



AIRMAIL

ALABAMA DISABILITIES ADVOCACY PROGRAM VOL. 4, ISSUE 1 FEBRUARY 1999

THE UNIVERSITY OF ALABAMA SCHOOL OF LAW CLINICAL PROGRAMS

David Gamble can be contacted about Medicaid coverage at : 1-800-826-1675

Alabama PASS Specialist or Gordon Richmond can be contacted at: 1-800-254-9489

New Housing Vouchers available. Check out the website www.hud.gov

Holiday Inn Hotels have established a mediation program. See story on page 3.

New edition of "The ABCs of IEPs" now available from ADAP.

12 steps in preparing for your child's IEP meeting on page 5.

MEDICAID EXPANDS COVERAGE TO INCLUDE SPEECH AUGMENTATION DEVICES

Dan Filler, Assistant Professor, Disability Law Clinic

Settling a Federal lawsuit filed in Montgomery, the Alabama Medicaid Agency has agreed to fund augmentative communications devices—equipment that helps individuals overcome severe expressive speech-language impairments—for its recipients.

This important expansion of Medicaid coverage resulted from a lawsuit, *Brown v. James*, filed by Alabama Disabilities Advocacy Program (ADAP), the Southern Poverty Law Center, and attorney Lew Golinker. The suit involved a six-year-old Birmingham girl, Danielle Brown, whose motor speech disorder prevents her from articulating sounds that form words and whose developmental delay prevents her from using sign language. Her mother, Rebecca, sought coverage for a device—in essence, a specialized computer—which would permit Danielle to communicate effectively and participate more fully in day to day activities.

While Medicaid initially sought to dismiss the suit, the plaintiff maintained that Federal law required coverage of Danielle's device. Indeed, Danielle's speech-language pathologist made it clear that the item was a medical necessity. In order to ensure system wide changes, the suit was filed as a class action.

Under intense litigation pressure, Medicaid began to develop policies that complied with Federal law. Finally, in December, the Court approved a settlement in which Medicaid agreed to provide broad coverage of these devices to eligible individuals.

Medicaid recipients who require these augmentative communication devices should

contact a speech-language pathologist promptly. Alabama Medicaid will not fund this technology unless an individual obtains appropriate evaluations and a prescription; the evaluation itself is covered by Medicaid.

Because the settlement provides for a one-year monitoring period to insure proper implementation, individuals who believe they were wrongly denied coverage under this new policy should promptly contact David Gamble at ADAP.

The settlement includes the following terms:

- ❖ Augmentative Communications Devices are fully covered for Medicaid clients when necessary "to overcome or ameliorate severe expressive speech-language impairments/limitations due to medical conditions in which speech is not expected to be restored." These impairments include (but are not limited to): aphraxia of speech, dysarthria and cognitive communication disabilities.
- ❖ Candidates must provide Medicaid with an evaluation performed by qualified interdisciplinary professionals, including a speech-language pathologist.
- ❖ All requests require prior authorization by Medicaid.
- ❖ Trial use and rentals of such equipment are authorized.

GEORGIA URGING U.S. SUPREME COURT TO STRIKE DOWN ADA INTEGRATION RULE

James Tucker, Associate Program Director, and Patrick Hackney, Staff Attorney

Late last year, Alabama joined Florida and approximately 20 other states to file a friend-of-the-court brief urging the United States Supreme Court to hear an important ADA case. If the Supreme Court were to reverse the lower court opinion in the Georgia case, protections available through the ADA to persons with disabilities would be severely curtailed. Within the last month several states, including Alabama, have reconsidered their participation and have backed out of the effort. Nevertheless, the case remains pending at the Supreme Court. However it is decided, the case will have landmark implications for persons with disabilities who live in institutions and for the ADA generally.

U.S. Supreme Court Will Decide Whether States Are Required to Provide Community-Based Programs Under the ADA

This summer, the Supreme Court of the United States will decide whether the Americans with Disabilities Act (ADA) requires state officials to place persons with mental disabilities in community-based programs

whenever possible rather than in mental hospitals or other institutions. The case, brought under the ADA on behalf of two people with mental retardation, will determine whether states must move people from institutions into appropriate community settings that are more integrated. The rulings in the case could be applied to all people with disabilities, whether in institutional or community settings. In *L.C. and E.W. v. Olmstead*, the Eleventh Cir-

cuit held the State of Georgia engaged in prohibited disability-based discrimination, in violation of the ADA's "integration mandate," by confining two psychiatric patients in the segregated setting of the psychiatric hospital, rather than placing them in an appropriate community-based program.

The Supreme Court will be reviewing the integration mandate, which was established by the Department of Justice's (DOJ) regulations to implement Title II of the ADA. The regulations require a public entity, including a state government, to ensure that its services and programs are provided and administered in the most integrated setting appropriate to meet the needs of qualified individuals with disabilities. In other words, states under the federal regulations are required to provide services in a community-based setting when appropriate.

The *L.C.* case stems from the claims of two women with mental retardation (*L.C.* and *E.W.*) who also have mental illness. The State of Georgia provided services to them in a state mental institution, segregated from the community. The women claimed that Georgia unnecessarily

ALABAMA DISABILITIES ADVOCACY PROGRAM (ADAP)

ADAP is a statewide, independent program established to protect the rights of persons with disabilities ranging from developmental disabilities, manifesting themselves in childhood, to mental illness.

Director of the Law Clinic and Assistant Professor of Law	Scott Hughes
Assistant Professor of Law	Dan Filler
Program Director	Reuben W. Cook
Associate Program Director	James Tucker
Director of Advocacy	David Prince
Coordinator of Outreach and Training	Ann Marshall

Staff Attorney	Paul J. Dezenberg
Staff Attorney	Barbara Lawrence
Staff Attorney	Patrick Hackney
Staff Attorney	Rozalind Smith
Staff Attorney	Lauren Wilson-Carr
Information Specialist	Segail I. Friedman

Case Advocate	Kristi Babb
Case Advocate	David Gamble
Case Advocate	Denise Smith
Case Advocate	Arangel Wells
Administrative Secretary	Janet Owens
Office Assistant	Susan Tretter
Data Technician	Rosemary Beck

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication. Inquiries may be sent to Segail I. Friedman, Information Specialist, at the address printed below.

Airmail is published by Alabama Disabilities Advocacy Program (ADAP), The University of Alabama School of Law Clinical Programs, Box 870395, Tuscaloosa, AL 35487-0395, (205)348-4928, FAX (205)348-3909, TDD (205)348-9484. e-mail: ADAP@law.ua.edu
Website address: <http://www.adap.net>

Continued on page 4

On Point

Scott H. Hughes
Director of Clinical Education
& Assistant Professor

Hot off the presses! ADAP's Disability Clinic is featured in the latest issue, January 1999, of *The National Jurist*, "Clinics that are Making a Difference." The magazine is distributed to all students in the nation's law schools. ADAP, along with two other law school clinics, take center stage in this article which touts the value of clinical education. In addition to the value of clinics for law students, clinics achieve great things for folks that otherwise would not be able to obtain legal representation.

Our portion of the article tells the story of six year old Danielle Brown and ADAP's help in obtaining an augmentative communication device which does the talking for her. When the Alabama Medicaid Agency refused to supply the device, Rebecca Brown sought the help of ADAP for her daughter. With the able assistance of clinic students, ADAP sued the state to force it to purchase the device. Not only has Danielle gotten help, but also the policy has been changed so that other children like Danielle will not have to go speechless anymore. [Please see "Medicaid

Expands Coverage" on page 1 in this issue of *Airmail*.]

Clinic students who took part in the lawsuit were Frank Hollifield, Alicia Lee, and Tommy Turner. The lawsuit was spearheaded by Attorney Dan Filler, Assistant Professor, Disability Law Clinic; Paul Dezenberg, Staff Attorney; and David Gamble, Case Advocate. I am very proud of our students who worked on the case and the guidance provided by our staff.



(l-r) Prof. Dan Filler, students Alicia Lee, Frank Hollifield, case advocate David Gamble, staff attorney Paul Dezenberg, and student Tommy Turner.

One last note before I close. ADAP's stature in the legal community must be on the upswing. Just in the last couple of months, we have received several unsolicited inquiries from attorneys interested in coming to work at ADAP! The word is getting out.

Holiday Inn Hotels to Establish Nationwide Mediation Program

The owner of the Holiday Inn and Crowne Plaza chain of hotels will make it easier for guests with disabilities to get a room and will set up a system to mediate access-related complaints, under two agreements reached [December 16, 1998] with the Justice Dept.

The first agreement, with Bass Hotels & Resorts (BHR), is the Justice Dept's first settlement under the ADA that established a nationwide mediation program to address future complaints. BHR will pay for the mediation program, but it may be used by all the nearly 20,000 domestic BHR owned or licensed hotels, including franchised hotels.

The second agreement resolves complaints alleging the chain's central reservation system refused to guarantee reservations for accessible rooms or, sometimes, provided designated accessible rooms that were not accessible. For more information, call DOJ's ADA Information line at 800-514-0301 or 800-514-0383 (TTY) or website <http://www.usdob.gov/crt/ada/adahom1.htm>.

Continued from page 2

institutionalized and segregated them in a mental hospital rather than placing them in an appropriate integrated community setting in violation of the Americans with Disabilities Act. The District Court ruled in favor of L.C. and E.W. and the Eleventh Circuit Court of Appeals (which includes Alabama) affirmed the decision in favor of the two women.

The appellate court then sent the case back to the trial court for

a determination as to whether providing integrated community services to the two women would fundamentally alter the services Georgia provides.

States such as Georgia and others have presented two main arguments for continuing their practice of placing individuals with disabilities in segregated settings. First, the states argue that Title II of the ADA does not protect individuals with disabilities who receive public services designated only for individuals with disabilities, thus suggesting a two-tier level of ADA protection – one tier available to persons not in institutions and a second (lower) tier of protection for persons in institutions. So far, the courts have rejected this argument finding overwhelming authority to support L.C. and E.W.'s position. Title II of the ADA prohibits discrimination against individuals with disabilities in the provision of public services by state and local governments. Under the implementing regulations to Title II, "a public entity shall administer services, programs, and activities in the most integrated setting appropriate to meet the needs of qualified individuals with disabilities." 28 C.F.R. §35.130(d). Accord-

ing to the court, there can be little question that the plain language of the implementing regulations "prohibits a state from providing services to individuals with disabilities in an unnecessarily segregated setting." *L.C. and E.W.*, 138 F.3d at 897. "Placement in the community provides an integrated treatment setting, allowing [individuals with disabilities] to in-

According to the court, there can be little question that the plain language of the implementing regulations "prohibits a state from providing services to individuals with disabilities in an unnecessarily segregated setting."

teract with non-disabled persons — an opportunity permitted only in limited circumstances within the walls of segregated state institutions." *Id.*

States have also argued that providing services in the most integrated setting would be a fundamental alteration to their programs. The states claim they would have to transfer funds between institutional and community-based treatment programs and that they lack the funds to provide community-based services. This claim, however, was rejected by the trial court which found Georgia could provide ADA community-based services at less cost than providing institutional care. The Eleventh Circuit remanded the case to the trial court on this issue but noted inadequate state appropriations does not excuse non-compliance with federal law. According to the Eleventh Circuit, the ADA does not permit the State to justify its discriminatory treatment of individuals with disabilities on the grounds that providing non-discriminatory treatment will require additional expenditures of state funds.

According to the brief filed by the states, the appeals court rationale, if used elsewhere, would make any state

a target for this type of lawsuit. "If applied elsewhere, the Eleventh Circuit's interpretation of the ADA and the Integration Rule will necessarily affect the manner in which services are provided to individuals with disabilities in any group setting."

States supporting Georgia's brief fear just such an outcome. They seek to preserve in the Supreme Court their ability to maintain persons with disabilities in segregated institutional settings, despite ADA requirements to the contrary. If they succeed, persons with disabilities will continue to be served in settings that are both more restrictive and more costly than necessary. Such is the logic of the effort being made by Georgia and other states in the United States Supreme Court. Such logic speaks for itself.

More websites to visit . . .

A CIVIL RIGHTS DIRECTORY
http://www.usccr.gov/crd/cd_main.htm

BRaille THROUGH REMOTE LEARNING
<http://www.shodor.org/braille>

NATIONAL EMPLOYMENT WEBSITES
DESIGNED TO LINK PEOPLE WITH
DISABILITIES WITH JOBS from Roffee-
Margaret@pcepd.gov
<http://www.pcepd.gov>
<http://www.ssa.gov>
<http://www.jobaccess.org>
<http://www.business-disability.com>

INFORMATION ON HOW TO FILE AN ADA
DOJ COMPLAINT
<http://www.advocacyinc.org/243.htm>

ACCESSIBLE HOUSING, INC.
<http://www.accessrehab.com>

NATIONAL COUNCIL ON DISABILITY
<http://www.ncd.gov>

AZTECH-A TO Z ASSISTIVE TECHNOLOGY
<http://cosmos.ot.buffalo.edu>

Plan to Achieve Self- Support

A Bridge to Independence

Gordon Richmond, Presidential Management Intern with the Social Security Administration.

There is an innovative and largely self-directed way for people with disabilities to further their independence. Under a work incentive program of the Social Security Administration (SSA), people who receive Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) can file a Plan for Achieving Self-Support (PASS) to assist them in returning to work or finding their first job.

A PASS details the steps an individual will take, and the expenses he or she will incur, in order to reach a specific occupational goal in employment or self-employment. It can involve such things as education, training, supported-employment services, the purchase of equipment or tools, and transportation.

Income and resources the individual uses for approved PASS expenses (or sets aside and later uses for them) are excluded when SSA determines SSI eligibility and payment amount. This exclusion can permit eligibility for SSI, which generally also results in eligibility for Medicaid. If the person already is eligible for SSI, the exclusion permits a higher SSI payment than the person's income would otherwise allow. If earnings later replace SSI benefits, the individual usually can retain

Medicaid coverage for as long as it is financially needed.

"The PASS work incentives are the most underutilized of the Social Security Administration's Work Incentive Programs," explained Susan Daniels, Deputy Commissioner for Disability and Income Security Programs, Social Security Administration. "Yet, a properly written PASS can be an effective tool to gain entry into today's workforce."

An example of how a PASS works is Joan Q. Public, a fictional SSI recipient, who gets her first job at an insurance office as an Office Clerk. She will work 20 hours per week, and requires a Job Coach to assist her at the workplace until she becomes familiar with her new duties. Joan files a PASS at her local Social Security Office saying that her goal is to work 40 hours per week without assistance from a Job Coach. The expense of her Plan is paying her Job Coach. She will fund her Plan with the earnings of her part-time job.

Once the local Social Security Office receives Joan's PASS, they

Gordon Richmond, is currently performing a four-month rotation in the PASS Cadre at Social Security Administration's Southeastern Program Service Center located in Birmingham, Alabama.

Gordon received his graduate degree in Public Health with a concentration in Health Policy from the University of Alabama at Birmingham and worked as a Research Fellow at the National Rehabilitation Hospital Research Center in Washington, DC. Gordon has served on various Boards of Directors of agencies which serve people with disabilities including the Governmental Activities and Advocacy Committee of United Cerebral Palsy Association. He has received numerous awards and honors, which include the United Cerebral Palsy Association's Arthur Rubloff Memorial Award (individual with disabilities who has overcome the physical problems of his/her disability and demonstrated leadership and achievement of such caliber as to be a significant role model to individuals with and without disabilities).

Continued on page 7

Preparing for Your Child's IEP Meeting

Although parents may often feel that they have little to contribute in an IEP meeting and may see themselves as "amateurs" and school personnel as "professionals," parents can and should play a vital role in writing their child's educational program. Listed below are 12 suggestions which will help parents make a positive contribution to their child's IEP meeting.

1. Keep a file or notebook on your child's educational history. Things to include:
 - a. names, addresses, and phone numbers of persons you contact regarding your child, dates of visits and phone calls, and subjects discussed;
 - b. copies of letters you write and receive regarding your child;
 - c. copies of IEPs and other school records;
 - d. copies of tests and evaluations done by the school and private evaluators.
2. Visit your child's classroom and observe your child in the school setting.
3. Make a list of things you would like to see in your child's IEP. Include:
 - a. skills you would like to see your child learn;
 - b. behaviors you would like to see improve.

4. Make a list of things you observe about your child at home: interests, likes and dislikes, responsibilities, interaction with brothers and sisters. Write down any concerns you have about the way your child acts at home that can be worked on at school.

5. Ask your child how he/she feels about his/her educational program and what he/she would like to see changed.

6. Make a list of questions you want to ask school personnel about your child's program.

7. Obtain a copy of your child's educational rights and your rights as a parent and study them. Copies of your rights can be obtained from the school. ADAP has materials on education rights available on request. You can also obtain materials on your rights from consumer and parent groups such as the ARC, United Cerebral Palsy, the National Society for Autistic Children, SEAC, and other groups.

8. Talk to other parents who are knowledgeable about special education and parental rights. You may want to ask someone to accompany you to the IEP meeting if that would make you more comfortable and confident.

9. Review your child's current or last IEP and see whether objectives are being met.
10. Gather any records you do not have from the school and professionals who have worked with your child. Examine the school's records on your child to make sure there are no inaccuracies and get copies of any records you need to prepare for the IEP.

11. Prior to the IEP meeting be sure to request and obtain public and/or private evaluations in each area in which you feel your child needs help, e.g., speech, occupational therapy, physical therapy, etc.
12. Analyze the recommendations made on evaluations of your child and make sure those recommendations are reflected in the services provided to your child in the IEP.

To receive the complete text of ADAP's new *The ABCs of IEPs* contact ADAP at any of the numbers or methods listed on page 2.

EMPLOYMENT ASSISTANCE

Compiled by Ann Marshall, Coordinator of Outreach and Training

JOB ACCOMMODATION NETWORK (JAN)

The Job Accommodation Network is an international non-profit consulting service that provides accommodation solutions to rehabilitation professionals, employers and people with disabilities. It is part of the President's Committee on Employment of People with Disabilities. JAN was formed according to the basic concept that people with disabilities are just as capable in the workplace as those who are not disabled. Those with disabilities, as well as employers wishing to accommodate the disabled, can reach a JAN Human Factors Consultant through a toll-free number, 800-526-7234. The consultant gathers information on the functional abilities of the disabled person and how they relate to job tasks. Each request is reviewed on an individual basis and every detail of the situation is considered by the consultant. With this information, JAN consultants can then provide possible accommodation solutions.

MULTIMEDIA PACKAGE PROVIDES INFORMATION ON EMPLOYMENT
The Social Security Administration has an information package for those who work with young people with disabilities. Called "Graduating to Independence," the materials aim to help parents, teachers, counselors, and others who assist young people with disabilities. The multimedia package, including written materials, two computer software disks and a video, is distributed to special education teachers and administrators, advocacy organizations and Social Security offices.

The package provides information on how Social Security and Supplemental Security Income (SSI) can help young people with disabilities achieve their employment goals.

Parents, teachers or organizations can order the kit by contacting Graduating to Independence, Social Security Administration, 545 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235.

PROJECT ABLE ASSISTS IN FINDING JOBS

Project "Able Beneficiaries' Link to Employers" (ABLE) is a national resume bank of people with disabilities who are ready, willing and very interested in working. It is a tool for employers who wish to tap a largely underutilized segment of the labor pool and recruit skilled candidates while maintaining a diverse workforce.

According to the President's Committee on Employment of People with Disabilities, studies show that people with disabilities perform as well as employees without disabilities. The studies also show the cost of employer-provided insurance is unaffected and the cost of job accommodation is minimal.

Social Security beneficiaries who wish to enroll should contact their local vocational rehabilitation agency. Employers can initiate the process using the following options: telephone 757-441-3362, fax 757-441-3375 or e-mail at projobable@opm.gov. Website on Project ABLE is <http://www.ssa.gov/odhome/odderp/>.

Continued from page 6

immediately send it to a PASS Specialist. The PASS Specialist reviews the Plan, requests any additional information that is needed, discusses possible modifications, and makes a decision on the Plan. In the example, if the PASS Specialist approves Joan's PASS, the money that she uses from her part-time job to pay her job Coach will not affect her SSI check.

In most cases, the PASS Specialist calls the PASS participant about every three months to see how the PASS is progressing, whether it needs to be modified, and whether he or she can assist the individual. Periodically, the PASS Specialist will ask for documentation that funds have been set aside or spent as approved for the PASS. The PASS exclusions stop when the individual completes the Plan or stops following it. Noncompliance with the terms of a PASS can result in an overpayment of SSI benefits.

Who can benefit from a PASS? Almost any SSDI or SSI disability recipient who wants to work and who has income or resources which, if excluded under the PASS program, could be used to pursue the individual's occupational goal.

For additional information about PASS or any of the Social Security Administration's work incentives programs, visit your local Social Security Office or call 1-(800)772-1213. Also, you can visit our web site at <http://www.ssa.gov/odhome/odderp/>.

NEW HOUSING VOUCHERS FOR PEOPLE WITH DISABILITIES AND SENIOR CITIZENS

Ann Marshall
Coordinator of Outreach and Training

An estimated 17,000 low-income people with disabilities will share nearly \$130 million in new federal housing vouchers to help pay the rent. In late November, President Clinton released the money in new Section 8 vouchers to assist persons with disabilities to pay for housing.

The money from the Department of Housing and Urban Development (HUD) will be distributed through local housing authorities in more than 200 communities. The vouchers given to individuals are meant to subsidize rents in the private marketplace so that people with disabilities with low incomes do not spend more than 30 percent of their income in rent. "Americans should never have to choose between putting a meal on the table or putting a roof over their heads," Clinton said in announcing the grants.

To qualify for the housing aid, applicants must be classified as "very low income," meaning a household with an income of less than 50 percent of the area median. On a national level, this amounts to an income of less than \$8,000 a year, according to HUD.

HUD Secretary Andrew Cuomo also announced in late 1998 nearly \$696 million in grants to nonprofit groups. This grant creates 8,100 subsidized apartments for some 12,000 low-income senior citizens and people with disabilities. Grantees are the YMCA, Salvation Army, B'nai B'rith, Goodwill and Catholic Charities among others.

HUD has posted information on the amount of new housing funding given to each state: www.hud.gov.

Airmail is funded 100% with federal funds through: • Administration on Developmental Disabilities (PADD)
• Center for Mental Health Services (PAIMI) • U.S. Department of Education/Rehabilitation Services (PAIR).

Alabama Disabilities Advocacy Program
The University of Alabama
School of Law Clinical Programs
Box 870395
Tuscaloosa, AL 35487-0395

Non-Profit Organization
U.S. Postage Paid
Permit No. 16
Tuscaloosa, AL 35401

In this issue:



Medicaid Expands Coverage to Include Speech Augmentation Devices	Page 1
Georgia Urging U.S. Supreme Court to Strike Down ADA Integration Rule	Page 2
On Point	Page 3
Holiday Inn Hotels to Establish Nationwide Mediation Program	Page 3
Preparing for Your Child's IEP Meeting	Page 5
PASS: A Bridge to Independence	Page 6
Employment Assistance	Page 7
New Housing Vouchers for People with Disabilities and Senior Citizens	Page 8



AIRMAIL

ALABAMA DISABILITIES ADVOCACY PROGRAM VOL. 4, ISSUE 2 APRIL 1999

THE UNIVERSITY OF ALABAMA SCHOOL OF LAW CLINICAL PROGRAMS

IDEA REGULATIONS

PROMOTE REGULAR CLASS INCLUSION

Long awaited regulations for the Individuals with Disabilities Education Act (IDEA) were released as Airmail went to press.

ADAP will have articles regarding the regulations this year. The Q&A Section of the Federal Register (Appendix A) has 40 questions and answers on IDEA.

Following is Question One regarding inclusion in the general curriculum.

Complete text is on web site:

www.wrightslaw.com

QUESTION ONE:

1. What are the major Part B IEP requirements that govern the involvement and progress of children with disabilities in the general curriculum?

PRESENT LEVELS OF EDUCATIONAL PERFORMANCE

Section 300.347(a)(1) requires that the IEP for each child with a disability include "a statement of the child's present levels of educational performance, including—

- (i) how the child's disability affects the child's involvement and progress in the general curriculum; or
- (ii) for preschool children, as appropriate, how the child's disability affects the child's participation in appropriate activities." ("Appropriate activities" in this context refers to age-relevant developmental abilities or milestones that typically developing children of the same age would be performing or would have achieved.)

The IEP team's determination of how each child's disability affects the child's involvement and progress in the general curriculum is a primary consideration in the development of the child's IEP. In assessing children with disabilities, school districts may use a variety of assessment techniques to determine the extent to which these children can be involved and progress in the general curriculum, such as criterion-referenced tests, standard achievement tests, diagnostic tests, other tests, or any combination of the above.

The purpose of using these assessments is to determine the child's present levels of educational performance and areas of need arising from the child's disability so that approaches for ensuring the child's involvement and progress in the general curriculum and any needed adaptations or modifications to that curriculum can be identified.

MEASURABLE ANNUAL GOALS, INCLUDING BENCHMARKS OR SHORT-TERM OBJECTIVES

Measurable annual goals, including benchmarks or short-term objectives, are critical to the strategic planning process used to develop and implement the IEP for each child with a disability. Once the IEP team has developed measurable annual goals for a child, the team:

Continued on page 4

Fix it now

State center for the mentally retarded has atrocious record

The following is an editorial that appeared in the Wednesday, March 3, 1999 edition of *The Birmingham News*.

In 1998, even as a state center for the mentally retarded in Decatur was under the gun for its atrocious safety record:

One patient drowned after being left in a bathtub unattended.

Another, after being left sitting in a chair for 10 hours, was found to be critically ill and suffering from a head injury (though, because of his paticular problem, he was supposed to wear a helmet at all times). He died.

Another died of massive internal injuries after being beaten, and a staff member was charged in connection with it.

Another suffered a "crushed testicle" in a severe beating by a staff member.

And last month a staff member was charged with sexually assaulting a female resident on Valentine's Day.

But those are just the major incidents. There are also numerous complaints about patients with a long series of unexplained injuries, such as patients with bite marks on their necks and backs.

One shudders to think what might go on when state and federal officials aren't keeping watch.

No one should have had to run to federal court to ask that something this sick be remedied. Problems at the Lurleen B. Wallace Developmental Center should have been taken care of long before now by a compassionate state. That they weren't is a disgrace to the citizens of Alabama.

ALABAMA DISABILITIES ADVOCACY PROGRAM (ADAP)

ADAP is a statewide, independent program established to protect the rights of persons with disabilities ranging from developmental disabilities, manifesting themselves in childhood, to mental illness.

Director of the Law Clinic and Assistant Professor of Law	Scott Hughes
Assistant Professor of Law	Dan Filler
Program Director	Reuben W. Cook
Associate Program Director	James Tucker
Director of Advocacy	David Prince
Coordinator of Outreach and Training	Ann Marshall

Staff Attorney	Paul J. Dezenberg
Staff Attorney	Barbara Lawrence
Staff Attorney	Patrick Hackney
Staff Attorney	Rozalind Smith
Staff Attorney	Lauren Wilson-Carr
Information Specialist	Segail I. Friedman

Case Advocate	Kristi Babb
Case Advocate	David Gamble
Case Advocate	Denise Smith
Case Advocate	Arngene Wells
Administrative Secretary	Janet Owens
Office Assistant	Susan Tretter
Data Technician	Rosemary Beck

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication. Inquiries may be sent to Segail I. Friedman, Information Specialist, at the address printed below.

Airmail is published by Alabama Disabilities Advocacy Program (ADAP), The University of Alabama School of Law Clinical Programs, Box 870395, Tuscaloosa, AL 35487-0395, (205)348-4928, FAX (205)348-3909, TDD (205)348-9484, e-mail: ADAP@law.ua.edu
Website address: <http://www.adap.net>

But the problems haven't been eliminated. Attorneys representing mentally retarded citizens are absolutely right to ask a federal court to intervene, as they did Monday [March 1, 1999].

Part of the problem is that the center has been caught up in gubernatorial politics. The James administration announced plans to close it last year. But several local legislators, fearful of losing a facility that employs 100, protested. So did relatives of some of the patients served there, the center being the only one of its kind in North Alabama.

Gov. Don Siegelman's administration canceled the closing, at least long enough to undertake a review of all mental health operations.

Yet he doesn't have the luxury of time. Something must be done now. Right now. Before some other appalling statistic is recorded.

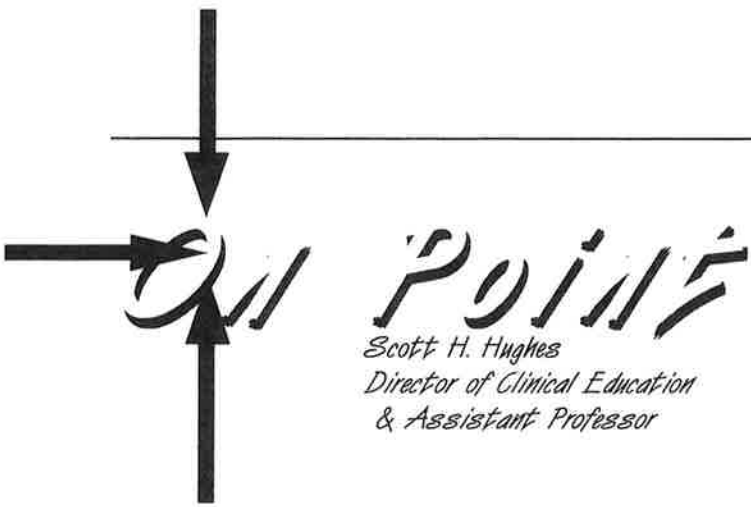
Attorneys for the Alabama Disabilities Advocacy Program in Tuscaloosa want a federal judge to hold state officials in contempt of a 1997 order for improvements at the Decatur center and fine them \$10,000 a day for each day they continue out of compliance.

They also ask that he stop any more patients from entering the center and appoint someone from outside the department to try to improve patient safety there.

Putting an outsider in charge is clearly warranted.

Over the past several years the state has proved that either it cannot or will not make this center safe for our most vulnerable residents.

As unfortunately has been the case so often in Alabama's past, a federal judge must now substitute a court order in the place of simple, human decency.



This will be my last column for AIRMAIL since I have accepted a teaching position at the University of New Mexico School of Law starting this fall. When I decided to change careers and started my quest for a full time teaching position more than six years ago, it was negotiation, mediation, and other forms of alternative dispute resolution which provided the impetus. My work with distressed farmers and abused spouses while in private practice led me to believe strongly that we needed to do much more to develop and implement alternatives to the usual adversarial and often combative way of doing business. Then, in 1996 while teaching at Thomas M. Cooley Law School, I was invited into the Elderlaw Clinic which led to my current position as Assistant Professor and Director of Clinical Legal Education here at The University of Alabama School of Law. Over the past two years I have been able to direct the clinics while continuing to explore my interests in Alternative Dispute Resolution (ADR). This new post at New Mexico will allow me to teach ADR full time, both in the clinic and in the classroom, at an institution with a strong reputation in this field.

I will also be able to devote more time to my family. Although, I have enjoyed my work in the clinics immensely, I have found that the work load has extracted too high a cost in terms of my family, to the expense of my beautiful spouse, Peggy, and my two wonderful daughters, Kira and Torrie. Over the last year I have begun to sense that my girls' childhood is slipping away from me at an alarming rate. I intend to correct that before it is too late. Finally, Albuquerque will provide a healthier climate for Kira, who has asthma.

However, I do leave with many regrets, a tremendous amount of respect, and a deep sense of affection for the entire staff at ADAP. My principal goal over the past two years has been to motivate and invigorate everyone connected with ADAP so that it could more completely fulfill its mission to individuals with disabilities in Alabama and to provide an inviting and exciting place to work for all of the employees. At least to some small measure, I hope that we have been able to accomplish these tasks.

My very best to all of ADAP's constituency and to those that hold the needs of individuals with disabilities near to their hearts. Good luck and God bless.

Coming Attraction

Special Education in Alabama: A Right Not a Favor, the popular free book ADAP publishes, is in the final stages of preparation. Currently it is being read—one last time—before going to the printers. This is a totally new, improved, revised, and revitalized publication. A lot of people have had input into its publication and we hope you will like it and find it very informative. Tentative delivery date is first week of May 1999.

- (1) can develop strategies that will be most effective in realizing those goals and
- (2) must develop either measurable, intermediate steps (short-term objectives) or major milestones (benchmarks) that will enable parents, students, and educators to monitor progress during the year, and, if appropriate, to revise the IEP consistent with the student's instructional needs.

The strong emphasis in Part B on linking the educational program of children with disabilities to the general curriculum is reflected in Sec. 300.347(a)(2), which requires that the IEP include: a statement of measurable annual goals, including benchmarks or short-term objectives, related to—

- (i) meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum; and
- (ii) meeting each of the child's other educational needs that result from the child's disability.

As noted above, each annual goal must include either short-term objectives or benchmarks. The purpose of both is to enable a child's teacher(s), parents, and others involved in developing and implementing the child's IEP to gauge, at intermediate times during the year, how well the child is progressing toward achievement of the annual goal. IEP teams may continue to develop short-term instructional objectives that generally break the skills described in the annual goal down into discrete components. The revised statute and regulations also provide that, as an alternative, IEP teams may develop benchmarks which can be thought of as describing the amount of progress the child is expected to make within specified segments of the year. Generally, benchmarks establish expected performance levels that allow for regular checks of progress that coincide with the reporting periods for informing parents of their child's progress toward achieving the annual goals. An IEP team may use either short term objectives or benchmarks or a combination of the two depending on the nature of the annual goals and the needs of the child.

SPECIAL EDUCATION AND RELATED SERVICES AND SUPPLEMENTARY AIDS AND SERVICES

The requirements regarding services provided to address a child's present levels of educational performance and to make progress toward the identified goals reinforce the emphasis on progress in the general curriculum, as well as maximizing the extent to which children with disabilities are educated with nondisabled children. Section 300.347(a)(3) requires that the IEP include: a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

- (i) to advance appropriately toward attaining the annual goals;
- (ii) to be involved in and progress in the general curriculum *and to participate in extracurricular and other nonacademic activities; and*
- (iii) *to be educated and participate with other children with disabilities and nondisabled children in [extracurricular and other non-academic activities]* [Italics added.]

EXTENT TO WHICH CHILD WILL PARTICIPATE WITH NONDISABLED CHILDREN

Section 300.347(a)(4) requires that each child's IEP include "An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in [extracurricular and other non-academic] activities." This is consistent with the least restrictive environment (LRE) provisions at Secs. 300.550-300.553, which include requirements that:

- (1) each child with a disability be educated with nondisabled children to the maximum extent appropriate (Sec. 300.550(b)(1));
- (2) each child with a disability be removed from the regular educational environment only when the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (Sec. 300.550(b)(1)); and
- (3) to the maximum extent appropriate to the child's needs, each child with a disability participates with nondisabled children in nonacademic and extracurricular services and activities (Sec. 300.553).

All services and educational placements under Part B must be individually determined in light of each child's unique abilities and needs to reasonably promote the child's educational success. Placing children with disabilities in this manner should enable each disabled child to meet high expectations in the future.

Although Part B requires that a child with a disability not be removed from the regular educational environment if the child's education can be achieved satisfactorily in regular classes with the use of supplementary aids and services, Part B's LRE principle is intended to ensure that a child with a disability is served in a setting where the child can be educated successfully.

Even though IDEA does not mandate regular class placement for every disabled student, IDEA presumes that the first placement option considered for each disabled student by the student's placement team, which must include the parent, is the school the child would attend if not disabled, with appropriate supplementary aids and services to facilitate such placement. Thus, before a disabled child can be placed outside of the regular educational environment, the full range of supplementary aids and services that if provided would facilitate the student's placement in the regular classroom setting must be considered.

Following that consideration, if a determination is made that a particular disabled student cannot be educated satisfactorily in the regular educational environment, even with the provision of appropriate supplementary aids and services, that student then could be placed in a setting other than the regular classroom. Later, if it becomes apparent that the child's IEP can be carried out in a less restrictive setting, with the provision of appropriate supplementary aids and services, if needed, Part B would require that the child's placement be changed from the more restrictive setting to a less restrictive setting. In all cases, placement decisions must be individually determined on the basis of each child's abilities and needs, and not solely on factors such as category of disability, significance of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience. Rather, each student's IEP forms the basis for the placement decision.

Further, a student need not fail in the regular classroom before another placement can be considered. Conversely, IDEA does not require that a student demonstrate

achievement of a specific performance level as a prerequisite for placement into a regular classroom.

PARTICIPATION IN STATE OR DISTRICT-WIDE ASSESSMENTS OF STUDENT ACHIEVEMENT

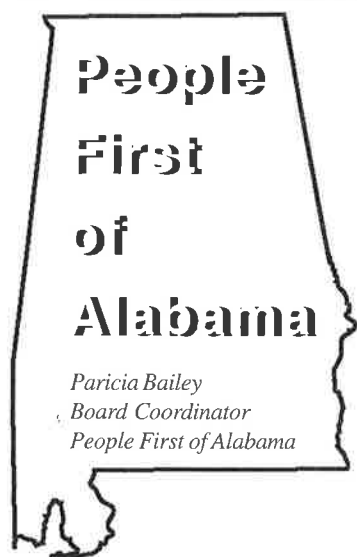
Consistent with Sec. 300.138(a), which sets forth a presumption that children with disabilities will be included in general State and district-wide assessment programs, and provided with appropriate accommodations if necessary, Sec. 300.347(a)(5) requires that the IEP for each student with a disability include:

- (i) a statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment; and
- (ii) if the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment of student achievement), a statement of— (A) Why that assessment is not appropriate for the child; and (B) How the child will be assessed.

REGULAR EDUCATION TEACHER PARTICIPATION IN THE DEVELOPMENT, REVIEW, AND REVISION OF IEPs

Very often, regular education teachers play a central role in the education of children with disabilities (H. Rep. No. 105-95, p. 103 (1997); S. Rep. No. 105-17, p. 23 (1997)) and have important expertise regarding the general curriculum and the general education environment. Further, with the emphasis on involvement and progress in the general curriculum added by the IDEA Amendments of 1997, regular education teachers have an increasingly critical role (together with special education and related services personnel) in implementing the program of FAPE for most children with disabilities, as described in their IEPs.

Accordingly, the IDEA Amendments of 1997 added a requirement that each child's IEP team must include at least one regular education teacher of the child if the child is, or may be, participating in the regular education environment (see Sec. 300.344(a)(2)). (See also Sec. 300.346(d) on the role of a regular education teacher in the development, review and revision of IEPs.)



In Alabama, people with developmental and other disabilities are joining together to advocate for their rights. They are moving from institutions into the community, living on their own, working, and buying their own homes. Through a support group called People First, many Alabama self-advocates are taking control of their lives and are toppling the barriers of discrimination and segregation.

Alabama's People First initiative began in 1986 in Tuscaloosa. Self-advocates met to discuss their desires to learn how to speak for themselves in order to be recognized and respected as citizens in their communities. Nationwide, People First encourages people with developmental and other disabilities to make their own decisions and proactively determine their own futures. Independence and self-determination are the hallmarks of this organization.

Eloise Woods, People First of Alabama President, remembers what it was like to feel discounted

and afraid to speak out. "Before I joined People First I would just hang my head if anyone asked me a question or tried to talk to me," said Ms. Woods. However, she continued to attend chapter meetings and learned how to speak for herself and make choices in the community. Today Ms. Woods not only serves as President of People First of Alabama, but she also works with her local chapter to help facilitate self-advocacy in her community. Explains Ms. Woods, "I try to make folks with disabilities try to feel comfortable about themselves and let them know don't give up. It's always something out there for them."

Presently there are 15 People First chapters in the state with a total of 400 members. The goals of People First of Alabama are:

- to teach people to speak up for themselves;
- to teach leadership skills by running their own organization;
- to learn how to problem solve and make decisions;
- to be contributing citizens by sponsoring community activities;
- to promote the education of chapter members and the general public about the successes of people with disabilities; and
- to sponsor social activities for chapter members.

People First members are working with policymakers, state agencies, and the general public to ensure their rights as citizens and

to bring focus to the capabilities of people with disabilities. Through a grant from Alabama's Developmental Disabilities Planning Council, chapter members have collaborated with the UAB Civitan International Research Center to produce three videos and two public service announcements about their successes in the community. People First of Alabama endorsed The University of Alabama's efforts to provide public awareness sessions on community living for people with disabilities during 1997-1998. Chapter members and leaders worked with members of People First chapters in Georgia and Tennessee to develop a strategic plan for Alabama and the South to increase opportunities for self-determination.

Self-advocates serve on state committees and boards, such as the Alabama Developmental Disabilities Planning Council, the Department of Mental Retardation's Subcommittee to promote the rights of people with disabilities, and ADAP's Developmental Disabilities Advisory Council. Annually, they conduct a state conference to elect officers and provide self-advocacy education to chapter members.

People First of Alabama is responsible for their own funding. To help them continue their self-advocacy efforts in Alabama or to learn more about this organization, please write or call:

People First of Alabama
1002 McFarland Blvd., Suite K
Northport, Alabama 35476
205/333-1577

Alabama Leadership Network

MENTAL HEALTH CONSUMERS OF ALABAMA (MHCA), A NONPROFIT ORGANIZATION, PROPOSES TO DEVELOP THE ALABAMA LEADERSHIP NETWORK AS A STATEWIDE TRAINING AND SUPPORT NETWORK TO PROMOTE CONSUMER PARTICIPATION AND LEADERSHIP IN LOCAL PLANNING FOR MENTAL HEALTH SERVICES.

David Cannon, MHCA Director

Founded in 1990, in response to growing calls for a "consumer-driven" system of services, MHCA is an organization of diverse individuals who have experienced serious mental illness, serious emotional and psychological anguish, and the accompanying stigma of these life threatening illnesses. In addition to providing unconditional support to those in need, MHCA advocates for consumer rights and more effective services throughout the state.

MHCA has been very successful in developing and sustaining a participatory role at the state level, but has identified the need for this success to be extended to the local level. Mental health service planning and provision are increasingly being shifted to the local level, but local communities often lack the foundation to support a consumer-driven system. The existing organizational structures frequently do not foster consumer participation; worse yet, however, the consumers themselves tend not to be prepared to participate in an effective manner.

MHCA proposes to remedy the latter, and, in time, the former, through a statewide training and support network for consumers. MHCA will sponsor local consumer training sessions, reaching all of the state's 25 mental health planning catchment areas, over the three years of the grant. The training will focus on developing the knowledge and skills needed by consumers for effective participation, and on establishing the person-to-person connections needed as the basis for future networking. MHCA will also devote a staff position to provide ongoing facilitation to the network and to assist in devising strategies to sustain it over the long term. All activities will be sensitive to the particular needs of each catchment area, including gender, age, race, ethnicity, and economic issues.

Special Olympics Alabama Wants YOU!!!



Segail Friedman, ADAP Information Specialist, is a member of the '99 State Games Organizing Committee and serves as Volunteer Coordinator.

Your agency, organization, or you individually have a place in Special Olympics--please call and volunteer your time and talents. [Phone numbers are listed on page 8.]

ADAP is pleased and proud to have extraordinary and talented staff so willing to give of themselves as volunteers.

The Special Olympics Oath says it all:

**"Let me win,
but if I cannot win,
let me be brave in the attempt."**

Come, be a special person for this special event.

Training will be announced in your area.
If you are interested, please call MHCA at
1-800-264-6422

WELCOME
BIRMINGHAM, ALABAMA!!!

You're on the air with
On A Roll Radio...

...Sundays at 6pm
on 1070 AM,
WAPI!
Live, nationwide!

A.D.A.
DATING
MOVIES
LATEST UPDATES

FAMILY
POLITICS
YOUR CHOICE OF SUBJECTS!

LIVE FROM PHOENIX, ARIZONA ---
JOIN HOSTS GREG SMITH AND TODD KIMBALL FOR YOUR DIRECT CONNECTION TO TALK RADIO ON LIFE AND DISABILITY.
CALL IN DURING THE SHOW TOLL FREE AT 1-888-760-7655
AND VISIT OUR WEB SITE AT WWW.ONAROLLRADIO.COM

NEW MOBILITY
A presentation of New Mobility Magazine and the Lakshona Foundation



ALABAMA SPECIAL OLYMPICS

COMING TO TUSCALOOSA MAY 21-22, 1999

Theme: Competing with Pride

Segail Friedman, Information Specialist

Special Olympics is the world's largest program of sports training, education, and athletic competition for children and adults with mental retardation. It provides year-round training and competition in Olympic-type sports to over 450,000 athletes in all 50 states and the District of Columbia. Athletes are trained and coached, encouraged and cheered, by over 2,000,000 volunteers.

Special Olympics is a year-round program, a lifetime of learning through sport. For every family with a child who has mental retardation, Special Olympics has become a symbol of hope. To every athlete involved in Special Olympics, the program provides a lifetime of active participation in sports. To volunteers and to the public, Special Olympics offers an experience that uplifts the spirit and touches the heart.

No federal, state, Kennedy Foundation or United Way funds are received in support toward the operation of Special Olympics. The major portion of financial support comes from local sources of giving. Athletes and their families pay no membership or entry fees. By holding operating expenditures to a minimum, all available funds go into maintaining and strengthening the program on behalf of the athletes.

Volunteers include students, senior citizens, business people, organizations, clubs, family members of athletes, amateur and professional athletes and coaches, teachers and many others. To volunteer call the Special Olympics Hotlines: Tuscaloosa—205/348-4684. Outside Tuscaloosa—800/239-3898.



Airmail is funded 100% with federal funds through: • Administration on Developmental Disabilities (PADD) • Center for Mental Health Services (PAIMI) • U.S. Department of Education/Rehabilitation Services (PAIR).

Alabama Disabilities Advocacy Program
The University of Alabama
School of Law Clinical Programs
Box 870395
Tuscaloosa, AL 35487-0395

Non-Profit Organization
U.S. Postage Paid
Permit No. 16
Tuscaloosa, AL 35401

In this issue:



IDEA Regulations	Page 1
Fix it now	Page 2
On Point	Page 3
Coming Attraction	Page 3
People First of Alabama	Page 6
Alabama Leadership Network	Page 7
Roll Radio	Page 7
Special Olympics Alabama Wants You!!!	Page 7
Alabama Special Olympics	Page 8



AIRMAIL

ALABAMA DISABILITIES ADVOCACY PROGRAM VOL. 4, ISSUE 3 JUNE 1999

THE UNIVERSITY OF ALABAMA SCHOOL OF LAW CLINICAL PROGRAMS

ALABAMA

Alabama Disabilities
Advocacy Program

Alabama Law Review

Disability Law Institute

The Americans with Disabilities Act:

Symposium Commemorating the 10th Anniversary of the ADA

Disability Law Symposium

March 3 - 4, 2000

Tuscaloosa, Alabama

The ADA: A Ten-Year Retrospective will initiate discussion on where the law has taken us and where we can expect it to go in the next decade, as well as how we can help shape the future for Americans with disabilities, their families, and their advocates.

Speakers

Peter David Blanck, Professor of Law, University of Iowa Historical Evolution of Disability Law Constructs
Mary Crossley, Professor of Law, University of California at Hastings Health Care and Disability
James Leonard, Professor of Law, The University of Alabama Disability Law and Federalism
Peggy Mastroianni, Associate Legal Counsel, EEOC Enforcement of Disability Law
Michael Perlin, Professor of Law, New York Law School Psychiatric Disabilities
Laura Rothstein, Professor of Law, University of Houston Higher Education and Disabilities
Robert Silverstein, Director of the Center for the Study and Future of Disability Policy
Advancement of Disability Policy, George Washington University
Susan Stefan, Professor of Law, University of Miami Disability Law and Psychiatry
Bonnie Tucker, Professor of Law, Arizona State University Definitions of Disability
Mark Weber, Professor of Law, DePaul University Employment Law

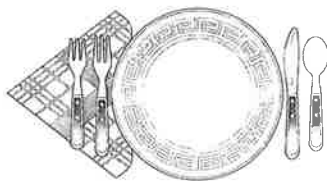
For additional information contact:

Reuben W. Cook, Director of Alabama Disabilities Advocacy Program - 205-348-4928

Web site: <http://www.law.ua.edu/adasympposium/>

ADAP AIRMAIL

ADAP WORKS WITH RESTAURANT TO DEVELOP SERVICE ANIMAL POLICY



David W. Gamble, Case Advocate

ADAP helps thousands of individuals with disabilities each year through the provision of information and referrals, supervised inquiries, counseling, negotiation, and mediation. Only a few ADAP cases ever end up as full administrative hearings and even fewer result in a lawsuit. More often than not, the handful that go to court are settled. The real story is made up of the ADAP cases the general public never hears about because a problem was solved, a lawsuit avoided. The following is an example of one such case:

ADAP recently represented an individual with Friedreich's ataxia in a dispute involving access to a public accommodation. Friedreich's ataxia is a neuromuscular disease characterized by muscular atrophy, fatigue, slurred speech, clumsiness, and a lack of coordination. Persons with this disability often have service animals that help them open doors and pick up items they drop. This individual, accompanied by his service animal,

attempted to enter a restaurant in the Auburn, Alabama area. Upon entering the establishment, the individual was informed that his service animal could not accompany him in the restaurant.

Under Title III of the Americans with Disabilities Act (ADA), privately owned restaurants are prohibited from discriminating against individuals with disabilities. Title III of the ADA requires restaurants to allow people with disabilities to bring their service animals onto restaurant premises in whatever areas customers are generally allowed. ADAP informed the restaurant's owner of these requirements and worked with the owner to change the establishment's policy regarding service animals. As a result of ADAP's involvement, the individual with Friedreich's ataxia can now bring his service animal into customer accessible areas within the restaurant. In addition, ADAP developed a service animal policy for the restaurant consistent with ADA Title III requirements. This policy was signed by the restaurant's owners/managers and then posted for all restaurant employees to read, understand, and follow.

ALABAMA DISABILITIES ADVOCACY PROGRAM (ADAP)

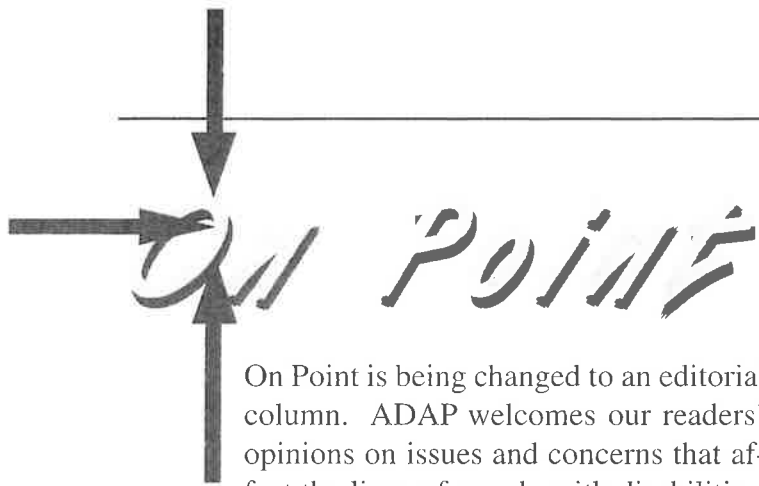
ADAP is a statewide, independent program established to protect the rights of persons with disabilities ranging from developmental disabilities, manifesting themselves in childhood, to mental illness.

Assistant Professor of Law	Dan Filler
Program Director	Reuben W. Cook
Associate Program Director	James Tucker
Director of Advocacy	David Prince
Coordinator of Outreach and Training	Ann Marshall

Staff Attorney	Lauren Carr	Case Advocate	David Gamble
Staff Attorney	Paul J. Dezenberg	Case Advocate	Denise Smith
Staff Attorney	Patrick Hackney	Case Advocate	Arngene Wells
Staff Attorney	Barbara Lawrence	Administrative Secretary	Janet Owens
Staff Attorney	Rozalind Smith	Office Assistant	Susan Tretter
Information Specialist	Segail I. Friedman	Data Technician	Rosemary Beck

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication. Inquiries may be sent to Segail I. Friedman, Information Specialist, at the address printed below.

Airmail is published by Alabama Disabilities Advocacy Program (ADAP), The University of Alabama School of Law Clinical Programs, Box 870395, Tuscaloosa, AL 35487-0395, (205)348-4928, FAX (205)348-3909, TDD (205)348-9484, e-mail: ADAP@law.ua.edu
Website address: <http://www.adap.net>



On Point is being changed to an editorial column. ADAP welcomes our readers' opinions on issues and concerns that affect the lives of people with disabilities. Your comments can have a great impact and help make life better, but you must help make it happen. See Letters Policy.

Ed.

Congratulations

ADAP's four social work students distinguish themselves in the classroom and at work. On Honors Day the School of Social Work named Darlene Dutton and Stacey Bobo as Distinguished Undergraduate Scholars and inducted them into Phi Alpha, the national Social Work honor society. Another student was selected as one of three Hillcrest Scholarship recipients and received her Master's Degree in Social Work this past May. Michael Hinton and Darlene will graduate in December and Stacey will receive her degree next May.

Daniel M. Filler, appointed assistant professor at The University of Alabama School of Law in 1998, has just passed the Alabama State Bar exam. Professor Filler is also admitted to practice in Pennsylvania and New York. Professor Filler teaches clinical courses in disability law, an area in which the Alabama law faculty has established a center of excellence. Filler also teaches in the area of criminal law, with an emphasis on juvenile justice. Professor Filler earned an A.B. at Brown University and a J.D. at New York University.



Ann and Justin Dart,
Architect of the ADA



Curt Decker and Ann

Ms. Marshall Goes to Washington

Ann Marshall, Coordinator of Outreach and Training for ADAP, was invited to be a participant in the first-ever White House Conference on Mental Health held June 7, 1999. We are proud Ann was selected to share her considerable knowledge and insight on mental health issues with other national experts. There were only 300 guests invited from more than 2,000 nominees.

The Conference began with breakfast at the White House, and progressed to Howard University for breakout sessions. Mrs. Tipper Gore chaired the conference with The President, Mrs. Clinton and The Vice President participating in the plenary sessions. New White House initiatives on mental health were announced then.

At Howard University, there were eight breakout sessions around major areas of mental health. One congressional member and a senior government official facilitated at each session. Satellite uplinks were provided in three locations so all participants could interact with The Vice President and Mrs. Gore in a Town Hall Meeting in the afternoon, and more than 6,000 downlink sites viewed the conference. The conference closed with a reception at the Vice President's mansion.



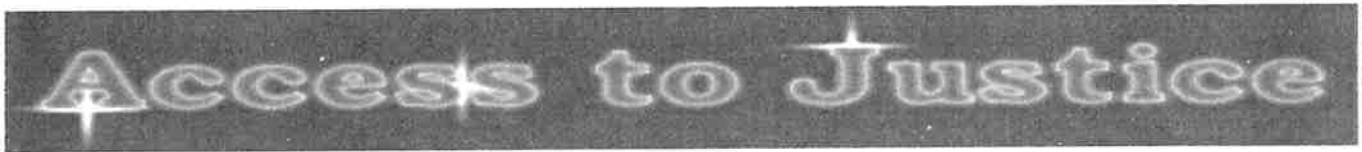
Ann Marshall

LETTERS POLICY

Letters must be signed and include full address and a daytime phone number for verification. Names and hometowns of letter writers will be included for publication, without exception. Letters, which are routinely edited and often condensed, should be limited to 250 words. Space is limited and articles will be selected by ADAP staff. Submissions cannot be returned.

Letters should be mailed to ADAP Editor, Box 870395, Tuscaloosa, AL 35487-0395. You may fax your letters to 205-348-3909 or you can e-mail your letter to: ADAP@law.ua.edu, please include phone number and address.

ADAP is pleased to announce that it has received a grant from the Alabama Law Foundation to undertake a statewide county courthouse accessibility campaign entitled "Access to Justice." The primary goal of the "Access to Justice" project is to make every county courthouse in Alabama and the programs and services located therein accessible to persons with disabilities as required by Title II of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and their implementing regulations.



Patrick Hackney, Staff Attorney

ADAP is extremely excited about the possibility of having accessible county courthouses throughout the State of Alabama. Access to all county courthouses of Alabama and the services located therein is an important aspect of everyday life for the average citizen. Persons visit county courthouses not only to access the State justice system, but also to complete numerous other tasks including voter registration, driver's license renewal, and tax payment. Persons with disabilities are being treated as "second class citizens" when they are denied their right to access county courthouses in Alabama.

The "Access to Justice" project proposes to open the "front door" of citizenship to all residents of Alabama through an aggressive accessibility campaign which will make a number of the county courthouses of Alabama fully accessible to persons with disabilities. One way to facilitate the goal of full participatory citizenship for all persons is to make the county courthouses of Alabama and the state programs located therein accessible to persons with disabilities. Because the county courthouse so often serves as a symbol of "equal justice for all" and houses numerous State

services, it is imperative that the county courthouses of Alabama be accessible to persons with disabilities so that they may acquire additional independence in their daily lives. Something as simple as renewing a driver's license is impossible for many disabled residents of Alabama due to an inability to gain access to the county courthouse.

Title II of the ADA became effective January 1992 and prohibits discrimination by any state or local government against any qualified individual with a disability. State courts must now modify policies, practices, and procedures to prevent disability discrimination, remove architectural and communication barriers, and provide accessible services. The basic rule of Title II is that a state or local government is required to operate each program so that, when viewed in its entirety, the program is readily accessible to and usable by persons with disabilities. The focus is on the availability of the program rather than on barrier removal. The alternatives to achieve program accessibility are infinite and often involve very little cost.

Continued on page 5

The first step of the project is to survey each county courthouse in the State of Alabama using an ADA compliance survey form to determine the extent, if any, of non-compliance. Regarding physical accessibility, the surveyor determines whether the entrance, paths of travel to service and program areas, restrooms, drinking fountains, and telephones are accessible. Using the form, we will also determine whether the interior signs and alarm systems are in compliance with the ADA. With respect to program accessibility, county courthouse personnel will be surveyed about the accessibility of courthouse programs for persons with disabilities.

In order to complete the surveys of the courthouses in all 67 counties,

ADAP is actively recruiting individuals, preferably individuals with disabilities, to assist us in this task. We are currently planning on holding four training sessions throughout the state to teach individuals how to complete the survey form. The train-

ing sessions will probably be held during the month of July.

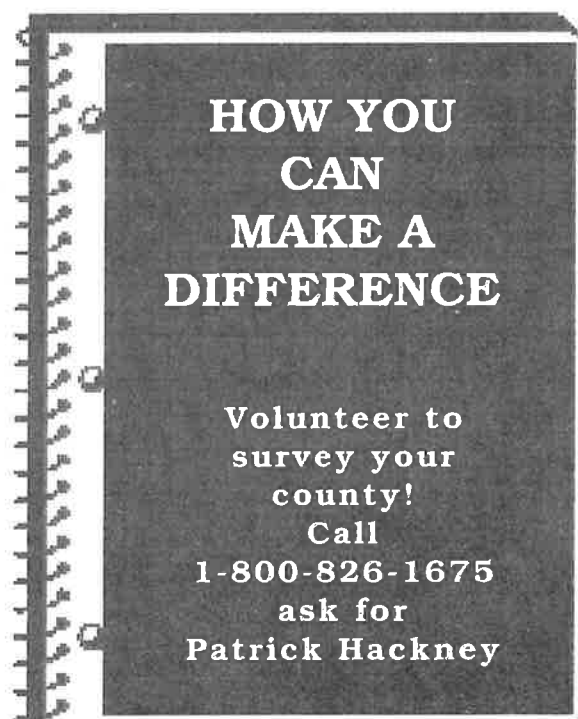
Once the accessibility issues for each county courthouse are determined, we will write individualized letters to

each county commission requesting a copy of the required ADA assessment and transition plan for that county and outlining the accessibility issues we identified at that county courthouse. For counties that reply to the request, technical assistance

will be provided to aid the county in making its courthouse and programs accessible. For counties that refuse to comply and have numerous violations, further action will be taken, including the

possibilities of filing of a complaint with the Department of Justice or a lawsuit. Our main objectives, however, are that when the courthouse accessibility campaign is complete, all 67 county courthouses will be fully accessible and that local government officials will be better educated about working with persons with disabilities. ■

If anyone is interested in performing the courthouse surveys, he/she can contact Patrick Hackney at ADAP by calling 1-800-826-1675.



Ability House Dedication Ceremony

David Gamble, Case Advocate for ADAP,

shares his reflections on the dedication of

Alabama's first Ability House

I attended the Habitat for Humanity Dedication Ceremony for the Ability House in Birmingham on June 4, 1999. This inspiring and uplifting ceremony was a testament to individuals with disabilities everywhere. The Ability House is a fully accessible home built by individuals with disabilities for an individual with a disability. Individuals with mental retardation, hearing and visual impairments, mobility impairments, and other disabilities joined together to build a fully accessible home for Mr. Chris Wright, an individual who has paraplegia and is a wheelchair user. The project was sponsored by "Ability" magazine, BellSouth, Target Stores, and the Greater Birmingham Habitat for Humanity. Sponsors say the project is the first time a home has been built by people with disabilities for a person with a disability.

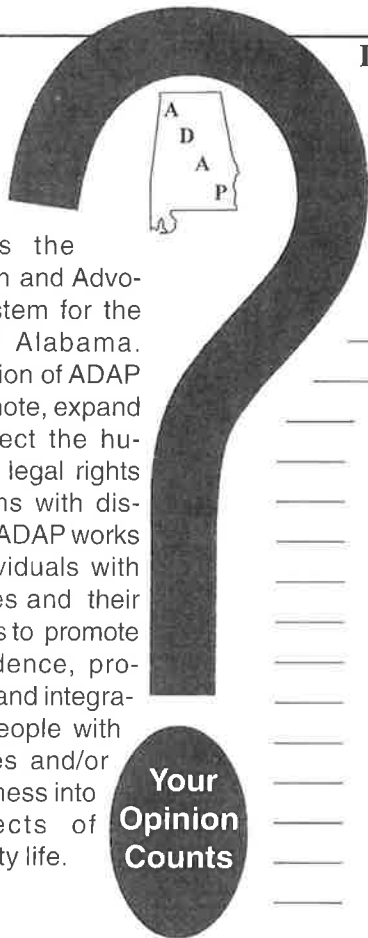
The ceremony generated much excitement in the crowd that gathered to congratulate both Mr. Wright and the people who built his home. Musical entertainment before the ceremony was provided by a marvelous gospel group, Al and Passion Lewis. The Honorable Chris McNair of the Jefferson County Commission and the Honorable William Bell of the Birmingham City Council were in attendance, as were officials representing Governor Don Siegelman. The ceremony itself was

spiritual in nature. Mr. Matthew Seals, Ability House Volunteer, presented Mr. Wright and his fiancée with a family Bible. The invocation was led by Reverend Sid Burgess of the Edgewood Presbyterian Church, and the house blessing was led by Elder Eugene Starks of the Free Will Church of God in Christ. For me, the highlight of



Copyright, Photos by *The Birmingham News*, 1999. All rights reserved.
Reprinted with permission.

the ceremony was a poem read by Mr. Max Gail, better known as Detective Stanley Wojohowicz from *Barney Miller* (ABC television show which ran from 1975-1982). Mr. Gail had written the poem which illustrated the joy and importance of giving to others. After the ceremony, all in attendance enjoyed a delectable meal prepared by Chef Clayton Sherrod. It was a fitting conclusion to a great day.



ADAP is the Protection and Advocacy System for the State of Alabama. The mission of ADAP is to promote, expand and protect the human and legal rights of persons with disabilities. ADAP works with individuals with disabilities and their advocates to promote independence, productivity, and integration of people with disabilities and/or mental illness into all aspects of community life.

List in priority order the top 10 issues most important to you, with number 1 being the most important. Rank all 17 issues if you wish. Complete the form, place in an envelope to protect your confidentiality, and stamp it. Return immediately, or by August 1, 1999.

Thank you for your help.

- ☐ be free from abuse and neglect in institutions
- ☐ be free from abuse and neglect in the community
- ☐ receive an appropriate education or special education services
- ☐ use transportation and public services the same as people without disabilities
- ☐ get appropriate medical treatment
- ☐ get appropriate mental health treatment
- ☐ work and have a job
- ☐ live where I want
- ☐ get and use communication devices and assistive technology
- ☐ put my child in day care with children who do not have disabilities
- ☐ be treated fairly by the courts
- ☐ get life and health insurance
- ☐ be informed about and consent to treatment and medication
- ☐ refuse treatments and medicines I do not want
- ☐ receive SSI or Social Security benefits
- ☐ receive Medicaid benefits
- ☐ be included in school, in the community and at work with people who do not have disabilities
- ☐ other(s): please tell us what other rights are important to you

ADAP provides many different services to people with disabilities in Alabama. Please tell us your suggestions about our services.

1. What training and education activities would you like ADAP to undertake?
2. What legislative issues do you think are most important?
3. Do you have any ideas about things ADAP could do to better serve people with disabilities in Alabama?
4. If you have other comments, please list them here.

Please check all that apply:

- ☐ person with a developmental disability
- ☐ person with a mental illness
- ☐ person with other disability
- ☐ parent/family member
- ☐ teacher/school personnel
- ☐ professional or service provider
- ☐ attorney
- ☐ advocate
- ☐ other (list):

Your primary concerns are:

- ☐ mental illness
- ☐ developmental disabilities
- ☐ other disabilities (list):

Your response is needed immediately, but at least by August 1, 1999. To protect your confidentiality, please return questionnaire in an envelope.

Mail to: ADAP

Box 870395

Tuscaloosa, AL 35487-0395

NO PASS - NO PLAY

Paul Dezenberg, Staff Attorney

Over the past few months, parents have called ADAP seeking guidance concerning the No Pass No Play Rule as it applies to children with disabilities. Some school districts had denied children with disabilities the right to participate in extracurricular activities because these children did not meet the strict requirements of the Rule. ADAP conveyed these parents' concerns to the Department of Education by letter dated March 24, 1999, in connection with public comments and a hearing held pursuant to the Department's rulemaking procedure. A few weeks later, on April 8, 1999, the Department of Education amended the No Pass No Play Rule.

New Section 17(c)(4) of the Rule, "Extracurricular Activity Participation—Academics First," now provides that,

Decisions on a student's participation in extracurricular activities should be developed and reached on a local school/system level consistent with the requirements found in the Individuals with Disabilities Education Act (1997) and its implementing regulations, both federal and state, as well as Section 504 of the Rehabilitation Act of 1973 if the student is identified as eligible under these statutes, rules, and regulations, and such participation is determined to be appropriate.

Basically, the new rule carves out a needed exception for students identified as eligible under the IDEA or Section 504. ADAP suggests that a student's participation in extracurricular activities be spelled out in the IEP or Section 504 Plan to avoid any confusion.

The changes to the No Pass No Play Rule reflect the United States Department of Education's recently released regulations concerning the IDEA Amendments of 1997. Section 300.306 of the new IDEA regulations requires that educational agencies provide services to children with disabilities to permit these children to participate in extracurricular and nonacademic activities, including athletics.

Moreover, under Section 504 of the Rehabilitation Act, no person with a disability shall "be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. § 794(a)(1994). This rule applies not only to directly exclusionary practices, but also to neutral practices which have a discriminatory impact on persons with disabilities.

ADAP would like to thank the parents who brought this matter to our attention, as well as the State Department of Education for its quick response to the parents' concerns.

Airmail is funded 100% with federal funds through: • Administration on Developmental Disabilities (PADD)
• Center for Mental Health Services (PAIMI) • U.S. Department of Education/Rehabilitation Services (PAIR).

Alabama Disabilities Advocacy Program
The University of Alabama
School of Law Clinical Programs
Box 870395
Tuscaloosa, AL 35487-0395

Non-Profit Organization
U.S. Postage Paid
Permit No. 16
Tuscaloosa, AL 35401

In this issue:



Disability Law Symposium	page 1
ADAP Works With Restaurant to Develop Service Animal Policy	page 2
On Point	page 3
Congratulations	page 3
Ms. Marshall Goes to Washington	page 3
Access to Justice	page 5
Ability House Dedication Ceremony	page 6
Questionnaire	page 7
No Pass - No Play	page 8



AIRMAIL

ALABAMA DISABILITIES ADVOCACY PROGRAM VOL. 4, ISSUE 4 AUGUST 1999

THE UNIVERSITY OF ALABAMA SCHOOL OF LAW CLINICAL PROGRAMS

SOCIAL SECURITY DISABILITY & SUPPLEMENTAL SECURITY INCOME PROGRAM CHANGES FOR ALABAMA

Overview of Social Security's Disability Programs

The Social Security Administration (SSA) manages two large Federal programs which pay monthly cash benefits to qualified individuals with severe disabilities—Disability Insurance and Supplemental Security Income (SSI).

Last year, SSA processed more than two million applications for disability benefits and over 500,000 requests for hearings. In Alabama, almost 60,000 applications for disability and over 20,000 requests for hearings were processed.

Background

Over the last few years, SSA has embarked on an ambitious series of initiatives to improve the administration of these two important disability programs. In particular, SSA devoted considerable time and energy to its Disability Redesign Plan. The Plan outlined a vision of a disability process designed to be more accurate, timely, and "user-friendly." SSA is now ready to move into its next step in Disability Redesign Plan, which will include new and expanded disability program initiatives.

Improving the Disability Adjudicative Process

The current disability process can be confusing and unwieldy with many applicants waiting too long for initial determinations and appellate decisions. SSA proposes changes that will improve the disability decision-making process to ensure that decisions are

made as accurately as possible, that those who should be paid are paid as early as possible and that the adjudication process is consistent throughout.

The Alabama Disability Determination Service (DDS) will be a **prototype site for the Disability Redesign process** beginning October 1, 1999. Nine other states in the nation will also be prototype states. The remaining states are scheduled to begin the redesign process on October 1, 2001.

Highlights of Disability Redesign

Changes will be made to the initial eligibility process. Under the new process, DDS disability specialists will become **single decision-makers**. DDS physicians and/or psychologists will function as consultants and provide information to the DDS disability specialists. (The single decision-maker will not be used in denied claims where evidence indicates the existence of a mental impairment or in childhood disability claims under the SSI program. These claims will continue to be adjudicated by a team consisting of a disability specialist and a medical or psychological consultant.)

More **thorough case development** of medical and other evidence during the processing of the claim is another aspect of the Disability Redesign Plan.

During the processing of the initial claim, the claimant will be afforded an opportunity to have a **conference** with the disability specialist. The contact will provide an opportunity for the disability specialist to fully explain

Continued on page 7



ADMINISTRATION

KENNETH C. RANDALL
Dean and
Thomas E. McMillan
Professor of Law

DAN FILLER
Assistant Professor of
Law

REUBEN W. COOK
Program Director

JAMES TUCKER
Associate Program
Director

DAVID PRINCE
Director of Advocacy

ANN MARSHALL
Coordinator of Outreach
and Training

STAFF ATTORNEYS

I. LAUREN CARR

PAUL J. DEZENBERG

PATRICK HACKNEY

BARBARA LAWRENCE

ROZALIND SMITH

ADVOCACY FELLOWSHIP

LAURA McNALLY

CASE ADVOCATES

DAVID GAMBLE

ANGIE HENDRIX

CHRISTY RANEY

DENISE SMITH

ARNGENEL WELLS

ADMINISTRATIVE STAFF

JANET OWENS
Administrative Secretary

SUSAN TRETTER
Office Assistant

ROSEMARY BECK
Data Technician

SEGAIL FRIEDMAN
Information Specialist

News & More

The song, "Welcome Back Kotter," expresses ADAP sentiments in welcoming back Christy Raney. Last year Christy worked for six months on a contract basis as an Intake Advocate. Christy liked the work and when a full time position opened this year she applied and now "She's Back." Christy received her BS degree in education from The University of Alabama, and from 1994-1996 worked as a case advocate for Protection and Advocacy for Individuals with Mental Illness at ADAP. After receiving her degree Christy worked in the mental health field in Fort Worth, TX, and as an associate director of Christian social ministries in Philadelphia, PA. Christy has made an impact at ADAP and our clients will benefit from her talents and skills.

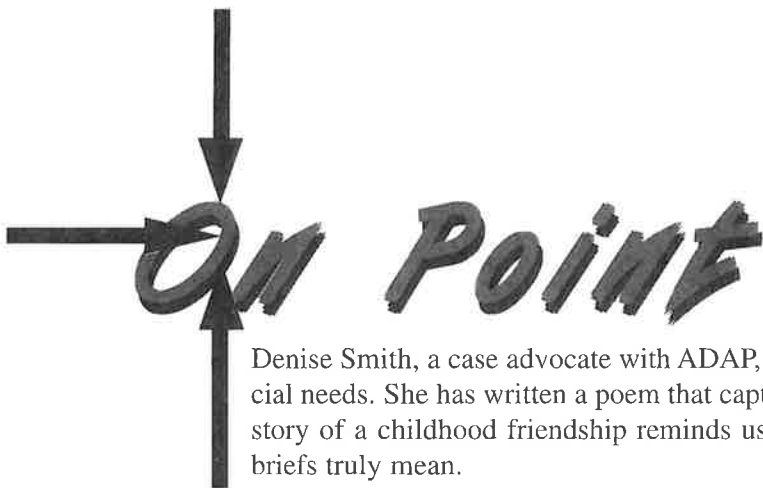
Laura McNally has joined ADAP as its first Clinical Law Fellow, an 18 month attorney position. Laura, a 1999 graduate of Syracuse University College of Law, was hired after a nationwide search. She will assist in all phases of litigation, with an emphasis on special education issues.

Angela Hendrix, known to her friends as Angie, brings excitement and a new perspective to her position as Case Advocate at ADAP. Angie received her Master of Social Work from the University of Oklahoma in Norman, and her Bachelor of Social Work with Honors from the University of Wyoming in Laramie. Her background includes work in the areas of disability issues including advocacy, independent living, and adaptive sports equipment. Angie is an outdoor enthusiast and is working at ADAP with the help of her new partner and Service Dog, Lewis, a Golden Retriever.

Reach Out and Touch Someone

AT&T now has a language line for individuals who need interpreters. Over 140 languages are available and the rates are as follows: \$3.75 per minute plus a \$2.50 connection fee. Charges begin when the interpreter is connected, and are billed in one-minute increments which will be charged to your credit card. This is for international or domestic calls. Calls may be monitored for service quality. When you call, you will be put on hold for a short moment while you are connected. For more information call 1-800-528- 5888.





The inclusion of all people with disabilities into every corner of American life is both the dream and mission of ADAP.



Denise Smith, a case advocate with ADAP, is the mother of a child with special needs. She has written a poem that captures the reality of inclusion. This story of a childhood friendship reminds us what all our speeches and legal briefs truly mean.

We are proud to share the following poem with you as the first article in our "On Point" editorial column. Please see page 6 for our letters to the editor policy.

WHO WILL PLAY WITH ME?

*He's so cute! A blessing!
 Heaven's own special child!
 They remark as their own children play and run wild.
 They observe and admire his strong family
 Then turn back to watch their boys running free.*

*A little boy watches his brother's friends call
 and he dreams of a friend who will ask him to play ball.
 A big purple dino has become his obsession
 'Cause he doesn't have anything else that is pressin'*

*Then, one day he comes home--a smile on his face.
 Today they asked him to run and to race.
 Ryan doesn't care that the boy mispronounces his name
 they are having fun just playing a game.*

*The boys plot and they plan to spend the night
 but they have to make sure it will be alright
 Their moms decide they should take it slow
 and arrange for them to play an hour or so
 But hey! No way!*

*Can I stay a while longer? I am having a good time.
 I can't go home now--it would be a crime!*

*I cried that day, I rejoiced, I prayed
 and I watched those two little boys as they played.
 The hole in my heart began to fill and to mend
 My little boy has found his first "come over" friend.*

*The circle has started and we hope it will grow
 to open some doors and help others to know--
 We all have gifts and talents to share
 we all need someone to reach out and care.*

Denise Smith
 February 20, 1997

ADAP is a statewide, independent program established to protect the rights of persons with disabilities ranging from developmental disabilities, manifesting themselves in childhood, to mental illness.

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication, plus editorials. Inquiries may be sent to Segail I. Friedman, Information Specialist, at the address printed below.

Airmail is published by Alabama Disabilities Advocacy Program (ADAP), The University of Alabama School of Law Clinical Programs.

Box 870395
 Tuscaloosa, Alabama
 35487-0395
 205-348-4928 - Voice
 205-348-3909 - FAX
 205-348-9484 - TDD
 e-mail
 ADAP@law.ua.edu
 website
<http://www.adap.net>

HOW DO YOU SPELL LOVE -- "C-O-U-R-A-G-E"

BECAUSE OF THEIR COURAGE IN SPEAKING OUT ABOUT SPECIAL EDUCATION, DEBORAH SMITH AND HER DAUGHTER, JONISE, WERE INVITED TO ATTEND THE ANNUAL CONFERENCE OF THE NATIONAL ASSOCIATION OF PROTECTION AND ADVOCACY SYSTEMS (NAPAS).

Jonise and her mother traveled with ADAP staff to Washington DC, in June to be interviewed for the national radio talk show "On a Roll" about life and disability. Mrs. Smith talked about her struggles for her daughter's education. Their interview was taped at the opening session of the NAPAS annual conference.

Ann Marshall, an advocate with ADAP, joined Mrs. Smith and Jonise on "On A Roll." ADAP Advocate Arngene Wells and Mrs. Smith worked with school officials to create an education plan that helped Jonise stay, and receive services, in her local public school.

There are more than six million children with disabilities in America. Under the public law passed in 1975, the Individuals With Disabilities Education Act (IDEA), students like Jonise who have disabilities are entitled to a free, appropriate public education in the least restrictive environment. Anyone interested in obtaining information regarding IDEA may contact ADAP at 800-826-1675; e-mail: ADAP@law.ua.edu; our website: <http://www.adap.net>.

*Ann Marshall, Coordinator
Outreach & Training*

A MATTER OF PRIORITIES...

Arngene Wells, Case Advocate

Jonise Smith is a beautiful ten-year-old girl whose heartwarming smile gives no indication of the storms she and her family have weathered. Born after parents Alonzo and Deborah Smith thought that their family was complete with two other children, Jonise and her twin brother, Josiah, are, according to their mother, an unexpected "blessing from the Lord." Though Jonise was born with cerebral palsy and has severe mental retardation, a seizure disorder, asthma, a partial cleft palate and significant developmental delays, she is beating seemingly insurmountable odds while captivating the hearts of those who meet her.

Jonise is currently enrolled in a class for students with mental retardation where she has a 1:1 aide who assists with her fine motor skill development, ambulation, toileting and feeding. Jonise no longer uses a wheelchair but has become accustomed to scooting across the floor. She is now being encouraged to walk as much as possible, and is doing so. She is also learning to manipulate eating utensils to feed herself and has made significant progress over the past twelve months in this area, as well. For her parents, another very important component of Jonise's educational experience is the daily opportunity for interaction with non-disabled peers. Students at her school have known Jonise since she was a preschooler and greet her with hugs of love and affection. Just one year ago, however, Jonise was in jeopardy of



Jonise and Mom in Washington, DC, with ADAP staff (l-r), Ann Marshall, James Tucker, and David Gamble.

Continued on page 5

losing this particular benefit of her current educational program.

In a cost-cutting measure, Jonise's school district decided to transfer the entire Multiple Disabilities class from her school to a segregated school elsewhere in the county. For Jonise, this would have meant spending approximately four hours a day on a school bus. This situation, in turn, would have resulted in a shortened school day at a facility which offered no opportunity for socialization with non-disabled peers. For a child like Jonise, every learning opportunity is critical in the struggle to acquire the basic skills necessary to successfully meet life's challenges. After investigating the school's plan and finding it unacceptable, Mrs. Smith called ADAP.

The school district's position was that Jonise and her classmates would have greater access to the personnel, services and technology they needed under its plan. Several school districts in the area had pooled their resources in order to provide programming at this centralized location. All too often, however, the result of such a plan is that the process by which a child's education program is developed and

implemented is driven by a *placement decision* which is based on considerations that are more related to economics than to education. The legal entitlement of exceptional children to receive *individually-appropriate* services in an environment which affords the greatest interaction with non-disabled peers is often disregarded. Moreover, the moral and ethical considerations regarding the probable impact of such a plan on the child's present and future welfare are generally ignored.

ADAP argued that the school's plan was unacceptable because it required that Jonise forfeit her entitlement to education in the least restrictive environment. Following successful negotiations with the school district, Jonise was allowed to remain at the school where she had grown up, while her other classmates were transferred to the segregated facility. ADAP's efforts to ensure that Jonise's program is properly implemented continue at this time.



Jonise and Mrs. Smith meet with Senator Richard Shelby.

Though the legal requirements for schools are clear, it is often true that attitudinal barriers impede progress toward full implementation. Recent court cases have brought to the forefront the debate over the responsibility of schools to provide education and related services to students with disabilities in the most integrated setting. Admittedly, for many districts, this task may present significant challenges, not the least of which are economic considerations. Experience has shown, however, that the setting of priorities often determines the flow of available resources. So the question becomes one of priorities. What value should be assigned to the incalculable benefit an exceptional child receives from being able to observe and

Continued from page 5

model the behaviors of children who have strengths and abilities he or she does not enjoy? How important is the joy and personal satisfaction children and their parents receive from even the slightest progress toward the realization of the child's potential? And in the long-run, what is the greater cost to society when children who are deprived of opportunities to develop independence become adults who are totally dependent upon others? In her beautifully unassuming way, Jonise forces all of us to re-examine not only our obligations as articulated in the letter of the law, but our moral and ethical responsibilities to one another.

Though their struggle is far from over, Mrs. Smith attributes her family's ability to persevere to her faith in God. In June of this

year, she and Jonise traveled to Washington, D.C. where they met with U.S. Senator Richard Shelby and asked for his support on issues that impact the lives of persons with disabilities. Mrs. Smith says she has been willing to go public with Jonise's story, in the hope that it will encourage and motivate other parents who are involved in similar struggles to persist in their efforts.

Whether in the halls of her elementary school or in the halls of Congress, Jonise delivers an unqualified message of determination and hope to all of us. In an age when fairness and compassion are often sacrificed on the altar of expediency, Jonise is a compelling reminder that we are, in fact, our brother's keeper.

ADA A Ten-Year Retrospective

The ADA: a Ten-Year Retrospective will initiate discussion on where the ADA has taken us and where we can expect it to go in the next decade, as well as how we can help shape the future for Americans with disabilities, their families, and their advocates.

Sponsored by
The University of Alabama School of Law

Alabama Disabilities Advocacy Program

Alabama Law Review

Disability Law Institute

Complete details are available on the website
<http://www.law.ua.edu/adasympposium/>

Five Lawyers Honored for Pro Bono Work

At its conference the Alabama State Bar honored five lawyers with its 1999 Pro Bono Award for providing hours of free legal service to the poor and support for the bar's Volunteer Lawyers Program.

Recipients are Melinda M. Waters, James R. Seale, and Kim Oliver Ward, all of Montgomery; Kenneth C. Randall of Tuscaloosa; and Victor H. Lott, Jr. of Mobile.

The Volunteer Lawyers Program provides free legal assistance to indigent residents of Alabama.

Letters to the Editor Policy

Letters must be signed and include full address and a daytime phone number for verification. Names and home towns of letter writers will be included for publication, without exception. Letters, which are routinely edited and often condensed, should be limited to 250 words. Space is limited and articles will be selected by ADAP staff. Submissions cannot be returned.

Letters should be mailed to ADAP Editor, Box 870395, Tuscaloosa, AL 35487-0395. You may fax your letters to 205-348-3909 or you can e-mail your letter to: ADAP@law.ua.edu. Please include phone number and address.

the disability process and for the claimant to provide additional medical evidence and other information.

Case decisions will be fully explained.

Eliminating the reconsideration step from the current four-level adjudicative process addresses Social Security's goal for a streamlined, more efficient process by reducing administrative hurdles. (The reconsideration step will remain in effect for Continuing Disability Reviews.)

SSA is committed to making improvements in the **hearing process** that will significantly reduce processing time from the request for hearing to the final hearing disposition. The process envisions determining the necessary actions early in the case process, ensuring that case development or expedited review occurs and that cases move to the hearing fully developed and ready for decision making. The process establishes the concept of case assignment to new processing groups in the prehearing stage rather than solely to the

Administrative Law Judge as current practice dictates, resulting in case ownership, further accountability and ultimately improved case efficiency.

SSA plans to implement **improvements in the quality review process** across all levels of disability case processing, including field offices, DDSs and hearings and appeals offices.

Comprehensive Strategy

Disability Redesign is a broad program with comprehensive strategies. The program represents a solid commitment by Social Security to improve the quality and integrity of disability decisions with an improvement in customer service.

For additional information on the Disability Redesign, contact Tommy R. Warren, Director, Disability Determination Service, Post Office Box 830300, Birmingham, Alabama 35283-0300 or contact Charles E. Wofford, SSA State Director, through a local Social Security office.

Matney Selected as Executive Director

Sheryl R. Matney began work on July 12, 1999 as executive director of the Alabama Developmental Disabilities Planning Council (ADDPC). The ADDPC provides federal funds to help individuals with developmental disabilities and their families design and develop services and supports to promote their independence and productivity.

The executive director serves at the pleasure of the council, whose members are appointed by the governor. Last year, there were 28 council members. Ms. Matney will direct the activities of the staff and carry out the objectives of the council.

"The council looks forward to Sheryl's leadership as a family member and professional in the field of developmental disabilities. Together, we'll be able to improve the lives of people with disabilities," said Betsy Prince, Chairperson of the ADDPC.

Sheryl Matney has twice served as Director of Partners in Policymaking in Alabama, a leadership and training program designed to empower individuals with developmental disabilities and their family members. Since 1992, she has worked in various capacities to write grants, provide technical assistance and coordinate community awareness efforts on behalf of persons with disabilities.

According to Ms. Matney, "I'm excited about working with the council as they promote capacity building and advocacy activities for people with developmental disabilities in order to achieve for them inclusion in communities throughout Alabama."

The Department of Mental Health and Mental Retardation supports administrative functions for the ADDPC. "We are looking forward to having Sheryl Matney on our team. We plan to keep her informed of the department's activities and anticipate our sharing of information and goals will be mutually beneficial," said Kathy Sawyer, Commissioner, Department of Mental Health and Mental Retardation.

SPECIAL EDUCATION IN ALABAMA

A RIGHT, NOT A FAVOR



This is the cover of ADAP's book for special education. The new book is user friendly, and incorporates the latest rulings and guidelines on the IDEA.

You can receive your own copy by contacting ADAP at the addresses and numbers listed on page 3. If your organization needs multiple copies, delivery can be arranged when a member of ADAP's staff is in your area, or if you are in the Tuscaloosa area.

The cover is in full color and the joy on the children's faces promises hope and love for their future. The design, titled *Adoption Means a Lifetime of Love*, was donated to the National Adoption Center of Philadelphia, PA, by artist Sylvia Walker.

The National Adoption Center, created in 1972, is a non-profit organization that expands adoption opportunities for children in the United States with special needs and those from minority cultures. The children live in foster homes or group facilities until an adoptive home is found. Proceeds from the sale of Sylvia Walker's original watercolor prints and other merchandise with her design are used to fund the Center's efforts to find families for children awaiting adoption. If you

are interested in learning more about the Center's programs or, in purchasing Sylvia Walker's materials, please call 1-800 TO ADOPT or e-mail, nac@adopt.org.

Airmail is funded 100% with federal funds through: • Administration on Developmental Disabilities (PADD) • Center for Mental Health Services (PAIMI) • U.S. Department of Education/Rehabilitation Services (PAIR).

Alabama Disabilities Advocacy Program
The University of Alabama
School of Law Clinical Programs
Box 870395
Tuscaloosa, AL 35487-0395

Non-Profit Organization
U.S. Postage Paid
Permit No. 16
Tuscaloosa, AL 35401

In this issue:



Social Security Disability & Supplemental Security Income.....	page 1
News & More	page 2
On Point	page 3
How Do You Spell Love --	page 4
ADA - A Ten-Year Retrospective	page 6
Five Lawyers Honored for Pro Bono Work	page 6
Matney Selected as Executive Director	page 7
Special Education in Alabama: A Right Not A Favor.....	page 8



ALABAMA DISABILITIES ADVOCACY PROGRAM VOL. 4, ISSUE 5 OCTOBER 1999

THE UNIVERSITY OF ALABAMA SCHOOL OF LAW CLINICAL PROGRAMS



LABAMA FAMILY TIES

Charles Day, Director

*The Office of Child and Adolescent Services for the
Mental Illness Division of the Department of Mental Health*

Alabama was one of 29 states to receive funds in October 1998 under the Statewide Family Network Grants, an initiative of the federal Center for Mental Health Services. The federal initiative was designed to help strengthen coalitions among family members, policy makers and service providers. The underlying premise is that family members can act as the best change agents. The Mental Health Consumers of Alabama was the recipient of the grant award. The grant application was the result of a collaborative effort between the Mental Health Consumers of Alabama, the Alliance for the Mentally Ill of Alabama, the Department of Mental Health and Mental Retardation and the Mental Illness Block Grant Planning Council. The grant award is for a period of three years in the amount of \$60,000.00 per year.

The grant application was prompted by the awareness that currently no unified statewide presence exists to represent and advocate specifically for children and adolescents with a serious emotional disturbance and their families. While many of the existing groups in the state are active participants on mental health related statewide planning committees, there is not a collective representation that participates across all agencies (e.g. juvenile justice, child welfare, education, health care) solely and specifically on behalf of children with a serious emotional disturbance and their families.

To date, grant activities have resulted in the creation of **Alabama Family Ties (AFT)**, a coalition of parents, family members and existing advocacy groups and organizations. A Board of Directors was created and Articles of Incorporation filed. The office of Alabama Family Ties will be located in Montgomery due to its proximity to the legislature, state agencies and other statewide organizations. The Board of Alabama Family Ties includes representation from the Federation of Families, Special Education Action Committee, Alliance for the Mentally Ill of Alabama, Mental Health Consumers of Alabama, Mental Health Association in Alabama, Parent Teachers Association, Jefferson County Family Advisory Council, and At-Large family members.

The board is primarily composed of individuals who meet the definition of a family member. The federal definition describes a family member as any individual who is a primary care giver for an individual in the target population. This includes biological parents, stepparents, foster parents, grandparents and others as defined by the family.

The Board of AFT believes that it is essential that the service network be premised on the concept that families are the primary resource and the decision-makers for their children, and that they be given choices of services that are tailored to the

Continued on page 7



ADMINISTRATION

KENNETH C. RANDALL
Dean and
Thomas E. McMillan
Professor of Law

DAN FILLER
Assistant Professor of
Law

REUBEN W. COOK
Program Director

JAMES TUCKER
Associate Program
Director

DAVID PRINCE
Director of Advocacy

ANN MARSHALL
Coordinator of Outreach
and Training

STAFF ATTORNEYS

LAUREN CARR

PAUL J. DEZENBERG

PATRICK HACKNEY

BARBARA LAWRENCE

ROZALIND SMITH

ADVOCACY FELLOWSHIP

LAURA McNALLY

CASE ADVOCATES

DAVID GAMBLE

ANGIE HENDRIX

CHRISTY RANEY

DENISE SMITH

ARNGENEL WELLS

ADMINISTRATIVE STAFF

JANET OWENS
Administrative Secretary

SUSAN TRETTER
Office Assistant

ROSEMARY BECK
Data Technician

SEGAIL FRIEDMAN
Information Specialist

An Overview of the Statewide Technology Access and Response (STAR) System for Alabamians with Disabilities

David Gamble, Case Advocate

STAR is a statewide program of the Alabama Department of Rehabilitation Services dedicated to helping Alabamians with disabilities gain increased access to assistive technology devices and services. STAR provides such services as assistive technology training and workshops, technology demonstrations, equipment loans, legal referrals, funding information, a financial loan program, a consumer network for consumers and families, regional resource specialists and equipment and repair centers. STAR also provides information and referral services that increase access to assistive technology. Future columns in AIRMAIL will be dedicated to specific STAR activities and programs.

STAR guides individuals through the process of locating and obtaining technology to help at work, school, play and in everyday life. If you or someone you know has a disability, STAR wants to assist you with your technology needs. STAR's free services are available to Alabamians regardless of disability or age. STAR is centrally located in Montgomery with regional offices in Birmingham and Huntsville. If you feel that STAR can help you or someone you know, please call (334) 613-3480 or 1-800-782-7656.



PIPA GRADUATION

Don't miss one of the best opportunities of a lifetime! Partners in Policymaking of Alabama (PIPA) provides a great opportunity to network with others who encounter some of the same concerns and barriers everyone who lives with disability shares, while learning how to become a better advocate for yourself and your loved ones. Two ADAP staff members, Lauren Carr and Denise Smith, were members of this year's class along with a member of the PAIMI Advisory Council, Stacey Jackson. The monthly training sessions gave these women the chance to learn, have fun and enhance their lives in an environment that is relaxed, comfortable and stimulating all at the same time. Now is the time to send for your application and become a part of the wave of Alabamians who are impacting how our state treats individuals with disabilities.



Parents in Policymaking of Alabama graduation, (l-r) Denise Smith, ADAP case advocate; Lauren Carr, ADAP staff attorney; Stacey Jackson, ADAP PAIMI Advisory Board and Executive Director of FACTS (Family and Consumer Team Satisfaction, Inc.).

Contact: Jayne Chase, PIPA, P.O. Box 301410, RSA Union, 100 North Union Street, Montgomery, AL 36130-1410. Telephone: 1-800-846-3735.



On Point

DEPRESSION

"WHAT WE DO NOT KNOW ABOUT DISEASES OF THE BRAIN
WILL HARM OR EVEN KILL US."

Dr. Ray Redfield Jamison, Newsweek Special Edition Spring/Summer 1999
Edited by Anna B. Brakefield, Health Advocate, Tuscaloosa, AL

WHAT IS DEPRESSION?

Depression is one of the most frequently occurring medical illnesses in the world today. Unfortunately, many of us confuse "the blues" with clinical depression. Clinical depression is an illness that manifests itself in symptoms affecting moods, thoughts, and general well-being. Depression is not a passing mood, nor is it a sign of personal weakness. It is not a bad situation from which you can "pull yourself up by the bootstraps." It is characterized by "episodes of long duration, high rates of chronicity, relapse, and recurrence, psychosocial and physical impairment, and mortality and morbidity--with a 15% risk of death from suicide in patients with more severe forms of depression." (JAMA, Jan 1997-vol 277, No. 4.)

WHAT CAUSES DEPRESSION?

Depression is a misunderstood illness due to the fear, stigma and lack of education that accompany "mental illness." It is a complex, often confusing, "tangle of cultural, environmental, biological, genetic and personal factors," just like most other medical illnesses. Often, depression co-occurs with other illnesses (stroke, heart disease, cancer, diabetes, attention deficit disorder, etc.). (Newsweek Special Issue, 1999.)

WHAT ARE THE SYMPTOMS OF DEPRESSION?

- Sad mood, irritability, crying spells
- Decreased interest/pleasure
- Sleep disturbance
- Appetite disturbance
- Loss of energy
- Feelings of worthlessness/guilt
- Difficulty thinking/concentrating
- Suicidal thoughts

IS DEPRESSION TREATABLE?

The good news is, Yes! The American Psychiatric Association estimates that 80% to 90% of those who suffer from depression can be effectively treated. Unfortunately, only one in three will ever receive appropriate treatment. Lack of knowledge about depression results in fear and stigma that prevent many from seeking treatment. Without treatment the frequency and severity of depressive symptoms tend to increase through the years.

These are dry and sterile facts. Let me put it in the simplest terms possible. In the last three years, depressive disorders in North America killed more than 100,000 men, women and children. They all died by their own hands, by suicide. Many thousands of others died through self-neglect, through giving up hope and through simply wasting away.

Depressive disorders kill--and every single death is unnecessary. Education about the symptoms, treatment options, prevalence and severity of depression is the primary weapon to decrease needless suffering incurred when depression is not treated. You have already increased your knowledge about this illness by reading this article. Please share this information with your loved ones and friends.

INFORMATION SOURCES

Depression Awareness, Recognition and Treatment (D/ART) Program - 1-800-421-4211
 National Institute of Mental Health www.nimh.nih.gov/
 National Depressive and Manic-Depressive Association 1-800-826-3632; www.ndmda.org
 National Alliance for the Mentally Ill 1-800-950-NAMI; www.nami.org
 National Mental Health Association 1-800-969-NMHA; www.nmha.org



ADAP is a statewide, independent program established to protect the rights of persons with disabilities ranging from developmental disabilities, manifesting themselves in childhood, to mental illness.

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication, plus editorials. Inquiries may be sent to Segail I. Friedman, Information Specialist, at the address printed below.

Airmail is published by Alabama Disabilities Advocacy Program (ADAP), The University of Alabama School of Law Clinical Programs.

Box 870395
 Tuscaloosa, Alabama
 35487-0395
 205-348-4928 - Voice
 205-348-3909 - FAX
 205-348-9484 - TDD
 e-mail
 ADAP@law.ua.edu
 website
<http://www.adap.net>

AVIS Rent A Car, in a formal settlement

agreement with the U.S. Department of Justice (DOJ), will improve access to airport shuttle systems for people with disabilities. The nation's second largest rental car company has agreed to provide accessible airport shuttle buses at all of its airport locations nationwide. The agreement between Avis Rent A Car, Inc. and the DOJ resolves a complaint filed by a traveler who uses a wheelchair alleging, that Avis violated the American with Disabilities Act by not providing access to the shuttle system that operates between the terminal at the Detroit Metro Airport and its offsite rental car facilities. During negotiations, Avis agreed to expand the settlement to cover all of its airport shuttle systems nationwide. Avis will ensure that:

- each of the 36 shuttle systems at airport locations that it owns and operates will have at least one accessible vehicle by December 2000; some locations will have several accessible vehicles.
- all newly acquired large shuttle vehicles will be accessible.
- accessible curbside service, under which rented vehicles are delivered directly to the terminal where the customer with a disability is waiting, will be provided at all locations.
- barriers to access will be identified and removed at each airport location.

When the Department began its investigation, Avis had only six lift-equipped vehicles out of 286 in its fleet. When Avis is in full compliance with the agreement, it will have at least 153 accessible vehicles.

This settlement was reported in the free quarterly DOJ Status Report, "Enforcing the ADA." This Status Report covers the ADA activities of the DOJ during the second quarter (April-June) of 1999. This report, previous status reports and a wide range of other ADA information are available through the Department's ADA Home Page on the World Wide Web.

ADA HOME PAGE

An ADA home page is operated by the Department of Justice on the Internet's World Wide Web (<http://www.usdoj.gov/crt/ada/adahom1.htm>). The home page provides information about:

- the toll free ADA Information Line,
- the Department's ADA enforcement activities,
- the ADA technical assistance program,
- certification of State and local building codes,
- proposed changes in ADA regulations and requirements and
- the ADA mediation program.

The home page also provides direct access to:

- ADA regulations and technical assistance materials (which may be viewed online or downloaded for later use),
- Freedom of Information Act (FOIA) ADA materials and
- Links to the Department's press releases, ADA Bulletin Board and Internet home pages of other Federal agencies that contain ADA information.



Card-sized Self-serve Gas Fact Sheet

The DOJ has printed a new card-sized version of its technical assistance fact sheet on providing assistance at self-serve gas stations. This new version, which is easily stored in a vehicle's glove compartment, may be obtained by calling the ADA Information Line. The standard-size fact sheet is available through the ADA Home Page and ADA Fax on Demand (document #3210).



ASSISTANCE AT SELF-SERVE GAS STATIONS

People with disabilities may find it difficult or impossible to use the controls, hose or nozzle of a self-serve gas pump. As a result, at stations that offer both self and full service, people with disabilities might have no choice but to purchase the more expensive gas from a full-serve pump. At locations with only self-serve pumps, they might be unable to purchase gas at all.

The Americans with Disabilities Act (ADA) requires self-serve gas stations to provide equal access to their customers with disabilities. If necessary to provide access, gas stations must:

- Provide refueling assistance upon the request of an individual with a disability. A service station or convenience store is not required to provide such service at any time that it is operating on a remote control basis with a single employee, but is encouraged to do so, if feasible.
- Let patrons know (e.g., through appropriate signs) that customers with disabilities can obtain refueling assistance by either honking or otherwise signaling an employee.
- Provide the refueling assistance without any charge beyond the self-serve price.

If you have additional questions concerning the ADA, you may call the Department of Justice's ADA Information Line at 800-514-0301 (voice) or 800-514-0383 (TDD) or access the ADA Home Page at: www.usdoj.gov/crt/ada/adahom1.htm.

Greyhound Lines Inc. has agreed to phase in lift-equipped buses for riders with disabilities two years before it is required to have them. An out-of-court agreement was reached between Greyhound and the Department of Justice (DOJ) after receiving a number of complaints that Greyhound drivers and employees had violated the Americans With Disabilities Act (ADA) by discriminating against people with disabilities.

The DOJ said the majority of complaints involved refusal to aid riders with disabilities in boarding a bus, or injuries that occurred when people with disabilities were carried on or off buses. Bill Lann Lee, acting assistant attorney general in

charge
of the

Civil Rights

Division said, "Carrying people with disabilities onto buses is often dangerous and humiliating." Lee added that the agreement is important because "intercity bus service is often the only affordable form of transportation for many people with disabilities."

Craig Lentzsch, Greyhound President, said, "The agreement brings closure to 14 unresolved complaints by passengers over a period of seven years, 1992-1998. During that period, we carried more than 100 million passengers, including several million who described themselves as disabled." He said Greyhound cooperated with the DOJ's investigation.

PARTNERS IN POLICYMAKING OF ALABAMA

P.O. Box 301410
RSA Union Building - 900 North Union Street
Montgomery, Alabama 36130-1410
Montgomery: 334-242-3979
800-846-3735
FAX: 334-242-0797

The Alabama Developmental Disabilities Planning Council is currently seeking applications from interested persons who have a developmental disability or who are parents of young children with developmental disabilities to participate in the 1999-2000 Partners in Policymaking Program.

Partners in Policymaking of Alabama is a leadership training program for self-advocates and parents. It provides state-of-the art knowledge about disability issues and building the competencies necessary to become advocates who can effectively influence public officials.

Partners learn about current issues and best practices and become familiar with the policy making and legislative processes at the local, state and federal levels. The overall goal is to achieve a productive partnership between people needing services and using services and those in a position to make policy and law. Partners attend two-day training sessions (Friday and Saturday) eight times a year, beginning in January 2000 and ending in August 2000. Each session is devoted to specific topics with nationally known experts and presenters.

Topics include:

- < History, People 1st Language and Parents and Independent Living Movement
- < Inclusive Education
- < Vision, State Systems and Service Coordination
- < State and Federal Legislation
- < Positioning and Assistive Technology
- < Supported Employment and Supported Living
- < Community Organizing and Advocacy
- < Civil Rights

Partners are expected to complete assignments between sessions and to commit to one major assignment, e.g., organizing a letter writing campaign or organizing special receptions or town meetings for public officials, etc.

Applications can be requested from the DD Council, or by contacting Jayne Chase or Lindsay Anderson at 800-846-3735. The council's Partners in Policymaking Selection Committee will select 35 participants for the Partners Program. Applications must be postmarked by **November 30, 1999** to be eligible. Final selection will be made by December 10, 1999, and participants selected will be notified by December 17, 1999.



AUTISM99 FIRST DISABILITY CONFERENCE FREE ON THE WEB

Autism99, the world's first-ever global disability conference to take place only on the Internet, is now open for registration and it's all free! The conference uses the Web to break down the information barriers that face parents with newly diagnosed children. It is thought that more than 100,000 people will benefit by taking part. Autism99 will bring people together to benefit from each other's experiences. This internet conference sets out to achieve the look, feel and functionality of a real conference, but all for free. Practical papers, live chat bars, self-help groups, question and answer sessions and an exhibition all ensure that delegates get the most from the site.

Papers have been submitted from leaders in the field from around the world. The emphasis is on the practical issues surrounding ASD, although new research and new therapies will also be highlighted. All delegates can pose questions about the papers. Expect a lively debate between authors and delegates. The conference papers will be put on the site in November, but there is a lot on the site now. The site is open for registrations now, and the conference will run between November 2 and November 23, 1999. You can access the site for free at www.autism99.org. If you prefer not to register you can use the username of "vip" and the password of "demonstration."



individual's needs. Families must be viewed as a resource for evolving systems and for developing services built around the strengths of the family. It is also essential that services are provided in a way that recognizes, is sensitive and embraces cultural, language and gender issues.

The Project will strive toward the following goals with an overall mission to create a statewide coalition of families and the organizations that advocate for improved quality of life for children with a serious emotional disturbance:

Goal 1

Strengthen organizational relationships through attendance of meetings at the state level to ensure that the unique needs of families are adequately addressed.

Goal 2

Foster leadership and management skills for the development and continuation of family organizations at the local and state levels.

Goal 3

Work closely with the national office of the Federation of Families and other advocacy groups to identify technical assistance needs and implement a strategy that meets these needs.

Goal 4

Secure the financial and human resources necessary to support and continue the coalition's goals.

An initial activity in year two will be the development of a Strategic Plan. This plan will determine the strategies that the coalition will utilize to foster the development of local support groups by providing activities and supports that strengthen their leadership capacities and fosters skill development of the family groups in the areas of leadership and advocacy, as well as business principles and practices. The Strategic Plan will be based upon the needs of the children and their families. One outcome of the plan should be improved visibility and enhanced awareness of issues affecting children with a serious emotional disturbance and their families. The Strategic Plan will also outline how AFT will advocate at the state level and work with the service agencies, the Governor's Office and the Alabama Legislature. Potential grant activities include: a toll free telephone number, a newsletter, educational literature, workshops, conferences and an internet website.

Alabama Family Ties will fill a distinct void in the system development structure: the absence of an organized independent family voice that is consistently present and involved, focused on the needs of children with a serious emotional disturbance and their families. It is critical that families have a voice when discussions are held and decisions are made that individually and collectively impact their children and their families.

An office telephone has not yet been installed. In the interim you may call Leigh Hardin, (205) 664-8737, for additional information or send mail to: Alabama Family Ties, 315 St. Lukes Drive, Montgomery, Alabama, 36117.



The ADA: a Ten-Year Retrospective will initiate discussion on where the ADA has taken us and where we can expect it to go in the next decade, as well as how we can help shape the future for Americans with disabilities, their families and their advocates.



March 3-4, 2000

Sponsored by

The University of Alabama School of Law

Alabama Disabilities Advocacy Program

Alabama Law Review

Disability Law Institute

Complete details available on the web
<http://www.law.ua.edu/adasymposium/>

Homeless Children and Education

Paul Dezenburg, Staff Attorney

The State of Alabama has adopted new enrollment procedure rules for homeless children.

The new rules provide that enrollment of a homeless child shall not be denied or delayed due to any reason relating to the child's homelessness. Thus, a school cannot deny enrollment to a homeless child due to the following:

- (i) lack of a transcript or school records,
- (ii) lack of immunization or health records,

- (iii) residency requirements,
- (iv) guardianship or custody requirements,
- (v) lack of transportation or
- (vi) lack of a birth certificate.

Instead, the school must enroll the child and then work with the health department and other agencies to develop the missing records while the child is attending class. The rules also provide two options for placement of homeless students:

- (a) continued enrollment in the school attended prior to homelessness, or
- (b) enrollment in any school which serves the area where the child is living in a shelter or temporary residence.

Airmail is funded 100% with federal funds through: • Administration on Developmental Disabilities (PADD) • Center for Mental Health Services (PAIMI) • U.S. Department of Education/Rehabilitation Services (PAIR).

Alabama Disabilities Advocacy Program
The University of Alabama
School of Law Clinical Programs
Box 870395
Tuscaloosa, AL 35487-0395

Non-Profit Organization
U.S. Postage Paid
Permit No. 16
Tuscaloosa, AL 35401

In this issue:



Alabama Family Ties	page 1
STAR	page 2
PIPA Graduation	page 2
On Point	page 3
Travel & Recreation	pages 4-5
Partners in Policymaking of Alabama	page 6
Autism99 First Disability Conference Free on the Web	page 6
Homeless Children and Education	page 8



AIRMAIL

ALABAMA DISABILITIES ADVOCACY PROGRAM VOL. 4, ISSUE 6 DECEMBER 1999

THE UNIVERSITY OF ALABAMA SCHOOL OF LAW CLINICAL PROGRAMS

ADAP ADOPTS PRIORITIES FOR FY 2000

With input from consumers, advocates, ADAP's councils, and the public at large, the following priorities were adopted for FY 2000. Thank you to everyone who provided the information for the establishment of the following priorities.

Children's Issues

(PADD, PAIMI, PAIR)

- * Protection of the rights of children with disabilities who are placed in or at risk of being placed in foster care
- * Protection of children from abuse and neglect in residential facilities
- * Advocating for provision of appropriate services for children with multiple needs

Education

(PADD, PAIR)

- * Advocating for placement of students with disabilities in general education classrooms in their neighborhood schools, with appropriate supportive services
- * Advocating for development and implementation of appropriate education plans for children age

birth to 21, pursuant to IDEA and Section 504

- * Advocating for appropriate policies and procedures regarding discipline of children with disabilities

Residential Placements

(PADD, PAIMI)

- * Advocating for safe and appropriate treatment conditions in residential placements
- * Advocating for appropriate community placements and supports for persons in institutions and for appropriate transitional services for those persons

ADA/Discrimination Issues

(PAIR, PADD)

- * Advocating for reasonable accommodations in employment
- * Advocating for access to state and local government

programs and services

- * Advocating for access to public accommodations

Assistive Technology

(PAAT)

- * Advocating for Medicaid payment for augmentative communication devices for children with disabilities
- * Advocating for provision of AT to children with disabilities

NOTE

ADAP's four programs are designated as follows:

PADD = Protection and Advocacy for Persons with Developmental Disabilities

PAIMI = Protection and Advocacy for Individuals with Mental Illness

PAIR = Protection and Advocacy for Individual Rights

PAAT = Protection and Advocacy for Assistive Technology



ADMINISTRATION

KENNETH C. RANDALL
*Dean and
Thomas E. McMillan
Professor of Law*

DAN FILLER
*Assistant Professor of
Law*

REUBEN W. COOK
Program Director

JAMES TUCKER
*Associate Program
Director*

DAVID PRINCE
Director of Advocacy

ANN MARSHALL
*Coordinator of Outreach
and Training*

STAFF ATTORNEYS

LAUREN CARR

PAUL J. DEZENBERG

PATRICK HACKNEY

BARBARA LAWRENCE

ROZALIND SMITH

ADVOCACY FELLOWSHIP

LAURA MCNALLY

CASE ADVOCATES

DAVID GAMBLE

ANGIE HENDRIX

CHRISTY RANEY

DENISE SMITH

ARNGENEL WELLS

ADMINISTRATIVE STAFF

JANET OWENS
Administrative Secretary

SUSAN TRETTER
Office Assistant

ROSEMARY BECK
*Computer Support
Technician II*

SEGAIL FRIEDMAN
Information Specialist

TechNet: Helping Consumers Obtain Assistive Technology

David Gamble, Case Advocate

TechNet provides consumers of disability-related services with the information and support they need to obtain assistive technology. TechNet is a grassroots network sponsored by STAR (Statewide Technology Access and Response System for Alabamians with Disabilities) and designed specifically to help consumers achieve a greater awareness of assistive technology that can help them be more independent and productive in their lives. TechNet can also help people with disabilities learn how to better gain access to that technology. For people with disabilities and their family members, TechNet:

- provides a way to share information about technology and devices through a network of individuals with similar concerns;
- provides a way to get current information about efforts in the state of Alabama to increase public access to assistive technology;
- provides a way to access training opportunities on assistive technology, including STAR's Consumer Empowerment seminars;
- provides a way to become involved in STAR, a statewide program of the Alabama Department of Rehabilitation Services dedicated to providing Alabamians with disabilities increased access to assistive technology.

TechNet has regional advocates located across the state of Alabama who can provide information about upcoming assistive technology training, STAR's initiatives to increase consumer access to technology and other activities in your community. For the name of the TechNet advocate in your area, call STAR at 1-800-STAR-656 or (334) 613-3480.



WEB SITE FOR TECHNOLOGY, DISABILITY CENTER UP

The Web site for the new Family Center on Technology and Disability, of which PACER is a partner, is up and running. Internet users can reach it through the web sites of the PACER Center (www.pacer.org) or the United Cerebral Palsy Association (www.ucpa.org/fctd/).

The Family Center is a technology network established in October 1998 to help organizations and programs provide information and support on technology to families of children and young adults with disabilities.

The web site contains the following topics: "About FCTD," "Network Organizations,"

"Materials Wanted," "Search for Materials: Subcontractors," "Model Programs," "Links," "Bulletin Board," and "Contact Information, Technical Support." The site also offers a text-only option.

The United Cerebral Palsy Association coordinates the project. Partners, in addition to PACER, are the Alliance for Technology Access (ATA), Academy for Educational Development (AED) and InfoUse.



On Point

State School Superintendent Proposes School Adequacy Model in Response to Decade-Old Education Reform Lawsuit

On October 28, School Superintendent Ed Richardson presented an "Educational Equity and Adequacy Model" to the State Board of Education in response to a 1993 Liability Order entered in the school reform lawsuit, *Alabama Coalition for Equity, et al. v. Hunt (ACE)*.

It's been almost ten years since ADAP, along with two other plaintiff groups in *ACE*, successfully argued that Alabama's school system was unconstitutional because it did not offer equitable and adequate educational opportunities to the school children of the State, including children with disabilities. State leaders were ordered by the Montgomery County Circuit Court to overhaul the State's school system. Following years of appeals, the Alabama Supreme Court upheld the Circuit Court's ruling in 1997 and gave the State a "reasonable time period" to remedy the system's deficiencies. This Model represents the State's first effort at crafting such a solution.

The model was developed by aligning the nine educational opportunities described by the *ACE* Court as essential for an adequate education (see below) with the educational initiatives and programming which the State has implemented.

A PLAN FOR STUDENTS WITH DISABILITIES?

It should be remembered that the *ACE* Court held that, just like their non-disabled counterparts, Alabama school-age children with disabilities have a right to an education that provides them with these same nine educational opportunities. In addition, recognizing the unique educational needs of children with disabilities, the Court held that the state must provide them with appropriate instruction and special services, as required by Federal and State mandates.

Thus, it was disheartening to see that missing from the proposed model was an analysis of how the State Department of Education planned on addressing the deficiencies found by the Court regarding provision of services to children with disabilities.

Except for references to the creation of the Occupational Diploma and the Transition Initiative, the proposal does not address the statewide, systemic problems that led the Court to conclude that "Alabama's system of special education does not and cannot provide an appropriate education to children with disabilities."

WHAT DO STUDENTS WITH DISABILITIES NEED?

In coming to this conclusion, the Court was persuaded that seven components must be in place if an appropriate education is to be provided for children with disabilities, and that these components were lacking in Alabama:

- (1) **Inclusion** — the education of children with disabilities with their non-disabled chronological peers;



ADAP is a statewide, independent program established to protect the rights of persons with disabilities ranging from developmental disabilities, manifesting themselves in childhood, to mental illness.

Airmail is published to provide information on issues and events of interest to people concerned about the rights of persons with disabilities. Organizations and individuals are encouraged to submit articles to be considered for publication, plus editorials. Inquiries may be sent to Segail I. Friedman, Information Specialist, at the address printed below.

Airmail is published by Alabama Disabilities Advocacy Program (ADAP), The University of Alabama School of Law Clinical Programs.

Box 870395
Tuscaloosa, Alabama
35487-0395

205-348-4928 - Voice
205-348-3909 - FAX
205-348-9484 - TDD
e-mail

ADAP@law.ua.edu
website

<http://www.adap.net>

Continued on page 7



Paul E. Bennett and Rebecca L. Ogle

ADAP ORGANIZES TOWN HALL MEETING

The Presidential Task Force on Employment of Adults with Disabilities was created by Executive Order 13078 and signed by President Clinton on March 13, 1998. The mission of the Task Force is to create a "coordinated and aggressive

national policy to bring adults with disabilities into gainful employment at a rate that is as close as possible to that of the general adult population."

The Task Force, led by Secretary of Labor Alexis M. Herman and Vice Chair Tony Coelho, is taking the lead in reforming federal government policies and programs to increase the employment rate of adults with disabilities. The Task Force held a Town Hall Meeting on



Mr. and Mrs. Howard Lee, III and Family

Monday, October 25, 1999, in Birmingham, Alabama. The meeting focused on civil rights and strategies that can reduce the high unemployment rate of people with disabilities.

Rebecca L. Ogle, Executive Director of the Task Force, and Paul E. Bennett, Senior Advisor to the Executive Director, led the discussion. A list of other participants in the Town Hall Meeting can be found at <http://www.adap.net>. Additional information about the Task Force and future Town Hall Meetings is available at www.dol.gov. If you would like a transcript of the Town Hall Meeting, please contact ADAP.



l-r - Paul E. Bennett, Elouise Woods, Rebecca L. Ogle, Reuben W. Cook

CIVIL RIGHTS UPDATE

On September 29, the Federal Communications Commission (FCC) released rules and policies that will require manufacturers of telecommunications equipment and providers of telecommunications services to ensure that such equipment and services are accessible to and usable by people with disabilities, if readily achievable. These rules, which were adopted by the FCC on July 15, 1999, implement Section 255 of the Telecommunications Act of 1996 and Section 251 (a)(2) of the Communications Act of 1934. The rules will give people with disabilities access to a broad range of products and services—such as telephones, cell phones, pagers, call-waiting, and operator services—that they cannot use today. The rules are available on the web (<http://www.fcc.gov/dtf>) and become effective 70 days after publication in the *Federal Register*.

NCD Bulletin, September 1999

Red Letter Day –

The Governor's Office on Disability (GOOD) held a day-long series of disability awareness events on Tuesday, October 26, 1999. Initiative 2000 is a national event coordinating the Tenth Anniversary Celebration of the ADA (American with Disabilities Act). The events were held at the State Capitol and served as Alabama's Initiative 2000 kick-off.

Events included:

Promotion of statewide involvement in Alabama's Initiative 2000 to encourage public participation in local, regional and state events through training and education on ADA, through achievements in sports, arts, employment, and community involvement; and through awards for accessible businesses and Employers of Excellence awards. Additional activities such as rallies, conferences and interfaith initiatives will culminate in a national Torch Relay that, with corporate sponsorship, will be routed through Alabama.

Official commemoration of Disability Awareness Month with a 12-hour public education event involving people with disabilities, disability organizations and advocates, state employees, agency and department heads and elected officials.

Art-quality photographic exhibit: *Just As I Am: Americans with Disabilities* was held in the Old Archives Room of the State Capitol. The coffee table book of essays and photographs highlighted 22 Alabamians with disabilities.

Governor's Reception spotlighted the day's activities and the Alabama Initiative 2000 kick-off. It celebrated the accomplishments of people with disabilities, honored the individuals featured in the exhibit and spotlighted a number of outstanding employers who have hired some exceptional people with disabilities.

Additional information can be obtained from Barbara Futral Crozier, Director, GOOD (Governor's Office On Disability), Suite 586, RSA Union Building, 100 North Union Street, Montgomery, AL 36130-2761, Telephone – 334-353-4663.



Barbara Crozier and
Rebecca Wright



Joe C. Hogans and
Angeline Pinckard



Graham Sisson and Michelle Cooper



Betty E. Howard and
Lottie Wade

Wishing you
a happy and
healthy holidays,
Denise Y.

Season's Greetings
Dan Miller

Best wishes for
the holidays!
Janet Owens

Season's Greetings!
David Prince

God Bless
you - one & all -
Dignus
Smith

BOO!
(oops, wrong holiday...)
Paul De

Merry Christmas!
Rosemary

Have a great
Holiday.
Patrick

Peace/Love/Joy
Susan Trotter

Love & Joy
Happy Holidays!
Linda

Happy Holidays!
Lana

Merry Christmas
Barbara A. Lawrence

Have a wonderful
holiday season
David Galt

Merry Christmas!
Christy Parry

Think warm
thoughts!
Happy Holidays
Angie + Lewis

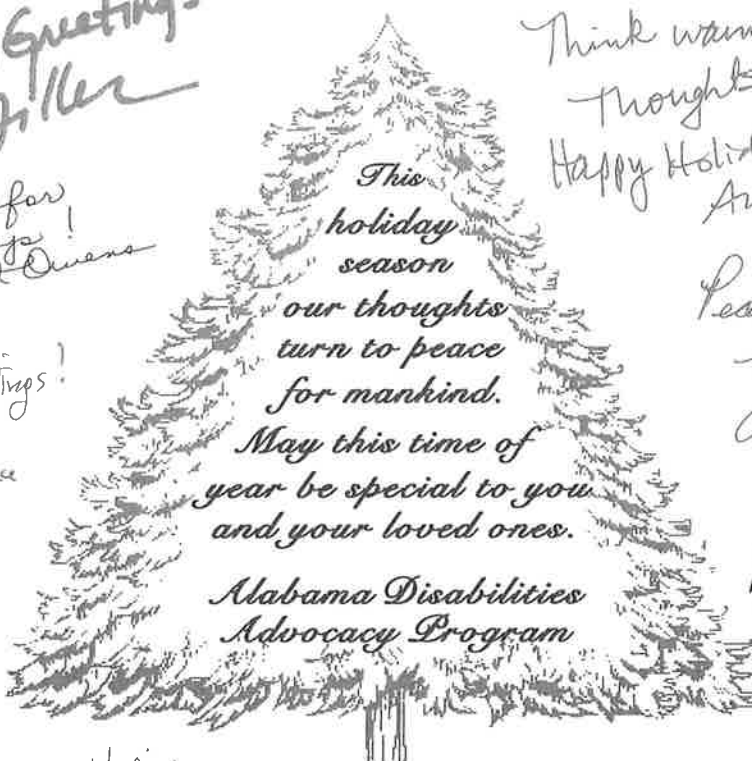
Peace and
happiness,
Ann

Happy Holidays,
Aunt

Happy Holidays!
Stacey Bels

God bless you all!
Angene Wells

Love and
Happiness
Sejal



Happy Holidays -
Nancy

BEST WISHES
AND PEACE TO ALL
Rose Woot

Happy Holidays!
Lana Carr

- (2) **Program support** — the resources needed to support special education statewide such as policy development and implementation, staff and program development, human and financial resources and monitoring and evaluation;
- (3) **Curriculum** — an appropriate curriculum that reflects the educational goals and objectives in each child's individualized education program (IEP) and which is designed to provide educational benefit to the child;
- (4) **Instruction** — appropriate instructional methods that reflect the educational goals and objectives in each child's IEP and which are designed to provide educational benefit to the child;
- (5) **Peer support** — the opportunity for children with disabilities to socialize with non-disabled peers;
- (6) **Preparation for adult life** — implementation of meaningful transition programs developed through the IEP process;
- (7) **Collaborative teaming** — formal and informal opportunities for special education teachers to work with regular education teachers concerning each child's program and needs.

Any model that purports to meet the mandates of the *ACE* Liability Order is flawed from the start if it does not address the needs of children with disabilities and, in particular, these seven components. ADAP will continue to advocate for the development of a model that will enable children with disabilities to achieve those nine educational goals outlined in the Liability Order and that will provide them with the appropriate education to which they are entitled.

"Alabama's system of special education does not and cannot provide an appropriate education to children with disabilities."

Alabama Coalition for Equity, et al. v. Hunt, 1993

NINE BENCHMARKS FOR ALABAMA'S SCHOOLS

"Adequate educational opportunities shall consist of, at a minimum, an education that provides students with the opportunity to attain the following:

1. Sufficient **oral and written communication skills** to function in Alabama, and at the national and international levels, in the coming years;
2. Sufficient **mathematic and scientific skills** to function in Alabama, and at the national and international levels, in the coming years;
3. Sufficient knowledge of **economic, social and political systems** generally, and of the history, politics, and social structure of Alabama and the United States, specifically, to enable the student to make informed choices;
4. Sufficient understanding of **governmental processes and of basic civic institutions** to enable the student to understand and contribute to the issues that affect his or her community, state, and nation;
5. Sufficient self-knowledge and knowledge of **principles of health and mental hygiene** to enable the student to monitor and contribute to his or her own physical and mental well-being;
6. Sufficient understanding of the **arts** to enable each student to appreciate his or her cultural heritage and the cultural heritages of others;
7. Sufficient training, or **preparation for advanced training, in academic or vocational skills**, and sufficient guidance, to enable each child to choose and pursue life work intelligently;
8. **Sufficient levels of academic or vocational skills to enable public school students to compete favorably** with their counterparts in Alabama, in surrounding states, across the nation, and throughout the world, in academics or in the job market; and
9. **Sufficient support and guidance** so that every student feels a sense of self-worth and ability to achieve, and so that every student is encouraged to live up to his or her full human potential."

Excerpt from the 1993 Liability Order in Alabama Coalition for Equity, et al. v. Hunt



The ADA: a Ten-Year initiate discussion ADA has taken us Retrospective will on where the and where we can expect it to go in the next decade, as well as how we can help shape the future for Americans with disabilities, their families and their advocates.

Sponsored by

The University of Alabama School of Law

Alabama Disabilities Advocacy Program

Alabama Law Review

Disability Law Institute

March 3-4, 2000

Complete details available on the web
<http://www.law.ua.edu/adasymposium/>

ADAP DEVELOPS CLIENT SATISFACTION SURVEY

ADAP staff is developing a Client Satisfaction Survey, which will provide a "report card" about how we are serving our clients and performing our protection and advocacy mission. ADAP staff will begin mailing the survey in early 2000.

ADAP answers all calls for information and referrals.

ADAP case acceptance and advocacy services must meet priorities and goals established through public input and federal guidelines.

ADAP, upon request, will send you a list of its criteria and priorities.

In the next issue look for information on the landmark Work Incentives Improvement Act

Airmail is funded 100% with federal funds through: • Administration on Developmental Disabilities (PADD) • Center for Mental Health Services (PAIMI) • U.S. Department of Education/Rehabilitation Services (PAIR).

Alabama Disabilities Advocacy Program
 The University of Alabama
 School of Law Clinical Programs
 Box 870395
 Tuscaloosa, AL 35487-0395

Non-Profit Organization
 U.S. Postage Paid
 Permit No. 16
 Tuscaloosa, AL 35401

In this issue:



ADAP Adopts Priorities for FY 2000	page 1
TechNet: Helping Consumers Obtain Assistive Technology	page 2
Web Site for Technology, Disability Center Up	page 2
On Point	page 3
ADAP Organizes Town Hall Meeting	page 4
Civil Rights Update	page 4
Red Letter Day	page 5
Season's Greetings	page 6
ADAP Develops Client Satisfaction Survey	page 8