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Analysis by the Department of Justice of the OPM Model Plan

"People with Disabilities in the Federal Government: An Employment Guide"

The Department of Justice strongly opposes release of the OPM Model Plan in its current form and believes it would prove embarrassing to the Administration. The Plan omits any discussion of affirmative action, a concept which should be at the core of any Model Plan for Federal sector disability employment. The document also contains legally inaccurate statements and uses outdated language that would prove offensive and demeaning to people with disabilities. As drafted, the Plan conflicts with many objectives that have been carefully formulated by the Administration over the last six years with appropriate input from people with disabilities and other interested parties.

The following comments are not exhaustive, but represent the Department's best efforts, given the 24-hour turnaround time requested of us.

Major Issues

1. The Plan does not adequately set out the legal standard of section 501 of the Rehabilitation Act, that the Federal government must not only refrain from discrimination and provide reasonable accommodation, but engage in affirmative action employment practices. The Plan fails to include important elements of affirmative action, such as EEOC's model reasonable accommodation procedures and the obligation to consider taking steps in individual cases that would exceed what is required under reasonable accommodation. See EEOC's April 30, 1999, draft Management Directive 715 at 32-33.
2. Much of the language reflects stereotypes of people with disabilities and appears to be based on outdated "medical" or "charity" models of disability accommodation which many find offensive.
3. More emphasis should be placed on the Federal government's legal obligations. The Plan either fails to discuss, or inadequately discusses, the following issues:
 - ❖ the duty to provide effective communication through the use of appropriate auxiliary aids and services, except where doing so would pose an undue hardship;

- ❖ the duty to conduct individualized assessments of a person's ability to perform essential job functions;
- ❖ "program access" and the architectural standards for new construction and alterations requirements (without such an explanation, the discussion of modifying Federal work sites for reasonable accommodation becomes less intelligible);
- ❖ the prohibition of discrimination on the basis of association with a person with a disability, such as the spouse of someone who has HIV;
- ❖ the duty to ensure that reasonable accommodations are provided to Federal employees when contractors are used to provide services to Federal employees -- such as training on new computer software;
- ❖ the Federal government's obligations under the Family and Medical Leave Act;
- ❖ the duty to make transportation services available to employees(e.g., shuttle services) accessible to employees with disabilities; and
- ❖ the duty to keep disability-related personal information, including medical documentation, confidential and separate from standard employee files.

Specific Comments

- ❖ Throughout the document, change:
 - ❖ "the disabled" to "persons with disabilities" and "disabled employees" to "employees with disabilities;"
 - ❖ "the hearing impaired" or "individuals who are hearing impaired" to "individuals with hearing impairments" or "individuals who are deaf or hard of hearing;" and
 - ❖ "the blind" or "the visually impaired" to "people who are blind" or "people who have visual impairments."
- ❖ Throughout the document, there are statements to the effect that reasonable accommodations need only be provided upon request. This contradicts the EEOC's draft Management Directive 715 that there are circumstances under which it is appropriate as a matter

of affirmative action for a Federal employer to initiate a conversation about reasonable accommodation.

- ❖ P2, second bulleted paragraph: This statement is incomplete. It ignores the obligation to make individualized assessments and provide reasonable accommodations in all cases.
- ❖ P3, paragraph 4: The employment provisions of the ADA do not apply directly to the Federal government; the definitions and standards for determining discrimination are only applicable because they have been incorporated by reference into the Rehabilitation Act.
- ❖ P6, third bulleted para: Change the language to: "Education kits containing timely fact sheets on disability employment issues."
- ❖ P8: State vocational rehabilitation programs should not be the primary source of rehabilitation services to Federal employees. The emphasis should be on Federal sources such as the Job Accommodation Network, Department of Education, Department of Veterans Affairs, and the Access Board. The Federal government should not request employees with disabilities to become clients of State vocational rehabilitation programs. While State rehabilitation agencies provide special equipment for people with disabilities who are employed in the private sector or with State or local governments, it is less appropriate for the Federal government to seek or such assistance for items needed for reasonable accommodation or as part of an affirmative action program.
- ❖ P9, third bulleted paragraph: Give the example of a facial disfigurement.
- ❖ P9, "Targeted Disabilities:" Although the term "targeted disabilities" is defined, it is not a central concept in the Model Plan. Unlike the EEOC's draft Management Directive 715, there is no special emphasis placed on hiring and promoting people with targeted disabilities as part of the Federal government's affirmative action obligations.
- ❖ P11: first paragraph: The discussion on reasonable accommodation should start by indicating that Federal employers are required to provide reasonable accommodation to the known disabilities of an employee. In addition, language should be added indicating that, as a matter of affirmative action, there are certain circumstances under which Federal employers should

initiate a conversation about reasonable accommodations consistent with the EEOC's draft Management Directive 715.

❖ P11, third paragraph: Add language emphasizing that the employer should enter into an ❖interactive process❖ with the employee. Add after the third sentence, "An accommodation that has worked for an individual in the past may need to be re-evaluated as the person's disability changes in nature or severity."

❖ P12: Take out references to "special" testing. Refer instead simply to "testing" or "testing with appropriate accommodations."

❖ P12: In the first sentence under "Special Testing," it is unclear what is meant by the phrase "and there is no reasonable accommodation."

❖ P12: In the paragraph entitled, "Modifying Written Examinations:"

❖ clarify what is meant by the phrase "this task;"

❖ clarify that sign language interpreters may be needed to communicate the substance of the test, not just to explain test procedures and directions for taking the test; a better statement would simply be "and providing sign language interpreters for persons who are deaf or hard of hearing;" and

❖ change "verbal portions" to "aural portions."

❖ P13: Change the second paragraph to read:

"Many people with disabilities, even those with severe disabilities, may not need testing accommodations. Others for whom testing accommodations are often made include persons with neurological disorders such as cerebral palsy or multiple sclerosis, persons who have limited mobility or motor control of their arms or hands, persons with brain damage, and persons with learning disabilities such as dyslexia. In many of these instances, extended time for testing is appropriate."

❖ P13: In the second bulleted paragraph, change the word "tasks" to "objectives" so that it does not infer that there is only one way of doing something.

❖ P14: The section entitled "Accessible Facilities" should be redrafted to reflect section 504 requirements for program accessibility in existing facilities and for readily accessible new construction and alterations. This would provide the backdrop for the discussion of modifications to the work site as part of the reasonable accommodation obligation.

❖ P15: In the second paragraph under "Assistive Devices," replace the text with a broader statement emphasizing Federal resources.

❖ P15: Change the third paragraph under "Assistive Devices" to read in full:

"Federal employers are authorized to purchase equipment if it is determined that the use of the equipment is a reasonable accommodation that will enable an employee with a disability to better perform the essential functions of his or her job. Even if equipment is not required as a matter of reasonable accommodation, its purchase is authorized if it is in furtherance of the Federal government's affirmative action obligations." The footnote may be retained.

❖ PP15-16, "Readers and Interpreters." It is inappropriate in many circumstances for the Federal government to ask other employees to provide "reading" services as needed for employees who have visual impairments. It is inappropriate in most circumstances for the Federal government to ask other employees to act as sign language interpreters for employees who are deaf or hard of hearing. Unless they have been hired for those purposes, other employees will likely not have the skills or training to provide effective communication to the person with a disability. Additionally, this is likely to cause resentment among the colleagues of the person with a disability, who are being taken away from the work for which they were hired to perform. Trained, qualified personnel should be hired instead. In most instances, the cost of these accommodations will not rise to the level of undue hardship to the Federal government. There should also be a discussion of the need to provide verbal descriptions of training videos for persons who have visual impairments and for captioning training videos for persons with hearing impairments. There should be a discussion of the increased need for sign language interpreters during office meetings, training, and whenever job duties are shifted. The current draft gives only narrow examples of when it is appropriate to contract for sign language interpreters ❖ "conferences,

training courses, meetings, or court appearances" ❖
incorrectly implying that the need for sign language
interpreters will be rare.

❖ P17, "Flexible Leave Policies:" It is unclear whether
the discussion is meant to imply that persons with
disabilities may get additional administrative leave or
simply be allowed to take annual leave during snow
emergencies on a liberal leave basis.

❖ P17: The last paragraph under "Flexible Leave
Policies" should be redrafted to reflect the Federal
government's obligations under the Family and Medical
Leave Act. The government must, in most circumstances,
allow an employee to take up to six weeks of leave
without pay for illness or disability. As a matter of
reasonable accommodation or affirmative action, the
government may grant additional leave without pay for
persons with disabilities; this is where flexibility is
appropriate.

❖ P18, "Eliminating Transportation Barriers:" According
to EEOC guidance, transportation to the work site is
not a subject for reasonable accommodation. It is,
however, an appropriate subject for affirmative action.
The statement should include the provision of parking
for persons with mobility impairments or disabilities
affecting stamina.

❖ P19, second bulleted paragraph: Change the second
sentence to read, "Initial contact should start with
the person with a disability and the office responsible
for information technology (IT) management." Mention
GSA's Center for IT Accommodation, the Department of
Education's Disability Access Resource Center, and the
Computerized Accommodation Program (CAP) at the
Department of Defense as being available to provide
technical assistance.

❖ P19, first full "non-bulleted" paragraph: change the
reference from "special services" to "reasonable
accommodation."

❖ P19-20, "Details" and "Disability Retirement:" These
sections are confusing and go beyond what should be in
a discussion of reasonable accommodation.

❖ P21, "Competitive Appointments:" Change the fourth
sentence to "Appropriate auxiliary aids and services
leading to effective communication and other reasonable
accommodations should be provided during all aspects of
job application, including testing and interviewing."
Delete the rest of the paragraph.

- ❖ P23: Change the parenthetical remark in the second sentence to read, "those who have severe physical, cognitive, or psychiatric disabilities or who have a history of or are regarded as having such disabilities."
- ❖ P23. In the third bulleted paragraph, insert "and" between statements (1) and (2).
- ❖ P24. Change reference from "30 Percent or More Disabled Veterans" to "Veterans with Disabilities of 30 Percent or More."
- ❖ P24. In the first non-bulleted paragraph under "Disabled Veterans," include a statement that reasonable accommodations must be provided during any written test.
- ❖ P25. Change the last paragraph to read, "Any of these certificates must be maintained in a separate, confidential folder, rather than in the person's official personnel folder (OPF)."
- ❖ P26. Change the fourth bulleted paragraph to read, "For prolonged conversations, sit down so you are at the eye level of the wheelchair user."
- ❖ P26. In the fifth bulleted paragraph, change "are paralyzed" to "have paralysis" and change the last phrase to read "many can walk with or without the aid of canes, braces, or crutches."
- ❖ P27. Change the second sentence of the page to read, "People who use wheelchairs often use the same words."
- ❖ P27. Change the first three sentences of the first paragraph under "Blindness and Visual Impairments" to read, "The terms 'blindness' and 'visual impairment' may mean either a complete or partial loss of vision. With many, only the edges or a part of the visual field may be obscured, or there may be no central vision although side or peripheral vision still exists."
- ❖ P27. Change the second sentence of the second paragraph under "Blindness and Visual Impairments" to read, "People with visual impairments may or may not use these or other mobility aids."
- ❖ P27. Change the third sentence in the first bulleted paragraph to read, "Tell him or her where the chair is in relation to the person."

- ❖ P27. Add to the end of the fourth bulleted paragraph:
"Service animals are not pets."
- ❖ P28. In the first bulleted paragraph, add the word
"trained" before "reader."
- ❖ P28. Delete the third bulleted paragraph.
- ❖ P28. Change the second sentence under "Deafness and
Hearing Impairments" to read, "Individuals may be deaf
or hard of hearing and be able to speak clearly."
- ❖ P28. Change the last sentence of the second paragraph
under "Deafness and Hearing Impairments" to read, "In
many situations, it is necessary to obtain the services
of a qualified sign language interpreter to provide
effective communication, if the person who is deaf or
hard of hearing uses sign language as his or her
primary means of communication. Other accommodations
that may be required include the use of real-time
captioning, where a stenographer works to display aural
communication on a computer monitor or screen in 'real
time.'"
- ❖ P28. Delete the first two sentences of the third
paragraph under "Deafness and Hearing Impairments."
- ❖ P28. In the first bulleted paragraph under "Deafness
and Hearing Impairments," change the second sentence
to, "Gain his or her visual attention before starting a
conversation."
- ❖ P28. Add to the end of the second bulleted paragraph
under "Deafness and Hearing Impairments," "and with
adequate lighting."
- ❖ P29. Delete the third and fourth paragraphs under
"Invisible (Hidden) Disabilities."
- ❖ P30. In the second paragraph, change the first part of
the first sentence to read, "People who have mental
retardation, like others, may want..."
- ❖ P30. Delete the first two sentences under "People with
Psychiatric Disabilities."
- ❖ P30. Add the following bullets under "People with
Psychiatric Disabilities:"
 - ❖ As many psychiatric medications cause extreme
thirst, upon request allow the person to have
access to beverages even where food and drink are
normally prohibited.

- ❖ Consider offering a flexible schedule to allow the person to deal with medication issues, insomnia, fatigue, or other conditions that often accompany psychiatric disabilities.
- ❖ P31. Delete the first bulleted paragraph.
- ❖ P31. Change the last paragraph to read, "If the person's speech is difficult to understand, ask him or her to repeat what was said. Some people who have severe cerebral palsy or other muscular or neurological disabilities may communicate by writing, typing, or using a communication board or other electronic device."
- ❖ P33. The second paragraph must be edited to conform with EEOC's guidance on pre-employment inquiries.
- ❖ P33. In the first sentence under "Career Development," add "many" before "people with disabilities."
- ❖ P33. Change the last sentence to read, "Every effort should be made to ensure that employees with disabilities ❖ like others ❖ are given the opportunity to reach their maximum potential."
- ❖ P34. In the third sentence, change "clear description of the job" to read "clear description of the essential functions of the job."
- ❖ P34. In the second paragraph, delete the second sentence. Modify the third sentence to read, "Federal employers must provide equal employment opportunity."
- ❖ P34. Change the second sentence under "Training" to read, "Ensure that classes are held in accessible facilities, and, as necessary to provide effective communication, that materials are available in electronic format, large print, Braille, or audio cassette for persons with visual impairments, trained note takers and sign language interpreters or real-time captioning are provided to persons who are deaf or have hearing impairments, or other appropriate reasonable accommodations are made."
- ❖ P35. Delete the third sentence in the opening paragraph. Change "the disabled community" to "people with disabilities."
- ❖ P36. Delete "at the agency level" in the last line.
- ❖ P48. Under "Schedule B:" Change the language "persons

who are mentally restored" to reflect the regulatory language which is less offensive.



P49. At the top of the page, change "30 percent or more Disabled Veterans" to "Veterans with Disabilities of 30 percent or more."

TABLE OF CONTENTS

INTRODUCTION	1
LEGAL FRAMEWORK	2
Section 501 of the Rehabilitation Act of 1973	2
Section 508 of the Rehabilitation Act of 1973	2
The Vietnam Era Veterans' Readjustment Assistance Act of 1974	2
The Civil Service Reform Act of 1978	3
The Americans with Disabilities Act (ADA) of 1990	3
The Veterans Education and Employment Program Amendments of 1991	3
The Architectural Barriers Act	3
The Pregnancy Discrimination Act	3
Title 5, United States Code, Sections 3312 and 3318	3
ROLES AND RESPONSIBILITIES	5
Equal Employment Opportunity Commission (EEOC)	5
U.S. Office of Personnel Management (OPM)	5
President's Committee on Employment of People with Disabilities	6
Federal Employers	7
State and Other Rehabilitation Service Resources	7
DEFINITIONS AND TERMS	9
Person with a disability	9
Qualified person with a disability	9
Invisible (hidden) disabilities	9
Targeted disabilities	9
Drug addicts and alcoholics	10
Persons with Human Immunodeficiency Virus (HIV)	10
REASONABLE ACCOMMODATION	11
Special Testing	12
Restructuring Jobs	13
Modifying Worksites	14
Accessible Facilities	14
Adjusting Work Schedules	15

Assistive Devices	15
Readers and Interpreters	15
Flexible Leave Policies	17
Reassignment	17
Eliminating Transportation Barriers	18
Minimal Cost Accommodations	18
Additional Efforts: Retraining, Details, and Disability Retirement	19
 HIRING OPTIONS	 21
Competitive Appointments	21
Time-limited Appointments	21
Student Employment Programs	22
Presidential Management Intern (PMI) Program	22
Appointment Under Special Authorities	23
Disabled Veterans	24
Certification	25
 DEALING WITH DIFFERENT DISABILITIES	 26
Mobility Impairments	26
Blindness and Visual Impairments	27
Deafness and Hearing Impairments	28
Invisible (Hidden) Disabilities	29
Mental Retardation	29
People with Psychiatric Disabilities	30
Muscular or Neurological Limitations	31
 INTEGRATING PEOPLE WITH DISABILITIES INTO THE WORKFORCE	 32
Interviewing	32
Career Development	33
Performance Evaluation	34
Awards	34
Training	34
 PROMOTING THE EMPLOYMENT OF PEOPLE WITH DISABILITIES	 35
 APPENDIX 1: STATISTICAL INFORMATION	 37

APPENDIX 2: FEDERAL RESOURCES	38
APPENDIX 3: STATE VOCATIONAL AND REHABILITATION AGENCIES	39
APPENDIX 4: REFERENCES AND REGULATIONS	45
I. General Medical Personnel Guidance	45
II. Aeromedical-FAA Medical Standards and Certification	47
III. Conduct or Performance Problems Involving Medical Considerations	48
IV. Excepted Service Appointing Authorities for Persons with Disabilities	48
V. Disability Retirement (CSRS and FERS)	49
VI. Drug and Alcohol Testing	50
VII. Hearing Conservation	52
VIII. Infectious Diseases (HIV/AIDS, Hepatitis, Tuberculosis, etc.) Involving Employee Relations	52
IX. Medical Disqualifications of Veterans Preference Eligibles	53
X. Medical Records	54
XI. Mental Health Issues	54
XII. OWCP Issues	55
XIII. Pregnancy Related Issues	55
XIV. Respiratory Protection Program	55
XV. Safety and Occupational Health Programs	56
XVI. Veterans and the Civil Service	56
XVII. Violence in the Workplace	57

INTRODUCTION

The Federal Government must strive to create and maintain a sound, diverse, and cooperative work environment. Equal opportunity in employment for all people, regardless of race, color, sex, age, religion, national origin, sexual orientation, or disability should be the common goal across government. However, persons with disabilities are often overlooked as a source of employable talent.

On March 13, 1998, President Clinton addressed the underemployment of people with disabilities by signing Executive Order 13078 establishing a National Task Force on Employment of Adults with Disabilities. The Task Force was charged with creating a coordinated and aggressive national policy to bring working-age individuals with disabilities into gainful employment at a rate approaching that of the general adult population.

This guide and its companion piece, *"Accessing Opportunity: The Plan for Employment of People with Disabilities in the Federal Government,"* was developed in support of the Task Force's efforts and recommendations. The purpose of this guide is to provide guidance, information, and references to aid Federal employers in their efforts to hire and advance employees with disabilities.

LEGAL FRAMEWORK

There are several laws which support and encourage the employment, retention, and advancement of people with disabilities.

1) **Section 501 of the Rehabilitation Act of 1973** prohibits discrimination on the basis of disability in Federal employment.¹ The law:

- Requires employers to make "reasonable accommodations" to applicants and employees with disabilities. Such accommodations may involve restructuring the job, modifying work schedules, adjusting or modifying examinations, providing readers or interpreters, and acquiring or modifying equipment and/or facilities (including the use of adaptive technology such as voice recognition software).
- Prohibits selection criteria and standards which tend to screen out disabled persons, unless such procedures have been determined through a job analysis to be job-related and consistent with business necessity.
- Requires Federal agencies in the Executive branch to develop affirmative employment action programs for hiring, placement, and advancement of persons with disabilities. Affirmative action should be an integral part of ongoing agency personnel management programs. Persons with disabilities should be employed in all grade levels and occupational series commensurate with their qualifications. Federal employers should ensure that their policies do not unnecessarily exclude or limit persons with disabilities because of job structure or design, or because of architectural, transportation, communication, procedural, or attitudinal barriers.

2) **Section 508 of the Rehabilitation Act of 1973** requires Federal agencies to procure and use only accessible electronic and information technology, unless it poses an undue burden to do so. Federal agencies will be required to comply with standards promulgated by the Architectural and Transportation Barriers Compliance Board (the Access Board) that take effect on August 7, 2000.

3) **The Vietnam Era Veterans' Readjustment Assistance Act of 1974.** In furtherance of the policy of promoting "the maximum of employment and job

¹ Section 501 was amended by the Rehabilitation Act Amendment of 1992 to apply the ADA's employment standards to all non-affirmative action employment discrimination claims filed by Federal applicants or employees. 29 U.S.C. § 791(g).

advancement opportunities within the Federal Government for disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era who are qualified for such employment and advancement," this act placed into law the provisions of the executive order that authorized the noncompetitive appointment of Vietnam era veterans under Veterans' Readjustment Appointment (VRA). The act also ensures that all veterans are considered for employment under merit system rules and requires a separate affirmative action plan for the hiring, placement, and advancement of disabled veterans. (Please note, however, that this law does not provide any preferences to disabled veterans or to veterans of the Vietnam era.)

4) **The Civil Service Reform Act of 1978** requires "fair and equitable" treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or disabling condition, and with proper regard for privacy and constitutional rights.

5) **The Americans with Disabilities Act (ADA) of 1990** covers employers in the private sector and state and local governments. The substantive standards of the ADA which are applicable to the Federal government through the Rehabilitation Act can be found at 42 U.S.C. §§ 12111 *et. seq.* and 42 U.S.C. §§ 12201-204 and 12210.

6) **The Veterans Education and Employment Program Amendments of 1991** require expanded job opportunities for veterans and disabled veterans through the Veterans Readjustment Appointment (VRA) Authority.

7) **The Architectural Barriers Act**, enforced by the Access Board, requires that buildings and facilities be accessible to people with disabilities if they were designed, built, or altered with certain Federal funds, or leased for occupancy by Federal agencies after 1968. When individuals with disabilities are unable to use a building because there are no accessible parking spaces, no curb ramps, no ramps at the entrance, no accessible rest rooms, no accessible drinking fountains, no raised lettering on signs, or other barriers exist, they may file a complaint with the Access Board.

8) **The Pregnancy Discrimination Act** amended Title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy, childbirth, or related medical conditions. This amendment requires that employers treat pregnancy and related conditions as any other short-term disability.

9) **Title 5, United States Code, Sections 3312 and 3318** require that any

disqualification, non-selection, or passover of a veterans' preference eligible applicant for medical reasons must be approved by the Office of Personnel Management before the position can be filled. This includes an agency medical disqualification of a 30 percent or more disabled veteran for assignment to another position in a reduction in force.

ROLES AND RESPONSIBILITIES

The following Federal and State entities have responsibilities concerning the employment of people with disabilities:

Equal Employment Opportunity Commission (EEOC)

The EEOC is responsible for regulating and enforcing the Federal program for equal employment opportunity, developing the regulations and policies governing non-discrimination requirements, oversight of the development and implementation of Federal agencies' affirmative action programs, and adjudicating claims of disability discrimination in the Federal government. Instructions on affirmative action plans for the disabled may be found in EEOC's Management Directives 712 and 713.

EEOC's Management Directive 713 requires that Federal agencies submit Annual Affirmative Action Program Plans and accomplishment reports. This directive is pursuant to the EEOC's obligation and authority under Section 501 of the Rehabilitation Act of 1973.

EEOC is also responsible for approving or disapproving each agency wide affirmative action program plan; rating the accomplishments of each agency; and communicating results of evaluations to each agency with instructions for submission of a revised agency wide plan if required. EEOC will work closely with Federal Government personnel to assist in creating and implementing effective affirmative employment programs.

Guidelines on reasonable accommodation and non-discrimination of people with disabilities are published by the EEOC. Most of these documents can be downloaded from EEOC's Internet website at: <http://www.eeoc.gov>.

In addition, EEOC issues an annual report on employment of individuals with disabilities in the Federal Government to the Congress of the United States.

U.S. Office of Personnel Management (OPM)

OPM provides nationwide program leadership, development, and coordination for the employment of people with disabilities, including veterans with service-connected disabilities. This includes providing direction, guidance, and technical support to agency heads, directors of personnel, agency personnel offices and officials; developing recruitment policy and appointing authorities; providing information on

employment methods and program development to departments and agencies; developing publications for use in promoting employment; developing, monitoring, and modifying examining procedures to facilitate the employment consideration of qualified applicants with disabilities; and developing medical policy and realistic medical and suitability standards.

OPM takes the lead role in promoting reemployment of employees with or recovered from compensable injuries or illnesses, and fostering research and demonstration projects on disability related issues. Further, OPM maintains consistent liaison with the national offices of Federal, private, community, and other organizations concerned with the employment of people with disabilities.

President's Committee on Employment of People with Disabilities

The President's Committee on Employment of People with Disabilities (PCEPD) is a small Federal agency whose mission is to communicate, coordinate, and promote public and private efforts to enhance the employment of people with disabilities. The PCEPD provides information, training, and technical assistance related to the employment of people with disabilities. Some of the projects and resources developed by the PCEPD include:

- The Job Accommodation Network (JAN), a toll-free information service on workplace accommodations and the employment provisions of the Americans with Disabilities Act. Anyone may call JAN at (800) 232-9675 or (800) 526-7234. One can also obtain information from the JAN Website: <http://www.jan.wvu.edu/english/homeus.htm>.
- The Workforce Recruitment Program (WRP) for college students with disabilities, a joint venture with the Department of Defense which identifies college and university students with disabilities seeking summer and permanent jobs. Federal employers may access the candidate database by calling the PCEPD's Job Accommodation Network (JAN) at (800) 526-7234.
- Education Kits containing fact sheets on timely disability employment issues. These and a list of publications are available by calling (202) 376-6200.
- The PCEPD's Website on the Internet is <http://www.pcepd.gov>. It provides visitors direct access to their publications, speeches, press releases, statistical data, workplace laws, and other related topics affecting the employment of persons with disabilities.

Federal Employers

Federal agency managers and supervisors are responsible for the employment and advancement of people with disabilities. This includes recruitment, hiring, training, career development, mentoring support and providing reasonable accommodations when requested.

Career development and promotion opportunities, training, awards, and other similar programs should be an integral part of an agency's responsibilities towards employees with disabilities. Further, Federal employers should make reasonable accommodations, when requested, to the known physical or mental limitations of a qualified applicant or employee with a disability, unless the agency can demonstrate that the accommodation(s) would impose an undue hardship on the operation of its program.

Federal employers are encouraged to establish procedures to ensure that the employment and advancement of people with disabilities meet affirmative action program objectives, diversity planning, emphasis, and accountability. Action should be taken to eliminate discrimination against applicants or employees with disabilities due to barriers in agency facilities. Federal employers should also ensure that there are no personnel or management policies, practices or procedures which restrict hiring, placement and advancement of people with disabilities.

It is illegal for a Federal agency to discriminate in employment against qualified individuals with disabilities. Anyone who believes he or she has been subjected to discrimination on the basis of disability may file a complaint with the employing agency's equal employment opportunity (EEO) office. Departments and agencies should refer to EEOC's MD-110 and 29 CFR, Part 1614, for additional guidance on the EEO complaint process.

State and Other Rehabilitation Service Resources

Vocational rehabilitation counselors are available at State Vocational Rehabilitation Agencies (SVRAs) and their local offices. They can be easily reached by phone. The extent and types of services offered may vary from State to State, but most SVRA counselors are able to do some or all of the following:

- Explain disabilities;
- Prepare certification documents;
- Refer qualified applicants and provide follow-up assistance for placements made;

- Provide assistance when individuals with disabilities employed under excepted appointing authorities are upgraded or downgraded or when problems arise in regard to these employees;
- Evaluate the rehabilitation needs of Federal employees who become disabled and advise managers and supervisors about services available;
- Purchase special equipment that individuals with disabilities need to perform their jobs;
- Locate readers for persons who are visually impaired, interpreters for persons who are hearing impaired, and personal assistants for individuals with disabilities;
- Advise about modification(s) needed to overcome architectural, transportation, and communication barriers;
- Participate in training programs for Federal employees, managers and supervisors relating to subjects such as reasonable accommodations, modification of jobs or worksites, and other related subjects;
- Arrange for Federal employees, managers, and supervisors to tour rehabilitation centers, workshops, campus facilities for students with disabilities, and independent living centers.

While State vocational rehabilitation agencies are a primary source of rehabilitation services, a number of other organizations can also be helpful. For example:

- U.S. Department of Education, Rehabilitation Services Administration;
- U.S. Architectural and Transportation Barriers Compliance Board;
- U.S. Department of Transportation;
- U.S. Department of Veterans Affairs, Vocational Rehabilitation Program;
- President's Committee on Employment of People with Disabilities and their Job Accommodation Network (JAN);
- General Services Administration;
- Local and State Committees on Employment of People With Disabilities;
- University medical centers and counseling programs;
- Gallaudet University (Washington, DC); and
- Advocacy organizations for persons with disabilities.

Also, employees with disabilities within the agency are another vital resource. Many of them are active in advocacy groups, serve on agency advisory committees, and are experts on various aspects of disability and rehabilitation.

DEFINITIONS AND TERMS

Person with a disability: The Rehabilitation Act of 1973, as amended, defines a "person with a disability" as an individual who:

- Has a physical or mental impairment which substantially limits one or more of such person's major life activities (such as: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working). A "physical or mental impairment" means:
 - 1) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, respiratory, genito-urinary, hemic and lymphatic, skin, and endocrine; or
 - 2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- Has a record of such an impairment (this means that the person has a history of, or has been classified -or misclassified- as having a mental or physical impairment that substantially limits one or more major life activities); or
- Is regarded as having such an impairment; this includes individuals who are perceived to have disabilities.

Qualified person with a disability: A qualified person with a disability refers to a person with a disability who, with or without reasonable accommodation, can perform the essential functions of the position in question.

Invisible (hidden) disabilities: These are disabilities that are not readily apparent, such as chronic fatigue syndrome, epilepsy, kidney disease, diabetes, cancer, chronic depression, and learning disabilities.

Targeted disabilities: Targeted disabilities, as defined by the Equal Employment Opportunity Commission (EEOC), are disabilities "targeted" for emphasis in affirmative action planning. These are: deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and genetic or physical condition affecting limbs and/or spine. EEOC recognizes that some disabilities that are not targeted are nevertheless just as

severe or more severe than some disabilities that are targeted.

Drug addicts and alcoholics: The Americans with Disabilities Act of 1990 amended the Rehabilitation Act (1973) definition of an individual with a disability to **exclude** "individuals currently engaging in the illegal use of drugs" regardless of whether it can be shown to adversely affect job performance or safety. Federal employers are no longer required to offer a firm choice or last chance agreement[s] unless mandated by agency policy or a collective bargaining agreement. Managers should consult with their agency Human Resources, EEO, and legal counsel.

Persons with Human Immunodeficiency Virus (HIV): Protection under the Rehabilitation Act begins the moment a person becomes infected with HIV.

REASONABLE ACCOMMODATION

Federal departments and agencies are required, **when requested**, to make reasonable accommodation to the physical or mental limitations of an applicant or employee who is a qualified person with a disability unless the accommodation would impose an undue hardship on the agency. An undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as the employer's size, financial resources, and the nature and structure of the operation.²

A reasonable accommodation is an adjustment or alteration that enables people with disabilities to apply for jobs, to gain access to the work environment, to perform job duties, or to enjoy the benefits and privileges of employment. There are many types of accommodations such as worksite modifications; adjusting work schedules; restructuring jobs; acquisition or modification of equipment or devices; obtaining accessible technology or other workplace adaptive equipment; providing interpreters, assistive devices, readers; and reassigning employees.

Accommodations are determined on a case-by-case basis, taking into consideration the applicant or employee, his/her specific disability and the existing limitations, the essential functions of the particular job, the work environment, and the effectiveness of the proposed accommodation. In all cases, the applicant or employee should be consulted before an accommodation is made. Accommodations are highly individualized and what may be successful for one individual with a disability may not be appropriate for another. The value and nature of a particular accommodation may be clarified by considering questions such as:

- Does the disability require the reasonable accommodation?
- Does the reasonable accommodation remove the workplace barrier that is preventing the individual from effectively applying for a job, performing a job, or gaining access to the benefits and privileges of employment?
- Will the accommodation give the person the opportunity to function, participate, or compete on an equal basis with others?
- Are there alternatives that would accomplish the same purpose?

In determining undue hardship, consider the following factors:

² Departments and Agencies should consult the Enforcement Guidance on Reasonable Accommodation issued by the EEOC on March 1, 1999.

- Overall size of the agency, with respect to the number of employees, number and type of facilities, and size of budget;
- Type of agency operation; and
- Nature and cost of the accommodation.

Reasonable accommodations are as varied as the needs of the individuals involved, the type of position in question, and ingenuity of the agency. Some examples are provided below:

Special Testing

Federal employers may not use any test or other selection criterion that screens out or tends to screen out people with disabilities, unless the test is job-related for the position in question and consistent with business necessity, and there is no reasonable accommodation. They are required to select and administer tests to insure that the scores of applicants or employees who have disabilities that impair sensory, manual, or speaking skills accurately reflect the ability of the applicant to do the job in question rather than disabilities of the applicant. The following factors merit additional attention:

Modifying Written Examinations: The objective is to eliminate any artificial barriers which would prevent persons with disabilities from demonstrating their capabilities in the examination process. Modification of examination procedures can include modifying test administration methods. Consideration should be given to scheduling individual or small group testing, allowing extra time, and using examiners specifically trained for this task. Accommodations may include: braille, large-print, or tape-recorded tests for persons who are visually impaired; reading to individuals who are blind or persons with reading disabilities; writing for persons who have difficulties using their hands; providing sign language interpreters to explain test procedures and directions for taking tests; and waiving verbal portions of some tests for individuals who are hearing impaired.

Modifying exam content: If an applicant's disability causes some part of a test to be unusable or inappropriate, it may be necessary to modify exam content or to develop alternate materials which measure the same knowledge, skills, and abilities that do not screen out people with disabilities. OPM has modified certain examinations for persons who are hearing and visually impaired and may be able to offer advice about types of modifications.

Accessible Examination Facilities: Examinations must be offered in accessible

facilities. If a thorough review of an examination facility reveals the presence of barriers (stairs, inaccessible parking, etc.), steps should be taken to remove those barriers or, when this is not feasible, to arrange for use of an alternate location.

Many people with disabilities, even those with severe disabilities, do not need special testing. As a rule, persons who are visually or hearing impaired will require special testing. Others for whom special arrangements often are made include persons with neurological disorders such as cerebral palsy or multiple sclerosis, persons whose arms or hands are paralyzed or spastic, persons with brain damage, and persons with learning disabilities such as dyslexia.

Restructuring Jobs

Job restructuring is one of the principal means by which qualified people with disabilities can be accommodated. Job restructuring, however, does not alter the essential function of the job. Federal employers should identify which factors make a job incompatible with an individual's disability and, if possible, eliminate them so that the capabilities of the person may be used to the best advantage. This may involve changing job content by isolating and eliminating non-essential duties through reassignment, or altering the method of task accomplishment.

Three things must occur before job restructuring:

- Federal employers must understand the capabilities of individuals and identify limitations prior to job restructuring. The person with a disability should be consulted first. Supplemental information can be obtained through consultation with specialists in the field of vocational rehabilitation.
- Careful job analysis to determine the exact demands of positions must also precede job structuring. Inputs by those with intimate knowledge of the tasks involved, such as supervisors and persons who currently perform the tasks or have performed them in the past, should be included in the analysis process. This enables the most accurate differentiation to be made between basic functions and those which are non-essential and can be reassigned.
- To identify the essential functions of a position, focus on the purpose in performing the function and the result to be accomplished and not on a description of how the function is usually performed. Although it may be essential to perform certain functions, it often is irrelevant how the function is performed. A person, due to a disability, may need to perform an essential

function in a different way from other employees. The different manner of performing an essential function may involve a reasonable accommodation.

The restructuring and job analysis processes should also be used in creating positions, modifying existing position descriptions, developing recruitment strategies, determining selection criteria, designing performance plans, determining training needs, and other human resource initiatives.

Modifying Worksites

Changes in the work environment enable people with disabilities to more effectively perform job duties. Alterations may consist of: rearranging files or shelves for accessibility to wheelchair users; braille labeling for persons with visual impairments; raising or lowering equipment to provide comfortable working heights; installing special holding devices on desks, machines, or benches; using adaptive technology such as voice recognition systems; or providing special heating or air conditioning units for persons who are sensitive to environmental temperature.

Work locations should be reviewed by supervisors; Disability Employment Program Managers, SVRA counselors; building managers; and persons with disabilities to identify needed worksite modifications.

Accessible Facilities

Reasonable accommodation is different from architectural accessibility and program accessibility. For buildings not covered by existing accessibility statutes, provisions of accessibility may be an aspect of reasonable accommodation. In such cases, reasonable accommodation might include physical modification of facilities or relocation of particular offices or jobs so that they are in facilities or parts of facilities that are accessible to and usable by people with disabilities.

Accommodations that may need to be made involve eliminating barriers in the physical design of the environment. This is a broader concern than modification of the worksite environment. It consists of eliminating major obstacles in the way of people with disabilities getting to and from the worksite. Physical and/or structural changes should be made in order to create as barrier-free an environment as practicable. Eliminating architectural barriers through such means as ramps, wider doorways, elevators, work platforms, and handrails often make the work facility more usable by all employees, not just those with disabilities.

Adjusting Work Schedules

Some people with disabilities possess great productive potential which is not utilized because they cannot meet the requirements of a standard 40-hour work week. By taking advantage of the flexibility of alternative work schedules, accommodations can be made for various disabilities. For example, people with mobility impairments may find it difficult to maneuver during peak periods on public transportation systems and may require an earlier or later work day. In another instance, employees requiring medical treatments may need a flexible schedule on certain days of a week. Employees requiring shorter hours may be accommodated by use of a part-time schedule or a job sharing arrangement.

Assistive Devices

Many assistive devices are available to people with disabilities. Such devices can ensure successful job performance, enabling people with disabilities to perform tasks they would not otherwise be able to do or to increase the quantity, quality, or efficiency of their work. Before purchasing any special equipment, the individual requesting a reasonable accommodation should be consulted as to what is needed and/or wanted.

In certain cases, the Department of Veterans Affairs or State vocational rehabilitation office may provide the assistive device to the individual requesting a reasonable accommodation.

Federal employers are authorized to purchase equipment if it is determined that the use of the equipment is necessary in transaction of the official business of the agency. In determining whether the purchase of a device should be authorized, consideration should be given to how well the employee could perform the job without the equipment and whether the principal benefit would be better job performance by the employee.³

Readers and Interpreters

Readers: Many Federal employers have found that the best way of providing reading assistance to employees who are blind or have visual impairments is to have other employees provide this service as needed. In most cases, this amounts to a

³ Section 508 of the Rehabilitation Act requires Federal agencies to procure and use only accessible electronic and information technology. Refer to the section on Legal Framework.

relatively small fraction of an employee's workday. Federal employers have the administrative authority to assign employees to provide reading services on a part-time or "as required" basis. This service can be classified under "other duties as assigned."

An agency that chooses to assign an agency employee as a reader must ensure that the person is properly trained and able to fulfill this function. For assistance in identifying necessary training for readers, agencies should consult with the Federal and State resources identified in Appendices 2 and 3.

Federal employers may also hire readers for blind employees. Generally, a reader will be assigned to provide reading assistance to a specific employee. For this reason, the blind or visually-impaired employee should be involved in the selection process.

Providing reading assistance to a blind or visually-impaired employee in no way relieves the agency of the responsibility to provide clerical, secretarial, and/or administrative support to that employee in those instances where the employee's position entitles or requires such assistance. In most cases, the person providing clerical, secretarial, or administrative support will also provide reading assistance.

Interpreters: Much of the day-to-day communication may be accomplished by employees who have learned basic sign language. Many co-workers of persons who are deaf or have hearing impairments have taken it upon themselves to learn sign language and some Federal employers offer courses for their employees. When employees have gained sufficient skill in sign language, they may provide day-to-day communication services for their co-workers who are deaf or those who have hearing impairments.

Federal employers have the authority to assign other employees to provide these services on a part-time or "as required" basis. Individuals may also be hired to provide interpreter assistance on a full-time, part-time, or intermittent basis.

There are some instances where employees would not be expected to possess the high degree of interpreting skills which might be necessary for the individual who is deaf or hard of hearing to communicate effectively. Thus, service contracts may be used to obtain interpreting services from outside sources in situations such as conferences, training courses, meetings, or court appearances.

Federal employers may make excepted appointments of readers, interpreters, and other personal assistants 5 CFR 213.3102(II). This and other special hiring

authorities applicable to persons with disabilities are explained in later sections of the handbook (see section on hiring options).

Above all, agencies should keep in mind that it is their responsibility to provide sign language interpretation that enables a person who is deaf to have access to the same information being communicated by hearing employees.

Flexible Leave Policies

Federal employers have the authority to adopt flexible leave policies that will accommodate people with disabilities. While the administration of the leave system is subject to certain laws and regulations, departments and agencies can adopt flexible leave policies that will accommodate people with disabilities. Instances may include the following:

- When extreme weather conditions make it difficult for mobility-impaired employees to get to or from work. For example, employees are generally expected to report for work after snow removal has been accomplished. However, in many cases, snow removal equipment makes travel by mobility-impaired individuals even more difficult by creating snow drifts at the curb cuts. Federal employers can adopt separate leave policies for situations such as this but should identify in advance employees who would be covered by the extended policy.
- When temporary building conditions adversely affect performance or health, such as extremes of heat or cold which could affect persons with neurological disorders or respiratory ailments.

Leave policies may also include granting extended leave without pay for illness or disability. Whatever flexibility is used, they should be carefully detailed to prevent misunderstanding and should be consistently applied for all appropriate employees.

Reassignment

In cases of current Federal employees who become disabled after employment, or whose disabilities are aggravated during their careers, Federal employers have a responsibility to make every effort for their continued employment. An employee who, because of a disability, is unable to continue to perform the duties of his or her current position may have other options available than applying for disability retirement. The first step should be to explore the possibility of accommodating the

disabled employee in his or her current position. Minor job modifications or changes in the physical environment are often all that is needed to allow a disabled employee to continue working productively.

Agencies must consider reassignment as a reasonable accommodation when an employee, due to a disability, can no longer continue performing the essential functions of his/her current position, with or without reasonable accommodation. A Federal employer should always first attempt to provide reasonable accommodation in an employee's current position. If that is not possible, then a Federal employer must look for a vacant position that is equivalent to the employee's current position in terms of a number of factors, including grade, level of work assignments, pay, benefits, and geographic location. If no equivalent vacancy exists, then the employer must look for a lower position that is as close as possible to the employee's current position. Although this is a non-competitive process, the employee must be qualified for the vacant position. In order to determine the employee's qualifications for a vacant position, the employer should consult with the employee about his/her work experience, skills, and education.

Eliminating Transportation Barriers

One of the most difficult problems people with disabilities face is transportation to the worksite. Federal employers can do a great deal to help people with disabilities solve their personal transportation problems. Such assistance can consist of helping employees form car pools, helping people with disabilities locate co-workers with whom they may car pool; or allocate parking spaces to employees with disabilities.

Drivers who provide transportation to Federal employees with disabilities may make use of parking privileges for people with disabilities who ride with them. The General Services Administration has ruled that Federal employers are to give these persons the same priority in assignment of parking spaces that they give persons with disabilities.

Minimal Cost Accommodations

In many cases, the cost of a job or work environment accommodation can be minimal. A few examples are as follows:

- To accommodate a person who uses a wheelchair, reasonable accommodations may include the ability to access the building, the office, and files. The desk must be the right height to accommodate the wheelchair. This may be

accomplished by raising the desk using wooden blocks to prop it up, and then moving furniture so that the employee may freely move around the office. Files can be placed to make them easily accessible.

- An individual with arthritis experiencing difficulty with maintaining stamina during the workday may be accommodated by providing flexibility in work hours, and a recliner to allow change in body positions to cut down on fatigue.
- Visual aids, screen readers, and enlargers; voice activated software; and braille computers may assist people who are blind or visually impaired. Initial contact should start with the office responsible for information technology (IT) management.

The concept of reasonable accommodation also applies to recruitment, training, promotion, reassignment, and developmental assignments. For example, merit promotion vacancy announcements could be brailled or taped to provide equal access to employees or applicants who are blind or visually impaired. In order to give people with disabilities opportunities to attend formal training programs, Federal employers are authorized to use training funds to provide special services, such as interpreters, readers, and brailling or taping of course materials.

Federal employers wishing to learn more about reasonable accommodation policies and guidelines may wish to contact the Equal Employment Opportunity Commission (EEOC). Free copies of their published guidance on reasonable accommodation and other issues pertaining to non-discrimination against people with disabilities can be obtained by calling (800) 669-3362. They can also be reviewed at EEOC's website, www.eeoc.gov.

Additional Efforts: Retraining, Details, and Disability Retirement

Retraining: Federal employers should consider retraining disabled employees for positions for which they have the basic qualifications and capabilities. Although there are initial expenses involved, the result will justify the expenditure if the employee and the position are matched carefully beforehand.

Details: In instances where the employee's ability to perform the duties of an available position are in question, or to encourage an employee to accept a voluntary reassignment, the use of a temporary detail assignment may help. If performance in the position is acceptable, consideration can then be given to making the reassignment permanent.

Disability Retirement: Before an employee can qualify for disability retirement, the employee's agency must attempt to reasonably accommodate the employee. The specific type of accommodation can vary depending on the position and the medical condition. If the employee cannot be accommodated in his or her current position, the agency must consider reassignment. If an employee refuses to accept a reasonable accommodation in the current or reassigned position, the employee loses eligibility for disability retirement.

HIRING OPTIONS

Agency personnel offices work with State vocational rehabilitation agencies (SVRAs), the Department of Veterans Affairs, Gallaudet University and other various organizations to locate and identify qualified people with disabilities. In addition, many Federal employers participate in focused job fairs and campus recruitment visits to identify qualified people with disabilities. Hiring may be accomplished through the competitive hiring process or, if the qualifications are met, through the use of excepted service appointment authorities.

Federal employers may use a variety of hiring options to bring people with disabilities into their workforce. Descriptions of key options are listed below.

Competitive Appointments

Most Federal employees obtain jobs competitively. Applicants apply directly to the hiring departments and agencies for most positions. Federal employers use a variety of assessment tools in evaluating applicants and conducting hiring. If passing a written test is required, special testing arrangements are available, if requested. Once this process is completed, an agency may select from a list of qualified people from the appropriate list of eligible candidates to fill vacancies. The agency may then interview and make a selection for the vacancy. Special interview "reasonable accommodation" arrangements may be made, if requested.

Time-limited Appointments

An agency may fill a position using a temporary or term appointment when the need for an employee's services is not permanent. Temporary appointments are made not to exceed one year, with one 1-year extension. The work must not be permanent in nature. In contrast, term appointments are made for a period of more than one year but not to exceed four years.

Term appointments are appropriate when there is project work, extraordinary workload, scheduled abolishment, reorganization, contracting out of the function, uncertainty of future funding, or the need to maintain permanent positions for placement of employees who would otherwise be displaced from other parts of the organization.

Student Employment Programs

The Student Educational Employment Program helps Federal employers find the right people to fill current and future hiring needs. The program also gives students the opportunity to get hands-on experience in their chosen career field. The program has two major components; Student Temporary Employment and Student Career Experience.

Student Temporary Employment opportunities range from summer jobs to positions that can last as long as the student is enrolled. The Federal job does not have to be related to the student's academic field of study.

Student Career Experience opportunities include formal periods of work and study while the student attends school. This requires a commitment by the student, the school, and the Federal employer. Work experience is directly related to the student's academic field of study. After successfully completing the educational and work requirements, the student is eligible for permanent job opportunities.

Presidential Management Intern (PMI) Program

The PMI Program is designed to attract to the federal service outstanding graduate students from a wide variety of academic disciplines who have an interest in, and commitment to, a career in the analysis and management of public policies and programs. Individuals eligible to be nominated for the PMI Program are graduate students completing a master's or doctoral-level degree from an accredited college or university during the current academic year.

Students are nominated for the PMI Program by the appropriate dean, director or chairperson of their graduate academic program. All nominees are evaluated by an OPM-developed structured assessment process. Selection as a PMI finalist is based on review of the PMI application and the structured assessment process.

PMIs receive an initial two-year appointment. During the two-year internship, PMIs experience structured orientation and graduation training programs facilitated by OPM, as well as seminars, briefings, conferences, on-the-job training, rotational assignments, and other developmental opportunities arranged by participating Federal employers.

After successfully completing the two-year program, PMIs may be eligible for conversion to a permanent position and further promotional opportunities.

Appointment Under Special Authorities

The Federal Government's hiring options include excepted service special appointing authorities for people with disabilities. Federal employers are authorized to use these authorities when considering certain people with disabilities (those who have a severe physical, cognitive or emotional disability or a history of having such disabilities or are perceived as having such disabilities). The authorities provide a unique opportunity to demonstrate the potential to successfully perform the essential duties of a position with or without reasonable accommodation in the workplace.

- **Schedule A, 5 CFR 213.3102(t) for Hiring People with Mental Retardation.** This authority is used to appoint persons with cognitive disabilities (mental retardation) who meet the eligibility requirements. Upon completion of 2 years of satisfactory performance the employee may qualify for conversion to the competitive service.
- **Schedule A, 5 CFR 213.3102(u) for Hiring People With Severe Physical Disabilities.** This authority is used to appoint persons with severe physical disabilities who (1) under a temporary appointment have demonstrated their ability to perform duties satisfactorily; or (2) have been certified by a counselor from a State vocational rehabilitation agency (SVRA) or the Department of Veterans Affairs' Vocational Rehabilitation Office as likely to succeed in performance of duties. Upon completion of two years of satisfactory service under this authority, the employee may qualify for conversion to the competitive service.
- **Schedule B, 5 CFR 213.3202(k) for Hiring People Who Have Recovered from Mental Illness.** This authority permits appointments at Grades GS-15 and below when filled by individuals who: (1) are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; (2) are certified to a specific position by a State vocational rehabilitation counselor or a Department of Veterans Affairs counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the position to which they will be appointed, and that any residual disability is not job related. Employment under this authority may not exceed 2 years following each significant period of mental illness.

In addition, Federal employers can use the following authority to provide assistance to employees with disabilities:

- **Schedule A, 5 CFR 213.3102(II) for Hiring Readers Interpreters, and Other Personal Assistants.** This authority permits appointments of readers, interpreters, and personal assistants for employees with severe disabilities when filled on a full-time, part-time, or intermittent basis. Upon completion of at least one year of satisfactory service under this authority, the employee may qualify for conversion to the competitive service.

Disabled Veterans

- **30 Percent or More Disabled Veterans.** Federal employers may give a noncompetitive temporary appointment of more than 60 days (see 5 CFR 316.302(b)(4)) or a term appointment (see 5 CFR 316.402(b)(4)) to a veteran:
 - retired from active military service with a disability rating of 30 percent or more; or
 - rated by the Department of Veterans Affairs (VA) within the preceding year as having a compensable service-connected disability of 30 percent or more.

There is no grade level limitation for this authority, but the appointee must meet all qualification requirements, including any written test requirement.

The agency may convert the employee, without a break in service, to a career or career-conditional appointment at any time during the employee's temporary or term appointment.

- **Disabled Veterans Enrolled in VA Training Programs, 5 CFR 315.604.** Disabled veterans eligible for training under the Department of Veterans Affairs' (VA) vocational rehabilitation program may enroll for training or work experience at an agency under the terms of an agreement between the agency and VA. The veteran is not a Federal employee for most purposes while enrolled in the program, but is a beneficiary of the VA. The training is tailored to individual needs and goals so there is no set length. If the training is intended to prepare the individual for eventual appointment in the agency rather than just work experience, the agency must insure that the training will enable the veteran to meet qualification requirements for the position.

Upon successful completion, the VA and the host agency give the veteran a Certificate of Training showing the occupational series and grade level of the position for which trained. The Certificate of Training allows any agency to appoint the veteran noncompetitively under a status quo appointment which may be converted to career or career-conditional at any time.

Certification

An individual who is physically disabled is considered to have met OPM qualification standards for either a temporary competitive service appointment or an excepted service Schedule A appointment when an appropriate certification is received from a State vocational rehabilitation agency (SVRA) or the Department of Veterans Affairs. The certification is prepared by a counselor on the basis of job-site inspection, analysis of job tasks, and evaluation of the proposed appointee's abilities and disabilities. The certification must state that in the counselor's judgement the proposed appointee is able to perform the duties of the position and is physically qualified to do the work safely. The certification must be supported by a medical report and a narrative statement documenting the counselor's conclusions. Factors to be discussed include training, education, work history, modification of job or worksite if needed, and limitations of the proposed appointee.

The certification required for an excepted service Schedule A appointment of an individual who is mentally retarded need only state that the individual has the ability to perform the duties of the position; is physically able to do the job safely; and can maintain himself or herself in the work environment. No medical report is required.

The certification required for appointment of individuals with psychiatric disabilities under an excepted Schedule B appointment must include documentation of a history of mental illness which includes periods of hospitalization or outpatient treatment within the previous two years; a statement by a psychologist or psychiatrist as to the individual's capability to function in the work setting; and a statement indicating that the individual is currently unemployed or has had a significant period of substantially disrupted employment within the previous two years.

Any certificate issued under the authority of an SVRA or Department of Veterans Affairs counselor and other related medical records must be maintained in a medical folder, rather than the official personnel folder (OPF) for persons with disabilities.

DEALING WITH DIFFERENT DISABILITIES

Mobility Impairments

Countless injuries, diseases, and conditions can cause mobility impairments that affect an individual's ability to find and keep a job. Some disabilities are acquired at birth. Others stem from accidents or illnesses later in life. Basic mobility, coordination and balance, strength and endurance, and other aspects of body function may be affected.

Many people who have mobility impairments use adaptive equipment of one kind or another. Mobility aids are especially common, and the most ordinary are canes, crutches, walkers, and wheelchairs. Artificial limbs (arms and legs), and body braces are also used.

One may wish to consider the following suggestions when interacting with individuals who have mobility impairments:

- When scheduling a job interview or meeting, make sure the location is wheelchair accessible.
- Do not hold the person's wheelchair or assume the individual wants to be pushed; always ask first.
- A wheelchair is considered part of the person's personal space. Offer assistance but do not insist. If the person needs help, he or she will accept the offer and tell exactly what will be helpful.
- Put yourself at the wheelchair user's eye level, whenever possible.
- Do not be surprised if the person transfers from a wheelchair to a piece of furniture or gets out of the wheelchair to move about. Not all wheelchair users are paralyzed; many can walk with the aid of canes, braces, or crutches.
- If a person uses crutches, a walker, or some other assistive equipment, offer assistance with coats, bags, or other belongings.
- Ensure non-slip floor coverings for the safety of a person who uses crutches and extra maneuvering space.

- Do not be sensitive about using words like "walking" or "running." People in wheelchairs use the same words.

Blindness and Visual Impairments

The term "blindness" should be reserved for complete loss of sight, even with the best corrective lenses. For lesser disabilities, "visual impairment" is a better description. In visually impaired persons overall sight may not be affected, only the edges or a part of the visual field may be obscured, or there may be no central vision although side or peripheral vision still exists. A person's visual acuity may also change under different light conditions.

Most blind persons get around on their own by using a guide dog or cane. Visually impaired persons may not need mobility aids. For many jobs, vision simply is not necessary. Successful employment of blind and visually impaired individuals depends upon thorough job analysis, enlightened employer acceptance, and proper management support. One may wish to consider the following suggestions when interacting with individuals who have blindness or visual impairments:

- If the person seems to need assistance, offer one's services. If a person who is blind needs guidance through a door or to a chair, let the person take one's arm and follow the motion of one's body. Guide his or her hand or arm to the back of the chair. If one approaches steps, mention how many and the direction.
- Speak directly to the individual who is blind or visually impaired. Speak in a normal tone of voice.
- Introduce other people in the room or have them introduce themselves. This will assist the individual in orienting himself or herself to the room and its occupants.
- Never touch or distract a service guide dog without first asking the owner.
- When giving directions, do not use references a person cannot see. "Over there" is not a good way of describing a location. When using directional words, use them with the orientation of the person who is blind or visually impaired.
- Tell the individual when one is leaving the room.
- When guiding a person into a new or strange surrounding, one may want to describe special features or decorations.

- One should be prepared to read aloud information that is written, or ask the person if he or she would like a reader.
- When interviewing or meeting with people with visual impairments, ensure a well lit area and avoid sharp contrasts of light and dark areas.
- If offering a seat, place the individual's hand on the back or arm of the chair and let him or her sit down by him or herself.

Deafness and Hearing Impairments

Electronic devices can often compensate for partial hearing impairment. Individuals who are hard of hearing usually speak clearly and communicate in the usual manner. They may be placed in almost any type of position, except those for which acute hearing is a safety requirement.

Extra time and interest may be required during oral communications settings, such as interviews and meetings. Communication problems should not be regarded as indicative of more extensive impairments and should not be allowed to obscure an applicant's knowledge, skills and abilities. In complex situations, it is desirable to obtain the services of a professional sign language interpreter.

Many persons who are deaf or hard of hearing can speak understandably. Those that do not speak well may communicate by sign language, writing notes, using gestures, and demonstrating concepts or problems. One may wish to consider the following suggestions when interacting with individuals who are deaf or hard of hearing:

- When speaking with someone who is deaf or hard of hearing, face the person directly. Gain his or her attention before starting a conversation by a gentle touch.
- When speaking to persons who are deaf or hard of hearing, use meaningful facial expressions and gestures to emphasize one's intent and attitude. This substitutes for voice tone. Try to find a quiet place away from computers, telephones, and other sources of noise.
- Not all people who are deaf or hard of hearing know or use sign language. Do not assume they need an interpreter.

- If using a sign language or oral interpreter, speak directly to the person who is hearing impaired, not the interpreter. Face the light, speak clearly, in a normal tone of voice, and keep one's hands away from one's face.
- If one cannot understand the person with a hearing impairment, do not be afraid to ask him or her to repeat. If this approach does not work, one can ask if it would be helpful to communicate by writing or using a computer terminal.

Invisible (Hidden) Disabilities

There are many invisible disabilities such as asthma, arthritis, heart disease, environmental illness, AIDS, chronic fatigue, psychiatric or mental illnesses, attention deficit hyperactivity disorder, and learning disabilities.

If an applicant brings the condition to the prospective employer's attention, one may ask whether the condition might have an impact on his or her work and if there are any necessary accommodations.

A person who has recovered from a heart attack may be able to resume arduous work to which he or she previously was accustomed or may be so weakened that even administrative work is too stressful. Managers and supervisors do not need to be overcautious, as fitness for duty can be determined only by a medical specialist.

Some people with learning disabilities have adapted to their limitations, through classes, counseling sessions, or through life itself. Many can compensate for their problems so well that it is barely noticeable. A strong match between the person's strengths and the work to be performed is particularly important to the learning disabled individual. A careful job analysis is essential in determining the task and competency requirements of the job. Rehabilitation counselors can be very helpful to candidates by assisting them in assessing their strengths and finding jobs that utilize their strong points.

For additional information regarding a description of invisible disabilities, please see the resources section of this handbook.

Mental Retardation

Many people with mental retardation have average or superior abilities in some respects. While it is true that some people who are mentally retarded may not be

able to think, reason or remember as well as other people, it is important to remember that they are proficient in some ways and deficient in others. Mental retardation should not be confused with mental illness or behavioral and emotional problems. The effect of the disability can be lessened, and skills and abilities increased, through rehabilitation, special education and experience on the job.

People who have mental retardation usually want to be independent and responsible for their own support. The object should be to reduce the need for learning details, exercising judgment, and finding new solutions to problems.

Success on the job often depends upon the willingness of others to devote reasonable time and interest to helping the individual adjust initially and meet new challenges as they arise. One of the greatest obstacles to equal employment opportunity for these individuals is persistent lack of employer confidence in, and lowered expectations of their capabilities. One may wish to consider the following suggestions when interacting with individuals with mental retardation:

- For the most part, one should talk to the individual in the same manner as anyone else, but be more specific.
- In an interview setting, ask questions and occasionally repeat responses to insure effective communication.
- Provide information as to where things are located, such as time clock, lockers, restroom, cafeteria, drinking fountain, supply room, etc.
- Take care to explain about working hours, proper dress for the job, work station location, rate of pay, reporting official, and transportation options.

People with Psychiatric Disabilities

For the purposes of employment, a person with a psychiatric disability is one who has experienced a mental or emotional difficulty that currently is under control to the extent that the individual is able to function effectively and satisfactorily in a specific job. The qualifications of people with psychiatric disabilities must be given the same consideration as those of other applicants. One may wish to consider the following suggestions when interacting with individuals who have a psychiatric disability:

- Talk to the individual as one would to anyone else.

- Through personal demeanor, show that one trusts the individual's ability to control his or her behavior.

Muscular or Neurological Limitations

Muscular or neurological disabilities may affect motor ability and/or speech. Intelligence is not affected. Some involuntary or halting movement or limitation of movement in one or more than one appendage may be observed, as well as some lisping, indistinct speech or flatness of tone due to lack of fine motor control of the tongue and lips. The severity and functional effects of the disability vary from person to person. Unless the person is severely disabled, or has the involvement of other disabilities, no accommodation may be needed during an interview setting or meeting.

If the person's speech is difficult, one should ask him or her to repeat what was said. Some people who have severe cerebral palsy, for example, find it more effective to communicate by writing, typing or using communication boards or electronic devices.

INTEGRATING PEOPLE WITH DISABILITIES INTO THE WORKFORCE

The President's Committee on Employment of People with Disabilities has a six-step process for integration. It consists of:

- 1) **Commitment** - Let the people in the agency know of the commitment to employ, advance and retain people with disabilities. Workforce diversity includes people with disabilities.
- 2) **Recruitment** - Let the Personnel/Human Resource office and Disability Employment Program Managers know that one is aggressively seeking job candidates with disabilities. Send agency vacancy announcements to disability-related organizations and Federal employers. State the agency's interest in receiving applications from people with disabilities on the job announcement.
- 3) **Interviewing** - Look at the essential functions and competency requirements of the job, the qualifications of the individual, and the availability of reasonable accommodations. Do not let the disability distract from evaluating the candidate's qualifications.
- 4) **Placement** - Test accommodations and adaptations once the person is on the job. Ask the employee with a disability to help in the process.
- 5) **Training** - Any employee's success hinges on proper orientation and training. Insure that all such agency programs are available and accessible to employees with a disability. This includes training programs that may lead to upward mobility and career advancement.
- 6) **Awareness/Sensitivity** - Train managers, supervisors, and employees about disability myths and misconceptions. An educated workforce will be better able to ensure the success of employees with disabilities.

Interviewing

Interviewing people with disabilities is the same as interviewing people who are not disabled. In general, the selecting official should ask all applicants about their qualifications, experience, and skills for doing the job.

However, there are some guidelines that are specific to people with disabilities. Unless an individual is seeking appointment under one of the special excepted appointment authorities, a selecting official should **only** ask questions about the person's ability to do the job. The office should make sure that all questions are job-related. The focus of the interview should be on the individual's ability to successfully perform the essential functions of the job and demonstrating the competencies or knowledge, skills, and abilities needed to perform the job. "Essential functions" are the tasks that are fundamental and intrinsic to the job. Understanding essential functions and the competencies required to perform those functions is particularly important to prepare for applicant interviews.

If the person indicates that he or she has a disability which makes it difficult to perform particular functions of a job, or if the selecting official believes that a person's disability may make it difficult to perform certain job functions, the selecting official may ask job-related follow-up questions, such as: describe how you can perform the job. The answer to such questions will indicate whether a reasonable accommodation is needed to enable the individual to perform the essential functions of the job. Allow the applicant to request reasonable accommodation. **It is the responsibility of the job applicant to inform the employer of any accommodation needs.** However, employers should not make a general assumption that an individual with a disability will be unable to do a certain part of the job, or that a reasonable accommodation will be needed.

Career Development

One of the major problems facing people with disabilities is underutilization of their knowledge, skills, and abilities. Developmental details and reassignments can be used as a means of providing on-the-job training which will enhance opportunities for promotion. In addition, it is easy to fall into the trap of isolating employees with disabilities from others. Make sure employees with disabilities have opportunities not only to work with others on group projects, but, when appropriate, to take on leadership roles.

Federal employers should ensure that employees with disabilities are given full consideration for inclusion in upward mobility programs, and that they are aware of career counseling. Recognize that people with disabilities have career goals. Agency managers should sit down with employees and talk about goals. Identify role models and mentors for disabled employees or encourage them to do so. Every effort should be made to ensure that disabled employees reach their maximum potential.

Performance Evaluation

People with disabilities should be held accountable for their work performance. Supervisors are responsible for communicating performance expectations to their employees and monitoring and appraising their work. When the individual with a disability begins a job, he or she should be given a clear description of the job, and the specific duties. Employees should be provided with encouragement and feedback regarding their work performance. It is important to ensure that when evaluating a person with a disability, aspects of their physical or mental disability are not held against them. They should be evaluated for their ability to do a job with the appropriate accommodations. For example, it would be inappropriate to negatively evaluate an individual who uses a wheelchair for not attending a meeting, when the meeting was held in a physically inaccessible building.

If an employee with a disability cannot perform satisfactorily after a full and fair trial period, then his or her employment should be terminated. No supervisor or manager owes a job to any person with a disability. The goal and the only obligation is equal employment opportunity. The same job-related performance criteria should be applied to disabled employees that is applied to all other employees. If it becomes necessary to terminate the appointment of a disabled employee, the Human Resources or Personnel Office will help in making this decision and taking appropriate action.

Awards

People with disabilities should have equal opportunity to receive incentive awards (special achievement/act or performance), quality step increases and all other agency-sponsored or non-agency sponsored awards. Efforts should not be limited to special awards programs geared specifically to those who are disabled.

Training

Give employees with disabilities an equal chance to benefit from training and development opportunities. Ensure that classes are held in accessible facilities, and as necessary, that materials are available in large print for persons who are visually impaired, interpreters are provided for participants who are hearing-impaired, or other accommodations are made. Any training which would provide growth opportunities that will allow disabled employees to advance in their careers should be encouraged. Such training could include developmental detail assignments, lateral reassignments, and leadership training.

PROMOTING THE EMPLOYMENT OF PEOPLE WITH DISABILITIES

Communication is the key to increasing organizational understanding and support for the employment of people with disabilities. The positive portrayal of employees with disabilities can greatly affect the public's perception, and enhance self worth of affected employees. What one says and writes can enhance their dignity and promote positive attitudes about their abilities. There are a number of target groups to be reached: the disabled community, the rehabilitation establishment, the agency workforce, students, and community groups.

Communicating messages or events such as planned initiatives, programs or exhibits, employee success stories, activities and accomplishments, and training and career development opportunities will enhance the employment and advancement of people with disabilities. One of the most effective and efficient media for some messages are internal memorandum or personal contact with the organization head, managers, supervisors and employees. Messages may also be integrated into existing media, such as an agency newsletter.

Other communications media may also be considered:

- Agency publications
- Bulletin boards
- Press releases
- Film or slide-tape presentations
- Local newspapers
- Local radio and television stations
- Chambers of Commerce
- Trade and technical magazines
- Community organizations newsletters
- Flyers
- Web sites

An agency's public affairs office may be able to assist in preparing professional copy or in maximizing one's communication tools. Outside organizations such as the President's Committee on Employment of People with Disabilities, Veterans' service organizations (VSOs), Federally Employed Women, State Vocational Rehabilitation Centers, and local news media may be able to help in the preparation of materials.

Experience has shown that programs and initiatives require dedicated and sustained support from departmental and agency leadership to achieve success. Thus, a clearly articulated commitment of agency leadership to achieving the goal of greater inclusion for adults with disabilities in the Federal workforce is critical to transforming such an aim into reality at the agency level.

APPENDIX 1: STATISTICAL INFORMATION

The Office of Personnel Management (OPM) published a *Statistical Profile of People with Disabilities in the Federal Workforce* in 1998. Copies of the report can be obtained by calling OPM's Office of Diversity at (202) 606-1059. Some of the findings are listed below:

- Despite downsizing and employment changes, the representation of persons with disabilities in the Federal Government since 1992 has remained fairly stable near 7% of the workforce. In 1997, the approximately 127,076 employees with disabilities represented 7.2% of the Federal Executive Branch workforce.
- The average pay of Federal employees with disabilities lags below the overall average Federal employee pay. A higher proportion of Federal employees with disabilities are in lower grade occupations.
- Nearly two thirds of our Federal employees with disabilities are in professional, administrative and technical occupations. This is a positive factor given that, in 1992, 40% of Federal employees with disabilities were in blue-collar and clerical occupations; jobs with more limited pay and advancement opportunities. However, other employment indicators merit further scrutiny.
- Of the 195,903 new hires in FY 1997, only 11,847, or 5.7% were people with disabilities.
- Over half (55%) of all new FY 1997 hires with disabilities were hired into blue-collar and clerical occupations. While these occupational groups have constituted traditional employment vehicles for persons with disabilities, these employment pipelines offer limited career advancement opportunities and will continue shrinking due to changes in Federal agency operations.
- From FY 1992 thru FY 1997, there has been some decline in the use of special non-competitive hiring authorities, such as Schedule A, for severely physically handicapped and mentally retarded persons, and Schedule B, for persons recovered from mental illness. During FY 1997, five special hiring authorities for persons with disabilities accounted for 11 percent of all new hires of employees with disabilities.

APPENDIX 2: FEDERAL RESOURCES

- 1) **President's Committee on Employment of People with Disabilities (PCEPD)**
1331 F Street, NW
Washington, DC 20004-1107
Phone: (V) (202) 376-6200
(TDD) (202) 376-6205

Website: <http://www.pcepd.gov> EMAIL: info@pcepd.gov

- 2) **President's Committee Job Accommodation Network (JAN)**
918 Chestnut Ridge Road, Suite 1
West Virginia University - PO Box 6080
Morgantown, WV 26506-6080
Phone: (V) (800) 526-7234
(TDD) (800) 232-9675

Website: <http://www.pcepd.gov> and click on JAN or go directly to JAN at
<http://janweb.icdi.wvu.edu/english/homeus.htm>

- 3) **Equal Employment Opportunity Commission**
1801 L Street NW (Federal Sector Programs)
Washington, DC 20507
Phone: (V) (800) 669-3362
(TDD) (800) 800-3302

Website: <http://www.eeoc.gov>

- For specific Federal employment questions, call the "ATTORNEY OF THE DAY" at
(202) 663-4599.

- 4) **Department of Labor: Office of Federal Contractor Compliance Programs (OFCCP)**
[administers Federal contractor compliance for affirmative action in the
employment of people with disabilities]
Department of Labor
Frances Perkins Building,
200 Constitution Avenue NW
Washington, DC 20210
Phone: (V) (888) 376-3227
(V) (202) 219-9475
(TDD) (202) 208-0452

Website: <http://www.dol.gov/dol/esa>

- 5) **U.S. Office of Personnel Management**[for Federal employment information]
1900 E Street, NW
Washington, DC 20415
Phone: (V) (202) 606-2700
(TDD) (912) 744-2299

Website: <http://www.opm.gov>

APPENDIX 3: STATE VOCATIONAL AND REHABILITATION AGENCIES

State Vocational and Rehabilitation Agencies provide a number of services for persons with disabilities. Services include counseling, evaluation, training, and job placement. For more information, call or write the office nearest you. Internet addresses for each agency can be accessed at:

www.nchrtm.okstate.edu/nchrtm_links/state_VR.html

ALABAMA

Dept. of Rehabilitation Services
PO Box 11586
Montgomery, AL 36111-0586
(334) 281-8780
Toll free: (800) 441-7607

ALASKA

Division of Vocational Rehabilitation
801 W. 10th Street, Suite 200
Juneau, AK 99801-1894
Voice/TDD: (907) 465-2814
Toll Free: (800) 478-2815

ARIZONA

Rehabilitation Services Admin. (930A)
1789 West Jefferson, NW (2nd Floor)
Phoenix, AZ 85007
(602) 542-3332
Voice/TDD: (602) 542-6049

ARKANSAS

Department of Education
Arkansas Rehabilitation Services
Div. of Vocational & Technical Education
PO Box 3781
Little Rock, AR 72203
(501) 296-1616
Toll Free: (800) 330-0632

CALIFORNIA

Department of Rehabilitation
830 K Street Mall
Sacramento, CA 95814
Voice/TDD: (916) 445-3971

COLORADO

Division of Vocational Rehabilitation
110 16th Street, 2nd Floor
Denver, CO 80202
Voice/TDD: (303) 620-4153

CONNECTICUT

State Department of Social Services
Bureau of Rehabilitation Services
Division of Client Services
10 Griffin Road North
Windsor, CT 06095
(860) 298-2000
Toll Free: (800) 537-2549
TDD: (860) 298-2231

DELAWARE

Department of Labor
Division of Vocational Rehabilitation
4425 North Market Street
PO Box 9969
Wilmington, DE 19809-0969
(302) 761-8300
Voice/TDD: (302) 761-8349

DISTRICT OF COLUMBIA

Department of Human Services
DC Rehabilitation Services Administration
800 9th Street, SW, Fourth Floor
Washington, DC 20024
(202) 645-5703

FLORIDA

Dept. of Labor and Employment Security
Division of Vocational Rehabilitation
2002 Old Augustine Road, Building A
Tallahassee, FL 32399-0696
(850) 488-6210
Voice/TDD: (850) 488-2867

GEORGIA

Department of Human Resources
Division of Rehabilitation Services
2 Peachtree Street, NW, 23rd Floor
Atlanta, GA 30330-3166
Voice/TDD: (404) 657-3000

GUAM

Department of Vocational Rehabilitation
122 Harmon Plaza, Room B-201
Harmon Industrial Park, GU 96911
011-671-475-4645
001-671-475-4635 (Consumer Information)

HAWAII

Department of Human Services
Division of Vocational Rehabilitation
and Services for the Blind
PO Box 339
Honolulu, HI 96809
(808) 586-5355
(808) 586-5366

IDAHO

Division of Vocational Rehabilitation
650 West State-L. B. Jordan Bldg, Rm 150
Boise, ID 83720-0096
Voice/TDD: (208) 334-3390
Toll Free: (800) 856-2720

ILLINOIS

Department of Rehabilitation Services
623 East Adams Street
Springfield, IL 62794
(217) 785-0218
Toll Free: (800)ASK-DORIS
TDD: (217) 782-5734

INDIANA

Division of Disability, Aging and
Rehabilitation Services
402 West Washington Street, Rm W-451
PO Box 7083
Indianapolis, IN 46207-7083
(317) 232-1147
Toll free: (800) 545-7763
TDD Toll free: (800) 962-8408

IOWA

Department of Education
Div. of Vocational Rehabilitation Services
510 East 12th Street
Des Moines, IA 50319
Voice/TDD: (515) 281-4311
Toll free: (800) 532-1486

KANSAS

Dept. of Social and Rehabilitation Services
300 SW Oakley-Biddle Building, 1st Floor
Topeka, KS 66606
(913) 296-3911
TDD: (913) 296-7029

KENTUCKY

Department of Vocational Rehabilitation
209 Street Clair
Frankfort, KY 40601
Voice/TDD: (502) 564-4440
Toll free: (800) 372-7172
TDD: (502) 564-6742

LOUISIANA

Department of Social Services
Louisiana Rehabilitation Services
8225 Florida Blvd.
Baton Rouge, LA 70806-4834
(504) 925-4168
Toll free: (800) 737-2958
Voice/TDD: (504) 925-4179

MAINE

Department of Labor,
Division of Vocational Rehabilitation
35 Anthony Avenue
Augusta,, ME 04333-0150
(207) 624-5300
Toll free: (800) 332-1003
Voice/TDD: (207) 624-5322

MARIANA ISLANDS

Vocational Rehabilitation Division
Comm. of Northern Mariana Islands
PO Box 1521
Saipan, Mariana Islands 96950
011-670-234-6538

MARYLAND

State Department of Education
Division of Rehabilitation Services
2301 Argonne Drive
Baltimore, MD 21218
(410) 554-9385
TDD: (410) 554-9412

MASSACHUSETTS

Massachusetts Rehabilitation Commission
4 Point Place, 27-43 Wormwood Street
Boston, MA 02210
(617) 727-2172
TDD: (617) 727-9063

MICHIGAN

Michigan Rehabilitation Services
Michigan Jobs Commission
PO Box 30010
Lansing, MI 48909
(517) 373-3390
Toll free: (800) 605-6722
TDD: (517) 373-4035

Family Independence Agency
Disability Determination Service
PO Box 30011
Lansing, MI 48909
(517) 373-7830
(517) 373-4533
Toll free: (800) 366-3404

MINNESOTA

Michael Coleman, Assistant Commissioner
Department of Economics and Security
Rehabilitation Services Branch
390 North Robert Street, 5th Floor
Street Paul, MN 55101
(612) 296-1822
TDD: (612) 296-3900

MISSISSIPPI

Nell C. Carney, Executive Director
Department of Rehabilitation Services
Vocational Rehabilitation Division
1281 Highway 51
PO Box 22806
Madison, MS 39110
(601) 853-5100
Toll free: (800) 443-1000

MISSOURI

Don Gann, Assistant Commissioner
State Department of Education
Division of Vocational Rehabilitation
3024 W. Truman Blvd.
Jefferson City, MO 65109
Voice/TDD: (573) 751-3251

MONTANA

Dept. of Public Health & Human Services
Disability Services Division
PO Box 4210
Helena, MT 59604-4210
Voice/TDD: (406) 444-2590

NEBRASKA

State Department of Education
Div. of Vocational Rehabilitation Services
PO Box 94987
Lincoln, NE 68509
(402) 471-3649
Voice/TDD: (402) 471-3659

NEVADA

Nevada Rehabilitation Division
505 East King Street, Room 502
Carson City, NV 89710
Voice/TDD: (702) 687-4440

NEW HAMPSHIRE

State Department of Education
Division of Adult Learning & Rehabilitation
78 Regional Drive, Bldg 2
Concord, NH 03301
Voice/TDD: (603) 271-3471

NEW JERSEY

Div. of Vocational Rehabilitation Services
135 East State Street, CN 398
Trenton, NJ 08625-0398
(609) 292-5987
Voice/TDD: (609) 292-2919

NEW MEXICO

Department of Education
Division of Vocational Rehabilitation
435 Street Michaels Drive, Bldg D
Santa Fe, NM 87505
Toll free: (800) 235-5387
Voice/TDD: (505) 827-3500

NEW YORK

New York State Education Department
Office of Vocational and Educational
Services for Individuals with Disabilities
One Commerce Plaza, Room 1606
Albany, NY 12234
(518) 474-2714
Toll free: (800) 222-JOBS
TDD: (518) 486-3773

NORTH CAROLINA

Department of Human Resources
Div. of Vocational Rehabilitation Services
PO Box 26053
Raleigh, NC 27611
(919) 733-3364
Voice/TDD: (919) 733-5924

NORTH DAKOTA

Department of Human Services
Division of Vocational Rehabilitation
Dacotah Foundation Bldg
600 S. Second Street, Suite IB
Bismarck, ND 58504-5729
(701) 328-8950
Toll free: (800) 755-2745
TDD: (701) 328-8968

OHIO

Rehabilitation Services Commission
400 East Campus View Blvd.
Columbus, OH 43235-4604
Voice/TDD: (614) 438-1210
Toll free: (800) 282-4536, ext. 1210

OKLAHOMA

Department of Rehabilitation Services
3535 NW 58, Suite 500
Oklahoma City, OK 73112
(405) 951-3400

OREGON

Department of Human Resources
Division of Vocational Rehabilitation
Human Resources Bldg,
500 Summer Street, N.E.
Salem, OR 97310-1018
(503) 945-5880
TDD: (503) 378-3933

PENNSYLVANIA

Office of Vocational Rehabilitation
Labor and Industry Building
7th and Forster Streets
Harrisburg, PA 17120
(717) 787-5244
Voice/TDD: (717) 783-8917
Toll free: (800) 442-6351

PUERTO RICO

Administration for Vocational Rehabilitation
PO Box 191118
San Juan, PR 00919-1118
(809) 725-1792

RHODE ISLAND

Department of Human Services
Office of Rehabilitation Services
40 Fountain Street
Providence, RI 02903-1898
(401) 421-7005
TDD: (401) 421-7016

SOUTH CAROLINA

Vocational Rehabilitation Department
1410 Boston Avenue
PO Box 15
West Columbia, SC 29171
(803) 896-6504
Voice/TDD: (803) 896-6635

SOUTH DAKOTA

Department of Human Services
Division of Rehabilitation Services
East Highway 34, Hillview Plaza
c/o 500 E. Capitol
Pierre, SD 57501-5070
Voice/TDD: (605) 773-3195
Toll free: (800) 265-9684

TENNESSEE

Rehabilitation Services
Department of Human Services
Citizens Plaza State Office Bldg
400 Deaderick Street, 15th Floor
Nashville, TN 37248-0060
Voice/TDD: (615) 313-4714

TEXAS

Texas Rehabilitation Commission
4900 North Lamar
Austin, TX 78751
(512) 483-4001
Toll free: (800) 628-5115

UTAH

Utah State Office of Rehabilitation
250 East Fifth South
Salt Lake City, UT 84111
Voice/TDD: (801) 538-7530
Toll free: (800) 473-7530

VERMONT

Vocational Rehabilitation Division
103 South Main Street
Waterbury, VT 05671-2303
Voice/TDD: (802) 241-2186

VIRGIN ISLANDS

Virgin Islands Dept. of Human Services
Div. for Disabilities and Rehabilitation
Services
1303 Hospital Ground, Hansen Complex
Saint Thomas, VI 00802
(809) 774-0930

VIRGINIA

Department of Rehabilitation Services
4901 Fitzhugh Avenue
PO Box 11045
Richmond, VA 23230
(804) 367-0316
Voice/TDD: (804) 367-0315
Toll free: (800) 552-5019

WASHINGTON

Department of Social and Health Services
Division of Vocational Rehabilitation
PO Box 45340
Olympia, WA 98504-5340
Voice/TDD: (360) 427-2135
Toll free: (800) 637-5627

WEST VIRGINIA

Division of Rehabilitation Services
State Capitol Complex
PO Box 50890
Charleston, WV 25305-0890
(304) 766-4600
Voice/TDD: (304) 766-4970
Toll free: (800) 642-3021

WISCONSIN

Department of Workforce Development
Division of Vocational Rehabilitation
2917 International Lane, 3rd Floor
PO Box 7852
Madison, WI 53707-7852
(608) 243-5600
TDD: (608) 243-5601

WYOMING

Department of Employment
Division of Vocational Rehabilitation
1 East Herschler Building
Cheyenne, WY 82002
(307) 777-7385
Voice/TDD: (307) 777-7389

APPENDIX 4: REFERENCES AND REGULATIONS

I. General Medical Personnel Guidance

Law:

- A. The Americans with Disabilities Act of 1990 - 42 U.S.C. §§ 12101 et seq.
- B. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701, et seq.; See also, 29 U.S.C. §§ 791(g), 794(d) (Incorporating standards of Americans with Disabilities Act into the Rehabilitation Act)
- C. The Family and Medical Leave Act of 1993, Pub. L. 103-3, Feb. 5, 1993, 107 Stat. 6, et seq. Title I of the Act applies to non-Federal employees and certain Federal employees and is administered by the Department of Labor. Title II of the Act applies to most Federal employees and is administered by the Office of Personnel Management.

Regulation:

- A. 5 CFR 339, Medical Qualification Determinations, March 8, 1989
- B. 29 CFR 1614, Equal Employment Opportunity Commission

NOTE: Part 1614 of the Federal sector Equal Employment Opportunity (EEO) complaint processing regulations replace part 1613, with the objective of promoting greater administrative fairness in the investigation and consideration of Federal sector EEO complaint by creating a process that is quicker and more efficient. Every Federal employee and applicant for Federal employment has the right to use the administrative EEO discrimination complaints process.

- C. For most Federal employees, 5 CFR Part 630, Subpart L, Family and Medical Leave.

NOTE: The final rule became effective on January 6, 1997.

- D. For certain Federal employees, including Postal Service employees, 29 CFR Part 825, The Family and Medical Leave Act of 1993.

NOTE: The final rule became effective on February 6, 1995.

Information:

- A. Equal Employment Opportunity Commission (EEOC)

1. EEOC - *ADA Enforcement Guidance: Preemployment Disability Related Questions and Medical Examinations*, October 10, 1995

NOTE: This document provides the EEOC's position under the Americans with Disabilities Act of 1990, on preemployment disability-related questions and medical examinations.

2. EEOC - *EEOC Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities*, March 25, 1997

NOTE: This guidance is designed to facilitate the full enforcement of the ADA with respect to individuals alleging employment discrimination based on psychiatric disabilities; respond to questions and concerns expressed by individuals with psychiatric disabilities regarding ADA; and answer questions posed by employers about how principles of ADA analysis apply in the context of psychiatric disabilities.

3. EEOC - *The Family and Medical Leave Act, The Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964*

NOTE: This fact sheet was prepared by the Equal Opportunity Commission's (EEOC) Office of Legal Counsel. It is intended to provide technical assistance on some common questions that have arisen about the Americans with Disabilities Act of 1990 (ADA) and Title VII of the Civil Rights Act of 1964 (Title VII) when the Family and Medical Leave Act of 1993 (FMLA) also applies.

4. EEOC - *Compliance Manual Section on the Definition of the Term "Disability"*
5. EEOC - *Interim Enforcement Guidance on the Application of the ADA to the Disability-based Distinctions in Employer Provided Health Insurance*
6. EEOC - *Questions and Answers About Disability and Service Retirement Plans Under the ADA*
7. EEOC - *Enforcement Guidance on Workers' Compensation and the ADA*
8. EEOC - *Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the ADA*
9. EEOC - *Enforcement Guidance on the Effect of Representations Made in Applications for Benefits on the Determination of Whether a Person is a "Qualified Individual with a Disability"*

B. U.S. Office of Personnel Management (OPM)

1. OPM - *Operating Manual - Qualification Standards for General Schedule Positions*, August, 1994, prepared by OPM's Washington Service Center

NOTE: This operating manual replaces the Qualification Standards Handbook for General Schedule Positions.

3. OPM - *The Role of the Agency Medical Review Officer (MRO ⁴)*, March, 1996, prepared by OPM's Staffing Reinvention Office
4. OPM - *Guide for Administering Written Employment Examinations to Persons with Disabilities*, December, 1994, prepared by OPM's Personnel Resources and Development Center
5. OPM - *Developing and Conducting the Structured Situational Interview: A Practical Guide*, January, 1994, prepared by OPM's Personnel Resources and Development Center
6. OPM - *Family-Friendly Leave Policies for Federal Employees: Employee Brochure*, November 1997, prepared by OPM's Workforce Compensation and Performance Service
7. OPM - *Federal Employee Entitlement Under the Family and Medical Leave Act of 1993*, December 1996, prepared by OPM's Workforce Compensation and Performance Service

C. Social Security Administration (SSA)

1. U.S. Department of Health and Human Services, Social Security Administration - *Disability Evaluation Under Social Security*, January, 1995

NOTE: This new publication replaces the October, 1992 edition of *Disability Evaluation Under Social Security*. It is intended to provide physicians and other health professionals with an understanding of the disability programs administered by the Social Security Administration, how each program works, and the kinds of medical information a health professional can furnish to help ensure sound and prompt decisions on disability claims.

II. Aeromedical-FAA Medical Standards and Certification

Law:

⁴ See Section VI, Information (E, F) for HHS Drug Testing Medical Review Officer Source List and Manual for Federal Workplace Drug Testing Programs

- A. 49 U.S.C. 106 (G), 40113, 44701-44703, 44707, 44709-44711, 45102-45103, 45301-45303.

Regulation:

- A. 14 CFR Part 67, Federal Aviation Regulations, Medical Standards and Certification, recently revised, March, 1996, See 61 Federal Register 11256, March 19, 1996

NOTE: This establishes medical standards for airman (e.g., pilots) who have to hold an FAA issued medical certificate.

Information:

- A. U.S. Department of Transportation, Federal Aviation Administration, Office of Aviation Medicine, *FAA Guide for Aviation Medical Examiners*, Revised 1992

NOTE: This 1992 revision supersedes previous editions of the *FAA Guide* which should now be discarded.

III. Conduct or Performance Problems Involving Medical Considerations

NOTE: See Section I, Information (A) for information regarding an Agency's right to order/offer a medical or psychiatric examination.

IV. Excepted Service Appointing Authorities for Persons with Disabilities

Schedule A:

- A. 5 CFR 213.3102(II) - This hiring authority applies to readers, interpreters and other personal assistants for other employees with a severe disability(ies).
- B. 5 CFR 213.3102(t) - This hiring authority applies to persons with mental retardation.
- C. 5 CFR 213.3102(u) - This hiring authority applies to persons with severe physical disabilities.

Schedule B:

- A. 5 CFR 213.3202(k) - This hiring authority applies to persons who are mentally restored.

Veteran Specific:

- A. 5 CFR 316.402(b)(5) - This hiring authority applies to 30 percent or more Disabled Veterans.

Information:

- A. OPM - *People with Disabilities in the Federal Government - A Statistical Profile*, July, 1998, prepared by OPM's Office of Diversity
- B. OPM - *Guide for Administering Written Employment Examinations to Persons with Disabilities*, (PRDC-94-11), December, 1994, prepared by OPM's Personnel Research and Development Center

NOTE: This publication replaces the 1980 *Guide for Administering Examinations to Handicapped Individuals for Employment Purposes*.

V. Disability Retirement (CSRS and FERS)

Regulation:

- A. CSRS - 5 CFR Part 831, Civil Service Retirement System, Disability Retirement, September 22, 1993

Information:

- A. CSRS - Documentation in Support of Disability Retirement Application, July, 1984
- B. CSRS - OPM Pamphlet *Information for Disability Annuitants*, March, 1995
- C. CSRS - Application for Immediate Retirement, January, 1990

Regulation:

- A. FERS - 5 CFR Part 844, Federal Employees Retirement System - Disability Retirement, 1995

Information:

- A. FERS - Documentation in Support of Disability Retirement Application, August, 1987
- B. FERS - OPM Pamphlet *Information for FERS Disability Annuitants*, October, 1995
- C. FERS - Application for Immediate Retirement, March, 1988

VI. Drug and Alcohol Testing⁵

Executive Order:

- A. Drug-Free Federal Workplace, Executive Order 12564, 51 Federal Register 32,889 (1986)

NOTE: Executive Order 12564 requires that the Head of each Executive Agency establish a program to test for the use of illegal drugs by employees in safety or security-sensitive positions.

Law:

- A. Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 468, codified at 5 U.S.C. § 7301 note (1987)
- B. The Omnibus Transportation Employee Testing Act of 1991, Pub. L. No. 102-143, Title V, 105 Stat. 952 (1991)

NOTE: This Act requires that a program be established to test for the use of alcohol or controlled substances. This program is mandated for Federal Aviation Administration (FAA) employees whose duties include responsibility for safety-sensitive functions and for any other Federal employee whose position requires a Commercial Drivers License (CDL) under Federal Highway Administration (FHWA) regulations.

- C. Drug Abuse Prevention, Treatment and Rehabilitation Act of 1972, 42 U.S.C. § 290ee-1 et seq., as amended by the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, 42 U.S.C. § 290dd et seq., Pub. L. 102-321, 106 Stat. 367 (1992) (codified at 42 U.S.C. § 201 note)
- D. Federal Employee Substance Abuse Education and Treatment Act of 1986, Pub. L. 99-570, Title VI, 100 Stat. 3207-157 (1986)

NOTE: This Act requires agency programs to provide prevention, treatment, rehabilitation, and education services to Federal civilian employees with respect to drug and alcohol abuse.

Regulation:

⁵ See Section IX, Information (A) for information regarding the role of OPM in the adjudication of medical objections to preference eligibles who test positive on a preemployment drug screen.

A. 5 CFR Part 792, Federal Employees' Health and Counseling Programs

B. 49 CFR Part 382, Controlled Substances and Alcohol Use and Testing

NOTE: This regulation is issued by the Federal Highway Administration (FHWA) and contains the requirements applicable to positions requiring Commercial Drivers' License (CDL).

C. 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs

NOTE: This regulation is issued by the U.S. Department of Transportation (DOT) and contains the technical procedures designed for use when testing is required pursuant to 49 CFR Part 382.

Mandatory Guidelines:

A. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration - Mandatory Guidelines for Federal Workplace Drug Testing Programs, Federal Register Vol. 59, No. 110, June 9, 1994

NOTE: This establishes mandatory scientific and technical guidelines for Federal civilian drug testing programs pursuant to Executive Order 12564.

Information:

A. National Institute on Drug Abuse - *Model Plan for a Comprehensive Drug-Free Workplace Program*, 1990

B. U.S. Department of Transportation - *Alcohol & Drug Rules - An Overview*, February, 1994

C. U.S. Department of Health and Human Services - Substance Abuse and Mental Health Services Administration - *Basic Information on Breath Alcohol Testing for Implementation of the DOT Rules*, February, 1995

D. U.S. Department of Health and Human Services - An Overview of HHS Division of Workplace Programs (Federal Drug and Alcohol Program Oversight Responsibility)

E. U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration - *Medical Review Officer Manual for Federal Workplace Drug Testing Programs*, 1997

NOTE: This manual applies to Federal agency drug testing programs that come under Executive Order 12564 and the Department of Health and Human Services (HHS) Mandatory Guidelines. The Department of Transportation (DOT) and Nuclear Regulatory Commission (NRC) programs have drug testing program requirements that may differ from those required by HHS. Therefore, Medical Review Officers (MROs) must be aware of those differences in reviewing results for other Federally regulated programs.

- F. U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration - *Medical Review Officer (MRO) Source List*, March 3, 1996

VII. Hearing Conservation

Regulation:

- A. 29 CFR 1910.95, Occupational Noise Exposure Standard, U.S. Department of Labor, Occupational Safety and Health Administration

Information:

- A. U.S. Department of Labor, OSHA Guideline *Occupational Noise Exposure Compliance Assistance Guideline*, 1991
- B. U.S. Department of Labor, Occupational Safety and Health Administration, *Hearing Conservation*, (OSHA Publication 3074), 1995

NOTE: This program is initiated as part of a comprehensive Occupational Safety and Health Program when workers are exposed to excessive/high noise levels that could cause hearing loss.

VIII. Infectious Diseases (HIV/AIDS, Hepatitis, Tuberculosis, etc.) Involving Employee Relations

Regulation:

- A. 29 CFR Part 1910.1030, Occupational Exposure to Bloodborne Pathogens, U.S. Department of Labor, Occupational Safety and Health Administration (OSHA)

NOTE: A bloodborne pathogen's protection program is initiated as part of a comprehensive Occupational Safety and Health Program when workers are potentially exposed to infectious blood or body fluids as part of their employment.

Information:

- A. OPM - *HIV/AIDS Policy Guidelines*, August 30, 1995, prepared by OPM's Office of Employee Relations

NOTE: These guidelines replace FPM letter 792-21, "Acquired Immune Deficiency Syndrome (AIDS) in the Workplace."

- B. U.S. Department of Health and Human Services, Social Security Administration - *A Guide to Social Security and SSI Disability Benefits for People with HIV Infection*, May, 1997
- C. U.S. Public Health Service, Centers for Disease Control, Morbidity and Mortality Weekly Report, September 8, 1995/Vol. 44/No. RR-11, *Essential Components of a Tuberculosis Prevention and Control Program, Screening for Tuberculosis and Tuberculosis Infection in High-Risk Populations*
- D. U.S. Department of Labor, Occupational Disease - *Claims for Pulmonary Tuberculosis*, FECA Bulletin No. 95-20, June 21, 1995
- E. U.S. Public Health Service, Centers for Disease Control, Morbidity and Mortality Weekly Report, October 28, 1994/Vol. 43/No. RR-13 1994, *Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health Care Facilities*

IX. Medical Disqualifications of Veterans Preference Eligibles (TP, CP, CPS, XP)

Law:

- A. 5 U.S.C., Sections 3312 and 3318, Preference Eligibles

Regulation:

- A. 5 CFR 339.306 Medical Qualification Determinations
- B. 5 CFR 351.702(d) Reduction in Force

Information:

- A. Interagency Advisory Group, Memorandum for Directors of Personnel, dated March 14, 1997, "OPM Adjudication of Medical Disqualifications to Preference Eligibles"

NOTE: This is a reminder that in accordance with Title 5, United States Code, Sections 3312 and 3318, and 5 CFR 339, Medical Qualification Determinations, any disqualification, non-selection, or passover of a veterans' preference eligible applicant for medical reasons must be approved by the Office of Personnel Management (OPM) **before** the position can be filled.

- B. OPM - *Procedures Guide in Processing Medical Objections to Preference Eligibles*, March, 1996, prepared by OPM's Staffing Reinvention Office
- C. OPM - *Typical Reasons for Not Sustaining Agency Medical Passover Requests*, March, 1996, prepared by OPM's Staffing Reinvention Office

X. Medical Records

Law:

- A. Privacy Act of 1974, 5 U.S.C. 552a

Regulation:

- A. 5 CFR Part 293, Subpart E, Employee Medical File System Records, prepared by OPM's Office of Workforce Information
- B. 5 CFR Part 297, Privacy Procedures for Personnel Records, prepared by OPM's Office of Workforce Information
- C. 29 CFR 1910.1020(d)(II) (1990) Access to Employee Exposure and Medical Records, U.S. Department of Labor, Occupational Safety and Health Administration
- D. 29 CFR 1904 (June 1986), A Brief Guide to Recordkeeping Requirements for Occupational Injuries and Illnesses, U.S. Department of Labor, Bureau of Labor Statistics
- E. 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient's Records (This regulation applies only to Employee Assistance Program (EAP) records)

Information:

- A. OPM/GOVT-10 "Employee Medical File System Records," 57 Federal Register, 35,722, (August 10, 1992), prepared by OPM's Office of Workforce Information
- B. OPM Medical Record Procedures, (covered in OPM's Operating Manual) *The Guide to Personnel Recordkeeping*, prepared by OPM's Office of Workforce Information
- C. U.S. Department of Labor, Occupational Safety and Health Administration, *Access to Medical and Exposure Records*, (OSHA Publication 3110), 1993

XI. Mental Health Issues

NOTE: See Section I, Regulation (A), for specific information regarding an Agency's right to order/offer a medical or psychiatric examination.

XII. OWCP Issues

Law:

- A. 5 U.S.C. 8101 et seq. The Federal Employees Compensation Act, as amended

Regulation:

- A. 20 CFR Parts 1 to 25, Federal Employees Compensation Act
- B. 5 CFR Parts 353, Restoration to Duty from Uniform Service or Compensable Injury (Interim Regulations, September 1, 1995)

Information:

- A. OPM - Pamphlet *Restoration Rights of Federal Employees Who Sustain Job-Related Injuries or Illnesses*, January, 1992, prepared by OPM's Staffing Reinvention Office
- B. U.S. Department of Labor - *Injury Compensation for Federal Employees* (A Handbook for Employing Agency Personnel), (Publication CA-810), February, 1994
- C. U.S. Department of Labor, *Questions and Answers About the Federal Employees' Compensation Act*, (Publication CA-550), September, 1988
- D. U.S. Department of Labor, *Resource Book - Training for Federal Employing Agency Compensation Specialists*, 1994

XIII. Pregnancy Related Issues

Law:

- A. Pregnancy Discrimination Act, P.L. 95-555, October 31, 1978, 92 Stat. 2076, 42 U.S.C. § 2000e(k)

Regulation:

- A. 29 CFR § 1604.10(b), See also, 29 CFR Pt. 1604 App. (Questions and Answers on the Pregnancy Discrimination Act)

XIV. Respiratory Protection Program

Regulation:

- A. 29 CFR 1910.134, Respiratory Protection, U.S. Department of Labor, Occupational Safety and Health Administration (OSHA)

NOTE: This program is initiated as part of a comprehensive Occupational Safety and Health Program when workers must wear respirators to protect themselves from actual or potential airborne hazards.

- B. 29 CFR Part 1910.1001, Occupational Exposure to Asbestos, June 29, 1995, U.S. Department of Labor, Occupational Safety and Health Administration (OSHA)
- C. 29 CFR Part 1910.1200, Hazard Communication, March 11, 1994, U.S. Department of Labor, Occupational Safety and Health Administration (OSHA)

XV. Safety and Occupational Health Programs

Law:

- A. Occupational Safety and Health Act of 1970, 84 Stat. 1590, Public Law 91-596, Section 19, Federal Agency Safety Programs and Responsibilities, December 29, 1970

NOTE: This act is to assure safe and healthful working conditions for working men and women by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; and by providing for research, information, education and training in the field of occupational safety and health.

Federal Regulation:

- A. 29 CFR 1910.151, Medical Services, U.S. Department of Labor, Occupational Safety and Health Administration
- B. 29 CFR 1910.1450, Occupational Exposure to Hazardous Chemicals in Laboratories, U.S. Department of Labor, Occupational Safety and Health Administration
- C. 29 CFR 1910.1200, Hazardous Communication, U.S. Department of Labor, Occupational Safety and Health Administration
- D. 5 CFR Part 339.205, Medical Evaluation Programs, Medical Surveillance Program

XVI. Veterans and the Civil Service

Information:

- A. OPM - *VetGuide, Federal Employment Policy Handbook: Veterans and the Civil Service*, December, 1998, prepared by OPM's Employment Service

NOTE: VetGuide explains the special rights and privileges that veterans enjoy in Federal civil service employment. The guide conveniently summarizes in one place material from many laws and regulations that affect the employment of veterans. The guide will help Federal personnel specialist ensure that veterans receive the advantages they have earned.

- B. The Office of Personnel Management (OPM) administers entitlement to veterans' preference in employment under Title 5, United States Code, and oversees other statutory employment requirements in Titles 5 and 38. (Title 38 also governs veterans' entitlement to benefits administered by the Department of Veterans Affairs (VA).

XVII. Violence in the Workplace

Information:

- A. OPM - *Dealing with Workplace Violence: A Guide for Agency Planners*, written by the Office of Workforce Relations, February 1998
- B. U.S. Department of Labor, Occupational Safety and Health Administration - *Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers*, (OSHA Publication 3148), 1996
- C. U.S. Department of Justice, United States Marshals Service - *Security in the Workplace: Improving the Safety of Federal Employees*, (USMS Pub. No.61) September, 1995
- D. U.S. Department of Justice - *Combating Workplace Violence: Guidelines for Employers and Law Enforcement*, International Association of Chiefs of Police (publication funded by Office of Justice Programs, Bureau of Justice Assistance)
- E. U.S. Department of Justice, National Institute of Justice - *Understanding and Preventing Violence*, February, 1994
- F. U.S. Department of Justice, National Institute of Justice - *Psychoactive Substances and Violence*, February, 1994
- G. U.S. Department of Justice, National Institute of Justice - *The Cycle of Violence*, September, 1992

H. ADA Information Brief, Volume 1, Number 4, *Violence and Workers with Psychiatric Disabilities: Myths and Facts*⁶

I. Worldwide Web Information: *Partnership Against Violence Network (PAVNET)*. The Departments of Justice, Agriculture, Education, Housing and Urban Development, and Labor. A database of programs dealing with violence. Access through the Web at: www.pavnet.org.

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- TABLE OF CONTENT -

INTRODUCTION	1
RECRUITMENT AND PLACEMENT	2
EMPLOYMENT OPPORTUNITIES FOR STUDENTS	6
CAREER DEVELOPMENT	8
MONITORING AND EVALUATING PROGRESS	9
REASONABLE ACCOMMODATION	10

- INTRODUCTION -

As the 21st century approaches, change is a daily occurrence. Scientific and technological advances are giving rise to new industries and occupations unheard of only a decade ago. As these advances occur, new employment opportunities are becoming plentiful. However, the majority of working-age individuals with severe disabilities have not shared in this employment prosperity.

The Federal Government ~~is committed to~~ should take the lead in recharting a public policy for employing people with disabilities that provides clear direction to both the public and private sectors. ~~The objective is eliminating widespread barriers to gainful employment for people with disabilities.~~ To this end, the President signed Executive Order 13078 on March 13, 1998, establishing the Presidential Task Force on Employment of Adults with Disabilities. The Task Force's mission is to create a coordinated and aggressive national policy to bring adults with disabilities into gainful employment at a rate as close as possible to that of the general adult population. The Task Force issued their first report, "Recharting the Course," on November 15, 1998. Vice President Gore accepted the report on behalf of the Administration at a December 14, 1998 meeting, and directed the U.S. Office of Personnel Management (OPM) to develop a plan ~~to increase the representation of adults with disabilities in the Federal workforce.~~ The Plan addresses the following specific goals:

- Urge departments and agencies to recruit widely for positions at all levels;
- Help departments and agencies provide opportunities for students with disabilities;
- Encourage departments and agencies to give full consideration to employees with disabilities for inclusion in developmental opportunities;
- Collect and maintain data to monitor success; and
- ~~Urge departments and agencies to establish agency-wide reasonable accommodation policies and procedures for applicants and employees with disabilities; consistent with guidances from the Equal Employment Opportunity Commission.~~

~~In addition, the Plan reminds agencies of their responsibilities to provide, when requested, a reasonable accommodation to an applicant or employee who is a qualified person with a disability unless the accommodation would impose an undue hardship on the agency.~~

~~OPM is pleased to~~ provides the Plan for governmentwide use as part of its ongoing support and commitment to the President's goal of making the Federal Government a model employer for people with disabilities. Experience has shown that governmentwide programs and initiatives require the dedicated and sustained commitment of department and agency leadership. The Plan ~~is the first step to help~~ will assist Federal employers to fulfill the commitment to becoming a model employer.

THE PLAN FOR EMPLOYMENT OF PEOPLE WITH DISABILITIES IN THE FEDERAL GOVERNMENT

- RECRUITMENT AND PLACEMENT -

GOAL I: “Urges all departments and managers to recruit widely for positions at all levels of the federal workforce, including GS-13 to 15 and senior executive service levels.”

Vacancy Announcements:

MOVED FROM MIDDLE OF SECTION:

- Federal employers should include language for vacancy announcements that states that reasonable accommodations will be considered for applicants or employees with a disability when such an accommodation is requested.

Recruitment Strategies

- Federal employers should develop collaborative efforts among themselves, with OPM, or with community outreach groups in developing targeted recruitment strategies for people with disabilities. By working together, the use of resources would be maximized while attracting highly-qualified persons with disabilities at all levels.

OPM will benchmark best practices in public and private sectors of when successful recruitment efforts of people with disabilities is evident. Information will be shared with Federal departments and agencies, other public entities, and interested parties.

OPM will also share information through OPM Service Center “messengers.” These messengers will serve as liaisons between the Plan and to the community and Federal departments and agencies. They will also work closely with Federal Executive Boards, Federal Executive Associations, and Personnel (or Human Resources) Councils to disseminate information about Plan efforts and best practices.

MOVED FROM END OF SECTION:

- Before recruiting, Federal employers will review internal human resource policies to ensure that every flexibility is considered in areas such as alternative work schedules, job sharing, and dissemination of employment and other information in alternative formats.
- Federal employers are also urged to should review their programs to determine if part-time employment opportunities could be created to accommodate employees with disabilities.

- Departments and agencies should explore ways to recruit from all sources when filling positions, including those in the Senior Executive Service and managerial and supervisory positions at the grades GS-13 to 15, in order to attract candidates from ~~inside and outside the~~ Federal Government.
- Departments and agencies should use a variety of resources and networks available to them in removing barriers to employment and assisting them in actively recruiting people with disabilities. Some of these resources include the following:
 - The Job Accommodation Network (JAN) will help Federal employers receive expert accommodation information easily before, during, or after the recruitment process. JAN is a confidential service which allows any manager or employee to receive individualized information on his or her accommodation issue. It is run by the President's Committee on Employment of People with Disabilities (PCEPD), and may be reached at (800) 526-7234.
 - The Workforce Recruitment Program for College Students with Disabilities (WRP) is one source Federal employers may tap for potential employees. The WRP is managed by the President's Committee on Employment of People with Disabilities (PCEPD) and the Department of Defense. It is a resource used to connect public or private sector employers nationwide with highly-motivated post-secondary students and recent graduates with disabilities. The WRP has two long-term goals: (1) to provide college students with disabilities the opportunity to obtain summer employment which may lead to permanent employment in the Federal or private sector; and (2) to break down attitudinal barriers held by employers and co-workers by demonstrating that people with disabilities can work successfully in a variety of jobs. Employers may access the candidate database by contacting their agency's WRP representative.
 - Project ABLE (Able Beneficiaries' Link to Employers) is a national resume bank which provides any employer an easily-accessible applicant pool of qualified job-ready individuals. These individuals receive Social Security or ~~Supplemental Security Income~~ disability benefits and have been prepared to work. Employers may request resumes--
 - By telephone: (757) 441-3362;
 - By fax: (757) 441-3374; or
 - By Email: projable@opm.gov.

Federal employers may also access Project ABLE by dialing OPM's Automated Applicant Referral System at (912) 757-3150. A valid agency identification code is needed to access the system; it may be obtained by calling (912) 744-2085.

For more information on Project ABLE, please contact the Social Security Administration at (410) 965-9040, TTY (410) 966-6210, or through Internet at: www.ssa.gov/odhome/odderp/P_Able.htm

- U.S. Department of Veterans Affairs and State vocational rehabilitation offices are also potential recruitment sources. They provide training and other services to individuals with disabilities. For more information and to locate the nearest Veterans Affairs or State office, please refer to the appropriate appendix in *People with Disabilities in the Federal Government: An Employment Guide*. Also, telephone numbers may be found in the government blue pages section of the local telephone directory.
- Department- or agency-wide memorandums are helpful in publicizing efforts to increase the number of people with disabilities in the Federal workforce. Employees will also appreciate knowing what efforts are currently underway to increase the number of people with disabilities in their own department or agency. To support department and agency efforts, OPM is available to provide governmentwide or agency-specific data.
- OPM will help educate Federal employers on various recruiting and hiring options available to employ people with disabilities. The first step is issuing *People with Disabilities in the Federal Government: An Employment Guide* as a companion piece to this Plan.
- Federal employers should educate and train managers and supervisors on various hiring programs and resources available to them in recruiting, promoting, and retaining employees with disabilities. An initial survey regarding familiarity with these programs may help identify specific training needs.

Special Appointing Authorities

- OPM will continually remind departments and agencies of the special appointing authorities available to them when employing people with disabilities. These special appointing authorities include:

Schedule A, 5 CFR 213.3102(II) for hiring readers, interpreters, and personal assistants. This excepted authority is used to appoint readers, interpreters, and personal assistants for employees with severe disabilities. After one year of satisfactory service, they may qualify for conversion to permanent status.

Schedule A, 5 CFR 213.3102(t) for hiring people with mental retardation. This excepted authority is used to appoint persons with cognitive disabilities (mental retardation). They may qualify for conversion to permanent status after two years of satisfactory service.

Schedule A, 5 CFR 213.3102(u) for hiring people with severe physical disabilities. This excepted authority is used to appoint persons with severe physical disabilities who have demonstrated satisfactory performance through a temporary appointment, or have been certified as likely to succeed in performing the duties of the job. After two years of satisfactory service, they may qualify for conversion to permanent status.

Schedule B, 5 CFR 213.3202(k) for hiring people who have recovered from mental illness. This excepted authority is used to appoint persons who are certified that they are at a severe disadvantage in obtaining employment because of disrupted employment due to hospitalization or outpatient treatment for psychiatric disabilities. Certification also ensures that they are capable of functioning in the positions for which they will be appointed, and that any residual disabilities are not job-related.

5 CFR 316.302(b)(5) and 5 CFR 316.402(b)(5) for hiring 30 percent or more disabled veterans. These authorities are used to hire veterans who are 30 percent or more disabled under temporary appointments of more than 60 days, or term appointments. The veterans must have retired from active military service with a 30 percent or more disability rating, or be rated by the Department of Veterans Affairs within the preceding year as having a comprehensive service-connected disability of 30 percent or more. The department or agency may convert these individuals to permanent status at any time during the appointment.

5 CFR 315.604 for hiring disabled veterans enrolled in a VA training program. This authority is used to hire disabled veterans eligible for training under the Department of Veterans Affairs (VA) vocational rehabilitation program (38 U.S.C. chapter 31). The veterans may enroll for training or work experience at an agency under the terms of an agreement between the agency and VA. While enrolled in the VA program the veterans are not Federal employees for most purposes, but are beneficiaries of the VA. Upon successful completion, the host agency and VA give the veterans Certificates of Training showing the occupational series and grade levels of the positions for which trained. The Certificates of Training allows any agency to appoint the veterans noncompetitively under a status quo appointment which may be converted to permanent status at any time (The Rehabilitation Act of 1973, as amended, provides that Federal departments and agencies should initiate efforts with State vocational rehabilitation agencies to develop and enter into work experience agreements similar to those available for disabled veterans under 5 CFR 315.604).

- EMPLOYMENT OPPORTUNITIES FOR STUDENTS -

GOAL II: “*Helps departments and agencies provide opportunities for students with disabilities to participate in internship and student employment programs.*”

- An outstanding program that is currently in place in the Federal Government is the Student Educational Employment Program. The program has two components: Student Temporary Employment and Student Career Experience (5 CFR 213.3202(a) and (b)). Both programs offer valuable, paid work experience to all students--high school, vocational and technical, associate degree, undergraduate, and graduate. Students may be employed year-round and receive a flexible schedule of work assignments. Federal employers should tailor the Student Educational Employment Program to attract students with disabilities to Federal employment.

OPM will continue promoting the Student Educational Employment Program to students, colleges and universities, and Federal managers and supervisors to attract students with disabilities to the Federal workforce.

OPM will serve as a clearinghouse for all students interested in Student Educational Employment Program opportunities.

OPM will work with appropriate organizations to identify information on accredited schools and programs with a high concentration of students with disabilities, and provide the information to departments and agencies.

OPM will establish master cooperative education agreements with schools in order for Federal employers to tailor them for specific uses.

- Another source of potential employees with disabilities is the Presidential Management Intern (PMI) Program. The PMI Program is a two-year, entry-level career development and training program designed to attract to Federal service master's and doctoral students in a variety of academic disciplines. Students are nominated by their schools, and are invited to participate in an OPM-developed structured assessment process. Finalists are not guaranteed placement; they take an active role in finding a position in the Federal Government. Upon successful completion of the two-year internship, PMI's are eligible for permanent status.

OPM will continue to expand the diversity of academic disciplines in the PMI Program.

OPM will also continue outreach efforts through campus visits and targeting of professional organizations and publications serving the interests of people with disabilities.

- Colleges and universities will be encouraged to identify students with disabilities who meet the criteria of the programs listed above.
- Federal employers are encouraged to use the Workforce Recruitment Program for College Students with Disabilities (WRP) described previously (see Recruitment and Placement) as an excellent source for potential employees. Employers can access the candidate database by contacting the President's Committee at (202) 376-6868.

- CAREER DEVELOPMENT -

GOAL III: “Encourages all departments and agencies to give full consideration to employees with disabilities for inclusion in developmental opportunities designed to enhance their leadership skills and to advance their careers.”

- Federal employers should ensure that persons with disabilities are made aware of, and have an equal opportunity to compete for, managerial and executive training or other career development opportunities. Self-nominations should be invited and encouraged, as well as nominations made by managers and supervisors.
- Career development and related program review is encouraged to make sure that no barriers exist for people with disabilities. If targeted recruitment is used to broaden the pool of candidates for these programs, include as part of that effort employees with disabilities and organizations that represent their interests.
- Federal employers should establish formal mentoring programs, especially for participants of career development programs. Mentors serve as role models and act as personal advisors and confidants. They help build self-confidence; expand individual awareness, insight, and perspective about the organization; talk about performance expectations; and discuss developmental needs and how to obtain them.
- Development of training and other courses related to disability employment issues are advocated. These courses are helpful to all levels of agency management--from first-line supervisors to the Senior Executive Service. Issues that may be covered include disability culture awareness, eliminating attitudinal barriers, communication between disability and non-disability communities, and transforming organizations to accommodate cultural differences.
- OPM, through the Federal Executive Institute and Management Development Centers, will conduct diversity training initiatives for senior management. This will improve understanding of the issues related to the employment of people with disabilities.

- MONITORING AND EVALUATING PROGRESS -

GOAL IV: “*Collects and maintains data to monitor the success in achieving a higher percentage of adults with disabilities in the federal workforce.*”

- **OPM** will widely disseminate information on the Federal employment of people with disabilities, such as its *People with Disabilities in the Federal Government--A Statistical Profile* report, to all departments and agencies.
- Departments and agencies are expected to regularly monitor their own workforce data, especially elements concerning workforce composition. Periodic surveying of the workforce, and evaluating the resulting data, will determine progress and successes. In turn, the data may be used to develop internal recruiting strategies and workforce planning initiatives.
- In their performance management programs, Federal employers should review efforts and successes of their managers in diversity hiring. During performance reviews, efforts by the manager or supervisor to achieve diversity in his or her organization are evaluated--including efforts to hire people with disabilities. Open discussions to eliminate employment barriers are encouraged.
- Federal employers are encouraged to recognize managers and supervisors whose recruiting, hiring, and promoting efforts of those with disabilities are commendable.
- **OPM**, in its oversight role, will monitor Federal employer efforts in recruiting and employing people with disabilities.

- REASONABLE ACCOMMODATION -

GOAL V: Urges departments and agencies to establish agency-wide reasonable accommodation policies and procedures for applicants and employees with disabilities, consistent with guidances from the Equal Employment Opportunity Commission.

- A reasonable accommodation is an adjustment or alteration that enables people with disabilities to apply for a job, to perform job duties, or to enjoy equal benefits and privileges of employment. Federal departments and agencies are required, when requested, to make reasonable accommodation to the physical or mental limitations of an applicant or employee who is a qualified person with a disability unless the accommodation would impose an undue hardship on the agency.¹
- The concept of reasonable accommodation applies to all aspects of employment, including recruitment, training, promotion, reassignment, and developmental assignments. Departments and agencies should explore ways to insure their personnel are familiar with Federal and agency-specific policies and procedures related to the availability of reasonable accommodations for persons with disabilities. Departments and agencies should also consult the new enforcement guidance on Reasonable Accommodation issued by the Equal Employment Opportunity Commission (EEOC) on March 1, 1999. Free copies of this and other EEOC guidances can be obtained by calling (800) 669-3362. They can also be reviewed at EEOC's website, www.eeoc.gov.
- Reasonable accommodations vary with the needs of the individuals involved, the type of position in question, and the ingenuity of the agency. Accommodations are determined on a case-by-case basis, taking into consideration the applicant or employee, the specific disability and existing limitations, the essential functions of the particular job, the work environment, and the effectiveness of the proposed accommodation. The cost of a job or work environment accommodation can often be minimal. The applicant or employee should always be consulted before an accommodation is made. Please consult the appropriate section in OPM's *People with Disabilities in the Federal Government: An Employment Guide* for additional information on types of reasonable accommodation.

¹ An undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as the employer's size, financial resources, and the nature and structure of the operation. As mentioned previously, the Job Accommodation Network (JAN) operated by the President's Committee on Employment of People with Disabilities (PCEPD) is an excellent technical assistance resource in the area of reasonable accommodation.

- ~~Types of accommodations include worksite modifications; part-time employment; adjusting work schedules; restructuring jobs; acquisition or modification of equipment or devices; obtaining accessible technology or other workplace adaptive equipment; providing interpreters, assistive devices, or readers; and reassigning employees. For more information, please refer to the appropriate section in OPM's *People with Disabilities in the Federal Government: An Employment Guide*.~~