



National Council on the Handicapped

800 Independence Avenue, S.W.
Suite 814
Washington, D.C. 20591

202-267-3846 voice
202-267-3232 TDD

An Independent
Federal Agency

Draft
2/26/87

DISCUSSION DRAFT

NEED FOR EXPANDED NONDISCRIMINATION PROTECTION FOR CITIZENS WITH DISABILITIES

I. BACKGROUND

- o major gains have been made under current statutes addressing discrimination on the basis of handicap -- sections 501, 502, 503, 504
- o yet, these laws only cover a relatively small scope of activities
- o also, there have been problems and inconsistencies regarding the standards of nondiscrimination to be applied under the existing laws
- o in its 1986 report, Toward Independence, the National Council on the Handicapped recommended the enactment of a comprehensive equal opportunity law for persons with disabilities

II. PURPOSE

- o coverage commensurate with civil rights laws dealing with race, sex, national origin, and religious discrimination
- o clear, strong, consistent, standards of non-discrimination
- o coverage of major areas of day-to-day discrimination faced by people with disabilities

III. ELEMENTS OF RECOMMENDED LAW

A. Scope

- o comprehensive, as described in Toward Independence
- o to cover employers engaged in an industry affecting commerce, housing covered by civil Rights Act of 1968, public accommodations covered by Title II of civil Rights Act of 1964, etc., in addition to Federal agencies, Federal contractors, and Federal grantees currently covered by sections 501, 503, and 504

B. Forms of Discrimination Prohibited

- o intentional exclusion, unintentional exclusion, segregation, etc., as in current section 504 regulations
- o failing to remove architectural, transportation, and communication barriers
- o refusing to make reasonable accommodations
- o using discriminatory qualifications standards
- o specifically not discriminatory:
 - unequal treatment wholly unrelated to disability
 - application of necessary and appropriate qualifications standards and eligibility criteria

C. Limits on Duties of Accommodation and Barrier Removal

- o moderate ground between no limits and de minimis standard

D. Regulations

- o minimum guidelines from ATBCB, regulations from other Federal agencies for areas within their scope: EEOC for employment, HUD for housing etc.
- o provision that regulations under new law shall not provide less protection to persons with disabilities than under current regulations

E. Private Right of Action

- o as in most other civil rights laws
- o with reasonable attorneys fee for prevailing party

F. Who Would Be Protected?

- o modeled on other types of nondiscrimination laws
- o apply to "discrimination on the basis of handicap," rather than creating eligibility class of handicapped persons

G. Definitions

- o for terms "physical or mental impairment," "regarded as having an impairment," and "record of impairment," definitions from existing section 504 regulations would be used
- o for term "reasonable accommodation," definition from Accommodating the Spectrum of Individual Abilities

H. Terminology

- o phraseology "persons with disabilities" would be used in lieu of "handicapped persons," "handicapped individuals," "disabled person," like disabled," or the like
- o term "discrimination on the basis of handicap" would be used as a term of art to refer to the discrimination prohibited under the statute