

Why “Diversity” Should Include “Disability” with Practical Suggestions for Academic Unions

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“...Every time we expanded our civil rights guarantees to include another oppressed minority, America got richer. America is not rich in spite of civil rights. America is rich because of civil rights.” Justin Dart, 1994.

Introduction

Opposing discrimination against people with disabilities¹ and ensuring access for disabled faculty on campus often are omitted from discussions about faculty diversity, but these issues should be part of the mix. For institutions to retain a faculty as diverse as the populations they serve, and for disabled faculty to be able to serve as positive role models for students with disabilities, colleges and universities must achieve physically accessible campuses and create positive social environments for *all* disabilities. This should be considered part of an institution-wide commitment to social justice and equality. The concept of diversity should not be aimed at achieving a static condition but instead should be a process of ever-widening inclusiveness.

Concern about disability rights has been heightened by a series of U.S. Supreme Court decisions dating back to 1999 that restrict or modify the Americans with Disabilities Act (ADA).² Several decisions denied protection from disability discrimination to many people whom the law was intended to protect, and one decision “devastatingly stripped the right of state workers to sue their employers for money damages for violations of Title I of ADA, which prohibits employment discrimination against people with disabilities.”³ Another 2000 decision

denied state employees the right to sue their employers for money damages for age discrimination under the Age Discrimination in Employment Act.⁴

This article describes the work of members of United University Professions' statewide and campus disability committees, which may be useful as a model for faculty at other institutions.⁵ Since the early 1990s, members of the UUP, a public employee union, have worked to preserve and create awareness of disability rights through the development of chapter disability rights and concerns committees. The recognition that some disability issues also must be addressed at the state level led to the establishment of a statewide disability committee. Finally, U.S. Supreme Court decisions led the union to form a human and civil rights committee aimed at defending the rights of state employees under the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Fair Labor Standards Act and other federal laws.

How Many of Us Have Disabilities?

One impediment to assessing the effectiveness of disability-friendly campus policies is the lack of data on college faculty who have disabilities. For example, the UCLA Higher Education Research Institute's 2004 Faculty Survey collected data on gender, race, ethnicity, sexual preference, but had no questions on disability.⁶ The Association of American Medical Colleges also tracks gender, race and ethnicity, yet faculty members with disabilities remain uncounted.⁷

More generally, the 2000 U.S. Census showed that 49.7 million people in the United States age 5 and over have a disability—nearly one in five U.S. residents, or 19 percent.⁸ Of these, 30.6 million were between the ages of 21 and 64; and 57 percent of this group were employed.⁹ As the population ages, more people will acquire disabilities. Everyone has a stake in disability rights.

The collection of disability statistics is in need of reform. In 2004, the National Council on Disability¹⁰ released *Improving Federal Disability Data*,¹¹ a position paper calling on the U.S. Departments of Commerce and Labor to address problems in the collection of disability data, including the need to revise Census questions to reflect the ADA definition of disability. The collection of disability data also reflects unevenness in the willingness of respondents to identify themselves as persons with disabilities.

Disabled People and Employment

A 2004 National Organization on Disability¹²/Harris Survey of Americans with Disabilities¹³ found that only 35 percent of people with disabilities reported being employed full or part time, compared with 78 percent of those who did not have disabilities.

Although 22 percent of employed people with disabilities reported encountering job discrimination in 2004, it was a dramatic drop from the 36 percent who reported encountering discrimination only four years earlier.

The mean earnings in 2000 of year-round, full-time workers ages 16 to 64 with work disabilities was \$33,109 compared with \$43,269 for those without work disabilities.¹⁴ And 72 percent of people with work disabilities had high school diplomas or higher education, and 11 percent had bachelor's or advanced degrees in 2001.¹⁵

Women, Minorities, and Persons with Disabilities in Science and Engineering: 2004, from the National Science Foundation, documents disability employment statistics in science and engineering: People with disabilities comprise 7.8 percent of this group while those without disabilities make up 92.2 percent.¹⁶

Are Disabled People a Minority Group?

"...individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society..." (Americans with Disabilities Act of 1990).¹⁷

In the past, disability was defined almost exclusively as functional impairment. Since the 1970s, however, there has been increasing recognition that *disability is a product of the interaction between the individual and the environment*. To understand disability requires an understanding of the architectural, institution-

al and attitudinal environment encountered by disabled people. The primary problems for these individuals are bias, prejudice, segregation and discrimination.¹⁸ These problems can only be overcome by changing attitudes, and by laws and policies guaranteeing equal rights to people with disabilities. Public policies reflect the attitudes of society. Inaccessible buildings are constructed and tolerated because laws or customs allow the exclusion of disabled people. Public attitudes restrict opportunity even more than inaccessible facilities do.

In at least two studies, college faculty with disabilities reported both overt discrimination and the failure to provide reasonable accommodations.¹⁹ Medical school faculty with disabilities reported mixed acceptance by peers and supervisors, often accompanied by a tepid institutional commitment to disabled persons.²⁰ In our study of State University of New York faculty, professionals and librarians, we found that 38 people (16.2 percent) felt they had been discriminated against and 26 (11.1 percent) said they had experienced harassment.²¹ Seventy-two (30.8 percent) said there were accommodations, which they did not have, that would enable them to better perform their jobs.

In both studies, fear of disclosing a hidden disability or of being discriminated against because of accommodation requests inhibited people from requesting reasonable accommodations to which they should have been entitled.

Even Before the ADA, Our Union Had Heard From Us

In 1985, the University at Albany hired a young assistant professor with a visual impairment. She needed a “talking” computer, which cost more than the computers provided to her colleagues. Although the university supplemented the department’s funds to buy the computer, this case alerted us to the possibility that if a department thought it might have to pick up the entire cost of some accommodations, even if the actual costs were quite low, the department might be deterred from hiring qualified people. As a result, three disabled union members took our concern to the union along with a recommendation that a central fund be established to help departments cover the cost of reasonable accommodations.

Unions aren’t automatically aware of members’ needs and concerns. Not without effort did labor unions come to support the rights of women and minorities. Unions should advocate for the *rights* and *inclusion* of disabled members, but often disabled members will need to *claim* that backing and advocacy.²²

In the late 1980s, with funding from the New York State/United University Professions (UUP) Joint Labor-Management Affirmative Action Committee, a group was formed to undertake a disability needs-assessment survey of representative SUNY campuses represented by UUP. Questionnaires were mailed to campus “504 coordinators”²³ and 25 individuals were interviewed. Based on that survey, our 1989 recommendations included a matching fund for reasonable accommodations to be monitored over a three-year period.²⁴

UUP sought a matching fund for accommodations in the next contract negotiations with the state, but the state turned it down. However the union did negotiate a joint labor-management program, the Grants for Employees with Disabilities Program, which covers out-of-pocket disability-related expenses incurred for professional work-related projects such as paying for personal assistance needed to attend professional conferences. It does not cover accommodations the campus must provide under the ADA.²⁵

Founding the Chapter Disability Committee

In 1992, UUP Albany chapter president Ivan Steen asked me to represent UUP on a campus task force that would assess the campus to see if it met the new ADA requirements. He offered me the opportunity to organize a disability committee.

A few of us drafted a charge to present to the chapter’s executive board, which accepted it in 1994. (See Appendix A.)

We emphasized that *our disability issues are work-related issues*. Disabled members’ concerns are UUP’s concerns. In a 2000 article in *The Voice*, we said that “having a disability is a particularly important reason to be active in our union. Disability isn’t just an individual matter. We join forces—as do all minorities—not because of our individual conditions, but because ignorance, stigma, political circumstances, and physical barriers deprive us all of rights and opportunities.”²⁶

The Committee’s Work Over the Years

Some important committee responsibilities are to channel communication to the executive board and management, to exchange information among members, and to build solidarity between members and the union. The following examples of our work illustrate these functions.

Shortly after the committee's inception, we were contacted by a woman whose office was on the third floor of an old building with no elevator. She said an elevator was scheduled for installation in two years but that she needed it sooner. Her worsening arthritis made it painful to climb two flights of stairs every day. She told us that her work would suffer if she moved her office away from her department, and her requests through departmental channels had produced no results. She asked whether we could help. I told our chapter president who brought it up at a labor-management meeting. The elevator was installed the next summer.

Snow in Albany is a serious problem and can be especially difficult for people using crutches, canes and wheelchairs. Sometimes, people have been unable to get to their offices because deep snow had not been removed or because plowed snow was piled up, blocking routes or parking lots. In 2001, chapter president Candace Merbler repeatedly brought this concern to labor-management meetings; the union prevailed in getting adequate snow removal procedures in place.

In 1998, at a meeting of the executive board, our chapter president reported that the university administration, which in the past had supported disability concerns, planned to move handicapped parking away from the academic podium as part of a plan to beautify the campus. The academic podium, which is the heart of the campus, consists of 13 academic buildings on a common platform with halls and tunnels connecting classrooms and laboratories, the main library, the science library, the campus center and the performing arts center. Without the union's input, it might have been a long time before we even knew about these plans.

News of the plans shocked the campus disability community. Members of the UUP disability committee joined forces and took leadership roles in an informal coalition to explore options and raise awareness. The coalition collected 1,000 signatures on a petition calling for retention of accessible parking near the podium and met with civil rights and disability rights lawyers to consider options. Although the ADA does not mandate a specific maximum distance from an accessible entrance within which handicapped parking spaces must be located, we discovered that the Parking Consultants Council of the (U.S.) National Parking Association recommended a maximum distance of 100 ft., and the Canadian accessibility guidelines recommended a maximum distance of about 83 ft.²⁷ In response to public outcry, the university's executive vice president presented

the university's plans at several open meetings while the union raised the subject at several labor-management meetings. The campus was abuzz, and, by fall, things had changed. New consultants were hired. The university created a parking and pedestrian issues committee that included two members of the UUP disability committee. Some changes were made, but handicapped parking was saved. The UUP chapter leadership, especially labor relations specialist Gary Ruberti, chapter president Ivan Steen, and members of the disability committee, played an important role in saving it.

Statewide Disability Rights and Concerns Committee Established

The Albany chapter committee had existed only a few years when members requested that a statewide UUP committee be formed to raise awareness of disability issues at delegate assemblies, to sponsor resolutions, make contract recommendations, and coordinate the work of chapter committees. The statewide committee, organized in the mid-1990s as the disability issues committee, in 1996 changed its name to the disability rights and concerns committee. This committee was charged by the UUP executive board “[t]o monitor campus implementation of the Americans with Disabilities Act and to make recommendations regarding disability rights.”²⁸

Statewide Committee Surveys SUNY Campus Implementation of ADA

Responding to its charge, the disability committee surveyed UUP bargaining unit members in 2000. The findings were published in a 2004 report, *Disability Access at SUNY Campuses: 10 Years After the ADA: A Report from United University Professions' Disability Rights and Concerns Committee*, which was based on a survey of 234 members who had disabilities as well as telephone interviews, data from campus accessibility checklists, and written reports from two campuses. To protect anonymity, we omitted questions about gender, race or campus specifics, although this meant that we could not report on those differences. Despite our effort to protect anonymity, we know that some people did not respond to our questionnaire because they feared being identified.

With regard to campus accessibility, we found the general picture on SUNY campuses to be very uneven. There are still a lot of places where it is difficult or impossible for disabled people to access programs or facilities. Unsafe conditions jeopardize everyone and put the university at risk for liability suits; nonetheless,

many unsafe conditions were reported. Barriers exist even on the most accessible campuses; some campuses have many obstacles, even though accessible facilities would benefit almost everyone. Building access may be quite difficult. Some old buildings are inaccessible because nothing has been done to improve them, while other old buildings have been creatively rehabilitated to make them accessible. Despite criticisms, respondents acknowledged that there have been improvements and there is good access to buildings and other locations on many campuses.

With regard to reasonable accommodations, we wrote:

“There is a serious lack of needed accommodations for disabled employees at SUNY. Stinginess in providing job-enhancing accommodations is “penny-wise and pound-foolish” and translates into a loss of productivity to both SUNY and the 72 employees who need them. UUP chapters and their disability committees should strive to educate their campus communities, including supervisors, about the importance of reasonable accommodations. Employees who need accommodations must vigorously request them and UUP chapters and their disability committees should support individuals in their requests for accommodations.”

Discrimination was found on some campuses, but most disabled people gave positive ratings to the “acceptance” of disability by SUNY colleagues, students, supervisors, and administration. On a scale of 1 to 10 (with 10 being the highest level of acceptance), respondents perceived acceptance of disability by the following groups: students, peers, supervisors, and college or university administrators. Peers were rated the highest with an average rating of 7.7 percent and administrators the lowest with an average rating of 6.7 percent.

Additional findings and suggestions are included below in the recommendations section of this article.

The Disability Committee Alerted the Union to a Threat to Public Employees' Rights

In 1999, members of the disability committee learned of a disturbing use of the 11th Amendment by the U.S. Supreme Court. Based on a 1996 court ruling²⁹ that Congress could not override states' 11th amendment immunity from monetary lawsuits under certain laws, the court had dismissed a case for overtime pay brought by employees of the state of Maine because even though the Fair Labor Standards Act made it illegal to deny someone time-and-a-half overtime pay, the state could no longer be sued by a private party.³⁰ We feared that the court's interpretation of the 11th Amendment could be used to deny state employees the right to sue the state employer under several federal laws including the Americans with Disabilities Act. We brought our concern to UUP president William Scheuerman. As a result, in 1999 the UUP executive board created the committee on civil rights and the 11th Amendment, which later became the human and civil rights committee, when it became apparent that judicial threats to our rights were broader than simply 11th Amendment cases. The UUP executive board charged the committee to prepare a report on the impact of recent U. S. Supreme Court decisions on UUP members' rights. The committee also was charged to offer specific policy recommendations. The committee's report, *Restoring the Rights of State Employees: A Report from United University Professions' Human and Civil Rights Committee*, is available online.³¹ The human and civil rights committee continues to monitor threats to the civil rights of public employees, explore options to restore or retain employee rights, and inform the UUP executive board and the membership about the committee's actions.

Recommendations for Campuses and Academic Unions

The following recommendations are based on both our experience and our survey. Some apply more to individual campuses, others to larger entities or both.

Campus Accessibility

"The major problems confronted by people with disabilities can be traced to the restraints imposed by a disabling environment."³²

Overall, we found a very uneven picture when it came to transportation and communication barriers. There were still a lot of places where it was difficult or impossible for disabled people to access programs or facilities. The survey

responses confirmed the need for action based on a systematic professional evaluation of every campus. Highlights of the recommendations include:

- Lobby for systematic funding to evaluate all campus facilities by professional disability-accommodation consultants and for funding to implement the ensuing recommendations.
- Conduct more stringent evaluation of SUNY in terms of latest self-evaluation forms and checklists for 504 compliance from the U.S. Department of Education.
- Represent disability concerns on planning boards for new or renovated buildings, and require that the principles of universal design (see section below) be an integral part in the planning of *all* new university buildings and technological systems.³³
- Ensure that campus meetings are held at accessible locations. Are the meetings accessible to hearing-impaired persons? People with respiratory allergies? Ask them how they could be accommodated. Are other groups excluded by lack of access?

Universal Design

“The design imperative is to provide the necessary means for every person they can possibly serve.”³⁴

Universal design goes *beyond* accommodating disabled people; it requires an approach that promotes equity and social justice by design. The principle of equal environmental adaptations would “level the playing field” by permitting disabled citizens to enjoy benefits commensurate with the advantages given the nondisabled in an unaccommodating environment.³⁵ Also called “inclusive design,” it exceeds ADA standards. It incorporates inclusiveness in the design of everything, and can be applied to the design of landscapes, buildings, computers, the Internet, even tools and appliances. Universal design encompasses the needs of children, aging populations *and* people with disabilities of all kinds.

It is intolerant of anything that defines, distinguishes or segregates individuals on the basis of their capacity and ability.³⁶ Examples include wide doors, flat entrances and door and drawer handles that do not require gripping or twisting to operate. The precedent that “separate is not equal” introduced an approach

that respects all users: “Accessibility features that are a thoughtless add-on after the basic design of a place or a product have a stigmatizing quality not unlike the segregated ‘back of the bus’ practices...once the norm in the United States.”³⁷ The recommendation in this area was to require that the principles of universal design be an integral part of the planning of all new university buildings and technological systems.³⁸

Reasonable Accommodations

“...modification...to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions...includes adjustments to assure that... individual...has rights and privileges...equal to those ...without disabilities.”³⁹

“Without necessary accommodations, faculty members may fail to achieve, let alone excel.”⁴⁰

Not all disabled people require accommodation, but for those who do, it may be essential. Accommodations may modify the physical environment or change the organization of work. Job Accommodation Network data suggest that more than half of all accommodations cost less than \$500.⁴¹

Physical accommodations in our report included ergonomic furniture; air conditioners; TTY; visible fire and smoke alarms; amplifiers/volume adapter for phone; soundproofing rooms; revamping heating, ventilation, and air-conditioning systems; handicapped parking permits; computer adaptations such as special software, roll-ball mouse, left-hand mouse, modifying keyboard tray, arm rest for keyboard, large monitor.

Social or work organization accommodations included readers to check work; moving to a job that required no lifting; moving to a less stressful atmosphere; teaching scheduled in the same building where office is located; shortened workday and flexible scheduling; time off the tenure clock; moving work location because of allergies, speech, or hearing problems; moving to a building with an elevator.

People had problems obtaining accommodations. Seventy-two people (30.8 percent) said there were accommodations, which they did not have, that would enable them to better perform their jobs. Lack of needed accommodations represents a loss of productivity to employers and to the employees who need them. Unfortunately, some people think “reasonable accommodation” is “special treatment,” which they believe is undeserved. Fear of disclosing a hidden disability often prevents people from requesting accommodations.⁴² A senior faculty member at a large campus told us she was afraid to admit she has a disability, and this kept her from requesting handicapped parking, which she needed. Another wrote: “I’m not willing to disclose my emotional [disability] for fear of repercussions.”⁴³ The recommendations were:

- Educate the public about the reasonable accommodations employers are required to provide under ADA. See Job Accommodation Network for more information: <http://www.jan.wvu.edu/>
- Assess whether the campus has adequate and well-publicized procedures for requesting reasonable accommodations. Do they include appeal procedures when requests are denied? Are procedures publicized and available?
- Seek matching funds for more expensive accommodations from university administration if possible.

Attitudes and Behavior Toward People with Disabilities

“[It]...is the attitudes and institutions of the nondisabled, even more than the biological characteristics of the disabled, that turn characteristics into handicaps.”⁴⁴

Most people with disabilities feel there is at least a moderate degree of “acceptance” of disability on SUNY campuses, but 38 (16.2 percent) felt they had been discriminated against, and 26 (11.1 percent) said they had experienced harassment. Discrimination and harassment persist and may occur because of stereotypes and prejudice, because in a competitive environment differences may be exploited, because of lack of knowledge, misunderstanding or other reasons. *Whatever the reason, no level of discrimination and harassment is acceptable.*⁴⁵

The public often ranks disabilities into hierarchies of perceived legitimacy, and these have been reported in several studies.⁴⁶ To some people, only stereotypical conditions such as blindness, deafness, or those requiring the use of a

wheelchair are considered legitimate disabilities. Because of the stigma, people whose disabilities can be hidden often do not disclose them. In our study, 35.7 percent of those with psychiatric and emotional disabilities and 18.2 percent of those with cognitive or learning disabilities *disclosed their disability to no one*. Slightly more than 16 percent said they had been discriminated against during their employment at SUNY. The most frequently reported type of discrimination was in accommodations (9.8 percent) followed by promotion (6 percent) and salary (2.6 percent). Nine of 19 written responses indicated mistreatment by administrators or supervisors. Six said their positions were threatened or that they had been demoted.⁴⁷

Just over 11 percent said they had experienced harassment because of disability. Harassment was reported by 36.4 percent of those with learning disabilities, 36.4 percent of the people with speech disabilities, and 12.8 percent with chronic illnesses. One person whose hearing disability was often the subject of insensitive jokes by colleagues told us about being harassed and then being punished for reporting it.⁴⁸ The recommendations were:

- Demand policies against harassment of persons with disabilities and enforcement of such policies where they exist.
- Educate the public about the less-understood disabilities, especially psychiatric disabilities, learning disabilities, speech and hearing disabilities.
- Make clear the union's commitment to empowering everyone, including those with disabilities, to enjoy a fully productive professional life.
- Challenge insensitive comments and jokes demeaning the ADA or people with disabilities.

Age and Disability

People who become disabled later in life are often poorly prepared to become independent and productive with a disability, but there is much they can learn from the experience of others. These older individuals often experience a sense of personal loss and threat to identity even though disability is a natural part of life and, in a positive climate with a well-designed environment, does not prevent people from continuing to be productive.

It is crucial that people who become disabled later in life regain a sense of purpose by moving beyond negative self-perception and feelings of loss. Middle-aged people with disabilities should not have to cope with inaccessible campus-

es or with being marginalized or ostracized. When colleges provide accessible campuses and reasonable accommodations, and accord disabled persons the respect and dignity due all people, then aging with a disability should be like aging without a disability. Recommendations include:

- Make campuses physically accessible and socially inclusive so that all of us, and all of our students, can participate in campus life.⁴⁹
- Create a mutually supportive disability community that can give members who have disability-related questions access to the experience of other disabled people.

Expenses

“...people with disabilities...have among the...highest out-of-pocket expenses of all population groups.”⁵⁰

Living with a disability usually costs more than living without a disability. Out-of-pocket expenses can include things such as the cost of readers or interpreters, assistive technology, transportation, personal assistance, co-pays for covered medical equipment, prosthetics and drugs, and the full cost of medical expenses that may not be covered by insurance.

More than half (53.4 percent) of the people in our study had disability-related expenses not covered by their health insurance or HMO, but only 15 percent had out-of-pocket expenses for personal assistance necessary to perform their work. More than half of our respondents had out-of-pocket medical expenses; almost 25 percent had annual expenses under \$500, and almost 19 percent had annual expenses over \$500.

The recommendations were to:

- Seek contract coverage for as many medical or disability-related needs as possible. These might include things such as hearing-aid reimbursements and also better coverage of durable medical equipment and dental expenses.
- Seek medical flexible spending account plans; although they don't reimburse medical or disability-related costs, these plans do allow people to shelter more of these expenses from income tax.

A Just Community

“Our demand for accessible campuses and an end to discrimination is based, not on charity or pity or even humaneness, but on a claim to justice.”⁵¹

An ideal university maximizes the opportunities and contributions of everyone. As we call for equal opportunity for disabled faculty, we must concentrate no less on the needs and rights of disabled students.⁵²

In 1998, New York’s Task Force on Postsecondary Education and Disabilities developed “a global vision and strategies to enhance access and encourage full participation of individuals with disabilities in postsecondary education.” Its vision:

“all students with disabilities who have acquired knowledge and skills to benefit from a higher education experience will have full access and opportunity.”⁵³

Just as race and gender have been reconceptualized by scholars of their respective studies, disability studies should be a part of the “just” academic community to contradict the inadequate and inaccurate conceptualizations of disability that have dominated academic inquiry. Exposure to disability studies provides a view of disability as part of universal human experience. It compares the way disability has been interpreted; the development of the disability community and of social identity; the political results of assigning value to bodies; the history of how disability influences and is influenced by the distribution of resources, power, and status; and how disability affects artistic production.⁵⁴ The “demedicalization” of disability replaces a medical view with a sociopolitical perspective that should become standard in any class about art, literature, history, politics, culture, or anywhere “disability” is mentioned.

There is growing support nationally for disability studies. The Modern Language Association has established a committee on disability issues in the profession, and the MLA’s annual meetings now include sessions on disability studies. For example, the 2008 convention call for papers includes a call from the MLA Children’s Literature Association for papers on Representations of Disability.⁵⁵ The discipline supports three scholarly journals and has been recognized by

academic organizations including the American Historical Association, the American Studies Association, American Speech-Language-Hearing Association, and the Speech Communication Association. Several major academic conferences are now devoted to discussions that center on pedagogical and scholarly research in disability studies, the Society for Disability Studies annual conference being the main one.⁵⁶ Recommendations, then, include:

- Work for campus commitment to a statement of principles for a just community as well as a commitment to providing full access and opportunity to all students with disabilities who have the knowledge and skills to benefit from higher education.
- Demedicalize disability in teaching and all other contexts.
- Support the addition of disability studies courses and promote the establishment of a disability studies major.
- Work for the inclusion of disability in programs that promote diversity.

Role of the Union

Our experience shows that unions can play an important role in promoting disability rights and access. Disability advocacy is needed at all levels. The local chapter committee is essential to remove campus barriers, improve individual working conditions, and build solidarity among disabled members. But the individual campus exists as part of a larger organization, in our case the State University of New York, and university policies and priorities are addressed by the statewide union.

Union advocacy for the rights of disabled members to equal opportunity and full participation in campus and community life is part and parcel of UUP's commitment to all members including other minority groups. As noted earlier, UUP's committee on disability rights and concerns and other union committees have included disability rights in some form as part of their agendas. The human and civil rights committee has monitored court decisions and made recommendations⁵⁷ regarding the results of the Supreme Court's ADA decisions.⁵⁸ The UUP legislation committee's initiatives include endorsing legislation to restore the rights of public employees to sue the state for violations of the ADA.⁵⁹

UUP chapters also can be important in dealing with the day-to-day concerns of individual members. At labor-management meetings, chapter officers can raise issues such as accessibility, snow removal, unsafe traffic conditions as well as campus policy issues. Members of chapter disability committees can

be mutually supportive and communicate about disability concerns to the chapter leadership.⁶⁰

The UUP contract addresses some disability concerns. The joint State-UUP Affirmative Action/Diversity Committee administers the Grants for Employees with Disabilities Program and the Dr. Nuala McGann Drescher Affirmative Action/Diversity Leave Program, which enhances employment opportunities giving preference to minorities, women, employees with disabilities, and Vietnam-era veterans who are preparing for permanent or continuing appointments. The campus grants committee encompasses programmatic committees and provides funding for needs such as making the workplace safer; encouraging and promoting professional development; expanding affirmative action/diversity opportunities for women, Vietnam-era veterans, and minorities; and promoting funding opportunities for employees with disabilities.⁶¹ A provision of the UUP Empire Plan Enhancements, the “Medical Flexible Spending Account Plan,” allows people to put aside pre-tax dollars for medical expenses (including disability-related expenses such as making homes and vehicles accessible). These efforts continue.

One crucial component of the union’s program is the establishment of chapter disability committees where the needs of individual members can become the collective voice of the full membership. A chapter disability committee can show that the union is inclusive and present the chapter in a positive light for its interest in supporting all people who are represented. A chapter disability committee also gets people with disabilities involved in the union. Members of the disability committee also can become delegates or take on other chapter responsibilities. Occasional notes about issues of interest in the chapter newsletter can reach people with disabilities whose union involvement to date has been minimal. Disability committee members can write these notes.

A chapter should recruit members with disabilities. It should reach out to those on campus whose disability-related needs are unmet, especially newly disabled people who need accommodations and may be unaware of accessible facilities and services.

Disability committee representation on the chapter’s executive board provides two-way communication. The board has oversight of committee activities, and it learns about the ADA and about disability-related issues on campus.

The disability committee also can serve as an institutional memory. Disability committees need to be kept functioning and alive *even when nothing seems needed* at the moment. They should remind members of their continuing existence so that they will bring disability-related job concerns to the committee.

Finally, a number of other union-related issues should be noted:

- The union should ensure that campus disaster planning includes plans for people with disabilities, who should be involved in the planning process. See for example the NCD 2005 publication *Saving Lives: Including People with Disabilities in Emergency Planning*, http://www.ncd.gov/newsroom/publications/2005/saving_lives.htm#executive
- The union can help facilitate electronic mailing lists and other forms of electronic communication about campus disability issues. One, for example, came out of the parking dispute at the Albany campus.
- The union should be proactive in getting out news stories. Too often the disability side of issues and events is underreported or trivialized. The union should undertake programs to promote public awareness. For example, a forum could be held recognizing that 2010 will be the 20th anniversary of the ADA.
- The union should urge agencies collecting demographic data on college faculty to include disability in their data instruments.

An institution truly interested in the diversity of its student body and its workforce should place disability high on its list of concerns. Institutions need to find ways to alleviate the physical obstacles and attitudinal challenges that often stand in the way of disabled individuals on campus. Unions should be partners in this effort.

This article records the ways one strong, progressive union has intervened to advance these efforts. We hope the information given here will provide inspiration and support to the efforts of individuals and organizations nationwide to create an accessible academic community for the disabled.

We thank United University Professions past president William Scheuerman and the UUP executive board for their encouragement and leadership, and the UUP

officers and staff for their unflagging support. Our work is still in progress, and we look forward to continuing to work together with our new president, board and officers to strengthen the union and the rights of its members with disabilities.

APPENDIX A

Charge to the Committee on Disability Issues of the Albany Chapter of UUP

Recognizing that issues of employees with disabilities are labor/management concerns, in 1993 the Albany chapter of United University Professions formed an ad hoc committee on disability, composed of UUP members, to assist in the furtherance of these concerns.

The committee is charged to:

- Advise the local chapter of UUP about the Americans with Disabilities Act of 1990 and other relevant federal and state legislation;
- Promote policies consistent with the Americans with Disabilities Act of 1990 including the achievement of reasonable accommodations for UUP members;
- Promote the recruitment, retention, and advancement of persons with disabilities on SUNY campuses;
- Advise the Albany UUP chapter executive committee about the dissemination of information to the UUP chapter membership regarding the needs, rights, and responsibilities of its members with disabilities;
- Serve as consultants, advocates, or in other functions where appropriate, on disability-related issues;
- Cooperate with other disability-related groups to promote the rights and well-being of all persons with disabilities;
- Engage in other UUP or disability-related activities as appropriate.

ENDNOTES

¹ The words “disabled” or “disability” are preferred over “handicapped.” Some disability activists prefer “people with disabilities” but accept “disabled people,” which is used to describe a characteristic rather than an indication of inability. The phrase “the disabled” is not good usage. “Beyond the AP Stylebook.” *Ragged Edge Online*. The Advocado Press. 1992. <http://www.ragged-edge-mag.com/mediacircus/styleguide.htm>, July 11, 2006.)

² For example: *Sutton v. United Air Lines*, 527 U.S. 471; 119 S. Ct. 2139 (1999). ADA protection may be denied to a person whose disability is compensated by mitigating measures such as a prosthetic device; *Toyota Motor Mfg., Inc. v. Williams, Ella*, 534 U.S. 184 (2002), excludes from ADA protection anyone whose work disability doesn’t also limit the employee’s ability to perform tasks central to daily life such as brushing one’s teeth; *Board of Trustees of the University of Alabama v. Garrett*, 531 U.S. 356 (2001), denies state employees the right to monetary suits against their employers for violating Title I of the ADA.

³ National Council on Disability. *Supreme Court Decisions Interpreting the Americans with Disabilities Act*. Updated September 17, 2002. http://www.ncd.gov/newsroom/publications/2002/supremecourt_ada.htm#E (July 14, 2007).

⁴ *Kimel v. Florida Board of Regents*, 528 U.S. 62 (2000), denies state employees the right to monetary suits against their employers for violations of the Age Discrimination in Employment Act.

⁵ United University Professions is the union representing more than 32,000 academic and professional faculty on 29 State University of New York campuses, plus System Administration, Empire State College, and the New York State Theatre Institute. UUP is affiliated with the New York State United Teachers and the American Federation of Teachers, AFL-CIO. For more information about UUP, see <http://www.uupinfo.org/membership/welcome.html>.

⁶ University of California at Los Angeles, Higher Education Research Institute, *2004 Faculty Survey*, http://www.gseis.ucla.edu/heri/PDFs/FAC_survey_2004.pdf (July 16, 2007).

⁷ Annie G. Steinberg et al., "Reasonable Accommodations for Medical Faculty with Disabilities," *JAMA: Journal of the American Medical Association* 288, no. 24 (2002): 3147-54.

⁸ The Center for an Accessible Society, "Disability and the 2000 Census: What Reporters Need to Know," <http://www.accessiblesociety.org/topics/demographics-identity/census2000.htm> (July 19, 2007).

⁹ U.S. Census Bureau, *Facts for Features*, CB02-FF.11, <http://www.census.gov/Press-Release/www/2002/cb02ff11.html> (July 19, 2007).

¹⁰ The National Council on Disability (NCD), established in 1978, is an independent federal agency making recommendations to the president and Congress to enhance the quality of life for all Americans with disabilities and their families. NCD is composed of 15 members appointed by the president and confirmed by the U.S. Senate. <http://www.ncd.gov/brochure.htm>.

¹¹ National Council on Disability, *Improving Federal Disability Data*, <http://www.ncd.gov/newsroom/publications/2004/improvedata.htm> (July 17, 2007).

¹² The National Organization on Disability was founded in 1982. Its mission is "to expand the participation and contribution of America's 54 million men, women, and children with disabilities in all aspects of life." (National Organization on Disability. <http://www.nod.org/index.cfm?fuseaction=page.viewPage&pageID=24> July 14, 2006).

¹³ National Organization on Disability/Harris Survey of Americans with Disabilities <http://www.nod.org/index.cfm?fuseaction=Feature.showFeature&FeatureID=1422>

¹⁴ Current Population Survey, March 2001 supplement, quoted in U.S. Census Bureau. *Facts for Features*, CB02-FF.11, <http://www.census.gov/Press-Release/www/2002/cb02ff11.html> (July 19, 2007).

¹⁵ U.S. Census Bureau. *Facts for Features*.

¹⁶ National Science Foundation, "Employed Bachelor's or Higher Degree Recipients By

Occupation, Sex, Race/Ethnicity, Country of Birth, and Disability Status (2000); *Women, Minorities, and Persons with Disabilities in Science and Engineering*: 2004, online at Lexis-Nexis (July 17, 2007).

¹⁷ *The U.S. Equal Employment Opportunity Commission, Americans with Disabilities Act of 1990, Titles I and V*, <http://www.eeoc.gov/policy/ada.html> (August 25, 2007).

¹⁸ Harlan Hahn, "Civil Rights FOR Disabled Americans: the Foundation of a Political Agenda," Internet publication, n.d., <http://www.independentliving.org/docs4/hahn.html> (accessed July 18, 2002).

¹⁹ The Americans with Disabilities Act was enacted "to establish a clear and comprehensive prohibition of discrimination on the basis of disability." Title I states, among other things, that:

"No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment."

And discrimination includes:

"not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity."

²⁰ Steinberg et al., "Reasonable Accommodations."

²¹ Sara D. Knapp, *Disability Access at SUNY Campuses: 10 years After the ADA*, A Report from United University Professions' Disability Rights and Concerns Committee, prepared by Sara D. Knapp, co-chair, UUP Disability Rights and Concerns Committee, April 2004, <http://www.uupinfo.org/reports/disability.pdf>. (July 15, 2006).

²² Unions should unconditionally support ADA purposes, especially: "...to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for... individuals" [with disabilities] (Americans with Disabilities Act of 1990).

²³ Prior to the ADA, the university was required to provide "reasonable accommodations" to people with disabilities under Section 504 of the 1973 Rehabilitation Act. (U.S. Department of Health and Human Services. Office for Civil Rights. "Your Rights Under Section 504 of the Rehabilitation Act." <http://www.hhs.gov/ocr/504.html> (July 1, 2006)

²⁴ Sally Friedman et al., *Disability Needs Assessment of SUNY Campuses* / Sara D. Knapp, project director; prepared by Sally Friedman et al. Funded by New York State/United University Professions, Joint Labor-Management Affirmative Action Committee (Albany, NY: The University at Albany, State University of New York, 1989).

²⁵ State University of New York/United University Professions, Joint Labor-Management Committees, *Grants for Employees with Disabilities Program*, <http://www.uup.lmc.state.ny.us./diversity/disability.html> (July 3, 2006).

- ²⁶ William Roth and Sally Knapp, "Time to Speak Up: Union Offers Disabled Members a 'Channel of Communication,'" *The Voice* (2000): September 15, 2003, <http://www.uupinfo.org/reports/disability.pdf>. (July 5, 2007).
- ²⁷ Anthony P. Chrest, Mary S. Smith, and Sam Bhuyan, *Parking Structures: Planning, Design, Construction, Maintenance, and Repair*, 2d ed. (New York: Chapman & Hall, 1996).
- ²⁸ United University Professions, Disability Rights and Concerns Committee, Committee Web page, http://www.uuphost.org/committees/disability/uup_ada.html (August 25, 2007).
- ²⁹ *Seminole Tribe v. Florida*, 517 U.S. 44 (1996).
- ³⁰ *Alden v. Maine*, 527 U.S. 706 (1999).
- ³¹ Laudelina Martinez and Sara D. Knapp, with the assistance of the UUP Human and Civil Rights Committee, "Restoring the Rights of State Employees: A Report from United University Professions' Human and Civil Rights Committee" (Albany, NY: UUP, July 2003). <http://www.uupinfo.org/reports/civilrights.pdf> (July 11, 2006).
- ³² Harlan Hahn, "Accommodations and the ADA: Unreasonable Bias or Biased Reasoning?" *Berkeley Journal of Employment and Labor Law* 21 (2000): 166 (27p.).
- ³³ Sara D. Knapp, *Disability Access at SUNY Campuses*.
- ³⁴ Patricia A. Moore, "Experiencing Universal Design," *Universal Design Handbook*, eds. Wolfgang F. E. Preiser and Elaine Ostroff (New York: McGraw-Hill, 2001) 2.1-2.12.
- ³⁵ Hahn, "Accommodations and the ADA."
- ³⁶ Ibid.
- ³⁷ Elaine Ostroff, "Universal Design:the New Paradigm," *Universal Design Handbook*, eds. Wolfgang F. E. Preiser and Elaine Ostroff (New York: McGraw-Hill, 2001) 1.3- 1.12.
- ³⁸ Sara D. Knapp. *Disability Access at SUNY Campuses: 10 years After the ADA*.
- ³⁹ U.S. Department of Labor, Office of Disability Employment Policy. Job Accommodation Network. ADA Information. Title I of the ADA, "Questions and Answers." <http://www.jan.wvu.edu/links/ADAq&a.html> (July15, 2006).
- ⁴⁰ Annie G. Steinberg et al. "Reasonable Accommodations for Medical Faculty with Disabilities." *JAMA: Journal of the American Medical Association* 288, no. 24 (2002).
- ⁴¹ U.S. Department of Labor, Office of Disability Employment. Job Accommodation Network, *Frequently Asked Questions*. <http://www.jan.wvu.edu/portals/faqs.html#fund> (July 7, 2006).
- ⁴² Sharon L. Harlan and Robert, Pamela M. "The Social Construction of Disability in Organizations: Why Employers Resist Reasonable Accommodation," *Work & Occupations* 25, no. 4 (1998) 397 (39); Steinberg, Iezzoni, Conill, Stineman, "Reasonable Accommodations for Medical Faculty with Disabilities," *JAMA: Journal of the American Medical Association* 288, no. 24 (2002); Teresa L. Scheid, "Compliance with the ADA and Employment of Those with Mental Disabilities," *Employment, Disability and the Americans With Disabilities Act*, ed. David Peter Blanck (Evanston, IL: Northwestern University Press, 2000): 146-73.

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- ⁴⁴ Susan R. Jones, "Toward Inclusive Theory: Disability as Social Construction." *NASPA Journal* 33 (1996): 347-54. Online through WilsonWeb, University at Albany Library. Albany. July 20, 2002.
- ⁴⁵ Ibid.
- ⁴⁶ Mollie Weighner Marti, and Peter David Blanck. "Attitudes, Behavior, and the ADA," *Employment, Disability, and the Americans with Disabilities Act: Issues in Law, Public Policy, and Research*, ed. Peter David Blanck (Evanston, IL: Northwestern University Press, 2000): 356-84; Harlan and Robert, 1995. 26-30]. [This refers to the 1995 Harlan and Robert publication. I added the date]
- ⁴⁷ Sara D. Knapp, *Disability Access at SUNY Campuses*.
- ⁴⁸ Ibid.
- ⁴⁹ Ibid.
- ⁵⁰ Andrew I. Batavia, and Richard L. Beaulaurier. "The Financial Vulnerability of People with Disabilities: Assessing Poverty Risks," *Journal of Sociology & Social Welfare* 28, no. 1 (2001): 139 EBSCO Academic Search Premier. University at Albany Library. Albany. September 19, 2003. <<http://web.ebscohost.com.libproxy.albany.edu/ehost/pdf?vid=3&hid=21&sid=d1de6e51-b858-4efb-84e8-e346cf21f65%40sessionmgr3> >
- ⁵¹ Ibid.
- ⁵² University at Albany, State University of New York, "Principles for a Just Community," *Graduate Bulletin*, 2006 http://www.albany.edu/grad/general_information.html (July 3, 2007).
- ⁵³ Ibid.
- ⁵⁴ Ohio State University, "*Disability Studies as a Minor*," March 30, 2003, <http://ada.osu.edu/Disability%20Studies%20Webpage/DS%20Draft.htm>.
- ⁵⁵ Modern Language Association. "Calls for Papers for 2008 Convention in San Francisco." 27 Jan. 2008. < <http://www.mla.org/convention> >
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- ⁵⁸ *Board of Trustees of the University of Alabama v. Garrett*, 531 U.S. 356 (2001) .
- ⁵⁹ United University Professions, *Legislative Prioritie*, <http://www.uupinfo.org/legislation/legagenda06.pdf> (July 20,2006).
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