

# FRCD Newsletter

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## ADA Amendments Act (ADAAA of 2008) Signed Into Law

The American with Disabilities Act (ADA) Amendments Act (ADAAA), which restores the rights and protections of persons with disabilities, which had been eroded by federal court decisions during the last decade, was signed into law by President George W. Bush, on September 25, 2008.

The reforms instituted in the ADA Amendments Act (ADAAA) also apply to Section 504 of the Rehabilitation Act of 1973.

The new federal legislation, now known as S 3406 had originally passed the U.S. House of Representatives as HR 3195, on June 25, 2008, by a voice vote of 402 to 17. The legislation then passed the U.S. Senate on September 11, 2008, and was returned to the U.S. House with changes, where it was again approved overwhelmingly on September 17, 2008. The new law takes effect on January 1, 2009.

Chief sponsors of the new legislation were: U.S. Senators Tom Harkin (D-IA), Orrin Hatch (R-UT), Ted Kennedy (D-MA), and Michael Enzi (R-WY)

When the ADA was passed in 1990, it was hailed as a precedent setting law which would provide the same protection to persons with disabilities in the private sector that they had been granted under Section 504 of the Rehabilitation Act, applicable in the public sector.

However, over the last decade, strict interpretations of the civil rights law had resulted in federal court decisions which excluded individuals that Congress meant to cover under the Act. These judicial interpretations created barriers for persons with epilepsy, diabetes, multiple sclerosis, muscular dystrophy, intellectual disabilities, cancer, heart disease, and bipolar disorder from obtaining protections through the employment discrimination provisions of the ADA.

The new legislation restores the broad protections intended by the U. S. Congress when it passed the Americans with Disabilities Act 18 years ago, and subsequently signed by President George H.W. Bush.

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### Gold medalist with ADHD makes Olympic history

Michael Phelps made Olympic history when he won his eighth gold medal in the 2008 Olympic games -- more than any other athlete in the modern history of the game -- with a focus that attacks assumptions about ADHD.

Phelps' ability to focus enabled him to become an Olympic Champion and demonstrate that persons with ADHD can accomplish what many perceive to be the impossible.

**Howe Developmental Center set to close in July, see page 2.**

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The ADA Amendments Act of 2008:

- Requires that the definition of disability be interpreted broadly;
- Prohibits courts from considering the effects of medication, prosthetics, hearing aids, etc. when determining whether a person meets the ADA's definition of disability;
- Defines "disability" as any actual, past, or perceived physical or mental impairment that "substantially limits a major life activity", and then defines this phrase to mean "materially restricts a major life activity;"
- Includes a broad definitional section listing a wide range of major life activities that is intended to restore coverage for many of the groups who have been interpreted out of the ADA by the courts, and
- Includes a broad "regarded as" prong that will provide civil rights protection to anyone who is adversely treated based on a physical or mental impairment.

The new legislation was supported by more than 60 national disability organizations, including the American Association of People with Disabilities (AAPD), the National Council on Independent Living (NCIL), the Bazelon Center on Mental Health Law, the National Disability Rights Network (NDRN), the Learning Disabilities Association of America, the National Center for Learning Disabilities, the Epilepsy Foundation, TASH, and the National Coalition of Parent Centers. Many key business associations such as the U.S. Chamber of Commerce, the National Association of Manufacturers, the Society for Human Resource Management, and the HR Policy Association also supported the ADA Amendments Act of 2008.

(Information from Voice-Advocacy e-mail, [voice-advocacy@sbcglobal.net](mailto:voice-advocacy@sbcglobal.net); [chadd-adults@speialedadvocacy.org](mailto:chadd-adults@speialedadvocacy.org); [copaa.org](http://copaa.org), (9/26/08); Martha Lause, [ocecd@gte.net](mailto:ocecd@gte.net) (9/2/4/08).)

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## **Howe Developmental Center to Close in July**

The Howe Developmental Center and the Tinley Park Mental Health Center, both located in Tinley Park, Illinois, will close in July 2009, according to an announcement made by the Illinois Department of Human Services (DHS) Assistant Secretary, Grace Hou, at a press conference on September 5, 2008. Presenters at the press conference included: DHS Director Lilia Teninty, Illinois State Representative Kathleen Ryg, Illinois Planning Council on Developmental Disabilities Director, Sheila Romano, and the Governor's Disability Services Committee Co-Chair Art Dykstra. Illinois State officials and collaborating agencies are now pursuing relocation options for residents, which include community based accommodations and other state run facilities.

When the Howe Developmental Center opened in 1974, with its small clusters of homes on 600 acres near Interstate 80, it was hailed as a positive alternative to the large state run institutions, which each then housed thousands of residents in Dixon, Lincoln, Anna, Elgin, and Chicago Read Mental Health Center. However, the Howe Developmental Center eventually became another state facility where residents were at risk.

Equip for Equality has investigated the deaths of 24 persons at the Howe Center during the past three years. Both Tinley Park facilities lost their federal funding last year: the Howe Center for providing substandard care, and the mental health center for lax recordkeeping. The state of Illinois has paid expenses to keep both facilities running ever since.

Nearly 320 persons with severe disabilities reside at the Howe Developmental Center, and 65 persons with mental health disabilities reside at the mental health center. Approximately 800 persons work in the two facilities, and they are protesting their closure.

State officials have announced that they plan to consolidate the Tinley Park Mental Health Center's nine buildings into one, while it builds a new mental hospital which would be a public/private partnership. They are stating that the Tinley Park Centers' residents will be moved to places that are certified, and they expect the state to be reimbursed for the \$27 million in federal dollars lost when the Howe facilities were decertified last year.

(Information from the Southtown Star 9/6/08 and the ARC of Illinois Bulletin 9/6/08.)