

## Jobs and the ADA: An Update

by Ray Glazier

**W**hen the disability community was putting on the pressure for the Americans with Disabilities Act, signed into law in 1990, we all felt it was imperative that the ADA ban discrimination in employment. Title I of the ADA, the Act's very first order of business, prohibited job discrimination by employers, phased so that it first applied to large firms and later to smaller firms, with the notable exceptions of Indian tribes, private clubs, and religious organizations.

Title I appears to have been a great help to those of us who were already working. It has provided employment security, facilitated accommodations to make work easier, and opened the way to promotions. However, it has done very little to open the workplace to the vast majority who were not previously working. Therefore, much remains to be done to fulfill the promise of Title I.

Because the ADA is complaint-driven (there are no ADA Police) enforcement of Title I is primarily the responsibility of the federal Equal Employment Opportunity Commission (EEOC). The EEOC takes complaints from persons with disabilities who feel they have experienced discrimination in employment, sometimes attempting to resolve the issue with the employer, occasionally filing suit on behalf of the person. Persons with disabilities can, and

do file suit on their own, and we all have heard those stories (often fictitious or greatly exaggerated) of frivolous lawsuits against employers.

Since 1992, more than 1,200 cases have been filed in courts under the ADA's Title I. A recently published study by the American Bar Association found that employers have won 92% of those cases that have been decided, with employers also prevailing in 86% of the cases resolved administratively by the EEOC. The ABA study concluded that, contrary to the myth of "undue burdens" upon employers, it is plaintiffs with disabilities who often have their cases dismissed because of administrative and procedural technicalities. All of this does not mean that you don't stand a chance against a discriminating employer, but it does point up the need to document every fact in the matter. And each case that is won sets precedents that will help others in the future. The record shows that cases where employers make blanket negative assumptions about large classes of persons are most amenable to favorable judicial resolution, as in the Maryland case of a county government's assumption that a person with a hearing impairment could not perform successfully as an Emergency Medical Technician (EMT).

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## DISABILITY COMMUNITY RALLIES FOR CASA

by Bill Henning

One bill before Congress has rallied people with disabilities nationwide with the hope of ending the scourge of institutionalization that has plagued Americans with disabilities throughout the 20th century. The legislation is the Community Attendant Services Act, better known as CASA or H.R. 2020, supported by heavy hitters such as House Speaker Newt Gingrich and Minority Leader Richard Gephardt and championed by Americans Disabled for Attendant Programs Today, better known as ADAPT.

CASA would, among other things, establish national personal attendant services (PAS) to be implemented by the states. As defined in the bill, PAS would include a number of programs similar but in important ways broader and more flexible than the Massachusetts PCA program. Probably the most vital—

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### INSIDE

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QUESTION & ANSWER

Autumn 1998

## From the Center

The Information Center held its Annual Meeting on October 6, 1998 at the Museum of Our National Heritage in Lexington, Massachusetts. Nancy C. Schock, the founder of the Center, was elected President of the Board of Trustees along with Vice president, J. Archer O'Reilly, Treasurer, Bruce Marquis, and Clerk, Joyce Cohen.

The newly formed Development Committee was able to report the Center's first grant of the new year and cooperative arrangements with several old partners. Several new corporate members were elected and the meeting was adjourned with renewed vision and hope for the future.

The Center is seeking individuals to assist the Development Committee in obtaining the resources needed to move forward as well as one or more persons interested in helping to build and maintain our web site. While there is a wealth of disability related data on the internet, much of it is difficult to locate and sort through. Helping people find and use information has always been the mission of the Information Center and we want to begin to use this new technology to continue the tradition. If you combine an interest in the internet and in helping people living with disability, please consider lending your experience to the Information Center.

Meanwhile, we can also use your input in a more old-fashioned way. If you have information, experiences, insights, or inspirations to share, we encourage you to write an article for us. The section of *Disability Issues* called *From Our Readers* often contains the most popular and most useful writing in the newsletter. After all, among our readers are the finest experts on successfully living with a disability that exist anywhere. What you have already learned can save someone else a great deal of time, effort, and heartache. 500 to 1000 words of interest to others dealing with disability will be considered for publication.

And finally, the Center would like to hear from you about publications you find particularly useful or interesting for people with disabilities. There are hundreds of magazines and newsletters addressed to the disability community. Which ones would you recommend as inspiring, entertaining, informative, and useful? Is their content directed to health, travel, equipment, education, living skills, employment, or legal rights? Which is best for useful articles and which for interesting advertisements?

Please drop us a note and tell us what publications you recommend and why. If you can, send us a copy of the publication. We will be passing on the recommendations in future issues of this newsletter.

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Editor: J. Archer O'Reilly III

## Materials on Brain Injury for Parents and Children

Brain injury is the leading cause of disability among youths, most often as the result of car crashes, falls, and sports injuries. The effects may range from quite mild to severe and understandable information for caregivers and educators is often difficult to find.

L&A Publishing/Training was founded to meet this need. The Center has recently reviewed a package of user friendly tip cards and booklets on the consequences of brain injury in children and adolescents. They are straightforward, colorful and informative. They provide information about: immediate consequences of brain injury; changes that occur with the child's development; planning for return to school; changes in behavior, learning and communication; and the long term effects of brain injury.

These materials are addressed to families, educators and community advocates. They are helpful in recognizing and anticipating the changes that be caused by brain injury and providing information on the proper response and available support services.

If you are a parent, teacher, or caregiver dealing with a child with brain injury, you may want to consider these resources.

A free Publication Catalog can be ordered from L&A Publishing/Training, 22 Keewaydin Road, Wolfeboro, NH 03894, (603) 569-3826. Or, to preview publications, order, or request a catalog try the website at [www.lapublishing.com](http://www.lapublishing.com).

# LIBRARIES AS INFORMATION SOURCES

by Julie Triessl

Information is the heart of the Information Center for Individuals with Disabilities, in its name and in its mission. Information gives us power. It gives us raw materials and it gives us tools with which we can shape our lives.

As you seek the information you need to solve the situations you confront and enhance the quality of your life do not overlook the library.

Libraries have long been the repositories of information, once just in the form of books and now in a variety of media. Videocassettes and computer software on the shelves of many libraries join the printed word of books and the spoken word of audiocassettes. In all its varieties, formal and informal, libraries support entertainment, recreation, scholarship and lifelong learning.

Library networks and interlibrary loans expand the ability of libraries to obtain materials not locally owned. Research reports, special interest materials or technical articles beyond the scope of a public collection can be obtained for library users. Such services bring to the local level a world of information.

Computers have changed the nature of information gathering. Paper sources are being supplemented or replaced by databases. Access to information in all formats is now essential to the role of libraries and librarians.

With computers come the ability

for remote users to benefit from library services. Library catalogs from the local level to those of universities worldwide are available. So, too are full text articles and reports. Adaptive technologies allow users with a variety of disabilities to utilize the power of computerized information. Advanced technologies transform standard equipment into specialized tools.

## LIBRARY BUILDINGS

As a community center, a public library makes every effort to welcome and include all members of its region in the life of the organization. As older libraries are renovated or replaced, the standards of the Americans with Disabilities Act are implemented. The physical structures of modern libraries are designed to be more inclusive. Auxiliary aids make accessible services that might otherwise be of lesser value to a person with a disability. Increasing compliance as well as sensitivity to the needs of disabled people result in more ramps, wider aisles, desks designed for use by all borrowers, handicapped accessible rest rooms and elevators. Better signage and increased training of staff result in a facility that is more responsive to the special needs of users.

## IMPACT OF CHANGE

The pace of change varies from community to community. Technological improvements will continue to change the nature of the relationship of an individual with the world of information. Most libraries are receptive to suggestions about additions to their collections, improvements in their technologies and in their services. Let your library know what you want and need?

## REMOTE ACCESS

With a rapidly increasing pace,

libraries are able to provide services to users who can not, or prefer not to, come to the library. Computers allow home users to explore the resources of the library. Library catalogs, periodical databases, nationwide telephone directory databases, and links to governmental, business and medical databases are available to library users. Libraries offer Internet connections and highlight particularly noteworthy Internet sites.

Information and Referral databases for local sites allow library users to find contacts for sources of information about the life of the community. Organizations, agencies, clubs and support groups are listed and described.

By means of various media formats people with visual or auditory handicaps can engage in serious study or materials meant for relaxation and entertainment.

## ASSISTIVE AIDS

DVS (Descriptive Video Service) videos provide spoken narration of popular videos, allowing a sight-disadvantaged person to share an entertainment experience with sighted friends and family.

Closed captioning of videos allows hearing impaired users to enjoy entertainment videos.

Large print books and magazines are available for borrowing for those who wish to read using a larger than standard type.

Closed circuit television magnifiers are offered to patrons in many libraries. The machines use a television camera to greatly magnify and project documents for the benefit of those in need of extremely large print. Users find the units useful for reading personal correspondence as well as published materials.

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# CASA

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and certainly most ground-breaking — element of the bill is that it would allow people with disabilities in institutions such as nursing homes and intermediate care facilities for people with mental retardation (ICF-MR) to have a choice in where they live. Medicaid funds, which support the vast majority of institutionalized Americans, would follow the consumer. This bold yet astoundingly logical concept makes perfect sense, especially to those whose only choice on where to live has been a spirit-killing nursing home or an ICF-MR.

“We’ve tried to shake the medical model for disability for years, but when it comes to living in the community, to finding housing options, so much of Medicaid is focused on medical services, yet Medicaid is the key source of dollars for supporting people with disabilities,” said Pam Burkley, ADAPT member and assistant director of the Cape Organization for Rights of the Disabled (CORD) in Hyannis, Massachusetts.

“CASA would alter the direction of the Medicaid cash flow in a big way, steering the precious money towards independent living, putting a dent in the 80% of long-term care dollars currently spent on institutionalization.”

CASA will provide services tailored to an individual’s independence needs, funding services such as PCAS, home health aides, support services, and transitional services for those leaving an institution. Under CASA, services must be provided “in the most integrated setting appropriate to the needs of the individual.”

While a state such as Massachusetts already has many community-based services, the importance of CASA should not be underestimated, Burkley said.

“CASA would help break the grip on long-term care that the nursing home industry has had and it would be insurance if there was elimination of any programs currently operating in the state. Once you establish that the money follows the person, the mechanism is in place for freedom. To this day it takes only a day or two to get a person with a severe disability into a nursing home, but up to six months to get someone a PCA. CASA means community-based services will be a right, not special programs accessed by a minority of those who should be beneficiaries. Millions in other states don’t have access to the services we have here.”

To date CASA has been endorsed by over 400 groups nationwide and 72 members of Congress. In Massachusetts, over 20 organizations have signed on, including the Statewide Independent Living Council, six independent living centers, the Disability Law Center, the Massachusetts Arc, and the Massachusetts Office on Disability. Unfortunately, just one Massachusetts Congressperson, Bill Delahunt of the 10th district, which runs from the Cape to Quincy, has signed on as a co-sponsor.

“Work is needed to get more Massachusetts Congressman to be co-sponsors,” Burkley stated. “We need to keep calling and writing them to support H.R. 2020.”

A hearing in Washington on CASA in March attracted hundreds of advocates from around the country, but final action is not expected this term, meaning the bill will be reintroduced next year. But this doesn’t mean more sponsors aren’t needed now.

Major ground was broken in July when, at the behest of ADAPT, the U.S. Department of Justice and the Health Care

Financing Administration released a letter and directive confirming that state Medicaid programs must have a self-evaluation of their programs and services as required by the Americans with Disabilities Act. This self evaluation must include provisions to ensure that each state’s Medicaid services will be provided in the most integrated setting; various courts have ruled that the most-integrated-setting requirement of the ADA applies to Medicaid programs. Clearly, a nursing home is not the most integrated setting for many people with disabilities, thus the door is open to redirect Medicaid dollars to services that promote community-based services that provide the most integrated settings for Medicaid recipients. CORD has written the Division of Medical Assistance (DMA), which oversees Medicaid in Massachusetts, asking for the division’s ADA self-evaluation, and encourages others to do so as well.

Besides getting further support for CASA from members of Congress, people can join the campaign for community-based services by contacting the DMA for its ADA self-evaluation (write to DMA Commissioner Bullen, 600 Washington St., Boston, MA 02111); and hooking up locally with ADAPT by contacting CORD at (508) 775-8300 or (800) 541-0282 (both numbers V/TTY). A training for persons wanting to be ADAPT activists is being planned for late autumn in Massachusetts.

More information on CASA and ADAPT can be obtained by contacting ADAPT at (512) 442-0252 or by going on-line to <http://www.adapt.org>.

*Bill Henning is the Director of the Cape Organization for Rights of the Disabled, an Independent Living and Disability Advocacy Program in Hyannis, Massachusetts.*

## Libraries

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Kurzweil readers and similar devices are available in some libraries to translate written materials into spoken form. This type of information delivery can be particularly helpful to individuals with learning disabilities as well as those with reading disabilities.

Low vision readers may also choose materials in Braille for tactile reading.

Audiocassettes are among the most popular of library materials for all users and particularly for those with reading disabilities. The increasing variety and quantity of both fiction and non-fiction titles provide a wide range of entertainment. Recordings of the world's greatest teachers appeal to those with an interest in intellectual stimulation and lifelong learning.

Accommodations for hearing impaired individuals include, in some locations, staff trained in

signing and assistive listening devices. TTD and TTY service increase communications options.

### NATIONAL LIBRARY SERVICE

The National Library Service for the Blind and Physically Handicapped program of the Library of Congress widens the choices available to its qualified users. The Service provides equipment and materials at no cost with the advantage of home delivery. [For more info - [www.loc.gov/nls](http://www.loc.gov/nls) or Perkins School at (800) 852-8133(MA), Worcester Public Library at (800) 762-0085(MA).]

### COLLECTIONS

Libraries as instruments of a democratic society provide access to information for all citizens. The library collection represents a wide range of viewpoints and provides a forum for discussion of vital issues. The provision of library services and their use increase the sense of community among diverse populations. Of particular

interest are materials on law, medicine, governmental resources, housing, service organizations, directories of organizations providing services, and catalogs of specialized equipment.

### THE HUMAN TOUCH

The human side of libraries is embodied by professional librarians whose mission it is to connect users with the world of information within the walls of the library and well beyond. Staff awareness and training increases the responsiveness of the personnel to patrons with special needs. Consider the librarian your guide to the world of information, a link to the world's knowledge. The library can be a community center for those who visit it in person or remotely. Call or visit your local library to see what services are offered that may enrich your life.

*Julie Triessl is Reference Librarian at the Cary Memorial Library in Lexington, Massachusetts and a member of the board of the Information Center.*

## Question & Answer

*Q:* The article on travel in the last issue was great but isn't there a travel agency in Massachusetts specializing in assisting people with disabilities?

*John, Boston, MA.*

*A:* Yes there is. The Center had a long history with a group of travel professionals in Massachusetts who have a wonderful record of arranging travel for people with disabilities. Unfortunately, at the time we wrote the article in the last issue we were not able to locate them. It turns out that they have changed their name but are still serving this market.

Access First Travel, based in

Malden, is wholly owned and operated by persons with disabilities. As a full-service travel agency they are able to assist consumers not only with airline, hotel, cruise, train and vacation reservations, but also with arranging for the rental of medical equipment and accessible transportation.

Access First Travel, 45A Pleasant Street, Malden, MA, (800) 557-2047, (781) 397-8610 (fax)  
[www.accessiblecruises.com](http://www.accessiblecruises.com).

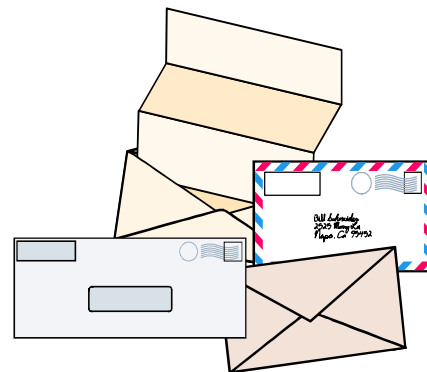
Tell them we sent you.

*Q:* **Do you know of an environmentally "safer" home in the Boston area?** Responsible and considerate woman would like to create a healthful, allergy-free home in a quiet neighborhood on the outskirts of the

Boston area. I'm an editor, writer, peer counselor, and disability activist with chemical sensitivities. If you have a home you would like to share or know of a suitable one- or two-bedroom apartment, please give me a call at (617) 522-7307.

*Linda, Jamicia Plain, MA*

*A:* Anyone interested? This one is up to our readers.



# Jobs and the ADA

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Most of us don't want to go to court to get a fair chance at a job. In fact, it is an undue burden on us to have to enforce the ADA through our complaints and legal actions, especially when many of us are short on the physical, emotional, and financial resources this effort involves. Yet some wonder why, eight years after the passage of the ADA and four years after even small employers became "covered entities," more of us are not working. After all, nearly 80% of persons with disabilities who were not working told the Harris poll in 1994 that they would prefer to be working, and almost half of those same people felt they would be able to work if a suitable job could be found. Yet figures from the Current Population Survey of the U.S. Census Bureau, the National Health Interview Survey, and Department of Labor statistics all show that the overall employment trend for persons with disabilities is flat, that is, employment has not really increased over the years 1990 through 1995, for which statistics are now available. (Although there is a small but significant increase in the period 1991-1994 for persons with severe functional limitations.) In fact, the Harris poll employment rate for persons with disabilities fell a little from 33% in 1986 to 31% in 1994. Only the optimists among us would argue that the statistics just have not yet caught up with what's happening in the marketplace.

Here are some interesting and disturbing factoids, drawn from information contained in *Disability Watch: The status of people with disabilities in the United States* (Volcano, CA: Volcano Press, 1997):

- ♦ The prevalence of disability in the United States has risen dramatically since the early 1970s, due to the aging of the population and to medical advances that save or prolong lives.
- ♦ Some 19 million working-age adults have some form of work limitation, more than half of whom feel they are unable to work (the percentage increased in the 1990-1994 period).
- ♦ Disability is most commonly caused by a hidden condition (mental, physical, or sensory) that may not be immediately apparent to a prospective employer.
- ♦ The Social Security Administration saw a 1.7 million person increase between 1990 and 1994 in the numbers of adults judged unable to work at any job or business and receiving disability benefits (SSDI and/or SSI).
- ♦ Of the nearly 17 million persons with work disabilities, 30% live below the poverty line.
- ♦ More than two thirds (67.9%) of persons with work disabilities are neither working nor actively looking for work.
- ♦ In 1995, employed persons with disabilities earned on average only about 72¢ for every \$1.00 of the annual wages of non-disabled persons.
- ♦ More than half of job accommodations cost employers less than \$500, while 17% cost absolutely nothing.
- ♦ More than 80% of employers in a 1995 Harris poll claimed to have made accommodations for workers with disabilities, and the same number said the ADA was worth it.

## What do we conclude?

What is the public to conclude from this failure of Title I? That disability benefits are better

than wages? That people don't really want to work? That jobs are not really open to us? That the ADA doesn't make a difference?

There can be no question that Social Security Disability Insurance (SSDI) benefits, even when augmented by Supplemental Security Income (SSI), are not large enough to provide a disincentive to work. There are Social Security options for making the transition to work without losing all supporting benefits.

The preference for work and the self respect that comes with it have been consistently voiced by persons with disabilities over the years in Harris polls and other surveys; properly understood, it is a sincere intention. (The Harris poll finding needs to be read as "**All things being equal**, we want to work." All things are **not** yet equal.)

The nation spends \$2.7 billion annually on a federal-state vocational rehabilitation system that aims at putting people back to work in appropriate jobs and helping workers remain at or return to work following a disability. The reasonable accommodations that the ADA requires employers to make are mostly low cost items. Those of us in the work force can feel the difference the ADA has made. We are seen as people with rights, not to be tread upon. Which is not to say that there isn't a long way to go for full employer awareness of our capabilities.

Last March President Clinton, recognizing the need for further progress, issued an Executive order to establish the National Task Force on Employment of Adults with Disabilities. He charged it to create a coordinated and aggressive national strategy to made equality of

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- Massachusetts Head Injury Association**
- Boston Living Center**
- Northern Lights Alternatives New England**
- Information Center for Individuals with Disabilities**
- Cornerstone for Life (Lynn, MA)**

## NON-PROFIT MANAGEMENT SERVICES

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## Advertisements Return to *Disability Issues*

After an absence of several issues, you will note to the left that advertisements are once again being run in *Disability Issues*.

Not only is this to add revenue to assist the Information Center in paying the cost of producing and mailing this newsletter, it is also our belief that ads can contain useful information for our readers.

It is frequently difficult to locate advertising for products and services of interest to the community of people with disabilities. These are the types of ads we want to provide in this space every issue.

If you want to reach a broad audience of individuals with disabilities, their families, friends, caregivers, and service providers by advertising in *Disability Issues* - contact Bruce Marquis at 617-267-0388 for rates and copy requirements.

Mr. Marquis has been good enough to get us started again.

The **Information Center for Individuals with Disabilities**, as you know, is attempting to reorganize our services. To be successful, we need your participation!

If we are to meet the need - we must raise about ninety thousand dollars. We also need to organize volunteer committees around the state to acquire information, do outreach, and raise money.

We are very grateful to those of you who have already responded. We ask those we have not heard from to send a contribution and commit to an exciting opportunity today.

**Yes, I want to be a part of the "Re-Birth" of the Information Center. [Address on Page 8]**

Please accept this donation of \$ \_\_\_\_\_. Please count on me as a volunteer. \_\_\_\_\_

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### **ADDRESS CORRECTION REQUESTED**

**IMPORTANT:** If you no longer read *Disability Issues*, please help us serve others. Write or call us to cancel this subscription.

## **Jobs and the ADA**

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opportunity, full participation, inclusion, and economic self-sufficiency a reality for all working age American with disabilities. The Attorney General, EEOC, and Small Business Administration were directed to increase awareness of Title I.

### **What you can do**

Finally, it is still up to you to claim your right to work. If you have Internet access, check out the many employer web sites with job postings, including the Commonwealth Employment Opportunities job postings for all kinds of state jobs; the URL is <http://www.state.ma.us/hrd/ceo>. If you don't have a home computer or computer skills, check out the facilities at your local library; most now have computers with Internet access, and you can usually get help using them, which has the bonus of making you more employable with those newly learned skills. If you need retraining, special

equipment, or help with job searching or placement, contact your local Massachusetts Rehabilitation Commission (MRC) office. MRC is also spearheading a special inter-agency Disability Employment Pilot Project to help persons with disabilities get, and succeed at jobs in Massachusetts state government; contact points are Joe Reale at MRC's State-wide Employment Services Department in Boston — (617) 204-3854, Voice; (617) 204-3834 (tty/tdd) — and Betty Dennis at the state's Human Resources Division, also in Boston — (617) 727-3777, ext 380.

For any prospective job, you'll want to ask about health insurance coverage; many entry level, part-time, and temporary jobs don't offer health insurance at all. Social Security has provisions for working on a trial basis without losing all your benefits, including your MassHealth (Medicaid); contact your local Social Security office to explore the possibilities. Since most private health insurance plans offered by employers don't cover

PCA/PAS (attendant care) costs, wheelchair batteries, wheelchair repairs, and certain other items many of us need, you may need CommonHealth as either primary or secondary (supplemental) coverage: the Massachusetts CommonHealth program allows working persons with disabilities (and parents of special needs children) to "buy into" Medicaid coverage and get a MassHealth card by paying monthly premiums based on a sliding scale according to income. You can get information on CommonHealth from the Division of Medical Assistance's MassHealth Enrollment Center: (800) 322-1448.

*Ray Glazier, a wheelchair user with multiple disabilities, is a founding Trustee of the Information Center and Manager of the Abt Associates Center for the Advancement of Rehabilitation and Disability Services in Cambridge, MA. For four years he directed Abt's contract to coordinate, for the U.S. Department of Education, their national ADA Technical Assistance Initiative.*