

# Center for Disability Rights, Inc.

## **CDR Policy Position: Expanding and Enforcing the Americans with Disabilities Act (ADA)**

On July 26, 1990, President George H. W. Bush signed into law the [Americans with Disabilities Act](#) (ADA). People with disabilities finally had clearly defined rights and protections. The ADA prohibits discrimination against people with disabilities in employment, transportation, public accommodations, communication, and governmental activities. While the ADA has led to marked improvements in many areas of life for people with disabilities – including access to public accommodations, public buses, and government services, to name a few – there is still a great deal of work to be done. For example, employment discrimination against people with disabilities is still rampant, many public buildings remain inaccessible, equal access to transportation remains an ongoing concern, and the lack of accommodations still limits access to health care for people with disabilities.

Many members of the Center for Disability Rights (CDR) advocated for passage of the ADA, before CDR was even CDR. CDR is dedicated to expanding and enforcing the ADA. CDR protects the civil rights of people with disabilities by ensuring that policy makers are educated on the ADA. This requires a broad array of strategies and, often times, nonviolent civil disobedience. Without active enforcement of this legislation, the rights of people with disabilities will continue to be neglected. CDR will not allow this to happen.

### **Employment protections in the ADA should be expanded to specifically end segregated, sheltered employment.**

The 1999 [Olmstead](#) decision was perhaps the most significant affirmation of the ADA by the Supreme Court. While the *Olmstead* decision barred the state from institutionalizing people with disabilities as a violation of the integration mandate in the ADA, it has further implications for applying the integration mandate to other matters, such as segregated employment. The decision implies that segregated work should be eradicated, but there has been no firm action to move toward this direction within the ADA. Sheltered workshops are segregated

employment, which typically resemble an assembly line and require no skill. Sheltered workshops operate exclusively for people with disabilities who receive wages far below minimum wage. Sadly, these workshops are not only still legal but they actually receive public subsidies to operate. According to the [National Disability Rights Network](#), for every \$1 spent on supported employment, \$4 are used for segregated day programs. CDR believes that sheltered employment and subminimum wages for people with disabilities are discriminatory and must be eradicated.

**Buildings that violate the ADA should be continuously fined until they are brought into compliance.**

The ADA's accessibility requirements clearly apply to public buildings. For private business, the ADA does not impose undo hardships. Yet there are far too many businesses that are inaccessible to people with disabilities. It is unconscionable for a business to be inaccessible to an entire segment of the population. If women were barred entrance into Wal-Mart, for example, there would be public outcry but in our society it is acceptable for a building to be off limits for an individual with a disability. The ADA is very reasonable in its requirements for businesses to make modifications in order to be compliant with the ADA. It does not impose excessive costs or unrealistic time frames. Over twenty years after enactment of the ADA, there is no excuse for a business to be inaccessible. Funds from violation fines could go into a locally operated "modification fund" to be used for grants for environmental modifications.

**Assessing ADA compliance should be a part of local code enforcement and building inspection.**

Code enforcers and building inspectors evaluate existing and new construction in accordance with several federal, state, and local ordinances; however, assessing for accessibility requirements is not part of their inspection. Local zoning laws and codes should be modified to allow public officials to include evaluation – and enforcement – of ADA compliance as part of their inspections.

**Health Plans and health care providers must comply with the ADA.**

Health Plans (such as managed care entities), as well as health care providers in and out of a network, must comply with the ADA. Health care providers must ensure that their facilities are accessible. For example, there must be at least one accessible exam room, complete with necessary equipment, and the room must be reserved when an individual with a disability has a scheduled appointment. All exam rooms must have sufficient room to maneuver a wheelchair. Assistance with transfers from a wheelchair to exam tables should be mandatory, particularly for rehabilitation therapies. In addition to physical accessibility requirements, there are other components of the ADA that apply to health care providers, such as the

requirement to provide interpreting services and informational materials in alternative formats, for example. Health Plans must support the intent of the ADA and the integration mandate by mitigating service reductions that have a disproportionate impact on people with disabilities; particularly those people with disabilities who live integrated in the community. For example, caps on rehabilitation therapies (speech, physical, and occupational) violates the ADA's integration mandate, since it only applies to people who have the most significant needs and who receive those services in the community, not those in institutional settings.

**The paratransit guidelines in the ADA need to be improved.**

People with disabilities are subject to much more stringent requirements for public transportation than their nondisabled peers. People without disabilities who use public transportation enjoy full flexibility and are free to cancel or change their travel plans, while people with disabilities who use paratransit do not enjoy the same flexibilities. In some instances, paratransit riders are subject to severe penalties for cancellations, such as suspension of service. Furthermore, different paratransit providers impose different rules. The ADA needs to explicitly address the discriminatory policies that are currently in place in the paratransit system. Paratransit should be defined as door-to-door. In order to reduce costs, many paratransit entities only provide curb-to-curb service, which can be difficult for people with certain disabilities. By providing door-to-door service, the paratransit system becomes more accessible and usable for all individuals.

**Enforcement of the ADA needs to be strengthened.**

Even though the ADA provides explicit parameters for public and private entities in order to eliminate discriminatory practices against people with disabilities, too often violations go unchecked. It is essential to provide more resources for oversight bodies (e.g. the U.S. Department of Justice) as well as more education and involvement of those attorneys who enforce the ADA.

**The ADA should not be the maximum requirement, but rather the minimum.**

The ADA has undoubtedly made significant progress toward increased accessibility and integration; however, there is still a long way to go. The ADA should be expanded to prevent discrimination against people with disabilities in all aspects of American life so that everyone with a disability may live fully integrated into society. The various sections of the ADA apply only to specific activities – employment, transportation, public accommodations, communications, and government activities – and even these specific sections do not apply to everyone. For example, only employers with fifteen or more employees are subject to the ADA. The ADA and its integration mandate, as exemplified by the *Olmstead* decision, lay the groundwork and offers tools for the enforcement of the rights of

people with disabilities. Yet as it stands, the ADA should not be the maximum requirement, but rather the minimum. CDR is committed to expanding and enforcing the ADA.

*The Center for Disability Rights, Inc. (CDR) is a non-profit service and advocacy organization devoted to the full integration, independence and civil rights of people of all ages with all types of disabilities.*