

# \* The Exchange



*a publication of the Georgia ADA Exchange, Inc.*

*Winter 2005*

## *Building One Community Project - Impressive Results*



Students at Seminole County High School are participating in a class on setting goals and strategies for achieving those goals.

Eight high schools and over three hundred students participated in the Building One Community Project during the last fourteen months. The Governor's Council on Developmental Disabilities applied for the grant from the National Administration on Developmental Disabilities as a part of the annual Project of National Significance grants. In October of 2003, the DD Council asked the ADA Exchange to take on the management of the grant. With the excellent work of local coordinators at each school partners clubs, self-determination classes, and inclusion leadership teams were established at the participating high schools. The local coordinator and teachers helped to shape the programs to meet the needs of each school. From a very small rural school in southwest Georgia, to a suburban Atlanta school with an enrollment of 3000, students both with and with-

out disabilities began learning about real community. The funding cycle ended in December of 04 and now we look back over the results of the project with joy and sadness. Joy, that so many young people with disabilities were empowered to make more or their own decisions at school and home. Joy, which so many students without disabilities became real friends for the first time with students in special-ed classes. Joy, that students with significant disabilities attended dances, football games, movie nights, picnics, and mall outings along with their non-disabled peers on an equal footing. Two hundred students participated in self-determination classes in which both students with and without disabilities worked to set short and long term goals and learned to advocate for themselves. The partners clubs,

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We would like to thank Empish Thomas for contributing the story on dentistry and Sasha Katz for her artwork accompanying our story on How Small is Too Small?

# *A Widespread and Hidden Danger*

Three teachers, two parents, several friends, an aunt, Bob, and I sat around the conference table at on one of Georgia's largest high schools. We were having a person centered planning session and were all talking about Bob's future. Bob is eighteen and wants a "real" life with a "real job." He expects to graduate with a Special Education Degree, so he knows his job prospects are limited. Bob has cerebral palsy and is way behind academically. His failure to perform on grade level is usually explained by a low IQ test score. When you talk to Bob for just a few minutes you realize he is very smart, funny, and tuned in to what is going on around him. When we talked about Bob's reading level, he said he wouldn't be able to pass the GED, since he can't read well enough. I asked him if he understands books that he listens to, and his teachers and parents agreed that his listening comprehension is great. He has never been evaluated for a learning disability. A label of learning disability would mean that Bob could do his reading with recorded materials on tests such as graduation tests, GED, or SAT.

Last year, I tried to find a psychologist who would do a Learning Disability evaluation on a young man with a significant visual impairment. At that time, I could not find anyone in the state who thought they could do such an evaluation. At least once a month, I find a person with an undiagnosed learning disability. I am especially angry to note how many people with other major disabilities are totally overlooked for the possibility of a learning disability.

One out of 5 Americans have some type of learning disability. These range from not being able to read, to difficulty writing down ideas; from not being able to process what you hear, to lacking visual memory. Statistics indicate that 4 out of 5 prisoners have learning disabilities. These folks are school failures, who were told they were stupid and soon believed it. They learned to be cocky and dare anyone to say they were dumb, or learned to hide there difficulties and run away when these problems were discovered.

Today, there are hundreds of methods for helping people with learning disabilities figure out learning styles and accommodations that they need to be successful. There are private schools, resource classes in public schools, and many learning centers that focus on assisting people with various learning disabilities. The key is a good assessment with clear strategies for remediation and accommodation. These assessments are also vital to help adults figure out what they need to function well in the workplace and in everyday life. The tragedy is that so many children and adults never know that they have a learning disability. They go through life not getting along well anywhere. They often develop elaborate coping mechanisms to keep from revealing their perceived inadequacies. People with learning disabilities don't usually have any trouble getting jobs, but, they quickly loose jobs when things change in the workplace.

The EEOC has developed good materials on accommodating workers with disabilities for employers; but, people with disabilities must first ask for the accommodations they need. Likewise, parents and young people must gather the documentation they need to qualify for learning disability services at school or college. The individual with a learning dis-

# How Small Is Too Small?



“My coffee shop just has six tables and is in an older building. Do I have to build a ramp and have a lowered counter and accessible bathrooms?” We frequently receive questions like this from small business owners across the state. They have heard something about fifteen or less employees and are thinking that maybe the ADA does not apply to them. It is true that for Title 1 of the ADA, employers with less than fifteen employees are not covered by the ADA, Americans with Disabilities Act. However, there is no such thing as too small for coverage under Title 3 of the law. Title 3 covers privately owned organizations that offer goods or services to the public. A

Title 3 entity can be a private business or a not for profit organization. It can be a one man lemonade stand or a huge non-profit like the Red Cross. All Title 3 entities must be non-discriminating in their service to their customers, provide equally effective communication, and be physically accessible. The first two of these obligations allow for no excuses, no matter how small, no matter how old the organization. Physical access is a requirement based on the financial resources of the business or agency. New construction must always be in full compliance with the ADA (the accessibility guidelines are found in the Title 3 regulations). Any time renovations or remodeling is done, new areas and the “path of travel” to use those areas must be brought into compliance with the ADA guidelines. The Title 3 entity is not required to spend more than 20% of total construction costs to achieve physical access. So for small businesses or agencies, other methods rather than construction may be used to achieve access to the goods and services. For example, a one man law firm in an old building may meet clients with mobility impairments at a larger law firm facility in order to achieve physical access. Or, the coffee shop mentioned at the beginning of this article may put a sign on the door saying “Curb service available for people with mobility impairments if you call 777 123-4567 ahead and place your order. We are often asked who is responsible for physical access, the landlord or the renter. This should be stated in the lease agreement. If it is not both are responsible. Sometimes a landlord does not want the renter to make changes that would increase access. Here some form of mediation might be in order and at least make sure the landlord has copies of the Title 3 regulations and the Title 3 Technical Assistance Manual with relevant passages highlighted. Asking local disability organizations to write or fax requesting the improved access might also be effective.

Remember, no Title 3 entity is too old to be covered by the ADA. Even the Old North Church in Boston, now a museum, is fully accessible now. There is no such thing as “grandfathering” under the ADA. Older buildings must also follow the guidelines set forth above becoming physically accessible, through remodeling, or “readily achievable barrier removal.

# *Housing and People With Disabilities*

The Exchange receives dozens of questions each month on our telephone line concerning housing and disability. In November, we sponsored a seminar in Atlanta on housing regulations as they apply to people with disabilities. Many people believe that apartments are covered by the ADA and a few are, but most are not. Here are just a few tips which are not exhaustive but can get you headed in the right direction. For more information call the Exchange or the Georgia Commission on Equal Opportunity in Housing 404 656-7708.

Apartments owned by local governments such as Atlanta Housing Authority, are covered under Title 2 of the ADA ...% of the apartments must be accessible. ...% of these apartments must also have the appropriate adaptations for people with hearing loss (visible alarms, flashing door knocker, etc.).

Apartments that receive federal money for construction and maintenance are covered under Section 504 of the Rehabilitation Act and have basically the same requirements are housing under the ADA. In rural areas, the U. S. Department of Agriculture often funds such housing

Privately owned homes with less than four units are not covered by any disability law. However, realtors are covered under the ADA Title 3 since they are providing good and services to the public. Realtors cannot discriminate in the sales process. Of course, lending agencies are also covered under Title 3 and cannot refuse to make a loan just because of a disability.

Accepting Title 8 vouchers do not make an apartment covered under 504 the ADA or the Fair Housing Amendment.

Apartments that were built after 1991 are covered under the Fair Housing Amendment. These landlords and managers cannot discriminate in leasing based on disability. They must make reasonable accommodations for renters with disabilities upon request such as calling a blind renter rather than just posting a printed notice in the elevator. All ground level apartments (not including two story apartments) must be “readily accessible.” They must have five features to be readily accessible 1. one no step entrance, 2. wider doors, 3. a bathroom large enough for a wheelchair to turn around, 4. walls in the bathroom strong enough to support grab bars, 5. light switches that can be reached from a wheelchair position. In a multi-floor apartment building, where there is an elevator, apartments built after 1991 must all have these five features.

For apartments built before 91, the landlord must allow renters to make needed accessibility changes to the apartment at the renter’s expense. The landlord may also require that the renter return the apartment to its original condition upon vacating the apartment. These landlords are still required to accommodate renters in terms of non-discrimination and effective communication. If remodeling is done, the 91 requirements come into play. Accessible parking must be provided no matter when the apartment was built.

# *Drawbacks of Dental Care for People with Disabilities*

Most people think the only challenges to a dental visit are getting over their fear of drillings, big needles, or a root canal. People with disabilities have those challenges and much more. Inadequate dental care may be due to insufficient financial resources, dentists who are not prepared for working with people with disabilities, or lack of dental resources. These challenges can make quality dental care extremely difficult to acquire and retain.

Deficient financial resources can be the biggest drawback to dental care for people with disabilities. According to the World Institute on Disability, people with disabilities have some of the highest levels of poverty in the US. Almost 40% live in poverty and one third of adults live in households with an income of \$15,000 or less.

[www.wid.org/equity](http://www.wid.org/equity). With such low income the priority to many people is not dental care, but basic survival.

## **Limited Preventive Dental Care**

People with disabilities that are on Medicaid can get some relief, but not much. “Currently Medicaid does not pay for most preventive dental care,” said Cindy Wyss, Family Support Manager, at the Atlanta Alliance on Developmental Disabilities. “For example, it will pay for extractions for adults; but won’t pay for dentures to replace the teeth” These Medicaid restrictions are a difficult hurdle to overcome since preventive dentistry is necessary to ensure proper dental care. “One important way to help the special needs child is to get early dental care,” said Dr. Theodore Levitas, a dentist who specializes in pediatric dentistry for children with disabilities and children who are medically compromised.

“I see children at 7 or 8 that have had no previous dental care.

Dr. Levitas speculates that the problem can lie in the parent being overwhelmed with the physical disability; hence the dental care of the child is not a priority. This is unfortunate since early prevention decreases the likelihood of poor dental health.

## **Locating a Dentist**

Inadequate finances are not the only barrier to good dental care, but **finding** a dentist for treatment is a challenge as well. Two main problems with searching for a dentist are locating one that will take Medicaid and one that will work with a person that has a disability. “Many dentists don’t participate in the Medicaid program for very legitimate reasons,” said Dr. Levitas. “Generally speaking, Medicaid needs to attract more dentists to participate and be compensated in an equitable way. The state needs help in understanding the importance of dental health.” In some cases, treating a person with a disability can take the dentist more time and energy; which can be a drawback because it can take them away from other patients.

All of these drawbacks can make it frustrating and nearly impossible for a person with a disability to get dental care, but there is hope. The Dental Foundation, a non-profit agency, does offer dental care for people with disabilities. “The Foundation has been treating pa-

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# Emergency Evacuations



For the first time, a court has declared that the Americans with Disabilities Act (the ADA) requires places of public accommodation to consider the needs of people with disabilities in developing emergency evacuation plans. This groundbreaking decision – issued on December 28, 2004 by Judge John W. Debelius III of the Circuit Court for Montgomery County, Maryland means that shopping malls, stores, restaurants, movie theaters, museums, and other private entities subject to the ADA throughout the country, whether landlords or tenants, must now seek to accommodate people with disabilities in the development and

modification of emergency evacuation procedures.

“This is a significant decision that should greatly enhance the safety of persons with disabilities in the post-September 11th world,” said Elaine Gardner, Director of the Disability Rights Project at the Washington Lawyers’ Committee for Civil Rights and Urban Affairs. “The ADA always has been understood to help get people with disabilities into places of public accommodation. Now, for the first time, it also has been found to require that public places try to get those same people out in the event of a fire, terrorist attack, or other emergency.”

The court’s significant decision arises out of a lawsuit that was filed in Spring 2003 by Katie Savage, a Washington, D.C. resident who became trapped during an emergency evacuation in a local shopping mall that had no accessible exits for persons with disabilities. Ms. Savage, who uses a wheelchair, was shopping at a Marshalls store in Silver Spring, Maryland’s City Place Mall on September 3, 2002, when the store and the Mall were evacuated. After Marshalls required her to exit into an area of the Mall that is below ground level, Ms. Savage found that she was trapped there and unable to evacuate, because the elevators were shut down and all the exits had stairs. Abandoned by store employees and trapped, Ms. Savage resolved to use her terrifying ordeal as a vehicle for ensuring that fellow citizens with disabilities would not be similarly victimized in emergency evacuation situations. Ms. Savage joined the Disability Rights Council of Greater Washington (the DRC) in filing a lawsuit against Marshalls and City Place Mall that alleged violations of the ADA in both the Mall’s emergency evacuation plan and Marshalls’ corporate-wide evacuation policies.

In briefs filed with the court last Fall, Marshalls took the position that the ADA does not require places of public accommodation to modify evacuation plans in order to accommodate the needs of people with disabilities. The court, however, rejected Marshalls’ view and held that “a store’s nationwide evacuation procedures would certainly constitute a public accom-

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# Our Board Members

We want to thank the ADA Exchange Board Members for the time, energy, and money they commit to our organization

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## Building One Community (Cont'd)

clubs like any other high school activity club, gave students opportunities to become leaders and to set up both fun and service events for themselves. At one high school, the partners club won the prize for best homecoming float. Another partners club raised money for equipment for a newly disabled student. One club built a fully accessible garden for the school and community. Still another partners club held a fund raiser for St. Jude's hospital. An important part of the project is the "Person Centered Planning" component. Significant people in the student's life gather to brainstorm dreams into reality for the student. We conducted thirty-six such sessions. These helped the students articulate their dreams and figure out steps to reach their fulfillment. Everyone present agreed to take on certain tasks needed to help the student make realistic plans for reaching the goals. One young man launched his music career in his planning session. A young woman identified two volunteer jobs that could help her decide on the particular path she wanted to take. Her friends, parents, and teachers present at the meeting each promised to contact people they knew who could help her get started in these jobs. Still another student was helped to turn a life long interest in a realistic plan for a small business. The overall process is so moving and full of energy and hope. Everyone attending makes a commitment to ensure that each young person will have the supports he or she needs to really enjoy life and contribute to his her community. It was wonderful to see parents and teachers so excited about the new potential they could see in young people who had lost hope for their future.

We are sad, of course, that our involvement in the project is ending. We learned so much from the students, teachers, parents, and dedicated administrators whom we met across Georgia. We are continuing to use the person centered planning approach with students upon request. The Exchange is exploring several new opportunities for using the concepts

we learned during the Building One Community Project. The DD Council will be able to continue funding two of the schools and is continuing to seek additional funding to this innovative project.



The Partner's Club float at Union Grove High School's Homecoming festivities.

## *How Small Is Too Small? (Cont'd)*

Again, all Title 3 entities must provide equally effective communication no matter how small or how old. Our website [www.gaada.info](http://www.gaada.info) contains a handy guide on this subject "Providing Effective Communication." The key word is "effective." Pencil and paper may work when buying gas at a filling station; but, they are not effective when talking with a physician about blood pressure problems. Effective communication is always an individual matter. The preference of the person with a disability should be considered but does not have to be followed; however, the effectiveness of the communication method must be determined by the individual with the disability. For example, a sign language interpreter might not be effective for an older person who lost her hearing later in life and has never learned sign language. Some other form of communication must be found in order to "communicate effectively" with the woman. There are many ways that small businesses and non-profits can pay for more expensive communication methods like Braille and sign language interpreters. Civic groups, small community grants, and certain state agencies may help with these costs.

A basic rule for looking at the non-discrimination requirement for Title 3 entities is "If I provide these goods or services to people without disabilities, I must make sure I'm providing them to people with disabilities." Providing equality may require the business or organization to modify some policies or procedures. For example, a medical office might give more leeway on punctuality for appointments to patients who use Special Transportation Services.

For more information call us at 770 451-2340 or check out these publications. You can purchase them for the copying cost from our agency. We conduct workshops for small businesses and non-profits and would be happy to talk with you about topics such as these:

- Who has Obligation under the ADA?
- Providing Effective Communication
- Readily Achievable Barrier Removal
- Title 3 Technical Assistance Manual
- Health Care Facilities

## *A Widespread and Hidden Danger (cont'd)*

ability must become an expert on explaining his/her specific needs to teachers, family members, or employers. For more information call us at 770-451-2340 or check out these websites:

**GA ADA Exchange** [www.gaada.info](http://www.gaada.info)

**LDA national** <http://www.ldanatl.org/>

**Schwab Learning** <http://www.schwablearning.org/index.asp>

**LD Online** <http://www.ldonline.org/>

**The Source** <http://maapservices.org/>

**NLD Ontario** <http://www.nldontario.org/>

**NLD Introduction** <http://gseacademic.harvard.edu/~daleysa/index.htm>

In September of 2004, the exchange hosted a seminar on learning disabilities. The handouts from that seminar are also available on the GA ADA website. [www.gaada.info](http://www.gaada.info)

## Dentistry (cont'd)

tients since 2002,” said Dr. Deidra Rondeno, founder and president. “We are committed to offering accessible dental treatment for patients with developmental disabilities in the metro Atlanta area.”

There are also private practice dentists that treat people with disabilities. “This field addressed my desire to be involved with people and improve their quality of life,” said Dr. Tammy Bregman, Dentist. Dr. Bregman not only treats patients with disabilities but conducts workshops for dentists and care givers that address the overall health care needs of people with disabilities. Annually, she facilitates a workshop in her father’s honor on proper dental health care. Another private practice dentist works specifically with children with disabilities. “I have always wanted to work with children; and others were not helping these kids,” said Dr. Levitas.

He has specialized in pediatric dentistry for 55 years and works with Children’s Healthcare of Atlanta at Scottish Rite and at Egleston Hospitals.

Below are resources for dental care. This listing also includes the dentist interviewed for this story.

### **The DDD Foundation**

52 Executive Park South, Suite 5203  
Atlanta, GA 30329  
404-942-0086

### **Southside Dental Clinic**

1046 Ridge Avenue, SW  
Atlanta, GA  
404-688-1350 x 94

### **West End Medical Center**

(They provide services to adults only if their primary care provider is also at West End Medical Center)  
868 York Ave. SW  
Atlanta, GA 30310  
404-752-1400

### **Ben Massell Dental Clinic**

18 7th Street, NE  
Atlanta, GA 30308  
404-881-1858

### **UPCOMING EVENTS**

**February 21st - Seminar in Jonesboro on “Working with Employees who Develop Disabilities” at the Safety and Risk Managers monthly meeting. For more information call Carol Hensen 404-715-2811**

**February 24th—Disability Day at the Capitol**

**March 3rd—Women’s Health Initiative State-wide Taskforce (under-served populations) Macon, for more information call Nancy Duncan 770-451-2340**

**September—ADA Symposium. The Exchange is sponsoring a 2 day ADA Symposium with speakers and break out sessions on all titles of the law. Details will be announced soon**

## *Evacuations (cont'd)*

modation's 'policies.'" Therefore, the court wrote, "it is certain that Title III of the ADA does apply to this situation."

"I am delighted by the court's decision and hope that it has a lasting impact on improving safety for people with disabilities," said Ms. Savage. "Regrettably, Marshalls and other major retailers have seen fit to evacuate non-disabled persons, while leaving people with disabilities to fend for themselves in an emergency. That is not only a poor business decision. It is also now against the law."

One of Ms. Savage's attorneys, Steve Hollman, agreed. "We've all heard stories about people with disabilities being trapped and left to die on September 11th and in other emergency situations," said Mr. Hollman, a partner with Hogan & Hartson L.L.P. in Washington, D.C. "Hopefully, this decision will serve as a wake-up call to public accommodations across the country that they must start considering the needs of people with disabilities in their evacuation plans."

The Opinion of the Court also was significant for refusing to allow a tenant to abdicate its responsibility to patrons with disabilities by merely placing them outside a store's entrance in an emergency evacuation situation and leaving actual evacuation to a shopping mall's owners. Additionally, the Opinion recognized Ms. Savage's standing to bring her ADA claims against Marshalls. Despite the fact that Ms. Savage had not visited the Marshalls fitting room at City Place Mall, she was found to be able to seek barrier removal there, as "a Plaintiff need not encounter every barrier in a store to bring a claim for all the store's ADA violations." Moreover, the Court found that Ms. Savage had standing to remedy Marshalls' corporate-wide emergency evacuation policy – which is in effect at more than 672 Marshalls stores – because "where the harm alleged is directly traceable to a written policy . . . there is an implicit likelihood of its repetition in the immediate future." The Disability Rights Council of Greater Washington also was found to have standing to proceed. As a result, the case will now proceed to trial to determine whether Marshalls and City Place Mall are in violation of the requirements of the ADA. The trial date will be set at a hearing on January 14.

Ms. Savage is represented by the law firm of Hogan & Hartson L.L.P. and the Washington Lawyers' Committee for Civil Rights and Urban Affairs. An important Amicus Curiae brief was submitted to the Court by the law firm of Howrey, Simon, Arnold & White, on behalf of the American Association of People with Disabilities and several other organizations of people with disabilities.

\*The hearing for the suit against Marshalls is set for May.

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**MISSION STATEMENT**

*Bringing about full inclusion of  
all people with disabilities into  
all aspects of life in Georgia.*

**The Georgia ADA Exchange, Inc.**

Application for Membership– Individual Membership Fee: \$ 25.00– Corporate Fee: \$100.

The minimum contribution enables you to receive reduced fees for workshops, newsletters, and Americans with Disabilities Act updates. For more information regarding the benefits of membership, please call us at 770-451-2340. Scholarships available. You can now join the Exchange or make a contribution to the Exchange on our website: [www.gaada.info](http://www.gaada.info)

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