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Disabilities - OPM [Office of Personnel Management] / EEOC [Equal Employment Opportunity
Commission] Federal Hiring

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Draft Cover Letter for "A Plan for Employment of People with Disabilities in the Federal Government."

America is enjoying great prosperity, with the prospect of an even brighter future as we head into the next century. Our economy is the strongest it has been in a generation. Since I have been President, there have been more than 18 million new jobs; and unemployment is as low as it has been in 29 years. Still, we cannot consider ourselves truly successful until all Americans, including the 30 million working-age adults with disabilities, have access to the tools and opportunities they need to achieve economic independence.

Today, the Americans with Disabilities Act is making it possible for millions of Americans to participate more fully in our society. However, 9 years after the ADA's passage, the unemployment rate among working-age Americans with severe disabilities is still far too high. Almost 75 percent of working-age Americans with severe disabilities remain unemployed. If America is to live up to its promise of equal opportunity, and if our economy is to continue to strengthen and expand, we must be able to draw on the untapped energy, and creativity of this large and capable segment of our population.

On March 13, 1998, addressed the unemployment of people with disabilities by signing Executive Order 13078 establishing a National Task Force on Employment of Adults with Disabilities. This Task Force was charged with creating a coordinated national policy to bring working-age individuals with disabilities into gainful employment. In December, the Task Force presented me with its first report, and I am proud to say we have taken action on all the Task Force's formal recommendations, ^{My FY 2000 includes} ~~including~~ a historic new \$2 billion initiative that removes significant barriers to work for people with disabilities. It includes the Work Incentives Improvement Act, which invests \$1.2 billion in providing health care and employment services for people with disabilities ^{so} they can work; a new \$700 million investment in a \$1,000 tax credit for workers with disabilities; and ~~more than double the government's current investment~~, an increase of \$35 million, in assistive technologies that make it possible for individuals with disabilities to work.

At the same time as we fight to ensure that all people with disabilities have the health care and other assistance they need to go to work, today I am directing the heads of all Federal departments and agencies to incorporate the steps outlined in the plan, provided by the Office of Personnel Management ^{attached separate} ~~part of their recruitment and professional development plans~~. In turn, this will help the Federal government be a model employer for people with disabilities. ^{life must do more to} ~~That is why in November~~ Both the Guide and its companion piece "A Plan for Employment of People with Disabilities in the Federal Government: Accessing Opportunity," were developed in support of the Task Force's efforts and recommendations. Together they provide

Representation of adults with disabilities in the federal workforce - Today I am pleased to release that plan and companion guidebook

777
guidance on recruitment and hiring, training, opportunities for students, reasonable accommodation, career development and promotions, and regular monitoring to determine our progress and success. The recommendations included within them will assist Federal departments and agencies in their efforts to increase the representation of adults with disabilities in the Federal workforce. With employment being the best path to economic security and to personal and professional fulfillment, these references are excellent guides and resources to aid Federal employers in their continued efforts to hire and advance employees with disabilities.

which ~~outline~~ provides ^{resources and advice} ~~guidance on how~~

~~agencies~~ for agencies on recruitment and hiring, reasonable accommodation, career

development and ^{in hiring people} ~~promotion and monitoring~~ and evaluating progress ^I ~~and to~~ direct

every ^{agency} ~~member of my Cabinet~~ to

implement ~~at~~ ^{this plan} immediately.

~~Working together~~¹

(Some sort of closer)

with disabilities.
in the Federal workforce

Suggested Edits to OPM Draft of Plan for Employment of People With Disabilities in the Federal Government

Throughout the paper: Omit bold and underline for "OPM". Also, general instructions should be consistent: "Agencies should" and "OPM will"

Title Page

Omit: "Model" in title (reflect the change of title throughout the document).

Table of Contents

Change: "Recruitment and ~~Placement~~" to "Recruitment and Hiring".

Sections are rearranged as reflected below.

Introduction

Replace first three paragraphs with:

"Since President Clinton took office, the American economy has added nearly 18 million new jobs; and unemployment is the lowest in three decades. The unemployment rate among all working-age adults with disabilities, however, is nearly 75 percent. Individuals with disabilities face multiple barriers to work, which include lack of adequate health insurance, higher costs of work, a disconnected service system, and inaccessible or unavailable technology. ~~However,~~ 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.] As a nation, we are best served when all our citizens have the opportunity to contribute their talents, ideas, and energy to the workforce. ??

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 ^{to} eliminating widespread barriers to gainful employment for people with disabilities. ^{and create opportunities for PWD to use their talents to strengthen the economy}

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. The Plan addresses the following specific goals:

- * Recruitment and Hiring;
- * Reasonable Accommodation;

for employment
of people w/ disabilities
- the federal
workforce.

should
employment
reasonably
be tied
to base
advanced?
it would make
broader

- * Career Development and Promotion; and
- * Monitoring and Evaluating Progress."

Omit the fourth paragraph beginning, "In addition, ..."

Fifth paragraph, first sentence: OPM ~~is pleased to~~ provides the ~~Model~~ Plan for government wide....

Last sentence: The ~~Model Plan is the first step to help~~ will assist Federal employers to fulfill this commitment...

Recruitment and Hiring

for people with disabilities

Goal: ~~Urges~~ [A]ll departments and managers to should recruit widely for positions at all levels of the federal workforce, including GS-13 to 15 and senior executive service levels.

Because it is a long section, it should be broken up as: "Vacancy Announcements" (for the first bullet); "Recruitment Strategies" (after the first bullet); "Special Appointing Authorities" (after the bullet, 'Federal employers should ensure that managers and supervisors understand and use various hiring programs...'); and "Employment Opportunities for Students" (inserted after the CFR reference on hiring disabled veterans).

Second paragraph: OPM will benchmark best practices in public and private sectors ~~when~~ of successful recruitment efforts *of PWD + veterans*.

Third paragraph, second sentence: These messengers will serve as liaisons ~~of~~ between the ~~Model~~ Plan ~~to~~ and the community....

For 4th paragraph: ...in order to attract people with disabilities from [inside and] outside Fed Govt
Paragraph, "Schedule B, 5 CFR 213.3202(k) for hiring people who have recovered from mental illness." This paragraph needs to be modified to reflect the pending Executive Order to be announced by Mrs. Gore.

Omit the third to last bullet: "Before recruiting, Federal employers will review internal human resource policies..."

Second to last bullet, "Federal employees should include language for vacancy announcements..." should be moved up as the first bullet of the entire section.

Last bullet: "Federal employers ~~are also urged to~~ should review their programs to determine if part-time employment opportunities could be created..." -- Could OPM add more to this language, describing options agencies have?

A separate section on Employment Opportunities for Students is not necessary. The key points should be added to the end of this section:

We list special appointing authorities for PWD, but shouldn't we also make it clear that Agencies should hire PWD through regular hiring programs too?

"OPM will continue promoting the Student Educational Employment Program to students, colleges and universities, and Federal managers and supervisors."

"OPM will serve as 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 department and agencies."

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

Reasonable Accommodation

Goal: Employers should establish agency-wide reasonable accommodation policies and procedures for applicants and employees with disabilities.

Up front language should be added making the point that reasonable accommodation is current law, i.e., "The law requires reasonable accommodation in the workplace and it is the policy of this Administration to ensure reasonable accommodation is available to all employees."

First bullet, "A reasonable accommodation is an adjustment or alteration ~~made to a job and/or the work environment~~ that enables people with disabilities to perform the duties of the position apply for jobs, to perform job duties, or to enjoy equal benefits and other privilege of employment..."

After the first bullet, insert new bullet: "Agency-wide policies should make it easy and simple to request an accommodation. They should provide for a fair, prompt and balanced review of an accommodation request and a meaningful dialogue between supervisor and employee where necessary."

In the second bullet, "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 guidance can be obtained by calling 1(800) 669-3362. They can also be reviewed at EEOC's website, www.eeoc.gov. (Delete the cite to the EEOC Guidelines).

The ~~example of a~~ reasonable accommodation process should be mentioned but included as part of the more comprehensive "Employment Guide".

cited in the Plan

as an example of a good process and should be

developed by the federal govt workgroup

Career Development

to employed with disabilities for
promotion and inclusion.....

Goal: "~~Encourages~~ [A]ll departments and agencies ~~to~~ should give full consideration).."

First bullet: "Federal employers should ensure that persons with disabilities are made aware of, and have an equal opportunity to compete for, promotions, managerial and executive training ~~or~~ and other career development opportunities..."

Add - bullet focusing on promotion

Monitoring and Evaluating Progress

Goal: "Collects and maintains data to monitor the success..."

Second to last bullet, re: federal employers are encouraged to recognize managers and supervisors... should be moved to "Career Development" section.

**Draft Cover Letter for "A Plan for Employment of People
with Disabilities in the Federal Government."**

America is enjoying great prosperity, with the prospect of an even brighter future as we head into the next century. Our economy is the strongest it has been in a generation. Since I have been President, there have been more than 18 million new jobs; and unemployment is as low as it has been in 29 years. Still, we cannot consider ourselves truly successful until all Americans, including the 30 million working-age adults with disabilities, have access to the tools and opportunities they need to achieve economic independence.

Today, the Americans with Disabilities Act is making it possible for millions of Americans to participate more fully in our society. However, 9 years after the ADA's passage, the unemployment rate among working-age Americans with ~~severe~~ disabilities is still far too high. Almost 75 percent of working-age Americans with ~~severe~~ disabilities remain unemployed. If America is to live up to its promise of equal opportunity, and if our economy is to continue to strengthen and expand, we must be able to draw on the untapped energy, and creativity of this large and capable segment of our population.

On March 13, 1998, I ^{highlighted?} ~~addressed~~ the ^{issue of} unemployment of people with disabilities by signing Executive Order 13078 establishing a National Task Force on Employment of Adults with Disabilities. This Task Force was charged with creating a coordinated national policy to bring working-age individuals with disabilities into gainful employment.

Moreover, the Administration's FY 2000 budget includes a historic new \$2 billion initiative that removes significant barriers to work for people with disabilities. It includes the Work Incentives Improvement Act, which invests \$1.2 billion in providing options for workers with disabilities to buy into Medicaid and Medicare; a new \$700 million investment in a \$1,000 tax credit for workers with disabilities; and more than double the government's current investment, an increase of \$35 million, in assistive technologies that make it possible for individuals with disabilities to work.

Both ~~the Guide and its companion piece~~ ^{and its companion} "A Plan for Employment of People with Disabilities in the Federal Government" ^{Guide} Accessing Opportunity ^{Employment} were developed in support of the Task Force's efforts and recommendations. With employment being the best path to economic security and to personal and professional fulfillment, ~~these references are excellent guides and resources to aid Federal employers in their continued efforts to hire and advance employees with disabilities.~~

Don't we
want to be
stronger??

Direct Agencies
to adopt plan

and use it + Guide to...

Agencies should use the Plan and the Guide
to ~~increase~~ increase



**United States
Office of
Personnel
Management**

**FAX
TRANSMITTAL
SHEET**

**OFFICE OF THE DIRECTOR
1900 E STREET, NW., ROOM 5H09
WASHINGTON, DC 20415-0001**

Date:

5-13

Number of Pages

5

**Please
Deliver
To:**

Name:

Cynthia Rice

Office:

DPC

Room:

Telephone:

From:

Name:

Mary Strand

Office:

OPM

Room:

Telephone:

(202) 606-1000

FAX Number: (202) 606-2183

Remarks

Please see my e-mail. Background on
proposed E.O. on employment of people
with psychiatric disabilities.

Mary

TITLE OF INITIATIVE

SUMMARY OF PROPOSAL

The President would sign an Executive order to permit Federal agencies to noncompetitively convert excepted service employees with psychiatric disabilities into the competitive service after at least 2 years of satisfactory job performance.

BACKGROUND

Although individuals with disabilities can apply for Federal jobs through an open competitive process, Federal agencies have been authorized, since the early 1960's, to use alternative hiring procedures. Individuals with mental retardation or severe physical disabilities may be appointed to positions in the excepted service and subsequently may qualify for conversion to permanent positions in the competitive service after 2 years of successful performance. This conversion authority was authorized by Executive Order 12125.

In 1980, a new excepted service appointment authority was created for persons with psychiatric disabilities. These appointments are limited to 2 years and do not allow for noncompetitive conversion to the competitive service.

PROPOSAL

OPM has prepared an Executive order to permit the noncompetitive conversion of excepted service employees with psychiatric disabilities to the competitive service. This Executive order would implement a recommendation of the Presidential Task Force on Employment of Adults with Disabilities to provide the same opportunities for noncompetitive conversion of employees with psychiatric disabilities as exist for employees with mental retardation and severe physical disabilities. The proposed Executive order does just that by amending the Civil Service Rules to add employees with psychiatric disabilities to the classes of people who may noncompetitively acquire status.

SUBMITTING AGENCY: U.S. Office of Personnel Management

Initial Recommendations to the President from the Presidential Task Force on Employment of Adults with Disabilities:

The Task Force recommends that: The President direct Office of Personnel Management and other appropriate agencies to explore measures aimed at eliminating the stricter standards currently applied to adults with psychiatric disabilities and to extend to these individuals opportunities currently available to individuals with mental retardation and severe physical disabilities. [page 15]

I. BACKGROUND: Excepted appointing authorities exempt individuals from the competitive appointment process and offer an alternative means to obtain federal employment. The use of excepted appointing authorities can increase the employment opportunities for individuals with disabilities.

There are three primary excepted appointing authorities applicable to individuals with disabilities. Under Schedule A regulations, excepted appointments for positions filled by individuals with mental retardation and individuals with severe physical disabilities were established. Individual hired under these appointing authorities can convert to competitive status in the civil service after completion of two years of satisfactory service in their excepted positions. This conversion authority was authorized by Executive Order 12125. Under Schedule B regulations, agencies are authorized to make appointments of individuals who are at a severe disadvantage because of a psychiatric disability that has caused a significant period of substantially disrupted employment.

The Schedule B appointing authority treats individuals with severe psychiatric disabilities differently from individuals with severe physical disabilities or mental retardation who are eligible for special appointment under Schedule A. First, unlike appointments under Schedule A, these appointments are subject to the basic qualification standards established by OPM. Second, there is a two-year limitation on appointments and no mechanism for conversion to the competitive civil service.

The differences reflect the evolutionary process of developing special Federal employment opportunities for people with disabilities and changing perceptions regarding the nature of what constitutes a permanent disability. For instance, the Schedule A special appointing authorities for persons with disabilities can be traced back to the early 1960's, when Federal agencies were authorized to make temporary limited appointments for the "severely handicapped." In contrast, the Schedule B excepted appointing authority for persons with psychiatric disabilities was established in 1980 to provide persons with past mental illness an opportunity to demonstrate their readiness for employment and to regain recent work experience. This intent was based at least in part upon the belief that individuals who had "recovered" from a psychiatric condition needed only an opportunity to supplement a resume after a period of extended unemployment, and thereafter would be able to compete for employment through the regular competitive process.

Experience has shown, however, that some conditions, such as major depression, from which an individual may appear to have "recovered" can recur in the future, and thus may impose limitations that are as real and life-long as the limitations imposed by physical disabilities. Moreover, even the record of a psychiatric condition from which an individual has in fact recovered may often pose a barrier to employment. Finally, the Rehabilitation Act and the ADA have never distinguished between physical and mental disabilities, but instead recognize that all individuals with disabilities face similar social, economic, and employment barriers.

II. CONCLUSION: Individuals with psychiatric disabilities face many of the same barriers to employment as are encountered by individuals with severe physical disabilities and mental retardation. They, therefore, should be offered the same opportunities, including the opportunity to convert to the competitive service. An executive order (or new legislation) would be needed to make this possible.

DRAFT

5-13-99

EXECUTIVE ORDER

AMENDING THE CIVIL SERVICE RULES RELATING TO COMPETITIVE
STATUS FOR FEDERAL EMPLOYEES WITH PSYCHIATRIC DISABILITIES
eliminates the stricter standard

new
WHEREAS it is the goal of the United States to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities;

WHEREAS the Federal Government as an employer should serve as a model for the employment of persons with disabilities and utilize the full potential of these talented citizens;

WHEREAS the Office of Personnel Management and the Presidential Task Force on Employment of Adults with Disabilities have identified within the Civil Service Rules an opportunity for the Federal Government to better benefit from the contributions of persons with psychiatric disabilities;

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and in order to permit individuals with psychiatric disabilities to obtain civil service competitive status, it is hereby ordered as follows:

Section 1. Civil Service Rule III (5 CFR Part 3) is amended by adding the following new paragraph to subsection (b) of section 3.1:

"(3) An employee with psychiatric disabilities who completes at least two years of satisfactory service in a position excepted from the competitive service."

Sec. 2. The Director of the Office of Personnel Management shall prescribe such regulations as may be necessary to implement this order.

5-13-99

Sec. 3. This order is effective upon publication in the Federal Register.

THE WHITE HOUSE,



"Strand, Mary" <MASTRAND @ opm.gov>
05/15/99 06:11:08 PM

Record Type: Record

To: Andrea Kane/OPD/EOP, Cynthia A. Rice/OPD/EOP

cc:

Subject: Next Week

I'm going to be in Atlanta next week. If anything comes on w2w, model plan, or mental health and one of you need to reach me, here's my pager number: 1-800-759-8888, pin 1251167

Cynthia, both Mark Hunker and Suzanne Seiden can also help you with the EO or model plan. Both of them can be reached at 606-1000.



- att1.unk

Lisa M. Brown @ OVP

03/30/99 09:49:38 AM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc:

Subject: FW: OPM Model Plan - Revised

larger Questions:
1. What is EEOC role
vs. OPM.

Here is a revised plan that Becky says includes items the Task Force etc thought should be in the model plan. They took OPM's plan and added to it.

Should we talk this week? I am pretty free all week as of now.

----- Forwarded by Lisa M. Brown/OVP on 03/30/99 09:47 AM -----



Ogle Becky <ogle-becky@dol.gov>

03/30/99 09:30:05 AM

Record Type: Record

To: Lisa M. Brown/OVP

cc:

Subject: FW: OPM Model Plan - Revised

<<OPMMODEL.WPD>>

This is what I came up. Please review and let me know if you want me to make changes. For purposes of our meeting w/OPM, and to diminish OPM's resistance to the suggested changes (am I dreaming?) it may be better if this revised plan was perceived to be your product, and not the EEOC's. What do you think?



- OPMMODEL.WPD

1. Part time

-INTRODUCTION-

As the twenty-first 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 disabilities have not shared in this employment prosperity.

The Federal Government should lead the way 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 the Model Plan by March 1, 1999. The Model Plan addresses four specific goals summarized below: the following areas:

- ▶ ~~Urge departments and agencies to recruit widely for positions at all levels;~~ **Recruitment and hiring;**
- ▶ ~~Help departments and agencies provide opportunities for students with disabilities;~~ **Reasonable accommodation;**
- ▶ ~~Encourage department and agencies to give full consideration to employees with disabilities for inclusion in developmental opportunities;~~ **and Developmental opportunities; and**
- ▶ ~~Collect and maintain data to monitor success.~~
Data collection

OPM is pleased to submit the Model Plan for government-wide 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 government-wide programs and initiatives require the dedicated and sustained commitment of department and agency leadership. The Model Plan is the first step to help Federal employers fulfill this commitment and become a model employer.

MODEL PLAN

~~-RECRUITMENT AND HIRING-~~

~~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

- **Federal employers should include language in federal vacancy notices that explicitly states that reasonable accommodation is available.**

Recruitment Strategies

- Federal employers ~~are strongly encouraged to~~ 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 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 of the Model Plan 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 Model Plan efforts and best practices.

- Departments and agencies should explore ways to recruit from all sources when filing positions, including those in the Senior Executive Service and managerial and

supervisory positions at the grades GS 13-15, in order to attract candidates from outside the Federal Government.

- Departments and agencies should use a variety of resources and networks available to actively recruit 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 on 1-800-526-7234.
 - 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 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 on (912) 757-3150. A valid agency identification code is needed to access the system; it may be obtained by calling OPM on (912) 744-2085.

For more information on Project ABLE, please contact the Social Security Administration on (410) 965-9040, TTY (410) 966-6210, or through Internet at

www.ssa.gov/odhome.

- 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, especially veterans. 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 blues 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 Government-wide 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 Model Plan.
- Federal employers should educate managers and supervisors on various hiring programs and resources available to them in recruiting 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.

~~OPM and other appropriate agencies should explore measures aimed at eliminating the stricter standards currently applied to individuals with psychiatric disabilities seeking to qualify for excepted appointments and thereby extending to them those opportunities currently available to individuals with severe physical disabilities and mental retardation.~~

MRS.
GORE'S
ANNOUNCEMENT

5 CFR 316.302(b)(4) and 5 CFR 316.402(b)(4) for hiring 30 percent or more

disabled veterans. These competitive 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 at any time during the appointment.

- ~~Before recruiting, Federal employers will review internal human resource policies to ensure that every flexibility is considered in areas such as vacancy announcements, flexible workplace policies, composition of selection panels, and dissemination of employment information in alternative formats.~~

~~-EMPLOYMENT OPPORTUNITIES FOR STUDENTS-~~

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

Is this too detailed - is
this too much for OPM to do?

Employment Opportunities for Students

- 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.

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.

- 1) Do we need EO?
2) How closely does this track ADA?
(Dole/Bush)
-

-REASONABLE ACCOMMODATION-

Federal employers should establish agency-wide, written reasonable accommodation policies and procedures for applicants and employees with disabilities. Such guidelines should promote policies that make it easy and simple to request an accommodation. They should provide for a fair, prompt and balanced review of an accommodation request; a meaningful dialogue between supervisor and employee where necessary; and a review of medical evidence by a medical professional, where the medical reasons for the accommodation are in dispute.

At a minimum, the reasonable accommodation policies adopted by Federal employers should include the following information:

1. Explain how an employee or job applicant initiates a request for reasonable accommodation. If the agency requires an applicant or employee to complete a reasonable accommodation request form, the form must be provided as an attachment to the written procedures.
2. Specify to whom the request must be submitted and from whom the employee will receive a final decision.
3. Designate a time period during which reasonable accommodation requests will be granted or denied, absent extenuating circumstances. If designated time deadlines are not met, responsible agency officials should explain the delay to the employee.
4. Explain the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue and the requested accommodation.
5. Explain the agency's right to request relevant supplemental medical information if the information submitted does not clearly explain the nature of the disability, the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace.
6. Explain the agency's right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense.

7. Provide that reasonable accommodation decisions should be in writing and specify the reasons for denial, when applicable.

8. Provide a "plain English" explanation of certain key legal terms used in the policy (e.g., reasonable accommodations, disability, qualified person with a disability, and undue hardship), and reference applicable statutes and regulations as a source of the actual wording of the terms.

9. Provide that reassignment will be considered as a reasonable accommodation if the agency determines that no other reasonable accommodation will permit the employee to perform the essential functions of his or her current position. In the case of reassignment to a lower graded position, the agency has the option of providing pay retention because the action is not for personal cause.

10. Designate a system of record keeping that tracks the processing of requests for reasonable accommodation and maintains the confidentiality of medical information received in accordance with applicable law and regulations.

11. State in the policy that employees have the right to file a complaint in the event that their requests for reasonable accommodation are denied.

12. Clearly and expressly explain the role and responsibility of each agency official or office in the grant or denial of reasonable accommodation requests.

- Federal employers should apply the ADA standards for reassignment when reassigning Federal employees with disabilities as a form of reasonable accommodation.
- Federal employers should take the following measures to ensure the accessibility of technology for their employees with disabilities: Adopt the Department of Education's Requirements for Accessible Software Design as an interim standard until the Section 508 standards are published; ensure that all hardware and software purchased, modified, or upgraded by such agencies are accessible to people with disabilities; test new and current information technology systems for accessibility and consider upgrading or modifying any inaccessible systems used by employees or job applicants; ensure that all employee information provided on their interdepartmental computer networks as well as public information provided on their Web or Internet sites is accessible to people with disabilities; and ensure that employees with disabilities receive an assessment of technology access needs, and receive the appropriate assistive technology hardware, software, or peripherals to make all information technology systems used on the job accessible.
- ✓ Federal employers should take the following actions to ensure that interpreters and

How does this conform to our technology policy?
Ask Tom K

auxiliary aids are available for training and other public events; Review their policies on provision of interpreters and other auxiliary aids and services for people with disabilities in order to ensure that their written policies state their obligation under the Rehabilitation Act to provide interpreter services and that these policies are followed; ensure that internal training opportunities are offered equally to employees with disabilities and that interpreters or other auxiliary aids and services are planned for and provided; provide sign language interpreter services for training and other public events and, when requested, provide effective communications through other means such as Computer Assisted Real-time Transcription (CART) or assistive listening systems.

- Federal employers should develop and promote part-time employment in the federal government.

Need more background
omit the
another is
that is not
addressed
FTEs?
Size of group!

-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.

-TRAINING-

- 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 reorganize managers and supervisors whose recruiting, hiring, and promoting efforts to those with disabilities are commendable.~~
- OPM, in its oversight role, will monitor Federal employer efforts in recruiting and employing people with disabilities.

The Task Force recommends that:

The President direct Office of Personnel Management and other appropriate agencies to explore measures aimed at eliminating the stricter standards currently applied to adults with psychiatric disabilities and to extend to these individuals opportunities currently available to individuals with mental retardation and severe physical disabilities.

There are three excepted appointment authorities explicitly applicable to individuals with disabilities. Excepted appointing authorities exempt individuals from the competitive appointment process. Schedule B excepted appointments for individuals with psychiatric disabilities are more stringent than Schedule A excepted appointments.

The Task Force recommends that:

The President direct agencies and departments to implement a model plan to be developed by the Office of Personnel Management to increase the representation of adults with disabilities in the federal workforce.

While the federal government has made significant hiring gains, the percentage of adults with severe disabilities in the federal workforce still lags far behind their availability. The Task Force urges the President to direct the Office of Personnel Management to develop a model plan to increase representation of adults with disabilities in the federal workforce that: ① helps departments and agencies provide opportunities for students with disabilities to participate in internship and student employment programs; ② 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; ③ urges all departments and managers to recruit widely for positions at all levels of the federal workforce, including at the GS-13 to 15 and senior executive service levels, and ④ collects and maintains data to monitor the success in achieving a higher percentage of adults with disabilities in the federal workforce.

APR 19 1999

4/20/99

ACCESSING OPPORTUNITY

A Model Plan *for* Employment of People With Disabilities in the Federal Government



**United States
Office of
Personnel
Management**

**Employment
Service**

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**ES DO-04
March 1999**

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- 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 disabilities have not shared in this employment prosperity.

The Federal Government 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 the Model Plan by March 1, 1999. The Model Plan addresses four specific goals summarized below:

- ▶ 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; and
- ▶ Collect and maintain data to monitor success.

In addition, the Model 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 submit the Model 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 Model Plan is the first step to help Federal employers fulfill this commitment and become a model employer.

MODEL PLAN

- RECRUITMENT -

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.”

- Federal employers are strongly encouraged to 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 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 of the Model Plan 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 Model Plan efforts and best practices.

- 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-13-15, in order to attract candidates from outside the Federal Government.
- Departments and agencies should use a variety of resources and networks available to actively recruit 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 1-800-526-7234.

-
- 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 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 OPM at (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.

- 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, especially veterans. 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 Model Plan.
- Federal employers should educate managers and supervisors on various hiring programs and resources available to them in recruiting and retaining employees with disabilities. An initial survey regarding familiarity with these programs may help identify specific training needs.
- **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(l) 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)(4) and 5 CFR 316.402(b)(4) for hiring 30 percent or more disabled veterans. These competitive 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 competitive 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.

- 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 encouraged to include language for vacancy announcements that states that reasonable accommodations are available to applicants or employees with a disability when requested.
- Federal employers are also urged to review their programs to determine if part-time employment opportunities could be created to accommodate employees with disabilities.

- 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.

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.

- 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 -

- A reasonable accommodation is an adjustment or alteration made to a job and/or the work environment that enables people with disabilities to perform the duties of the position. 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 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. The Equal Employment Opportunity Commission (EEOC) is responsible for regulations governing reasonable accommodation and should be contacted by Federal employers needing additional guidance in this matter.
- 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 duties of the particular job, the work environment, and the reasonableness 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.
- 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, readers, personal assistants; and reassigning or retraining employees. For more information on this matter, please refer to the appropriate section in OPM's *People with Disabilities in the Federal Government: An Employment Guide*.

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.

Looking for a benchmark to verify

- Start with baseline of seven EEOC disabilities so to avoid self-reporting type data.

Website - Not in model plan

would plug part-time work

1) EEOC wanted OPM to require these recommendations but OPM only wants to suggest that they do so.

2) Psychiatric - Med. Care

3) Reasonable accommodation - EEOC had guidance/order hardship to private/federal/State - on March 1, 1999

EEOC

Federal Employee Group

Reference the EEOC guidance in the Model Plan.

I. Release of Model Plan w/ ^{Federal} "The Plan for Employment"

1. Leadership of Cabinet

2. w/ dates of implementation

3. so to get feedback on implementation

goal should be strong but achievable.

[illegible]

*OPM: Gives guidance to agencies but doesn't tell them what to do.

*DEEC: More the enforcement end of

The power of the exec. order does give a basis to what ever we do.

Use permissive language - so not to turn people

off

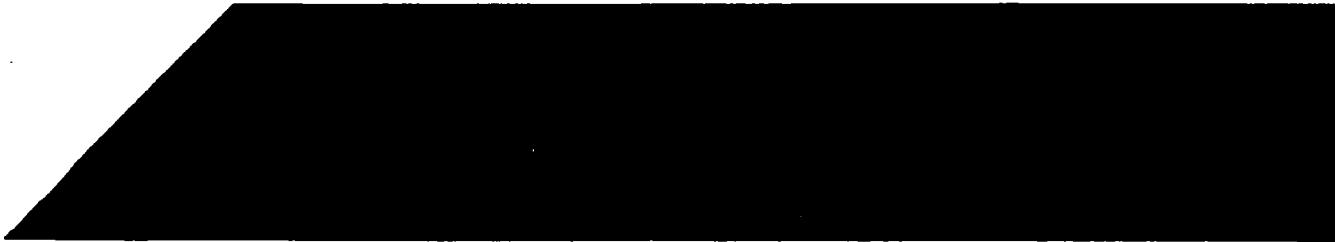
The only way it works is if a principle says do it and report results to OPM director

- DEEC - task force members.

- TRK Force

- OPM - how we return

Meeting next week.



PEOPLE WITH DISABILITIES in the Federal Government

AN EMPLOYMENT GUIDE



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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, *"A Model Plan for Employment of People with Disabilities in the Federal Government: Accessing Opportunity,"* 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. The law:

- Requires employers to make "reasonable accommodations" to employ disabled individuals. 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 essential for the job in question.
- 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) **The Vietnam Era Veterans' Readjustment Assistance Act of 1974.** In furtherance of the policy of promoting "the maximum of employment and job 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.)

- 3) **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.
- 4) **The Americans with Disabilities Act (ADA) of 1990** covers employers in the private sector but was amended in 1992 to make certain provisions of the Act applicable to the Federal government. The sections of the ADA that are applicable to the Federal government can be found at 42 U.S.C. §§ 12111 *et. seq.* and 42 U.S.C. §§ 12201-204 and 12210.
- 5) **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.
- 6) **The Architectural Barriers Act**, enforced by the Architectural and Transportation Barriers Compliance Board (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.
- 7) **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.
- 8) **Title 5, United States Code, Sections 3312 and 3318** requires that any disqualification, non-selection, or passover of a veteran's 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 ensuring equal employment opportunity, 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. 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 national offices of Federal, private organizations, community agencies, 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 at <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 1-800-526-7234.
- Education Kits containing fact sheets on timely disability employment issues. An Education Kit and a list of available publications may be requested by calling (202) 376-6200.
- The PCEPD's Website on the Internet <http://www.pcepd.gov> which 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 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

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 without harming themselves or others.

Invisible (hidden) disabilities: These are disabilities that are not readily apparent, such as migraine headaches, 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: Drug addicts and alcoholics are classified as "people with disabilities" under Section 504 of the Rehabilitation Act of 1973. However, the Americans with Disabilities Act of 1990, amended the Rehabilitation Act definition of an individual with disabilities 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].

Human Immunodeficiency Virus (HIV)-Infected people: Before June 1998, only people with full-blown AIDS were covered under the Americans with Disabilities Act. As a result of a Supreme Court ruling in June 1998, people infected with HIV are also covered, even those with no overt symptoms of the disease. Protection under the disabilities law begins the moment they become infected.

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.

A reasonable accommodation is an adjustment or alteration made to a job and/or the work environment that enables people with disabilities to perform the duties of the position. 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, personal assistants; and reassigning or retraining 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 duties of the particular job, the work environment, and the reasonableness 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:

- Is the accommodation necessary for the performance of duties?
- What effect will the accommodation have on the agency's operations and on the employee's performance?
- To what extent does the accommodation compensate for the person with a disability's limitations?
- Will the accommodation give the person the opportunity to function, participate, or compete on an equal basis with co-workers?
- Are there alternatives that would accomplish the same purpose?

In determining undue hardship, consider the following factors:

- 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 there is no alternative. 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.

Two 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.

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 occupants; braille labeling for the visually impaired; 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.

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 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."

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

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:

(1) 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.

(2) 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.

Reassigning, Retraining and Detailing Employees

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 illness or injury, 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 accustomed 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. If that is not enough, then retraining, reassignment, or use of a detail should be considered.

Reassignment: The employee's work experience and education may indicate that he or she can perform satisfactorily in another position. Under certain circumstances, an exception may be made to normal qualification standards to facilitate reassignment. Reassignment need not necessarily be limited to positions of the same grade or series. The possibility that the employee would be willing to accept reassignment to a lower grade position (with save pay) with less strenuous physical or mental demands should be explored.

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

Prior to submitting a disability retirement application for an employee, Federal employers are obligated to review all vacant positions at the same grade or pay level and in the same commuting area, to determine if the employee meets minimum qualification standards and can be reassigned. An employee who refuses an offer of reassignment to a position at the same grade or pay level and in the same commuting area will lose eligibility for disability retirement and should be counseled of the consequences. While the employee is obligated to accept such an offer of reassignment, the possibility that the employee would be willing to voluntarily accept reassignment to a position at a lower grade or a position outside the usual commuting area should also be considered.

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.

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 appointment 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 comprehensive 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.

Persons who have mobility impairments can hold physically demanding jobs. They need not be confined to desk jobs. These individuals can be very independent, not necessarily relying on others for assistance in daily activities. They may or may not do things differently or more slowly than others. 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.
- Treat a person who has a mobility impairment as a healthy person. A functional limitation does not mean the person is sick.
- Keep in mind that most people with disabilities have the same activities of daily living as anyone else. They maintain households, shop, go to restaurants, travel, marry, raise children, and, in general, occupy their time in the usual ways.

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. During an interview setting, if the applicant mentions seizures due to epilepsy or symptoms related to other invisible disabilities, the selecting official may ask whether the symptoms are under control and, if not, what fellow co-workers in the office need to know in the event of occurrence. This information, however, is not usually needed until after a person is hired.

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. When appropriately placed and supervised, they can be assets to a workforce. 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 and Mental Illness

People with psychiatric disabilities have skills, experiences and abilities that are not affected by their illness. 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

Phone: (V) (202) 376-6200

Washington, DC 20004-1107

(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

Phone: (V) (800) 526-7234

West Virginia University - PO Box 6080

(TDD) (800) 232-9675

Morgantown, WV 26506-6080

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 St. NW (Federal Sector Programs)

Phone: (V) (800) 669-4000

Washington, DC 20507

(TDD) (800) 669-6820

(FAX) (513) 489-8692

For specific Federal employment questions, call the "ATTORNEY OF THE DAY" at
(202) 663-4691.

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

Phone: (V) (888) 376-3227

Frances Perkins Building,

(V) (202) 219-9475

200 Constitution Avenue NW

(TDD) (202) 208-0452

Washington, DC 20210

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

5) U.S. Office of Personnel Management

[for Federal employment information]

1900 E St, NW.

Phone: (V) (202) 606-2700

Washington, DC 20507

(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
P.O. Box 11586
Montgomery, AL 36111-0586
(334) 281-8780
Toll free: (800) 441-7607

ALASKA

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

ARIZONA

Rehabilitation Services Admin. (930A)
1789 West Jefferson, N.W. (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
P.O. 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
P.O. Box 9969
Wilmington, DE 19809-0969
(302) 761-8300
Voice/TDD: (302) 761-8349

DISTRICT OF COLUMBIA

Department of Human Services
D.C. Rehabilitation Services Administration
800 9th Street, S.W., Fourth Floor
Washington, D.C. 20024
(202) 645-5703

FLORIDA

Dept. of Labor and Employment Security
Division of Vocational Rehabilitation
2002 Old St. 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, N.W., 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
P.O. 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
P.O. 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 S.W. Oakley-Biddle Building, 1st Floor
Topeka, KS 66606
(913) 296-3911
TDD: (913) 296-7029

KENTUCKY

Department of Vocational Rehabilitation
209 St. 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
P.O. 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
P.O. Box 30010
Lansing, MI 48909
(517) 373-3390
Toll free: (800) 605-6722
TDD: (517) 373-4035

Family Independence Agency
Disability Determination Service
P.O. 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
St. 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
P.O. 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
P.O. Box 4210
Helena, MT 59604-4210
Voice/TDD: (406) 444-2590

NEBRASKA

State Department of Education
Div. of Vocational Rehabilitation Services
P.O. 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 St. 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
P.O. 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 St., 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
P.O. 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
P.O. 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, Hillsvie 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
St. Thomas, VI 00802
(809) 774-0930

VIRGINIA

Department of Rehabilitation Services
4901 Fitzhugh Avenue
P.O. 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
P.O. 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
P.O. 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
P.O. 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 Acts 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 arise 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.

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 (MRO¹), 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

¹ See Section VI, Information (E, F) for HHS Drug Testing Medical Review Officer Source List and Manual for Federal Workplace Drug Testing Programs

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 obsoletes and 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:

- 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 Testing²

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:

² 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. Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 391, 468-471, 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. 323 (1992) (codified at 42 U.S.C. § 201 note)
- D. Federal Employees' 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:

- 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 D, 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)(1) (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, 870, and 890, 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) et seq.

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:

ACCESSING OPPORTUNITY

A Model Plan *for* Employment of People With Disabilities in the Federal Government



**United States
Office of
Personnel
Management**

**Employment
Service**

**Theodore Roosevelt Building
1900 E Street, NW
Washington, DC 20415-9800**

**202-606-1059
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**ES DO-04
March 1999**

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- 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 disabilities have not shared in this employment prosperity.

The Federal Government 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 the Model Plan by March 1, 1999. The Model Plan addresses four specific goals summarized below:

- ▶ 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; and
- ▶ Collect and maintain data to monitor success.

OPM is pleased to submit the Model 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 Model Plan is the first step to help Federal employers fulfill this commitment and become a model employer.

MODEL PLAN

Report was written
w/o consideration
of task force
recommendation

- RECRUITMENT -

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."

✓ not needed

- Federal employers are strongly encouraged to 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 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 of the Model Plan 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 Model Plan efforts and best practices.

- 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-13-15, in order to attract candidates from outside the Federal Government.
- Departments and agencies should use a variety of resources and networks available to actively recruit 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 1-800-526-7234.

-
- 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 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 OPM at (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.

- 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, especially veterans. 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 Model Plan.
 - Federal employers should educate managers and supervisors on various hiring programs and resources available to them in recruiting and retaining employees with disabilities. An initial survey regarding familiarity with these programs may help identify specific training needs.
 - ***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(l) 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)(4) and 5 CFR 316.402(b)(4) for hiring 30 percent or more disabled veterans. These competitive 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 at any time during the appointment.

- Before recruiting, Federal employers will review internal human resource policies to ensure that every flexibility is considered in areas such as vacancy announcements, flexible workplace policies, composition of selection panels, and dissemination of employment information in alternative formats.

- 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.

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.

- 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.

MAN/STAND 20PM

- Contracted federal procurement
- Reassignment
- Accessible technology
- Part time employment

There is a lot of notes and looks on who can be hired but not where they can be hired in what dept.

OPM - lower level - not helpful
- Janice LaChance
- Sharon Snellings
- John Riedel - Alvarez - Not helpful

Meeting of OPM/DOJ/DEAC and combine the EEOC of the OPM plan.

- 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.



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507**

**Presidential Task Force on Employment of Adults With Disabilities
Report of the Federal Personnel Review Group**

Co-Chairs Nancy Segal, Special Assistant to Commissioner Paul Steven Miller, EEOC, and Peggy Mastroianni, Associate Legal Counsel, EEOC

August 17, 1998

I. Mandate

A. Background Information and Supporting Data

The Federal Personnel Review Workgroup ("Workgroup") was established by the Presidential Task Force on Employment of Adults With Disabilities ("Task Force") to assist in carrying out Section 2(a) of the President's Executive Order on Increasing Employment of Adults with Disabilities, dated March 13, 1998. Section 2(a) of the Executive Order provides the following:

To ensure that the Federal Government is a model employer of adults with disabilities, by November 15, 1998, the Office of Personnel Management, the Department of Labor, and the Equal Employment Opportunity Commission shall submit to the Task Force a review of Federal Government personnel laws, regulations, and policies and, as appropriate, shall recommend or implement changes necessary to improve Federal employment policy for adults with disabilities. This review shall include personnel practices and actions such as: hiring, promotion, benefits, retirement, workers' compensation, retention, accessible facilities, job accommodations, layoffs, and reductions in force.

As part of this review, the Workgroup has identified barriers and best practices with respect to the recruitment, hiring, and employment of adults with disabilities in the federal sector and developed recommendations to improve conditions in these areas.

Approximately 31 individuals, representing nine agencies, have participated in the Workgroup. Agencies represented include the Department of Labor (DOL), Office of Personnel Management (OPM), Equal Employment Opportunity Commission (EEOC), Department of Defense (DoD), Department of Education (ED), U.S. Architectural and Transportation Barriers Compliance Board (Access Board), Office of Management and Budget (OMB), President's Committee on the Employment of People With

Disabilities (PCEPD), and General Services Administration (GSA).¹

B. Federal Statistics

During the last fifteen years, the representation of persons with disabilities in the permanent federal civilian workforce has increased. Between 1982 and 1997, the percentage of employees with severe disabilities has increased from .81% to 1.16%. The representation of all employees with disabilities has increased from 4.97% in 1982 to 6.79% in 1997. This overall increase is particularly notable in view of recent significant cutbacks in non-postal federal jobs.

There are negative trends as well: The peak year of representation for persons with disabilities was 1993. From 1993 to 1997, representation for persons with severe disabilities declined from 1.24% to 1.16%, and representation for all persons with disabilities declined from 7.09% to 6.79%. One possible explanation for this trend is that (1) the federal workforce as a whole declined by 350,000 jobs from 1992 to 1997, (2) 60% of the eliminated jobs were clerical and blue collar, and (3) persons with disabilities are over-represented in federal clerical and blue collar jobs.

Specifically, with respect to clerical and blue collar jobs, 23.9% of federal employees without disabilities hold such jobs, compared to 33% of all federal employees with disabilities and 42.9% of federal employees with severe disabilities. With respect to lower-paying federal jobs generally (grades 1-8), there is a similar pattern. Of federal employees without disabilities, 33.7% are in lower-paying jobs, while 43.5% of all employees with disabilities and 57% of employees with severe disabilities hold such jobs. Conversely, 61.8% of federal employees without disabilities hold higher-paying jobs (grades 9-15), while 53.2% of all employees with disabilities and 41% of employees with severe disabilities occupy such jobs. While the promotion rate for all federal employees with disabilities (9.77%) was similar to that for the total federal workforce (9.97%), the promotion rate for federal employees with severe disabilities was 7.88%.

Finally, the critical figure that provides perspective for this report is that 5.95% of the people

¹This report reflects the hard work of the following individuals: Tali Stepp, Annabelle Lockhart, Mark Maxin, Kim H. Green, Sharon Woodward, John Riedel-Alvarez, Sharon Snellings, Tina Vay, Philip Calkins, Nancy Segal, Peggy Mastroianni, Christopher J. Kuczynski, Carol Miaskoff, Jocelyn Samuels, Vivian Cole, Gary Hozempa, Jim Sober, Mary-Jean Moore, Kevin Packman, Judy Gilliom, Shannon Brown, Jennifer Kemp, Jennifer Mechem, Carla Holt, Jeffery Hill, Beth Stewart, Ray Kogut, Elizabeth Bacon, Tony Waller, Randy Cooper and Kathleen Coleman.

available to work in the civilian labor force are persons with severe disabilities. While the federal government has made significant hiring gains, the percentage of persons with severe disabilities in the federal workforce (1.24% at its peak in 1993) still lags far behind availability.

C. Actions Taken by Workgroup

In order to carry out its mission, the Workgroup reviewed materials from a variety of sources regarding the hiring and employment of adults with disabilities in the federal sector. The Workgroup requested Tony Coelho, Vice-Chair of the Task Force, to send out a letter to the heads of all federal agencies explaining the mission of the Task Force and requesting documents and information pertaining to each agency's procedures and policies applicable to the hiring and employment of individuals with disabilities. A sample copy of this letter is attached to this report as Attachment A. This letter, which was sent to 89 agencies on June 8th, asked each agency to provide the requested information to the Workgroup by early July. To date, approximately 65 agencies have responded to this letter. The information contained in these responses has provided the basis for many of the Workgroup's findings and recommendations.

Workgroup members have also reviewed Title 5 of the United States Code and Title 5 of the Code of Federal Regulations, the code sections and regulations pertaining to federal sector employment, to identify any barriers to the recruitment, hiring, and employment of adults with disabilities. In addition, Workgroup members reviewed 29 C.F.R. §1614.203, the regulation implementing Section 501 of the Rehabilitation Act. Workgroup members have also reviewed EEOC federal sector decisions and complaints received by the Access Board pertaining to federal employees with disabilities. Finally, Workgroup members have informally contacted unions, individuals with disabilities, and disability organizations who are knowledgeable about barriers and best practices in the area of hiring and employment of individuals with disabilities in the federal sector.

II. Positive Efforts Already Underway

Introduction

Since the advent of the Rehabilitation Act of 1973 and the passage of the Americans with Disabilities Act of 1990, there has been increased recognition of the need and the obligation to provide access to people with disabilities in the public and private sectors. In order to ensure access to facilities, employment opportunities, and technology in the federal sector, it

is first crucial to identify successful existing programs.

This section details three examples of federal agency "best practices" for employees with disabilities. These practices provides valuable models for all federal agencies.

**A. United States Department of Education
Self-Evaluation and Implementation Process**

The Department of Education (ED) took a comprehensive approach to reviewing disability access issues by conducting a self-evaluation of its compliance with the Rehabilitation Act of 1973, from May 1995 to May 1996. In an initiative that enjoyed strong support from ED's senior leadership, ED made 44 recommendations for improving its compliance with Section 504 and other parts of the Rehabilitation Act. The recommendations address reasonable accommodation and employment policy, including policies that significantly improve access to technology, information, and other ED programs and activities.

A Coordinator was hired in September 1996 to implement the recommendations of the work group. Funds were allocated for compliance in FY 1997, and will continue to be allocated for ongoing compliance. Over the last two years, 19 of the 44 recommendations have been completed, 15 are underway, and ten involve ongoing projects or services.

Three working groups were established to assist the Coordinator in carrying out the recommendations: a Program Implementation Task Force, an Employment Task Force, and an Architectural Access Task Force. The philosophical driving force behind the initiative is that ED as a whole must take responsibility for equal access, rather than leaving it to the offices that have traditionally responded to disability issues because of their programmatic responsibilities for disability constituencies.

Difficulties and delays in obtaining reasonable accommodations were the most common problem facing employees with disabilities in ED. In FY 1998, a centralized fund for reasonable accommodation equipment and services related to assistive technology and training was established. This fund now pays for accommodations, with the result that lack of funding is no longer a barrier to accommodations. The Employment Task Force is rewriting ED's reasonable accommodation policies and establishing new procedures for requesting, granting, and tracking accommodations. This task should be completed by the end of FY 1999.

ED will remove another barrier to employment and hiring of people with disabilities by establishing in its FY 1999 budget, in the Office of Management, a central pool of salary and expense funds which includes Full-time Equivalent (FTE) slots for readers, interpreters, and personal assistants. Thus, offices within ED will no longer have a disincentive to hiring qualified individuals whose disability and position responsibilities require the support of interpreters, readers, or personal assistants who would take up additional FTE slots.

ED is the first federal agency to develop and adopt specific guidelines on information

technology accessibility. The *Requirements for Accessible Software Design* were written to ensure that software purchased by or developed for ED is fully accessible to people with disabilities. The Requirements have been adopted by the National Science Foundation and the Census Bureau, and are under consideration at the EEOC, DOL, and several other agencies. ED hopes to serve as the prototype for a universal federal standard for software accessibility.

The *Requirements for Accessible Software Design* have also had an unexpectedly broad impact on the software industry. ED has inserted accessibility clauses in all its information technology contracts, and has worked extensively with developers and commercial software vendors. Disability access is now increasingly perceived as a major competitive feature by the industry. The overall intent is to increase the accessibility of off-the-shelf software for people with disabilities, thus increasing employability and decreasing reasonable accommodation costs nationwide.

In addition, ED has established an Alternate Format Center, which serves the entire Department with production of materials in Braille, large print, and audiotape. Production facilities in-house have enabled ED to achieve much quicker turnaround times on requests for materials in alternate formats. Employees who are blind or visually impaired can now receive meeting materials, reference materials, and memoranda in Braille, with minimal labor and expense. The Center is staffed by two contractors secured through National Industries for the Blind's program to provide employment for visually-impaired individuals.

Another first in the federal government is ED's decision to purchase a networked Teletypewriter (TTY) software program that puts a virtual TTY on every employee's desk. The NexTalk system will run over the Local Area Network (LAN) and offer TTY users the same options now available only to voice telephone users: access to every employee without having to go through the relay system, use of voice mail menus to locate program areas or information, and ability to transfer calls and leave messages. ED has also purchased state-of-the-art portable assistive listening systems for use in its headquarters buildings, and is installing three permanent assistive listening systems. Purchase of smaller portable assistive listening systems for regional offices is also planned.

The ED's Architectural Access Task Force conducted an architectural survey of its headquarters. The survey identified a number of accessibility problems and made recommendations for improving them. The Architectural Task Force prioritized the recommendations and is working with GSA to correct the most severe problems. Work began in FY 1998 and will continue in FY 1999.

The complete *Report on the Section 504 Self-Evaluation* may be obtained upon request

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August 17, 1998
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from Jennifer Mechem, at (202) 401-3586 voice/401-3582 TTY.

**B. United States Department of Agriculture
Technology Accessible Resources Gives Employment Today Center**

The Technology Accessible Resources Gives Employment Today (TARGET) Center was officially opened at USDA headquarters in October, 1992. Its goal is to assist USDA agencies in providing an accessible work environment, ensuring equal access to electronic technology and automated systems essential to the jobs of today. The TARGET Center provides a wide range of services to USDA's employees with disabilities and to other Federal agencies upon request. These services include the following: evaluations, demonstrations, and assessments of accommodations; technology review; disability awareness presentations; coordination of training; a resource information library on accommodations, vendors, and technology; contracting of assistive services; technical support; consultations with managers and employees; and information provided in alternate/accessible formats.

With an FY 1998 funding level of \$450,000 provided through agency reimbursements, the TARGET Center has provided close to 100 presentations on disability awareness to 6,000 people, resource information to 10,000 recipients, and a total of 4,000 technical evaluations and assessments this year. In addition, the Center has filled 250 requests for materials to be made available in alternative accessible formats. The staff interpreter, with a budget of \$190,000, coordinates service provision with additional contracted vendors as needed, providing interpreting services for over 800 requests this year.

**C. United States Department of Defense
Computer/Electronic Accommodations Program**

The Computer/Electronic Accommodations Program (CAP) was established in 1990 as the centrally funded DoD program that provides assistive technology to allow DoD employees with disabilities to access computer and telecommunication systems. CAP services are available to individuals with visual, hearing, dexterity, and cognitive disabilities and take into account the individual's specific situation, including functional capabilities and computer compatibility. CAP also provides funding for sign language interpreters, readers, and personal assistants for DoD employees in training classes that last more than two days.

In August of 1995 the CAP Technology Evaluation Center (CAPTEC) opened at the Pentagon. The CAPTEC has a wide variety of assistive devices available for demonstration and evaluation. Employees and supervisors searching for appropriate accommodations can visit CAPTEC and get hands-on experience with various equipment options. In FY 1997, approximately 2,000 individuals visited the Technology Evaluation Center in the Pentagon. CAPTEC also participated in over 20 functions throughout the year.

CAP's purpose is to ensure that all DoD employees who have or develop a disabling condition can get the equipment (and, if necessary, the training) that best suits their needs, at no charge to the specific employing unit. CAP also provides accommodations to ensure that DoD hospitals, clinics, personnel offices, training centers, and dependent schools, worldwide, are accessible. In FY 1997, with a budget of \$2 million, CAP filled 2,279 accommodation requests. Since its inception, CAP has filled over 14,000 requests for accommodations. CAP removes the cost liability for accommodations so managers no longer need consider the possible economic impact of hiring people with disabilities. CAP's expertise with accommodations encourages DoD management to recruit, hire, and promote people with disabilities.

CAP also assists DoD managers in implementing Flexiplace, a program that allows employees to work part or all of the day at home or at another offsite location, by providing computers and assistive equipment for participants with disabilities to use at their alternative work sites. Target groups for Flexiplace include: recipients of workers' compensation, persons who might otherwise consider disability retirement, persons who have not been employed because their disabilities make it difficult for them to function in a federal workplace on a regular basis, and employees with disabilities who could be more productive working part or all of the day at home. In FY 97, CAP filled 64 requests for computer and assistive equipment to support individuals working at home. CAP also filled 132 requests to accommodate injured and returning DoD employees from Workers' Compensation.

In FY 97, CAP continued to provide services and accommodations to ensure access in targeted DoD operations. The CAP office also assisted DoD Training Centers and Learning Centers by providing assistive equipment to ensure that DoD employees with disabilities can participate in training programs. CAP also provided teletypewriters (TTYs), closed caption decoders, and telestroke lights to accommodate emergency rooms, outpatient facilities, nursing stations, and other treatment locations within hospitals and clinics. CAP worked closely with the internationally based DoD Dependent and Section Six Schools by filling 35 requests for accommodations for students and teachers.

In the effort to improve customer service, CAP made major changes to the Request Form and order process, which resulted in a 76% reduction in the processing and procurement time. On average, processing and procurement now take seven to nine days. Another major factor in the improved CAP request process is the use of the U.S. Government I.M.P.A.C. Visa credit card. This provides CAP greater flexibility to purchase high-cost assistive technology in a timely manner. Further cost savings are also realized through bulk purchasing.

In support of the DoD effort to increase accessible information dissemination, CAP provides videotape captioning equipment. This provides DoD with the audio-visual capability to

caption its videotapes in-house at a reduced cost.

DoD also co-sponsors with the President's Committee on Employment of People with Disabilities (PCEPD) the Workforce Recruitment Program (WRP) for College Students with Disabilities. This recruitment and referral network provides a systematic review of applications for individuals with disabilities who are students or recent graduates of colleges or universities. The CAP lends federal agencies assistive equipment to accommodate individuals placed through this program. In FY 97, CAP filled 73 accommodation requests for WRP summer students.

In FY 97, the CAP office received the 1996 Federal Technology Leadership Award at a ceremony held in the Washington, D.C. Convention Center. The Fifth Annual Awards Program honored 24 leading-edge projects in state and Federal government. CAP was singled out for the imaginative use of technology to streamline program operations, demonstrating an innovative use of public funds.

D. Other Reported Best Practices

The Workgroup identified numerous other federal agency "best practices" with respect to the recruitment, hiring, and employment of adults with disabilities. A chart containing these "best practices" is attached to this report as Attachment B.

III. Barriers and Recommendations

The Workgroup also identified the following barriers which affect the employment of adults with disabilities in the federal sector. For each of these barriers, we present findings and recommendations.

A. Recruitment and Hiring Barriers

1. Excepted Appointing Authorities

Findings

In Part 213 of its regulations, OPM sets forth the eligibility criteria and standards for agency use of "excepted appointing authorities" to fill government positions. 5 C.F.R. Part 213. Excepted appointing authorities exempt individuals from the competitive appointment process and offer an alternative means to obtain federal employment. The use of excepted appointing authorities can increase the employment opportunities for individuals with

disabilities.

There are three primary excepted appointing authorities explicitly applicable to individuals with disabilities. Schedule A of the applicable regulations establishes excepted appointments for positions filled by individuals with mental retardation and individuals with severe physical disabilities. *See* 5 C.F.R. § 213.3102(t), (u). Under Schedule B of the regulations, agencies are authorized to make appointments, to positions at grades GS-15 and below, of individuals who (a) are at a severe disadvantage because of a psychiatric disability that has caused a significant period of substantially disrupted employment; and (b) are certified to a specific position by a state vocational rehabilitation agency or the Veterans Administration as meeting the eligibility criteria, being able to perform the job, and having no job-related residual disability. 5 C.F.R. § 213.3202(k).

In three respects, however, the Schedule B appointing authority treats individuals with severe psychiatric disabilities differently from individuals with severe physical disabilities or mental retardation who are eligible for special appointment under Schedule A. First, unlike appointments under Schedule A, Schedule B appointments are subject to the basic qualification standards established by OPM for the relevant occupation and grade level. Second, Schedule B imposes a two-year limitation on appointment that does not exist under Schedule A. Finally, Schedule B appointees are not eligible for conversion to the competitive service. Under Schedule A, persons with severe physical disabilities and persons with mental retardation may qualify to convert to competitive status after completion of two years of satisfactory service in their excepted positions. *See* 5 C.F.R. §§ 213.3102(t), (u); 315.709 (setting criteria for conversion).

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Thus, individuals with psychiatric disabilities who wish to take advantage of special appointing authorities in order to obtain employment with the federal government are clearly at a disadvantage as compared with individuals with severe physical disabilities or mental retardation who are eligible for excepted appointments under Schedule A. First, Schedule B appointees must satisfy the qualification standards set by OPM, whereas, under Schedule A, agencies have the option of substituting their own qualification standards. Second, individuals with psychiatric disabilities who are unable to apply for jobs through the regular competitive appointment process must leave their excepted positions after two years. Individuals with severe physical disabilities, on the other hand, may remain in their excepted service jobs without restriction and are further authorized to convert to the competitive service, without competitive examination, at the end of two years.

Individuals with psychiatric disabilities eligible for excepted appointments under Schedule B face many of the same barriers to employment as are encountered by individuals with severe

physical disabilities and mental retardation. They, therefore, should be offered the same opportunities, including the opportunity to convert to the competitive service, that are available under Schedule A. The Rehabilitation Act and the ADA have never distinguished between physical and mental disabilities, but instead recognize that all individuals with disabilities face similar social, economic, and employment barriers.

The Workgroup recognizes that the differences between the Schedule A and Schedule B special appointing authorities are not the result of discriminatory animus against individuals with psychiatric disabilities. Rather, they were based at least in part upon the belief that individuals who had "recovered" from a psychiatric condition needed only an opportunity to supplement a resume after a period of extended unemployment, and thereafter would be able to compete for employment through the regular competitive process. Experience has shown, however, that some conditions, such as major depression, from which an individual may appear to have "recovered" can recur in the future, and thus may impose limitations that are as real and life-long as the limitations imposed by physical disabilities. *See EEOC Enforcement Guidance on the ADA and Psychiatric Disabilities*, No. 915.002 (March 25, 1997) at 9 (noting that "chronic episodic" conditions are disabilities if they are substantially limiting when they occur). Moreover, even the record of a psychiatric condition from which an individual has in fact recovered may often pose a barrier to employment. Indeed, the EEOC has long recognized "a history of treatment for mental or emotional problems" as a "targeted" (or severe) disability, along with numerous physical conditions.

Recommendation

The Workgroup recommends that OPM and any other appropriate agencies explore measures aimed at extending to individuals with psychiatric disabilities who currently qualify for excepted appointments under Schedule B those opportunities currently available to individuals with severe physical disabilities and mental retardation who are eligible for excepted appointments under Schedule A.

2. Vacancy Announcements

Findings

It appears that the availability of reasonable accommodations is not indicated on the vacancy announcements and other recruiting materials of the vast majority of federal agencies. This may pose a barrier to individuals with disabilities seeking federal government employment who are unsure of their right to, or the availability of, reasonable accommodations during the application process and during the employment relationship.

Recommendation

The Workgroup recommends that OPM, in consultation with the EEOC, develop language for federal vacancy notices that explicitly states that reasonable accommodation is available. OPM should also revise its regulations to require all federal agencies to include this notice in vacancy announcements and other recruiting materials.

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B. Reasonable Accommodation Barriers

The Workgroup has found that difficulty in obtaining reasonable accommodation poses a significant barrier to job applicants and employees with disabilities in the federal government. This difficulty arises particularly from the lack of clear and effective reasonable accommodation policies and procedures, and from resistance by managers to spending funds on accommodations. Federal agencies have a wide variety of policies, procedures, and practices with respect to the provision of reasonable accommodations to job applicants and employees with disabilities. Many pose real barriers to the employment of people with disabilities, potentially violating their rights under the Rehabilitation Act and resulting in productivity losses and inefficiency for the federal government as a whole. The Workgroup concludes that the employment of adults with disabilities in the federal sector could be dramatically improved by providing guidance and assistance to agencies and by making certain changes in the manner in which agencies handle, procure, and fund job accommodations for applicants and employees.

1. Reasonable Accommodation Policies and Procedures

Findings

Based on anecdotal evidence gathered from federal government employees and on the Workgroup's review of EEOC federal sector decisions, it appears that employees with disabilities frequently have difficulty obtaining reasonable accommodations. People with disabilities are faced with the following problems when seeking reasonable accommodation:

- It is often unclear who is responsible for determining, approving, and obtaining accommodations. *See, e.g., Meyer v. Dept. Of the Army*, EEOC Appeal No. 01944240 (Aug. 9, 1996).
- Requests for reasonable accommodation often are not handled promptly, chiefly because there are no time limits on decision making.

- Individuals with nonvisible or “hidden” disabilities have a particularly difficult time obtaining the accommodations that they legitimately need.
- Supervisors and managers often are unaware of the legal requirements governing the obligation to provide reasonable accommodations. *See, e.g., Allen v. United States Postal Service*, EEOC Appeal No. 01954091 (March 27, 1997), Request No. 05970672 denied (June 12, 1998).

Presently, there are no government-wide, uniform procedures for processing applicant and employee requests for reasonable accommodation. Nor are there model procedures or guidelines for processing such requests.

Many of the agency responses to the Coelho letter reflect a lack of clarity about the reasonable accommodation process. For example, many federal agencies do not have any written procedures for processing reasonable accommodation requests, and different divisions and offices within these agencies may impose their own policies on employees. The written agency procedures that do exist vary widely. Some are exceedingly and unnecessarily complex, while others require intrusive and extensive medical information that is not necessary and that may be inappropriate in many cases. Agency policies often require extensive medical documentation for all requests, without apparent exception for, or consideration of, whether the information relates to the requestor's need for reasonable accommodation, the nature of the request, or whether the agency already has information on the requestor's disability due to previous requests. In some policies, requests must be filled out on specific forms turned in to specific people or offices; other agencies do not prescribe the form, format, and audience for the request. Most policies do not prescribe a time frame for agency decision making on reasonable accommodation requests.

Recommendations

The Workgroup recommends that the EEOC issue regulations, or other appropriate directives, providing guidelines for all federal agencies to follow in establishing agency-wide, written reasonable accommodation policies and procedures for applicants and employees with disabilities. The draft policies/procedures should be submitted to the EEOC within 120 days of the promulgation of the regulation for EEOC review and comment. These policies and procedures should be distributed to new staff during the orientation process and published on the agency intranet site (if available). At a minimum, the policies and procedures should also be distributed annually to senior executives, personnel directors and EEO directors; if feasible, they should also be distributed to all staff on an annual basis. The EEOC's regulations or guidelines should promote policies that make it easy and simple to request an accommodation; provide for a fair, prompt and balanced review of an accommodation request; provide for a meaningful dialogue between supervisor and employee where necessary; and provide for a review of medical evidence by a medical professional, where the medical reasons for the accommodation are in dispute.

The EEOC should provide a model reasonable accommodation policy which agencies may choose to adopt. In addition, the EEOC regulations or guidelines should provide agencies

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with the option of designing their own reasonable accommodation policies and procedures as long as the policies/procedures, at a minimum and in writing:

1. Explain how an employee or job applicant initiates a request for reasonable accommodation. If the agency requires an applicant or employee to complete a reasonable accommodation request form, the form must be provided as an attachment to the written procedures.
2. Specify to whom the request must be submitted and from whom the employee will receive a final decision.
3. Designate a time period during which reasonable accommodation requests will be granted or denied, absent extenuating circumstances. If designated time deadlines are not met, responsible agency officials should explain the delay to the employee.
4. Explain the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue and the requested accommodation.
5. Explain the agency's right to request relevant supplemental medical information if the information submitted does not clearly explain the nature of the disability, the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or enjoy the benefits and privileges of the workplace.
6. Explain the agency's right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense.
7. Provide that reasonable accommodation decisions should be in writing and specify the reasons for denial, when applicable.

The model reasonable accommodation policy/procedure that the EEOC issues should contain all seven required elements, as described above. In addition, the model policy should also:

8. Provide a "plain English" explanation of certain key legal terms used in the policy (e.g., reasonable accommodations, disability, qualified person with a disability and undue hardship), and reference applicable statutes and regulations as a source of the actual wording of the terms.

9. Provide that reassignment will be considered as a reasonable accommodation if the agency determines that no other reasonable accommodation will permit the employee to perform the essential functions of his/her current position. In the case of reassignment to a lower graded position, the agency has the option of providing pay retention because the action is not for personal cause.
10. Designate a system of record keeping that tracks the processing of requests for reasonable accommodation and maintains the confidentiality of medical information received in accordance with applicable law and regulations.
11. State in the policy that employees have the right to file an EEO complaint in the event that their requests for reasonable accommodation are denied.
12. Clearly and expressly explain the role and responsibility of each agency official or office in the grant or denial of reasonable accommodation requests.

2. Procurement and Payment for Reasonable Accommodations

Findings

The responses to the Coelho letter indicate that federal agencies procure and fund job accommodations for employees and applicants with disabilities in a wide variety of ways. Some agencies provide centralized procurement and funding for specified accommodations such as readers, sign language interpreters, special assistants, computers, electronic accommodations, and adaptive devices which cost over \$100. Some small agencies, and at least one cabinet level agency, report that they provide centralized funds for the procurement of all equipment and services for employees with disabilities. In other agencies, individual offices or divisions procure and fund accommodations for employees.

It is logical to assume that a supervisor is more likely to reject an accommodation on the basis of cost where the funds for purchasing the accommodation come from the supervisor's budget. On the other hand, a supervisor is less likely to consider the cost of an accommodation where the funds for purchasing an accommodation come from a centralized budget. The Workgroup finds that the reluctance of supervisors to spend their own funds on reasonable accommodations is a real barrier.

Recommendations

The Workgroup recommends that the Administration draft and submit to Congress proposed legislation establishing a central point of contact and a single source of payment for assistive

technology and related services for job applicants and federal employees with disabilities. At a minimum, items available should include specialized computer hardware, software, and peripherals; telecommunication devices; and related services and training. In addition, this centralized program should cover sign language interpreters, readers, and personal assistants under specified circumstances (e.g., when federal employees are enrolled in training that lasts more than one day) as well as miscellaneous specialized equipment (e.g., custom workstations, assistive listening systems and audiovisual captioning).

Federal employees with disabilities should be able to obtain job accommodations quickly and easily from this central source serving all federal agencies. Supervisors, or any other knowledgeable official designated by individual agencies, should have sign-off authority for employee requests, and the employing agency should provide additional input as necessary. If the central reasonable accommodation source denies a request that an agency has already "signed-off" on, then the agency disability program manager or some other appropriate official designated by the agency, should be able to reverse the denial.

Whatever funding mechanism is developed should not sustain current, or create new, disincentives to the employment of individuals with disabilities in the federal government. Agencies should not be mandated to pay into a centralized accommodations fund based on the number of individuals with disabilities they hire, employ, or accommodate, or be charged back for the cost of the accommodations provided to their employees under this system. There should be no direct link between the number of employees with disabilities an agency hires, employs, or accommodates, and cost charged to the agency.

This unified system of administration, procurement, and funding would enable the government to take advantage of bulk purchase values and other economies of scale, reduce administrative and procurement costs, and remove the nuisance and expense factors that too often are disincentives for supervisors and agencies considering hiring or accommodating individuals with disabilities. Each agency would not have to develop its own system and expertise for procurement of assistive technology and other devices; instead, one set of experts would suffice. While no agency would be prohibited from having its own program, the centralized program would be open to all, and no federal employee or manager would be prohibited from using it.

The Workgroup does not make a specific recommendation as to the entity that should administer the centralized procurement and funding system for reasonable accommodations. If an existing federal agency serves as the administrator, it will be necessary to obtain legislation augmenting the mission of the agency to allow it to provide "free" accommodations to employees of other agencies. One possibility is legislation enabling the DoD to provide accommodations for all federal government employees through the

expansion of its Computer/Electronic Accommodation Program (CAP). Since its inception in 1990, CAP has filled over 14,000 requests for by DoD employees (regardless of branch) for the following information and technological assistive devices: computer input devices, computer output devices, telecommunication devices, magnification devices, assistive listening devices, alternative forms of documentation, captioning services, and requests for sign language interpreters, readers and personal assistants for employees attending training programs that last two days or more. CAP currently operates with an annual budget of \$2.5 million. Note: Based on data derived from the *1995 EEOC Annual Report on Employment of Minorities, Women, and People with Disabilities in the Federal Government*, DoD employs 37% of federal government employees with disabilities and 35% of federal government employees with "targeted" disabilities.

The current benefits of CAP are the same as the potential benefits of a centralized accommodations program for the entire federal government. CAP has increased the ability of managers to hire people with disabilities without the cost of accommodations being considered in an inappropriate manner, reduced the cost of providing accommodations because of bulk purchases of assistive equipment, provided for review by experts of each accommodation request for appropriateness and computer compatibility, and increased efficiency of acquisition processing because of program staff knowledgeable about types of products, systems, and availability of assistive technology and services. Any centralized, government-wide accommodations program could build on CAP's successes and expand its reach to cover a wider range of accommodations.

Another possible mechanism for providing this government-wide function would be for the DoD and the President's Committee on Employment of People with Disabilities to jointly administer a government-wide centralized accommodations program. This alliance would combine DoD's CAP experience and expertise with the President's Committee's mission to promote the employment of people with disabilities and job accommodation expertise.

Regardless of the entity that runs the proposed centralized system, individual agency involvement in the procurement of accommodations covered by the centralized system should be minimized. The purpose of the centralized system is to facilitate the prompt and efficient acquisition of reasonable accommodations. It should not become another hurdle for an employee with a disability.

While even agency-wide procurement and funding systems for reasonable accommodations would be an improvement over the current system where supervisors are faced with weighing the cost of reasonable accommodations against other needed items in their budgets, it would not be as effective or efficient as a government-wide program. It appears that many agencies lack the expertise and/or will to design effective and efficient procurement and funding

systems. Few agencies have been successful in overcoming the chilling effects of constrained budgets, impervious bureaucracies, and uninformed attitudes. Today, many individuals with disabilities depend on their own negotiating skills and sympathetic decision-makers.

It is also important that the government-wide reasonable accommodation function be adequately funded and staffed. The most efficient and least expensive approach is to create one excellent, well-funded, well-staffed program and give it full access to the worldwide buying power, logistical capability, and technical expertise that the United States government routinely provides or obtains for undertakings of national significance.

OPM agrees that this recommendation could potentially improve the effectiveness and efficiency of agency efforts to provide reasonable accommodations; however, it would like to examine a number of related issues before endorsing this proposal.

3. Reassignment - 29 CFR § 1614.203(g)

Findings

The ADA specifically mentions "reassignment to a vacant position" as a form of reasonable accommodation for individuals who, because of a disability, can no longer perform their current jobs. Congress recognized that requiring reassignment as a reasonable accommodation would further two important policy objectives: reassignment would enable individuals with disabilities to continue working, and it would enable employers to retain valued employees. Pursuant to statutory directive, the EEOC promulgated regulations implementing Title I of the ADA, at 29 C.F.R. Part 1630. These regulations include standards governing reassignment as a reasonable accommodation.

In 1992, Congress amended Title V of the Rehabilitation Act of 1973 to make the ADA standards of nondiscrimination in employment applicable to the federal government. Despite this amendment, the regulatory standards governing reassignment continue to differ significantly with respect to the federal and private sectors.

In the private sector, under Title I of the Americans with Disabilities Act (ADA) and its implementing regulations, reassignment is a reasonable accommodation and, as such, is restricted only if it imposes an "undue hardship" on the employer's business. Under the ADA, "undue hardship" means "significant difficulty or expense." By contrast, under the federal regulation, 29 C.F.R. § 1614.203(g), a variety of restrictions in addition to undue hardship are imposed on reassignment. First, federal agencies are only required to offer reassignment to nonprobationary employees. Second, the regulation says that reassignment is

not required to positions:

- located outside the employee's present commuting area;
- that are not serviced by the same appointing authority; and
- for which an announcement seeking applications already has been posted (although the agency must consider the individual on an equal basis with other applicants).

In addition, the regulation provides that, at the United States Postal Service, an individual with a disability "shall not be considered qualified for any offer of reassignment that would be inconsistent with the terms of any applicable collective bargaining agreement."



Recommendations

The Workgroup recommends that 29 C.F.R. § 1614.203(g) be revised to incorporate the ADA standards for reassignment. In addition, the EEOC should provide guidance about the applicable ADA provisions that apply to reassignment and, specifically, about the application of the ADA's undue hardship standard. Guidance will facilitate reassignment and other accommodations by allaying agencies' concerns about how to apply the ADA, which differs from 29 C.F.R. part 1614.203(g). Without a clear explanation, agencies may not understand that the ADA undue hardship criteria allow them to consider a range of financial and operational considerations in deciding whether to reassign an individual with a disability. Guidance will also aid administrative judges, the EEOC, and federal courts when analyzing claims of discrimination based on a federal agency's failure to provide reassignment.

4. Electronic and Information Technology

Findings

Computers and other information technology have become an increasingly vital part of the workplace in the last decade, to the extent that virtually all federal positions now require the use of computers to complete everyday job tasks. Access to electronic media such as e-mail, agency databases on internal networks, and Internet research is essential to communicating with colleagues and serving the public. However, if the software procured by agencies is not accessible to people with disabilities, the technology creates a barrier to employment and may be so difficult to retrofit that it creates a legitimate undue hardship in the provision of reasonable accommodations. Operating systems and applications must contain certain standard features to allow assistive technology software and peripherals to modify the input or output to provide access

for a person with a disability. Without those features, the assistive technology, such as a screen-reader that reads text aloud to a blind person, cannot function properly.

The Rehabilitation Act of 1973 was amended on July 31, 1998; the amended Section 508 directs the Access Board to develop and publish standards for electronic and information technology accessibility within 18 months, and requires federal agencies to develop, procure and use accessible technology. These standards will include a definition of electronic and information technology consistent with that in the Clinger-Cohen Act, and "the technical and functional performance criteria necessary" to provide access for Federal employees and members of the public with disabilities. Starting two years after enactment of this amendment to Section 508, individuals with disabilities may file complaints for noncompliance.

Within six months, each federal agency must evaluate the extent to which its information technology is accessible to people with disabilities and submit a report to the Attorney General, who will make recommendations to the President and Congress within 18 months after enactment. The Attorney General will submit a second report and recommendations three years after enactment, and additional reports every two years thereafter.

The previous version of Section 508 required the development of accessibility guidelines for information technology. These guidelines in the Federal Information Resources Management Regulations (FIRMR) had no enforcement mechanism, and have been suspended.

The Department of Justice has ruled that web sites for state and local governments are required to be accessible to people with disabilities under Title II of the Americans with Disabilities Act (ADA), and has applied the same analysis to Federal agency web sites under Section 504 of the Rehabilitation Act.

Most federal agencies do not appear to have any systematic means for evaluating the accessibility of their information technology, nor for assessing the effect on accessibility when new systems and software are developed, purchased or upgraded. Some agencies have recently acquired agency-wide systems such as e-mail applications that are incompatible with assistive technology used by blind employees, creating numerous employment problems. There are currently no government-wide standards for accessible technology, and few agencies are aware of the FIRMR guidance. Several agencies test software acquisitions for disability access, though most do so in conjunction with providing assistive technology devices or services for employees with disabilities. The focus at most agencies seems to be on providing individual solutions for technology access problems encountered by employees with disabilities.

The Department of Education (ED) developed a set of Requirements for Accessible Software Design which specify functional criteria to ensure that software purchased by or developed for the

Department is fully accessible to people with disabilities. The Requirements give clear direction on how to make software accessible, with simple, functional, outcome-oriented instructions that give developers maximum flexibility but result in programs that are compatible with commonly-used assistive technology aids. The Requirements have been adopted by the National Science Foundation and the Census Bureau, and are under consideration at the EEOC, Department of Labor and several other agencies. Both Census and ED have issued draft policy statements to implement the Requirements, and ED has inserted clauses in all information technology contracts requiring compliance with the Requirements.

Anecdotal evidence indicates that most agency web sites provide good access to text information. Problems remain with many sites that offer interactive functions such as electronic form submission or calculations of benefits; security features and the graphical nature of the interface render many sites inaccessible to users with disabilities.

Recommendations

The Workgroup makes the following recommendations with respect to electronic information and technology:

- All federal agencies should adopt ED's Requirements for Accessible Software Design as an interim standard until the Section 508 standards are published.
- All federal agencies should ensure that all hardware and software purchased, modified, or upgraded by such agencies, including purchases for Y2K compliance, are accessible to people with disabilities.
- All federal agencies should test new and current information technology systems for accessibility, and should consider upgrading or modifying any inaccessible systems used by employees or job applicants.
- All federal agencies should ensure that all employee information provided on their intranets or LANs and public information provided on their web or Internet sites is accessible to people with disabilities. They should use a public-domain web site tester such as Bobby, and comply with the web accessibility guidelines published by the World Wide Web Consortium's (W3C) Web Accessibility Initiative.
- All federal agencies should ensure that employees with disabilities receive an assessment of technology access needs, and receive the appropriate assistive technology hardware, software, or peripherals to make all information technology systems used on the job accessible.

5. Interpreters

Background and Legislative Context

Interpreting services are necessary to afford deaf, hard of hearing, or deaf-blind employees equal access to communication in meetings, training sessions, conferences, and other job related functions and events. As employers, federal agencies are required to provide interpreters to individuals with hearing disabilities as a form of reasonable accommodation under section 501 of the Rehabilitation Act of 1973. Interpreting services are also a key component of agencies' ability to fulfill their responsibilities under Section 504 of the Rehabilitation Act to provide access for people with disabilities to federally-conducted programs and activities. Interpreting services represent both an ongoing cost and a logistical challenge to locate qualified interpreters and schedule events appropriately; agencies must therefore plan and allocate resources effectively in addition to establishing clear policies and procedures regarding interpreting services. Failure to plan effectively can result in failure to accommodate.

When federal employees attend outside events such as conferences or training sessions, the hosting entity has an obligation to provide effective communication and other accommodations for attendees under one or more of the disability civil rights statutes. If the hosting entity is a federal agency or receives federal funding, it is covered by Section 504 of the Rehabilitation Act. A hosting entity's failure to provide interpreting service or other means of effective communication such as Computer Assisted Real-time Transcription (CART) services or assistive listening systems, frequently poses a barrier to deaf and hard of hearing federal employees, who are denied the training, networking, and promotional opportunities afforded by attendance at outside events.

Findings

The Workgroup reviewed written policies regarding interpreter services from a number of federal entities, including the Department of Agriculture (USDA) Graduate School, OPM's Training Division, and the Department of the Treasury (Treasury) Center for Applied Financial Management (CAFM). While all three written policies state that the agency will provide interpreters upon request, anecdotal reports suggest that deaf employees have experienced some difficulty getting interpreters within an appropriate time frame when signing up for training opportunities. Two agencies did not previously provide interpreters, but have recently modified their policies to clarify their obligation to provide interpreter services. Some agencies, recognizing that sign language interpreters do not meet the needs of all employees with hearing impairments, provide other accommodations such as CART services or assistive listening systems that may be used instead of or in conjunction with interpreting services.

Recommendations

The Workgroup recommends the following:

- All federal agencies that provide training to employees of other federal agencies should review their policies on provision of interpreters and other auxiliary aids and services for people with disabilities in order to ensure that their written policies state their obligation under the Rehabilitation Act to provide interpreter services, and that these policies are followed.
- All federal agencies should ensure that internal training opportunities are offered equally to employees with disabilities, and that interpreters or other auxiliary aids and services are planned for and provided.
- All federal agencies that provide sign language interpreter services for training and other public events should also, when requested, provide effective communications through other means such as Computer Assisted Real-time Transcription (CART) or assistive listening systems.

C. Barriers Resulting from Regulations Governing the Collection, Retention, and Distribution of Medical Information

Findings

When it passed the ADA, Congress was well aware that employers often used information about disability to exclude applicants -- particularly individuals with hidden disabilities -- from employment before their actual ability to perform a job was evaluated. Consequently, the ADA significantly restricts the kinds of questions that employers may ask applicants or employees about disability, and limits the circumstances under which employers may require medical examinations of applicants and employees.

An employer may not ask disability-related questions or conduct medical examinations until after a conditional job offer has been made. Once a conditional offer has been made, an employer may ask disability-related questions or require medical examinations as long as it does so for all persons in the same job category. An employer may ask disability-related questions or conduct medical examinations of employees only if they are job-related and consistent with business necessity.

Information obtained as the result of disability-related inquiries and medical examinations must be kept in separate files and treated as a confidential medical record. Disclosure of this information is permitted only in specified circumstances where necessary, for example, to inform supervisors and managers about necessary work restrictions or accommodations; to

inform first aid or safety personnel if a disability might require emergency treatment; or to respond to the requests of government EEO officials investigating compliance with the Rehabilitation Act.

While Congress amended the Rehabilitation Act to make the provisions of Title I of the ADA governing nondiscrimination on the basis of disability in employment applicable to the federal sector, federal regulations governing collection, retention, and disclosure of medical information have not been revised in light of the amendment. While certain OPM regulations concerning the collection and use of medical documentation require agency actions to be consistent with the EEOC's old regulations implementing Section 501 of the Rehabilitation Act, a number of OPM regulations concerning the collection and retention of medical information, including some of the very regulations that cross-reference the EEOC regulations, appear to be inconsistent with the standards set forth above. In addition, certain provisions of 29 C.F.R. § 1614 appear to be inconsistent with these standards. Some of these provisions are discussed below.

Specific Provisions

1. 5 C.F.R. Part 339 -- Medical Qualification Determinations

Part 339 addresses the types of medical documentation agencies may obtain from their employees, and also delineates the circumstances under which agencies may require or, alternatively, may request an employee to have a medical examination. Part 339 and the nondiscrimination requirements of the Rehabilitation Act both strive to limit, in different respects, the circumstances under which agencies may obtain medical documentation about applicants or employees. The interaction between these provisions, which regulate medical exams and inquiries from significantly different perspectives, raises important questions that may impact the employment of people with disabilities in the federal government and that therefore merit further examination.

First, current ADA and Rehabilitation Act standards emphasize that employers face limitations in the amount and detail of medical information they may obtain. In contrast, Part 339 defines "medical documentation" in a way that allows agencies to seek extensive medical information. For example, Part 339 allows detailed information about prognosis, including plans for treatment. Although the duration of an impairment is an important factor in assessing whether an individual has a disability within the meaning of the Rehabilitation Act, analysis of "disability" would not require consideration of information about the timing (or the nature) of suggested treatments. Similarly, the definition of "medical documentation" in Part 339 includes information about the circumstances of onset of a condition, findings from previous evaluations, treatment, and responses to treatment. The Workgroup believes that treatment and responses to treatment are not relevant to the legal analysis of "disability." Additionally, the circumstances surrounding onset of a medical condition may not be necessary to determine the duration of an impairment and may be irrelevant for evaluating its severity.

Part 339 limits the circumstances under which an agency may require an employee to have a medical examination. However, because this rule is not written from the nondiscrimination perspective, it may permit examinations in circumstances the Rehabilitation Act would not. For example, agencies are permitted to require medical examinations for jobs with medical standards before "selection," which is probably before a job offer is made. In addition, for active employees in jobs with medical standards, Part 339 allows agencies to require medical examinations on "a regularly recurring, periodic basis after appointment." Under nondiscrimination standards, periodic medical examinations for public safety positions would be permissible if they were narrowly tailored. Determination of whether a particular federal employee is in a "public safety position" would need to be made on a case-by-case basis, and many federal jobs with medical standards probably would not fit this description. Finally,

under Part 339, agencies may require a psychiatric examination if a current medical examination "indicates no physical explanation for behavior or actions which may affect the safe and efficient performance of the individual or others." *Id.* at § 339.301(b)(3). Nondiscrimination standards allow medical examinations when there is a reasonable belief, based on objective evidence, that an employee will pose a direct threat due to a medical condition. The absence of a physical explanation for certain behavior or actions, standing alone, does not necessarily establish objective evidence for a psychiatric examination.

Part 339 also states that agencies may offer medical examinations "in any situation where the agency needs additional medical documentation to make an informed management decision." This language sets no limits on when an agency may offer a medical examination to an employee as long as the examination is judged to be in the interests of management. Although this provision includes specific examples that would be consistent with nondiscrimination principles, specifically reasonable accommodation and reemployment, the language, nonetheless, is clearly too broad.

Finally, Part 339 includes language throughout addressing safety issues, but uses standards that are not as rigorous as the current "direct threat" standard. For example, in section 339.206, the regulation enumerates the limited circumstances under which an individual can be disqualified from a job with medical standards due to his medical history. At the end of this provision, the language refers to a circumstance in which "a recurrence would pose a reasonable probability of substantial harm." Additionally, in the provision about requiring psychiatric examinations, Part 339 states that such an examination may only inquire into an individual's ability to perform job duties "without undue hazard to the individual or others." 5 C.F.R. § 339.301(c)(2).

2. 29 C.F.R. § 1614.203(e) – Nondiscrimination Restrictions on Medical Examinations and Disability-Related Inquiries

This regulation under Section 501 of the Rehabilitation Act includes only two aspects of the current nondiscrimination requirements governing medical examinations and disability-related inquiries: the prohibition on preemployment inquiries or examinations, and the standards governing inquiries or examinations that follow an offer of employment but precede the start of work. This regulation does not include the ADA's requirement that all inquiries or medical examinations of employees be "job-related and consistent with business necessity." In addition, the regulation's formulation of the two standards it does include -- the preemployment and post-offer standards -- is not entirely consistent with current nondiscrimination requirements. For example, the regulation allows federal agencies to inquire before an offer of employment into an applicant's ability to satisfy the medical qualifications of a job, with or without reasonable accommodation. This inquiry would seem

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proper only after a conditional offer of employment, in light of the prohibition ,

on pre-employment disability-related inquiries. In addition, the reference in Section (e)(2) of the regulation to a "preemployment medical questionnaire" is unexplained, but current requirements would restrict the use of such a questionnaire to the post-offer period.

**3. 5 C.F.R. Part 293E -- Employee Medical File System Records
(Sections 293.501 - 293.511)**

These sections deal largely with a subset of medical information called "occupational medical records," which are defined as occupation-related information on an employee's health status "generated in the course of diagnosis and/or employment-related treatment/examination by medical health care professionals." 5 C.F.R. § 293.502. The Workgroup understands that occupational medical records can include the results of fitness-for-duty examinations, as well as tests for exposure to hazardous materials or known carcinogens.

This subpart of the regulations raises certain issues under the Rehabilitation Act. First, although the regulations require agencies to create separate medical folders for departing employees when occupational medical records exist, they do not address the circumstances in which occupational medical records may permissibly be compiled in the first instance. As stated above, agencies may make medical or disability-related inquiries of employees only when the inquiries are job-related and consistent with business necessity. Employers may also conduct medical monitoring if it is required by medical standards established by federal law. See 29 C.F.R. pt.1630 app. § 1630.14(c). To the extent that these regulations would authorize agencies to compile occupational medical records about employees under any other circumstances, the regulations would be inconsistent with existing standards governing disability-related inquiries and medical examinations of employees.

Second, the regulations require agencies to request transfer of existing medical folders when they hire an individual who has previously been employed by the federal government. Thus, agencies are required to request the transfer of a new employee's existing medical folder at the same time that they receive that employee's official personnel folder. 5 C.F.R. § 293.505(a). Agencies are further required, no sooner than 30 days after appointment of a new employee, to request the medical folder of any former federal employee for whom they believe such a folder exists. 5 C.F.R. § 293.510(c). The Rehabilitation Act may, however, require limitations on the application of these provisions. To the extent, for example, that these are requests that are made after a person has become an employee, they must be job-related and consistent with business necessity.

Third, although the regulations state that an employee's medical folder should not be "routinely retrieved during the initial review process," such retrieval is permissible when "authority exists for the agency to require a medical evaluation prior to reaching a decision on

employability.” 5 C.F.R. § 293.510(c). While an agency may, according to the ADA and the Rehabilitation Act, request medical information after making a conditional offer of employment, this language might be construed to permit pre-offer inquiries in certain circumstances.

Finally, the regulations may permit agencies to disclose information that is subject to ADA and Rehabilitation Act standards governing confidentiality. While noting that “physician treatment records” are “generally not appropriate for disclosure to non-medical officials,” for example, the regulations direct agencies to adopt policies distinguishing between such records and “other medical reports properly available to officials making management decisions concerning the employee.” 5 C.F.R. § 293.503(n). The regulations further state that “[d]isclosure of an employee’s occupational medical records to agency officials . . . will be granted only when the specific information sought is needed for the performance of official duties.” 5 C.F.R. § 293.504(b). The regulations do not reference ADA and Rehabilitation Act limitations on the disclosure of medical information.

4. 5 C.F.R. § 297.401 -- Conditions for Disclosure of Records

This section of the regulations states that records retrieved from a government-wide system of records should not be disclosed without the consent of the subject of the records, unless disclosure is, among other things, to OPM employees “who have a need for the information in the performance of their duties;” requested by another agency for a civil or criminal law enforcement activity; or made to a person showing “compelling circumstances affecting the health and safety of an individual.” These subsections mirror some of those set forth in the Privacy Act at 5 U.S.C. § 552a(b), and the Workgroup understands that this regulation is intended to be interpreted consistently with Privacy Act requirements. Nonetheless, the regulation does not refer to the ADA or the Rehabilitation Act, which impose different and, in many cases, more stringent restrictions on the disclosure of any medical or disability-related information that is in an employee’s file.

Recommendations

The Workgroup recognizes that resolution of the problems identified in this section of the report requires consideration of several issues that are both legally and practically complex. We recommend, therefore, that the EEOC and OPM undertake a coordinated effort to resolve conflicts between OPM or EEOC regulations and applicable Rehabilitation Act standards governing the collection, retention, and disclosure of medical and disability-related information about applicants and employees. The agencies should consider whether the following changes should be made to the cited regulations, as well as any additional or alternative appropriate measures:

1. Grouping all provisions in 5 C.F.R. that concern the collection, retention, and disclosure of medical information in a single section of those regulations.
2. Alerting agencies to the ADA and the Rehabilitation Act standards governing the collection, retention, and disclosure of medical and disability-related information.
3. Revising, as necessary, Part 339 with specific consideration of the following changes:
 - Providing updated citations to relevant ADA and Rehabilitation Act nondiscrimination standards;
 - Revising the definition of "medical documentation;"
 - Analyzing and revising those sections that govern the circumstances under which agencies may require and offer medical examinations;
 - Making any references to safety concerns consistent with the current "direct threat" standard.
4. Revising 29 C.F.R. § 1614.203(e) to incorporate the complete ADA standard for disability-related inquiries and medical examinations of applicants and employees. This revision also should incorporate or cite to an explanation of when agencies may gather disability-related information from applicants or employees to facilitate special appointing authorities and other types of affirmative action, as well as an explanation of the permissible handling of and uses for such information.
5. Modifying the sections of the regulations on occupational medical records to reflect Rehabilitation Act restrictions.

D. Part-Time Work Barriers

Findings

The issue of part-time work relates to the employment of adults with disabilities in the federal sector because, without viable options for part-time work, some adults with disabilities will be unable to enter or remain in the workforce. Although current federal part-time laws and policies are neutral in form, they may act as a barrier to employment of persons

with disabilities. The Federal Employees Part-Time Career Employment Act of 1978, as amended, 5 U.S.C. § 3401 *et seq.* (FEPTA), was created to increase federal part-time career employment. When passing the Act, Congress explicitly recognized that part-

time employment provides a real alternative for individuals with disabilities. 5 U.S.C. 3401 *et seq.*; 5 C.F.R. § 340.101.

1. Establishment of Part-Time Positions

Findings

Agencies are mandated under FEPTA to establish part-time career employment programs. 5 U.S.C. § 3402. Based on the responses to the Coelho letter, there is evidence that agencies may not be routinely establishing, or evaluating the need for, part-time positions within their organizations.

Recommendation

OPM should remind agencies annually of Congressional intent to promote part-time employment and should encourage agencies to expand part-time opportunities and promote part-time employment within their respective organizations.

2. Public Education

Findings

Information on the availability of part-time employment is not readily available or easily accessible. Currently, prospective part-time employees must individually review each vacancy to determine whether it is a full-time or part-time position. Since so few part-time positions are advertised, this effort is usually futile.

Recommendation

OPM should create a part-time employment Internet site, with specific vacancy announcements to promote part-time employment in the federal government. Such changes would make it easier for prospective employees to apply for part-time jobs and would generally promote part-time employment in the federal sector. OPM's existing USA Jobs site could be modified to provide a separate search category for part-time employment.

E. Architectural Barriers at Federally Owned and Leased Facilities

Findings

Architectural barriers can pose difficulties affecting employment of adults with disabilities in the federal sector. To work in federally owned or leased buildings, adults with disabilities necessarily must be able to enter and maneuver within such buildings.

Buildings owned or leased for occupancy by the federal government are subject to the Architectural Barriers Act of 1968. The Barriers Act is intended to ensure that the buildings it covers are readily accessible to and usable by persons with disabilities. It requires that buildings and facilities be accessible if they were designed, constructed, or altered with certain federal funds since 1968, or were leased for occupancy by federal agencies since 1977. The Barriers Act also requires four agencies, the GSA, Department of Housing and Urban Development, DoD, and U.S. Postal Service, to prescribe accessibility standards and apply them in the design, construction, and alteration of buildings covered by the Act. The Access Board develops minimum requirements for the standards promulgated by these agencies and enforces the standards through the investigation of complaints alleging noncompliance under the Act. The current federal accessibility standard under the Barriers Act, in effect since 1984, is the *Uniform Federal Accessibility Standards*.

These accessibility standards can be viewed very much like building codes since they contain requirements for construction and alteration. Requirements in the accessibility standards specifically focus on making building features usable by persons with disabilities. Barriers Act requirements pertain to structural aspects of buildings, and remedies only involve changes to the building or facility.

Based on accessibility complaints received by the Access Board, the architectural barriers most commonly mentioned at federal facilities involve entrances, ramps, doors, and accessible routes connecting these features. Other facility features about which complaints often are made involve parking spaces, curb ramps, and toilet rooms. In some instances, complainants allege that buildings are inaccessible because required features are not present, i.e., there is no accessible entrance because there are steps only and no ramp. In other instances, complainants allege that accessible features, though present, do not conform with accessibility standards. For example, complaints contain allegations that ramps are too steep or do not have the required level landings; doors are too heavy, do not have sufficient maneuvering clearances, or do not have accessible hardware; the required number of accessible parking spaces is not provided or the spaces are incorrectly installed; and accessible stalls in rest rooms are not configured properly.

Recommendations

Although procedures exist within agencies to ensure that federal construction, alteration, and leasing covered by the Barriers Act meet applicable accessibility standards, incidents of noncompliance still occur. The Workgroup recommends that all agencies do a self-evaluation of their facilities to determine compliance with the current federal accessibility standards and, to the extent that noncompliance is identified, develop a plan to bring facilities into conformance with requirements. The Access Board shall provide agencies with technical assistance in doing their self-evaluations, if necessary.

Accessibility standards issued under the Americans with Disabilities Act of 1990 are newer than the Federal standards implemented under the Barriers Act, and they generally provide for an increased degree of accessibility, especially for individuals with speech, hearing, and vision impairments. Rulemaking currently is underway which will revise and harmonize accessibility standards implemented under both the Barriers Act and the Disabilities Act. Pending completion of such rulemaking, several agencies, including the GSA, DoD, and Department of the Interior, have implemented a policy to follow whichever requirement -- the Barriers Act standard or the Disabilities Act standard -- is more stringent. The Workgroup recommends that all federal agencies implement a similar policy. A copy of the policies adopted by these agencies is attached to this report as Attachment C.

F. Other Barriers

Findings

Although OPM regulations contain several provisions that prohibit discrimination in employment and list bases for employment-related complaints, these provisions do not explicitly refer to disability as a prohibited basis for employment decision making. *See, e.g.,* 5 C.F.R. §§ 4.2 (for the competitive service, prohibiting inquiries concerning, and discrimination based on, race, political affiliation, or religious beliefs); 300.102 (setting forth policy that employment practices should be developed and used without discrimination based on race, color, religion, sex, age, national origin, political affiliation, or "other nonmerit grounds"); 300.103 (c)(same); 300.104 (c)(authorizing discrimination complaints on the basis of race, color, religion, sex, national origin, or age). Moreover, although Section 720 of the regulations requires agencies to make efforts to increase minority and female representation in the federal work force, there is no OPM regulation that notifies agencies that the Rehabilitation Act requires affirmative action on behalf of people with disabilities. The scope of the affirmative action requirements imposed by Section 501 of the Rehabilitation Act is set forth in regulations and management directives issued by the EEOC. *See* 29 C.F.R. §§ 1614.203, .601, .602; EEOC Management Directives 712 and 713.

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Recommendations

The Workgroup recommends that OPM should amend Volume 5 C.F.R. to explicitly set forth the prohibition on discrimination on the basis of disability. Additionally, OPM should amend all regulations that address discrimination to include disability as an explicitly prohibited consideration in employment decisions.

OPM should also amend all regulations that address discrimination to explicitly state that the Rehabilitation Act requires affirmative action on behalf of individuals with disabilities and should refer agencies to EEOC regulations and Management Directives for guidance on the scope of that obligation.

IV. Next Steps - Beyond November 15, 1998

To increase the employment of adults with disabilities in the federal sector, the Workgroup recommends the following:

A. Recommendations for Actions by Federal Agencies

- The Workgroup recommends that OPM and any other appropriate agencies explore measures aimed at extending to individuals with psychiatric disabilities who currently qualify for excepted appointments under Schedule B those opportunities currently available to individuals with severe physical disabilities and mental retardation who are eligible for excepted appointments under Schedule A.
- OPM, in consultation with the EEOC, should develop language for federal vacancy notices that explicitly states that reasonable accommodation is available.
- OPM should revise its regulations to require all federal agencies to include the above referenced notice in vacancy announcements and other recruiting materials.
- The EEOC should issue regulations, or other appropriate directives, providing guidelines for requiring all federal agencies to establish agency-wide, written reasonable accommodation policies and procedures for applicants and employees with disabilities. See Section III.B.1. of this Report.

- The EEOC should provide a model reasonable accommodation policy which agencies may choose to adopt. *See* Section III.B.1. of this Report.
- The EEOC regulations or guidelines should provide agencies with the option of designing their own reasonable accommodation policies and procedures as long as the policies/procedures contain certain safeguards. *See* Section III.B.1. of this Report.
- The EEOC should revise 29 C.F.R. 1614.203(g) to incorporate the ADA standards for reassignment. *See* Section III.B.3. of this Report.
- The EEOC should provide guidance about the applicable ADA provisions that apply to reassignment and, specifically, about the application of the ADA's undue hardship standard.
- All federal agencies should adopt ED's Requirements for Accessible Software Design as an interim standard until the Section 508 standards are published. *See* Section III.B.4. of this Report. Agencies should not create their own, differing standards.
- All federal agencies should ensure that all hardware and software purchased, modified, or upgraded by such agencies, including purchases for Y2K compliance, are accessible to people with disabilities.
- All federal agencies should test new and current information technology systems for accessibility, and should consider upgrading or modifying any inaccessible systems used by employees or job applicants.
- All federal agencies should ensure that all employee information provided on their intranets or LANs and public information provided on their web or Internet sites is accessible to people with disabilities.
- All federal agencies should ensure that employees with disabilities receive an assessment of technology access needs, and receive the appropriate assistive technology hardware, software, or peripherals to make all information technology systems used on the job accessible.
- All federal agencies that provide training to employees of other federal agencies should review their policies on provision of interpreters and other auxiliary aids and services for people with disabilities, to ensure that their

written policies state their obligation under the Rehabilitation Act to provide interpreter services, and that these policies are followed.

- All federal agencies should ensure that internal training opportunities are offered equally to employees with disabilities, and that interpreters or other auxiliary aids and services are planned for and provided.
- All federal agencies that provide sign language interpreter services for training and other public events should also, when requested, provide effective communications through other means such as Computer Assisted Real-time Transcription (CART) or assistive listening systems.
- The EEOC and OPM should undertake a coordinated effort to resolve conflicts between OPM or EEOC regulations and applicable Rehabilitation Act standards governing the collection, retention, and disclosure of medical and disability-related information about applicants and employees. *See* Section III.C. of this Report.
- OPM should remind agencies annually of Congressional intent to promote part-time employment and should encourage agencies to expand part-time opportunities and promote part-time employment within their respective organizations.
- OPM should create a part-time employment Internet site, with specific vacancy announcements to promote part-time employment in the federal government.
- Agencies should do a self-evaluation of their facilities to determine compliance with the current federal accessibility standards and, to the extent that noncompliance is identified, develop a plan to bring facilities into conformance with requirements.
- The Access Board shall provide agencies with technical assistance in doing their self-evaluations, if necessary.
- All federal agencies should implement a policy to follow the architectural standards set forth in the Barriers Act and the Americans With Disabilities Act.

- OPM should amend Volume 5 C.F.R. to explicitly set forth the prohibition on discrimination on the basis of disability.
- OPM should amend all regulations that address discrimination to include disability as an explicitly prohibited consideration in employment decisions.

B. Recommendations for Actions by the President

- The Administration should draft and submit to Congress proposed legislation establishing a central point of contact and a single source of payment for assistive technology and related services for job applicants and federal employees with disabilities. *See* Section III.B.2.

C. Recommendations for Further Review and Action by the Task Force

- The Task Force should evaluate whether the federal government is currently providing effective outreach to disability rights organizations, rehabilitation agencies, and other similar entities about employment opportunities. If current practices are found to be inadequate, the Task Force should formulate specific strategies for outreach in order to increase the pool of qualified applicants with disabilities.
- The Task Force should determine what entity will serve as the central point of contact for assistive technology and services for federal job applicants and employees with disabilities who request reasonable accommodation and the source of funding for the administrative costs and accommodations provided by that entity.
- The Task Force should continue to review OPM's and EEOC's regulations and programs to determine whether they pose any other barriers to the recruitment, hiring and retention of qualified individuals with disabilities in the federal government that have not been identified in this report.
- The Task Force should evaluate the effectiveness of training federal supervisors, managers and senior executives on disability issues, including applicable laws and regulations related to the recruitment, hiring and employment of adults with disabilities.

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- The Task Force should evaluate whether federal agencies provide adequate interpreter services to their deaf employees who need such services as a form of reasonable accommodation.