. Others—such as ensuring that people with disabilities are included in federal programs related to health disparities—are policy measures that can be addressed in the very near term through swift and effective executive action. Even during a time of economic hardship, we must continue to strive to keep our promises to Americans with disabilities. Furthermore, given that spending on working-age people with disabilities constitutes 12 percent of federal spending, the quality and effectiveness of disability programs must remain a critical area of emphasis for the federal government.

Much more is needed to reverse the downward trends in the indicators of quality of life for people with disabilities and to eliminate the many disparities between people with and without disabilities. First, in addition to the changes recommended in this report, safeguards are needed to ensure that, as our nation's leaders consider ways to further reduce the federal deficit and to stimulate the economy, any adopted changes do not leave people with disabilities even further behind. Second, coordination and collaboration must be emphasized greater across federal disability programs to ensure uniform application of the overarching goals of the ADA—full participation, equal opportunity, independent living, and economic self-sufficiency for people with disabilities.

NCD stands ready to work with the administration and Congress to identify opportunities to improve our nation's disability policy and to enhance the quality of life, independence, and full inclusion of people with disabilities into all aspects of society.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan M. Young", with a long, sweeping horizontal line extending to the right.

Dr. Jonathan M. Young, Ph.D.
Chairman

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

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Executive Summary

This annual progress report by the National Council on Disability (NCD) describes the current state of people with disabilities in America. Findings are based on information gathered through a variety of events with NCD stakeholders; the most recent figures from an extensive set of national data indicators measuring the quality of life of people with disabilities in the United States; and recent studies and reports from NCD.

These indicators reveal vast disparities between people with and without disabilities in the United States. Overall, people with disabilities have lower employment rates, lower annual earnings, lower educational attainment and achievement; lack adequate access to housing, transportation, technology, and health care; and are more likely to live in poverty.

These disparities have persisted over time, despite substantial federal and state investments in programs and services for people with disabilities, as well as a number of disability rights protections provided in legislation, regulations, and public policies. Moreover, in recent years many of the disparities between people with and without disabilities have increased. In too many aspects of living, learning, and earning, more people with disabilities are falling behind. The economic downturn is having a particularly detrimental effect on people with disabilities. Since 2008, job loss among people with disabilities has far exceeded that of people without disabilities. Median earnings for people with disabilities dropped 7 percent from 2008-2009. The number of people applying for Social Security Disability Insurance benefits is on the rise. More people with disabilities are on waiting lists for home- and community-based services. The percentage of young people in the nursing home population is increasing. Disability discrimination is on the rise in housing, employment, and air travel. Too many students with disabilities are still being segregated and are experiencing poor education achievement outcomes. These are alarming trends that, if not reversed soon, will result in substantial financial and human costs to our society.

We are at a critical juncture in our nation's disability policy. As our nation's leaders focus on how to reduce the federal deficit and rescue the declining economy, spending on disability programs will come under greater scrutiny. We must review the nation's approach to disability policy and make comprehensive changes to ensure that these programs are aligned with the overarching goals of the Americans with Disabilities Act—full participation, equal opportunity, independent living, and economic self-sufficiency. Long-term fiscal stability depends, in part, on providing people with disabilities with meaningful opportunities to contribute to our collective well-being and on eliminating outdated policies that trap people with disabilities in poverty and dependency, such as Social Security work disincentives, the institutional bias in Medicaid, and barriers to an inclusive education.

This report contains many recommendations for improving the quality of life of people with disabilities. Given that the comprehensive reform of our nation's approach to disability policy will be a long-term process, immediate priority should be given to the recommendations that will lead to better education outcomes and increased employment and independent living opportunities for people with disabilities.

Introduction

Purpose

The National Council on Disability (NCD) is an independent federal agency with 15 members appointed by the President of the United States and confirmed by the U.S. Senate. NCD recommends policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability, and that empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

In preparation for writing this annual progress report, NCD reviewed the current state of people with disabilities in the United States. This report is based on information gathered through a variety of NCD stakeholder events; the most recent figures from an extensive set of national data indicators measuring the quality of life of people with disabilities in the United States; and recent NCD studies and reports. The national data indicators cover several aspects of living, learning, and earning, including community participation, housing, health, transportation, technology, education, employment, and financial status.

In general, these indicators reveal vast disparities between people with and without disabilities in the United States. Overall, people with disabilities have lower rates of employment, annual earnings, educational attainment, and achievement; lack sufficient access to housing, transportation, and health care; and are more likely to live in poverty.

As this report was being written, our nation's leaders passed legislation to raise the debt ceiling to avoid an economic catastrophe. This legislation created a 12-member special congressional committee tasked with identifying sources of additional and significant deficit reductions. This is a critical juncture in our nation's disability policy. Historically, discussions about deficit reductions have painted people with disabilities with a broad brush and have resulted in sweeping slashes to services and supports without regard to

the detrimental, real-life effects of those cuts on the ability of people with disabilities to live, learn, and earn and to contribute to our nation's economy.

This report offers fiscally responsible recommendations that promote the independence and self-sufficiency of people with disabilities. Long-term fiscal stability depends, in part, on providing people with disabilities with meaningful opportunities to contribute to our collective well-being and on eliminating outdated policies that trap people with disabilities in poverty and dependency.

Community Engagement

Coming together is a beginning, keeping together is progress, and working together is success.

—Henry Ford

In 2010, NCD implemented new, targeted ways to engage with stakeholders and collect timely and relevant suggestions for agency actions going forward. NCD also initiated steps to connect stakeholders with one another for the exchange of information, collaboration, and the development of solutions to emerging and long-standing challenges. We began by conducting the first-ever National Summit on Disability Policy, in observance of the 20th anniversary of the Americans with Disabilities Act (ADA), to launch a national dialogue on disability policies and programs for the 21st century. More than 500 people from U.S. territories, tribal entities, 48 states, and one foreign country gathered at the multiday summit to identify emerging opportunities to improve outcomes in living, learning, and earning for people with disabilities. Participants stressed the need for greater collaboration across federal agencies to improve the flexibility and coordination of vital programs and services.

NCD's commitment to community engagement is guided by a conviction that the greatest progress in the quality of life for people with disabilities will come from effective coordination and collaboration. NCD has developed a new strategic plan under the leadership of Chairman Young, with the theme "Living, Learning, and Earning." Instead

of thinking about housing, employment, health, or transportation in isolation, we will examine how these essential elements of life influence one another. With the international legal framework embracing these interconnections through the adoption of the Convention on the Rights of Persons with Disabilities, it is more important than ever to examine this nation's progress.

NCD addresses these issues by asking: How do we develop fully accessible communities for our children, parents, coworkers, and friends who have disabilities? How do we approach learning more holistically, and take it from a traditional K–12 framework to incorporate the entire span of an individual's lifelong learning process? How do we enhance earning opportunities so that the ADA's goal of economic self-sufficiency is achieved? How do we make all the pieces fit successfully together?

CHAPTER 1: **Community Living**

Satisfaction with community living throughout the lifespan depends on having personal choices, access to places and information, and the safety and freedom to fully participate in community life. As millions of people with disabilities know, the failure to coordinate various elements of inclusion means missing out on opportunities to live, learn, and earn. Successful community living occurs when people have independence, safety and security, freedom of mobility, freedom of communication, affordable and accessible housing and transportation, and access to health care and long-term services and supports. It occurs when citizens with disabilities are involved in all aspects of community planning and implementation, including emergency preparedness.

On May 5 and 6, 2011, NCD hosted a “Living Forum” in Portland, Oregon, focused on community living systems change. At the end of the forum, NCD hosted a town hall and invited members of the public to share their disability policy priorities and concerns. Common themes included person-centered planning; the need for more prevention and early intervention services, more accessible, affordable integrated housing, and better transition services for youth with disabilities; and the need to redirect scarce public resources away from expensive institutions to community-based supports and services.

Access to Home- and Community-Based Services: There’s No Place Like Home

No disability policy is in greater need of reform than the antiquated Medicaid rules that favor institutional settings over home- and community-based services (HCBS). States receiving federal Medicaid funds are required to cover nursing home services, whereas home- and community-based services are optional. In FY 2009, 57 percent of Medicaid long-term care (LTC) dollars was directed toward institutional care. The remaining 43 percent was spent on “home health and personal care,” which includes HCBS waivers. This long-standing institutional bias persists, despite the strong preference of seniors and people with disabilities to live and receive services in their homes.¹

TABLE 1.

**Medicaid Long-Term Care Dollars (billions) Spent on
Home/Community-Based Services vs. Institutional Care, 1990–2009**

	1990	1995	2000	2002	2004	2006	2008	2009
Total spent on LTC (billions)	32	54	75	92	100	109	115	122
Total spent on home- and community-based care (billions)	4.16	10.80	22.5	29.44	37.00	44.69	48.30	52.46
Total spent on institutional care (billions)	27.84	43.20	52.50	62.56	63.00	64.31	66.7	69.54

Source: <http://www.Statehealthfacts.org>.

The institutional bias in Medicaid is an unsound fiscal policy that the **United States** can ill afford in this time of fiscal crisis. HCBS can cost two-thirds to four-fifths less per person annually than nursing home care, depending on the geographic area.² Moreover, average costs for home- and community-based services are increasing at a slower pace than are those for institutional care.³ The average cost to Medicaid for a person with an intellectual disability to receive services in an institutional setting in 2009 was approximately \$137,000, compared with an average of \$44,000 to support the same person in the community.⁴

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The institutional bias in Medicaid not only is fiscally irresponsible but also violates one of the most cherished American values—the right to live in the community. On June 21, 2011, NCD and the Bipartisan Disabilities Caucus provided a congressional briefing on

a landmark Supreme Court decision, *Olmstead v. L.C.*,⁵ and the benefits of HCBS, delivered primarily under Medicaid. In *Olmstead*, the Supreme Court ruled that “under the ADA, unnecessary institutional segregation of the disabled constitutes discrimination.”⁶ In recent years, the U.S. Department of Justice has focused enforcement efforts on requiring states to offer HCBS instead of confining people in institutions.⁷ Although many individuals have successfully transitioned to community settings in recent years, waiting lists for community services have grown considerably, and many who would opt for community services are not able to obtain them.

Recent state budget crises have compounded the problem and threaten to erode the gains made in recent years as many states short-sightedly cut home- and community-based services in an attempt to balance their budgets. Although states are prohibited by the Affordable Care Act from limiting Medicaid eligibility, other state policies have reduced HCBS by lowering reimbursement rates to HCBS providers and reducing the number of approved HCBS hours per beneficiary. Additionally, the expiration of the enhanced Medicaid Federal Medical Assistance Percentage (FMAP) made available to states through the American Recovery and Reinvestment Act (ARRA) has led to state expenditures on HCBS dropping to pre-recession levels.⁸

Many people have turned to the courts to prevent states from cutting essential home- and community-based services, given that the effect of these cuts is often a guaranteed path for Medicaid beneficiaries to an institutional placement, which is at odds with the *Olmstead* decision.⁹ This is a tragic waste of scarce resources. Home- and community-based services need federal protection that does not force people with disabilities to litigate in order to stay in their homes.

As Congress and the Administration grapple with the federal debt crisis, the elimination of the institutional bias in Medicaid is both a moral and a fiscal imperative. Data show that people ages 31 to 64 now make up 14 percent of the nursing home population,¹⁰ up from 10 percent just a decade ago. The data do not show why this age group is entering nursing homes in higher numbers, but reversing this alarming trend must become a national priority.

Data show that young people ages 31 to 64 now make up 14 percent of the nursing home population, up from 10 percent just a decade ago.

NCD recommends:

1. Congress should eliminate the institutional bias in Medicaid.
2. The Centers for Medicare and Medicaid Services (CMS) should require states to ensure that reductions in reimbursement rates do not create additional barriers to care for people with disabilities.
3. CMS should issue a letter requiring states to notify Medicaid beneficiaries of their due process rights when reductions are made to home- and community-based services (HCBS).
4. Congress should lower the Federal Medical Assistance Percentage for institutional care for states that fail to meet their *Olmstead* obligations.
5. Congress should retain the Community Living Assistance Services and Supports (CLASS) Act, ensuring adequate opportunity for the U.S. Department of Health and Human Services to pursue changes to ensure its self-sufficiency and to enhance access to long-term services and supports outside of Medicaid.
6. CMS should issue regulations specifying what HCBS waiver dollars can and cannot be used for, ensuring that states cannot use funds allocated for HCBS for “gated communities” and other settings with “institution-like” characteristics.

Housing

Efforts to enhance home- and community-based services are often impeded by the lack of affordable, accessible housing. It is nearly impossible for people with disabilities living on Supplemental Security Income (SSI) to obtain decent, safe, affordable, and accessible housing in the community without a permanent housing subsidy.¹¹ Workers on average must earn \$15 per hour over a 40-hour work week to afford a one-bedroom rental at the national average.¹² This means that people with disabilities receiving SSI

would need to triple their income to afford housing—making housing out of reach for many. A recent government report estimated at least 43 percent of homeless adults in shelters—about 421,000 people—identify as a person with a disability.¹³

Many people with disabilities can live in the community with the right supports. A variety of private and nonprofit entities have used public funds to establish successful housing programs¹⁴ that include supportive services such as counseling, peer support, assistance with home buying and lending, home modifications, and personal services such as housekeeping, cooking, and shopping.¹⁵ These programs have enabled many people who once lived in group homes or institutions to move into integrated housing, including apartments, condos, rentals, or their own homes. However, many people with disabilities are not eligible for supportive housing programs. Some supportive housing programs restrict eligibility to people who are homeless, receive certain services, or participate in treatment programs, which has led to complaints that these eligibility requirements restrict choice and independence.

Discrimination continues to be a barrier to accessible, affordable housing for people with disabilities. Housing discrimination complaints based on disability are the most frequent—30 percent higher than those based on race—and increased more than 20 percent between 2005 and 2009 (Table 2).

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TABLE 2.

Bases of Housing Discrimination Complaints, 2005–09

	2005	2006	2007	2008	2009
Disability	3,766	4,110	4,410	4,675	4,458
Race	3,472	4,043	3,750	3,669	3,203
Retaliation	452	577	588	575	654
Familial status	1,414	1,433	1,447	1,690	2,017
National origin	1,225	1,427	1,299	1,364	1,313
Sex	961	997	1,008	1,133	1,075
Religion	218	258	266	339	302
Color	142	154	173	262	251

Source: U.S. Department of Housing and Urban Development, The State Of Fair Housing Report, FY 2009

A 2005 U.S. Department of Housing and Urban Development/Urban Institute study found that individuals who were deaf or used a wheelchair experienced adverse treatment during the rental process, even at rates greater than African American and Hispanic renters. In addition to fewer accessible housing options, wheelchair users learned about fewer housing units and were more likely to have fewer opportunities to inspect units than those without disabilities. Individuals who were deaf and TTY users were refused service in 25 percent of cases and were given less information about the housing process when their calls were accepted.¹⁶ Thus, as a result of discrimination, people with disabilities have limited access to an insufficient supply of accessible, affordable housing.

NCD recommends:

1. The U.S. Department of Housing and Urban Development (HUD) should increase affordable, accessible, and integrated housing for people with disabilities.
2. HUD should increase housing vouchers for people with disabilities.
3. Congress and HUD should create a permanent home modification fund to pay for reasonable accommodations in private market housing.
4. Congress should redirect federal housing and treatment funds now supporting institutional facilities (nursing homes, etc.) toward integrated housing options.
5. HUD should prevent the loss of accessible, publically subsidized housing through investment and preservation strategies.
6. Supportive housing programs should eliminate the requirement that a person be homeless in order to be eligible for a supportive housing unit.
7. HUD and the Substance Abuse and Mental Health Services Administration should collaborate to create better community-based and integrated housing solutions for people with psychiatric disabilities.
8. HUD should allow a phaseout of housing supports as individuals move into employment.
9. HUD should improve fair housing enforcement of disability rights, including ensuring that all agencies at the local, state and federal levels follow HUD's guidance to "affirmatively further fair housing" for people with disabilities by reviewing and eliminating obstacles to accessible housing.

Healthy Living

The greatest barriers to healthy living for people with disabilities have been the inaccessibility of health care (e.g., inaccessible mammography equipment, exam tables, weight scales) and the discriminatory practices of health insurers, resulting in significant health disparities for people with disabilities.¹⁷ The ADA does not address discrimination in the health insurance market. However, the passage of the Affordable Care Act of 2010 (ACA)¹⁸ began an effort to eliminate discrimination against people with disabilities in the health care market, which many call the "unfinished business" of the ADA.¹⁹

Under the ACA, insurers are prohibited from denying coverage to children if that denial is based solely on the fact that they were born with disabilities. In 2014, all 129 million Americans with preexisting health conditions will be protected from insurance discrimination because of preexisting conditions or health status. Additionally, the ACA Patient's Bill of Rights outlaws many of the worst abuses of the insurance industry, such as arbitrary annual and lifetime caps on benefits, that have resulted in a denial of health care when people need it most.

In 2014, Medicaid will expand to cover many Americans with disabilities who do not qualify for coverage now. States are establishing Affordable Insurance Exchanges, which are new competitive marketplaces to provide better insurance options for those who buy individual coverage. Recently, the U.S. Department of Health and Human Services (HHS) proposed requirements to make every Exchange technologically accessible and understandable for people with disabilities—including those who rely on assistive technology to navigate the Internet. Additionally, the ACA calls on the U.S. Access Board to establish accessibility standards for medical diagnostic equipment. Thus, if the ACA is fully implemented, it holds great promise for improved access, care, and quality of life for people with disabilities.

Recently, HHS proposed requirements to make every Exchange technologically accessible and understandable for people with disabilities—including those who rely on assistive technology to navigate the Internet.

Some key issues remain to be addressed, however, if people with disabilities are to gain equal access to health care. The absence of professional training on disability competency for health care practitioners is one of the most significant barriers to having people with disabilities receive appropriate and effective health care.²⁰ Historically, federally funded cultural competency projects among health professions have not included disability. Few professional health care training programs address disability

cultural competency in their curricula. Disability cultural competency is generally not a requirement for medical practitioner licensing, educational institution accreditation, or medical education loan forgiveness. There is no standard definition of what it means to be “culturally competent” to serve people with disabilities and there is no comprehensive model curriculum. The result is that people with disabilities sometimes fail to get appropriate care, or even avoid getting needed health care, because providers do not have the necessary knowledge to treat them appropriately.²¹

People with disabilities often do not have access to health promotion services and physical fitness activities. The need for healthful living and engagement in leisure and recreational activities is universally accepted, but it is perhaps even more essential for people with disabilities. A focus on physical health, nutrition, exercise, and lifestyles that promote vigorous engagement in society and culture can have significant benefits for people with physical, intellectual, or mental disabilities.²² Yet research shows that people with disabilities are less likely to participate in leisure time physical activities.²³ Reasons cited for lower participation include lack of access to fitness facilities, inaccessible exercise equipment, lack of transportation, lack of adapted sports programs, and physical inability to exercise.²⁴

Physical fitness has long been credited as beneficial for all Americans.²⁵ Vigorous exercise for 30 minutes a day at least five times a week is recommended for adults to extend longevity, improve concentration, and alleviate depression.²⁶ Muscle-strengthening activity is recommended for adults at least two times a week.²⁷ Although people with disabilities may need a customized form of exercise to compensate for specific limitations posed by the disability, many forms of competitive sport and exercise are available. These sports include chair yoga,²⁸ wheelchair basketball,²⁹ downhill and cross-country skiing and golfing for people who are blind or visually impaired,³⁰ downhill ski competitions for people using prosthetics,³¹ and the development of prosthetic limbs for long-distance runners,³² just to name a few.

Access to health promotion initiatives that encourage high standards of personal health is equally important. The percentage of people with disabilities who are obese is much

higher than the percentage of obese people without disabilities (see Table A1 in Appendix A). The percentage of persons with disabilities who smoke is much higher than the percentage of people without disabilities who smoke (see Tables A2a and A2b in Appendix A). The dangers represented by these percentages should be addressed through a public health education campaign.

Americans with disabilities have long desired to participate fully in all aspects of recreation and culture. Proposed ADA regulations³³ and the recently enacted 21st Century Communications and Video Accessibility Act³⁴ should greatly increase opportunities for disabled Americans to engage in social events such as concerts, leisure activities, and television and Internet programming. However, accessibility and implementation continue to be slow and inconsistent. Further attention is necessary to ensure that people with disabilities are included in leisure and recreation, from youth sports leagues to concerts, lectures, and education to senior activities.

NCD recommends:

1. The U.S. Department of Health and Human Services (HHS) should fund a comprehensive project to develop and disseminate model curricula for medical and health professions on disability cultural competency.
2. HHS and the Centers for Disease Control and Prevention should conduct a national public awareness campaign focusing on the benefits of fitness and healthful lifestyles for people with disabilities and the need to make leisure and recreational activities accessible and inclusive.
3. HHS should ensure the inclusion of people with disabilities within the definition of “medically underserved populations,” as well as within other relevant categories relating to the acknowledgment of disparities in access to health care and equal access to research funding and related benefits aimed at decreasing health disparities.
4. HHS should work to ensure the inclusion of people with disabilities as an emphasis area in funding opportunities relating to health disparities, health professions, and other areas aimed at enhancing access to health care, improving the quality of care, increasing available treatment and interventions, and decreasing health disparities.

Transportation

People with disabilities are more likely than people without disabilities to report that they have inadequate transportation. (34 percent versus 16 percent, respectively)—a gap of 18 percentage points.³⁵ Transportation appears to be a greater problem in 2010 for both people with and without disabilities, increasing from 30 percent in 2004 to 34 percent in 2010 for people with disabilities and from 13 percent in 2004 to 16 percent in 2010 for people without disabilities.³⁶

The realities behind these statistics reveal lives severely limited by the lack of transportation options. Some people with disabilities who would otherwise be able to work cannot do so because of inadequate transportation. Others cannot shop, socialize, go to religious services, or even leave their homes. Some individuals with disabilities who need medical services are confined to institutions solely because of the lack of safe, reliable transportation options to get them to needed medical services.³⁷

Transportation barriers faced by people with disabilities are not necessarily the ones getting the most attention in policy debates. Often, federal policymakers have focused only on the transportation access requirements of the ADA. The ADA led to great improvements, but many compliance gaps remain that pose significant transportation problems for people with disabilities. Additionally, because the ADA merely requires that where public transportation is provided, it must be made accessible for people with disabilities, an absence of public transportation usually translates to no transportation at all for people with disabilities. In rural areas, people with disabilities often become isolated and dependent on others and are at a significant disadvantage in their transportation options in our automobile-dependent society.

People with disabilities also continue to have difficulties with air travel. According to the U.S. Department of Transportation, airlines received 21,001 disability-related complaints in 2010, a 23 percent increase from the previous year.³⁸ In 2009, some 17,068 complaints were filed (a 22 percent increase from 2008), and 14,006 complaints were filed in 2008.³⁹ More than half of the complaints received in 2010 concerned the failure

to provide adequate assistance to wheelchair users.⁴⁰ Additional complaints alleged refusal to allow boarding, denial of boarding without an attendant, security issues concerning the disability, aircraft inaccessibility, airport inaccessibility, disputes about advance notice, seating accommodations, damage to assistive device, storage or delay of assistive device, service animal problem, and unsatisfactory information.

According to the U.S. Department of Transportation, airlines received 21,001 disability-related complaints in 2010, a 23 percent increase from the previous year.

As we approach the 25th anniversary of the Air Carrier Access Act (ACAA),⁴¹ it is time to revisit the ACAA, and its regulations and enforcement, to determine why discriminatory service in this important transportation sector persists.

NCD recommends:

1. Congress should adopt flexible policies for making transportation available to people with disabilities beyond the public transportation system.
2. Congress should hold a hearing to examine the experiences of air travelers with disabilities, industry best practices, and enforcement activities by the U.S. Department of Transportation and develop corrective actions to make nondiscrimination in air travel a reality.
3. The Transportation Security Administration should work to ensure the accessibility of aviation security screenings for all people with disabilities, including wheelchair users and those with invisible disabilities.

State of Emergency Management and Disability

With earthquakes, tsunamis, tornados, excessive heat, and beyond, 2011 has been a year of devastating emergencies in the United States and worldwide. Historically, the United States has had a poor track record in emergency preparedness for people with disabilities—unnecessary separation from families; loss of independence resulting in institutionalization; inaccessible emergency transportation, communication, housing,

and medical care; and loss of life that could have been avoided. An example is a deaf couple in Athens, Alabama, who narrowly escaped when a tornado destroyed their home. With the electricity off and unable to hear the tornado or audible warnings, they did not have access to audible alerts that protected the hearing community.⁴²

In the United States, national efforts to improve outcomes for people with disabilities in emergencies have become increasingly urgent. In response to Executive Order 13347, *Individuals with Disabilities in Emergency Preparedness*, member agencies of the Federal Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities (ICC) coordinate on a multitude of concerns, addressing health, transportation, and other critical areas. The Federal Emergency Management Agency (FEMA) now has an Office of Disability Integration and Coordination, with staff in headquarters and most of its 10 regions. The U.S. Department of Justice is providing increased technical assistance and enforcement of civil rights laws covering disability access in emergency management. State, local, and tribal governments, as well as private entities, also are showing increased attention to these important matters, including implementation of the recommendations issued in August 2009 by NCD in *Effective Emergency Management: Making Improvements for Communities and People with Disabilities*.

However, national efforts have been delayed and are fraught with challenges. Despite the integration mandate in the ADA, many efforts to integrate people with disabilities in emergency situations focus on separate, “special needs” solutions, which lead to segregation, separation, and discrimination. Despite the increased activity (efforts to provide checklists, “how-to” guides, and trainings to emergency managers, schools, nursing homes, and others), research-based knowledge to support these activities is severely lacking. NCD, the ICC, and others have repeatedly reported on this lack of research since as early as 2005.⁴³ Without strong, reliable information, our national efforts must depend on best guesses and good intentions rather than facts. The National Institute on Disability and Rehabilitation Research and several other federal agencies have provided funding for research and development projects, but the number

of federal projects being funded and the number of participating agencies remain at unacceptably low levels. Federal budget concerns may lead to decreased capacity to fund new projects specific to emergency management and disability.

Despite the lack of evidence-based practices to inform our national efforts, some progress has been made in discrete areas across the nation to develop knowledge and best practices. For example, the Research and Training Center on Independent Living at the University of Kansas and the Kansas Department of Health and Environment created an interactive clearinghouse of best practices relevant to disaster and the health, safety, and disability communities. This website (<http://www.disabilityprepared.ku.edu>) allows communities to share best practices across multiple areas related to emergency management and allows members to communicate through social media sites. In September 2011, the FEMA, in collaboration with NCD, hosted the “Getting Real II Conference—Promising Practices in Inclusive Emergency Management for the Whole Community.” More effort, research, and collaboration along these lines are needed across the nation.

Progress is impeded by the continued unacceptable “silo” approach to emergency management and disability. Technologies, ideas, and plans continue to be developed for the emergency management community or the disability community, rather than inclusively integrating the “whole” community.⁴⁴ This approach results in a national emergency management system resigned to playing catch up because it was not designed for all participants.

Additionally, most resources address evacuating and serving people with disabilities in shelters. In many cases, however, people with disabilities are left behind or are advised to shelter in place.⁴⁵ More resources are needed to assist people with disabilities in planning for emergencies, particularly people who stay in place during a disaster.

The Office of Disability Integration and Coordination at FEMA is working to facilitate a fully integrated approach. Unfortunately, this office does not have sufficient staff or resources to meet this critical national need.⁴⁶

NCD recommends:

1. The President should issue an Executive Order requiring all federal agencies that conduct or fund research, development, or demonstration projects related to emergency management to
 - a. develop and implement procedures to ensure the inclusion of people with disabilities and other access and functional needs within the scope of those research, development, or demonstration projects; and
 - b. report annually to the President and Congress on the results of those efforts and key findings from the research, development, or demonstration projects. The Executive Order should emphasize the importance of an inclusive, “whole community” approach to research, development, and demonstration projects related to emergency preparedness, mitigation, response and recovery.
2. Congress should pass legislation that
 - a. establishes the Office of Disability Integration and Coordination (ODIC) as a permanent office within Federal Emergency Management Agency;
 - b. authorizes funds for staff and resources in Headquarters and the 10 regional offices sufficient to meet national and regional needs; and
 - c. charges ODIC with coordinating within the U.S. Department of Homeland Security and with other key stakeholders to integrate people with disabilities into emergency preparedness, mitigation, response, and recovery.
3. ODIC should provide training for people with disabilities on preparing for emergencies, including training for people with disabilities who have limited English proficiency.

Access to Technology: The Case for a Technology Bill of Rights

Technology and its advances provide opportunities for significant improvements in the quality and independence of the lives of individuals with disabilities at work and in education, travel, entertainment, health care, and community living. Many technological advances show great promise of improved accessibility. However, technology also has the potential to create new barriers for people with disabilities when they are not designed with all users in mind. Given the rapid rate at which technology evolves in

today's marketplace, retrofitting is not practical or cost-efficient, and assistive technology vendors struggle to keep up with ever-changing mainstream technology.⁴⁷

People with disabilities report difficulties in accessing and using a variety of technologies, including cell phones,⁴⁸ consumer electronics,⁴⁹ distance learning software,⁵⁰ electronic readers,⁵¹ and home appliances.⁵² Yet, a variety of manufacturers have demonstrated that where there is a commitment to making products accessible, it is very feasible.⁵³

The same is true for making websites accessible for people with disabilities. Many large companies have made their websites accessible for people who are blind or visually impaired,⁵⁴ demonstrating that such access is possible.⁵⁵ However, many of these websites do not provide captioning of audio for people who are deaf or hard-of-hearing, and many commercial websites remain largely inaccessible to both populations. The U.S. Department of Justice has yet to incorporate web access standards into ADA regulations, even though web accessibility standards have been in use for many years, both in the United States and internationally. The World Wide Web Consortium (W3C) first published web access standards in May 1999,⁵⁶ and the U.S. Access Board published a federal web accessibility standard in December 2000.⁵⁷

A recent Harris Poll survey revealed a significant gap between people with and without disabilities in the use of technology to access the Internet. (See Table A3 in Appendix A). People with disabilities are much less likely to use the Internet across all age groups. Eighty-five percent of adults without disabilities report using a computer or other electronic device to access the Internet from home, work, or another location, compared with 54 percent of adults with disabilities—a gap of 31 percent. The gap is smallest among youth, but a 10 percent difference still exists. The gap increases threefold among those 65 or older to 33 percent. Clearly, too many people with disabilities are being left behind in this digital age.

A recent Harris Poll survey revealed a significant gap between people with and without disabilities in the use of technology to access the Internet.

Federal policy regarding technology access has been piecemeal, with technologies inconsistently regulated by access requirements, and only in certain settings. The ADA applies to ATMs and automatic fare machines.⁵⁸ The Telecommunications Act⁵⁹ and the recently enacted 21st Century Communications and Video Accessibility Act,⁶⁰ apply to certain communications and video programming technologies and services but do not apply uniformly. Section 508 of the Rehabilitation Act⁶¹ applies to certain technologies, but only in the federal environment. Most consumer electronics and home appliances—items that have great potential to enhance independent living and quality of life for people with disabilities—are not covered by any accessibility standards. Accessibility laws and policies are needed that are not technology- or environment-specific, but rather are comprehensive and function-based and remain applicable over time as technology evolves. As the rate at which technology evolves increases exponentially, so does the potential for an unbridgeable technology divide. The policies we adopt today will determine whether the technology of the future empowers people with disabilities to live, learn, and earn.

NCD recommends:

1. Congress should enact a comprehensive Technology Bill of Rights for people with disabilities to
 - a. clearly establish that manufacturers must create accessible user interfaces for all products;
 - b. authorize the U.S. Access Board to establish uniform technology access standards; and
 - c. provide for effective enforcement mechanisms.
2. The U.S. Department of Justice should incorporate web accessibility standards into ADA Title III regulations.

Voting

Since the accessibility provisions of the Help America Vote Act (HAVA) were implemented, the number of people with disabilities who vote has increased (Table 3). However, recent reductions in HAVA funds may set back efforts to make polling places and the voting process accessible to people with disabilities because states no longer have the support they need to continue improvements. Additionally, as many states move to require voters to show photo identification, there is concern that this requirement may discourage some people with disabilities from voting because many people with disabilities do not possess a driver's license. Studies must be undertaken to determine whether there is a disproportionate negative impact on people with disabilities.

TABLE 3.

Percentage of People Voting in National Elections, 1992–2010

	1992	1996	2000	2004	2010
People with disabilities	45%	33%	41%	52%	59%
People without disabilities	56%	50%	52%	56%	59%

Source: Harris Poll, selected Presidential election years.

Unequal Parental Rights: The Eugenics Movement Back Door?

The right to parent is one of the most fundamental rights in the U.S. Constitution, rooted in the due process clause of the Fourteenth Amendment. However, those rights do not extend equally to people with disabilities. Although the involuntary sterilization of people with disabilities is relegated to the recent past, parental rights of people with disabilities are constantly under threat. State statutes, judicial decisions, and child welfare practices are sometimes based on the presumption of parental incompetence when the parent has a disability.⁶²

NCD's "Living Forum" in Portland, Oregon, focused attention on many issues facing parents with disabilities. A panel discussion identified numerous discriminatory state laws and practices carried out by child welfare agencies and family courts that have caused parents with disabilities to lose legal custody of their children. Bias against parents with disabilities influences termination of parental rights and child custody cases to the detriment of the rights of parents with disabilities.⁶³ Parents with intellectual or developmental disabilities and those with psychiatric disabilities face the most discrimination within the child welfare system, because more than 30 states include mental illness and developmental or intellectual disability as grounds for termination of parental rights.⁶⁴ To date, only 3 states (Idaho, Kansas, and Missouri) have passed laws specifically protecting the parenting rights of individuals with disabilities.⁶⁵

There are countless devastating reports of people with disabilities who have lost their parental rights because of their disability. For example, in 2010, a blind couple's 2-day old daughter was placed in protective custody when the state of Kansas wrongfully deemed the blind parents unable to care for the child. The family was reunited after a 57-day battle. This issue represents a critical policy concern that has not been the subject of serious attention from the disability policy and advocacy communities or child welfare officials. NCD is committed to addressing the rights of parents with disabilities and is conducting extensive research and meeting with stakeholders to produce a report on this subject.

NCD recommends:

1. States must eliminate statutes that include disability as grounds for termination of parental rights.
2. The U.S. Department of Justice should issue guidance advising states that *per se* presumptions of parental incompetence based on disability violate the ADA and requiring states to ensure that parenting assessments are fully accessible to parents with disabilities.
3. Congress should address the disparate treatment experienced by parents with disabilities through legislation, including adding specific protections for parents with disabilities in the Adoption and Safe Families Act.
4. Government agencies such as the U.S. Department of Health and Human Services and the U.S. Department of Justice should maintain statistics about parents with disabilities and their interaction with the child welfare and court systems.

Military Families with Disabilities: Closing the Medicaid Portability Gap

NCD recently completed a study of Marine Corps families with disabilities for the U.S. Marine Corps (USMC). The requirement to move regularly, often to destinations not of one's choosing, is a constant in military life and each time entails logistical, emotional, and financial stressors. The results of NCD's USMC study reinforced that these challenges can be significantly more arduous for families with members who have disabilities, especially if the families are young, the disability involved is severe, or both. Every time a family relocates, its members must learn about the resources available and the process for accessing these services. Then they must reassemble their family member's continuum of care, that is, request, coordinate, and advocate for the services needed.

The lack of Medicaid waiver portability, specifically, is a significant obstacle to obtaining and keeping long-term supports and services for such families, because there are long waiting lists for these waivers and new applicants start at the bottom of the waiting list each time the family moves to a new state. Many of the families who participated in NCD's USMC study called for a mechanism to help individuals retain Medicaid benefits

when they move to a new state. One of NCD's recommendations from the study is for Congress to implement mechanisms to enable military families with disabilities to maintain the services they would receive under Medicaid when they move from state to state instead of requiring them to go to the bottom of the waiting list each time they relocate.

NCD recommends:

1. Congress should ensure that the health insurance available to military families (Tricare and ECHO) cover the same services the family would receive if enrolled in Medicaid.

CHAPTER 2: Learning

Education and Lifelong Learning

The federal government has established a long-standing role of helping all students reach challenging standards and of supporting state and local high-quality education efforts.⁶⁶ A generation of Individuals with Disabilities Education Act (IDEA)–protected young adults are moving on to pursue careers and other life activities. In contrast to previous generations, they have grown up with an expectation that school populations include students with a broad spectrum of abilities. Their experience is largely due to generations of students who have enjoyed the protections of IDEA, which guarantees the right to a free appropriate public education for all eligible students with disabilities. Students with disabilities not covered by IDEA are protected by Section 504 of the Rehabilitation Act of 1973 (Section 504). Before the landmark laws, children and youth without disabilities were welcome in public schools while their peers with disabilities were excluded or segregated. Segregation was the rule, not the exception.

Although Americans celebrated the 35th anniversary of IDEA last year, many observers report that the law is far from delivering on its promises. Despite progress made across a number of educational indicators and the discontinuation of the “proxy rule,”⁶⁷ self-advocates, parents, and other supporters of equal opportunity report that meaningful inclusion is hampered by insufficient permeation of inclusion principles into institutions. Students with disabilities continue to face barriers to learning and achievement opportunities.

Although the percentage of students with disabilities who were served more than 80 percent of the time in general classrooms increased steadily over the past 19 years, a closer look reveals that inclusion in the general classroom is not consistent across all disabilities (Table 4). Students with speech or language impairments, specific learning disabilities, or hearing or visual impairments are the most likely to be included in general classes, whereas those with intellectual disabilities or multiple disabilities are the least likely to be included (Table 5).

TABLE 4.

Percentage of Students Ages 6–21 Served under the Individuals with Disabilities Education Act (IDEA), Part B, by Educational Environment, Selected School Years, 1990–91 through 2008–09

Year	Regular school: 80% or more	Regular school: 79–40%	Regular school: Less than 40%	Separate school for students with disability: Public	Separate school for students with disability: Private	Separate residential facility: Public	Separate residential facility: Private	Parentally placed in regular private school	Home-bound/hospital placement	Correctional facility
90–91	33.1	36.4	25	2.9	1.3	0.6	0.3	—	0.5	—
94–95	44.8	28.5	22.4	2	1	0.5	0.3	—	0.6	—
95–96	45.7	28.5	21.5	2.1	1	0.4	0.3	—	0.5	—
96–97	46.1	28.3	21.4	2	1	0.4	0.3	—	0.5	—
97–98	46.8	28.8	20.4	1.8	1	0.4	0.3	—	0.5	—
98–99	46	29.9	20	1.8	1.1	0.4	0.3	—	0.5	—
99–00	45.9	29.8	20.3	1.9	1	0.4	0.3	—	0.5	—
00–01	46.5	29.8	19.5	1.9	1.1	0.4	0.3	—	0.5	—
01–02	48.2	28.5	19.2	1.7	1.2	0.4	0.4	—	0.4	—
02–03	48.2	28.7	19	1.7	1.2	0.3	0.4	—	0.5	—
03–04	49.9	27.7	18.5	1.7	1.1	0.3	0.4	—	0.5	—
04–05	51.9	26.5	17.6	1.8	1.2	0.3	0.3	—	0.4	—
05–06	54.2	25.1	16.7	1.8	1.2	0.3	0.3	—	0.5	—
06–07	53.7	23.7	17.6	2.9	—	0.4	—	1	0.4	0.4
07–08	56.8	22.4	15.4	3	—	0.4	—	1.1	0.4	0.4
08–09	58	21.7	15.1	3	—	0.4	—	1.1	0.4	0.4

Source: U.S. Department of Education, Institute of Education Sciences, Condition of Education, Table A-7-2, <http://nces.ed.gov/programs/coe/tables/table-cwd-2.asp> compiled from U.S. Department of Education, Office of Special Education Programs, Individuals with Disabilities Education Act (IDEA) database

Note: Includes children and youth in the 50 states, the District of Columbia, and the Bureau of Indian Education schools. Data for 2007–08 and 2008–09 do not include Vermont. Detail may not sum to totals because of rounding.

TABLE 5.

**Percentage of Students with Disabilities in Regular Schools by
Percentage of Time in General Classes by Disability Type, 2008–09**

	Regular school: 80% or more	Regular school: 79–40%	Regular school: Less than 40%
Intellectual disability	16.2	27.4	48.9
Multiple disabilities	13.2	16.5	46.2
Autism	36.1	18.3	35.8
Deaf-blindness	30	16.7	29.1
Orthopedic impairments	51.3	16.6	24.8
Other health impairments	60.1	24.6	24.8
Emotional disturbance	39.2	19.4	23.2
Traumatic brain injury	45	23.2	23
Developmental delay	61.8	20.6	16.2
Hearing impairments	53.3	17.2	15.8
Visual impairments	61.6	13.9	12
Specific learning disabilities	60.9	28.4	8.6
Speech or language impairments	86.4	5.7	4.7

Source: U.S. Department of Education, Institute of Education Sciences, Condition of Education, Table A-7-2, <http://nces.ed.gov/programs/coe/tables/table-cwd-2.asp> compiled from U.S. Department of Education, Office of Special Education Programs, Individuals with Disabilities Education Act (IDEA) database.

Note: Includes children and youth in the 50 states, the District of Columbia, and the Bureau of Indian Education schools. Data for 2007–08 and 2008–09 do not include Vermont. Detail may not sum to totals because of rounding.

Similarly, the data on the number of students with disabilities who exit high school with a diploma varies by disability, as well as by state. When aggregated, the higher rates of graduation with a high school diploma for students with certain disabilities can mask the very low rates for students with other disabilities (Table 6).

TABLE 6.

Percentage of 14- to 21-Year-Old Students Served under IDEA, Part B, Who Exited School by Exit Reason and Type of Disability, 2007–08

Type of disability	Graduated with diploma	Received a certificate of attendance	Dropped out	Reached maximum age
Visual impairments	77%	10%	10%	2%
Hearing Impairments	70%	17%	11%	2%
Other health impairments	67%	10%	22%	1%
Speech or language impairments	67%	12%	20%	0%
Traumatic brain injury	65%	16%	15%	3%
Specific learning disabilities	64%	11%	24%	1%
Autism	63%	24%	7%	6%
Orthopedic impairments	62%	18%	13%	4%
Deaf-Blindness	57%	19%	9%	12%
Emotional disturbance	46%	9%	43%	1%
Multiple disabilities	46%	26%	18%	8%
Intellectual disability	38%	36%	22%	5%

Source: U.S. Department of Education, Office of Special Education Programs, Individuals with Disabilities Education Act (IDEA) database. Retrieved September 8, 2010, from <https://www.ideadata.org/PartBData.asp>. (This table was prepared September 2010.)

Note: Students may exit special education services because of maximum age beginning at age 18 depending on state law or practice or order of any court. “Dropped out” is defined as the total who were enrolled at some point in the reporting year, were not enrolled at the end of the reporting year, and did not exit through any of the other bases described. It includes students previously categorized as “moved, not known to continue.” Other health impairments include having limited strength, vitality, or alertness as a result of chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes.

National data can also mask serious problems in some states. States show significant variation in the percentage of students with disabilities who exit with a diploma.

Minnesota and Nebraska graduate over 60 percent, whereas Nevada, Mississippi, and Louisiana graduate fewer than 20 percent (see Table A4 in Appendix A).

Federal public policy and resources should reflect a stronger commitment to the implementation of fully inclusive education practices that benefit all students, including

students with disabilities. Public policies should promote students with disabilities as part of the general education population and not as a segregated subpopulation. Overwhelming evidence demonstrates that fully inclusive schools, in which students with disabilities are fully engaged in the general educational setting and have access to the general education curriculum, result in higher academic performance for both students with disabilities and their nondisabled peers,⁶⁸ whereas the placement of students in segregated classrooms because of diagnosis or special needs leads to detrimental outcomes.⁶⁹

Significant academic achievement gaps exist between students with disabilities and students without disabilities at the 8th grade level, as shown by scores on the National Assessment of Educational Progress (NAEP), which is often called the Nation's Report Card. Although mathematics scores have increased over time for all 8th grade students, the significant gap (approximately 40 points) between the achievement scores of students with disabilities and those of students without disabilities remains relatively the same. Reading scores of 8th grade students also show a significant and persistent gap (approximately 30 points) between students with and without disabilities. The gap widens significantly (approximately 50 points) when the mathematics and reading scores of 8th grade African American and Hispanic students with disabilities are compared with the scores of white students without disabilities (Tables 7 and 8). These data clearly indicate that progress has been meager over the years in addressing the academic achievement of racial and ethnic minorities with disabilities and in closing the wide achievement gaps between students with disabilities and students without disabilities.

TABLE 7.

NAEP Grade 8 Reading Scores by Race/Ethnicity and Disability Status, 2002–09

	2002	2003	2005	2007	2009
All students with a disability	228	225	227	227	230
All students without a disability	268	267	266	266	267
White with a disability	237	234	236	237	240
Black with a disability	212	208	208	209	213
Hispanic with a disability	211	209	212	212	212
Asian/Pacific Islander with a disability	223	226	227	229	232
American Indian with a disability	217	210	222	214	218
White without a disability	274	274	273	274	275
Black without a disability	248	248	246	248	250
Hispanic without a disability	249	248	248	249	251
Asian/Pacific Islander without a disability	267	271	271	271	275
American Indian without a disability	256	254	255	253	258

Source: U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), NAEP Data Explorer, July 2011

TABLE 8.

NAEP Grade 8 Mathematics Scores by Race/Ethnicity and Disability Status, 2000–09

	2000	2003	2005	2007	2009
All students with a disability	230	242	245	246	249
All students without a disability	276	282	283	285	287
White with a disability	239	253	255	257	260
Black with a disability	206	219	222	226	229
Hispanic with a disability	218	228	229	231	235
Asian/Pacific Islander with a disability		251	249	249	253
American Indian with a disability		234	236	235	232
Unclassified with a disability		240	246	254	257
White without a disability	286	291	292	294	296
Black without a disability	248	256	259	263	265
Hispanic without a disability	254	262	264	267	269
Asian/Pacific Islander without a disability	288	292	297	298	302
American Indian without a disability	266	271	270	270	273
Unclassified without a disability		281	281	285	287

Source: NAEP Data Explorer, July 2011

These issues are likely to be exacerbated by the current economic downturn. In 2009, the ARRA made available \$11.3 billion in IDEA Part B funding for local education agencies (LEAs).⁷⁰ Unfortunately, this increase in federal funding resulted in many LEAs reducing their local spending on special education, because the IDEA Maintenance of Effort provisions allow reductions in local spending to offset increases in federal spending. According to a Government Accountability Office report, “This year, ... an estimated 44 percent of LEAs plan to use the reduced local expenditure flexibility to decrease local spending on students with disabilities.”⁷¹ The percentages vary across states—from 14 percent in New York to 72 percent in Iowa. An estimated 48 percent of the largest LEAs planned to [reduce local funding].” NCD is concerned about the long-term consequences of these reductions in funding as the federal IDEA funds made available by ARRA run out and return to pre-ARRA levels.

NCD recommends:

1. The Secretary of Education should require states seeking flexibility under No Child Left Behind to provide a clear and compelling plan to address the achievement gap for students with disabilities and the segregation of students with disabilities from the general classroom, particularly those with low-incidence disabilities.
2. Congress should incorporate within the reauthorization of the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Act (IDEA) mechanisms to hold LEAs and state education agencies accountable for graduating students with low-incidence disabilities with a diploma and including such students in the general education classroom.
3. Congress should consider including in the reauthorization of the ESEA language that holds LEAs accountable for the performance of students who fall into multiple subgroups, such as African American or Hispanic students with disabilities or English language learners with disabilities.
4. The Department of Education's Office of Special Education and Rehabilitative Services should issue guidance clarifying that LEAs that reduce their Maintenance of Effort (MOE) in violation of IDEA must use the MOE obligation of the last year the LEA was in compliance as the basis for their MOE obligations in the coming school year, rather than the amount of their local expenditures during the year the LEA was in violation.
5. The Secretary of Education should establish an internal work group, including the Office of Postsecondary Education, the Office of Vocational and Adult Education, the Office of Special Education and Rehabilitative Services, the National Institute of Disability Rehabilitation Research, the Office on Title I of the Elementary and Secondary Education Act, the Office on Drug Free and Safe Schools, and other entities, to share available data; obtain public input, including perspectives from young adults living with disabilities; and identify problems and promising practices for ensuring that students with disabilities can access academic curricula and all school activities available to their peers without disabilities.

Early Intervention

The Infants and Toddlers with Disabilities Program was created under IDEA Part C in 1986 to enhance the development of infants and toddlers with disabilities, minimize potential developmental delay, and reduce education costs by minimizing the need for special education services as children with disabilities reach school age. A substantial

body of evidence demonstrates the effectiveness of early intervention services. A national longitudinal study of early intervention services found that the benefits for infants and toddlers receiving early intervention services included increased motor, social, and cognitive functioning; acquisition of age-appropriate skills; and reduced negative impact of their disabilities.⁷² Studies also demonstrate improvements in reasoning, problem-solving, and communication skills.⁷³

The demand for early intervention services has skyrocketed, while federal funding has remained stagnant. Many children with behavioral or developmental disabilities are missing vital opportunities for early detection and intervention. In the United States, 17 percent of children have a developmental or behavioral disability such as autism, intellectual disabilities, and attention-deficit/hyperactivity disorder.⁷⁴ However, less than 50 percent of these children are identified as having a problem before starting school, by which time significant delays may have already occurred and opportunities for treatment have been missed.⁷⁵

Diagnoses of autism spectrum disorders have increased significantly in the last decade and are expected to continue to increase as more children are screened early in life. The number of students with autism seeking IDEA services increased 500 percent between 1997 and 2007.⁷⁶ Early Intervention programs are the first line of care for most poor children with autism, and professionals predict that these programs will not have the capacity to address the increasing demand for autism services.⁷⁷

In recent years, the Leadership Education in Neurodevelopmental and Other Related Disabilities programs have significantly increased professional capacity to diagnose and treat children with autism and other developmental disabilities through clinical and community-based research and training activities.⁷⁸ However, given the expected growth in the demand for these services and the shortage of professionals who can provide these services, federal efforts to build capacity in this field will be needed for some time to come.

NCD recommends:

1. Congress should extend funding for the Leadership Education in Neurodevelopmental and Other Related Disabilities programs at current levels.
2. The Office of Special Education and Rehabilitation Services should provide technical assistance to assist states in delivering Part C Early Intervention Services in the most integrated setting.

Youth and Transition

All students deserve meaningful next steps at the end of their formal education. Too often, individual transition planning and implementation activities fail to meet Congressional intent under IDEA and the Higher Education Act.⁷⁹ High school graduation rates for students with disabilities remain a fraction of those of the general student population.⁸⁰

Receiving early transition services is critical to the future success of all youth in preparation for adulthood, including individuals with significant disabilities. Planning for transition should begin as early as possible. Evidence-based research has documented that youth with disabilities who are educated in inclusive settings, are exposed to work experience and career exploration, and participate in a paid work experience while in school have better postsecondary and employment outcomes.⁸¹

Postsecondary Education

Overall, the percentage of students with disabilities who pursue higher education has steadily increased. Postsecondary enrollment increased among most categories of individuals with disabilities; the average group increase was more than 20 percentage points from 2003 to 2009 (Table 9).

TABLE 9.

**Enrollment of Individuals with Disabilities in Postsecondary
Education at Any Institution, by Disability Type, 2003–09**

	2003	2005	2007	2009
Total	27.2%	42.2%	51.7%	57.0%
Learning Disability	29.5%	45.2%	58.1%	63.3%
Emotional Disturbance	19.3%	30.7%	42.3%	51.3%
Speech Impairment	36.5%	53.8%	58.9%	65.2%
Hearing Impairment	57.5%	69.7%	68.2%	72.9%
Visual Impairment	63.6%	70.6%	65.2%	66.7%
Autism	40.4%	49.7%	33.1%	37.9%
Mental Retardation	11.0%	23.9%	26.6%	27.9%
Deaf/Blindness		47.7%	40.9%	51.2%
Multiple Disabilities	19.0%	32.8%	24.8%	28.4%
Orthopedic Impairment	32.2%	51.2%	54.1%	58.9%
Traumatic Brain Injury	23.4%	51.0%	53.8%	59.5%
Other Health Impairment	33.4%	53.0%	55.6%	64.1%

Source: Years 2-5 NLTS data, compiled from http://www.nlts2.org/data_tables.

Nearly 28 percent of the general population of people 25 years of age and older have completed college,⁸² but people with disabilities complete college at half that rate. Increased efforts are needed to close the gap between people with and without disabilities.

NCD recommends:

1. Congress should consider enhancing the role of postsecondary outcomes in the accountability infrastructure of the Elementary and Secondary Education Act and the State Performance Plan indicators of the Individuals with Disabilities Education Act.
2. The Department of Education should issue further guidance to colleges and universities on meeting the accommodation needs of underserved disability categories in higher education settings as well as on meeting the accommodation needs of students with disabilities in undergraduate, graduate, and professional education.
3. Congress and the Administration should charge key federal agencies responsible for policies and programs that shape education and lifelong learning to establish a national task force that will identify barriers to accessing the general education curriculum, earning a regular high school diploma, and entering and completing postsecondary education, and establish meaningful short and long term goals and actions to set forth examples of attainable paths to gainful employment and that will assist cross-agency coordination of federally funded services and supports.
4. Congress and the Administration should require the Secretaries of the U.S. Departments of Education, Labor, Transportation, Health and Human Services, Justice, and Homeland Security to obtain input from state and local stakeholders; develop federal guidance based on findings, including promising practices; and prepare an annual report to Congress on challenges and progress.

Bullying and Students with Disabilities

Although the body of literature on bullies and victims is substantial, relatively little attention has focused on how this problem relates specifically to children and youth with disabilities. Research indicates a severe problem facing many students with disabilities. Students with disabilities, visible or otherwise, are subject to more bullying than students without disabilities.⁸³ Bullying is frequently a direct result of a student's disability.⁸⁴ Students with disabilities are disproportionately likely to face peer rejection, a significant risk factor for victimization.⁸⁵ Many students with disabilities have difficulty with social skills, either as a core trait of their disability or as a result of social isolation that results from segregated environments or peer rejection. Such students may be at

particular risk for bullying and victimization. Research confirms that such victimization exists across a broad range of students, including students with physical, developmental, intellectual, emotional, and sensory disabilities, among others.⁸⁶

In April 2010, in Oklahoma, a 14-year-old boy with developmental disabilities was hospitalized after being forced to drink hand sanitizer.⁸⁷ Further investigation revealed the bullies had been poisoning the boy for months.

Although some consideration has been given to bullying with regard to relevant civil rights laws, including Section 504 and the ADA, until recently, little attention has been given in the context of IDEA. This is significant because schools have specific obligations under IDEA to provide students with disabilities with a free appropriate public education in the least restrictive environment. These obligations were aptly expressed by Assistant Attorney General Thomas Perez of the Justice Department's Civil Rights Division and Assistant Secretary Russlynn Ali of the Department of Education's Office for Civil Rights: "All students have a right to go to school without fearing harassment from their peers . . . and schools have a responsibility to ensure students can exercise that right. If children aren't safe, then children can't learn."⁸⁸

On October 25, 2010, the Office for Civil Rights of the Department of Education issued a letter⁸⁹ that described the legal obligations of education institutions nationwide to protect the civil rights of students with disabilities along with other identified student victims of bullying, while maintaining a safe learning environment. In March 2011, NCD provided a briefing paper on bullying for the White House Conference on Bullying Prevention, in response to a request from the Department of Education.⁹⁰ NCD's paper asserted that negligence on the part of a school district in adequately addressing bullying behavior against students with disabilities constitutes a denial of such students' rights to a free appropriate public education in the least restrictive environment under IDEA. Since that time, federal case law has further defined schools' responsibilities to students with disabilities who are victims of bullying, citing NCD's briefing paper as part of its justification. On April 25, 2011, a federal court ruled that schools cannot turn their back on bullying perpetrated on disabled students and may face severe legal

consequences for failing to address harassment about which it knows or reasonably should know. According to the court, the rule to be applied is as follows: When responding to bullying incidents, which may affect the opportunities of a special education student to obtain an appropriate education, a school must take prompt and appropriate action. It must investigate if the harassment is reported to have occurred. If harassment is found to have occurred, the school must take appropriate steps to prevent it in the future. These duties of a school exist even if the misconduct is covered by its anti-bullying policy and regardless of whether the student has complained, asked the school to take action, or identified the harassment as a form of discrimination.⁹¹

A school's failure to act against bullying represents a failure to ensure the right to a free appropriate public education and meaningful educational benefit in the least restrictive environment for students with disabilities. When bullying forces a student with a disability from an integrated educational setting into a more restrictive placement, such as a classroom only for students with disabilities or a change of schools, a free appropriate public education and meaningful educational benefit in the least restrictive environment are compromised or absent.

A school's failure to act against bullying represents a failure to ensure the right to a free appropriate public education in the least restrictive environment for students with disabilities.

NCD recommends:

1. The U.S. Department of Education Office for Civil Rights should issue a new Dear Colleague letter affirming that bullying constitutes a denial of a student's right to be educated in the least restrictive environment and outlining the school's obligations set forth in federal case law since the October 2010 Dear Colleague letter.

Community Reentry of Inmates with Disabilities

Students with disabilities make up a significant portion of youth in the juvenile justice system. Some studies show that up to 85 percent of children in juvenile detention facilities have disabilities that make them eligible for special education services, yet only 37 percent receive services while in school.⁹² This failure to adequately address the needs of students with disabilities, particularly at-risk students, creates what has been termed “the school-to-prison pipeline.”⁹³

In 2005, 56 percent of state prisoners, 45 percent of federal prisoners, and 64 percent of jail inmates were people with mental health problems.⁹⁴ Approximately 74 percent of state prisoners and 76 percent of jail inmates with mental health problems also had substance dependence or abuse.⁹⁵

It is estimated that inmates with developmental disabilities make up approximately 3 to 9 percent of the prison population.⁹⁶ Approximately 5.7 percent of state inmates have a hearing impairment, 8.3 percent reported a vision impairment, and 11.9 percent reported a physical impairment.⁹⁷ Also, 1 percent of the prison population have a vision or mobility disability or are deaf or hard-of-hearing.

Inmates with psychiatric and developmental disabilities are often placed with the general inmate population. They are a vulnerable group, subject to bullying and manipulation. Adjustment to prison life can be difficult, and they can find themselves in dangerous and threatening situations. The prison experiences often exacerbate their disabilities.

Access to disability-related supports and services upon release from prison can make the difference for a person with a disability hoping to successfully reenter the community. Many federal and state policies require that Supplemental Security Income (SSI) and Medicaid be terminated while a person is in prison. Leaving prison with a major mental or physical disability without health insurance and no funds for medication can only worsen these conditions. Transition planning for successful reentry into the

community for inmates with disabilities is of paramount importance for successfully addressing impediments to successful reentry.

Many of the challenges faced by inmates returning to the community were addressed in The Second Chance Act of 2008 (SCA),⁹⁸ which was designed to improve outcomes for people returning to communities from prisons and jails. This pioneering legislation authorizes federal grants to government agencies and nonprofit organizations to provide employment assistance, substance abuse treatment, housing, family programming, mentoring, victims support, and other services that can help reduce recidivism. However, programs under the SCA are funded through discretionary grants and therefore are subject to termination if the SCA is not reauthorized or funded by Congress. Transitioning inmates with disabilities need a more consistent and reliable safety net to safeguard their access to disability-related supports and services when returning to the community.

NCD recommends:

1. The U.S. Department of Justice should require correction facilities to create a prerelease assessment and individualized reentry plan for all inmates with disabilities, including a needs assessment and assistance in arranging for health care and medications, reinstitution of SSI and Medicaid benefits, special education services for those returning to school, vocational services, and accessible housing.

CHAPTER 3: **Earning**

Employment

The current economic realities contribute to a bleak picture for persons with disabilities who are qualified for, capable of, and interested in gainful employment. They face obstacles in accessing employment training, finding employment that matches their skills and abilities, and, once hired, maintaining employment in a difficult job market. Additionally, little progress has been made to reduce fears that employment may lead to a permanent loss of services provided through necessary benefit programs such as Medicaid, Medicare, or veterans' disability payments.

Too many students with disabilities drop out of public education, severely limiting their opportunities to find jobs and achieve self-sufficiency. Of youth ages 14 to 21 who were served under IDEA Part B in the 2004–05 school year, 54 percent graduated with a standard diploma, 28 percent dropped out, 15 percent received a certificate of attendance, and just over 1 percent reached the maximum age to stay in school; More current data for the 2009 school year indicate no major changes.

Students with disabilities often leave public education lacking the basic skills required for work or for additional training. Specific skill-building programs, as well as the soft skills such as job interviewing, are sacrificed in the quest to maintain requisite academic achievement levels. As a result, students with disabilities may not get advice on career opportunities and often are steered away from college programs that counselors may feel are not appropriate for them.

Although students with disabilities are enrolling in postsecondary education in increasing numbers, entry levels are well below those of their nondisabled peers, and they often report an inability to secure employment in the field in which they were trained.

Once they enter the job market, people with disabilities encounter a whole new set of difficulties. Stigma and discrimination limit opportunities for aspiring workers with disabilities. Some employers assume that certain tasks cannot be accomplished by the applicant. NCD's stakeholders consistently list discrimination as one of the primary barriers keeping them out of the workforce. The majority think that discrimination occurs at the hiring stage. People with disabilities believe that they have been turned down for jobs because of employers' attitudes toward disabilities.

According to the Equal Employment Opportunity Commission, disability discrimination charges rose in 2010 by about 17 percent to 25,165 claims (Tables 10a and 10b).⁹⁹ Overall, the agency received nearly 100,000 claims during the 2010 fiscal year, a 7 percent increase and the highest number in its 45-year history.¹⁰⁰ While some increase might be expected after passage of the Americans with Disabilities Amendments Act in 2009, the upward trend in disability discrimination charges was evident before that time. ADA charges are up 42 percent since 2007. In comparison, race, sex, and age charges are up 18, 17, and 22 percent, respectively, over the same time period.

According to the Equal Employment Opportunity Commission, disability discrimination charges rose in 2010 by about 17 percent to 25,165 claims.

TABLE 10A.

Number of Charges toward the Americans with Disabilities Act of 1990, 1997–2003

	1997	1998	1999	2000	2001	2002	2003
ADA charges	18,108	17,806	17,007	15,864	16,470	15,964	15,377

Source: EEOC, <http://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm>.

TABLE 10B.

**Number of Charges toward the Americans with Disabilities Act of
1990, 2004–10**

	2004	2005	2006	2007	2008	2009	2010
ADA charges	15,376	14,893	15,575	17,734	19,453	21,451	25,165

Source: EEOC, <http://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm>

Discrimination continues to be a substantial problem for many job seekers and workers with disabilities. We must renew our commitment to education and enforcement to increase the recognition of the talented workforce of people with disabilities and to rid workplaces of disability discrimination.

Given the current economic environment, and the historically low rate of employment of people with disabilities, it is imperative that the federal government become a model employer of people with disabilities. During the past year, since the 2010 Executive Order on increasing employment of people with disabilities,¹⁰¹ the federal government has increased recruitment opportunities for people with disabilities. Data are not yet available to evaluate the success of this latest initiative. In the past, obstacles at the hiring level and reluctance by hiring managers have contributed to the low federal employment rate of people with disabilities. Less than 1 percent of the federal workforce is made up of individuals with targeted disabilities (see Table A5 in Appendix A). Moreover, individuals with targeted disabilities are clustered within the lower federal pay grades (Table 11).

TABLE 11.

Number of Federal Employees with Targeted Disabilities by Type and Federal Pay Grade, 2009

Disability by Type	GSR-1 to 5	GSR-5 to 10	GSR-10 to 15	Senior Pay and Senior Executive Service
Mental Illness	978	1,291	1,147	12
Deafness	602	714	510	2
Partial Paralysis	481	684	967	17
Mental Retardation	437	111	13	1
Convulsive Disorders	377	671	767	11
Blindness	376	768	844	22
Complete Paralysis	159	282	465	15
Missing Extremities	103	238	375	10
Distortion of Limb/Spine	73	163	162	4

Source: EEOC's Annual Report on the Federal Workforce, 2009. See <http://www.eeoc.gov/federal/reports/fsp2009/appendix4.cfm>, Table 6.

Note: The EEOC defines "targeted disabilities" as: Hearing impairments, Vision impairments, Missing extremities, Partial paralysis, Complete paralysis, Other impairments including convulsive disorder (e.g., epilepsy), mental retardation, mental or emotional illness, and sever distortion of limbs and or spine (e.g., dwarfism, kyphosis)

NCD stakeholders have commented on the lack of knowledge at the state and local levels about the new federal initiative to increase hiring of people with disabilities, even though the vast majority of federal jobs are not located within the nation's capital.

People with disabilities have been disproportionately harmed by the recent downturn in the economy. Data from the Current Population Survey indicates that between October 2008 and June 2011, job loss among workers with disabilities far exceeded that of workers without disabilities, with the proportion of employed U.S. workers identified as having disabilities declining by 9 percent.¹⁰² Many laid-off workers with disabilities entered the Social Security Disability Insurance rolls.¹⁰³

In addition, the labor force participation of people with disabilities lags behind that of people without disabilities. The most recent data, released in July 2011 by the Department of Labor's Bureau of Labor Statistics, shows that only 32.8 percent of

working age people (ages 16 to 64) with disabilities are actually in the U.S. workforce. By comparison, the participation rate for people reporting no disabilities is 77.2 percent. Moreover, disabled workers' income is on average one-third less than the income of their nondisabled coworkers.

Few federal programs are designed to directly provide vocational services, including job placement, for individuals with disabilities. Of the total \$429 billion in state and federal spending on supports and services for working-age people with disabilities in 2008, some 95 percent went toward health care and income maintenance, with only part of the remaining 5 percent allocated to improving employment and economic independence.¹⁰⁴

The Rehabilitation Services Administration, the Ticket to Work program of the Social Security Administration, the One Stop Career Centers of the Department of Labor's Employment and Training Administration, and the Vocational Rehabilitation and Counseling program of the Department of Veterans Affairs all are struggling to accomplish their goals, as unemployment rates have hit double digits in many states and are perilously close in others. As state and local programs grapple with budget deficits, they have reduced state funding with the result that federal fund matches are not being used in states where people with disabilities need them most urgently. Waiting lists, staff reductions, lack of clear performance outcomes, and lack of collaboration among federal agencies serving people with disabilities have resulted in the loss of important job training and placement services across the nation.

A further focus on community-based, integrated employment could improve employment levels. Too many people with disabilities are relegated to sheltered workshops, making below minimum wage. Demonstration projects should be directed to better identify best practices and models for proper assessment and placement geared toward community-based employment.

Fear of a loss of benefits is another barrier to employment for people with disabilities. Social Security and Medicaid beneficiaries, in particular, fear losing income supports,

housing assistance, or Medicaid, which covers many long-term services needed for people with disabilities to live independently—services not typically covered by private health insurance. People who acquire a disability while working often must stop working to obtain necessary disability-related supports and services.¹⁰⁵ Our public policies should support work, not impede it.

NCD recommends:

1. The Office of Disability Employment Policy (ODEP) should conduct an information awareness campaign to dispel myths about disability and educate employers about the benefits of hiring employees with disabilities through a variety of media outlets, involving the disability and business communities in the process of developing the campaign.
2. Ways to make reasonable accommodation expertise and assistance more readily available in the workplace should be explored, instead of limiting these services to those seemingly unable to work or those with a significant disability.
3. Congress should legislate a universal Medicaid buy-in option for people with disabilities who work.
4. The Rehabilitation Services Administration should develop technical assistance tools to help state and local governments better understand, communicate, and disseminate information on federal initiatives to increase federal employment of people with disabilities.
5. The Department of Labor should support innovative ways for employers to provide leadership in the design and implementation of employment programs.
6. ODEP and the Employment Equal Opportunity Commission should work together to update and reissue resources and guidance relating to the rights of employees with disabilities in light of new regulations implementing the ADA Amendments Act of 2008. Emphasis should be placed both on the new populations that may be covered as a result of the broader definition of disability under this Act and on any unique accommodation needs that newly covered populations may possess.

Financial Status

Since 1981, the income gap among households with and without a person with a work limitation (the Current Population Survey definition of “disability”) has grown steadily, from a difference of about \$19,000 in 1980 (in 2008 dollars) to nearly \$28,000 in 2008.¹⁰⁶

Median earnings for people with disabilities dropped 7 percent from 2008 to 2009, 2 percentage points more than the drop for persons without disabilities (5 percent). (See Tables 12a, 12b, 12c, and 12d). The number of people with disabilities living in poverty remains nearly three times the number of people without disabilities Table 13).

TABLE 12A.

Median Household Income among Households with Individuals with and without a Work Limitation, 1980–88

	1980	1981	1982	1983	1984	1985	1986	1987	1988
No person with work limitations in house	51,500	50,500	50,100	49,900	51,500	52,800	55,000	55,700	56,100
Person with work limitations in house	32,300	31,900	31,800	31,300	31,900	32,200	32,000	32,700	31,500

TABLE 12B.

Median Household Income among Households with Individuals with and without a Work Limitation, 1989–97

	1989	1990	1991	1992	1993	1994	1995	1996	1997
No person with work limitations in house	57,100	55,900	55,400	55,600	55,300	56,100	57,500	58,600	59,500
Person with work limitations in house	33,500	32,900	32,800	30,700	31,000	31,600	32,400	31,800	32,200

TABLE 12C.

**Median Household Income among Households with Individuals with
and without a Work Limitation, 1998–2006**

	1998	1999	2000	2001	2002	2003	2004	2005	2006
No person with work limitations in house	61,700	63,300	63,400	62,600	61,700	61,300	61,300	61,300	61,900
Person with work limitations in house	32,700	34,600	33,200	33,300	32,200	32,600	31,700	32,400	32,400

TABLE 12D.

**Median Household Income among Households with Individuals with
and without a Work Limitation, 2007–08**

	2007	2008
No person with work limitations in house	62,300	62,200
Person with work limitations in house	32,100	32,500

Source: Data are from the Current Population Survey and reflect the number of persons with a work limitation, which was based on this question: “[D]oes anyone in this household have a health problem or disability which prevents them from working or which limits the kind or amount of work they can do?”

TABLE 13.

**Percentage of People Ages 18–64 with and without a Work Limitation
Who Lived in Families with Incomes below Poverty, 2008–00**

	2008	2007	2006	2005	2004	2003	2002	2001	2000
With a work limitation	28.1	28.6	28	28	27.8	28	28.2	26.8	27
Without a work limitation	10	9.2	9.2	9.4	9.7	9.2	9	8.5	7.9

Source: Data are from the Current Population Survey and reflect the number of persons with a work limitation, which was based on this question: “[D]oes anyone in this household have a health problem or disability which prevents them from working or which limits the kind or amount of work they can do?”

Conclusion

In living, learning, and earning, more people with disabilities are falling behind. Disability discrimination is on the rise in housing, employment, and air travel. Thirty-five years after passage of federal civil rights legislation for students with disabilities, too many students are still being segregated and are experiencing poor achievement outcomes. The economic downturn is having a particularly detrimental effect on people with disabilities. Legislation alone does not lead to better outcomes for people with disabilities. The effective implementation and enforcement of disability rights requires federal oversight through ongoing monitoring and evaluation and cross-silo collaborations to ensure the uniform application of the overarching goals of the ADA—full participation, equal opportunity, independent living, and economic self-sufficiency—to all disability policies and programs.

APPENDIX A: Disability Tables

TABLE A1.

Percentage of People Who Are Obese by Disability Status, Selected Years 1991–2006

	1991-1994	2002	2006
No disability	23	28	32
Any disability	30	41	39

Source: Behavioral Risk Factor Surveillance System (BRFSS), CDC

TABLE A2A.

Percentage of People Who Use Cigarettes by Disability Status, 1998–2002

	1998	1999	2000	2001	2002
No disability	23	22	22	21	21
Any disability	32	32	31	32	32

Source: Behavioral Risk Factor Surveillance System (BRFSS), CDC

TABLE A2B.

Percentage of People Who Use Cigarettes by Disability Status, 2003–08

	2003	2004	2005	2006	2007	2008
No disability	20	20	20	20	18	19
Any disability	31	28	30	30	31	31

Source: Behavioral Risk Factor Surveillance System (BRFSS), CDC

TABLE A3.

Percentage of People Who Responded “Yes” to “Do you personally use a computer or some other electronic device, such as a cell phone, to access the Internet or World Wide Web from home, work or another location?”

	Age 18–29	30–44	45–64	65+
People with disabilities	82	63	61	37
People without disabilities	92	87	82	70

Source: Harris Poll, 2010

TABLE A4.

**Percentage of Total Students Ages 14 through 21 with Disabilities
Served under IDEA, Part B, Who Exited Special Education, by
Exit Reason and State, 2008–09**

	Graduated with diploma	Received a certificate	Dropped out	Reached maximum age
Minnesota	68%		8%	0%
Nebraska	61%	1%	12%	2%
Massachusetts	59%	3%	18%	3%
Hawaii	57%	1%	2%	10%
Connecticut	56%	1%	14%	2%
New Jersey	55%		13%	1%
Pennsylvania	55%	0%	7%	0%
New Hampshire	53%	4%	15%	1%
Maine	52%	1%	17%	1%
Wisconsin	51%	2%	14%	1%
Missouri	49%	0%	16%	1%
Iowa	47%	2%	20%	1%
West Virginia	47%	6%	18%	0%
Montana	45%	1%	15%	0%
New Mexico	45%	15%	10%	
Puerto Rico	45%	5%	25%	0%
Utah	44%	5%	14%	1%
Oklahoma	43%		12%	0%
Arizona	42%		11%	0%
District of Columbia	42%	7%	46%	
Kansas	42%		13%	1%
Kentucky	41%	5%	11%	0%
Illinois	40%	0%	10%	1%
South Dakota	40%		10%	1%
North Dakota	39%		16%	2%
Arkansas	38%	1%	8%	0%
Washington	38%	2%	15%	
Maryland	37%	6%	15%	1%
Michigan	37%	1%	18%	
North Carolina	35%	5%	19%	0%

	Graduated with diploma	Received a certificate	Dropped out	Reached maximum age
Rhode Island	35%	1%	11%	2%
Tennessee	35%	11%	7%	0%
Alaska	33%	9%	20%	1%
Indiana	32%	7%	15%	0%
Texas	32%	21%	14%	0%
Colorado	30%	2%	17%	1%
New York	30%	12%	14%	1%
Delaware	28%	3%	16%	
Virginia	28%	23%	9%	0%
Ohio	27%	20%	7%	4%
Wyoming	27%	3%	18%	
South Carolina	26%	1%	33%	3%
Oregon	25%	12%	13%	3%
Florida	24%	12%	12%	
Georgia	24%	19%	17%	
California	23%	11%	11%	1%
Idaho	23%	17%	11%	2%
Alabama	22%	30%	8%	5%
Louisiana	19%	20%	31%	0%
Mississippi	18%	46%	10%	1%
Nevada	17%	21%	21%	1%
Vermont*				

Source: 618 Part B Data, calculations made from numbers in Table 4-1. Retrieved August 2011 from <http://www.ideadata.org>.

*Data for 2007–08 and 2008–09 do not include Vermont.

TABLE A5.

**Percentage of the Federal Workforce by Selected Characteristics,
2000–09**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Hispanic or Latino	6.81	6.94	7.1	7.22	7.46	7.61	7.68	7.79	7.94	7.9
Black or African American	18.76	18.74	18.63	18.56	18.18	18.29	18.36	18.43	18.3	18.03
Asian	5.22	5.32	5.45	5.54	5.79	5.94	5.89	5.95	5.87	5.84
American Indian Alaska Native	1.44	1.48	1.5	1.5	1.67	1.67	1.68	1.65	1.64	1.65
Individuals with Targeted Disabilities	1.12	1.1	1.07	1.05	0.99	0.96	0.94	0.92	0.88	0.88

Source: EEOC's Annual Report on the Federal Workforce, 2009, Table 1; see <http://www.eeoc.gov/federal/reports/fsp2009/appendix4.cfm>. Definition of targeted disabilities from the EEOC: "To assist agencies in focusing this effort on severe disabilities that have historically been used to exclude qualified individuals from employment, the federal government has identified certain 'targeted disabilities' for special emphasis in affirmative action programs. The 'targeted disabilities,' which were last listed on the Office of Personnel Management (OPM) Standard Form (SF) 256 in 1987, include: deafness; blindness; missing extremities; partial paralysis; complete paralysis; convulsive disorders; mental retardation; mental illness; and distortion of limb and/or spine. EEOC tracks statistics on the employment by federal agencies of people with these targeted disabilities because their unemployment and under-employment rates are so high. Tracking employment statistics for this population allows federal agencies to better monitor their own efforts at becoming and remaining model employers."

Endnotes

¹ “Declaration for Independence: A Call to Transform Health and Long-Term Services for Seniors and People with Disabilities” (2009), National Advisory Board on Improving Health Care Services for Seniors and People with Disabilities, <http://www.declarationforindependence.org>.

² “Medicaid Managed Care Penetration Rates and Expansion Enrollment by State: Penetration Rates as of December 31, 2004,” Centers for Medicare and Medicaid Services, <https://www.cms.gov/MedicaidDataSourcesGenInfo/downloads/09December31f.pdf>.

³ “Five Good Reasons States Shouldn’t Cut Home and Community-Based Services in Medicaid” (July 2010), Families USA, <http://familiesusa2.org/assets/pdfs/long-term-care/Five-Good-Reasons.pdf>.

⁴ “Modernize Medicaid to Better Support People with Disabilities,” Sen. Tom Harkin and Rep. Cathy McMorris Rodgers (June 30, 2011), <http://thehill.com/blogs/congress-blog/healthcare/169259-modernize-medicaid-to-better-support-people-with-disabilities>.

⁵ *Olmstead v. L.C.*, 527 U.S. 581 (1999).

⁶ *Olmstead v. L.C.*, 527 U.S. 581 (1999).

⁷ “Olmstead: Community Integration for Everyone” (June 22, 2011), U.S. Department of Justice, <http://www.ada.gov/olmstead/index.htm>.

⁸ Sheryl A. Larson and K. Charlie Lakin, “Expenditure Patterns for ICF/MR and HCBS Long-Term Supports for Persons with Intellectual or Developmental Disabilities: Fiscal Years 2004–2009, With Projections to Fiscal Year 2012,” *Intellectual and Developmental Disabilities* 48, no. 6 (December 2010): 480–84. <http://www.aaidjournals.org/doi/pdf/10.1352/1934-9556-48.6.480>.

⁹ *Brantley v. Maxwell-Jolly*, *Cota v. Maxwell-Jolly*, 656 F. Supp. 2d 1161 (N. Dist Calif., 2009) (http://scholar.google.com/scholar_case?case=10938590498249398271&hl=en&as_sdt=2&as_vis=1&oi=scholar) (preliminary injunctions granted to stop cuts to adult day health care; *V.L. v. Wagner*, 669 F. Supp. 2d 1106 - 2009 (http://scholar.google.com/scholar_case?case=17767386997275142134&hl=en&as_sdt=2&as_vis=1&oi=scholar) - *Dist. Court, ND California* 2009) (preliminary injunction granted to stop cuts to in-home support services; *Marlo M. v. Cansler*, 679 F. Supp. 2d 635 (E.D.N.C. 2010) (preliminary injunction granted to stop cuts to home- and community-based services for people with mental illness and intellectual disabilities); *Crabtree v. Goetz*, No. 3:08-0930 (M.D. Tenn.) (preliminary injunction granted to stop cuts to Tennessee in-home services keeping people out of nursing homes); *Peter B. v. Sanford*, (Dist Court D SC 2011) (preliminary injunction granted to stop cuts to home care services); *Clinton L., et al. v. Cansler, et al.* – 10-CV-00123 – (M.D. NC 2010) (individuals with developmental disabilities and mental illness challenged the state’s proposed reductions in reimbursement rates for in-home services that will have the effect of eliminating providers that offer medically necessary services that enable individuals to successfully reside in the community and will place them at risk of

institutionalization); *Pitts v. Greenstein* – 10-CV-635 – (M.D. LA 2010) (a group of four individuals with disabilities who receive and depend on Medicaid Personal Care Services (PCS) to remain in the community and to prevent hospitalization and institutionalization filed suit to prevent the state of Louisiana from reducing the maximum number of PCS hours available each week); *Hiltibrand v. Levy* – 10-CV-4185 – (W.D. MO 2010) (individuals who need incontinence supplies to live in the community filed a Motion for Preliminary Injunction, requesting that the Court order the state to provide the Medicaid-funded incontinence supplies to individuals who need those supplies to prevent their placement in nursing facilities); *Darling v. Douglas* – 09-CV-3798 – (N.D. CA 2009) (formerly *Cota v. Maxwell-Jolly*) (plaintiffs challenged the manner in which the state plans to eliminate the Adult Day Health Care (ADHC) service, which enables elderly individuals and individuals with physical and mental disabilities to live in the community and avoid hospitalization and institutionalization); *Oster et al. v. Wagner* – 09-17581 – (9th Cir. 2009) (plaintiffs challenged the state’s alterations to its In-Home Support Services Program because the proposed changes to eligibility criteria would force individuals into institutions); *Napper v. County of Sacramento* – 10-CV-01119 – (E.D. CA 2010) (individuals with mental illness brought suit against the County of Sacramento for failing to provide adequate community-based services, which placed them at risk of institutionalization); *Cruz v. Dudek* – 1:10-CV-23048 – (S.D. FL 2010) (Luis Cruz and Nigel de la Torre successfully sought a preliminary injunction enjoining the state of Florida from denying them the home- and community-based services available under its Traumatic Brain Injury/Spinal Cord Injury Medicaid Waiver); *Knipp v. Perdue* – 10-CV-2850 – (N.D. GA 2010) (plaintiffs challenged the state’s plan to eliminate services for individuals with mental illness without offering sufficient alternative support services that are necessary to prevent plaintiffs’ hospitalization and institutionalization); *Ball v. Rodgers*, Dist. Court D. Arizona, 2010 (permanent injunction granted requiring Arizona to provide home care services to keep people out of institutions)

¹⁰ “A New Nursing Home Population: The Young” (December 9, 2010), Joseph Shapiro, <http://www.npr.org/2010/12/09/131912529/a-new-nursing-home-population-the-young>.

¹¹ Emily Cooper, Ann O’Hara, and Andrew Zovistoski, *The Housing Crisis for People with Disabilities* (Boston: Technical Assistance Collaborative, 2011). <http://www.aucd.org/docs/policy/PricedOut2010.pdf>.

¹² Cooper, O’Hara, and Zovistoski, *The Housing Crisis for People with Disabilities*.

¹³ U.S. Department of Housing and Urban Development, *The 2008 Annual Homeless Assessment Report* (Washington, DC: U.S. Department of Housing and Urban Development, Office of Community Planning and Development, 2009). (This does not include homeless children with disabilities in shelters or the estimated 282,000 people homeless each night living on the streets, in abandoned buildings, or elsewhere not intended for human habitation.)

¹⁴ “The State of Housing in the 21st Century: A Disability Perspective” (January, 2010), National Council on Disability, http://www.ncd.gov/publications/2010/Jan192010#_Toc1122.

¹⁵ “The State of Housing in the 21st Century: A Disability Perspective,” chap. 5.

- ¹⁶ Austin Turner et al., *Discrimination against Persons with Disabilities: Barriers at Every Step* (Washington, DC: U.S. Department of Housing and Urban Development, 2005).
- ¹⁷ “The Current State of Health Care for People with Disabilities” (September 30, 2009), National Council on Disability, <http://www.ncd.gov/publications/2009/Sept302009>.
- ¹⁸ Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010); Health Care and Education Reconciliation Act, Pub. L. No. 111-152, 124 Stat. 1029 (2010).
- ¹⁹ Hon. Kathleen Sebelius, Secretary, U.S. Department of Health and Human Services, Remarks as prepared for delivery for the Americans with Disabilities Act 21st Anniversary (July 26, 2011), <http://www.hhs.gov/secretary/about/speeches/sp20110726.html>.
- ²⁰ *The Current State of Health Care for People with Disabilities*.
- ²¹ *The Current State of Health Care for People with Disabilities*.
- ²² E. Hall, *Living Well! The Benefits of Leisure for People with Disabilities* (Bloomington, IN: Indiana University-Bloomington, National Center on Accessibility, 2005). <http://www.ncaonline.org>.
- ²³ Hall, *Living Well!*
- ²⁴ *The Current State of Health Care for People with Disabilities*.
- ²⁵ “Physical Activity for Everyone: The Benefits of Physical Activity,” Centers for Disease Control and Prevention, <http://www.cdc.gov/physicalactivity/everyone/health/index.html>.
- ²⁶ “Physical Activity for Everyone.”
- ²⁷ “Physical Activity for Everyone.”
- ²⁸ “Chair Yoga Is Accessible for All,” Lori Batcheler, <http://www.disaboom.com/adaptive-fitness/chair-yoga-is-accessible-for-all>
- ²⁹ National Wheelchair Basketball Association, <http://www.nwba.org/>.
- ³⁰ Recreation for the Blind, <http://www.99main.com/~charlief/vi/recreation.html>.
- ³¹ Community Resources for People with Disabilities, <http://www.adaptiveadventures.org>.
- ³² “Five Steps for Introducing Running to Lower-Limb Amputees,” Robert Gailey, <http://www.amputee-coalition.org/military-instep/introducing-running-lower-limb.html>.
- ³³ Americans with Disabilities Act Title II Regulations: Part 35 Nondiscrimination on the Basis of Disability in State and Local Government Services, updated March 29, 2011, http://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm; Americans with Disabilities Act Title III Regulations: Part 36 Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities, updated April 1, 2011, http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm.

³⁴ Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2752 (2010), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-303939A1.doc.

³⁵ “Survey of Americans with Disabilities” (2010), Kessler Foundation and National Organization on Disability, <http://www.2010disabilitysurveys.org/pdfs/surveyresults.pdf>.

³⁶ “Survey of Americans with Disabilities.”

³⁷ “The Current State of Transportation for People with Disabilities in the United States” (June 13, 2005), National Council on Disability, <http://www.ncd.gov/publications/2005/06132005>.

³⁸ U.S. Department of Transportation, Aviation Consumer Protection and Enforcement, *Annual Report on Disability-Related Air Travel Complaints* (Washington, DC: U.S. Department of Transportation, 2011), 4.

³⁹ U.S. Department of Transportation, Aviation Consumer Protection and Enforcement, *Annual Report on Disability-Related Air Travel Complaints* (Washington, DC: U.S. Department of Transportation, 2009).

⁴⁰ U.S. Department of Transportation, Aviation Consumer Protection and Enforcement, *Annual Report on Disability-Related Air Travel Complaints* (Washington, DC: U.S. Department of Transportation, 2011), 3-4.

⁴¹ Air Carrier Access Act, Pub. L. No. 99-435, 100 Stat. 1080 (1986).

⁴² “Deaf Couple Describe Weathering Alabama Tornado” (May 6, 2011), Blair Shiff, <http://www.9news.com/rss/story.aspx?storyid=197177>.

⁴³ National Council on Disability, *Saving Lives: Including People with Disabilities in Emergency Planning* (Washington, DC: National Council on Disability, 2005), <http://www.ncd.gov/publications/2005/04152005>; U.S. Department of Homeland Security, *Individuals with Disabilities in Emergency Preparedness: Executive Order 13347, Annual Report* (Washington, DC: U.S. Department of Homeland Security, 2005), http://www.dhs.gov/xabout/structure/gc_1266873528670.shtm#3; U.S. Department of Homeland Security, *Individuals with Disabilities in Emergency Preparedness Executive Order 13347: Progress Report July 2005 – September 2006* (Washington, DC: U.S. Department of Homeland Security, 2006), http://www.dhs.gov/xabout/structure/gc_1266873528670.shtm#3; U.S. Department of Education, *Emergency Management Research and People with Disabilities: A Resource Guide* (Washington, DC: U.S. Department of Education, 2008), <http://www.ed.gov/rschstat/research/pubs>; National Council on Disability, *Effective Emergency Management: Making Improvements for Communities and People with Disabilities* (Washington, DC: National Council on Disability, 2009), <http://www.ncd.gov/publications/2009/Aug122009>.

⁴⁴ *Caring for Special Needs during Disasters: What’s Being Done for Vulnerable Populations?* Before the Subcommittee on Emergency Communications, Preparedness and Response Homeland Security Committee, U.S. House of Representatives (2010) (testimony of Jonathan M. Young, Ph.D., J.D.), http://www.ncd.gov/newsroom/Testimony/2010/HS_Subcomm_Young_Testimony_FINAL.

⁴⁵ “Disability in Conflict and Emergencies Fact Sheet,” The Atlas Alliance, http://www.cbm.org/article/downloads/71140/Fact_sheet_Disability_in_Conflict_and_Emergencies.pdf.

⁴⁶ See discussion during *Caring for Special Needs during Disasters: What’s Being Done for Vulnerable Populations?* Subcommittee on Emergency Communications, Preparedness and Response Homeland Security Committee, U.S. House of Representatives, June 15, 2010.

⁴⁷ National Council on Disability, *Over the Horizon: Potential Impact of Emerging Trends in Information and Communication Technology on Disability Policy and Practice* (Washington, DC: National Council on Disability, 2006), http://www.ncd.gov/publications/2006/Dec262006#_Toc151518474.

⁴⁸ “People with Vision Loss Can’t Use Most Cell Phones. It’s Time to Change That,” American Foundation for the Blind, http://www.afb.org/blog/blog_comments.asp?TopicID=3002#content.

⁴⁹ “AAPD Recommendations for Accessible Technology Research” (July 25, 2008), American Association of People with Disabilities, http://www.aapd.com/site/c.pv11lkNWJqE/b.5607495/k.33DD/AAPD_Recommendations_for_Accessible_Technology_Research.htm.

⁵⁰ “Distance Learning,” Sheryl Burgstahler, <http://www.washington.edu/doit/Faculty/Strategies/Academic/Distancelearning/>.

⁵¹ “Inaccessible E-Book Reader Program Challenged” (February 23, 2011), Coalition of Organizations for Accessible Technology, <http://www.coataccess.org/node/9967>.

⁵² “Access in the Kitchen: An Update on Home Appliances” (January 2007), Brad Hodges, <http://www.afb.org/afbpress/pub.asp?DocID=aw080104>.

⁵³ *Achieving the Promise of the Americans with Disabilities Act in the Digital Age: Current Issues, Challenges, and Opportunities*, Before the Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights, and Civil Liberties, U.S. House of Representatives (2010) (testimony of Daniel F. Goldstein), <http://www.browngold.com/?s=news&ss=86>.

⁵⁴ *Achieving the Promise of the Americans with Disabilities Act in the Digital Age*. (Some examples include AOL, Target, Amazon, Audible, Major League Baseball, CVS, Radio Shack, Rite Aid, Staples, Ramada Hotels, Priceline.)

⁵⁵ *Achieving the Promise of the Americans with Disabilities Act in the Digital Age*.

⁵⁶ <http://www.w3.org/WAI/intro/wcag.php>.

⁵⁷ <http://www.access-board.gov/sec508/standards.htm>.

⁵⁸ “2010 ADA Standards for Accessible Design, Sec. 220,” U.S. Department of Justice, <http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm>.

⁵⁹ Telecommunications Act of 1996, 47 U.S.C. §§ 153, 255 (applies to the telecommunications functions of telephones, cell phones, pay phones, pagers, fax machines, computers with modems, and telephone company switching equipment).

⁶⁰ Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 (2010), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-303939A1.doc.

⁶¹ Section 508 of the Rehabilitation Act, as amended, 29 U.S.C. 794(d) (applies to electronic and information technology of federal departments and agencies).

⁶² Vanessa Voltz, "A Matter of Choice: Women with Disabilities, Sterilization, and Reproductive Autonomy in the Twenty-First Century," *Women's Rights Law Reporter* 203 (Summer 2006).

⁶³ Megan Kirshbaum, Daniel O. Taube, and Rosalind Lasian Baer, "Parents with Disabilities: Problems in Family Court Practice," *Journal of the Center for Families, Children & the Courts* 4 (2003): 27–43.

⁶⁴ Elizabeth Lightfoot, *The Inclusion of Disability as Grounds for Termination of Parental Rights in State Codes: Policy Research Brief* (Minneapolis, MN: Research and Training Center on Community Living, 2006).

⁶⁵ E. Callow, K. Buckland, and S. Jones, *The Disability Movement and a New Focus on Legislating Protection for Children in Families with Parental Disability* (Berkeley: Through the Looking Glass, 2008); Amy De La Hunt, "A Victory for Parents with Disabilities in Missouri," *St. Louis Kids Magazine* (2011), <http://www.stlouiskidsmagazine.com/story/victory-parents-disabilities-missouri>.

⁶⁶ "Federal Education Legislation Enacted in 1994: An Evaluation of Implementation and Impact Executive Summary," U.S. Department of Education, Office of the Under Secretary, Planning and Evaluation Service, accessed July 19, 2011, <http://www2.ed.gov/offices/OUS/PES/1994legislation.html>.

⁶⁷ States without appropriate alternate assessments had been allowed, for purposes of determining adequate yearly progress (AYP), to use a proxy, counting as proficient the scores of that 2 percent of students, regardless of how they actually performed. See "All Means All," <http://www2.ed.gov/about/offices/list/ousers/news.html>.

⁶⁸ Jennifer Catz and Pat Mirenda, "Including Students with Developmental Disabilities in General Education Classrooms: Educational Benefits," *International Journal of Special Education* 17, no. 2 (2002): 14–24.

⁶⁹ Catz and Mirenda, "Including Students with Developmental Disabilities in General Education Classrooms."

⁷⁰ <http://www2.ed.gov/policy/gen/leg/recovery/factsheet/idea.html>.

⁷¹ "Recovery Act: Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability (GAO 10-231)" (2009), Government Accountability Office, <http://www.gao.gov/products/GAO-10-231>.

⁷² U.S. Department of Education, Office of Special Education Programs, *Part C SPP/APR 2011 indicator analyses (FFY 2009-2010)* (Washington, DC: U.S. Department of Education, forthcoming).

- ⁷³ “Outcomes for Children Served through IDEA’s Early Childhood Programs,” Early Childhood Outcomes Center, <http://www.fpg.unc.edu/~eco/assets/pdfs/outcomesforchildrenfinal.pdf>.
- ⁷⁴ Centers for Disease Control and Prevention, 2011. <http://www.cdc.gov>.
- ⁷⁵ Centers for Disease Control and Prevention, 2011. <http://www.cdc.gov>.
- ⁷⁶ Kate McKenna, “Confronting the Autism Epidemic,” *Harvard Education Letter* 23, no. 5 (September/October, 2007). <http://webcache.googleusercontent.com/search?q=cache:FVh7cHRHfjwJ:www.hepg.org/hel/article/219+ed.gov+early+intervention+demand+need+for&cd=14&hl=en&ct=clnk&gl=us>.
- ⁷⁷ Marissa D. Wise, Alison A. Little, Jamie Bruce Holliman, Paul H. Wise, and Jason C. Wang, “Can State Early Intervention Programs Meet the Increased Demand of Children Suspected of Having Autism Spectrum Disorders?” *Journal of Developmental and Behavioral Pediatrics* 31, no. 6 (2010): 469–76. http://journals.lww.com/jrnldb/Abstract/2010/07000/Can_State_Early_Intervention_Programs_Meet_the.2.aspx.
- ⁷⁸ “Report to Congress on Activities Related to Autism Spectrum Disorder and Other Developmental Disabilities under the Combating Autism Act of 2006,” U.S. Department of Health and Human Services, Interagency Autism Coordinating Committee, <http://iacc.hhs.gov/reports/reports-to-congress/FY2006-2009/index.shtml>.
- ⁷⁹ “Transition and Postsecondary Programs for Students with Intellectual Disabilities: Legislation, Regulations, and Guidance,” U.S. Department of Education, <http://www2.ed.gov/programs/tpsid/legislation.html>.
- ⁸⁰ U.S. Census Bureau’s 2005-2009 American Community Survey data estimate that 84.6 percent of the country’s general population of people 25 years and over completed high school.
- ⁸¹ Robert E. Cimera, “The Cost-Trends of Supported Employment Versus Sheltered Employment,” *Journal of Vocational Rehabilitation* 28, no. 1 (2008): 15–20.
- ⁸² Cimera, “The Cost-Trends of Supported Employment Versus Sheltered Employment.”
- ⁸³ Bonnie B. Carter and Vicky G. Spencer, “The Fear Factor: Bullying and Students with Disabilities,” *International Journal of Special Education* 21, no. 1 (2006): 11–23. Retrieved December 18, 2010, from http://www.forockids.org/PDF_Docs/Bullying.pdf.
- ⁸⁴ Whitney I. Smith et al., “Bullying and Children with Special Educational Needs,” in *School Bullying: Insights and Perspectives*, ed. P. K. Smith and S. Sharp (London: Routledge, 1994).
- ⁸⁵ M. Martlew and J. Hodson (1991). Children with Mild Learning Difficulties in an Integrated and in a Special School: Comparisons of Behaviour, Teasing and Teachers’ Attitudes, *British Journal of Educational Psychology*, 61: 355–72.
- ⁸⁶ A. Siebecker, S. Swearer, and J. Lieske, “Risky Business: Bullying and Students with Disabilities” (poster presented at the annual meeting of the National Association of School Psychologists, Atlanta, GA, March 2005). Retrieved December 21, 2010,

<http://www.targetbully.com/uploads/NASP2005.Siebecker.ppt>; Anthony Petrosino, Sarah Guckenburger, Jill DeVoe, and Thomas Hanson, *What Characteristics of Bullying, Bullying Victims, and Schools Are Associated with Increased Reporting of Bullying to School Officials?* (Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Northeast and Islands, 2010). Retrieved December 19, 2010, from http://ies.ed.gov/ncee/edlabs/regions/northeast/pdf/REL_2010092.pdf.

⁸⁷ “Dickson Mother Says Bullying Went Too Far,” <http://www.kten.com/story/12298701/dickson-mother-says-bullying-went-too-far?redirected=true>.

⁸⁸ “Departments of Education and Justice Reach Agreement with Owatonna, Minn., Public Schools to Resolve Harassment Allegations,” April 12, 2011, <http://www.ed.gov/news/press-releases/departments-education-and-justice-reach-agreement-owatonna-minn-public-schools-r>.

⁸⁹ “Dear Colleague Letter,” U.S. Department of Education, Office for Civil Rights, <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>.

⁹⁰ J. Young, A. Ne’eman, and S. Gelser, *Briefing Paper: Bullying and Students with Disabilities* (Washington, DC: National Council on Disability, 2011). Written for the White House Conference on Bullying Prevention.

⁹¹ L.K. v. New York City Dept. of Education, 10 CV 00752 (S.D. N.Y.).

⁹² “SPLC Launches School to Prison Reform Project to Help At-Risk Children Get Special Education Services, Avoid Incarceration” (2007), Southern Poverty Law Center, <http://www.splcenter.org/get-informed/news/splc-launches-school-to-prison-reform-project-to-help-at-risk-children-get-special>.

⁹³ “SPLC Launches School to Prison Reform Project.”

⁹⁴ Doris J. James and Lauren E. Glaze, *Bureau of Justice Statistics Special Report: Mental Health Problems of Prison and Jail Inmates* (Washington, DC: U.S. Department of Justice, 2006).

⁹⁵ James and Glaze, *Bureau of Justice Statistics Special Report*.

⁹⁶ Jean Stewart and Marta Russell, “Disablement, Prison, and Historical Segregation,” *Monthly Review* 53, no. 3 (2001). <http://monthlyreview.org/2001/07/01/disablement-prison-and-historical-segregation>.

⁹⁷ Jessie L. Krienert, Martha L. Henderson, and Donna V. Vandiver, “Inmates with Physical Disabilities: Establishing a Knowledge Base,” *Southwest Journal of Criminal Justice* 1, no. 1 (2003): 13–23.

⁹⁸ Second Chance Act of 2007: Community Safety Through Recidivism Prevention, Pub. L. No. 110-199, 122 Stat. 657 (2007).

⁹⁹ U.S. Equal Employment Opportunity Commission, *Americans with Disabilities Act of 1990 (ADA) Charges* (Washington, DC: U.S. Equal Employment Opportunity Commission, 2011).

¹⁰⁰ U.S. Equal Employment Opportunity Commission, *Americans with Disabilities Act of 1990 (ADA) Charges*.

¹⁰¹ Exec. Order No. 13548, “Increasing Federal Employment of Individuals with Disabilities,” Fed. Reg. 75 FR 45039 (July 30, 2010). <http://www.whitehouse.gov/the-press-office/executive-order-increasing-federal-employment-individuals-with-disabilities>.

¹⁰² U.S. Department of Labor, Bureau of Labor Statistics, *Current Population Survey, Employment Situation: 2011* (Washington, DC: U.S. Department of Labor, Bureau of Labor Statistics, 2011).

¹⁰³ David Stapleton and Gina Livermore, *Costs, Cuts, and Consequences: Charting a New Course for Working-Age People with Disabilities* (Princeton, NJ: Mathematica Policy Research, Center for Studying Disability Policy, 2010). <http://links.mkt3889.com/ctt?kn=2&ms=MTkzNTUyNwS2&r=MTYzMDM4NDY4MQS2>.

¹⁰⁴ Stapleton and Livermore, *Costs, Cuts, and Consequences*.

¹⁰⁵ Jody Schimmel and David C. Stapleton, “Disability Benefits Suspended or Terminated Because of Work,” *Social Security Bulletin* 71, no. 3 (2011); see 34 CFR § 361.36 (federal regulation governing who must receive vocational rehabilitation services).

¹⁰⁶ U.S. Census Bureau, *Current Population Survey* (Washington, DC: U.S. Census Bureau).

