

PART I: MAJOR LEGISLATION - Arranged alphabetically

Americans with Disabilities Act (ADA) (P.L. 101-336)

Authorization: 1990

Overview: Guarantees the civil rights of people with disabilities by prohibiting the discrimination against anyone who has a mental or physical disability in the area of employment, public services, transportation, public accommodations, and telecommunication. It protects people who currently have a disability or a history of one; people who are regarded as having a disability by others, whether or not they actually have a disability; and people who are not themselves disabled but who encounter discrimination on the basis of their association or relationship with a person who has a disability—such as parents of children with disabilities. The Act has four Titles:

- Title I prohibits discrimination in employment
- Title II prohibits discrimination in state and local government programs, services and benefits including public transportation
- Title III prohibits discrimination by private businesses, insurance providers and other entities that operate places of "public accommodation"
- Title IV requires common carriers (telephone companies) to establish interstate and intrastate telecommunications relay services (TRS) 24 hours a day, 7 days a week for people with hearing and speech disabilities.

Category: Civil rights statute

Resources

For information and technical assistance regarding the ADA, see the ADA Home Page at www.ada.gov. It has numerous links to resources, including both the ADA Technical Assistance Program and the Disability and Business Technical Assistance Centers, a national network of 10 Centers that provide information and training on the ADA to businesses, employers, government agencies and individuals with disabilities.

ADA Amendments (P.L. 110-325)

Authorization: 2008

Overview: See description in Judicial section of this Policy Guide

Category: Civil rights statute

Developmental Disabilities Assistance and Bill of Rights Act (DD Act) (P.L. 106-402)

Authorization: last amended and reauthorized 2000. Federal legislation for people with developmental disabilities began with the Mental Retardation Amendments of 1967 (P.L. 90-170). It was followed by the Developmental Disabilities Services and Facilities Construction Amendments of 1970 (P.L. 91-517). Renamed as the Developmental Disabilities Assistance and Bill of Rights Act (P.L. 94-103) in 1975, it was amended and reauthorized over the years in 1984 (P.L. 98-527), 1987 (P.L. 100-146), 1990 (P.L. 101-496), 1994 (P.L. 103-230), 1996 (P.L. 104-183) and then in 2000.

Overview: The DD Act focuses on the estimated 4.5 million children and adults in the U.S. who have developmental disabilities. Its purpose is to assure that individuals with developmental disabilities and their families have the opportunity to participate actively to design community-based programs and to have access to the full array of community services, individualized supports, and other assistance that promotes and creates opportunities for independence, productivity, and self determination.

The DD Act consists of four programs that create an intersecting network:

- State Councils on Developmental Disabilities (DD Councils) pursue state level systems change in the availability, design or delivery of services and supports that promote positive and meaningful outcomes for individuals with developmental disabilities and their families. Council grantees are responsible to build the necessary capacity to deliver successfully services and supports for individuals with developmental disabilities; to pursue advocacy supporting policies and practices that promote self-determination and community inclusion; and support activities such as initiating and demonstrating innovative approaches, outreach training, public education, and information to policy-makers.
- Protection and Advocacy (P&A) systems, one in each state, protect the legal and human rights of individuals with developmental disabilities. P&A strategies include legal, administrative and other remedies; information and referral; investigation of incidents of abuse and neglect; and education of policy-makers.
- University Centers for Excellence in Developmental Disabilities (UCEDDs) are located in a university setting in every state and territory. The 67 UCEDDs provide interdisciplinary training to students and professionals, engage in cutting-edge research, and provide direct services and supports to people with disabilities of all ages and their families.
- Projects of National Significance (PNS) is a discretionary program that focuses on emerging areas of concern. This program supports local implementation of practical solutions and provides results and information for possible national replication. PNS also supports technical assistance; research regarding emerging disability issues; conferences and special meetings; and the development of Federal and state policy. Additionally, funding is provided for states to create or expand statewide systems change.

The DD Act also authorizes Family Support Programs to promote and strengthen comprehensive State systems for in-home supports for families caring for individuals with disabilities. However, this program has never been fully-funded and consequently, families continue to struggle with little or no help. Family support services are effective

in reducing costs associated with life-long disability and preventing the expense of out-of-home placement.

Category: Formula grants for DD Councils and P&A systems; competitive grants for UCEDDs

**Individuals with Disabilities Education Act (IDEA) of 1991 (P.L. 102-119),
Individuals with Disabilities Education Act Amendments of 1997 (P.L. 105-17) and
Individuals with Disabilities Education Improvement Act of 2004 (P.L. 108-446)**

Authorization: last amended and reauthorized 2004. IDEA originated in 1970 when Congress passed the Education of the Handicapped Act (EHA), later amended in 1975 by the Education for All Handicapped Children Act (commonly called P.L. 94-142).

Overview: Generically called "special education," this legislation requires public schools to make available to all eligible children with disabilities a free appropriate public education (FAPE) in the least restrictive environment (LRE). Part B of the law requires schools to work with eligible students ages 3-21 to develop an appropriate Individualized Education Program (IEP) and Part C authorizes early intervention services for infants and toddlers with disabilities and their families from birth to age two. Part D funds activities to improve the education of children with disabilities, including pre-service and in-service training for general and special educators and related services and early intervention personnel.

The 2004 reauthorization was designed to improve educational services for students with disabilities with a focus on improving student performance. The reauthorization emphasized the coordination of IDEA with the No Child Left Behind Act (NCLB), described below in the Education section of Part II. The changes also strengthened the provisions that govern disciplinary procedures, IEPs, due process, services to children enrolled in private schools by their parents, transition, and Part C services.

Category:

Civil rights statute - Part B

Formula grant program - Part B (aid to local/state educational agencies to provide FAPE)

Formula grant program - Part C

Competitive grant program - Part D

Rehabilitation Act (P.L. 93-112) (generally called the "Rehab Act")

Authorization: 1973, as amended

Overview: The Rehabilitation Act authorizes (a) the formula grant programs of vocational rehabilitation, supported employment, independent living, and client assistance (b) a variety of training and service discretionary grants administered by the Rehabilitation Services Administration of the U.S. Department of Education and (c) research activities administered by the National Institute on Disability and Rehabilitation

Research (NIDRR) and the work of the National Council on Disability (NCD). It also includes a variety of provisions focused on the rights of individuals with disabilities. The Rehab Act has seven sections, known as Titles, described below:

Title I: Vocational Rehabilitation Services

Title II: Research and Training – creates Interagency Committee on Disability Research

Title III: Professional Development and Special Projects and Demonstrations

Title IV: National Council on Disability

Title V: Rights and Advocacy, including establishment of Architectural and Transportation Barriers Compliance Board (known as the Access Board)

The civil rights anti-discrimination provisions include:

- Section 501: requires affirmative action and nondiscrimination in employment by Federal agencies
- Section 502: established the Architectural and Transportation Barriers Compliance Board to enforce the Architectural Barriers Act of 1968 and provide technical assistance to agencies subject to Section 504 regulations
- Section 503: requires affirmative action and prohibits employment discrimination by Federal government contractors
- Section 504: prohibits discrimination against qualified individuals with a disability under any program or activity that receives Federal financial assistance
- Section 508: requires Federal electronic and information technology to be accessible to people with disabilities, including employees and members of the public

The standards for determining employment discrimination under the Rehabilitation Act are the same as those used in title I of the Americans with Disabilities Act. The Office of Federal Contract Compliance, in the Department of Labor, enforces the Rehabilitation Act.

Title VI: Employment Opportunities for Individuals with Disabilities

Title VII: Independent Living Services and Centers for Independent Living

Category: Civil rights statute. Entitlement, pending availability state funds, for VR services. Formula grants for independent living services

Social Security Act

Authorization: 1935, as amended over the years to create following programs of special interest to individuals with disabilities and their families: Disability Insurance Trust Fund (1956); Medicare (1965); Medicaid (1965); Early and Periodic Screening, Diagnosis and Treatment Services (EPSDT) for all Medicaid-eligible children (1967); Intermediate Care Facilities for people with mental retardation (ICF-MR) (1971); Supplemental

Security Income (SSI in Title XVI) (1972); consolidated social service grants to states under new Title XX (1974); special provisions for individuals receiving SSI who are able to work (1980); uniform standards for SSI and SSDI disability determinations (1984); State Children's Health Insurance Program (SCHIP in Title XXI) (1997)

Overview: The original Social Security Act and its current version, as amended over the years, encompass several very significant social insurance programs that have special relevance for individuals with disabilities including: Federal Old-Age, Survivors and Disability Insurance; Medicare; Medicaid; State Children's Health Insurance Program (SCHIP); and Supplemental Security Income (SSI).

Title II: established Old Age (retirement), Survivors, and Disability Insurance (OASDI) to provide benefits to workers and their family members when the primary wage earner retires, becomes disabled or dies. OASDI programs are financed with Social Security taxes paid by workers, employers, and self-employed persons. An individual must have worked and paid FICA taxes for specified periods of time to qualify. These benefits are payable to disabled workers, widows, widowers, and children or adults disabled since childhood who are otherwise eligible. To be eligible, individuals must meet disability criteria set by the Social Security Administration (SSA) which runs the program.

Category: Entitlement

Title XVI: established the Supplemental Security Income (SSI) program to replace previous state public assistance programs with a federally-run program to provide monthly cash assistance to individuals who are aged, blind or disabled and meet a financial needs test. The Social Security Administration (SSA) runs the program and sets disability criteria for both adults and children under age 18 to qualify. Medicaid eligibility is automatic in most, but not all, states. SSI is funded by general tax revenues, not Social Security taxes paid by workers, employers and self-employed workers.

Category: Entitlement

Title XVIII: established Medicare to provide health insurance benefits for elderly individuals and certain people with disabilities after they fulfill a specified waiting period. Medicare has four parts: Part A authorizes hospital insurance benefits; Part B provides supplemental medical insurance benefits; Part C has miscellaneous provisions; and Part D (enacted 2003; effective 1/1/06) subsidizes prescription drugs. The program is administered by the Centers for Medicare and Medicaid Services (CMS) which is part of the Department of Health and Human Services. Category: Entitlement

Title XIX: established Medicaid, the country's major public financing program for health and long-term coverage for low-income individuals, including the home and community based services waiver and option, nursing homes and Intermediate Care Facilities (ICF) for people with intellectual and related disabilities. Medicaid is a state-administered, means-tested entitlement program financed by the state and federal governments. There are federal guidelines but states establish their own income and asset eligibility criteria. Medicaid covers a broad range of services, both mandatory and optional ones. All participating states must offer early and periodic screening, diagnosis and treatment (EPSDT) services to all Medicaid-eligible children. States may

apply for waivers to offer home and community-based services and supports to individuals who - without such services - would require institutional care. The program is administered by the Centers for Medicare and Medicaid Services (CMS) which is part of the Department of Health and Human Services. Category: Entitlement

Title XX: generally called the Social Services Block Grant (SSBG) that provides funding to states, based on their population, for a range of social policy goals. States use these funds to help prevent child abuse, increase child care or provide community-based care for individuals who are elderly or have disabilities. The program is administered by the Office of Community Services, Administration for Children and Families, Department of Health and Human Services. Category: Entitlement, pending availability state funds

Title XXI: established State Children's Health Insurance Program (SCHIP) to provide health insurance for low-income children who do not qualify for Medicaid, including children with disabilities. The SCHIP programs are administered by each state because the federal law provides flexibility to the states to determine eligibility and coverage. Category: Entitlement, pending availability state funds

Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIA) (P.L. 106-170)

Authorization: New regulations became effective July 21, 2008

Overview: TWWIA was designed to modernize the employment services system for people with disabilities and make it possible for millions of Americans with disabilities to no longer have to choose between taking a job and having health care.

Under TWWIA, the Social Security Administration (SSA) issues a "ticket" to eligible beneficiaries who may choose to assign their tickets to an Employment Network (EN) of their choice to obtain employment services, vocational rehabilitation services, or other support services necessary to achieve a vocational (work) goal. Once it accepts the ticket, the EN will coordinate and provide services to help the beneficiary find and maintain employment.

Four sections are designed to provide health care support for workers with disabilities:

- Medicaid Buy-In. *Section 201* establishes a Medicaid state plan buy-in. Through it, states may expand coverage to workers with disabilities whose income and assets ordinarily would make them ineligible for Medicaid. To qualify, an individual must meet SSA's disability criteria, have earned income, and meet state financial requirements. Participants typically "buy in" by paying premiums based on income.
- Extended Medicare Coverage. *Section 202* extends the period of premium-free Medicare Part A coverage and requires consumer protection for some individuals with Medigap coverage. Individuals receiving Title II disability benefits who elect to work above threshold levels can maintain Medicare coverage for eight and a half years after returning to work.

- Medicaid Infrastructure Grants. *Section 203* provides grants to states to develop state infrastructures to support working individuals with disabilities.
- Demonstration to Maintain Independence and Employment. *Section 204* provides for a demonstration to provide health care coverage to individuals with potentially disabling conditions who work.

Category: Competitive grant program

Workforce Investment Act of 1998 (WIA) (P.L. 105-220)

Authorization: Effective July 1, 2000; reauthorization pending as of fall 2008.

Overview: WIA established a national workforce preparation and employment system to meet the needs of businesses, job seekers and those who want to further their careers. It was designed to provide customers easy access to information and services through a One-Stop Career Center system and requires that customers with and without disabilities are served together.

Many individuals with disabilities could greatly benefit from the employment and training services delivered through one-stop system. However, physical and programmatic access to WIA services remains a very serious problem for individuals with disabilities, despite Federal requirements that such services be accessible. Priority disability community issues include: strengthening transition services for special education students and improving physical and programmatic access to one-stops.

Category: Formula grant