## ALASKA MENTAL HEALTH BOARD

## MEMORANDUM

To:	Alaska Mental Health Board	Date: July 11, 2000
From:	Margo Waring Health & Social Services Planner	Phone: 465-3278
Subj.:	Garrett v. University of Alabama	File:

A letter had been prepared for AMHB review at the Galena meeting regarding a challenge to the Americans with Disabilities (ADA) act by the state of Alabama in which states would no longer fall under the purview of the ADA. In preparing the draft letter I had spoken with Dave Fleurant, managing attorney for the Disability Law Center. From him I learned that the Attorney General (AG) had rejected the idea of joining in on the side of the anti-ADA position, but was had not decided regarding joining on the pro-ADA side. The draft letter encouraged the AG to join in on this side. States wishing to join Minnesota's *amicus* brief must do so before the end of July.

After the Galena meeting, I was asked to check to into the thinking of the office of the Attorney General on joining an *amicus* brief in the case before the U.S. Supreme Court, *Garrett v. University of Alabama*. It is clear that Alaska will not join the anti-ADA side, as the time for submitting an *amicus* brief for this side has already passed. I spoke with Dave Jones, in the Anchorage AG's office Civil Section. He tells me that "so far" the AG has decided not to join the Minnesota, pro-ADA, brief. The AG has looked at this issue, by request, three times. His thinking is as follows.

According to Dave Jones, the AG feels that the federal ADA provisions duplicate state law, which may be even stronger than federal law. No matter what the U.S. Supreme Court decides, the state will continue to have its obligations under state law. In addition, the Alaska State Commission on Human Rights will look at both the stronger state law and at the federal ADA law and its decisions about it for guidance, giving Alaska the best of both perspectives. Thus, the AG feels no strong need exists for Alaska to weigh in on the side of Minnesota which is preparing an *amicus* brief that is pro-ADA.

Recommendation: The draft letter asks the AG to take a leadership role regarding the obligation of states toward persons with disabilities. The case before the U.S. Supreme Court may be strengthened by having as many states as possible join in Minnesota's *amicus* brief. Therefore, I would recommend sending the letter before the end of the month.