



National Disability Policy: A Progress Report

National Council on Disability, October 31, 2014

Celebrating 30 years as an independent federal agency

National Council on Disability
1331 F Street, NW, Suite 850
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202-272-2004 Voice

202-272-2074 TTY

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National Council on Disability

An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

Letter of Transmittal

October 31, 2014

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

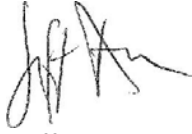
Dear Mr. President:

The National Council on Disability (NCD) is pleased to present the 2014 edition of *National Disability Policy: A Progress Report*. This statutorily mandated report has significant meaning this year, as NCD celebrates 30 years as an independent federal agency. The report highlights progress that our country has made in promoting and protecting the rights of individuals with disabilities, and identifies opportunities to promote policy that will contribute to a more inclusive environment. It focuses on six topics: the Convention on the Rights of People with Disabilities (CRPD), employment, subminimum wage, education, Medicaid managed care, and mental health.

In the report, NCD acknowledges the cultural context of the past while setting a vision for the future that is grounded in high expectations for people with disabilities and the policymakers who are responsible for shaping an inclusive society. NCD believes in the potential and strengths of all, including people with disabilities, and offers recommendations to build a nation that is prepared to benefit from the contributions of Americans with disabilities.

NCD is grateful for the opportunity to share an objective assessment of issues of concern to Americans with disabilities, along with solutions for creating a more inclusive society. As NCD prepares for the 25th anniversary of the Americans with Disabilities Act, we urge Congress and the White House to address the issues and implement the recommendations raised in this 2014 annual *Progress Report*, thereby demonstrating our nation's commitment to policies and laws that definitively include all Americans as equals.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jeff Rosen', with a stylized flourish at the end.

Jeff Rosen
Chairperson

(The same letter of transmittal was sent to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives.)

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ACKNOWLEDGMENTS

The National Council on Disability wishes to thank American Institutes for Research (AIR), particularly Cynthia Overton and her team—Mel Kutner, Dahlia Shaewitz, and Burhan Ogut—for the research conducted in developing this report.

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EXECUTIVE SUMMARY

2014 marks a transformational period in time. Adults with disabilities who experienced a pre-Americans with Disabilities Act (ADA) era now live and work alongside those with disabilities who grew into adulthood with the rights afforded by this seminal legislation. Society's mindset of charity for "the disabled" has shifted to one that supports and benefits from the full inclusion of people with disabilities. People with disabilities are discovering work-arounds to limitations through advancements in technology, causing the lines between people with disabilities and people without disabilities to blur.

For 30 years, the National Council on Disability (NCD) has been a powerful force behind the fight for the rights of people with disabilities. It has promoted high expectations for people with disabilities and the policymakers who serve them. Reports and letters from NCD, available on <http://www.ncd.gov/>, provide critical guidance to develop sound policy options that promote an inclusive society. This collection also keeps our nation abreast of the issues that impact people with disabilities.

The 2014 edition of *National Disability Policy: A Progress Report* addresses six areas that NCD identifies as timely and important to the wellbeing of people with disabilities: Convention on the Rights of People with Disabilities (CRPD), employment, subminimum wage, education, Medicaid managed care, and mental health.

The **CRPD** provides the guidance needed to create a global society in which people with disabilities are empowered and live full and meaningful lives. To date, the United States has neglected to ratify the CRPD, due in large part to misconceptions associated with this international treaty. The NCD dispels myths associated with the CRPD in this report and urges the full Senate to consider, vote on, and pass the ratification of the CRPD when it reconvenes in 2014.

Employment is one of the most important pathways to economic self-sufficiency and independence for Americans, yet people with disabilities experience higher unemployment and lower pay rates than those without disabilities. NCD explores how

such factors as transportation, workplace culture, and technology impact employment experiences and opportunities. The NCD advocates for an inclusive approach to these (and other) factors so that people with disabilities can focus on pursuing employment interests rather than on mediating obstacles that serve as barriers to employment.

Extending **subminimum wage** based on disability status has no place in American culture. This policy option was introduced in an era lacking protective legislation, such as the Rehabilitation Act and the ADA, and innovations in technology that now afford greater opportunity for Americans with disabilities to engage prominently throughout society. The NCD urges the U.S. Department of Labor to adopt its approach to phasing out subminimum wage provisions as they relate to people with disabilities.

The Federal Government has offered states guidance on providing high-quality **education** to students with disabilities for more than 35 years. This report cites improvements in education experiences and outcomes for this population and also acknowledges the need for improvement. NCD proposes recommendations that promote education experiences that meet unique learning needs within an environment of high expectations for students with disabilities.

State-sponsored **Medicaid managed care** addresses the physical and mental needs of more than 9 million people with disabilities annually. NCD explores this multi-faceted approach by highlighting benefit design, outcome measures, due process, and stakeholder engagement. The Council advocates for system refinements, including enhanced state monitoring and increased engagement with beneficiaries.

Concerns over stigma associated with **mental health** issues have led society to remain relatively passive about this important topic. NCD asserts that silence is not an acceptable response. This report proposes options to promote supports that address mental health issues before they become debilitating conditions. It also includes options for treatment and extended care to help individuals with mental health-related disabilities live productive and meaningful lives.

As NCD celebrates the 30-year anniversary as an independent federal agency and prepares for the 25-year anniversary of the passage of the ADA, we urge Congress and the White House to address the issues and implement the recommendations raised in this 2014 annual *Progress Report*, thereby demonstrating our nation's commitment to policies and laws that definitively include all Americans as equals.

INTRODUCTION

Our country has entered an exciting juncture for persons with disabilities, including those who successfully fought for disability rights through the enactment of the Americans with Disabilities Act (ADA) and the generation that has been raised with those rights. The nation continues to strive for a more inclusive environment that embraces and honors our diversity through the growing use of innovative technologies, creative practices to enhance living and working opportunities, and relentless advocacy for the rights of all Americans. These efforts have led to a cultural shift in our nation, from an antiquated mindset of charity for “the disabled,” to a society that both supports and benefits from the full inclusion of people with disabilities. For the past 30 years, the National Council on Disability (NCD) has embraced, advocated for, and directed this cultural shift. The Council has promoted high expectations for both people with disabilities and the policymakers who serve them. The Council has also provided policymakers with the critical guidance required to develop sound policy options that promote inclusive experiences for people with disabilities. As our country prepares in 2015 for the 25-year anniversary of the passage of the ADA, the NCD urges Congress and the White House to address the issues and implement the recommendations raised in this 2014 annual *Progress Report* and to confirm the coming of age of enabling policies and laws that definitively include all Americans as equals.

RATIFICATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Background

In 2006, the United Nations General Assembly adopted the Convention on the Rights of Persons with Disabilities (CRPD) (2006). The CRPD, a non-legally binding treaty, provides clear guidance for nations to promote, protect, and ensure the rights of people with disabilities in order to realize a fully inclusive global society.

CRPD History

- 1982 The United Nations (UN) declared 1983–1992 the Decade of Disabled Persons and adopted the World Programme of Action (WPA).
- 1987 Global experts recommended that the UN General Assembly draft an international convention on the elimination of discrimination against persons with disabilities.
- 2001 The General Assembly established an ad hoc International Disability Caucus to draft a treaty to promote and protect the rights and dignity of people with disabilities.
- 2006 The CRPD was adopted by the UN General Assembly.

As of August, 2014, the CRPD has been ratified by 147 countries, affecting an estimated 1 billion people worldwide (see table 19 in the Data Trends in Disability section for a list of the ratifying countries). As one of the world's earliest civil rights laws for people with disabilities, the ADA was influential in the creation of the CRPD and its shift away from characterizing people with disabilities through a medical/charitable model. This model has focused on how to “treat” or “cure” people with disabilities, or isolate people with disabilities on the assumption that they cannot live successfully as integrated citizens, but must instead be “cared for.” Instead, the ADA framed disabilities rights as an issue of human rights in the prohibition of discrimination against people with disabilities, similar to the Civil Rights Act of 1964's protection of individuals based on other characteristics. The ADA introduced regulations to public transportation and building codes to ensure that persons with physical disabilities had access to the same

facilities and services as those without disabilities. The CRPD mirrors this shift by focusing on both social attitudes toward people with disabilities as well as physical environments. Despite the central role of U.S. legislation in the development of the CRPD, the United States has not yet ratified this international treaty. The U.S. Senate fell five votes short of the required two-thirds majority vote when it was considered on December 4, 2012, but is expected to take action again in fall, 2014.

Driving Need Behind the CRPD

The policy and practice guidance offered in the CRPD plays a critical role in paving the way to a global society that is conducive to individuals who are empowered and able to live full and meaningful lives. Millions of people with disabilities worldwide remain abused, mistreated, and isolated. For example, in some parts of the world, children with physical, mental, or sensory disabilities are “treated” with electro-shock therapy or succumb to infanticide. Of those who survive, many are kept from school due to misconceptions that they cannot learn. It is not uncommon for people with disabilities transitioning into adulthood to experience seclusion in their homes due to a lack of basic accessible facilities. In some cases, children and adults with disabilities are institutionalized due to lack of family or infrastructural supports to keep them in their homes. Once in an institution, they risk disappearing from institutions and becoming victims of human trafficking. Of those who remain institutionalized, many are subjected to deplorable and inhumane conditions in facilities that lack adequate resources, or staff training and oversight. The most egregious examples include children and adults who remained tied to cribs or beds for years on end or locked in small dark cells, without clothes or access to bathrooms or showers (National Council on Disability [NCD], 2013).

The CRPD in Action

- **Canada** and **Russia** have implemented CRPD principles to make public buildings and services more accessible to all people.
- **United Arab Emirates, Kenya, and Nigeria** have implemented CRPD principles to combat discrimination of persons with disabilities.
- **India** and **Moldova** have implemented CRPD principles to transition from models of institutionalization and charity to full social inclusion.

The United States and other countries that have not ratified the CRPD such as Libya, Sri Lanka, The Netherlands, and the Democratic People's Republic of Korea have the opportunity and obligation to take a stand against such violations and protect the rights and dignity of people with disabilities by supporting the treaty. This highlights the importance of the United States to ratify the CRPD, and signifies what this action will mean for people with disabilities worldwide.

CRPD Implications

Before the Individuals with Disabilities Education Act (IDEA), the Rehabilitation Act, and the ADA were passed in the United States, many people with disabilities experienced discrimination, social isolation, low expectations, inadequate education, and lack of employment opportunities. The enactment of these laws has helped our nation shift from a model of marginalization of people with disabilities to the expectation of empowerment and full inclusion. Like the ADA and other U.S. legislation, the CRPD treaty agreement offers the guidance that is needed to create an inclusive environment. The 147 countries that have acted to affirmatively ratify the CRPD demonstrate their commitment to protecting the rights of global citizens who either currently live with disabilities, or will transition into disability later in life.

Realities of the CRPD

A misconception persists that the CRPD will interfere with home and family rights. This is false. Family rights such as homeschooling, discipline, right to life, and abortion will continue to be protected by state legislation. The CRPD does affect Americans by contributing to increased access to the global economy, international education, and worldwide culture and leisure.

Despite the fact that the CRPD mirrors American legal precedents and societal values that support the rights of people with disabilities, some have expressed resistance to its ratification because of concerns from certain factions regarding potential interference with U.S. sovereignty as well as the rights of individual American families. A recent U.S. Supreme Court decision, *Bond v. United States*, allays concerns regarding state or individual sovereignty, by confirming state and individual rights and causes of action in circumstances where international treaty provisions coexist with applicable American jurisprudence. These reservations, declarations and understandings (RUD's) are used by countries ratifying international treaties to exempt themselves from particular provisions in a treaty, or to describe how they interpret specific language in a treaty. Included in these reservations for ratification of the CRPD is the Federalism Reservation, which ensures that state and local governments retain the same powers and authorities under the CRPD as they do without it, and Private Conduct Reservation, which emphasizes that the Federal Government has no obligation to interfere in the private lives of private citizens or otherwise require individuals to comply with the CRPD (The White House 2012).

Global Empowerment of People with Disabilities: The Future of the United States and CRPD

The U.S. Senate Foreign Relations Committee voted to approve the CRPD and successfully passed it out of committee in July 2014. NCD anticipates that the full Senate may take action to ratify the CRPD in fall 2014. Ratifying the CRPD allows the United States to sit on the Geneva Council that adjudicates complaints under the treaty, allowing the United States to resume its role as a key leader in international conversations on disability rights, supporting other nations in addressing human rights issues for people with disabilities. U.S. involvement would shift from passive observer to an active participant at the annual Conference of States Parties (COSPP), a major platform in which the global community discusses disability rights and exchanges ideas on best practices. The United States could lend its experience and suggestions to influence the creation of more accessible public spaces in other nations, which would ultimately benefit all Americans with disabilities seeking to travel, work, and study

abroad, including more than 3.5 million veterans who live with service-related disabilities (National Center for Veterans Analysis and Statistics 2014).

In addition, although no global data exists on the number of youth with disabilities, estimates suggest that they constitute a significant group, with between 180 and 220 million youth with disabilities worldwide, nearly 80 percent of whom live in developing countries (United Nations Secretariat 2014). Ratification of the CRPD by the United States would serve to help reduce stigma associated with disability and ensure that persons of all ages with disabilities, including youth with disabilities, are entitled to all rights, including education, health care, employment, the right to vote, the right to a family life and to participate fully in the communities in which they live.

The CRPD has the support of the White House, the Department of Justice, the Secretary of State, bipartisan members of Congress, and more than 800 disability, veteran, faith-based, international development, humanitarian, and business organizations. Given the enhanced access and opportunities that will become available for people with disabilities worldwide coupled with the reality that the United States will be able to maintain domestic policies and practices as governed by legislation such as the ADA, the Rehabilitation Act, and IDEA, the NCD fully supports the ratification of the CRPD.

NCD CRPD Recommendations

- The White House should continue to promote the CRPD through its outreach efforts, explicitly identify and address common misconceptions about the CRPD, and highlight the benefits of ratifying the treaty. Further, government agencies should post information on their websites about the implications of ratifying the CRPD for their stakeholders with disabilities. For example, the U.S. Departments of Veteran's Affairs, Labor, and Commerce may highlight the benefits of enhanced access when expanding business to other nations.
- The full Senate should consider, vote on, and pass the ratification of the CRPD when it reconvenes in fall 2014. Ratification will enable the United States to resume

its role as a key leader in international conversations on disability rights and contribute to a global society that is inclusive of people with disabilities.

NCD Resources Related to the CRPD

NCD Statement on the Convention on the Rights of Persons with Disabilities (CRPD), (2014), <http://www.ncd.gov/publications/2014/07142014/>

NCD Education Forum Report: UN Convention on the Rights of Persons with Disabilities, (2013), <http://www.ncd.gov/publications/2013/12122013>

NCD Letter to Senate Foreign Relations Committee Again Reaffirms Its Strong Support of Ratification of the CRPD, (2013),
<http://www.ncd.gov/publications/2013/11062013/>

NCD Statement on Failed CRPD Ratification Vote in the Senate, (2012),
<http://www.ncd.gov/publications/2012/120512>

NCD Urges Expeditious Senate Approval of the Convention on the Rights of Persons with Disabilities, (2012), <http://www.ncd.gov/publications/2012/052512>

Finding the Gaps: A Comparative Analysis of Disability Laws in the U.S. to the U.N. Convention on the Rights of Persons with Disabilities, (2008),
<http://www.ncd.gov/publications/2008/May122008>

National Council on Disability Practical Discussions on Implementation in the U.S. and Other Countries, (2006), <http://www.ncd.gov/publications/2006/Oct242006>

Update on the UN Convention on the Rights of People with Disabilities, (2006),
<http://www.ncd.gov/publications/2006/04172006>

National Council on Disability Commends Adoption of United Nations Convention on the Rights of People with Disabilities, (2006),
<http://www.ncd.gov/publications/2006/12182006>

Update on the UN Convention on the Rights of People with Disabilities (November, 2004), <http://www.ncd.gov/publications/2004/Nov242004>

Update on the UN Convention on the Rights of People with Disabilities (July, 2004)
<http://www.ncd.gov/publications/2004/July12004>

INCREASING EMPLOYMENT ACCESS AND INCLUSION

Background

People with a disability are employed at a lower rate and make less money than people without a disability:

- 42.8% Rate of Employment Gap
- \$6,000 Income Gap

NCD regards employment as one of the most important pathways to economic self-sufficiency and independence for Americans. A significant gap persists when comparing employment outcomes of persons with a disability to those without. In 2012, only 33.5 percent of persons with a disability were employed compared to 76.3 percent of persons without a disability (Disability Statistics n.d.). In the same year, the average income for people with a disability was \$36,400, while those without a disability earned \$42,400 on average. Employment rates for people with self-reported work-related disabilities have fallen almost continuously since the 1990s, despite the passage of the ADA in 1990 (Americans with Disabilities Act 1990), and major investments in the workforce development system since the enactment of the Workforce Investment Act of 1998 (Workforce Investment Act 1998). People with disabilities have historically constituted a contingent labor force; and were more effected by the recent economic downturn than peers without disabilities. Data reveals that on average persons with a disability were about 1.36 times more likely to experience one of four major labor market problems (unemployment, working part time for economic reasons, labor force reserve, or low-wage earners) compared to their counterparts without disabilities. As the economic climate has improved overall, persons with disabilities have experienced stagnated levels of employment and full time employment, compared to persons without disabilities (exhibit 1) (Fogg and Harrington 2010).

Exhibit 1. Employment Trends of People with Disabilities Compared to People Without a Disability, 2008–2012

In the United States, the employment rate of working-age people (ages 21 to 64)

	2008	2009	2010	2011	2012
PWD	39.5	36	33.9	33.4	33.5
PWOD	79.9	76.8	70.4	75.6	76.3

In the United States, the percentage actively looking for work among people with disabilities who were not working

	2008	2009	2010	2011	2012
PWD	8.7	11.6	12.3	11.7	10.8
PWOD	21.4	30.4	31.2	29.4	27.5

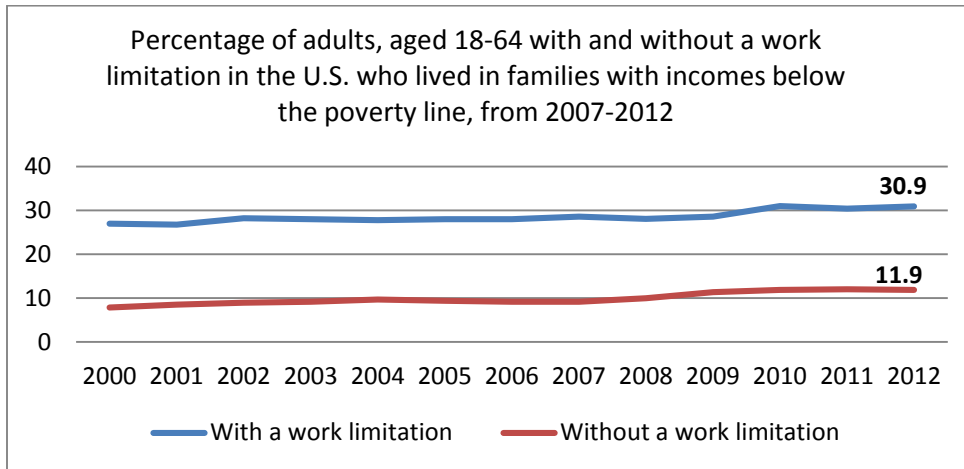
In the United States the percentage of working-age people with disabilities working full-time/full-year

	2008	2009	2010	2011	2012
PWD	25.4	22.5	20.9	20.7	20.9
PWOD	60.4	57	55.3	55.5	56.4

Source: Erickson, W., C. Lee, and S. von Schrader. 2014. *Disability Statistics from the 2012 American Community Survey (ACS)*. Ithaca, NY: Employment and Disability Institute, Cornell University. <http://www.disabilitystatistics.org>.

People with disabilities are three times more likely to live in poverty than those without disabilities (Rosen 2014), and 28 percent of all people with disabilities live in poverty. People with work limitations live below the federal poverty line at significantly higher rates than those who do not (exhibit 2) (Nazarov and Lee 2012).

Exhibit 2. Percentage of Adults, Aged 18-64 with and Without a Work Limitation in the U.S. who Lived in Families with Incomes Below the Poverty Line, 2007– 2012



A number of federal initiatives have been instituted throughout the years to address these trends. Subminimum wage for people with disabilities was made possible through the Fair Labor Standards Act of 1938. Although it was designed to increase access to employment settings for people with disabilities, this provision has led to segregated work environments with unlivable wages based upon adherence to outdated and discredited social models; other federal initiatives show great promise:

- Supported employment services offer competitive employment in an integrated setting with ongoing support services for persons with the most significant disabilities.
- Executive Order 13548 issued in 2010 aims to make the Federal Government a model employer for people with disabilities. Through this order, the Government developed strategies to enhance recruitment, employment, and retention practices for people with disabilities with the stated goal of having an additional 100,000 people with disabilities hired into federal positions (Executive Order no. 13,548. 2010).
- Regulations for Section 503 of the Rehabilitation Act require federal contractors to set a goal to hire a minimum of 7 percent of employees with disabilities.

- Section 508 of the Rehabilitation Act requires federal employees with disabilities to have access to and use of information and data that is comparable to that of federal employees without disabilities, unless it creates an undue burden (Rehabilitation Act of 1973, amended 1998).
- Schedule A (5 C.F.R. § 213.3102(u)), a hiring authority for federal agencies, helps qualified people with disabilities pursue a federal appointment through a noncompetitive hiring process.
- Both Executive Order 13518 (2009) and the website FedsHireVets.gov are federal hiring initiatives that support employment of veterans in the Federal Government.
- The "Add Us In" initiative sponsored by the U.S. Department of Labor's Office of Disability Employment Policy helps identify and develop strategies to increase employment opportunities within the small business community for people with disabilities, with an emphasis on individuals from diverse backgrounds.
- The development and institution of affinity groups for employees with disabilities within the Federal Government offers staff an opportunity to identify strategies for establishing a more inclusive work environment.
- Executive Order 13658 (2014) increased the minimum wage paid for all workers employed by federal contractors. This increase applies to all their workers, including those with significant disabilities who may have previously been paid subminimum wages.
- The Job Accommodation Network (JAN) helps people with disabilities enhance their employability and provides employers with guidance on workplace accommodations and other disability employment issues. JAN is offered through the Office of Disability Employment Policy as a free consulting service for job seekers and all employers (public, private, non-profit), accessibility by telephone, email, online tools, publications, and resources.

- The Partnership on Employment and Accessible Technology (PEAT) is a national resource to facilitate and promote the use of accessible technology in the hiring, employment, retention, and career advancement of individuals with disabilities. PEAT is offered through the U.S. Department of Labor's Office of Disability Employment Policy (ODEP) as a free resource for employers, job-seekers, and other stakeholder interested in the use of accessible technology in the employment setting.
- The Department of Labor and the Social Security Administration have created a partnership to expand the capacity of the American Job Center Network to serve persons receiving Social Security disability benefits and ultimately improve their employment outcomes, leading the way to economic self-sufficiency. A component of these efforts is the Workforce Investment Act Employment Network (EN) Payment Agreement, under its Ticket to Work and Self Sufficiency (TTW) Program. Most adults who receive Social Security benefits based on disability are eligible for the TTW Program. They may assign their Tickets to an Employment Network (EN) of their choice to obtain education, training, employment services, vocational rehabilitation, and other support services necessary to maximize their economic self-sufficiency through work opportunities.

Initiatives such as those described above provide a solid framework for improving employment outcomes for people with disabilities—their success relies on inclusive practices throughout society that make meaningful work experiences possible. This section identifies opportunities to facilitate inclusive practices that maximize employment opportunities in three illustrative areas: transportation, customized employment, and accessible technology. Principles behind each of these areas are enjoyed by many people without a disability; they are commonplace and overlooked when considering facilitators to employment.

Transportation

Of the nearly 2 million people with disabilities who never leave their homes, 560,000 cite transportation difficulties as the reason (American Association of People with

Disabilities n.d.). Accessible transportation is a basic necessity for many Americans to secure and maintain employment. Regardless of the number or effectiveness of programs and incentives designed to promote job opportunities for people with disabilities, in most instances, workers cannot secure and maintain a job if they do not have accessible transportation to get to it.

Accessibility barriers in transportation cannot be addressed without carefully planned solutions that are supported through research, policy, funding, and action. Autonomous vehicles offer great promise to transport people with disabilities to work. Such technology is years away and will require a major shift in licensing vehicles and passengers, including policy decisions regarding the degree of autonomy, licensing requirements for passengers who might not otherwise qualify, and considerations regarding interstate transportation.

The Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America Act (GROW AMERICA Act) offers promise to enhance transit experiences for people with disabilities (Federal Transit Administration n.d.). The Act includes provisions to promote mobility for people with disabilities through increased funding to states for rail and transit systems. The following examples highlight challenges that many people with disabilities face when accessing transportation options as they commute to work:¹

Rail Systems

Many major U.S. cities have rail systems capable of transporting hundreds of thousands of people per day, making this an efficient option to get to work. Many people with disabilities frequently face challenges that can interfere with getting to work. The New York City subway system was constructed prior to the passing of the ADA and remains largely inaccessible for people with mobility disabilities, because elevators in many stations do not exist or are not functional, some elevators do not reach platforms, and

¹ This section focuses accessible local travel for daily commutes. People with disabilities also face barriers to air travel required for professional obligations in other regions or countries.

gaps between the platforms and the trains may prevent wheelchair riders from safely boarding. Some rail systems that have elevators fail to keep them in working order, which can lead to significant delays in getting to work. Many people with disabilities also experience challenges accessing print-based information and independently purchasing tickets from vending machines that operate with visible or touch screen controls.

Taxi Cabs

Taxi cabs provide a flexible option for local transportation. Only a small percentage of taxis are accessible, and people with disabilities often experience discrimination from taxi services (American Association of People with Disabilities n.d.). Universal access in taxi cabs is uncommon, but possible. In London, England, every cab is equipped to accommodate wheelchairs. Following litigation, New York City has begun the transition to equip more accessible medallion² taxis and plans to have 50 percent of the fleet equipped to accommodate wheelchairs and scooters by 2020 as part of its “Taxi of Tomorrow” program (Mullin 2013). This is especially critical in a city with more than 889,000 people with disabilities (Dooha 2011) and a subway system that is inaccessible to many people with disabilities due to the lack of elevators. New York has also introduced a touch screen system for taxi riders that is accessible to people who are blind or low-vision riders. This screen allows riders to monitor route and fees and to hear charges and pay via credit card through auditory information and commands.

Transportation Network Companies (TNCs)

Accessibility issues are also a concern with the increase in popularity among Transportation Network Companies (TNCs) (e.g., Uber or Lyft). Such companies offer the convenience of ordering transportation through mobile technology. Their applications are compatible with text-to-speech, which makes them viable options for people who are blind or low-vision riders. Some riders have experienced resistance from drivers to their service animals accompanying them in TNC vehicles. Further problems that people with disabilities face with TNCs involve the dearth of vehicles equipped to accommodate passengers using wheelchairs and scooters, which excludes

² Medallion taxis are taxi’s painted yellow.

the more than 3 million people who use mobility devices in America. In response to these challenges, Uber announced that any driver who refuses to accept a service dog will be dropped from their program. Uber is commencing pilot programs in cities such as New York (Mikaela 2014) and Chicago (Mallory 2014) to increase vehicles that are accessible to people with mobility issues.

TNCs have the potential for improving transportation options in urban cities across the country, and increasingly, around the world. While issues related to regulation are undetermined, and in progress, Americans with disabilities who can use such network companies may greatly increase their access and efficiency to urban transit. If such access becomes a reality, and with the increased convenience of cashless transactions, and ease in contacting drivers, with guaranteed responses, TNCs may prove to be a highly relevant addition to the way that Americans with disabilities move within cities.

Universal Approach to Meeting Employee/Employer Needs

In addition to meeting the transportation needs of people with disabilities to support their ability to secure and maintain employment, legal developments such as the 1999 ruling in the United States in *Olmstead v. L. C.* (1999) prohibited unnecessary segregation of people with disabilities and created the obligation to ensure that people with disabilities receive services in the most integrated setting appropriate to their needs. Since the *Olmstead* ruling, customized employment has been used as a strategy to transition individuals with complex needs from sheltered work environments into integrated community settings in an effort to promote options for meaningful and nondiscriminatory employment opportunities. These principles of customized employment are not uncommon to the workforce. Employers increasingly offer flexible work arrangements as a strategy to attract and retain a strong and diverse talent pool. This approach, which prioritizes flexibility around job tasks rather than the job location or the schedule, is reflected in a growing number of industries for greater numbers of workers. For example, in 2012, approximately 24 percent of employed people with a disability and 20 percent of employed people without disabilities did some work at home. Forty-two

percent of people with a disability and 35 percent of people without a disability had flexible work schedules.

Customized Employment

The customized employment process is a flexible blend of strategies, services, and supports designed to increase employment options for job seekers with complex needs through voluntary negotiation of the employment relationship. The job seeker is the primary source of information and drives the customized employment process.

—*National Center on Workforce and Disability*

Employees both with and without a disability seek flexible work arrangements as an option for maximizing professional performance while balancing personal needs and obligations. Many people with disabilities have looked to flexible work arrangements as a necessary option for participation in the workforce. For example, some lack accessible transportation to get to work, require personal assistance throughout the day that is not always conducive to an office environment, or must negotiate health conditions that make their schedule less predictable than those without a disability.

Studies show that flexible work environments lead to employees who are more satisfied, committed, and engaged with their job, which can lead to increased innovation, quality, productivity, and market share; increased financial performance and operational and business outcomes; reduced unscheduled absences and increased productivity; and enhanced retention and recruitment. The concepts of flexible work and customized employment are organically converging, illustrating how best practices can have universal applicability. This presents the U.S. labor force with a unique opportunity to strengthen inclusive work environments by streamlining the way we speak about work provisions that are ultimately designed to accomplish the same common goal of meeting the needs of both employers and employees.

Technology

Technology has significantly changed all aspects of employment, not only in content, but also context. The mobile technology industry is among some of the fastest growing

sectors of the economy. With approximately 50 percent of individuals obtaining or hearing about jobs through friends and family (National Council on Disability 2011), the rapid rise of social networking can help individuals identify and obtain employment.

Advances in technology are also making employment more accessible than ever for people with disabilities, and reducing the need for individual accommodations. There are more opportunities for persons with mobility challenges to work from remote locations. The development of accessibility standards and advances in computer programming languages such as HTML5 have improved the accessibility of virtual materials for persons with sensory disabilities, though the lack of universal design standards continue to pose some difficulties. For example:

- Section 508 of the Rehabilitation Act requires federal agencies to provide employees with a disability (and members of the public) with access to information that is comparable to access available to others. Regulations on this issue are expected shortly from the U.S. Access Board and further engagement with technology industry companies may provide an opportunity for even more accessibility in this area (Rehabilitation Act of 1973, amended 1998).
- The Twenty-First Century Communications and Video Accessibility Act (CVAA) (2010) updates the Communications Act of 1934 to increase the access of people with disabilities to modern communications in 21st century technologies found in the workplace. The Act requires access to web browsers on mobile devices by people who are blind or visually impaired and FCC clearinghouse on accessible communications services and equipment; includes the application of the hearing aid compatibility mandates to telephone-like equipment used with advanced communications services; requires the inclusion of people who are deaf-blind in the definition of telecommunications relay services (TRS) to allow communication between and among different types of relay users (Federal Communications Commission 2014); and requires accessibility of Advanced Communication Services (ACS), facilitating two-way, interactive communication over the Internet by voice, text, or video (Twenty-First Century Communications and Video Accessibility Act

2010). The Federal Communications Commission approved new rules in 2014 that will require closed captioning of video clips that are posted online. These requirements will enhance access to information for employees who are deaf or hard of hearing.

Despite these developments, barriers to technology access continue to serve as a barrier to successful employment. People with disabilities experience significant challenges to affordable and accessible technology that lead to low rates of broadband adoption. According to Lyle (2010), only 42 percent of people with disabilities have broadband in the home compared to the national average of 65 percent. Given the centrality of Internet access to obtain employment in today's workforce, this is an area that must be remedied.

Problems of accessibility and inclusivity are also in danger of spreading and becoming more complex as mobile technology increasingly makes social networking ubiquitous. According to a report from NCD (2011), the cost of hardware and software was identified as a major barrier for people with disabilities. One area of promise for improving accessibility is the use of meta-design. Meta-design refers to a way of developing software that is open to continual updates and changes. In this model, users of software can act as contributors or editors to ensure that programs are able to respond to changing contexts, emergent problems, and specific needs of communities of users, such as people with disabilities.

In spring 2014, NCD and the U.S. Department of Labor, Office of Disability Employment Policy co-hosted an online dialogue entitled, "Join the Conversation: Advancing Accessibility and Inclusion in Social Media—The User Experience" (ePolicy Works 2014a). The first of a three-part series, participants were invited to provide solutions for making social media more accessible. Respondents identified challenges that serve as barriers to identifying and pursuing employment opportunities when using social media. Two of the challenges identified could, if rectified, be of assistance to people with disabilities seeking employment through social media:

- *Employment Application Timeout*—The typical timeout period of 30 minutes is often too brief to complete an online application.
- *Non-image PDFs as Advertising for Jobs*—Applications or job advertisements used to publicize a position on social media websites are often image-based portable document files (PDFs). This format makes it almost impossible to read for those who are blind, visually impaired, or print disabled

The social media dialogue was followed up with, “Encouraging People with Disabilities to Pursue Careers in STEM (Science, Technology, Engineering and Mathematics)” (ePolicy Works 2014b). This dialogue solicited ideas to encourage people with disabilities to pursue careers in the STEM fields and to support their success in the workforce. Top ideas that emerged from the report include:

- Offering opportunities for job shadowing, internships, and work experiences, which would expose students with disabilities to professional options in the STEM field
- Promoting STEM schools, courses, and other experiences throughout middle school and high school, which would prepare youth for higher education and employment options
- Encouraging peer mentoring, which would help youth with disabilities stay engaged in STEM disciplines
- Increasing accessibility to technology resources used to facilitate STEM experiences, which is required for youth with disabilities to participate in STEM disciplines
- Enhancing collaboration between disability specialists and higher education professionals, which would help create more inclusive postsecondary environments

NCD Employment Recommendations

Transportation

- The U.S. Department of Transportation (DOT) should offer guidance to transit systems on reasonable accommodations (e.g., the reasonable amount of time an elevator may be out of order, reasonable alternatives during elevator outages, standards for providing accessible materials, etc.) and require recipients of GROW AMERICA funds to adhere to these standards in order to maintain good standing for grants.
- DOT should consider developing survey items addressing experiences of customers with disabilities for transit systems that solicit feedback to use in their efforts to understand accessibility trends.
- DOT should collaborate with private sector research and design and invest in autonomous vehicle research to help refine the technology that powers this initiative and explores the implications for people with disabilities.
- Congress should explore and support regulation and universal design and standards for accessible devices in taxicabs and transit provided through transportation network services to ensure maximum opportunities for design of emerging technologies that include accessibility for people with disabilities.

Universal Approach to Meeting Employee/Employer Needs

- The Department of Labor (DOL) should encourage the workforce to adopt a universal language and understanding about flexible work arrangements and customized employment strategies. Eliminating the distinctions between flexible work arrangements and customized employment strategies would contribute to a more inclusive work environment.
- DOL should provide guidance to employers on providing natural supports in the workplace. Such supports that occur through assistance, relationships, or interactions help facilitate typical social relationships in the work setting and contribute to a more inclusive environment for all employees.

Technology

- The Federal Communications Commission (FCC) and the U.S. Access Board should continue to identify barriers surrounding broadband access and build on policy that would result in broader use by people with a disability.
- Congress should conduct hearings with key business and industry leaders to help identify incentives that would reduce costs and increase availability of accessible technology for people with disabilities. One discussion point could involve adopting meta-design principles as a way of providing more cost-effective products for *all* users.
- Congress should consider a tax incentive for manufacturers of equipment that provide the latest assistive technologies to nongovernmental organizations (NGOs) for distribution to people with disabilities. Such manufacturers should also provide training to both the NGOs and clients on use and maintenance.
- DOL should consider developing and disseminating a tip sheet on developing accessible job announcements to be posted on social media sites and other online platforms.
- DOL should explore and invest in employment opportunities for young people with disabilities to learn skills relevant to the technology industry, such as coding, early in their academic career, becoming accessibility testers, getting internship and mentorship experiences in the software game development industry and STEM careers, and creating their own companies.
- The FCC should provide the communications industry and device manufacturers with guidance on best practices to include people with disabilities in the research and development (R&D) process from ideation to pilot testing of new products.

NCD Resources Related to Employment

Letter to House Senate Conference on Workforce Investment Act, (2014),

<http://www.ncd.gov/publications/2014/03282014/>

NCD Letter to Senate Finance Committee in Support of Amendment Language Regarding Supported Employment, (2013),

<http://www.ncd.gov/publications/2013/12112013/>

National Council on Disability Report on Subminimum Wage and Supported Employment, (2012), <http://www.ncd.gov/publications/2012/August232012/>

The Power of Digital Inclusion: Technology's Impact on Employment and Opportunities for People with Disabilities, (2011),

<http://www.ncd.gov/publications/2011/Oct042011>

Federal Employment of People with Disabilities, (2009),

http://www.ncd.gov/rawmedia_repository/ccf09bbd_62bd_4043_b674_75ad5f37d237?document.pdf

Empowerment for Americans with Disabilities: Breaking Barriers to Careers and Full Employment, (2007), <http://www.ncd.gov/publications/2007/Oct2007>

A Perspective from Youth with Disabilities: Benefits in a World of Employment, (2007), <http://www.ncd.gov/publications/2007/March2007>

The Social Security Administration's Efforts to Promote Employment for People with Disabilities: New Solutions for Old Problems, (2005),

<http://www.ncd.gov/publications/2005/11302005>

National Council on Disability Topical Overviews - An Overview of the Experience of the United States with Employment and Right to Work Protections, (2005),

<http://www.ncd.gov/publications/2005/08022005-Overview>

Livable Communities for Adults with Disabilities, (2004),

<http://www.ncd.gov/publications/2004/12022004>

REDUCING SUBMINIMUM WAGE OPTIONS

Background

The public policy choice of continuing to utilize subminimum wages to pay some people with significant disabilities has been an ongoing concern of NCD. The issue stems from Section 14(c) of the Fair Labor Standards Act (1938, sec. 14(c)). This provision permits the Secretary of Labor to waive federal minimum wage standards for certain populations, including some individuals whose earning or productive capacities for the work to be performed are impaired by physical or mental disabilities, including those related to age or injury (Fair Labor Standards Act 1938).

Competitive Wage Is an Issue of Equality & Economics

- For every \$1 spent on employment programs, more than \$1 is saved in taxes collected and savings from benefit programs.
- 52 percent of primary income of people with supported employment comes from their paycheck, versus public assistance or disability benefits.
- Sheltered workshops can cost three times more than supported employment (Disability Rights Oregon n.d.)

Section 14 (c) was instituted to enhance employment opportunities for people with disabilities and other populations, using a deficit model, together with the charitable philosophy that was popular in the 1930s. Other populations exempted from minimum wage requirements include felons, trainees, and youth. These groups were considered to be in need of special protection, or incapable or undeserving of earning minimum wages. Absent the developments of protective legislation like the Rehabilitation Act and the ADA, and without the innovations of technology that now permit Americans with disabilities to engage more prominently in everyday life, the Fair Standards Labor Act (FLSA) (U.S. Department of Labor n.d.) was viewed as a protective and charitable method of providing some employment opportunities to Americans with disabilities. Incentivizing employers to provide work experiences through subminimum wages made sense at the time. Even President Roosevelt, a man who lived with a disability, limited his advocacy for fair wage protections to “able-bodied working men and women.” As

practices to include people with disabilities in the workforce have grown, so has perception among our leadership. As addressed in the employment section, Executive Order 13658 reflects an increase in the minimum wage paid for all workers employed by federal contractors, including those with significant disabilities who may have previously been paid subminimum wages.

On May 24, 1937, President Roosevelt sent the Fair Labor bill to Congress with a message that America should be able to give "all our able-bodied working men and women a fair day's pay for a fair day's work."

While society has evolved since 1938, antiquated employment practices linked to subminimum wages remain. Despite the spirit in which the provision was instituted more than 75 years ago, it perpetuates the reality of a tiered wage system among people with disabilities and serves as a significant deterrent to an inclusive society.

Steven Porcelli, 50, of North Providence, Rhode Island found employment at a hardware store following high school graduation. However, he was sent to a sheltered workshop run by a nonprofit company called Training Thru Placement. In the sheltered workshop, Porcelli assembled jewelry, packed medical supplies into boxes, grated cheese and stuffed peppers for about \$2 an hour. Although Porcelli expected the experience to lead to another job since the program was supposed to provide training through placement, he remained in the sheltered workshop for 30 years. Porcelli described the experience by saying "I was doing piecework most of the time, which I didn't like too much" (Barry 2014).

NCD opposes Section 14 (c). The Council also understands that an immediate repeal of Section 14 (c) will be disruptive for many who have operated in this framework for years. To account for systems changes to enhance existing resources and creating new mechanisms for supporting individuals in obtaining integrated employment and other nonwork services, the Council proposes a gradual phase-out approach rather than an immediate repeal. This will allow those who have been in the program for many years with time to transition to a supported employment environment. This approach is outlined in NCD Report on Subminimum Wage and Supported Employment (National Council on Disability n.d.) and also reflected in the recommendations section of this section.

Current Context of Subminimum Wage

Sheltered Workshops

Many entities that offer employment opportunities specifically for people with disabilities do so in the context of a “sheltered workshop.” These facilities exclusively employ people with disabilities and although sheltered workshops were created with the intention of helping people with disabilities integrate into mainstream work environments, they rarely do so. The Government Accountability Office (GAO) has estimated that only 5 percent of sheltered workshop employees left to take jobs in the community. The GAO has also estimated that 95 percent of workers with disabilities who are paid less than minimum wage are employed by sheltered workshops. Approximately 420,000 people with disabilities are in the 14(c) program (NCD, 2012). Section 14(c) exemptions of the Fair Labor Standards Act created jobs that pay as little as 10 percent of the minimum wage with most workers earning only 50 percent of the minimum wage (Rosen 2014).

On the whole, many of the people NCD interviewed across the country in preparation of its report on this issue opposed subminimum wages and sheltered workshops, and they emphasized the inherent injustice of and flaws in the systems. Some people have concerns about the availability of alternatives for themselves and/or their loved ones should sheltered workshops and subminimum wage be abolished, such as access to basic economic security provided by Supplemental Security Income (SSI) and daily activities that include out-of-home supervised engagement. This is particularly true for individuals who have been in sheltered workshop placements for many years.

Recent Changes to the Political Landscape

On April 8, 2014, the United States entered into the nation’s first statewide settlement agreement with Rhode Island, following a ruling that the state service system over-relies on segregated settings, including sheltered workshops and facility-based day programs, to the exclusion of integrated alternatives, such as supported employment and integrated day services (United States v. Rhode Island 2014; U.S. Department of Justice, Office of Public Affairs 2014).

The recently enacted Workforce Innovation and Opportunity Act (WIOA) (2014) continues a funding authority for a number of workforce training programs, including those aimed specifically at supporting people with disabilities in finding meaningful employment. Section 51 however perpetuates the regressive practice of subminimum wage work environments for transitioning youth when no other options appear to be viable. This provision in WIOA limits when employers can pay a person with a disability at subminimum wage, although the limits do not affect those already employed at the subminimum wage (Workforce Innovation and Opportunity Act 2014, § 794g, sec. 511). This provision does address the youth population specifically, by requiring that employers offering subminimum wage ensure that those individuals have received pre-employment transition services as a part of the IDEA (29 U.S.C. § 733) and have applied for vocational rehabilitation services and have been found ineligible for those services. NCD opposed the Section 511 provisions citing the need instead to phase out subminimum wage completely and shift funding, policy, and practice to competitive integrated employment with necessary supports.

Integrated or Supported Employment

The antiquated models and outmoded approach of the FLSA, now almost 84 years old, has given way to the modern model of promotion empowered by self-determination and reasonable accommodations, allowing people with disabilities to make valuable contributions to the workplace and society. Research shows overwhelmingly that a majority of people with disabilities prefer employment outside of segregated settings and that preference is not associated with severity of disability (Migliore 2007). An alternative to subminimum wages that often accompany placement in sheltered workshops is the use of “integrated” or “supported” employment. In these forms of employment, people with disabilities work in community-based business settings alongside coworkers without disabilities and earn a minimum wage or higher. A variety of federal and state funds can be used to help mitigate concerns and provide training to employers, community members, families of people with disabilities, and people with disabilities to support this model.

Although people with disabilities and their families may prefer and benefit from job placement in an integrated and competitive employment environment, the process of transitioning out of subminimum wage settings brings with it many uncertainties, including a common worry about the possible loss of SSI. The U.S. Social Security Administration (SSA) has long-established work incentives that allow SSI beneficiaries to accumulate income and/or resources without risking loss of benefits while working toward a future occupational goal or maintaining self-employment. Historically, these have included the Plans for Achieving Self-Support (PASS) Program, the Benefits Planning, Assistance and Outreach Program (BPAO), Work Incentives Planning and Assistance Program, and the Ticket to Work Program. Additionally, funding was provided for Medicaid Infrastructure grants and state-based Medicaid buy-in programs. Work incentive programs are underutilized and relatively unknown to agency personnel, beneficiaries, and their families. Efforts are needed to provide knowledge about these programs and how they can be used to assist people with disabilities to enter supported employment. NCD has found that, once in the workplace, people with disabilities who work in fully integrated settings reported that peer support was critical to their ability to resolving workplace issues they encounter by, for example, providing guidance and advice on how to speak with supervisors or customers. A holistic approach is needed that promotes natural supports and provides information about federal assistance programs to individuals, families, employers and also people with disabilities about systems of peer support so that workers can successfully shift out of sheltered workshop settings.

NCD Subminimum Wage Recommendations

NCD's Proposed 14 (c) Phase Out

- DOL should adopt and implement NCD's proposal to phase out 14(c) in reference to people with disabilities as reflected in the NCD 2012 Report on Subminimum Wage and Supported Employment. This transformation should be put in place gradually so that individuals who are currently in these settings are provided information and resources to continue to receive SSI and get connected to peer networks, and so entities that use it have time to adapt their practices. NCD recommends a cycle of

phased closures and transitions from sheltered workshops at subminimum wages to supported or customized employment at fair wages. This multistep phase-out plan involves the following steps:

- *Immediately*: Congress should prohibit the Department of Labor from issuing further 14(c) certificates.
- *In the long term*: The Department of Labor should require all providers who administer 14(c) certificates to convert to supported employment, on a timed basis:
 - All individuals in certificate settings for 10 years or less shall be transitioned within 2 years.
 - All individuals in certificate settings for 10 to 20 years shall be transitioned within 4 years.
 - All certificates shall expire in 6 years, and all individuals in certificate settings longer than 20 years shall be transitioned within 6 years.

To support this shift, Congress should explore a “Money Follows the Person for Integrated Employment” program, enabling the Federal Government to assume 100 percent of the costs of supported employment services for individuals leaving a sheltered workshop or day habilitation setting for integrated employment.

Integrated Employment Settings

- DOL should develop policy requiring participants of 14(c) certificate programs to provide all of their workers with the opportunity and information on how to transfer into an integrated employment setting twice per year. Information provided to workers should include resources about benefit work incentive counseling and the availability of peer support.
- Congress should consider the following actions to build cultures of high expectations and support for people with disabilities in integrated employment settings:

- Prohibit any Individualized Education Plan (IEP) to list placement in a subminimum wage program as an acceptable postsecondary transition service or goal.
- Instruct the Centers for Medicare & Medicaid Services (CMS) to develop a minimum standard definition for integrated employment settings aligned with national best practices.
- The three partners authorized under the Developmental Disabilities Bill of Rights Act should coordinate and expand efforts to promote peer support to both families and people with intellectual developmental disabilities transitioning from the 14(c) programs to integrated employment. The three partners include: (1) State Councils on Developmental Disabilities; (2) University Centers for Excellence in Developmental Disabilities Education, Research, and Service (UCEDDs); and (3) Protection & Advocacy Systems (P&As).

NCD Resources Related to Subminimum Wage

NCD Letter to the President and Labor Secretary Tom Perez on the Impending Minimum Wage Executive Order, (2014), <http://www.ncd.gov/publications/2014/01302014/>

NCD Letter to Senate Finance Committee in Support of Amendment Language Regarding Supported Employment (2013), <http://www.ncd.gov/publications/2013/12112013/>

National Council on Disability Report on Subminimum Wage and Supported Employment, (2012), <http://www.ncd.gov/publications/2012/August232012/>

IMPROVING EDUCATION EXPERIENCES AND OUTCOMES

Background

For more than 35 years, federal legislation has provided guidance to states on offering students with disabilities a high-quality education that is responsive to their unique needs. Prior to the passing of the “Education for All Handicapped Children Act (EAHC)” (1975), only one in five students with disabilities was educated in the public education system—and many states had laws excluding certain students in the general setting, including children who were deaf, blind, emotionally disturbed, or had a mental health condition.

- **1965 Elementary and Secondary Education Act** passed to provide guidance on primary and secondary education.
- **1973 Section 504 of the Rehabilitation Act** took effect to prohibit the denial of public education participation, or enjoyment of the benefits due to a disability.
- **1975 the Education for All Handicapped Children Act (EAHC)** was enacted to provide a free and appropriate public education to students with disabilities. EAHC served as the precursor to IDEA.
- **1990 the Americans with Disabilities Act (ADA)** was passed, mandating public accommodation in private entities such as schools.
- **1991 the Individuals with Disability Education Act (IDEA)** replaced EAHC to govern education services for students with disabilities.

Practices have evolved and outcomes have improved since state and local education systems implemented federal guidelines to serve students with disabilities. For example, 61 percent of students with disabilities now spend more than 80 percent of their day in general education classrooms, and the percentage of students with disabilities completing high school increased from 53 percent in 1997 when IDEA was reauthorized to 61 percent in the 2011–12 school year (U.S. Department of Education 2014). Although this number includes students who receive certificates of completion or modified diplomas, new generations of people with disabilities have attended school in

the least restrictive environment and therefore leave school more prepared than earlier generations.

In addition, data on the outcomes and achievements of students with disabilities is now collected and reported, ensuring that the education of all students is taken into consideration during program improvement efforts. In 2014 the U.S. Department of Education announced a major shift in the way it oversees the effectiveness of states' special education programs; rather than focusing primarily whether states are meeting procedural requirements (e.g., timelines for needs evaluations, due process hearings), the new Results-Driven Accountability framework will also include educational results and outcomes. This change reflects rising expectations for educational attainment for students with disabilities and is reflected in the statement by U.S. Secretary of Education Arne Duncan that “every child, regardless of income, race, background, or disability can succeed if provided the opportunity to learn” (U.S. Department of Education 2014).

Despite these gains, students with disabilities lag behind their peers without disabilities in performance on standardized tests, regular diploma attainment, and college completion rates—all of which have implications for careers, lifelong earning potential, and quality of life. For example:

- In 2013, Grade 8 students with disabilities scored an **average of 40 points lower** than their peers without disabilities in both Reading and Math in the National Assessment of Educational Progress (NAEP).
- Students with disabilities have a dropout rate **more than double** that of the national average.³ This number doesn't include students who “age out” of services, these

³ Rate of students with disabilities is taken from IDEA Part B Indicator data. The 2011–2012 *event dropout rate* is 3.3 percent, and comes from National Center for Education Statistics, Common Core of Data (CCD). The 2012 *status dropout rate* is about seven percent and represents the percentage of 16- through 24-year-olds who are not enrolled in school and have not earned high school credentials, taken from the Census Bureau.

students leave school because they are over 21 years of age, but although they attended an educational institution, they do not receive high school credentials.

- Persons with a disability have **almost 20 percent lower rates** of completing a bachelor’s degree than those without a disability (12.4 percent with, compared to 31.7 percent without) (Erickson et al. 2014). This trend does not appear to be changing, as youth with disabilities continue to enroll in postsecondary educational opportunities at **17 percent lower rates**, including 2-year colleges and vocational or technical schools, at a lower rate than students without disabilities (Newman et al. 2010).

Many students from diverse backgrounds who also have a disability have continued to face poorer outcomes in K–12 settings when compared to their majority peers as reflected in NAEP Reading and Mathematics Scores (exhibit 3). Further, Black and Hispanic students with disabilities experience much higher rates of school disciplinary actions, higher rates of drop out and lower rates of graduation (Cortiella and Horowitz 2014). Understanding that multiple factors influence outcomes for students with disabilities, NCD has identified current academic climates and academic milestones that are especially pertinent to improving outcomes and opportunities for students with disabilities.

Exhibit 3. NAEP Grade 8 Reading and Mathematics Scores by Race/Ethnicity and Disability Status, 2013

Race/Ethnicity and Disability Status	Reading	Mathematics
White students with a disability	242	259
Black students with a disability	218	232
Hispanic students with a disability	221	238
Asian/Pacific Islander students with a disability	239	254
American Indian students with a disability	218	240

Inclusive Classroom Settings

Research demonstrates that fully inclusive settings lead to higher academic performance for students with disabilities and their classmates than segregated settings (Freeman and Alkin 2000; Jackson et al. 2008; Wagner et al. 2006). Fully inclusive classrooms go beyond a setting that is simply amenable to accepting students with disabilities and actively engage students in the general setting with accessible instruction and curriculum. Data and current practices suggest that many students with disabilities are placed in general education settings under the auspices of inclusion; however, evidence also shows that education staff are not fully trained in creating inclusive classrooms and meeting the diverse learning needs of their students. For example:

- General education teachers consistently report that they do not have the skills necessary to effectively instruct diverse learners, including students with disabilities (Blanton et al. 2011).
- Many general and special education teachers do not have the knowledge and skills necessary to use assistive technology to support students with disabilities (Alkahtani 2013).
- 504 plans, which are used to ensure that students who have physical disabilities receive accommodations necessary for them to access a learning environment, but who may not need an IEP. 504 services (Rehabilitation Act of 1973) are not covered under IDEA and lack monitoring by state school personnel, placing the implementation primarily in the hands of the school district. The U.S. Department of Education has started collecting and reporting basic 504 data nationally and by school district. Currently the only publically available data available is for the 2009–2010 school year, reflecting 554,028 students with 504 plans nationally.

In order to ensure academic success for students with disabilities in the general setting, it is critical that education professionals receive the training and resources required to support students with disabilities. Universal Design for Learning (UDL) is an approach to

designing instructional strategies, materials, assessments, and tools in a varied and flexible way to reach and teach students with diverse needs, and emphasizes the integration of technology into curricula.

The Higher Education Opportunity Act (HEOA) (2008), passed with strong bipartisan support, defines UDL as a “scientifically valid framework for guiding educational practice that provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.” This approach not only supports students with disabilities, but also students without disabilities who have different learning styles.

Another key component to ensuring that students with disabilities are served in the least restrictive environment is the availability of accessible instructional materials for students with disabilities. Public schools have a responsibility under Section 504 of the Rehabilitation Act to provide students with disabilities an opportunity to participate in academic and nonacademic activities in a manner equivalent to the participation of their peers without disabilities. The school may provide this opportunity through the use of supplementary aids and services, commonly referred to as “accommodations” and “modifications,” based upon the individual student’s needs, such as Braille or audio books for students with print disabilities, including students with intellectual disabilities. In 2004, the reauthorization of the IDEA (2004) created the National Instructional Materials Access Center (NIMAC), a national center that stores and distributes accessible files and instructional materials. Districts and states are required to provide such materials to students within a “timely manner,” the definition of which is set by each individual state.

Discipline and Behavior of Students with Disabilities

Managing student behavior is essential in creating successful learning environments. Empirically tested methods exist which can be used to guide decision making around behavior management policies and practices to support appropriate student behavior for students with disabilities, such as Positive Behavior Intervention and Supports (PBIS) and Functional Behavior Assessments (FBAs). Within both of these structures, effective classroom management strategies exist that present evidence of changing student behavior, which should allow students with disabilities to be fully included in general education settings.

For example, Freeman and colleagues (2006) found that within a three-month period, 12 of 19 students originally identified as at risk of more restrictive school placements due to behavior problems were no longer rated at risk following PBIS implementation, and measures of student strengths, lifestyle, and progress in social skills improved. Large-scale studies of the effects of SWPBIS on office-discipline referrals, in and out-of-school suspensions, academic achievement, teachers perception of overall student behavior have demonstrated improved outcomes for all measures when the approach is implemented with fidelity (Freeman et al., 2006, Bradshaw et al., 2010, Warren et al., 2006). In addition, Lo and Cartledge (2006) have found that individualized interventions written into FBAs successfully reduce student problem behaviors and produce positive outcomes for their alternative replacement behavior. Moreover, Lo and Cartledge (2006) and Trussell and colleagues (2008) have shown that FBAs improve student outcomes and have the potential to prevent disproportionate representation of minority students in special education.

Students who are served under IDEA are more than twice as likely to be given out-of-school suspensions than those who are not (U.S. Department of Education, Office for Civil Rights 2014). In addition, the practice of secluding and restraining students using mechanical, physical, and chemical (e.g., locked rooms, duct tape, medication), remains much more prevalent for students with disabilities. Nationwide, there were 2.6 cases of restraint for every 100 students with disabilities during the 2009–2010 school year

compared to 0.1 instances for every 100 typically developing students (Gagnon et al. 2013). A recent Senate investigation, led by Senator Harkin, found that widespread use of restraint and seclusion in the nation's schools is putting kids with disabilities at risk. There is currently little oversight or restrictions on how these practices are used and little recourse for parents to respond when students are harmed (U.S. Senate, Health, Education, Labor, and Pensions Committee 2014).

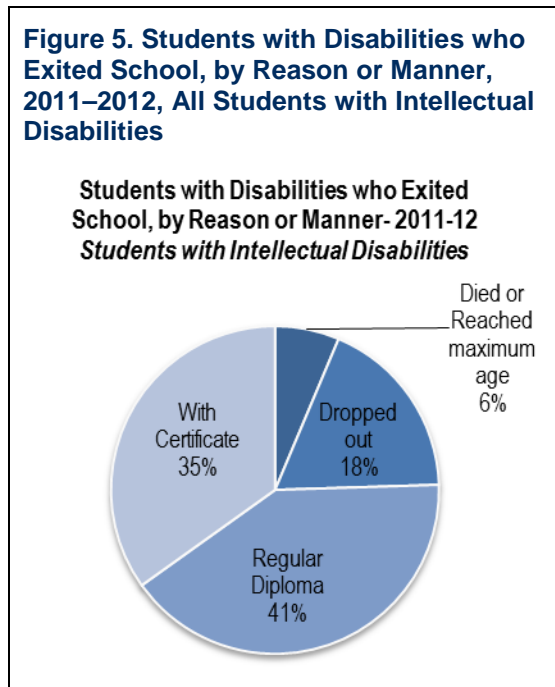
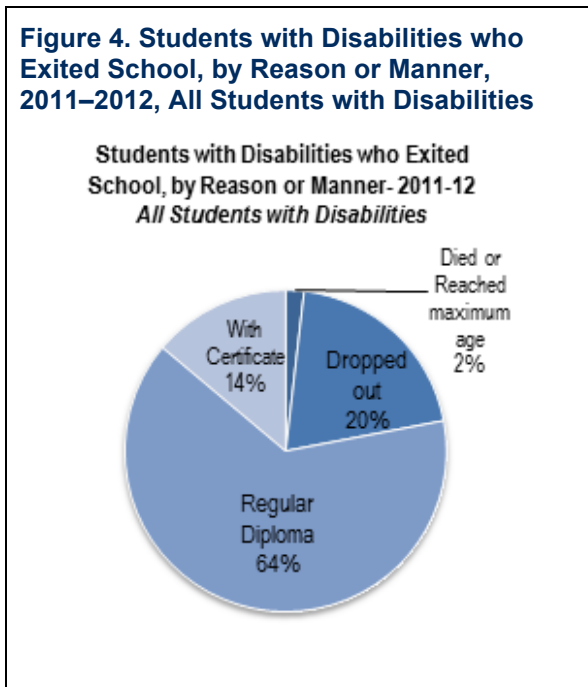
Factors associated with the disproportionate representation of youth with disabilities who receive corporal punishment or enter juvenile corrections are complex. Available information suggests that school failure, poorly developed social skills, and inadequate school and community supports greatly increase the risks for discipline, arrest, and incarceration (National Council on Disability 2003). Consequently:

- Students with disabilities are corporally punished at disproportionately high rates in almost every state that uses paddling (American Civil Liberties Union 2009).
- Youth with learning, cognitive, behavior, or emotional disabilities are entering the correctional system at rates four to five times those of youth in the general population; one study showed that an estimated 37 percent of youth in state juvenile corrections facilities are eligible for special education and related services under IDEA (Newman et al. 2009).

High School Completion

Researchers project that 63 percent of all U.S. jobs by 2018 will require some postsecondary education and that 90 percent of new jobs in growing industries with high wages will require, at a minimum, some postsecondary education (Carnevale et al. 2010). The dropout rate for students with disabilities is already very high, but even for those students who do finish high school, a portion of them do not do so with an accredited high-school diploma. Students who do not receive an accredited diploma are ineligible to receive federal financial aid for any postsecondary educational opportunities, including career and technical certificates in the occupations and trades—such as childcare, auto repair, culinary arts. This practice locks students without a

regular high school diploma out of almost any opportunity for workforce training that will allow them to build an independent life outside of poverty. For example, students with Specific Learning Disabilities (SLD) made up 41 percent of all students served by IDEA in 2011, and numbered more than 2.2 million. Among them, only 68 percent of students graduated with a regular diploma, meaning approximately 704,000 students with learning disabilities were ineligible for federal financial aid as they entered the workforce. Students with intellectual or developmental disabilities in particular are either unlikely to receive a diploma, or are likely to receive an unaccredited diploma.⁴



Under the HEOA (1965), students with intellectual disabilities can receive Federal Pell Grants, Federal Supplemental Educational Opportunity Grants, or Federal Work-Study. To receive this funding, each individual must attend a federally approved “comprehensive transition and postsecondary program” as defined by U.S. Department of Education (2009). There are only 35 such programs across the country, in 15 states, many of which are located in the same city (see table 17 in the Data Trends in Disability section for full list) (U.S. Department of Education, Federal Student Aid n.d.).

⁴ Generated from 2011-12 IDEA Part B Exiting Data

Certificates of high school completion are determined on a state-by-state basis (Cortiella 2013). For example, New York administers different Regents diplomas or local diplomas or nondiploma completion certificates (Career Development and Occupational Studies Commencement Credentials) for some students with disabilities. Only one state, Oregon, has statewide standards for a modified diploma. Because it is considered an approved diploma by the state, the Department of Education just this year clarified that Oregon students who earn the Oregon Modified Diploma **are** eligible for federal financial aid. In addition, 17 states offer only one diploma for all of their high school graduates, with special allowances for students with disabilities to receive a regular diploma, such as:

- Reducing the number of credits required to obtain a regular diploma,
- Substituting alternative courses,
- Lowering performance criteria,
- Granting extensions, and
- Using the student's IEPs to set terms for graduation requirements.

Twenty-six states have an exit exam that students must pass to graduate, and four more have plans to implement this requirement. There are vast differences in the administration of these tests (e.g., what grad students first take, what academic content tested, number of times students can retake exams) and the types of allowances available to students (e.g., accommodations allowed during test taking, remediation available to students failing, use of differentiated tests or passing scores for students with disabilities).

Categories of High School Diplomas or Certificates

- Standard diploma
- Honors or college prep diploma
- Technical diploma
- IEP/special education diploma
- Certificate of attendance or achievement in lieu of diploma
- Other

A challenge to fully understanding the graduation rates of students with disabilities lies in the fact that each state has its own definition of which students will be included in their reporting to calculate the Four Year Adjusted Cohort Graduation Rate. States may define a student with disability as anyone who ever had an IEP or designation as a student with disability between high school and graduation, only those students who had an IEP upon graduation, or some other method of definition (Cortiella 2013).

Students with Intellectual and Developmental Disabilities

Among all students, those with the most significant cognitive disabilities are the least likely to graduate with a regular high school diploma (National Council for Disability 2012a). Of additional concern is the high rate of students with emotional disturbance (38% in 2011) that exit school without receiving either a certificate of completion or a diploma. The number of postsecondary education (PSE) programs designed for students with Intellectual Disabilities or Developmental Disabilities (ID/DD) has increased exponentially in recent years, and today there are approximately 250 PSE programs for students with intellectual disabilities in 37 states. It is important to note that these PSE programs are not necessarily inclusive postsecondary programs, such as 2-year universities, and can be self-contained settings. Research has demonstrated that comprehensive transition and postsecondary programs have a positive impact on student rates of employment, wages, social networks, and self-determination skills. In addition, recent studies indicate that the strengths of this model of service delivery are

employment training and community participation (National Council for Disability 2012b).

NCD Education Recommendations

Higher Education Opportunity Act

- Congress should increase funding to support the expansion of the Department of Education's Transition and Postsecondary Programs for Students with Intellectual Disabilities, which were authorized as part of the Higher Education Opportunity Act (HEOA).
- U.S. Department of Education should take steps to simplify the administration of the provisions authorized in HEOA that allow ID/DD students who did not receive a traditional diploma to receive federal student grants and access work–study options. The Department should also certify additional comprehensive transition and postsecondary programs

Inclusive Learning Environments

- Permanently fund the Advanced Research Projects Agency for Education (ARPA-ED) to, in part, provide research grants that address the unique learning needs of students who are children with disabilities.
- Include specific reference to the use of research-validated educational methodologies that improve inclusion of students with disabilities inside the general education classrooms, such as Universal Design for Learning and Response to Intervention and positive behavior intervention and supports or other multitiered systems of support. Provide federal funding for the development of instructional materials in various content areas and levels that are accessible to students with print disabilities, and which are designed with the principles of UDL in mind.

Discipline and Behavior

- Require states and districts to publicly report disaggregated data on number of students suspended, reasons for out-of school suspensions, and days of instruction

lost. In addition, include suspension rates among the factors schools and districts use to measure performance.

- Provide funding and incentives for evidence-based changes to improve school climate, reduce the use of exclusionary discipline, and limit the flow of students from schools to the juvenile and criminal justice systems.
- Facilitate the reenrollment, reentry, and proper education of students returning to school from expulsion and juvenile justice system placements.

High School Completion

- The reauthorization of Elementary and Secondary Education Act (ESEA) should include a uniform definition of ‘student with disability’ that is used in data collection for the Adjusted Cohort Graduate Rate. In addition, information should be collected and reported on disaggregated by disability type, rather than status.
- Congress and the U.S. Department of Education should support states to create statewide standards for modified diplomas and extended diplomas similar to those in Oregon.

Student Achievement

- Require states to set achievement and inclusion targets for students with disabilities, and report on achievement data for these students.
- At the state level with federal oversight, require more comprehensive data collection, institute monitoring, initiate research and demand accountability of services provided to students with 504 plans, including the educational and transition outcomes achieved by these students.
- Consider expanding the measures of teacher quality to include supplemental measures (aside from student growth) that include the use of research-based instructional practices, teacher performance, and contribution to student learning.

NCD Resources Related to Education

- ***NCD Letter Requesting Meeting with U.S. Secretary of Education Arne Duncan***, (2014), <http://www.ncd.gov/publications/2014/03212014/>
- ***A Promising Start: Preliminary Analysis of Court Decisions Under the ADA Amendments Act***, (2013), <http://www.ncd.gov/publications/2013/07232013/>
- ***Rising Expectations: The Developmental Disabilities Act Revisited***, (2011), <http://www.ncd.gov/publications/2011/Feb142011>
- ***Issues in Creating Livable Communities for People with Disabilities: Proceedings of the Panel***, (2007), <http://www.ncd.gov/publications/2007/Oct12007>
- ***National Council on Disability Topical Overviews - Access to Education by People with Disabilities Illustrations of Implementation from the United States - Quick Reference Guide***, (2005), <http://www.ncd.gov/publications/2005/08022005-AccessEd>
- ***National Council on Disability Topical Overviews - Lessons for All of Us: Protecting the Right to Education for Persons with Disabilities***, (2005), <http://www.ncd.gov/publications/2005/08022005-Lessons>
- ***Same Struggle, Different Difference: Civil Rights Policy Forum Summary Paper***, (2005), <http://www.ncd.gov/publications/2005/06092005-1>
- ***Individuals with Disabilities Ed Act Burden of Proof: On Parents or Schools?***, (2005), <http://www.ncd.gov/publications/2005/08092005>
- ***Summary of the Native American Forum: Disability Matters in Tribal Communities***, (2004), <http://www.ncd.gov/publications/2004/June212004>
- ***Improving Educational Outcomes for Students with Disabilities***, (2004), <http://www.ncd.gov/publications/2004/Mar172004>
- ***Higher Education Act Fact Sheet***, (2004), <http://www.ncd.gov/publications/2004/Mar32004>

ENHANCING MEDICAID MANAGED CARE

Background

Medicaid accounts for 16 percent of total health care spending and provides coverage for one out of every six Americans. Among the more than 60 million citizens who rely on Medicaid, 9 million are non-elderly people with disabilities, including 1.4 million children. While people with disabilities constituted 16.5 percent of Medicaid enrollees in FY 2008, expenditures on their behalf represented 44 percent of total Medicaid outlays. In FY 2010, Medicaid beneficiaries utilizing long-term services and supports constituted 6 percent of all beneficiaries, but 43 percent of all Medicaid expenditures (Henry J. Kaiser Family Foundation 2013). Over the course of the last several decades, managed care has emerged as a mechanism to assist states in controlling costs and, when implemented properly, improving quality in state Medicaid systems. While more than two-thirds of Medicaid beneficiaries receive at least a part of their services via managed care payment delivery models, the vast majority are children without disabilities and working-age adults. It has only been comparatively recently that Medicaid managed care has been applied to people with disabilities and to long-term services and supports.

Medicaid managed care can be a positive force for controlling costs and improving outcomes; however, it must be implemented with good program design and the necessary safeguards to ensure beneficiary rights. Failure to appropriately implement managed care frameworks can result in significant declines in quality in Medicaid-financed long-term services and supports (National Council on Disability 2013). While Medicaid managed care is a multifaceted approach, NCD recommends that policymakers extend special consideration to certain issues in program design, including benefit design, outcome measures, due process, and stakeholder engagement.

Benefit Design

Managed Care Organizations (MCOs) have comparably little experience in operating long-term services and supports systems. Furthermore, state Medicaid agencies, which

are often the primary entity within state government preparing an application to move a state Medicaid system into managed care, often have limited long-term services and supports competency as well. As a result, many managed care systems seek to apply models geared toward acute care, with disastrous results. Managed Care contracts and Requests for Proposals must specifically articulate expectations for long-term services and supports. Service definitions must clearly distinguish between not only institutional and community-based service-provision, but between types of community-based service provision (i.e., supported living, residential services, supported employment, day services, etc.). A clear expectation in favor of community integration must be built into the capitated payment provided to the MCO, taking into account the need for a payment structure that acknowledges the varying complexity and real costs of serving people with disabilities who have complex needs. Contracts should communicate how MCOs will interact with non-Medicaid state systems that are vital for the effective coordination of services to people with disabilities, such as school systems, vocational rehabilitation agencies, and others. In addition, states should ensure that MCOs do not face adverse incentives by making certain that in any circumstance under which a home and community based service (HCBS) system for a population is placed into managed care, the corresponding institutional benefit is also placed into managed care. Unfortunately, a growing number of states have carved out their nursing homes or public and/or private Intermediate Care Facilities, resulting in an incentive on the part of the MCO to offload high-cost beneficiaries into institutional settings. This also deprives the state of the opportunity to use managed care as a mechanism to reduce reliance on institutional models.

Outcome Measures

As states contract with private companies and nonprofit organizations to manage aspects of their Medicaid system, the issue of accountability is absolutely vital. Even when its operation is contracted to an outside entity, Medicaid remains a public program which should be managed through a process of democratic accountability to the public. States typically approach accountability through the use of quality measures designed to hold MCOs, the entities contracted with to manage Medicaid operations, accountable

to specific benchmarks in quality delivery of Medicaid services. These outcome measures serve as the framework for quality management systems that guide managed care. The needs of persons with disabilities can vary from those of the general population, which often guides the development of such measures. Managed care has historically been applied primarily to the population without disabilities, meaning many of the quality measures states and MCOs are most used to making use of have limited applicability for the services most important to people with disabilities.

Many people with disabilities require both acute health care services as well as extended supports that may be linked to a disability or chronic condition. Thus, NCD supports the development and use of outcome measures specific to the health and long-term support needs of people with disabilities, such as measures to assess factors that contribute to quality of life, autonomy, relationships, compassion, social supports, and emotional wellbeing, such as the measures utilized in the National Core Indicators project, a collaboration of the Human Services Research Institute and the National Association of State Directors of Developmental Disability Services. Such data must be collected by an independent entity with expertise in accessible means of surveying people with disabilities and reporting directly to state government, rather than self-reported by the MCOs themselves. At the same time, states should explore the use of more quantitative measures focused specifically on data which can be identified through claims data. For example, the State of Tennessee has utilized enrollment targets for participant-directed services as a quality benchmark incorporated into the MCO contracts for MCOs serving the state's Medicaid beneficiaries using long-term services and supports (Sciegaj et al. 2013). Other states have tied quality measures to a reduction in the use of nursing homes, institutions, and other facility-based programs. The use of outcome measures determined both by independent surveys of beneficiaries and claims data ensures that both qualitative and quantitative inputs inform the state's assessment of the MCO's performance. This approach would account for the full range of services and supports offered to people with disabilities, and data gathered would lead to improved care and services for patients with disabilities.

Due Process

Medicaid beneficiaries in managed-care-based systems are entitled to procedural due process rights before benefits can be terminated, reduced, or denied. The procedures, technical language, and paperwork involved with due process can be overwhelming, especially when focusing on one's own needs. In order for managed care systems to operate within the spirit in which due process is defined and intended, a need exists to ensure that managed care plan enrollees and potential enrollees have accessible information concerning the services and support available under the plan and how they may be accessed. Information must be given in an accessible fashion, taking into account cognitive accessibility as well as more traditional forms of sensory access. Furthermore, beneficiaries require the assistance of a robust Ombudsman program, familiar with the needs of people with disabilities, tasked with representing them in disputes with MCOs. Wisconsin's Ombudsman program may also serve as a good model—it sets a goal of one advocate for every 2,500 beneficiaries under the age of 60 (enrollees 60 or older are covered through a separate Ombudsman program focused on the needs of older adults). The Ombudsman program is operated through the state's protection and advocacy system, ensuring that disability expertise is available in its operations (Disability Rights Wisconsin n.d.).

Stakeholder Involvement

Establishing an effective service delivery system that meets the needs of people with disabilities requires ongoing stakeholder engagement. Many states engage only provider stakeholders or provide for only minimal stakeholder engagement through the use of town halls or an open comment period without adequate outreach and direct discussion with community leaders. Stakeholder engagement means including stakeholders in designing, implementing, and monitoring the outcomes and effectiveness of Medicaid managed care services and service delivery systems. Advantages of stakeholder engagement include:

- Generating insights into the strengths and weaknesses of existing payment and service delivery arrangements

- Explaining the vision behind a restructured service delivery system as well as the benefits to enrollees with disabilities and their families
- Gaining consumer insight on inefficiencies associated with existing service delivery practices that serve as barriers to adequate health care and service
- Identifying effective practices and existing service delivery practices that should be retained
- Generating buy-in for a proposed restructured service delivery system
- Supporting stakeholders in future planning by explaining how and when changes in service delivery and payment practices are likely to occur and how stakeholders are likely to be affected
- Establishment of ongoing relationships with stakeholder groups leading to allies in resolving roadblocks that will surface during the implementation of the planned managed care program

Medicaid Managed Care Stakeholders

- Enrollees with disabilities
- Family members
- Support agency representatives
- Advocates
- Medical care providers
- Trade associations
- Unions
- County governments

NCD Medicaid Managed Care Recommendations

Benefit Design

- States should ensure that any population that has its HCBS system placed into managed care has the corresponding institutional benefit placed within the same managed care framework, offering an opportunity to reduce institutional placement and avoid adverse incentives for the MCO.
- Capitated payment rates should be structured so as to incentivize community integration and should take into account the differing costs and complexity of different populations.
- Managed Care contracts should clearly spell out the difference between different types of service categories, to ensure that MCOs are promoting true community integration in residential, day, and employment services.
- Managed Care contracts should articulate how MCOs will interact with non-Medicaid state systems, such as vocational rehabilitation agencies and the public school system.

Outcome Measures

- The Department of Health and Human Services' (HHS) Administration for Community Living, in collaboration with CMS, the Agency for Healthcare Research and Quality (AHRQ), the Long-Term Quality Alliance, the National Core Indicators Project, and leaders of the aging and disability communities, should spearhead efforts to develop disability-specific outcome standards to measure access to, and the quality of, health care and long-term supports for people with disabilities. Specific emphasis should be given to issues associated with community integration, self-direction and other dimensions of quality more typically associated with long term services and supports rather than acute care. Quality measures should incorporate both those collected via independent surveys of beneficiaries and those determined via analysis of claims data.

- The State Medicaid agency must exercise overall responsibility for monitoring system performance and individual outcome measures and make the information on MCO performance available in a timely fashion in a public website, providing individuals with the ability to analyze the data on the basis of MCO, region, race, gender, disability status and other relevant demographic characteristics.

Due Process

- CMS should make available funds for State Protection and Advocacy systems to assist people with disabilities in navigating Managed Care systems, with particular emphasis on assisting people with disabilities through grievance and appeals procedures and ensuring that the due process rights of beneficiaries are implemented in a meaningful fashion. Resources should be made available for both individual assistance of beneficiaries and for systemic oversight, litigation and advocacy on the design and operation of Medicaid Managed Care. Funding should be allocated with the goal of allowing a ratio of at least one Ombudsman for every 2,500 beneficiaries, consistent with the Wisconsin model, with sufficient remaining funds to allow for systemic work focused on the broader structure of the managed care model.
- States should develop and implement an aggressive education and outreach strategy to ensure that all managed care plan enrollees (and potential enrollees) have accessible information concerning the services and supports available under the plan and how they may be accessed. The state's strategy should include the following tactics:
 - Enlisting community-based disability organizations in developing and implementing the outreach plan.
 - Developing accessible multimedia educational materials and training sessions geared to the various learning styles and comprehension levels of plan enrollees. Such sessions should be held across the state.
 - Providing plan participants with accessible, meaningful, and clear notices about programs, services, and their rights, including enrollment rights and options, plan

benefits and rules, coverage denials, appeal rights and options, and potential conflicts that may arise from relationships among providers, suppliers, and others. This should be written at the comprehension level of the typical plan enrollee and provided in first languages of enrollees.

- Providing information that represents all service options available to the enrollee.
- States should provide managed care enrollees with ample opportunity to seek second opinions or appeal service decisions. While appeals are ongoing, service plans should remain unchanged and beneficiaries should face no liability for costs incurred by the state during the appeals process.

Stakeholder Engagement

- Centers for Medicare & Medicaid Services (CMS) prepare and disseminate a suite of resources for states to reference as they develop and implement a plan for stakeholder engagement. The suite should include a sample stakeholder plan with objectives, strategies, tactics, a timeline, and an approach to evaluation, as well as a companion guide to support the development and execution of the plan.
- CMS should specifically solicit feedback from key stakeholders in the state, including self-advocates, family members, and the state's Protection and Advocacy system, on the degree to which the state has included them within the stakeholder engagement process. This feedback should form a critical component of the approval process for a state application for managed long-term services and supports.

NCD Related Resources on Medicaid Managed Care

NCD Letter to CMS Soliciting Its Participation at Upcoming NCD Medicaid Managed Care Forums, (2014), <http://www.ncd.gov/publications/2014/02032014/>

Medicaid Managed Care for People with Disabilities: Policy and Implementation Considerations for State and Federal Policymakers, (2013), <http://www.ncd.gov/publications/2013/20130315/>

NCD Letter to CMS about Amendment to Kancare Medicaid Section 1115, (2013), <http://www.ncd.gov/publications/2013/12132013/>

A Medicaid Block Grant Program: Implications for People with Disabilities, (2013), <http://www.ncd.gov/publications/2013/05222013/>

The Case for Medicaid Self-Direction: A White Paper on Research, Practice, and Policy Opportunities, (2013), <http://www.ncd.gov/publications/2013/05222013A/>

Medicaid Managed Care for People with Disabilities, (2013), <http://www.ncd.gov/publications/2013/20130315/>

Analysis and Recommendations for the Implementation of Managed Care in Medicaid and Medicare Programs for People with Disabilities, (2012), <http://www.ncd.gov/publications/2012/CMSFebruary272012/>

ADDRESSING MENTAL HEALTH NEEDS

Background

American living with mental illness:

- 1 in 4 adults
- 1 in 5 teens

Mental health issues affect millions of Americans. Approximately 61.5 million adults experience mental illness in their lifetime, 13.6 million of whom live with a serious mental illness such as schizophrenia, major depression, or bipolar disorder. Similarly, approximately 20 percent of teens aged 13 to 18, and 13 percent of children aged 8 to 15 experience severe mental disorders in a given year (National Institute of Mental Health. n.d.). Despite these high numbers, many individuals do not receive treatment for their condition, which makes them more susceptible to developing a debilitating condition. Approximately 60 percent of adults (Substance Abuse and Mental Health Services Administration 2012), and 50 percent of youth aged 8 to 15 with a mental illness received no mental health services in the previous year (National Institute of Mental Health n.d.). People with mental illness from diverse backgrounds are less likely to access mental health services. African American and Hispanic Americans use mental health services at approximately one-half the rate of whites, while Asian Americans access mental health services at about one-third the rate of whites (Agency for Healthcare Research and Quality 2013).

The impact of mental illness can be devastating. Those with serious mental illness face an increased risk of having a chronic medical condition (Colton and Manderscheid 2006) and adults living with serious mental illness die on average 25 years earlier than other Americans, largely due to treatable medical conditions (Parks et al. 2006). With a dropout rate of more than 50 percent, students with a mental health condition quit school at a higher rate than any other disability group served by special education (U.S. Department of Education 2006). Of the 1 in 10 adults and 1 in 3 young people

aged 15 to 24 who die each year by suicide, more than 90 percent lived with one or more mental disorders (American Association of Suicidology 2012).

Trends surrounding mental health demonstrate that this area warrants considerable attention from policymakers. In December, 2013, the Administration pledged \$100 million to strengthen mental health services in America. This commitment offers significant promise to improve the quality, availability, and affordability of mental health services and supports required to pursue full and productive lives. As funds are allocated, NCD urges policymakers to consider opportunities to invest in addressing stigma and discrimination against people with mental health issues, community-based treatment options, and programs to address the unique and urgent needs of veterans, many of whom experience mental health conditions as a direct result of serving and protecting our country.

Stigma and Discrimination

Stigma and discrimination surrounding mental illness can serve as a significant barrier to community integration and life satisfaction. While stigma focuses on attitudes, it is operationalized through discrimination “when a person who is otherwise qualified is not offered a job or an apartment, for example, because he or she belongs to a group about which negative attitudes are held, despite his or her individual qualifications” (National Council on Disability 2008).

Stigma is described as a “cluster of negative attitudes and beliefs that motivate the general public to fear, reject, avoid, and discriminate against people with mental illnesses.” Stigma is widespread in the United States and other Western nations. Stigma leads others to avoid living, socializing, or working with, renting to, or employing people with mental disorders—especially severe disorders, such as schizophrenia. It leads to low self-esteem, isolation, and hopelessness (Thornicroft 2006).

The common misconception that people with mental illness are dangerous contributes to stigma and discrimination throughout society (Corrigan et al. 2002). One study of Americans’ attitudes on mental health between 1950 and 1996 found that most Americans believe that people with mental illnesses pose a threat for violence

(Pescosolido et al. 1999). In reality, people with mental illnesses contribute only to a small portion of the overall rates of violence and statistically, people with disabilities are much more likely to be victims than perpetrators of violent acts (Pescosolido et al. n.d.). Most people who are violent do not live with mental illness (American Psychiatric Association 1994). Therefore, initiatives to profile individuals who experience symptoms of mental illness can be counterproductive. For example, provision S. 436 of the Fix Gun Checks Act amends the Higher Education Act to require colleges and universities to outline procedures for the involuntary referral of students with perceived psychiatric disabilities for evaluation and institutionalization. Such a policy that broadly targets individuals who have not demonstrated a threat of harm could discourage students from seeking the very mental health services they need in times of distress and interfere with the existing progress that universities have made developing and implementing mental health programs.

Stigma and discrimination can also have an adverse effect on people with mental illness in institutional settings. With no established correlation between psychiatric diagnosis and violent behavior, institutions lack a system capable of reliably identifying people who are likely to become dangerous. Thus, practices including forced medication or treatment as a preventative strategy to control aggressive behavior would restrict the fundamental civil rights of people with psychiatric disabilities.

Community-Based Mental Health Services

Community-based health services and supports are critical in meeting the treatment needs of people living with mental health illness or disability. In recent years, the Federal Government has launched several initiatives to support community-based mental health services. For example,

- The Strengthening Mental Health in Our Communities Act was introduced in 2014 to reform mental health systems, create opportunities for people with mental illnesses to succeed in integrated settings, and to promote access to the community services that have been shown to lead to recovery.

- The Affordable Health Care Act has community-based mental health services with new and improved options for expanding home and community-based services.
- The implementation and enforcement of provisions associated with the Olmstead ruling has led Department of Justice entered Olmstead settlements that require significant expansions of mental health services and housing in New York and New Hampshire, and is implementing Olmstead settlements in North Carolina, Delaware, and Georgia. Private litigants are also implementing Olmstead settlements that expand mental health services in a variety of other states, including Illinois, Connecticut, New Jersey, New York, California Massachusetts, Washington, and other states.

Available federal research reveals a profound shortage of community-based services, including mobile crisis services, peer supports, supported housing, and supported employment. Because of stigma, many in society feel as though people with mental illness are not capable of making decisions about their own care and that they are best served by large systems. Community mental health programs that are sufficiently funded and supported can provide excellent comprehensive services that offer those with mental illness a greater voice throughout the treatment process. Many people wish to pursue such programs, but experience barriers to access due to an emphasis on hospitalization and more restrictive mental health interventions. The severe deficiency in current resources means that these services are often available only to those who are in immediate crisis and who have already endured multiple hospitalizations. Recently, pilot programs have been developed across the country to better meet the needs of people when they have their first psychotic episode. These programs are community based and help to address critical unmet needs and hold great promise for effective and low-cost treatment options (Young 2013).

Support for Veterans

Veterans face unique circumstances that can contribute to mental health issues, such as separation from family and support systems, traumatic experiences during times of war, and multiple and extended deployments. Of the active duty and reserve military

personnel deployed to the wars in Iraq and Afghanistan, 30 percent are expected to have a mental health condition in 2014 (National Council for Behavioral Health 2012). As with other populations, fear of stigma can serve as a barrier to seeking treatment options for mental health issues. One survey found that more than 40 percent of Iraq and Afghanistan war veterans said that they did not seek mental health care due to a perceived negative impact on their careers (Iraq and Afghanistan Veterans of America 2014). This can have dire consequences. Military members comprise less than 1 percent of the U.S. population (Martinez and Bingham 2011) but represent 20 percent of suicides nationally (Kemp and Bossarte n.d.). A 2013 study found that mental health problems are significantly associated with an increase in the risk of suicide among members of the military (LeardMann et al. 2013). The effects of health issues extend to families of service members as well. Research demonstrates that children of military parents have greater emotional and behavioral challenges than the national average (Substance Abuse and Mental Health Services Administration 2013).

NCD Mental Health Recommendations

Stigma and Discrimination

- Policymakers should consider provisions to ensure that identification and isolation of individuals who have harmed others or are at risk of committing acts of violence do not lead to unnecessary expansion in institutionalization, involuntary commitment, and forced treatment for individuals who may benefit from mental health services and supports but pose no risk of violence and have a basic human right to make independent decisions.
- Congress should avoid any proposal comparable to the provision of S. 436, the Fix Gun Checks Act, which amends the Higher Education Act to require colleges and universities to outline procedures for the involuntary referral of students with perceived psychiatric disabilities for evaluation and institutionalization. Further, NCD recommends provisions for programs that support peer-to-peer support and campus-based counseling programs, and encourages campus policies that focus on making these resources more broadly available.

- Congress should invest in research to further understand mental health issues and effective strategies to address mental health issues early before they escalate into debilitating conditions.

Community-Based Mental Health Services

- The Obama Administration should consider a framework to invest in community-based mental health supports and programs for both civilians and veterans, including provision of services at university and college campuses, without adverse impact or involuntary hospitalization or commitment for those who seek assistance. Recently, pilot programs have been developed across the country to better meet the needs of people when they have their first psychotic episode. These programs are community based and help to address critical unmet needs.
- NCD encourages the advancement of policy recommendations in line with these models and the principles upon which they are based.
- Congress should support the Strengthening Mental Health in Our Communities Act to reform mental health systems, create opportunities for people with mental illnesses to succeed in integrated settings, and to promote access to the community services that have been shown to lead to recovery.

Support for Veterans

- Congress should continue to make mental health issues among veterans and their families a priority by enhancing resources to support increased counseling, improvements to in the reporting systems at Veteran Affairs, and more crisis centers to address suicide rates among this population.
- Congress should continue and intensify efforts to reduce and eliminate the backlog of veteran's disability claims.

NCD Resources Related to Mental Health

NCD Letter to Vice President Biden Regarding Anticipated Taskforce

Recommendation, (January, 2013), <http://www.ncd.gov/publications/2013/Jan142013/>

NCD Letter to President Obama Regarding Mental Health Funding, (December, 2013), <http://www.ncd.gov/publications/2013/12202013/>

NCD Letter to House Energy and Commerce Subcommittee on Oversight on Mental Health, Lack of Representation of People with Psychiatric Disabilities at Roundtable, (2013), <http://www.ncd.gov/publications/2013/031413/>

Clearing the Backlog and Facilitating Benefits for Veterans with Disabilities, (2013), <http://www.ncd.gov/publications/2013/11122013/>

Inclusive Livable Communities for People with Psychiatric Disabilities, (2008), <http://www.ncd.gov/publications/2008/03172008/>

DATA TRENDS IN DISABILITY

In the 30 years since the establishment of the NCD and nearly 25 years since the enactment of the ADA, many changes have occurred to improve and enhance the lives of people with disabilities that have also improved the lives for all Americans. As we consider how far we have come and ponder the future and the many challenges that remain, NCD recognizes the importance of using data as evidence to provide insight on progress to date. This report retained this tradition within the report's main narrative by drawing on the literature base and including previous NCD work.

In addition, the 2014 annual *Progress Report* revisits data tables offered in the 2011 NCD annual report. This section provides updates to the 2011 data tables and also introduces new data tables relevant to some of the topics addressed in this report. Tables are organized by the following broad topics: employment and earnings, education, health and wellbeing, civil rights, voting, and technology.

Employment and Earning

Table 1 reflects employment trends of people between people with a disability and people without a disability. The employment rates and percentage of full-time employment for people with a disability has decreased in recent years, while remaining significantly lower than rates for people without a disability. This has also resulted in lower numbers of people with a disability actively searching for work among those without a job.

Table 1. Employment Trends of People with a Disability (PWD) Compared to People Without a Disability (PWOD), 2008–2012

In the United States, the employment rate of working-age people (ages 21–64)

	2008	2009	2010	2011	2012
PWD	39.5	36	33.9	33.4	33.5
PWOD	79.9	76.8	70.4	75.6	76.3

In the United States, the percentage actively looking for work among people with disabilities who were not working

	2008	2009	2010	2011	2012
PWD	8.7	11.6	12.3	11.7	10.8
PWOD	21.4	30.4	31.2	29.4	27.5

In the United States, the percentage of working-age people with disabilities working full-time/full-year

	2008	2009	2010	2011	2012
PWD	25.4	22.5	20.9	20.7	20.9
PWOD	60.4	57	55.3	55.5	56.4

Source: Erickson, W., C. Lee, and S. von Schrader. 2014. *Disability Statistics from the 2012 American Community Survey (ACS)*. Ithaca, NY: Employment and Disability Institute, Cornell University. <http://www.disabilitystatistics.org>.

Table 2 reflects the number of federal employees with targeted disabilities by type and federal pay grade. In 2010, there were less than 16,000 federal employees with a targeted disability (15,659). The most prevalent disability among federal employees across all pay grades is mental illness (27%). Partial paralysis (15%), blindness (14%), and deafness (13%) are also relatively common. Nearly all employees with an intellectual disability are in the lowest pay grade. However, for all other disability types, most employees fall in the GSR-6 to 15 range, with over 40 percent of employees with the following targeted disabilities in the GSR-11 to 15 range: blindness, missing extremities, complete paralysis, convulsive disorders, and distortion of limb/spine. This reflects a trend showing the advancement of persons with disabilities in the federal workforce.

Table 2. Number of Federal Employees With Targeted Disabilities by Type and Federal Pay Grade, 2010

Disability by Type	GSR-1 to 5	GSR-6 to 10	GSR-11 to 15	Senior Pay and Senior Executive Service
Deafness	620	782	584	1
Blindness	384	838	975	24
Missing extremities	117	250	434	15
Partial paralysis	490	747	1117	26
Complete paralysis	178	286	523	23
Convulsive disorders	391	707	921	15
Intellectual disability	431	114	17	0
Mental illness	1127	1523	1491	27
Distortion of limb/spine	93	177	205	6

Source: U.S. Equal Employment Opportunity Commission's Annual Report on the Federal Workforce, 2010, http://www.eeoc.gov/federal/reports/fsp2010/table_a_6_a.cfm

Table 3 reflects employment settings for workers with intellectual disabilities in the labor force. The employment rate for this population is 34 percent, and while most of those who work are in a competitive setting, sheltered work settings are also prevalent.

Table 3. Employment Status and Type of Employment Setting for Adults Aged 21–64 with Intellectual Disabilities in the Labor Force, 2011–2012.

Employment Status	Percentages
Labor Force Participation Rate	44%
Employment Rate	34%
Competitive setting	18%
Sheltered setting	13%
Other setting	3%
Unemployment Rate	21%

Source: Siperstein, G. N., Parker, R. C., & Drascher, M. L. (2013). National Snapshot of Adults with Intellectual Disabilities in the Labor Force. *Journal of Vocational Rehabilitation*, 39 (3), 157-165.

Table 4 reflects the percentage of federal workers by race/ethnicity and disability. In addition to being clustered with the lower federal pay grades, individuals with targeted disabilities make up less than 1 percent of the federal workforce.

Table 4. Percentage of the Federal Workforce* by Selected Characteristics, 2000–2010

	2000 CLF*	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Hispanic or Latino (%)	10.70	6.94	7.10	7.22	7.46	7.61	7.68	7.79	7.94	7.90	7.90
White (%)	72.70	67.52	67.31	67.17	66.91	66.49	66.16	65.76	65.39	65.59	65.46
Black or African American (%)	10.60	18.74	18.63	18.56	18.18	18.29	18.36	18.43	18.3	18.03	17.94
Asian (%) **	3.60	5.32	5.45	5.54	5.79	5.94	5.89	5.95	5.87	5.84	5.90
Native Hawaiian/ Other Pacific Islander (%)***	0.20						0.17	0.21	0.31	0.33	0.36
Alaska Native (%)	1.00	1.48	1.50	1.50	1.67	1.67	1.68	1.65	1.64	1.65	1.60
Two or more races (%)	0.90						0.06	0.21	0.56	0.66	0.84
Individuals with targeted disabilities (%)	CLF not available	1.10	1.07	1.05	0.99	0.96	0.94	0.92	0.88	0.88	0.88

Includes September 30, 2010 agency data as reported in CPDF plus AAFES, FERC, Foreign Service, NIGC, TVA and USPS; does not include data for intelligence gathering agencies.

* CLF: Civilian Labor Force

**The numbers for 1998-2005 include totals for "Native Hawaiian or Other Pacific Islanders".

***Separate data became available in 2006. Percentages may not add to 100% due to rounding and the additional "Two or More Races" category in the 2000 Census Special EEO file.

Source: U.S. Equal Employment Opportunity Commission's Annual Report on the Federal Workforce, 2010, http://www.eeoc.gov/federal/reports/fsp2010/table_a_1.cfm

Tables 5a, 5b, 5c, and 5d reflect the median household income among households inclusive of a person with a work limitation and those without a person with a work limitation. The gap between the median income among households with an individual with and without a work limitation persists across years and the income of those without a work limitation is almost double that of those in households that do not contain an individual with a work limitation.

Table 5a. Median Household Income Among Households with Individuals with and Without a Work Limitation, 1980–1988

	1980	1981	1982	1983	1984	1985	1986	1987	1988
No person with work limitations in house	51,500	50,500	50,100	49,900	51,500	52,800	55,000	55,700	56,100
Person with work limitations in house	32,300	31,900	31,800	31,300	31,900	32,200	32,000	32,700	31,500

Source: Nazarov, Z., & Lee, C. G. (2012). Disability Statistics from the Current Population Survey (CPS). Ithaca, NY: Cornell University Rehabilitation Research and Training Center on Disability Demographics and Statistics (StatsRRTC). Retrieved April 16, 2014 from www.disabilitystatistics.org

Table 5b. Median Household Income Among Households with Individuals with and Without a Work Limitation, 1989–1997

	1989	1990	1991	1992	1993	1994	1995	1996	1997
No person with work limitations in house	57,100	55,900	55,400	55,600	55,300	56,100	57,500	58,600	59,500
Person with work limitations in house	33,500	32,900	32,800	30,700	31,000	31,600	32,400	31,800	32,200

Source: Nazarov, Z., & Lee, C. G. (2012). Disability Statistics from the Current Population Survey (CPS). Ithaca, NY: Cornell University Rehabilitation Research and Training Center on Disability Demographics and Statistics (StatsRRTC). Retrieved April 16, 2014 from www.disabilitystatistics.org

Table 5c. Median Household Income Among Households with Individuals with and Without a Work Limitation, 1998–2006

	1998	1999	2000	2001	2002	2003	2004	2005	2006
No person with work limitations in house	61,700	63,300	63,400	62,600	61,700	61,300	61,300	61,300	61,900
Person with work limitations in house	32,700	34,600	33,200	33,300	32,200	32,600	31,700	32,400	32,400

Source: Nazarov, Z., & Lee, C. G. (2012). Disability Statistics from the Current Population Survey (CPS). Ithaca, NY: Cornell University Rehabilitation Research and Training Center on Disability Demographics and Statistics (StatsRRTC). Retrieved April 16, 2014 from www.disabilitystatistics.org

Table 5d. Median Household Income Among Households with Individuals with and Without a Work Limitation, 2007–2012

	2007	2008	2009	2010	2011	2012
No person with work limitations in house	62,300	62,200	64,200	63,200	61,400	62,000
Person with work limitations in house	32,100	32,500	32,900	31,400	31,300	30,200

Source: Nazarov, Z., & Lee, C. G. (2012). Disability Statistics from the Current Population Survey (CPS). Ithaca, NY: Cornell University Rehabilitation Research and Training Center on Disability Demographics and Statistics (StatsRRTC). Retrieved April 16, 2014 from www.disabilitystatistics.org

Tables 6a and 6b reflect the percentage of men and women with and without a work limitation who lived in families with incomes below the poverty line. The percentage of people living in poverty has increased slightly since 2000 and these increases are reflected in the population of individuals with and without a work limitation.

Table 6a. Percentage of Men and Women, Aged 18–64 with and Without a Work Limitation in the United States Who Lived in Families with Incomes Below the Poverty Line, 2000–2006

	2000	2001	2002	2003	2004	2005	2006
With a work limitation	27.0	26.8	28.2	28.0	27.8	28.0	28.0
Without a work limitation	07.9	08.5	09.0	09.2	09.7	09.4	09.2

Source: Nazarov, Z., & Lee, C. G. (2012). Disability Statistics from the Current Population Survey (CPS). Ithaca, NY: Cornell University Rehabilitation Research and Training Center on Disability Demographics and Statistics (StatsRRTC). Retrieved April 16, 2014 from www.disabilitystatistics.org

Table 6b. Percentage of Men and Women, Aged 18–64 with and Without a Work Limitation in the United States Who Lived in Families with Incomes Below the Poverty Line, 2007–2012

	2007	2008	2009	2010	2011	2012
With a work limitation	28.6	28.1	28.6	31.0	30.4	30.9
Without a work limitation	09.2	10.0	11.4	11.9	12.0	11.9

Source: Nazarov, Z., & Lee, C. G. (2012). Disability Statistics from the Current Population Survey (CPS). Ithaca, NY: Cornell University Rehabilitation Research and Training Center on Disability Demographics and Statistics (StatsRRTC). Retrieved April 16, 2014 from www.disabilitystatistics.org

Education

Table 7 reflects the education environment of students with disabilities. The percentage of students with disabilities who spend 80 percent or more of their time in the regular environment has increased significantly since 1989.

Table 7. Individuals with Disabilities Education Act (IDEA), Part B, by Educational Environment, Selected School Years, 1989–2011

Year	Regular: Less Than 40 Percent	Regular: 40–79 Percent	Regular: 80 Percent or More	Separate School for Students With Disabilities	Separate Residential Facility	Parentally Placed in Regular Private Schools ¹	Home-bound/Hospital Placement	Correctional Facility
1989	24.9	37.5	31.7	4.5	1.0	—	0.6	—
1990	25.0	36.4	33.1	4.2	0.9	—	0.5	—
1994	22.4	28.5	44.8	3.0	0.7	—	0.6	—
1995	21.5	28.5	45.7	3.1	0.7	—	0.5	—
1996	21.4	28.3	46.1	3.0	0.7	—	0.5	—
1997	20.4	28.8	46.8	2.9	0.7	—	0.5	—
1998	20.0	29.9	46.0	2.9	0.7	—	0.5	—
1999	20.3	29.8	45.9	2.9	0.7	—	0.5	—
2000	19.5	29.8	46.5	3.0	0.7	—	0.5	—
2001	19.2	28.5	48.2	2.9	0.7	—	0.4	—
2002	19.0	28.7	48.2	2.9	0.7	—	0.5	—
2003	18.5	27.7	49.9	2.8	0.7	—	0.5	—
2004	17.9	26.5	51.5	3.0	0.6	—	0.4	—
2005	16.7	25.1	54.2	2.9	0.6	—	0.4	—
2006	16.4	23.8	54.8	2.9	0.4	1.0	0.4	0.4
2007	15.4	22.4	56.8	3.0	0.4	1.1	0.4	0.4
2008	14.9	21.4	58.5	2.9	0.4	1.1	0.4	0.4
2009	14.6	20.7	59.4	3.0	0.4	1.2	0.4	0.4
2010	14.2	20.0	60.5	3.0	0.4	1.2	0.4	0.3
2011	14.0	19.8	61.1	3.0	0.3	1.1	0.4	0.3

¹ Students who are enrolled by their parents or guardians in regular private schools and have their basic education paid through private resources, but receive special education services at public expense. These students are not included under "Regular school, time inside general class" (columns 3 through 5).

Source: U.S. Department of Education, Institute of Education Sciences, Digest of Education, Table 204.60, http://nces.ed.gov/programs/digest/d13/tables/dt13_204.60.asp compiled from U.S. Department of Education, Office of Special Education Programs, Individuals with Disabilities Education Act (IDEA) database.

Table 8 reflects the percentage of students with a disability in regular schools by percentage in general classes. Students with speech or language impairments, hearing or visual impairments, or specific learning disabilities are most likely to be included in general classrooms, whereas those with intellectual disabilities or multiple disabilities are least likely to be included. Note that students with specific learning disabilities make up approximately 40 percent of all students with disabilities.

Table 8. Percentage of Students With Disabilities in Regular Schools by Percentage of Time in General Classes by Disability Type, 2011

Disability Type (IDEA)	Regular: Less Than 40 percent	Regular: 40–79 Percent	Regular: 80 Percent or More
Autism	33.7	18.2	39.0
Deaf-blindness	32.5	10.5	27.0
Developmental delay	16.3	19.6	62.5
Emotional disturbance	20.6	18.0	43.2
Hearing impairments	13.0	16.8	56.7
Intellectual disability	48.8	26.6	17.0
Multiple disabilities	46.2	16.4	13.0
Orthopedic impairments	22.2	16.3	54.0
Other health impairments ²	10.0	22.7	63.5
Specific learning disabilities	6.8	25.1	66.2
Speech or language impairments	4.5	5.5	86.9
Traumatic brain injury	20.5	22.8	48.5
Visual impairments	11.3	13.1	64.3

Source: U.S. Department of Education, Institute of Education Sciences, Digest of Education, Table 204.60, http://nces.ed.gov/programs/digest/d13/tables/dt13_204.60.asp compiled from U.S. Department of Education, Office of Special Education Programs, Individuals with Disabilities Education Act (IDEA) database.

Table 9 reflects school exit rates of 14- to 21-year-old students served under IDEA, Part B, by exit reason and disability type. When aggregating the data on number of students with disabilities who exit high school with a diploma, the higher rates of graduation with a high school diploma for students with certain disabilities can mask the very low rates for students with other disabilities. For example, almost 20 percent of students with ID/DD aged out of IDEA services, and a very low percentage of these students received a high school diploma, which in turn means that they are not eligible for federal financial aid to pursue postsecondary opportunities.

Table 9. Percentage of 14- to 21-Year-Old Students Served Under IDEA, Part B, Who Exited School by Exit Reason and Type of Disability, 2011

Type of Disability	Graduated With Diploma	Received a Certificate of Attendance	Dropped out	Reached Maximum Age	Died
Autism	65%	24%	5%	6%	0%
Deaf-blindness	52%	23%	9%	15%	2%
Emotional disturbance	52%	10%	1%	37%	0%
Hearing Impairments	73%	16%	1%	10%	0%
Intellectual disability	40%	36%	5%	18%	1%
Multiple disabilities	47%	29%	8%	13%	3%
Orthopedic impairments	62%	19%	5%	12%	3%
Other health impairments	70%	11%	0%	18%	1%
Specific learning disabilities	68%	12%	0%	19%	0%
Speech or language impairments	73%	11%	0%	16%	0%
Traumatic brain injury	68%	17%	3%	11%	1%
Visual impairments	79%	11%	2%	9%	1%

Source: U.S. Department of Education, Institute of Education Sciences, Digest of Education, Table 204.60, http://nces.ed.gov/programs/digest/d13/tables/dt13_219.90.asp compiled from U.S. Department of Education, Office of Special Education Programs, Individuals with Disabilities Education Act (IDEA) database.

Table 10 reflects National Assessment of Educational Progress (NAEP) grade 8 reading scores by race/ethnicity and disability status. **Table 11** reflects NAEP grade 8 mathematics scores by race/ethnicity and disability status. Significant academic achievement gaps exist between students with disabilities and students without disabilities at the 8th-grade level for reading and mathematics. The gap widens significantly when taking race into account with disability. NAEP is often referred to as the “Nation’s Report Card.”

Table 10. NAEP Grade 8 Reading Scores by Race/Ethnicity and Disability Status, 2002–2013

Race/Ethnicity and Disability Status	2013	2011	2009	2007	2005	2003	2002
All students with a disability	232	231	230	227	227	225	228
All students without a disability	272	269	267	266	266	267	268
White with a disability	242	240	241	238	237	235	238
Black with a disability	218	216	213	209	208	208	212
Hispanic with a disability	221	219	212	212	213	209	211
Asian/Pacific Islander with a disability	239	233	233	230	228	227	225
American Indian with a disability	218	217	216	213	219	205	216
Two or more races with disability	236	235	237	225	234	232	227
White without a disability	280	277	276	275	274	276	275
Black without a disability	256	253	251	249	247	249	249
Hispanic without a disability	259	256	252	250	249	250	250
Asian/Pacific Islander without a disability	282	278	276	272	272	272	269
American Indian without a disability	256	258	257	252	253	253	254
Two or more races without disability	276	273	269	268	269	268	268

Source: U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), NAEP Data Explorer, April 2014.

Table 11. NAEP Grade 8 Mathematics Scores by Race/Ethnicity and Disability Status, 2000–2013

Race/Ethnicity and Disability Status	2013	2011	2009	2007	2005	2003	2000
All students with a disability	249	250	249	246	245	242	230
All students without a disability	289	288	287	285	283	282	276
White with a disability	259	261	260	258	255	253	240
Black with a disability	232	231	229	227	223	219	207
Hispanic with a disability	238	237	235	231	229	228	218
Asian/Pacific Islander with a disability	254	261	254	249	250	252	‡
American Indian with a disability	240	232	233	233	233	233	‡
White without a disability	251	251	258	253	248	240	‡
White without a disability	298	297	296	294	292	292	287
Black without a disability	269	267	265	263	259	257	248
Hispanic without a disability	276	274	270	268	265	263	255
Asian/Pacific Islander without a disability	309	305	303	299	297	293	289
American Indian without a disability	275	270	271	268	269	269	261
Two or more races without disability	293	293	289	288	283	285	274

‡ Reporting standards not met.

Source: U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), NAEP Data Explorer, April 2014.

Table 12 reflects the total number of students by gender and race/ethnicity served under IDEA and Section 504 in 2009–2010. Students served under IDEA have an IEP, which is a written statement of the educational program designed to meet a child's needs that includes specific learning goals for that student and the services he or she will receive to help meet those goals. A 504 plan details accommodations that will ensure a student's academic success and access to the learning environment but does not include specialized instruction or learning targets. The number of students who had 504 plans across the country was not identified before 2009–2010.

Table 12. Total Number of Students Served Under IDEA and Section 504 and Percentages of These Students by Gender and Race/Ethnicity, 2009–2010

Demographics	Gender	Total	American Indian	Asian/ Pacific Islander	Hispanic	Black	White
IDEA	M	3,791,523	1.60 ¹	2.39	18.38	19.76	56.82
	F	1,916,377	1.77	2.46	18.08	17.70	55.51
	T	5,707,900	1.66	2.41	18.28	19.07	56.38
Section 504	M	346,292	1.15 ¹	1.89	13.15	12.38	67.66
	F	207,736	1.32	2.45	14.02	12.91	67.23
	T	554,028	1.21	2.10	13.47	12.58	67.50

¹ Interpret data with Caution. Estimate presented is a subtotal associated with a grand total that has been flagged for being different from other U.S. Department of Education data sources. The number of students with 504 plans is an estimate that was calculated by the U.S. Department of Education's Civil Rights Data Collection based upon self-reported counts of 7,000 school districts across the nation.

Source: Civil Rights Data Collection, 2009-10 National Estimates. Available at http://ocrdata.ed.gov/StateNationalEstimations/Projections_2009_10.

Table 13 reflects the enrollment of individuals with disabilities in postsecondary education at any institution by disability type. The percentage of students with disabilities who pursue higher education has steadily increased. In fact, postsecondary enrollment increased among most categories of individuals with disabilities. The average increase by disability type was more than 20 percentage points from 2003 to 2009.

Table 13. Enrollment of Individuals with Disabilities in Postsecondary Education at Any Institution, by Disability Type, 2003–09

	2003	2005	2007	2009
Total	27.2%	42.2%	51.7%	57.0%
Learning disability	29.5%	45.2%	58.1%	63.3%
Emotional disturbance	19.3%	30.7%	42.3%	51.3%
Speech impairment	36.5%	53.8%	58.9%	65.2%
Hearing impairment	57.5%	69.7%	68.2%	72.9%
Visual impairment	63.6%	70.6%	65.2%	66.7%
Autism	40.4%	49.7%	33.1%	37.9%
Mental retardation	11.0%	23.9%	26.6%	27.9%
Deaf/blindness		47.7%	40.9%	51.2%
Multiple disabilities	19.0%	32.8%	24.8%	28.4%
Orthopedic impairment	32.2%	51.2%	54.1%	58.9%
Traumatic brain injury	23.4%	51.0%	53.8%	59.5%
Other health impairment	33.4%	53.0%	55.6%	64.1%

Source: Years 2-5 NLTS data, compiled from http://www.nlts2.org/data_table.

Table 14 reflects students with disabilities who exited special education by reason. States show significant variation in the percentage of students with disabilities who exit high school with a diploma.

Table 14. Percentage of Total Students Aged 14–21 with Disabilities Served Under IDEA, Part B, Who Exited Special Education, by Exit Reason and State, 2010–2011

State	Graduated with Diploma	Received a Certificate of Attendance	Dropped Out	Reached Maximum Age	Died
Alabama	44	35	16	3	0
Alaska	48	15	35	0	0
Arizona	80		20	0	0
Arkansas	81	1	14	0	0
BIE schools					
California	54	25	17	3	0
Colorado	66	1	30	1	0
Connecticut	80	0	16	2	0
Delaware	69	2	26	1	0
District of Columbia	52	5	38	0	0
Florida	53	26	20		0
Georgia	41	30	28		0
Hawaii	78	9	9	1	0
Idaho	32	47	4	1	0
Illinois	79	1	18	2	0
Indiana	75	12	11	1	0
Iowa	77		21	0	0
Kansas	79		18	1	1
Kentucky	74	10	14	1	0
Louisiana	28	33	37	0	0
Maine	76	2	20	0	0
Maryland	64	11	24	1	0
Massachusetts	68	5	22	3	0
Michigan	67	6	27		0
Minnesota	88		10	1	0
Mississippi	27	60	11	0	0
Missouri	79	0	18	1	0
Montana	74		25	0	0
Nebraska	78	2	17	0	0
Nevada	23	39	34	1	0
New Hampshire	78	6	12	1	0

State	Graduated with Diploma	Received a Certificate of Attendance	Dropped Out	Reached Maximum Age	Died
New Jersey	83		15	1	0
New Mexico	51	15	32	0	0
New York	59	19	20	1	0
North Carolina	64	6	29	0	0
North Dakota	69		11	2	0
Ohio	51	30	19	0	0
Oklahoma	80		19	0	0
Oregon	45	23	24	4	0
Pennsylvania	87	0	11	1	0
Puerto Rico	46	6	43	3	0
Rhode Island	78	0	15	3	0
South Carolina	39	1	52	5	0
South Dakota	67		23	8	0
Tennessee	75	17	7	0	0
Texas	54	29	17	0	0
Utah	13	0	76	5	0
Vermont	74	0	20	1	0
Virginia	51	38	10	0	0
Washington	67	3	28	0	0

Source: Numbers are computed from Historical State-Level IDEA Data Files, Exiting 2010-2011, <http://tadnet.public.tadnet.org/pages/712>

Table 15 reflects comprehensive transition and postsecondary (CTP) programs approved to participate in the following federal student aid programs: Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, and Federal Work Study programs. Under the Higher Education Opportunity Act, students with ID/DD who attend a federally approved CTP are eligible to receive financial support under the Federal Student Aid Program.

Table 15. CTP Programs Approved to Participate in the Federal Student Aid Program as of July 1, 2014

Institute of Higher Education	Location
California State University	Fresno, California
University of California	Los Angeles, California
San Diego City College	San Diego, California
San Diego Mesa College	San Diego, California

Institute of Higher Education	Location
Santa Rosa Junior College	Santa Rosa, California
Taft College	Taft, California
Southeastern University	Lakeland, Florida
Kennesaw State University	Kennesaw, Georgia
Elmhurst College	Elmhurst, Illinois
Heartland Community College	Normal, Illinois
Bluegrass Community and Technical College	Lexington, Kentucky
Spalding University	Louisville, Kentucky
Murray State University	Murray, Kentucky
Rochester Community and Technical College	Rochester, Minnesota
University of Central Missouri	Warrensburg, Missouri
Camden County College	Blackwood, New Jersey
The College of New Jersey	Ewing, New Jersey
New York Institute of Technology	Old Westbury, New York
Monroe Community College	Rochester, New York
Roberts Wesleyan College	Rochester, New York
Appalachian State	Boone, North Carolina
Western Carolina University	Cullowhee, North Carolina
UNC – Greensboro	Greensboro, North Carolina
Kent State University	Kent, Ohio
Arcadia University	Glenside, Pennsylvania
College of Charleston	Charleston, South Carolina
Clemson University	Clemson, South Carolina
University of South Carolina	Columbia, South Carolina
Coastal Carolina University	Conway, South Carolina
Winthrop University	Rock Hill, South Carolina
University of Tennessee	Knoxville, Tennessee
Lipscomb University	Nashville, Tennessee
Vanderbilt University	Nashville, Tennessee

Federal Student Aid, United States Department of Education. July, 2014. Retrieved from: <https://studentaid.ed.gov/eligibility/intellectual-disabilities>

Table 16 reflects the number of students with disabilities who received some type of disciplinary action, also broken down by gender and race/ethnicity. Like all students, those with disabilities can be suspended or expelled for violating the school's code of conduct. However, the 2004 reauthorization of IDEA enacted measures to prevent schools from suspending or expelling students without considering the effects of the child's disability, even if that building follows a zero-tolerance policy. In addition, as table 18 shows, Black students and male students receive disciplinary actions at much higher

rates than female students across all measures. Table 18 also shows that over 23,000 students with disabilities received school-related arrests in the 2009–2010 school year, and nearly 59,000 were referred to law enforcement agencies. These figures highlight the school-to-prison pipelines for students with disabilities.

Table 16. Number of Students with Disabilities Who Received Disciplinary Actions by Gender, Race/Ethnicity, 2009–2010

Demographics		American Indian	Asian/ Pacific Islander	Hispanic	Black	White	Total	IDEA	Section 504
Corporal Punishment	M	737 (1)	94	1,979	9,331	14,729	.	26,872	1,216
	F	‡	‡	369	1,996	2,498	.	4,946	252
	T	--	--	2,348	11,327	17,227	.	31,819	1,468
One or more in-school suspensions	M	9,841 (1)	8,221	96,885	170,674	242,402	.	518,751	28,453
	F	3,400	2,686	32,863	63,498	71,373	.	161,156	8,853
	T	13,242	10,908	129,748	234,171	313,775	.	679,908	37,306
One out of school suspension	M	9,220 (1)	7,113	55,654	87,965	128,644	.	275,314	14,488
	F	4,076	2,613 (!)	17,420	32,770	33,984	.	81,800	3,895
	T	13,295	9,725	73,074	120,735	162,628	.	357,114	18,383
More than one out of school suspension	M	12,936 (1)	5,815	56,991	117,408	122,853	.	296,432	13,859
	F	1,615	1,535	13,838	37,344	27,876	.	72,461	2,375
	T	14,551	7,350	70,830	154,752	150,729	.	368,892	16,234
Expulsions with services	M	391 (!)	‡	2,443	4,745	5,708	.	13,083	429
	F	63	43	353	916 (!)	1,273 (!)	.	3,931	84
	T	454	--	2,796	5,661	6,981	.	17,014	513
Expulsions without services	M	96 (!)	92 (!)	500	1,587 (!)	1,814	.	4,055	172 (1)
	F	‡	‡	63 (!)	368 (!)	441 (!)	.	889	19
	T	--	--	563	1,955	2,255	.	4,944	191
Expulsions under zero tolerance policies	M	351 (1)	725	983	1,611	2,708 (!)	.	5,397	‡
	F	23	‡	134	363	136 (!)	.	1,085	‡

Demographics		American Indian	Asian/ Pacific Islander	Hispanic	Black	White	Total	IDEA	Section 504
	T	374	--	1,117	1,974	2,844	.	6,481	--
Referrals to law enforcement	M	1,341 (1)	1,609	8,984	14,274	27,586	.	46,849	1,568
	F	348	124	2,184	3,589	5,606	.	11,845	412
	T	1,690	1,733	11,168	17,863	33,193	.	58,695	1,980
School-related arrests	M	433 (1)	283	3,753	5,867	8,272	.	18,608	756
	F	‡	156 (!)	944	1,859	2,684	.	4,712	237
	T	--	439	4,697	7,726	10,955	.	23,320	993

‡ Estimate has been suppressed. Associated standard error exceeds 50 percent of the estimate.

! Associated standard error exceeds 30 percent of the estimate. Interpret data with caution.

‡ Interpret data with caution. Estimate has been flagged for large differences from other reported data sources from the U.S. Department of Education.

1 Interpret data with caution. Estimate presented is a subtotal associated with a grand total that has been flagged for being different from other U.S. Department of Education data sources.

Source: Civil Rights Data Collection, 2009-10 National Estimates. Available at http://ocrdata.ed.gov/StateNationalEstimations/Projections_2009_10.

Health and Wellbeing

Table 17 reflects the Medicaid long-term care dollars spent on home- or community-based services versus institutional care. The results show that the percentage of long-term care dollars spent on home-and community-based care increased from 13 percent in 1990 to 45 percent in 2012.

Table 17. Medicaid Long-Term Care Dollars (Billions) Spent on Home- or Community-Based Services vs. Institutional Care, 1990–2012

	1990	1995	2000	2002	2004	2006	2008	2009	2010	2011	2012
Total spent on LTC (billions)	32	54	75	92	100	109	113	120.2	120.7	123	123
Total spent on home- and community-based care (billions)	4.16	10.8	22.5	29.44	37	44.69	47	52	54.1	55	55
Total spent on institutional care (billions)	27.84	43.2	52.5	62.56	63	64.31	66	68.2	66.6	68.1	67

Source: The Kaiser Family Foundation's State Health Facts. Data Source: Urban Institute estimates based on data from CMS (Form 64).

Tables 18a and 18b reflect the percentage of people who are obese by disability status. Health care remains a concern for all Americans, including people with disabilities. Notably, the percentage of people with disabilities who are obese is much higher than the percentage of obese people without disabilities (table 18a). Also, the percentage of persons with disabilities who smoke is much higher than the percentage of people without disabilities who smoke (table 18b).

Table 18a. Percentage of People Who Are Obese by Disability Status, 2004–2011

	2004	2005	2006	2007	2008	2009	2010	2011
No disability	20.4	21.1	21.3	22.8	22.9	23.8	23.8	23.7
Any disability	33.1	33.9	35.2	36.2	36.2	37.6	38.2	37.6

Source: Centers for Disease Control and Prevention, Disability and Health Data System (DHDS).

Table 18b. Percentage of People Who Use Cigarettes by Disability Status, 2004–2011

	2004	2005	2006	2007	2008	2009	2010	2011
No disability	19.3	18.8	18	17.6	16.7	16.1	15.2	17.8
Any disability	29.8	29.7	27.9	28.9	27	28.3	26.7	29.2

Source: Centers for Disease Control and Prevention, Disability and Health Data System (DHDS).

Civil Rights

Table 19 reflects nations that have taken a stand to protect the rights of people with disabilities by ratifying the CRPD. By ratifying the CRPD, these nations are able to be active members and hold a global leadership position on the annual Conference of State Parties, which is a major platform to discuss best practices and influence disability rights.

Table 19. Nations that Have Ratified the CRPD as of July 2014

Afghanistan	Burundi	Estonia	Japan	Morocco	Qatar	Sweden
Albania	Cambodia	Ethiopia	Jordan	Mozambique	Republic of Korea	Switzerland
Algeria	Canada	European Union	Kenya	Myanmar	Republic of Moldova	Syria
Andorra	Cape Verde	France	Kiribati	Namibia	Romania	Thailand
Angola	Chile	Gabon	Kuwait	Nauru	Russian Federation	The former Yugoslav Republic of Macedonia
Argentina	China	Georgia	Lao Peoples Democratic Republic	Nepal	Rwanda	Togo
Armenia	Colombia	Germany	Latvia	New Zealand	San Marino	Tunisia
Australia	Cook Islands	Ghana	Lesotho	Nicaragua	Saudi Arabia	Turkey
Austria	Costa Rica	Greece	Liberia	Niger	Senegal	Turkmenistan
Azerbaijan	Cote d'Ivoire	Guatemala	Lithuania	Nigeria	Serbia	Tuvalu
Bahrain	Croatia	Guinea	Luxembourg	Norway	Seychelles	Uganda
Bangladesh	Cuba	Haiti	Malawi	Oman	Sierra Leone	Ukraine
Barbados	Cyprus	Honduras	Malaysia	Pakistan	Singapore	United Arab Emirates
Belgium	Czech Republic	Hungary	Maldives	Palau	Slovakia	United Kingdom
Belize	Denmark	India	Mali	Panama	Slovenia	United Republic of Tanzania
Benin	Djibouti	Indonesia	Malta	Papua New Guinea	South Africa	Uruguay
Bolivia	Dominica	Iran	Mauritania	Paraguay	Spain	Vanuatu
Bosnia and Herzegovina	Dominican Republic	Iraq	Mauritius	Peru	St. Vincent and the Grenadines	Venezuela
Brazil	Ecuador	Israel	Mexico	Philippines	State of Palestine	Yemen
Bulgaria	Egypt	Italy	Mongolia	Poland	Sudan	Zambia
Burkina Faso	El Salvador	Jamaica	Montenegro	Portugal	Swaziland	Zimbabwe

Source: United Nations, <http://www.un.org/disabilities/countries.asp?navid=12&pid=166>

Tables 20a and 20b reflect the number of charges toward the ADA. According to the Equal Employment Opportunity Commission, disability discrimination charges rose from 18,108 in 1997 to 25,957 in 2013. This increase may reflect increased discrimination, increased *awareness* of discrimination, or both.

Table 20a. Number of Charges Toward the Americans with Disabilities Act of 1990, 1997–2005

	1997	1998	1999	2000	2001	2002	2003	2004	2005
ADA charges	18,108	17,806	17,007	15,864	16,470	15,964	15,377	15,376	14,893

Source: U.S. Equal Employment Opportunity Commission, Charge Statistics, <http://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm>

Table 20b. Number of Charges Toward the Americans with Disabilities Act of 1990, 2006–2013

	2006	2007	2008	2009	2010	2011	2012	2013
ADA charges	15,575	17,734	19,453	21,451	25,165	25,742	26,379	25,957

Source: U.S. Equal Employment Opportunity Commission, Charge Statistics, <http://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm>

Table 21 reflects how inaccessible affordable housing can be for people with disabilities. Housing discrimination complaints based on disability have been the most frequent—more than twice than those based on sex between 2005 and 2011.

Table 21. Bases of Housing Discrimination Complaints, 2005–2011

	2005	2006	2007	2008	2009	2010	2011
Disability	3,766	4,110	4,410	4,675	4,458	4,839	4,498
Race	3,472	4,043	3,750	3,669	3,203	3,483	3,025
Retaliation	452	577	588	575	654	707	856
Familial status	1,414	1,433	1,447	1,690	2,017	1,560	1,425
National origin	1,225	1,427	1,299	1,364	1,313	1,177	1,195
Sex	961	997	1,008	1,133	1,075	1,139	1,033
Religion	218	258	266	339	302	287	262
Color	142	154	173	262	251	219	185

Source: U.S. Department of Housing and Urban Development, The State of Fair Housing Report, FY 2011.

Voting

Table 22a reflects the percentages of people voting in national elections, and **table 22b** reflects this information by state. The Help America Vote Act (HAVA) of 2002 includes provisions that support the participation of people with disabilities in the voting process.

Table 22a. Percentage of People Voting in National Elections, 2008–2012

	Voter Turnout 2008	Voter Turnout 2010	Voter Turnout 2012	Number of Voters (millions) 2012
No disability	64.50%	45.90%	62.50%	117.3
Any disability	57.30%	42.80%	56.80%	15.6
Disability gap	-7.20%	-3.10%	-5.70%	
Type of disability				
Hearing impairment	63.10%	50.00%	63.20%	5
Visual impairment	56.80%	39.50%	57.30%	2.4
Cognitive impairment	46.10%	29.60%	44.80%	3.7
Mobility impairment	56.80%	43.50%	56.30%	9.3
Difficulty dressing or bathing	46.40%	32.40%	46.70%	2.2
Difficulty going outside alone	45.70%	32.90%	47.30%	4.6

Source: Schur, L., Adya, M., & Kruse, D. (2013). Disability, Voter Turnout, and Voting Difficulties in the 2012 Elections. Report to the U.S. Election Assistance Commission and Research Alliance for Accessible Voting.

Table 22b. Percentage of People Voting in National Elections by State, 2012

State	Disability	No Disability	State	Disability	No Disability
Alabama	57.8%	62.7%	Nebraska	62.2%	61.5%
Alaska	59.1%	58.3%	Nevada	58.5%	57.9%
Arizona	48.1%	56.9%	New Hampshire	59.0%	70.8%
Arkansas	46.2%	54.7%	New Jersey	56.8%	62.5%
California	50.4%	58.4%	New Mexico	57.7%	62.1%
Colorado	65.6%	71.1%	New York	50.2%	59.7%
Connecticut	52.7%	63.8%	North Carolina	62.5%	69.8%
Delaware	71.1%	66.8%	North Dakota	57.2%	64.7%
Florida	62.0%	60.7%	Ohio	58.3%	63.9%
Georgia	54.9%	62.9%	Oklahoma	49.4%	53.0%
Hawaii	51.4%	51.7%	Oregon	66.6%	67.8%
Idaho	56.6%	64.9%	Pennsylvania	54.9%	62.6%
Illinois	60.4%	61.6%	Rhode	61.0%	62.7%
Indiana	54.8%	59.9%	South Carolina	59.8%	65.5%
Iowa	63.9%	70.2%	South Dakota	64.7%	60.4%
Kansas	63.0%	63.3%	Tennessee	47.9%	57.4%
Kentucky	48.5%	61.4%	Texas	55.8%	53.5%
Louisiana	58.7%	67.6%	Utah	59.8%	56.7%
Maine	55.9%	71.0%	Vermont	62.1%	63.4%
Maryland	58.3%	66.0%	Virginia	57.1%	68.2%
Massachusetts	59.7%	72.3%	Washington	63.6%	66.0%
Michigan	60.7%	68.0%	Washington, DC	63.8%	77.6%
Minnesota	65.7%	74.2%	West Virginia	42.9%	48.8%
Mississippi	67.9%	75.9%	Wisconsin	66.5%	74.7%
Missouri	53.5%	65.8%	Wyoming	59.7%	58.7%
Montana	64.9%	65.8%	New Hampshire	59.0%	70.8%

Source: Schur, L., Adya, M., & Kruse, D. (2013). Disability, Voter Turnout, and Voting Difficulties in the 2012 Elections. Report to the U.S. Election Assistance Commission and Research Alliance for Accessible Voting.

Technology

Table 23 reflects the rate of computer and Internet use by age and disability status. Technology is an important resource for communication, work, and daily interactions such as placing an order or applying for a job online. The results show a gap between people with and without disabilities in their use of technology and access the Internet. The gap is particularly large for those individuals with significant disabilities.

Table 23. Computer and Internet Usage by Age and Disability Status, 2002 and 2010

	2010: 15–64 Years	2010: 65 Years and Older	2002: 15–64 Years	2002: 65 Years and Older
No disability				
Uses a computer at home	75.9	52.2	60.7	28.6
Uses a computer at school/work	57.2	14.3	51.1	7.8
Uses the Internet at home	61.3	39.2	50.9	21.2
Uses the Internet at school/work	43.8	9.6	34.8	3.8
Uses the Internet at other place	20.1	7.1	13.2	2.5
Nonsevere disability				
Uses a computer at home	70.1	40.0	56.4	23.9
Uses a computer at school/work	50.6	7.5	46.3	4.7
Uses the Internet at home	58.8	29.2	46.7	17.5
Uses the Internet at school/work	39.1	4.7	30.1	2.3
Uses the Internet at other place	24.6	6.2	14.3	2.9
Severe disability				
Uses a computer at home	53.4	25.8	35.9	11.7
Uses a computer at school/work	20.7	2.8	17.8	1.3
Uses the Internet at home	40.4	17.1	28.5	7.5
Uses the Internet at school/work	14.3	1.6	9.9	0.4
Uses the Internet at other place	14.1	2.8	8.4	0.8

Source: U.S. Census Bureau, Disability Reports and Briefs, Americans with Disabilities Report Series (based on SIPP data), http://www.census.gov/people/disability/publications/reports_briefs.html

CONCLUSIONS

The United States has experienced a significant cultural shift since the NCD became an independent federal agency 30 years ago. Our society has transitioned from one that took a charity approach to meeting the needs of people with disabilities to one that promotes inclusion through policies and programs that are responsive to the needs of people with disabilities. This shift in approach reduces many of the social and physical barriers that once served as obstacles to productive life outcomes. It has also empowered those with disabilities to capitalize on their own strengths and make greater contributions to society.

The NCD has made significant progress in leading our country in a direction that affords opportunities for all citizens to contribute to and benefit from diverse ideas, collaborative decision-making processes, and innovative approaches to solutions that make our nation great; yet much work remains. As the NCD looks to the future, we are especially focused on opportunities for the social and economic mobility of youth with disabilities. To this end, we will focus on enhancing the educational and professional experiences that are required to create positive outcomes for youth with disabilities. In recent months, NCD has been in conversation with colleagues from the White House, Congress, and the general public. Based on these discussions, we have decided to tailor our FY 2015 policy focus on youth-related outcomes as they pertain to achieving the goals of the ADA: full participation, economic self-sufficiency, independent living, and equality of opportunity. The unifying theme will incorporate this focus and be addressed in the coming year. The NCD is also exploring more opportunities for using technologies, such as autonomous vehicles and voice recognition software, that contribute to enhanced independence, flexibility, and quality of life. Health care, both physical and mental, is also a priority, as we aspire to a health care system that offers high-quality care and collaboration between people with disabilities and health care providers to identify the best treatment options for better health outcomes. Employment is also a priority, as NCD makes recommendations regarding sheltered work settings and increasing the number of people with disabilities in competitive work environments.

The NCD is optimistic about the future for our citizens with disabilities. This is due, in large part, to the progress that our society has already made in policies, programs, and mindsets that empower people with disabilities to live independent, successful, and full lives. As our country prepares for the 25-year anniversary of the passage of the ADA in 2015, it is critical that Congress and the White House continue to support Americans with disabilities as a top priority. In doing so, NCD urges Congress, the White House, and other influencers to address the issues and implement the recommendations raised in this 2014 annual *Progress Report* and to confirm the coming of age of policies and laws that definitively include all Americans as equals.

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APPENDIX A: SUMMARY OF RECOMMENDATIONS

NCD CRPD Recommendations

- The White House should continue to promote the CRPD through its outreach efforts, explicitly identify and address common misconceptions about the CRPD, and highlight the benefits of ratifying the treaty. Further, Government Agencies should post information on their websites about the implications of ratifying the CRPD for their stakeholders with disabilities. For example, the U.S. Departments of Veteran's Affairs, Labor, and Commerce may highlight the benefits of enhanced access when expanding business to other nations.
- The full Senate should consider, vote on, and pass the ratification of the CRPD when it reconvenes in fall 2014. Ratification will enable the United States to resume its role as a key leader in international conversations on disability rights and contribute to a global society that is inclusive of people with disabilities.

NCD Employment Recommendations

Transportation

- The U.S. Department of Transportation (DOT) should offer guidance to transit systems on reasonable accommodations (e.g., the reasonable amount of time an elevator may be out of order, reasonable alternatives during elevator outages, standards for providing accessible materials, etc.) and require recipients of GROW AMERICA funds to adhere to these standards in order to maintain good standing for grants.
- DOT should consider developing survey items addressing experiences of customers with disabilities for transit systems that solicit feedback to use in their efforts to understand accessibility trends.
- DOT should collaborate with private sector research and design and invest in autonomous vehicle research to help refine the technology that powers this initiative and explores the implications for people with disabilities.

- Congress should explore and support regulation and universal design and standards for accessible devices in taxicabs and transit provided through transportation network services to ensure maximum opportunities for design of emerging technologies that include accessibility for people with disabilities.

Universal Approach to Meeting Employee/Employer Needs

- The Department of Labor (DOL) should encourage the workforce to adopt a universal language and understanding about flexible work arrangements and customized employment strategies. Eliminating the distinctions between flexible work arrangements and customized employment strategies would contribute to a more inclusive work environment.
- DOL should provide guidance to employers on providing natural supports in the workplace. Such supports that occur through assistance, relationships, or interactions help facilitate typical social relationships in the work setting and contribute to a more inclusive environment for all employees.

Technology

- The Federal Communications Commission (FCC) and the U.S. Access Board should continue to identify barriers surrounding broadband access and build on policy that would result in broader use by people with a disability.
- Congress should conduct hearings with key business and industry leaders to help identify incentives that would reduce costs and increase availability of accessible technology for people with disabilities. One discussion point could involve adopting meta-design principles as a way of providing more cost-effective products for *all* users.
- Congress should consider a tax incentive for manufacturers of equipment that provide the latest assistive technologies to nongovernmental organizations (NGOs) for distribution to people with disabilities. Such manufacturers should also provide training to both the NGOs and clients on use and maintenance.

- DOL should consider developing and disseminating a tip sheet on developing accessible job announcements to be posted on social media sites and other online platforms.
- DOL should explore and invest in employment opportunities for young people with disabilities to learn skills relevant to the technology industry, such as coding, early in their academic career, becoming accessibility testers, getting internship and mentorship experiences in the software game development industry and STEM careers, and creating their own companies.
- The FCC should provide the communications industry and device manufacturers with guidance on best practices to include people with disabilities in the research and development (R&D) process from ideation to pilot testing of new products.

NCD Subminimum Wage Recommendations

NCD's Proposed 14 (c) Phase Out

- DOL should adopt and implement NCD's proposal to phase out 14(c) in reference to people with disabilities as reflected in the NCD Report on Subminimum Wage and Supported Employment. This transformation should be put in place gradually so that individuals who are currently in these settings are provided information and resources to continue to receive SSI and get connected to peer networks, and so entities that use it have time to adapt their practices. NCD recommends a cycle of phased closures and transitions from sheltered workshops at subminimum wages to supported or customized employment at fair wages. This multistep phase-out plan involves the following steps:
 - *Immediately.* Congress should prohibit the Department of Labor from issuing further 14(c) certificates.
 - *In the long term.* The Department of Labor should require all providers who administer 14(c) certificates to convert to supported employment, on a timed basis:

- All individuals in certificate settings for 10 years or less shall be transitioned within 2 years.
- All individuals in certificate settings for 10 to 20 years shall be transitioned within 4 years.
- All certificates shall expire in 6 years, and all individuals in certificate settings longer than 20 years shall be transitioned within 6 years.

To support this shift, Congress should explore a “Money Follows the Person for Integrated Employment” program, enabling the Federal Government to assume 100 percent of the costs of supported employment services for individuals leaving a sheltered workshop or day habilitation setting for integrated employment.

Integrated Employment Settings

- DOL should develop policy requiring participants of 14(c) certificate programs to provide all of their workers with the opportunity and information on how to transfer into an integrated employment setting twice per year. Information provided to workers should include resources about benefit work incentive counseling and the availability of peer support.
- Congress should consider the following actions to build cultures of high expectations and support for people with disabilities in integrated employment settings:
 - Prohibit any Individualized Education Plan (IEP) to list placement in a subminimum wage program as an acceptable postsecondary transition service or goal.
 - Instruct the Centers for Medicare & Medicaid Services (CMS) to develop a minimum standard definition for integrated employment settings aligned with national best practices.
- The three partners authorized under the Developmental Disabilities Bill of Rights Act should coordinate and expand efforts to promote peer support to both families and people with intellectual developmental disabilities transitioning from the 14(c)

programs to integrated employment. The three partners include: (1) State Councils on Developmental Disabilities; (2) University Centers for Excellence in Developmental Disabilities Education, Research, and Service (UCEDDs); and (3) Protection & Advocacy Systems (P&As).

NCD Education Recommendations

Higher Education Opportunity Act

- Congress should increase funding to support the expansion of the Department of Education's Transition and Postsecondary Programs for Students with Intellectual Disabilities, which were authorized as part of the Higher Education Opportunity Act (HEOA).
- U.S. Department of Education should take steps to simplify the administration of the provisions authorized in HEOA that allow ID/DD students who did not receive a traditional diploma to receive federal student grants and access work–study options. The Department should also certify additional comprehensive transition and postsecondary programs

Inclusive Learning Environments

- Permanently fund the Advanced Research Projects Agency for Education (ARPA-ED) to, in part, provide research grants that address the unique learning needs of students who are children with disabilities.
- Include specific reference to the use of research-validated educational methodologies that improve inclusion of students with disabilities inside the general education classrooms, such as Universal Design for Learning and Response to Intervention and positive behavior intervention and supports or other multitiered systems of support. Provide federal funding for the development of instructional materials in various content areas and levels that are accessible to students with print disabilities, and which are designed with the principles of UDL in mind.

Discipline and Behavior

- Require states and districts to publicly report disaggregated data on number of students suspended, reasons for out-of school suspensions, and days of instruction lost. In addition, include suspension rates among the factors schools and districts use to measure performance.
- Provide funding and incentives for evidence-based changes to improve school climate, reduce the use of exclusionary discipline, and limit the flow of students from schools to the juvenile and criminal justice systems.
- Facilitate the reenrollment, reentry, and proper education of students returning to school from expulsion and juvenile justice system placements.

High School Completion

- The reauthorization of Elementary and Secondary Education Act (ESEA) should include a uniform definition of 'student with disability' that is used in data collection for the Adjusted Cohort Graduate Rate. In addition, information should be collected and reported on disaggregated by disability type, rather than status.
- Congress and the Department of Education should support states to create statewide standards for modified diplomas and extended diplomas, like the ones in Oregon.

Student Achievement

- Require states to set achievement and inclusion targets for students with disabilities, and report on achievement data for these students.
- At the state level with federal oversight, require more comprehensive data collection, institute monitoring, initiate research and demand accountability of services provided to students with 504 plans, including the educational and transition outcomes achieved by these students.

- Consider expanding the measures of teacher quality to include supplemental measures (aside from student growth) that include the use of research-based instructional practices, teacher performance, and contribution to student learning.

NCD Medicaid Managed Care Recommendations

Benefit Design

- States should ensure that any population that has its Home and Community Based Service (HCBS) system placed into managed care has the corresponding institutional benefit placed within the same managed care framework, offering an opportunity to reduce institutional placement and avoid adverse incentives for the Managed Care Organization (MCO).
- Capitated payment rates should be structured so as to incentivize community integration and should take into account the differing costs and complexity of different populations.
- Managed Care contracts should clearly spell out the difference between different types of service categories, to ensure that MCOs are promoting true community integration in residential, day, and employment services.
- Managed Care contracts should articulate how MCOs will interact with non-Medicaid state systems, such as vocational rehabilitation agencies and the public school system.

Outcome Measures

- The Department of Health and Human Services' (HHS) Administration for Community Living, in collaboration with CMS, the Agency for Healthcare Research and Quality (AHRQ), the Long-Term Quality Alliance, the National Core Indicators Project, and leaders of the aging and disability communities, should spearhead efforts to develop disability-specific outcome standards to measure access to, and the quality of, health care and long-term supports for people with disabilities. Specific emphasis should be given to issues associated with community integration,

self-direction and other dimensions of quality more typically associated with long term services and supports rather than acute care. Quality measures should incorporate both those collected via independent surveys of beneficiaries and those determined via analysis of claims data.

- The state Medicaid agency must exercise overall responsibility for monitoring system performance and individual outcome measures and make the information on MCO performance available in a timely fashion in a public website, providing individuals with the ability to analyze the data on the basis of MCO, region, race, gender, disability status and other relevant demographic characteristics.

Due Process

- CMS should make available funds for State Protection and Advocacy systems to assist people with disabilities in navigating Managed Care systems, with particular emphasis on assisting people with disabilities through grievance and appeals procedures and ensuring that the due process rights of beneficiaries are implemented in a meaningful fashion. Resources should be made available for both individual assistance of beneficiaries and for systemic oversight, litigation and advocacy on the design and operation of Medicaid Managed Care. Funding should be allocated with the goal of allowing a ratio of at least one Ombudsman for every 2,500 beneficiaries, consistent with the Wisconsin model, with sufficient remaining funds to allow for systemic work focused on the broader structure of the managed care model.
- States should develop and implement an aggressive education and outreach strategy to ensure that all managed care plan enrollees (and potential enrollees) have accessible information concerning the services and supports available under the plan and how they may be accessed. The state's strategy should include the following tactics:
 - Enlisting community-based disability organizations in developing and implementing the outreach plan.

- Developing accessible multimedia educational materials and training sessions geared to the various learning styles and comprehension levels of plan enrollees. Such sessions should be held across the state.
- Providing plan participants with accessible, meaningful, and clear notices about programs, services, and their rights, including enrollment rights and options, plan benefits and rules, coverage denials, appeal rights and options, and potential conflicts that may arise from relationships among providers, suppliers, and others. This should be written at the comprehension level of the typical plan enrollee and provided in first languages of enrollees.
- Providing information that represents all service options available to the enrollee
- States should provide managed care enrollees with ample opportunity to seek second opinions or appeal service decisions. While appeals are ongoing, service plans should remain unchanged and beneficiaries should face no liability for costs incurred by the state during the appeals process.

Stakeholder Engagement

- Centers for Medicare & Medicaid Services (CMS) prepare and disseminate a suite of resources for states to reference as they develop and implement a plan for stakeholder engagement. The suite should include a sample stakeholder plan with objectives, strategies, tactics, a timeline, and an approach to evaluation, as well as a companion guide to support the development and execution of the plan.
- CMS should specifically solicit feedback from key stakeholders in the state, including self-advocates, family members, and the state's Protection and Advocacy system, on the degree to which the state has included them within the stakeholder engagement process. This feedback should form a critical component of the approval process for a state application for managed long-term services and supports.

NCD Mental Health Recommendations

Stigma and Discrimination

- Policymakers should consider provisions to ensure that identification and isolation of individuals who have harmed others or are at risk of committing acts of violence do not lead to unnecessary expansion in institutionalization, involuntary commitment, and forced treatment for individuals who may benefit from mental health services and supports but pose no risk of violence and have a basic human right to make independent decisions.
- Congress should avoid any proposal comparable to the provision of S. 436, the Fix Gun Checks Act, which amends the Higher Education Act to require colleges and universities to outline procedures for the involuntary referral of students with perceived psychiatric disabilities for evaluation and institutionalization. Further, NCD recommends provisions for programs that support peer-to-peer support and campus-based counseling programs, and encourages campus policies that focus on making these resources more broadly available.
- Congress should invest in research to further understand mental health issues and effective strategies to address mental health issues early before they escalate into debilitating conditions.

Community-Based Mental Health Services

- The Obama Administration should consider a framework to invest in community-based mental health supports and programs for both civilians and veterans, including provision of services at university and college campuses, without adverse impact or involuntary hospitalization or commitment for those who seek assistance. Recently, pilot programs have been developed across the country to better meet the needs of people when they have their first psychotic episode. These programs are community based and help to address critical unmet needs.
- NCD encourages the advancement of policy recommendations in line with these models and the principles upon which they are based.

- Congress should support the Strengthening Mental Health in Our Communities Act to reform mental health systems, create opportunities for people with mental illnesses to succeed in integrated settings, and to promote access to the community services that have been shown to lead to recovery.

Support for Veterans

- Congress should continue to make mental health issues among veterans and their families a priority by enhancing resources to support increased counseling, improvements to in the reporting systems at Veteran Affairs, and more crisis centers to address suicide rates among this population.
- Congress should continue and intensify efforts to reduce and eliminate the backlog of veteran's disability claims.



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