

NJCDD

NJ Council on Developmental Disabilities

the **Council**

A publication of the New Jersey Council on Developmental Disabilities

Inside this issue:

Editorial: Rep. Rush Holt on the ADA Restoration Act.....	page 2
Editorial: En Español	page 3
Advocates Applaud Special Education Legislation	page 4
Stimulus Rebates Still Available.....	page 5
Community Calendar.....	page 6

NJCDD Executive Director Appointed to National Board

Alison Lozano, Ph.D., executive director of the New Jersey Council on Developmental Disabilities, has been appointed to the board of the National Association of Councils on Developmental Disabilities (NACDD).

“New Jersey can be very proud,” said Elaine Buchsbaum, chair of the Council. “Alison has a long history with NACDD, both as a parent member on a council when she lived in Tennessee and as executive director in Utah and here in New Jersey. She has a lot of varied experience—it is a perfect fit.”

Lozano says she is honored to be elected to the board at such a critical time in the organization’s history. “NACDD is in the midst of hiring a new CEO, we are anticipating reauthorization of the Developmental Disabilities Act in 2008 and, we are facing a fiscal crisis that threatens all services for people with developmental disabilities.”

continues on page 4



New Rules for the Americans with Disabilities Act Promise Greater Access

New rules have been proposed to update and strengthen federal standards for enforcement of the Americans with Disabilities Act.

The proposed rules detail the requirements of the landmark 1990 civil rights law. Everything from courtrooms and stadiums, to fishing piers and miniature golf courses would have specific compliance standards for accessibility.

Among the proposed changes:

- Courtrooms would have to provide a lift or a ramp to ensure that people in wheelchairs could get into the witness stand, which is usually elevated from floor level.
- Auditoriums would have to provide a lift or a ramp so wheelchair users could “participate fully and equally” in events, such as graduations or awards ceremonies, at which members of the audience have direct access to the stage.
- Larger stadiums would have to post safety and emergency information on scoreboards and video monitors to alert people who are deaf or hard of hearing.
- Theaters would have to provide specified numbers of seats for wheelchair users, with viewing angles “equivalent to or better than the average viewing angles provided to all other spectators.”

continues on page 5

The ADA Restoration Act

By Rep. Rush Holt (NJ-12)

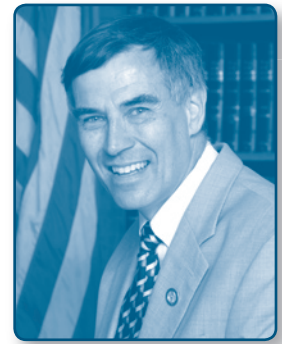
This July will mark the 18th anniversary of the Americans with Disabilities Act (ADA). When then President George Bush signed the ADA into law, he wrote that the landmark act would “provide our disabled community with a powerful expansion of protections and then basic civil rights. It will guarantee fair and just access to the fruits of American life which we all must be able to enjoy.”

Unfortunately, in recent years the Supreme Court has narrowed the scope of this law and created a new set of barriers for Americans with disabilities. Under this narrow interpretation, individuals with diabetes, heart conditions, epilepsy, mental retardation, cancer, and many others have been denied their rights under the ADA because they are labeled as “too functional” to be considered “disabled.”

At hearings of the House Committee on Education and Labor, I heard how narrow interpretations of the law are affecting individuals with disabilities. We heard testimony from Carey McClure, an electrician with muscular dystrophy from Georgia, who was denied a job because of his disability and then denied recourse under the ADA because he was able to perform work tasks. There are many more similar heartbreaking stories.

“H.R. 3195 would reaffirm the ADA’s mandate for the elimination of discrimination on the basis of disability and allow the ADA to reclaim its place among our Nation’s most important civil rights laws.”

To address this absurd Catch 22 - where an employer may say a person is too disabled to perform a job but not disabled enough to be protected under the ADA – I am a cosponsor of the Americans with Disabilities Act Restoration Act of 2007 (H.R. 3195), which House Majority Leader Steny H. Hoyer (D-MD) and Representative James Sensenbrenner (R-WI) introduced last summer.



**Congressman
Rush Holt**

This legislation would restore protections for disabled Americans under the ADA by requiring courts to focus on whether a person has experienced discrimination “on the basis of disability,” rather than requiring individuals with disabilities to first demonstrate that they are substantially limited in some major life activity. H.R. 3195 would reaffirm the ADA’s mandate for the elimination of discrimination on the basis of disability and allow the ADA to reclaim its place among our Nation’s most important civil rights laws.

I am proud that our state has enacted our own tough employment protections for individuals with disabilities. Our state’s experience belies the spurious claims made by the bill’s opponents that this legislation is overprotective of individuals with disabilities.

In March, I hosted a roundtable discussion in New Jersey with representatives of disability organizations and individuals with disabilities and with representatives from corporate human resources departments. From that discussion, I drew information indicating that the federal legislation is needed and that it could be implemented effectively.

I also heard from an employer who was hesitant when approached by the ARC of New Jersey about hiring individuals with disabilities. Yet, today he said they are some of his best employees.

The New Jersey Council on Developmental Disabilities also participated in the roundtable and I thank them for their tireless work.

continues on page 4

Ley de Restauración de la ADA

Por: Rush Holt (NJ-12), Representante

En este mes de julio se cumplirá el 18 aniversario de la promulgación de la Ley de Americanos Discapacitados (Americans with Disabilities Act (ADA)). Cuando el Presidente George Bush firmó la ADA promulgando la ley, agregó de puño y letra que esta ley “proporcionaría a nuestra comunidad de discapacitados valiosas medidas de protección además de derechos civiles básicos. Garantizará acceso justo y equitativo a los frutos de la vida Americana que deben estar al alcance de todos”.

Desafortunadamente, en los últimos años la Corte Suprema ha limitado el alcance de esta ley y ha creado un nuevo grupo de barreras para los americanos discapacitados. Bajo esta interpretación limitada, se ha negado a personas con diabetes, problemas cardiacos, epilepsia, retraso mental, cáncer y muchas otras dolencias los derechos que les corresponden en virtud de la ADA por haber sido catalogadas como “demasiado funcionales” para ser consideradas “discapacitadas”.

En las audiencias del Comité de la Cámara de Representantes para Educación y Trabajo, he sido testigo de cómo interpretaciones limitadas de la ley están afectando a personas discapacitadas. Escuchamos el testimonio de Carey McClure, un electricista con distrofia muscular de Georgia, a quien se le negó un trabajo por su discapacidad y luego se le negó el recurso de la ADA porque podía realizar tareas laborales. Y como esta hay muchas mas historias verdaderamente desoladoras.

A fin de solucionar este absurdo *Catch 22* — en virtud del cual un empleador puede decir que una persona padece de un alto grado de discapacidad para trabajar pero no es lo suficientemente discapacitada para ser protegida bajo la ADA — soy copatrocinador de la Ley de Restauración de la Ley de Americanos Discapacitados (Americans with Disabilities Act Restoration Act) de 2007 (H.R. 3195) que fue presentada el verano pasado por el Líder de la Cámara de Representantes Steny H. Hoyer (D-MD) y el Representante James Sensenbrenner (R-WI).

Esta ley restauraría las protecciones para los americanos que la ADA contempla exigiendo a las cortes que se centren en determinar si la persona ha sido víctima de discriminación “sobre la base de discapacidad”, en vez de exigir que las personas discapacitadas demuestren primero que se encuentran significativamente limitadas en algunas de las actividades de la vida cotidiana. La H.R. 3195 reafirmaría el mandato de la ADA de eliminar la discriminación sobre la base de discapacidad y permitiría que la ADA vuelva a ocupar su lugar entre nuestras leyes más importantes de derechos civiles de la nación.

Me siento muy orgulloso de que nuestro estado haya promulgado sus propias normas rigurosas de protección al empleo para las personas discapacitadas. La experiencia en nuestro estado contradice las falsas aseveraciones de los oponentes del decreto ley en el sentido de que esta ley sobreprotege a las personas discapacitadas.

En marzo pasado, fui anfitrión de una mesa redonda en Nueva Jersey integrada por los representantes de las organizaciones de discapacitados, personas discapacitadas y representantes de departamentos de recursos humanos de corporaciones. Gracias a este debate obtuve información que indica la necesidad de una legislación federal así como su implementación efectiva.

Asimismo, un empleador me informó sobre sus reservas al ser abordado por ARC de Nueva Jersey en lo que respecta a la contratación de personas discapacitadas. Sin embargo, según él en la actualidad éstos son algunos de sus mejores empleados.

El Consejo de Nueva Jersey para Casos de Discapacidad de Desarrollo también participó en la mesa redonda y aprovecho esta oportunidad para agradecerles su inagotable labor.

Antes de la promulgación de la Ley de Americanos Discapacitados de 1990, los americanos discapacitados

continúa en la página 4

ADA Restoration Act *continued from page 2*

Prior to the Americans with Disabilities Act of 1990, disabled Americans experienced discrimination in almost all aspects of society. The ADA was meant to ensure that disabled Americans would not be discriminated against based on false stereotypes and that they would be able to live as independent, self-sufficient members of our communities.

I will continue to work for passage of the Americans with Disabilities Act Restoration Act.

Rep. Rush Holt (NJ-12)
1019 Longworth House Office Building
Washington, DC 20515
202-225-5801 (O)

Ley de Restauración de la ADA *continuación de la página 3*

eran objeto de discriminación en casi todos los aspectos sociales. La ADA tenía por objeto asegurar que los americanos discapacitados no fueran discriminados sobre la base de falsos estereotipos y que pudieran vivir como miembros independientes y autosuficientes de nuestras comunidades.

Seguiré trabajando en pro de la promulgación de la Ley de Restauración de la Ley de Americanos Discapacitados.

Advocates Applaud Signing of Legislation Supporting Special Education Students

In mid-June, Governor Jon Corzine signed legislation to allow students with disabilities who will remain in school beyond the traditional senior year, to participate in commencement ceremonies with classmates. Some students with disabilities may need to remain in high school beyond their fourth year, but want to graduate with their age peers. “Alicia’s Law,” named for an East Hanover student, will allow teens with disabilities who are not ready to graduate with a diploma to be part of the graduation ceremony and receive a certificate of attendance. The act takes effect immediately.

The bill was actively supported by The Arc of New Jersey and the Statewide Parent Advocacy Network, SPAN. Diana Autin, Executive Co-Director of SPAN says that education advocates are thrilled that students with disabilities who have been included with non-disabled peers are now guaranteed the right to walk in graduation ceremonies with their friends. “Still, I’m saddened that it took legislation to make this happen,” said Autin. “Graduating with peers is a symbolic event that is integral to the inclusion of students with disabilities. It sets the stage for the transition into adulthood and community living.”

NJCDD Executive Director Appointed to National Board *continued from cover*

NACDD was established in 2002 to bring together the two organizations that previously supported DD Councils, the Consortium of Developmental Disabilities Councils and the National Association of Developmental Disabilities Councils. NACDD places high value on meaningful participation and contribution by council members and staff of all member councils.

NACDD is a member-driven organization consisting of 55 state and territorial councils that supports councils in promoting the interests and rights of people with developmental disabilities and their families. NACDD represents the diverse interests of its council members and is the national voice of its member organizations. For more information at NACDD, visit their website at <http://www.nacdd.org/>

ADA Rules Promise Greater Access

continued from cover

- Hotels must allow people with disabilities to reserve accessible guest rooms, and they must honor these reservations to the same degree they guarantee other room reservations. Light switches in a hotel room would be lowered from the current maximum height of 54 inches down to 48 inches high.
- People with disabilities would be allowed to use guide dogs and other service animals in public places, but the new rules tighten the definition of service animals to exclude certain species, such as monkeys and exotic reptiles.

In an economic analysis of the proposed rules, the Justice Department said the need for an accessible environment is greater than ever because the Iraq war was “creating a new generation of young men and women with disabilities.” The value of the public benefits, estimated at \$54 billion, exceeds the expected costs of \$23 billion. The department estimates 2 percent of the adult population will use wheelchairs, and 4 percent will use crutches, canes, walkers or other mobility devices by 2010, and as the population ages, the number of people with hearing loss will increase.

Under the 1990 law, businesses are supposed to remove barriers to people with disabilities if the changes can be carried out without much difficulty or expense. To help protect small businesses, the new rules provide a safe harbor, allowing them to meet their ADA obligations if they spend at least 1 percent of their gross revenues to remove barriers.

The Bush administration approved the proposal after a five-month review. The proposal was published in the Federal Register on June 17, with 60 days for public comment.



People with Disabilities Still Have Time to File for Rebate Payment

Though the tax deadline has passed, those who don't normally file a return, including some people with disabilities, have until October 15 to file for the federal stimulus payment; unclaimed rebates also may be claimed in 2009.

The stimulus payments are not taxable and will not affect 2007 or 2008 tax returns. The payments will not count toward or negatively impact income-based government benefits, such as Social Security benefits, food stamps and similar programs.

The amount of the stimulus payment is \$300 for qualifying single individuals receiving just Social Security or veterans-disability benefits and \$600 for married couples. The payment amount could be more for a couple where one individual is also working (up to a \$1,200 rebate) or where a single person with a disability had earned other income (up to a \$600 rebate). Those getting a rebate may be eligible for an extra \$300 for each child under age 17.

People with no tax filing requirement, but with at least \$3,000 in qualifying income, should file a Form 1040A. Qualifying income includes earned income, nontaxable combat pay and certain Social Security, Veterans Affairs and Railroad Retirement payments. These Social Security benefits include disability, retirement and survivor payments, but not Supplemental Social Security Income (SSI).

Those who do not qualify for the rebate based on 2007 federal income tax return could become eligible if their tax situation changes in 2008. If this occurs, the economic stimulus payment can be claimed on the 2008 tax return.

More information can be found at the IRS website: <http://www.irs.gov/>. Click on “Free File,” then click on the link to “Free File - Economic Stimulus Payment page.”



Community Calendar

- July 9** Teleconference: "Understanding Other Health Supports," sponsored by SPAN. 12 NOON -1:30 PM. Presented by Diana Autin, Esq., SPAN Executive Co-Director and Pauline Lisciotta, Program Manager, Family Health Program, Department of Health. Register by phone, 973-642-8100 X116, or via email trainings@spannj.org.
- July 24** Public Meeting of the New Jersey Council on Developmental Disabilities. 10:00 AM to 3:00 PM. Trenton NJ. For more information, call 609-292-3745.
- August 6** Teleconference: "Health Consumer and Privacy Rights and Related Laws: COBRA, HIPAA, ERISA, FMLA," sponsored by SPAN. Presented by Lois Krieger, Senior Attorney, Community Health Law Project. Register by phone, 973-642-8100 X116, or via email trainings@spannj.org.
- September 10** Teleconference: "Transition to Adult Systems of Care: What's Out There?," sponsored by SPAN. Presented by Alice Hunnicutt, SPAN Project Director, Transition to Adult Life. Register by phone, 973-642-8100 X116, or via email trainings@spannj.org.
- September 25** "Direct Support Professional Conference," sponsored by the Boggs Center on Developmental Disabilities, Somerset NJ. For more information go to <http://rwjms.umdnj.edu/boggscenter/conferences/index.htm>, or call 732-235-9314.
- October 14** Last day to register to vote in New Jersey. For more information on voter registration, go to <http://www.state.nj.us/oag/elections/voter-registration-application.html>.

The Council is a publication of the New Jersey Council on Developmental Disabilities.

Chair: Elaine Buchsbaum
 Exec. Director: Alison M. Lozano, Ph.D., M.P.A.
 Executive Editor: Norman Reim
 Editor/Writer: Brenda Considine
 New Jersey Council on Developmental Disabilities,
 PO Box 700, 20 West State Street,
 Trenton, NJ 08625-0700
 Telephone: 1-800-216-1199; 609-292-3745;
 TDD: 609-777-3238; FAX: 609-292-7114.
<http://www.njcd.org>

The Council is a compilation of news from various sources, organized to inform people with disabilities about policies, programs, laws, trainings and events. This publication and others published by NJCDD are available in alternate accessible formats. Please call the Council for more information.

The Council: NJCDD's Newsletter
 PO Box 700
 Trenton, New Jersey 08625

Return Service Requested

PRESORTED
 FIRST-CLASS MAIL
 U.S. POSTAGE
PAID
 TRENTON, N.J.
 PERMIT NO. 21