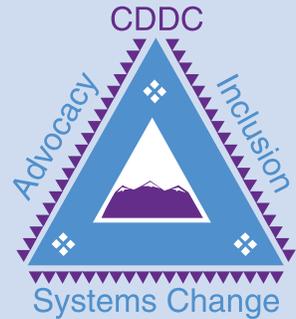


BETWEEN THE LINES



COLORADO DEVELOPMENTAL DISABILITIES COUNCIL

Fall 2012

Fair Labor Standards in the 21st Century A Change is Gonna Come

by Marna Ares

Can you think of laws that have been on the books for 74 years? The Fair Labor Standards Act is one such law. The labor issues in the late 1930s were summarized quite well by a young girl who got the attention of candidate Franklin Roosevelt:

While President Franklin Roosevelt was in Bedford, Mass., campaigning for reelection, a young girl tried to pass him an envelope. But a policeman threw her back into the crowd. Roosevelt told an aide, "Get the note from the girl." Her note read, "I wish you could do something to help us girls....We have been working in a sewing factory,... and up to a few months ago we were getting our minimum pay of \$11 a week... Today the 200 of us girls have been cut down to \$4 and \$5 and \$6 a week."

To a reporter's question, the President replied, "Something has to be done about the elimination of child labor and long hours and starvation wages." (Franklin D. Roosevelt, *Public Papers and Addresses*, Vol. V, New York, Random House, 1936, pp 624-25)

Among the labor reform provisions in the Fair Labor Standards Act (FLSA) were the establishment of a minimum wage (40 cents an hour, at that time), a maximum workweek (40 hours per week) and a minimum working age (age 16 except in certain industries outside of mining and manufacturing). However, the FLSA, in Section 14(c), also exempted employers of people with disabilities from paying them the minimum wage. A companion law to the FLSA, also passed in 1938, is the Wagner-O'Day Act. It was expanded in 1971, as the Javits-Wagner-O'Day Act, to apply to

all people with disabilities and to cover both supplies and services. It requires the government to purchase certain goods from sheltered workshops that employ people with disabilities making subminimum wages.

There have been recent efforts to change the discriminatory practices sanctioned by the FLSA and the Javits-Wagner-O'Day Act. In August this year, the National Council on Disability (NCD) issued a report, *Subminimum Wage and Supported Employment*, that attempts to bring together opposing sides in the debate on whether subminimum wages are discriminatory or offer people with disabilities opportunities they could not obtain through competitive employment.

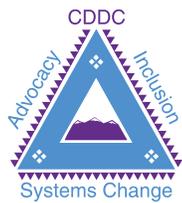
By recommending that Section 14(c) be phased out over a period of years the NCD recognizes that the issue goes beyond the inequity of paying subminimum wages to people with disabilities. The NCD addresses segregation, dead-ends, and stigma. The NCD recommendations encompass the need to create opportunities for people with disabilities to leave segregated work for real jobs that pay a livable wage with benefits. NCD sees the solution in cooperative work over time that will ensure a successful transition for all concerned, from sheltered work to community supported employment.

The National Council on Disability is an independent federal agency that advises the President, the Congress, and other federal agencies concerning disability policies, programs and disability rights issues. Members are appointed by the President, and include people from around the country, with a majority of the members of the Council being people with disabilities.

The NCD visited six states and talked with workers with disabilities, family members, workshop operators, policymakers and supported employment programs, as well as conducted literature and policy research surveys. What they found was that

1. Sheltered workshops are ineffective in transitioning people with disabilities to integrated employment. In fact, only about 5% of people who work in sheltered workshops find jobs in the community.





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- In funding pre-vocational services in sheltered workshops, the Centers for Medicare and Medicaid Services consider such services to be time limited.
- People in supported employment who previously had been in sheltered workshops do not show a higher rate of employment compared to those who have only experienced supported employment.
- People who had been in sheltered employment prior to being in supported employment had higher support costs and lower wages compared to people who had been only in supported employment.
- Supported employees have lower cumulative costs for support than employees in sheltered workshops. The trend of costs for supported employees shows a decrease over time, whereas people in sheltered workshops show increased costs over time.



competitive employment for people with disabilities. Representative Clifford Stearns (R-FL) introduced H.R. 3086 in October 2011, entitled, *Fair Wages for Workers with Disabilities Act of 2011*. The bill was sent to the House Committee on Education and the Workforce, and has 81 co-sponsors from both political parties. The National Federation of the Blind, along with support from 46 disability organizations, has signed on in support of the bill.

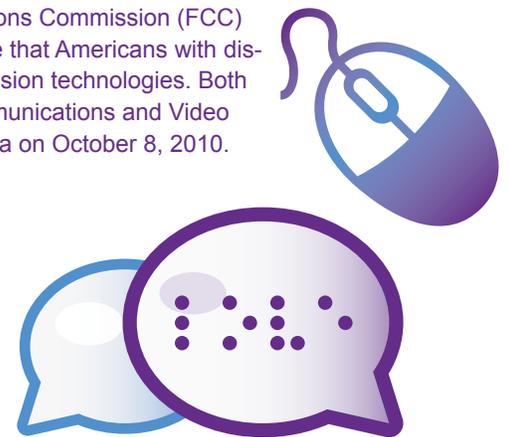
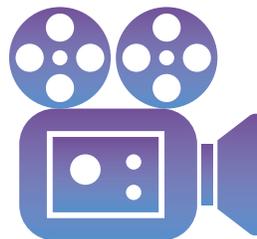
The National Council on Disability is traveling around the country to provide presentations on their recommendations and their proposed legislation. The NCD will also be getting the word out through webinars, newsletter articles and other media. In Colorado, the NCD will be at the NADD 29th Annual Conference and the annual conference of the Learning Disabilities Association of America on October 17–19, 2012. They will also be presenting at the Coleman Institute conference on November 2, 2012. The full text of the NCD report is available at <http://www.ncd.gov/publications/2012/August232012/>

Many advocates consider that this is an auspicious time for the creation of true systems change toward



Access to 21st Century Technology

During the first week of July 2012, the Federal Communications Commission (FCC) launched two new accessibility programs designed to ensure that Americans with disabilities have access to emerging communications and television technologies. Both programs are required under the Twenty-First Century Communications and Video Accessibility Act (CVAA), signed into law by President Obama on October 8, 2010.



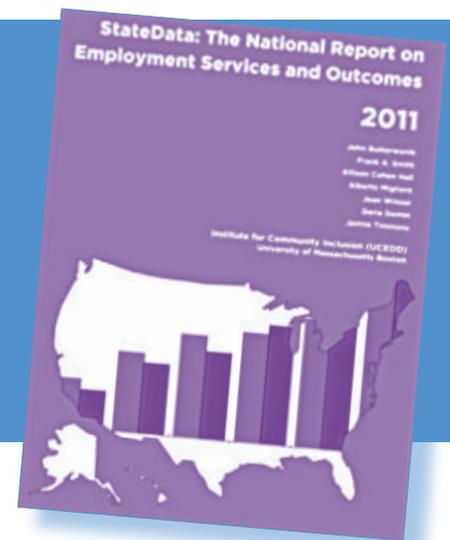
(Disclaimer)

The views expressed by authors in *Between the Lines*, the quarterly newsletter of the Colorado Developmental Disabilities Council, are not necessarily those of the Council, its individual members or the staff. Letters to the Editor are encouraged, as are requests for correction of factual information. Please direct such to the newsletter editor at marna.ares@state.co.us.



New StateData National Report Available Now

“StateData: the National Report on Employment Services and Outcomes 2011” is comprised of 373 pages, and is now available at <http://statedata.info/statedata-book/>. This publication provides detailed national and state-level data on trends in employment outcomes for people with disabilities. Its emphasis is on individuals with intellectual and developmental disabilities (IDD).



Key Findings

- In the IDD system, the percentage of individuals receiving integrated employment services declined to 20.1 percent in FY2010, and the growth seen in supported employment between the mid-1980s and mid-1990s has subsided. Community-based non-work services continue to expand for states reporting this as a service.
- In the VR system, the rehabilitation rate declined; more days were needed by VR clients to gain employment; and few gained post-secondary education experiences.
- American Community Survey data continue to show that people with disabilities are much less likely to work than their counterparts who do not have disabilities. People with a cognitive disability saw a greater drop in their employment rate than people without disabilities between 2009 and 2010, and people with a cognitive disability who are receiving SSI have the lowest employment rate and are most likely to live in a household below the poverty level.
- Enrollment in post-secondary education appears to have a positive effect on employment for individuals with any disability and for those with cognitive disabilities.
- Data from the Social Security Administration shows work incentive programs for SSI recipients with disabilities remain underused. SSI recipients with IDD work more than their counterparts with other types of disabilities, but participate in work incentive programs less frequently. On the whole, SSI recipients have poor employment outcomes, though these outcomes vary from state to state.

Video Description

Background

Video description is audio-narrated descriptions of a television program's key visual elements. These descriptions are inserted into natural pauses in the program's dialogue. Video description makes TV programming more accessible to individuals who are blind or visually impaired. On August 25, 2011, the FCC adopted rules to implement the video description provisions of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). These rules are effective as of July 1, 2012. <http://www.fcc.gov/guides/video-description>

Availability of Video Description

FCC rules require local TV station affiliates of ABC, CBS, Fox, and NBC located in the top 25 TV markets to provide 50 hours per calendar quarter (about 4 hours per week) of video-described prime time and/or children's programming. Local TV stations in markets smaller than the top 25 also may provide video description, but will be required to do so beginning July 1, 2015. Many

Public Broadcasting System (PBS) stations also provide video description on a number of programs.

The top 5 non-broadcast networks—Disney Channel, Nickelodeon, TBS, TNT, and USA—must provide 50 hours per calendar quarter of video-described prime time and/or children's programming. Subscription TV systems (offered over cable, satellite or the telephone network) with 50,000 or more subscribers also must carry video description.

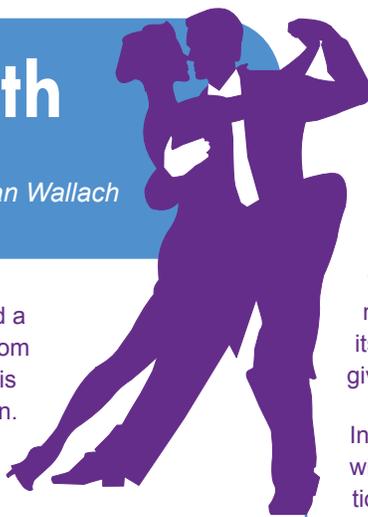
National Deaf-Blind Equipment Distribution Program (NDBEDP)

On July 2, 2012, the FCC announced the National Deaf-Blind Equipment Distribution Program (NDBEDP) for all 50 states, the District of Columbia, Puerto Rico and the Virgin Islands. The NDBEDP is a program mandated by Section 105 of the *Twenty-First Century Communications and Video Accessibility*



Dancing with the Stars

by Joan Wallach



What happens when a young mom and a new county grow up together? If the mom is Gina Coufal and the city and county is Broomfield— remarkable things happen. Gina Coufal is the founding director of F.R.I.E.N.D.S. of Broomfield, Inc. F.R.I.E.N.D.S. stands for Fun Recreation, Inclusive Experiences, Networking and Discovering the Spirit.

Broomfield is a city halfway between Denver and Boulder. It has beautiful views and has grown from the farm town of the late 1800s to a city and county of nearly 60,000 residents. It is a place with many amenities that continues to pride itself on its small town feeling. At one point Broomfield encompassed four counties, three Community Centered Boards and six school districts. In 1998, the residents of Broomfield rallied to put a constitutional amendment on the ballot to create a new county. It passed and then took three years to implement. The City and County of Broomfield officially became the 64th county in Colorado in November 2001.

Gina describes herself as a mom with a passion for helping to provide the best possible life for her children. Joshua, her oldest, is now 28. Gina's professional life follows the path of hopes and dreams shared by her family for Josh's best life, and not by chance, the development of community awareness about people with disabilities as valued members of the community.

When Gina's son Joshua was young, she felt they "hit a brick wall" in finding opportunities for Josh to learn from and with kids with and without identified disabilities. They moved from Westminster to Broomfield in 1992 and found a welcoming environment at Kohl Elementary with people Gina described as "wonderful teachers and paraprofessionals." In Broomfield kids are often in school together from elementary through high school. Natural supports are rich. As positive as the school experience was, there was no after school program for Josh, and Gina found it overwhelming to confront what seemed a maze with several points of entry for services.

F.R.I.E.N.D.S.

The power of parents who love and believe in their children can be a catalyst for social change. In 1998 a small group of parents gathered for the purpose of networking, sharing ideas and learning about the developmental disabilities system. The lack of recreational opportunities was high on the list for the group. Their efforts culminated in F.R.I.E.N.D.S. hosting a regional athletic competition that attracted four hundred athletes. Next, Gina

met with City Council members and the Broomfield Department of Recreation and in 1999 money was allocated for therapeutic recreation. In 2012, the City and County of Broomfield's website reads, "...there are currently 63 parks boasting amenities like therapeutic sensory playgrounds..."

Broomfield formed its first Health and Human Services (HHS) Department in 2001. An Advisory Committee was formed and Gina Coufal was appointed to serve. The Committee advises the HHS and helps develop priorities. Gina was its first disability representative, helping to build awareness and giving direction to the new department.

In 2002 F.R.I.E.N.D.S. received their 501(c)(3) nonprofit status, with Gina serving as the founding director. Gina's job description grew to the nurturing of a nonprofit organization and its employees, board members, and programs, its physical location and more. Gina advocated for Broomfield families and put Broomfield on the map for Imagine!, the Boulder Community Center Board (CCB). In 2005 F.R.I.E.N.D.S. qualified as a Program Approved Service Agency, (PASA), an agency approved by the Colorado Division for Developmental Disabilities to provide services to people with developmental disabilities.

In Search of a Home

Broomfield had never had an application for an adult day center and had no specific zoning restrictions. In 2005, a home in a residential neighborhood had been chosen for F.R.I.E.N.D.S.' new day program and administrative offices. Officials simply said it would be prudent to make sure neighbors did not object. What came next was both harrowing and what Gina calls "a learning opportunity." City Council had a televised hearing for the atypical use of the home F.R.I.E.N.D.S. had purchased. The room was packed with neighbors expressing their concern for home values while ignoring values of truth and decency. F.R.I.E.N.D.S. supporters watching at home were disheartened and soon joined in the chambers for their turn to testify. Stereotypes and fear were set aside but still F.R.I.E.N.D.S. was not allowed to move into the neighborhood. At the end of August 2005, F.R.I.E.N.D.S. moved into a tiny 1000 square foot home, but the home literally collapsed around them with asbestos just one of many challenges. Feeling desperate Gina moved the program into her own home for seven months after which the homeowners association gently but firmly ended her home office arrangement. In February 2008 F.R.I.E.N.D.S. moved to its present location on the outskirts of town. Volunteer effort and elbow grease made it a friendly location for the program. But, there are fumes from the neighboring auto repair, falling ceilings and a leaking roof. More importantly for Gina, the program is not in the heart of the community and that's where she believes F.R.I.E.N.D.S. belongs.

At last, a new home is being constructed in a new multi-use area and will include dreamed of indoor amenities, and a community garden. Gina is excited to offer space in the building for office space and supply storage to other community organizations. The capital campaign is gaining momentum and the building should be complete and operational within the year.



Rule Reasons

Years in which Jacob Javits (R-NY) served in the U.S. Senate: 1957–1981
(<http://www.jewishvirtuallibrary.org/jsource/biography/Javits.html>)

The year in which the National Council for the Blind began its opposition to the passage of the Javits-Wagner-O'Day Act: 1968

Year in which the American Council on the Blind, along with the American Library Association and Playboy Enterprises sued the Library of Congress for discontinuing the acquisition of the Braille version of *Playboy* magazine: 1984
(They won.)
(http://www.itodaynews.com/october2010/21_DK_Am_Council_Blind.htm)

Population of Broomfield, Colorado in 2011: 57,352
(<http://quickfacts.census.gov/qfd/states/08/08014.html>)

Name of Robert Whitaker's blog: Mad in America
(<http://www.madinamerica.com>)



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