



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

August 14, 2017

Robert Hinchman
Senior Counsel
Office of Legal Policy
U.S. Department of Justice
Room 4252 RFK Building
950 Pennsylvania Avenue NW.
Washington, DC 20530

Re: Docket No. OLP 164, Enforcing the Regulatory Reform Agenda;
Department of Justice Task Force on Regulatory Reform Under E.O. 13777

Dear Mr. Hinchman:

We submit these comments on behalf of the Consortium of Citizens with Disabilities (CCD) Rights Task Force in response to the above-captioned request for information by the Department of Justice Task Force for Regulatory Reform pursuant to Executive Order 13777. CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

The Department seeks comments identifying regulations that should be “repealed, replaced, or modified, consistent with applicable law” because they: (i) eliminate jobs, or inhibit job creation; (ii) are outdated, unnecessary, or ineffective; (iii) impose costs that exceed benefits; (iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies; or (v) are inconsistent with the requirements of the Information Quality Act. The Department also seeks similar comments concerning actions that are not regulations but that “the public perceives to be regulatory in nature.”

First, we note that the Justice Department, as the primary agency charged with enforcing the provisions of the Americans with Disabilities Act (ADA) concerning public services and public accommodations, has promulgated regulations that are critical to ensure effective implementation of the ADA and the inclusion of individuals with disabilities in the mainstream of society. Most of those regulations were developed under the leadership of Attorney General Dick Thornburgh. At a public hearing concerning the Department’s proposed regulations implementing the ADA, Attorney General Thornburgh noted the personal commitment of President George H.W. Bush to

“new hope and real action for our citizens with disabilities.”¹ General Thornburgh observed that “[a]t a moment of some controversy over other aspects of our civil rights laws, ADA represents a bright, liberating force in our history,” and that it benefits not only people with disabilities but *all* Americans, who stand “to benefit from the contributions which these Americans will make to our economy, our communal life, and our individual well-being.”² He stated that the Department “attempted to preserve and clarify the delicate balance struck by Congress in the ADA between the right of individuals with disabilities to enter the mainstream society and the right of businesses and state and local governments to be spared undue economic burdens,” and that “[w]e believe we have weighed these matters carefully and fairly, and that the scales stand even.”³

Far from eliminating jobs or inhibiting job creation, the Department’s ADA regulations enhance the ability of individuals with disabilities to contribute to the nation’s economic well-being by participating in the economy as consumers, as employees, and as employers. They provide for equal opportunities for individuals with disabilities in a wide array of areas, including education, and enable people with disabilities to become active and contributing members of their communities. Far from being outdated, these regulations have enabled our nation to move away from antiquated and exclusionary means of treating individuals with disabilities. As we continue to implement the ADA and its regulations, we expand opportunities for individuals with disabilities to become employed and economically self-sufficient, and avoid reliance on public benefits.

We also note that each title of the ADA already includes defenses based on cost and other factors. Any cost-benefit analysis that the Department conducts concerning ADA regulations must be consistent with the ADA’s statutory requirements and cannot consider costs in ways that go beyond what is permitted by those requirements. Disability organizations will closely monitor enforcement activities to ensure that they comport with the language and intent of the ADA. We urge the Department not to repeal or modify its ADA regulations, guidance, or other positions related to the ADA pursuant to Executive Order 13777.

Thank you for the opportunity to comment on this request for information.

Sincerely,

Jennifer Mathis
Bazelon Center for Mental Health Law
Co-Chair, CCD Rights Task Force

Dara Baldwin
National Disability Rights Network
Co-Chair, CCD Rights Task Force

Sandy Finucane
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¹ Statement of Attorney General Dick Thornburgh at the Public Hearing on Americans with Disabilities Act Regulations (Mar. 13, 1991), <https://www.justice.gov/sites/default/files/ag/legacy/2011/08/23/03-13-91.pdf>.

² *Id.*

³ *Id.*

Samantha Crane
Autistic Self Advocacy Network
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