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ADA [Americans with Disabilities Act]

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LRM ID: CJB209

SUBJECT: Equal Employment Opportunity Commission Testimony on
Americans with Disabilities Act

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

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Please include the LRM number shown above, and the subject shown below.

TO:

Constance J. Bowers Phone: 395-3803 Fax: 395-6148

Office of Management and Budget

Branch-Wide Line (to reach legislative assistant): 395-7362

FROM:

7/25/00 (Date)

Ann Bushmiller (Name)

WH Counsel (Agency)

6-7909 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

☐ Concur

☒ No Objection

☐ No Comment

☐ See proposed edits on pages _____

☐ Other: _____

☐ FAX RETURN of _____ pages, attached to this response sheet

Message Sent To: _____

EEOC testimony looks good.

AD

From: Constance J. Bowers on 07/25/2000 02:56:42 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: LRM CJB210 - - President's Ctte on the Employment of People W/Disabilities Testimony on Americans with Disabilities Act

Please provide any comments by 5:00 p.m., today, Tuesday, July 25th. This oversight testimony will be delivered tomorrow. We will assume not do not object to the testimony if you do not respond by this deadline.



- SENATE~1.WPD

----- Forwarded by Constance J. Bowers/OMB/EOP on 07/25/2000 02:52 PM -----

LRM ID: CJB210

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Tuesday, July 25, 2000

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference

OMB CONTACT: Constance J. Bowers

PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: **President's Ctte on the Employment of People W/Disabilities Testimony on Americans with Disabilities Act**

DEADLINE: **5:00 p.m. Tuesday, July 25, 2000**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: This testimony will be presented tomorrow morning, July 26th. **Therefore, this deadline is firm. If you do not respond by the deadline, we will assume you do not object to the testimony.**

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Senate testimony of Melanie Fry
HELP Senate Committee
July 26, 2000

Good afternoon, Ladies and Gentlemen. I am Melanie Fry, the Vice Chair of the Communications Subcommittee of the President's Committee on Employment of People with Disabilities. Currently, I work as a policy consultant for the Minnesota Department of Human Services, in the division of Community Supports for Minnesotans with Disabilities.

It is my great good fortune to live as a person with disabilities in the world created by the ADA. Thanks to the extraordinary efforts of many in this room, after my accident, I found curb cuts and ramps allowing me to remain in and of our society. As a wheeler, I was able to roll up ADA ramps back into the world of commerce and policy I had known as a walkie. I was able to regain the dignity that comes only from self supporting employment.

The ADA created access to the world beyond the walls of the institutions which had housed Americans with disabilities. WIIA, The Work Incentives Improvement Act created access to the American Dream. WIIA finally ended the marriage of survival medical assistance and enforced poverty for people with disabilities. We tell our children that "every American can grow up to be President." This is the mantra that expresses our shared American mythology. 10 years after the ADA, American children with disabilities can now dream of great achievements, rooted in their

strengths, knowing survival medical support is not at risk.

Direct employment, paying a living wage with benefits, is still the dream of people with disabilities. Many of us still hope to become taxpayers. In our land of opportunity, people with disabilities want the satisfaction gained from the sure knowledge our efforts, and our tax dollars, provide quality education for our children, disaster relief for our neighbors, good roads and safe streets. We want the pleasures and responsibilities of full American citizenship.

People with cognitive disabilities want access to these shared American dreams. First we must end their servitude as the last legal American slaves, exempt from minimum wage laws. Our best ideas for the future are embodied in Project Employ. Project Employ is a joint initiative of the Presidents Committee on Employment of People with Disabilities, The ARC, and the Society of Human Resource Management. This program works to expand employment opportunities for people with cognitive disabilities, and seeks to eliminate existing employment barriers caused by negative stereotypes. Project Employ provides employers with resources, ongoing support and technical assistance for recruiting and retaining employees with cognitive disabilities. This initiative models best practices which support people as they seek direct employment, as they seek their piece of the American Dream.

For employers, Project Employ teaches new practices, as in the story of Ms. Ava Roberts, who came into Prudential through job sampling. Rather than processing Ms.

Roberts through their usual hiring procedures, Prudential rolled up their sleeves, and tried a new approach. Ms Roberts was shown the actual job tasks and given the opportunity to perform. Prudential hired her on the spot. By her first day of work, Ms Roberts had memorized the offices on her mail route. Without job sampling, Ms Roberts wouldn't be a valued Prudential employee, who defines, ready, willing and able.

Michael Robinson, a receptionist at the Savings Bank of Manchester, is described as an exceptionally pleasant person and a reliable resource, not as a person with a cognitive disability. This constitutes a performance review to make any worker proud. Supported job placement for direct employment is our goal, not make believe work at below minimum wage. Project Employ agencies seek employers ready to try new practices, Project Employ agencies provide full service, up front training for real jobs, in the real world.

Molly Reese, an office automation assistant, rides Boston public transportation through blizzards to reach her job in a legal office. Ms. Reese was hired to maintain the library, and has been promoted to word processing and cutting travel orders. Project Employ spreads this message among employers, "it makes good business sense, to hire the right person for the right job."

We all know our economic growth depends on developing our labor force.

Demographics determine that our continued economic expansion depends on every American citizen working to their full potential. Employers want qualified, committed

co workers. Recent surveys by Inc magazine, the Society of Human Resource Management, and the National Federation of Independent Business Owners identified the shortage of qualified workers as the #1 problem faced by employers.

People with disabilities are prepared to be the solution to their problem. Plato said, "the most important part of work is the beginning." Equal Access was the beginning of our work, now we must move on to Full Citizenship and Full Employment.

LRM ID: CJB210 SUBJECT: President's Cttee on the Employment of People W/Disabilities
Testimony on Americans with Disabilities Act

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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TO:

Constance J. Bowers Phone: 395-3803 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM:

7/25/00 (Date)
Ann Bushmiller (Name)
WH Counsel (Agency)
6-7909 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

☐ Concur

☒ No Objection

☐ No Comment

☐ See proposed edits on pages _____

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ADA

----- Forwarded by Constance J. Bowers/OMB/EOP on 07/24/2000 02:06 PM -----
LRM ID: CJB209

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Monday, July 24, 2000

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference

OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: **Equal Employment Opportunity Commission Testimony on Americans with Disabilities Act**

DEADLINE: **12:00 noon Tuesday, July 25, 2000**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: This testimony will be delivered at a July 26th hearing of the Senate HELP Committee.

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110-Social Security Administration - Judy Chessner - (202) 358-6030
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666
118- TREASURY-Richard S. Carro - (202) 622-0650
80-National Labor Relations Board-John E. Higgins - (202) 273-2910

EOP:

J. Eric Gould
Barbara Chow

**STATEMENT OF
PEGGY R. MASTROIANNI
ASSOCIATE LEGAL COUNSEL
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**BEFORE THE
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS
U.S. SENATE**

**CONCERNING
THE FIRST DECADE OF THE AMERICANS WITH DISABILITIES ACT**

JULY 26, 2000

Good afternoon, Mr. Chairman and Members of the Committee. I appreciate the opportunity to appear before you today. I am Peggy Mastroianni, Associate Legal Counsel for the U.S. Equal Employment Opportunity Commission (EEOC). As we mark the 10th anniversary of the Americans with Disabilities Act (ADA), it is appropriate not only to acknowledge the significant progress made since the enactment of the law, but also to discuss the challenges before us.

Today, the EEOC is pleased to address one of the most critical aspects of our ADA enforcement program -- our effort over the last ten years to provide technical assistance to employers and individuals with disabilities regarding their ADA rights and responsibilities. At the Committee's request, my testimony will address three areas of technical assistance. First, I will talk about what we see as the critical technical assistance needs of individuals with disabilities and employers, and how these needs have changed over the years. Second, I will discuss the EEOC's efforts to address those changing needs and to be responsive to the full range of questions voiced by employers and individuals with disabilities. Third, I will summarize the EEOC's coordination efforts with other federal agencies to promote the goals of the ADA and increase employment opportunities for persons with disabilities.

The EEOC spent much of the early 1990's preparing the country for the day -- July 26, 1992 -- when the ADA would go into effect. As you can imagine, this was a daunting challenge for a very small agency. Staff was pulled from all parts of the EEOC to prepare basic informational materials, as well as to answer the flood of daily calls that caused our phone system to crash on numerous occasions. These early efforts focused on helping all interested parties to understand the fundamental requirements of the ADA, and to begin educating society

on the myths, fears, and stereotypes that were preventing individuals with disabilities from becoming productive members of America's workforce. We sought out creative ways to inform the public about this new law, leveraging existing resources to implement a public information campaign that included the following:

- an ADA HELPLINE logging 1500 calls per week at its peak,
- an informational mailing to almost 6 million business,
- basic question and answer booklets for employers and employees,
- a network of 400 ADA trainers who in turn trained 138,000 others, and
- the ADA Technical Assistance Manual and Resource Directory.

These initial efforts set a solid foundation on which future technical assistance efforts would be built.

Today, as the courts have decided ADA cases and people have a better understanding of the basics, the informational needs of employees and employers are more complex. To focus our technical assistance efforts on the issues of real concern, the EEOC has worked hard to actively reach out to the people directly affected by the ADA and thus learn which aspects of the law present uncertainties and challenges. Of course, we learn a great deal about technical assistance needs when we evaluate and investigate charges of discrimination. In addition, we gather vital information that shapes the subject, format, and content of our technical assistance efforts through training seminars, conferences, Commission meetings, letters and telephone calls, and informal meetings with interested parties.

The EEOC must always be mindful that its technical assistance efforts further two informational goals simultaneously. First, our technical assistance activities seek out individuals who, for various reasons, are unaware of the ADA and its requirements. Second, our program is strategic, intended to keep pace with changes in legal interpretations, novel issues, and emerging trends. The detailed list of EEOC's technical assistance efforts over the past decade that is attached to my testimony reflects both of these goals. The list includes the policy guidances we have issued to clarify and illustrate different requirements of the ADA, as well as examples of the types of outreach and technical assistance programs that we have used to reach the widest possible audience.

I. TECHNICAL ASSISTANCE NEEDS OF INDIVIDUALS WITH DISABILITIES AND EMPLOYERS

A. Technical Assistance Needs of Individuals with Disabilities

Many people with disabilities still do not know about their basic rights. While they may have heard of the ADA, they remain uncertain about its specific protections and about how to invoke them. Many do not know that they must file a charge with the EEOC or how to get in

touch with the EEOC office closest to them. Others are unsure whether they are even covered under the ADA. For example, we recently heard from a woman with Parkinson's disease who was fired from her job as her symptoms became more evident. By the time she learned that she was protected under the ADA and contacted the EEOC, it was too late under ADA's strict time limits for charge-filing to take any action against the employer.

Similarly, people with disabilities who are still trying to enter the workforce are uncertain what protections the ADA offers to them. While applicants with various disabilities report frustration at never getting beyond an interview and skepticism at the vague reasons given for their disqualification, they do not necessarily realize that they are protected from hiring discrimination under the ADA.

We see other people who believe that they have certain rights, but are unclear whether they derive from the ADA or from some other law. For example, employees who need leave due to a medical condition may not know whether they are entitled to the leave under the ADA, under the Family and Medical Leave Act (FMLA), or under both. Or, employees with "on-the-job" injuries who need light duty may not know whether they are seeking reasonable accommodation under the ADA or pursuing workers' compensation issues. Therefore, much of our technical assistance effort for persons with disabilities focuses on clarifying the distinctions between the ADA, the FMLA, workers' compensation, and other labor and employment laws.

One of the biggest concerns for some persons with disabilities is disclosure of their condition to the employer. Because Congress recognized that employers often inappropriately seek and use medical information, the ADA includes specific requirements regarding when employers may seek information about a person's medical condition, as well as strict prohibitions on the disclosure of medical information. Nevertheless, many individuals with disabilities remain uncertain, even suspicious, about divulging information about their disabilities to employers. Psychiatric disabilities certainly arouse such fears of disclosure, as do cancer, HIV infection, epilepsy, multiple sclerosis, and Parkinson's disease. Even individuals with disabilities that are not associated with a high degree of stigma fear that disclosure of too much information will create problems for them in the workplace.

Individuals with disabilities also have many questions about reasonable accommodations. Some remain unclear about their right to reasonable accommodation. Others are unsure when and how to request it. People who are seeking accommodation are often unaware of the full range of possible accommodations; leave is too often the only accommodation requested, while accommodations that would have enabled someone to work are overlooked. Finally, concerns about disclosure of medical information often result in a reluctance to request reasonable accommodation, despite the need for it and the potentially serious consequences of failing to ask.

B. Technical Assistance Needs of Employers

In the early years of the ADA, most employers sought basic information about the law. Many questions were theoretical; employers did not necessarily have an applicant or employee with a disability -- at least, not one whom they were aware of -- but they wanted to know how the ADA would work. They asked, for example, "What can I ask in a job interview?" "Am I required to hire an applicant with a psychiatric condition?" "Where do I get information on job accommodations?" Now the questions have become far more sophisticated. They almost all involve actual applicants and employees, and they often focus on complex legal issues.

Although the basic requirements of the ADA are generally understood now, it is important to note that the technical assistance needs of small employers sometimes differ from those of larger entities. Small employers, lacking the resources or personnel that large employers use to learn about a law and its requirements, are still more likely to need information on the fundamental requirements of the ADA. For example, some small employers are still uncertain about whether they can inquire about medical conditions before making a job offer.

From the start, many questions from employers have involved assumptions about the presumed inability of persons with disabilities to work safely and effectively. As a consequence, all of our technical assistance efforts, especially training seminars and guidances, emphasize compliance with the ADA's procedures to avoid decisions based on these assumptions. One of the strengths of the ADA's employment provisions is that they require employers to gather specific information about an individual so that decisions are based on facts, not assumptions. One example is the reasonable accommodation "interactive process" that stresses a dialogue between the employer and the individual with a disability; another is the requirement that employers seek objective medical information in order to determine if a safety problem exists. EEOC's technical assistance efforts place great emphasis on these decision-making processes as a critical method to prevent decisions based on the myths, fears, and stereotypes about disability that result in discrimination.

Today, most inquiries from employers concern the definition of "disability," the reasonable accommodation process, and the relationship between the ADA and other labor and employment laws. While employers have always asked about the definition of "disability," their questions have become more specific as a result of Federal court of appeals decisions that take a highly technical view of "disability" and the Supreme Court's 1999 decision in Sutton v. United Airlines, Inc.. The Sutton decision held that determination of coverage under the ADA's first definition of "disability" must take into account the impact of any mitigating measures used by the individual. Many employers are uncertain about what should be considered a disability and what should not, and how they are supposed to determine whether a specific individual's impairment rises to the level of being a "disability." In the early years of the ADA, there were few questions about whether individuals with such medical conditions as epilepsy, breast cancer, clinical depression, insulin-dependent diabetes, Parkinson's disease, and bipolar disorder were covered. Today, however, employers raise these questions and there is no definitive answer. This creates confusion for employers and the need for more sophisticated technical assistance.

Employers have many questions concerning reasonable accommodations, beginning with how to recognize that an individual has requested one. Employers also have questions about how to engage in the "interactive process," including whether they may ask questions about the disability and the requested accommodation. They also want to know if they can offer a different accommodation, and what standard they may use to refuse a requested accommodation. Some large employers have inquired about how to incorporate the reasonable accommodation process into their disability management programs.

Also of major concern to employers is the interplay between the ADA and other employment laws, such as the Family and Medical Leave Act (FMLA), workers' compensation programs, and the National Labor Relations Act. Employers ask questions about how to handle ADA issues that implicate employer requirements under these other laws. For example, eligibility for leave, length of leave, and return to work are handled differently by the ADA and the FMLA. The EEOC has devoted a significant portion of its technical assistance efforts to explaining the differences between these laws.

Clearly, the workplace is undergoing tremendous change -- as is the legal landscape. For EEOC, this means an increased effort to not only update existing materials, but also to develop and distribute new information that persuades the whole range of affected employers that they can, and must, comply with the ADA.

II. EEOC EFFORTS TO ADDRESS THE TECHNICAL ASSISTANCE NEEDS OF INDIVIDUALS WITH DISABILITIES AND EMPLOYERS

The EEOC uses a variety of methods to give technical assistance -- policy guidances and other published documents that use plain language and emphasize practical steps for compliance, training seminars, participation in conferences and workshops, individualized responses to telephone and letter inquiries, and outreach programs. Through these endeavors we have reached hundreds of thousands of employers, disability organizations and their members, labor unions, state and local government agencies, legal and business groups, and human resource professionals.

Every year the Commission conducts 200 Technical Assistance Program Seminars (TAPS). These nationwide seminars are aimed at all persons interested in the laws enforced by the EEOC. Since its inception, almost every TAPS event has included discussions of significant ADA issues. In Fiscal Year 1999, 27,000 persons attended these seminars.

We have embraced the Internet as a means to make information available to the growing number of people -- notably including many people with disabilities -- who receive information via the world wide web. Use of EEOC's web site has increased dramatically, from over 538,000 hits last November to almost 814,000 hits in May. All of our technical assistance materials, including every ADA policy document, are on the site, in addition to the statute and

regulations. The policy guidances are generally in a user-friendly question and answer format, and legal propositions are illustrated by real life examples. Also on the web site are condensed versions of significant policy guidances addressed to small business. In addition, users can easily find general information about the EEOC, as well as explanations of how to file a charge and how to contact the nearest EEOC field office. Finally, the web site is an important mechanism for publicizing our training seminars, ADA outreach programs, and Commission meetings focusing on ADA issues. Through the web site alone, the EEOC has been able to address every issue identified in the first section of this testimony in an efficient and cost effective way. And it will also be able to address emerging issues, such as genetic discrimination, in a way that reaches a variety of audiences in a timely manner.

While many questions can be answered through EEOC guidances and other documents, the fact-specific nature of other inquiries requires an individualized response. The EEOC continues to respond to thousands of telephone inquiries about the ADA every year. During the first few years after the ADA's enactment, the ADA Hotline was established to handle the heavy volume of calls. In later years, these calls have been answered by the Commission's "Attorney of the Day" phone line in the Office of Legal Counsel, where an attorney is assigned to respond to specific questions from callers. ADA issues continue to constitute the greatest number of inquiries handled on this phone line (over 1500 calls in 1999). EEOC has also written well over five hundred substantive letters dealing with ADA issues raised by the public. We believe that letters and phone conversations are a major source for providing information to many individuals with disabilities. Unlike employers who may attend conferences or who have a human resources or legal department to help guide them, individuals with disabilities depend more on receiving direct technical assistance to learn about the ADA.

Of course, we cannot provide individualized technical assistance to every employer or individual with a disability. It is through our publications that we reach hundreds of thousands of people, and respond to the evolving concerns of those most affected by the ADA. As noted earlier, initial questions regarding the ADA were very basic, and our initial publications, developed in collaboration with the Department of Justice, reflected this need; they included one-page fact sheets and general information booklets geared to employers or people with disabilities. Many of these publications were translated into different languages (e.g., Spanish, Vietnamese, Korean, Russian, Arabic, Chinese), and all were provided in accessible formats, such as braille, audiotape, and large print.

For those wanting a more comprehensive introduction to the law, the EEOC published its *ADA Technical Assistance Manual and Resource Directory*, a two-volume "plain English" review of the ADA's employment provisions, with numerous examples and illustrations covering all types of disabilities and workplaces. This guide provided all interested parties, but especially employers, with a common sense explanation of how the ADA affects the workplace. The Resource Directory offered lists of federal, state, and private organizations to provide employers with assistance on understanding the ADA, information on specific disabilities, and resources for locating reasonable accommodations. Together, the two volumes were hailed as an example of government "doing it right."

EEOC's policy guidances also mirrored the evolution of the law, starting with guidance which addressed some of the most fundamental issues of the ADA, and moving on to more specific issues. Some examples include:

- Guidance on the definition of the term "disability,"
- Guidance on ADA and employer provided health insurance,
- Guidance on pre-employment inquiries and medical examinations, and
- Guidance on ADA and Workers' Compensation.

In response to numerous inquiries, the EEOC worked with the Department of Labor to produce a Fact Sheet on the relationship between the ADA, Title VII of the Civil Rights Act, and the FMLA. Publication of these documents led to increased focus on these topics and to numerous requests for EEOC staff to address these interrelationships in presentations and training seminars.

Generally, the EEOC has not focused its technical assistance efforts on a specific disability, or group of disabilities, because EEOC's legal requirements are the same regardless of disability. However, due to the persistently high volume of inquiries on psychiatric disabilities, the Commission decided that it was important to answer these concerns in a separate guidance. The *Enforcement Guidance on the ADA and Psychiatric Disabilities* explained when people with psychiatric conditions met the ADA definition of disability; what sorts of reasonable accommodations were often effective for persons with these disabilities, and how employers should handle performance and conduct issues. The guidance provided important information that led to a public debate about the employment of persons with psychiatric disabilities and facilitated greater awareness of ADA's protections for this group.

One of the EEOC's recent technical assistance efforts focused on "second generation" reasonable accommodation issues. The *Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the ADA*, issued last year, is a comprehensive review of every aspect of the reasonable accommodation obligation. It offers practical suggestions for requesting, discussing, evaluating, and providing reasonable accommodations. The guidance explains who has to do what in the interactive reasonable accommodation process, what kind of information an employer can seek from an employee who requests an accommodation, and what kinds of resources are available for locating reasonable accommodations.

A second critical technical assistance document released last year addressed the decision in *Sutton v. United Airlines, Inc.*, in which the Supreme Court held that the determination as to whether an individual has a "disability" must take into account the effects of a mitigating measure used to control or eliminate the symptoms of an impairment. As noted earlier, this decision caused great concern among individuals with disabilities and employers. Individuals who use mitigating measures were uncertain as to whether they still were covered under the ADA; employers were uncertain about how to incorporate the Supreme Court's decision into their consideration of ADA matters. To address these concerns, the EEOC quickly developed and disseminated an analysis of the Supreme Court's decision. The post-*Sutton* *Instructions for*

Field Offices make clear that the Sutton decision does not exclude from ADA protection all persons who use mitigating measures. Rather, coverage under the ADA depends on an individualized evaluation to determine if substantial limitations remain despite, or because of, the use of a mitigating measure. The document examines the many circumstances in which mitigating measures may not correct or eliminate the effects of numerous medical conditions, and discusses the wide range of serious side effects that themselves cause serious limitations. It clarifies that many people who use mitigating measures for serious impairments are still protected by the ADA.

III. COORDINATION WITH OTHER FEDERAL AGENCIES

Over the past ten years, the EEOC has worked closely with many federal departments and agencies to ensure interpretive consistency and efficient enforcement of the ADA and other federal laws affecting the employment of people with disabilities. Highlights of these efforts follow:

- **EEOC/DOJ/DOL Coordination:** A major focus of our coordination efforts has been consistent interpretation of the ADA and other labor and employment laws. For example, the EEOC has worked closely with the Departments of Justice and Labor to ensure that all ADA and Rehabilitation Act policy interpretations are consistent. The EEOC also has worked with these two Departments to coordinate investigation of complaints or charges of employment discrimination under the ADA and two sections of the Rehabilitation Act: Section 503 (covering federal contractors) and Section 504 (covering programs and services receiving federal financial assistance).

- **EEOC/Department of Justice (DOJ) Collaboration**

- The two agencies worked together in 1991-1992 to produce basic booklets on the ADA.
- EEOC and DOJ jointly funded and developed a major training initiative that trained 400 persons with disabilities in all aspects of the ADA. This group of grassroots trainers then provided similar training in their communities across the country, eventually training 138,000 other ADA stakeholders.
- The two agencies established a network of staff liaisons to ensure coordinated enforcement of cases raising issues under Titles I, II, and III.
- EEOC and DOJ regularly work together to develop consistent interpretations of the ADA; these efforts include coordination on training materials, policy documents, and appellate briefs, and collaborations on Supreme Court briefs.

- **EEOC/Department of Labor(DOL) Collaboration**

ADA and the Family and Medical Leave Act

- During the development of the FMLA regulations, EEOC staff worked closely with their counterparts at the Department of Labor to address areas of overlap between the two laws and to clarify how these laws worked together.
- The EEOC, in close consultation with DOL, further sought to clarify the relationship between these laws in two documents: a *Fact Sheet* addressing the relationship between the ADA, Title VII of the Civil Rights Act, and the FMLA, and the *Enforcement Guidance on Reasonable Accommodation and Undue Hardship*.

Work Opportunity Tax Credit Program

- The EEOC has worked closely with DOL and the Internal Revenue Service on the Work Opportunity Tax Credit program, which provides tax relief to employers that hire, among others, certain people with disabilities. Among other things, the Commission has worked to ensure that employers can identify eligible individuals without violating any of the ADA's rules on disability-related inquiries.

■ **EEOC/Social Security Administration (SSA) Collaboration**

The Relationship Between the Application for Disability Benefits and Coverage Under the ADA

- EEOC and SSA teamed up to address a critical issue to many people trying to assert their rights under the ADA. Several courts had dismissed ADA claims by individuals with disabilities who claimed they were unable to work when applying for disability benefits. These courts viewed these individuals as making inconsistent statements when they also claimed under the ADA to be able to perform the essential functions of a job.
- EEOC's 1997 *Enforcement Guidance on the Relationship between Application for Disability Benefits and Coverage Under the ADA*, which was written in close consultation with the SSA, reversed this judicial trend.
- The coordinated amicus work of the EEOC, SSA, and the Department of Justice resulted in a Supreme Court decision last year in Cleveland v. Policy Management Systems Corp. holding that the application for, or receipt of, Social Security disability benefits did not automatically preclude a person from asserting her ADA rights. The Supreme Court, agreeing with the government's position, stated that ADA and the Social Security disability laws served vastly different purposes and defined disability and the ability to work in different ways. Given these differences, an individual with a disability might qualify for Social

Security disability benefits and still be able to show that she could perform the essential functions of a job, as required by the ADA.

Ticket to Work and Work Incentives Improvement Act

- This legislation provides incentives to enable persons with disabilities who currently receive SSDI or SSI benefits to instead move into gainful employment. Recognizing that the health care needs of these individuals often preclude accepting jobs without health insurance, the law provides for continued Medicare coverage for a significant period while working. The goal is to enable individuals to obtain jobs with sufficient income to effect a transition from the benefit rolls to the workforce.
- The EEOC is looking at ways to prepare employers for this new pool of workers and to ensure that these applicants will be given an equal opportunity to compete for jobs.

■ **EEOC/National Labor Relations Board (NLRB) Collaboration**

Reasonable Accommodation Requirements that Conflict with the Collectively Bargained Rights of Employees.

- The two agencies issued a Memorandum of Understanding (MOU) in 1994 that required them to consult with one another when administrative complaints filed under one law implicate the other law.
- The EEOC provided a detailed response to an inquiry from the NLRB, submitted pursuant to the MOU, explaining when an employer could release medical information to a union representative, in connection with a request for reasonable accommodation, without violating the confidentiality provisions of the ADA.

■ **EEOC/Department of Education (ED) Collaboration**

Disability and Business Technical Assistance Centers (DBTACs)

- The ten regional DBTACs, which are funded by ED provide a full range of educational and technical assistance services to employers, persons with disabilities, and others.
- The EEOC has worked with these groups from their inception, providing semi-annual legal updates, conducting in-depth training programs for DBTAC staff, reviewing DBTAC publications for legal accuracy, supplying a wide range of educational and technical assistance materials for public distribution, and participating in their conferences aimed at employers and individuals with disabilities.

■ **Interagency Collaboration on Genetic Discrimination:** As new issues emerge, the

EEOC works with other departments to ensure a coordinated federal response. For example, in 1998, the EEOC and the Departments of Labor, Health and Human Services, and Justice jointly issued a report called *Genetic Information in the Workplace*. While recognizing that the ADA provides some protections against genetic discrimination, this report stated that additional federal legislation is needed to protect workers against genetic discrimination as a result of new advances in genetics.

CONCLUSION

The need for accurate, responsive ADA technical assistance continues. We believe that a complete understanding of the ADA's requirements and compliance with its provisions necessitates a continuing flow of information to both the individuals protected by the law and employers. The Commission will continue to gather information on the technical assistance needs of individuals with disabilities and employers, and to use that information to develop and disseminate materials that address their evolving concerns.

Thank you for the opportunity to address these issues. I would be happy to answer any questions.

APPENDIX

EEOC'S INITIAL TECHNICAL ASSISTANCE AND OUTREACH EFFORTS

Recognizing that employers would need significant lead time to prepare for implementation of the ADA, Congress gave employers with 25 or more employees two years to learn about the law's requirements and begin making any needed changes. Small employers, those with 15-24 employees, were given four years to prepare. The EEOC used this period to begin providing a wide array of services, including training programs, an assortment of publications, and individualized technical assistance.

Below is a summary of the major efforts undertaken from 1991 to 1993:

- 1991 - 1992: Staff from both headquarters and field offices began extensive outreach efforts to disability organizations, employer associations, labor unions, and others affected by the ADA. Through speeches, training seminars, and other presentations, EEOC staff undertook an extensive educational program.
- 1991: The EEOC begins responding to letters from individuals with disabilities, employers, and other interested parties about all aspects of the ADA. Today, the EEOC continues to answer letters and to use them to track major issues of public concern, thus guiding the Commission's development of new technical assistance efforts.
- May 1991: The ADA Policy Division was created in the Office of Legal Counsel to develop policy and provide technical assistance to Commission staff and the public.
- October 1991: The ADA HELPLINE was established to respond to numerous public inquiries about the law. At its peak, the line logged over 1,500 calls per week. Today, EEOC's Office of Legal Counsel continues to respond to over 200 callers per week and hundreds of written inquiries seeking legal and policy advice.
- January 1992: The EEOC published the *ADA Technical Assistance Manual and Resource Directory*.
- January 1992: The EEOC published, with the Dept. of Justice, a booklet reviewing the most commonly-asked questions about the ADA, as well as the *ADA Handbook*, a compilation of the statute, regulations, and other significant documents on the ADA.
- January 1992: The EEOC and the Dept. of Justice published booklets aimed at employers and individuals with disabilities on their rights and responsibilities.
- July 1992: Just before the ADA's employment provisions went into effect, EEOC, working with the Internal Revenue Service, mailed informational inserts to over 5.9 million businesses, informing employers about their basic responsibilities under the Act and explaining how to obtain a free copy of the *ADA Technical Assistance Manual and Resource Guide*.
- July 1992: The EEOC provided over 2,000 ADA Congressional Constituency Service Kits to Congressional offices in Washington, D.C., and throughout the country to enable Congressional staff to respond to ADA requests for information from constituents.

- July 1992: The EEOC and Dept. of Justice awarded a \$1 million contract to the Disability Rights Education and Defense Fund, a nationally known legal advocacy and education organization, for the purpose of training people with disabilities about the ADA. The training program was jointly developed and funded by the Commission and the Department of Justice and focused on provisions of the ADA barring discrimination against persons with disabilities in employment, public services and public accommodations. As a result, a national ADA Network of trainers was established to provide training and other ADA implementation assistance in their local communities, thereby promoting voluntary compliance. This initiative trained 400 individuals, who in turn trained more than 138,000 employers, public accommodations, government agencies, and individuals.

CONTINUING TECHNICAL ASSISTANCE AND OUTREACH EFFORTS

The EEOC continues to use various mechanisms to provide technical assistance and training to employers and individuals with disabilities. The EEOC continues its distribution of all of its technical assistance booklets, fact sheets, and policy documents through its Publications Center and through its web site. Many of these publications are produced in foreign languages, and all of them are available in accessible formats, such as braille, large print, and audiotape. In addition, Commission staff provide individualized telephone assistance, answering questions and helping find solutions to difficult workplace issues.

- The EEOC has answered over 500 letters on specific ADA issues. All of these letters involved policy interpretations and many raised significant issues that would later be addressed in policy documents.
- The EEOC's Attorney of the Day telephone line logged over 1,500 ADA calls in Fiscal Year 1999, representing 34% of all calls received on that line. This does not include the calls that come in to field offices and the EEOC's ADA Policy Division.
- In Fiscal Years 1998 and 1999, the EEOC's Publications Center distributed 340,000 ADA publications.

The EEOC recognized that its efforts alone cannot ensure full compliance with the ADA. Therefore, the EEOC has aimed many of its outreach efforts at key organizations and interested groups who can, in turn, increase awareness of the ADA and promote compliance. At the local, state, and national levels, EEOC field offices and headquarters staff have provided training and materials to assist in these efforts. Examples include:

- A training seminar at an occupational health services program for medical personnel and physical therapists who work with injured employees attempting to return to work. Some of these employees will have various restrictions because of their disabilities. The session provided participants with a better understanding of how their work impacts reasonable accommodation decisions for employees returning to work.

- A training seminar at a conference for long term disability insurance companies that are promoting efforts to enable employees to return to work. EEOC staff showed how the goals of the ADA, and particularly the provision of reasonable accommodations, allow employees to return to their jobs. Thus, by understanding the ADA better, these managers can work with employers to get reasonable accommodations for employees.

Identifying and reaching out to under-served populations is critical to ensure that all individuals with disabilities are aware of their rights. For instance:

- One office made a presentation, in partnership with the Department of Labor Women's Bureau, to the National Center for Latinos with Disabilities. The mostly non-English speaking audience received guidance on identifying possible ADA situations, filing charges, and understanding EEOC's investigative process.
- A Commissioner addressed the "Asian Pacific Islanders with Disabilities Regional Conference." The aim of the conference was to promote a deeper understanding of disability from a cultural perspective and to recognize that Asian Pacific Islanders with disabilities are likely to face dual discrimination - race/national origin and disability.

Fostering relationships with community groups, as well as public and private organizations that develop and interpret ADA case law, has been an on-going goal of the EEOC. For example:

- In one district office, attorneys joined the Disability Roundtable, a group of attorneys and advocates for the disability community, who meet monthly to discuss new case law and ways to help the disability community learn more about their rights.
- In another office, district staff conducted annual ADA training sessions with the state vocational rehabilitation agency and employment security commission; the local county employees and bar associations with a human affairs commission, and other local fair employment agencies.

Promoting sensitivity to persons with disabilities and understanding of the ADA has been an important aspect of fighting discrimination in the workplace. Following are examples of how EEOC is working to train management and labor organizations:

- One field office provided ADA training to approximately 300 supervisors, managers, and human resources staff of two public utilities, one of which was the state's largest employer. The office also conducted ADA training for a large group of state government supervisors, managers, and human resources staff. Participants represented hundreds of employers state-wide, significantly impacting employer practices.
- A district office conducted workshops at the AFL-CIO's National Conference on

Disability as part of an on-going training process with labor unions.

- Staff members appeared on a radio program reaching audiences in a four-state area, to discuss how the ADA applies to persons with psychiatric disabilities.

REGULATIONS, POLICY GUIDANCES, AND RELATED DOCUMENTS

Beginning with the 1991 publication of “Interpretive Guidance” accompanying the ADA regulations, the EEOC has issued numerous policy documents addressing almost every aspect of the law. These guidances promote public understanding of the ADA’s requirements and voluntary compliance. Over time, the format of these guidances have shifted to a more direct, “question and answer” approach in order to be more responsive to employers and individuals with disabilities.

The EEOC has issued the following regulations, policy guidances, and related documents:

- July 26, 1991: ADA Final Regulations and Interpretive Guidance. The Regulations implement the ADA’s employment provisions, while the Interpretive Guidance offers examples and illustrations to further explain the requirements of the ADA.
- January 24, 1992: Regulations (issued jointly with the Department of Labor) addressing the relationship between the ADA’s employment provisions and section 503 of the Rehabilitation Act of 1973, which covers federal contractors.
- April 21, 1992: Regulations (issued jointly with the Department of Justice) addressing the relationship between the ADA’s employment provisions and section 504 of the Rehabilitation Act, which covers programs and services receiving federal financial assistance.
- June 8, 1993: *Guidance on ADA and Employer-Provided Health Insurance*, describing the type of health plan provisions that do and do not violate the ADA, and describing defenses available to employers.
 - The guidance was critical to the Commission’s early enforcement efforts – when the agency was successful in eliminating many health plan provisions that unlawfully limited the amount of coverage available to people with HIV and AIDS.
- 1994: A Memorandum of Understanding between the EEOC and the National Labor Relations Board (NLRB) to coordinate issues related to the ADA and the National Labor Relations Act.
- March 14, 1995: “*Compliance Manual Section on the Definition of Disability*,”

providing a thorough analysis of the most fundamental issue that arises in almost every ADA case – whether the individual alleging discrimination has a “disability.”

- May 11, 1995: *Fact Sheet on Disability Retirement Plans*, explaining the difference between a disability retirement plan and a service retirement plan and providing guidance to EEOC field offices on issues relating to these plans.
- October 10, 1995: *Guidance on Disability-Related Questions and Medical Examinations*, addressing the most frequently-asked questions on when employers may inquire about the physical or mental conditions of applicants.
- November 1995: Fact Sheet providing answers to commonly-asked questions about the relationship between the ADA, Title VII of the Civil Rights Act, and the Family and Medical Leave Act of 1993.
- September 3, 1996: *Guidance on the ADA and Workers' Compensation*, addressing the Commission's position on the interaction between the ADA and state workers' compensation laws. This guidance covers fundamental issues such as confidentiality of medical information, return-to-work decisions, reasonable accommodation, and light duty.
- February 12, 1997: *Guidance on Relationship between Application for Disability Benefits and Coverage Under the ADA*, which explained that statements made in connection with an application for disability benefits, such as Social Security Disability Insurance and workers' compensation, should not automatically bar coverage under the ADA.
- March 25, 1997: *Guidance on ADA and Psychiatric Disabilities*, addressing challenging questions about psychiatric disabilities that are frequently not understood by employers or the general public.
 - The guidance describes how to determine whether an individual has a psychiatric disability within the meaning of the ADA. The guidance states that questions about mental illness are not permitted on job applications, describes various types of reasonable accommodations that may be effective for employees with psychiatric disabilities, and provides practical answers to questions about workplace conduct issues.
- March 1, 1999: *Guidance on Reasonable Accommodation and Undue Hardship*, addressing a wide range of issues concerning one of the key requirements of the ADA, reasonable accommodations.
- July 26, 1999: *Instructions for Field Offices*, which reviews three Supreme Court decisions examining the definitions of “disability” and “qualified.”

ADA

MEMORANDUM

To: Ann Bushmiller
From: Erica Carter
Date: Tuesday, July 25, 2000
Subject: Comments on the EEOC's Testimony on the ADA

EEOC seems to be doing an excellent job. I am very impressed that they keep informed about the issues that are "hot topics" for individuals with disabilities and employers. It is a great idea to use the caller questions and the letters as a guide to see what actions need to be addressed. They do not seem to be weighed down by bureaucracy. EEOC sees an issue and addresses it. For example, deciphering the Supreme Court's decision in Sutton v. United Airlines, Inc., explaining how the ADA worked with FMLA and SSA, and providing guidance to employers on how to identify individuals with disabilities that are eligible for programs without violating the ADA. However, I am most impressed by the way EEOC teams up with other government organizations to develop procedures so that there will be a consensus, not confusion.

A DM

----- Forwarded by Constance J. Bowers/OMB/EOP on 07/21/2000 05:07 PM -----
LRM ID: CJB206

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Friday, July 21, 2000

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference

OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: **EDUCATION Testimony on Americans with Disabilities Act: Opening Doors to the Workplace**

DEADLINE: **2:00 p.m. Monday, July 24, 2000**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: This testimony will be presented at a July 26th hearing of the Senate Committee on HELP. Other agencies will testify as well.

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Barbara Chow
Jennifer E. McGee
Sarah Zambon
Larry Matlack

DEPARTMENT OF EDUCATION

Judith E. Heumann
Assistant Secretary for Special Education and
Rehabilitative Services

Hearing Before the Senate Committee on Health,
Education, Labor, and Pensions

July 26, 2000

Hearing on "The Americans with Disabilities Act:
Opening Doors to the Workplace."

Good Afternoon. Chairman Jeffords, Senator Kennedy, and distinguished members of the committee, thank you very much for inviting me to be part of this panel. It is fitting that today, the 10th anniversary of the passage of one of the most important pieces of civil rights legislation in history, we look at the progress we have made in the first decade of the Americans with Disabilities Act.

The Office of Special Education and Rehabilitative Services, (OSERS) supports a number of projects to assist employers in complying with the ADA, and programs to help people with disabilities in finding meaningful employment. OSERS encompasses three units: the Office of Special Education Programs, OSEP, the Rehabilitation Services Administration, RSA, and the National Institute on Disability and Rehabilitation Research, NIDRR. These three components work individually and together to improve education, employment, and research outcomes for people with disabilities. Our mission is to provide people with disabilities and their families the resources they need to lead independent lives as active members of their communities.

Our work benefits the recipients of services, but also contributes to the fabric of society. When people with disabilities are getting a good education, and when they have the skills to work, all of society benefits.

You have asked that my remarks focus on the work done by the ten regional Disabilities and Business Technical Assistance Centers, DBTACs, that are supported by NIDRR under Title II of the Rehabilitation Act of 1973. I will provide information on the DBTACs, their accomplishments, and how they relate to other OSERS programs. The DBTACs provide

technical assistance to businesses, State and local governments, public accommodations, and to people with disabilities who have protections under the law.

Following the passage of the ADA, Congress, realizing that the law might be difficult for many people to understand and implement, developed the DBTACs to provide technical assistance to individuals and organizations on implementation of the law.

Since 1991, the 10 regional DBTACs have distributed more than 7 million documents. They also field an average of 7,500 calls per month. The callers are requesting information about accessibility, accommodations, and the requirements under the law. In addition, the DBTACs conduct training for an average of more than 7,000 people a month. [This training can be standardized to provide personnel or facilities manager's familiarity with the requirements of the ADA, or they can be tailored to address issues of particular concern, such as hiring policies or architectural design. The training is also provided to people with disabilities so that they understand their rights. I think the number of people being served by the DBTACs indicate clearly that this program is providing a much needed service.

Historically, people with disabilities have been isolated from their communities. Lack of exposure to people with disabilities has helped ingrain a prejudice that will not disappear overnight. Thanks to the ADA, people with disabilities are now more able to work, socialize, shop, and visit in the same places as their non-disabled peers. This exposure will help to address the long-standing attitude that people with disabilities are not capable.

term can be confusing. The DBTACs field numerous inquiries about the definition of reasonable. The staff is able to provide information on what is required and to explain accommodations and offer suggestions on where to find equipment and other aids and potentially less costly alternatives.

I would like to share

* ~~As~~ an example of the kinds of assistance the DBTACs provide, ~~a~~ recent college graduate with a visual impairment was in the process of applying for jobs. These positions were going to require her to use a computer. The woman contacted the DBTAC to learn how to request the accommodation she needed. After a job offer was made, she wrote a letter requesting the screen reading software, and provided some information to her new employer about the ADA. The employer gladly provided the software, and used the resources provided to locate and purchase the program.

Employees, and potential employees, have different issues that are being addressed. Health care is a major issue. Transportation is vital. Accommodations are a concern. For people who are currently receiving SSI/SSDI benefits, the loss of critical health benefits can be a major barrier to finding employment. Some of those concerns may be addressed in the implementation of the Ticket To Work and Workforce Incentives Improvement Act, which Congress passed, and President Clinton signed into law, last year.

The DBTACs have been dedicated to ensuring that their services are meeting the needs of their customers. Customer satisfaction with the DBTACs is tracked almost instantly through a system called "ADA Impact Measurement

with disabilities. The study began in 1997 and is ongoing through 2001, but they have released some interim findings.

* The study is finding that more companies are providing training for managers in accommodations and accessibility under the ADA. This training is leading to familiarity with the accommodations needed and ^{with} the process ^{as} to achieve them.

^{that are necessary}
I think this is a good indicator of the importance of technical assistance to educate employers.

The Cornell study also found that the most difficult change to make in the workplace was to change the attitudes of co-workers and supervisors about an employee with a disability. This barrier may continue to be the most difficult to overcome.

Making the training materials available to everyone in multiple formats should continue to help improve the knowledge and comfort level of non-disabled employees regarding employees with disabilities in the work place. The DBTACs will continue to make these materials available in partnership with schools, businesses, State and local governments, and the public.

The DBTACs, as well as other technical assistance efforts undertaken within OSERS, are often conducted in collaboration with other Federal agencies. The DBTACs work closely with other Federal agencies that are responsible for interpretation and enforcement of the ADA. The Centers have ongoing relationships with the Department of Justice, the Equal Employment Opportunities Commission, and the Architectural and Transportation

Barriers Compliance Board (Access Board), and provide resources and training to the IRS, the Department of Health and Human Services, the Department of the Interior, and others. All of the Centers work with the local Rehabilitation Services Administration offices, the Small Business Administration offices, and the EEOC field offices to provide referrals and technical assistance. These relationships allow the DBTACs to provide more thorough service delivery to their customers.

Throughout the Office of Special Education and Rehabilitative Services we are working with other Federal agencies to improve employment outcomes for people with disabilities. We are working with the Presidential Task Force on the Employment of Adults with Disabilities to coordinate strategies to reduce barriers to employment. In addition, we have taken a lead role in a subcommittee to promote employment outcomes for youth with disabilities.

The President's Committee on Employment for People With Disabilities, working with the Department of Labor, the Department of Health and Human Services, and OSERS, continues to conduct a public education program, called Project Employ, that seeks to improve employment outcomes for people with cognitive disabilities. RSA made technical assistance funds available to State VR agencies to assist in providing services.

In addition, we are working actively with the Department of Labor on the implementation of the Workforce Improvement Act. The Department of Education is working on an interagency agreement with the Department of Labor (DOL) providing for the DBTACs to provide technical assistance to the DOL One-Stops on ADA issues regarding accessibility of

facilities and use of technology. We are very eager to ensure the ability of the One-Stop service delivery systems to serve people with disabilities. RSA staff are currently working with State VR agencies to provide technical assistance and encourage participation in the local One-Stops. This involvement should lead to a better understanding of the needs of customers with disabilities and the role for the VR counselor in the One Stop system.

One might ask, if we are providing the technical assistance that can facilitate the hiring of more people with disabilities, why aren't more people with disabilities in the workforce? Employers consistently note that they are not hiring more people with disabilities because they are not finding candidates who have the relevant experience or skill level required for employment. This is not a new issue. We are trying to address this problem by improving the education and training of people with disabilities.

We are marking the 25th anniversary of the Individuals with Disabilities Education Act this year. In the past 25 years, we have seen the number of children who are being educated alongside their non-disabled peers increase dramatically. With the reauthorization in 1997, we saw the focus of the law move from getting children with disabilities into the classroom to improving learning and results. We are working to improve transition services for children with disabilities so they leave school better prepared to move into higher education and on to the world of work. School districts are required under the IDEA to ensure that all children are getting access to a strong curriculum that will

give them the foundation they need to succeed in life after school, and we are helping to provide the tools to make that happen.

Our Rehabilitation Services Administration supports State Vocational Rehabilitation services that help get people the education, training, and support services they need to move into work. Through these programs, States can provide technical training, transportation assistance, resume-writing and interviewing skills, and other services that have a direct impact on employment outcomes.

Improving employment outcomes for people with disabilities involves a number of efforts and a seamless system of service delivery. It is important that young people with disabilities have access to a high-quality education. That is the key to the future. We need to continue to improve the graduation rates for children with disabilities, which will give them a platform from which they can go on to further education and have the skills and background that will make them more competitive in the job market. It is vital that we reduce drop-out rates in secondary school, and that we support efforts to improve access to postsecondary education for people with disabilities. If students do not stay in school, their employment opportunities decline dramatically.

We are working to support efforts to ensure that young people are getting the skills and education they need. And we are supporting projects to ensure that the people who work with our children are well trained. We have projects that support youth employment efforts. We have refined our monitoring system to work with States to improve their efforts to educate all students and prepare them for the world of

work. We have funded technical assistance partnerships that address all areas of service delivery for children.

The Department of Education is committed to ensuring that children and adults with disabilities have the opportunity to live fulfilling, independent lives as active members of their communities.

We believe that States need to work harder to ensure that local communities understand the implications of failing to comply with the ADA. There are long-term ramifications for our society if we do not address the needs of all our citizens. ~~and~~ those ramifications ^{could} have an impact on the whole country.

Chairman Jeffords, Senator Kennedy, and members of the committee, thank you for asking me to be here to discuss this issue. We need to continue our diligence to ensure that the spirit of the ADA is implemented, along with the letter of the law, to ensure that all Americans have access to the independence that is their civil right.

↳ "the ADA is fully implemented by the States " ?

A DA

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**EXECUTIVE OFFICE OF THE PRESIDENT
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Washington, D.C. 20503-0001**

Friday, July 21, 2000

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference

OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: **JUSTICE Testimony on Americans with Disabilities Act Overview**

DEADLINE: **12:00 noon Monday, July 24, 2000**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: Justice (and others) will testify before a July 26th hearing of the Senate Committee on Health, Education, Labor, and Pensions commemorating the 10th anniversary of the ADA.

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Department of Justice

STATEMENT

OF

ELIZABETH SAVAGE
COUNSEL TO THE ASSISTANT ATTORNEY GENERAL
CIVIL RIGHTS DIVISION

BEFORE THE

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS
UNITED STATES SENATE

CONCERNING

THE FIRST DECADE OF THE AMERICANS WITH DISABILITIES ACT

**Testimony of Elizabeth Savage
Counsel to the
Acting Assistant Attorney General
Civil Rights Division
United States Department of Justice**

**Before the Committee on Health,
Education, Labor, and Pensions
United States Senate**

**Hearing on the First Decade of the ADA
July 26, 2000**

Summary

Technology has dramatically changed the way that people live and work. While technology has greatly improved our quality of life, people with disabilities— who potentially have the most to gain from the technological revolution— have been largely excluded from much of this progress because the people who are responsible for designing or developing electronic and information technology fail to understand that making technology accessible is not difficult or expensive if accessibility is considered early in the process. The goal of section 508 of the Rehabilitation Act, as it was amended in 1998, is to ensure that federal agencies take steps to ensure that accessibility is considered before an agency procures or develops expensive technology and “sets in stone” a system that will be difficult and expensive to fix later.

The responsibility for implementing section 508 is shared by several agencies, including the Department of Justice. The Department’s role under section 508 is to survey the current state of accessibility of federal agency use of electronic and information technology. To accomplish this task, we developed a precise, but easy-to-use, questionnaire and collected the survey results directly into an online database. The survey results, which were published by the Attorney General in April 2000, revealed that while there are problems with accessibility, these problems will be

Technology has also enhanced the lives of people with disabilities. Blind people can use computers equipped with "screen readers." Screen readers say out loud the text that would normally appear on a computer monitor. People with quadriplegia can use voice recognition software, which enables them to speak commands into a microphone rather than typing them on a computer keyboard. People who are deaf or hard of hearing can use text telephones which enable them to type — rather than speak — their telephone conversations. I have low vision and use a screen enlarger. I have seen firsthand how technology enables other Department of Justice employees with disabilities to excel.

Sadly, though, the employment rate of people with disabilities has not kept pace with improvements in technology. 75% of the 30 million adults with significant disabilities are unemployed or underemployed. These are people of working age who want to work. Many are bright, dedicated people with a lot to offer. This high unemployment rate of people with significant disabilities is truly ironic, as many of these unfilled positions are high-tech jobs which high-tech jobs go unfilled. Many of these jobs may be ideal for people with disabilities.

Most technology was designed without ^{consideration of} ~~thinking about~~ barriers to people with disabilities. Unless designers have disabilities themselves or know others who do, they often fail to realize how simple features ^{→ could enhance the use of} ~~would affect someone who has a disability that~~ prevents the use of ~~common elements~~ ^(or facilitate) of computers or other electronic equipment by those with disabilities.

Poorly designed technology creates unnecessary barriers for people with disabilities, just as poorly designed buildings keep some from entering. Some people with disabilities lose their jobs because changes in technology have made it impossible for them to continue doing what they once did well. Other citizens with disabilities do not have equal access to the wealth of information and opportunities government agencies put online or make available in information kiosks. For example:

* Information that is provided in a visual form is inaccessible to people who

in-depth research of private and public sector initiatives regarding the accessibility of Internet sites, software, kiosks and other information/transaction machines, telecommunications systems, electronic office equipment, and federal procurement practices. In the end, this comprehensive survey package “walked” agency officials through the process of evaluating their technology.

In order to enable the Department to analyze the multitude of responses to the extensive section 508 survey that would be received from the federal agencies, the Department created an interactive Internet site to enable each agency to enter its responses directly into a database that could be queried to produce meaningful analysis. This innovative approach saved the Department thousands of dollars in attorney and staff support time.

Upon receipt of agency data, we “translated” this extremely dense technical data into a “plain language” report that can be understood by people who have limited knowledge of either accessibility or technology issues.

In April, the Attorney General announced the culmination of this effort: the publication of the Department’s first section 508 Report to the President, “Information Technology and People with Disabilities: The Current State of Federal Accessibility.” The Report contains the results of comprehensive self-evaluations by 81 agencies and over 250 agency components. The Report is a starting point from which we can measure future progress. It helps to define the status quo and recommend some courses of action. The entire Report is available on the usdoj.gov web site.

The Department’s survey program will serve as a prototype in fulfilling future obligations under section 508, which will include a biennial report to the President and the Congress. Future reports will not only track changes in section 508 compliance, but also must include detailed information about complaints received by each agency and the disposition of those complaints.

As reflected in the Report, the Department found that the biggest barrier was not

in the technology, but in opening lines of communication. These communication barriers must come down. Federal technology personnel, procurement officers, EEO staff, and people with disabilities should all begin talking to each other, working together. Everyone will benefit. Without open lines of communication, we can't move forward.

There are no real surprises in the Report. What we found is that most agencies have information technology that works very well for nondisabled people, but can cause problems for people with disabilities. The perspective of this community, this human resource, needs to be included.

Agencies should check to see whether products are accessible to people with disabilities before they buy or lease them. In the past, most agencies waited until there was a request for an accommodation to see whether their systems could be modified to be accessible. The answer was often "no." This is a bit like waiting until someone who uses a wheelchair needs to enter your building before you look to see if there are steps that would prevent him from entering. People with disabilities lose out. We all lose out. Our work is too important to leave anyone behind. A little more up-front attention can fix almost all of these problems. The solutions are usually simple. The costs are usually minimal.

Consider, for instance, a word processing program where printing a document requires users to "point and click" on a printer icon. Simply allowing users to choose between using a mouse or hitting "control/P" to print makes it possible for blind people and people with manual dexterity disabilities to print their documents.

Some agency programs stand out as models in the area of accessible technology, including:

- * the Department of Defense's Computer/Electronic Accommodations Program;
- * the Social Security Administration's fully-integrated Assistive Technology

Team;

- * the Department of Education, with its pioneering work, "Requirements for Accessible Software Design;" and
- * GSA's Center for IT Accommodations.

In each of these agencies, procurement officers, technology experts, accommodation specialists, and people with disabilities work together to determine the agency's needs. They communicate these needs to the technology industry. And industry responds with the innovation and speed that has become its hallmark.

IV. Federal Agencies' Response to the Attorney General's Report and to Section 508

In the Department's Report to the President, we recommended that:

- * GSA and the Access Board should establish a federal Information Hotline, where agencies, people with disabilities, and the IT industry can seek answers to their section 508 questions.
- * Agencies should designate Section 508 Coordinators.
- * Agencies should form voluntary committees of employees with disabilities and establish community partnerships with disability rights organizations.
- * Agencies that have found creative solutions to accessibility challenges should share these with other agencies and the public.
- * Agencies should set up voluntary ADR (alternative dispute resolution) mechanisms -- such as mediation -- so people with disabilities don't have to go to court or work through time-consuming administrative processes to resolve accessibility issues.

To assist federal procurement officers:

- * Government and industry should work together to develop an easy-to-understand way of informing procurement officials about

accessible products;

To make federal web pages more accessible:

- * Agencies should test their web pages for accessibility before posting them.
- * Agencies should also post e-mail addresses where people with disabilities can inform them of accessibility barriers on their web pages.

To make software used by federal agencies more accessible:

- * accessibility manuals should be written for commonly-used software so that federal employees with disabilities can make the most of available accessibility features.

To make federal agencies' telephone systems more accessible to people with disabilities:

- * Agencies that provide toll-free information services should make the same services available to people who use text telephones.
- * The Federal Information Relay Service (FIRS) should add speech-to-speech and video relay interpreting to the services it offers.
- * Agencies should staff general telephone lines with operators.

These and other simple steps would help everyone. They will create a better work environment for the federal government. The unemployment rate among people with significant disabilities will start coming down. We'll do a better job of delivering critical government services to everyone. Accessible products will start trickling into the private sector. Everyone will win if we all work together.

Those who understand disability issues should learn about technology and all it has to offer. Technology experts should learn about how people with disabilities use their products. Accessibility doesn't have to cost a lot. It doesn't have to be difficult. It's good design. Making this technological revolution work for everyone is what this is all about. And it will make an enormous difference in the lives of people with

disabilities. The federal government can become a place where barriers drop away, letting people's abilities shine through.

LRM ID: CJB205

SUBJECT: JUSTICE Testimony on Americans with Disabilities Act Overview

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

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Constance J. Bowers Phone: 395-3803 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM:

7/24/00 (Date)
Ann Bushmiller (Name)
W H Counsel (Agency)
67909 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

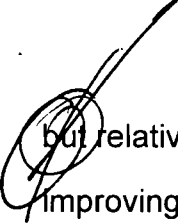
_____ No Comment

☒ See proposed edits on pages _____

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but relatively easy to fix. While our report included a host of recommendations for improving accessibility, we also found that many agencies had great ideas or programs for improving accessibility. This finding holds great hope for the future, because, if we can coordinate this knowledge and leadership, we believe that the entire Federal Government will become a model of accessibility.

**Testimony of Elizabeth Savage
Counsel to the
Acting Assistant Attorney General
Civil Rights Division
United States Department of Justice**

**Before the Committee on Health,
Education, Labor, and Pensions
United States Senate**

**Hearing on the First Decade of the ADA
July 26, 2000**

Mr. Chairman and Members of the Committee:

My name is Elizabeth Savage. I am Counsel to Bill Lann Lee, the Acting Assistant Attorney General for Civil Rights at the Department of Justice. I am pleased to have the opportunity to testify today about the importance of technology in the lives of people with disabilities.

While we celebrate the tenth anniversary of the Americans with Disabilities Act, we cannot forget that it was founded upon the Rehabilitation Act of 1973. The Rehabilitation Act was one of the first statutes to address accessibility as a civil right. Its goal was to make the Federal Government a leader in accessibility and a model for the rest of the nation. Over time, the Rehabilitation Act has evolved to meet new challenges. The latest of these challenges is the extent to which technology has changed the way the Federal Government delivers its services to the public and to its employees.

Heading? the need for accessible technology

Technology has changed the world. It has made us more productive and more efficient than ever before. Our economy is booming. Businesses have new ways of reaching out to customers. Children learn more. People everywhere have more job opportunities. The government can provide more and better services to citizens.

cannot see, until it is read by a screen reader. A screen reader cannot read graphical images unless words accompany those images. Web designers need to provide text labels for graphic images, which is very simple to do.

- * People who cannot use a computer mouse, due to a vision or mobility impairment, often have difficulty using software or navigating government Web sites. They need other ways to interact with their computer, instead of just using a mouse. Keyboard functions are important. Arrow and tab keys are also important.
- * Multimedia audio information is inaccessible to people who cannot hear, unless the information is also available in a visual format. Visual signals and captioning can make audio information accessible.
- * Automated telephone information services upon which many agencies rely may be difficult or impossible for people with disabilities to use. They may not be in the right format for people who are deaf or hard of hearing who use text telephones. Or they may require users to rapidly enter the correct telephone keypad numbers, something that may be difficult or impossible to do for someone with a mobility impairment.
- * Printers, fax machines, and copiers may have liquid crystal display screens that are tilted for the convenience of the average-height standing person. But someone who uses a wheelchair may not be able to read those displays.

Over the past fifteen years, many have realized that making technology accessible does not have to be expensive. It does not have to be difficult. But technology has changed so rapidly that accessibility has often been an afterthought, if thought about at all. Modifying existing technology to be accessible is much more difficult, much more expensive, than designing technology ~~right~~ in the first place.

based on these considerations

Text doesn't match heading

Accessible design is good design

Government leaders, such as the General Services Administration and the Department of Education have started working with industry to promote the development of accessible software. Leaders within the private sector ^{have} emerged, too. For instance, the Web Accessibility Initiative of the World Wide Web Consortium, which is an international consortium of experts working to improve the accessibility of the Internet, has been instrumental in developing easy-to-use standards for web page design. *How? What are the goals?*

Section 508 of the rehabilitation Act

In 1998, Section 508 of the Rehabilitation Act was amended to strengthen the leadership role of the Federal Government in the disability arena by requiring federal agencies to procure, develop, maintain, and use electronic and information technology that is accessible to people with disabilities, unless it would be an undue burden to do so. Section 508 provides opportunities to information technology (IT) manufacturers and designers to market more accessible products to federal agencies.

But what is "accessibility?" How is it measured? How expensive or difficult will it be to achieve? These questions will be answered in standards published by the Access Board, an independent federal agency. The Access Board has just finished receiving public comments on proposed standards for accessible technology that were based on the unanimous recommendations of an advisory committee. The advisory committee included representatives from industry, disability groups, educators, and nonprofit institutions. The Access Board is expected to release final standards to implement section 508 some time later this year.

Under the Access Board's proposed standards, software, web sites, telecommunications equipment, information kiosks, and office machines would be required to be accessible. The proposed standards would not require assistive technology where it is not needed. For example, workstations of nondisabled

employees are not required to be equipped with Braille displays and printers. On the other hand, the networked computer systems, hardware, and software that the Government buys will have to be compatible with Braille systems and printers, so that if an employee needs them, he can use the same shared systems that other employees use.

The proposed standards do not require federal contractors to make their own Internet sites accessible to people with disabilities, but will require the Internet sites of federal agencies to be accessible, even when they are designed and maintained by a private contractor.

III. The Department of Justice's Section 508 Survey of the Federal Government and Report to the President

Section 508 directed all federal agencies to evaluate their information technology to find out how accessible it is to people with disabilities, and to report the results to the Department of Justice. We were directed to report to the President the results of these self-evaluations.

For two years, Department of Justice staff conducted a government-wide survey on the use of accessible electronic and information technology. This survey represented the first concerted effort by the Federal Government to determine the extent to which agencies have made their electronic and information technology (including agency use of the World Wide Web) accessible to employees and members of the public who have disabilities. The Department's Civil Rights Division launched a major initiative to ensure that this survey was both efficient and meaningful.

Accessible technology is a highly complex and rapidly developing area which, at the time, had no uniform standards that could be applied. Therefore, to produce a meaningful survey, it was necessary for the Department to provide guidance to the other covered agencies to enable them to understand accessible technology sufficiently to conduct the required self-evaluation and to begin to implement the requirements of the Act in their agency operations. The Department's guidance was developed through

ADA

----- Forwarded by Constance J. Bowers/OMB/EOP on 07/24/2000 12:36 PM -----
LRM ID: CJB208

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Monday, July 24, 2000

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference

OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: **LABOR Testimony on Americans with Disabilities Act**

DEADLINE: **10:00 a.m. Tuesday, July 25, 2000**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: This testimony will be presented at a July 26th hearing of the Senate Committee on HELP by Rebecca Ogle, Director of the President's Task Force on Employment of Adults with Disabilities.

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Testimony of Rebecca L Ogle
Executive Director
Presidential Task Force on Employment of Adults with Disabilities
July 26, 2000

Good afternoon. My name is Becky Ogle and I am the Executive Director of the Presidential Task Force on Employment of Adults with Disabilities. I want to commend members of the Committee for convening this historic hearing on ten years of implementation one of the great civil rights statutes of our time: the **Americans With Disabilities Act**. I am proud to be here as our nation honors these ten years of progress toward eliminating segregation, discrimination and exclusion of people with disabilities from the benefits and opportunities afforded other citizens in our country.

The Presidential Task Force on Employment of Adults with Disabilities was created by President Clinton by Executive Order in March 1998. The Task Force is chaired by Secretary of Labor Alexis M. Herman and its co-chair is Tony Coelho, Chairman of the President's Committee on Employment of People with Disabilities. With the specific intent of supporting the goals articulated in the findings and purposes of the Americans With Disabilities Act, the Task Force is charged with creating a coordinated and aggressive national policy to bring adults with disabilities into gainful employment at a rate that is as close as possible to that of the general adult population. While the rest of our nation experiences record low unemployment rates and the strongest economy in a generation, people with disabilities continue to be unemployed at unacceptable levels, denied even the chance to demonstrate their competency, their capacity and their contribution as employees.

If the best form of economic security is a job, it is no wonder that people with disabilities are left at the bottom of the socio-economic ladder. Without employment they are dependent on a fragmented public benefit system and defined by their disability, not their ability.

The Task Force is aggressively working to change this picture. To do this requires that we look deeply at the foundation of our policies, practices and attitudes. It requires that difficult questions be asked and difficult debates be held about policies and practices that have led us as a nation to our current situation. It requires that we challenge and change policies and programs that result in fragmentation, in isolation, in dependence, in lack of opportunity. It requires that we act aggressively and assertively to eliminate barriers and chart a new course that leads to freedom through employment for all. And that is what the Task Force is all about.

The strategy being developed by the Task Force is based on belief that inclusion, economic sufficiency, choice and opportunities for meaningful participation must be afforded to all people in our nation, including people with disabilities. This includes young people preparing to transition from school to work; people with disabilities from diverse cultural and linguistic backgrounds; people with disabilities who are moving to the community from residential institutions as a result of the Supreme Court decision in Olmstead. All people have value. All can contribute when supports and accommodations are provided. We cannot afford to waste the potential of any person in our nation.

The Americans with Disabilities Act lays the foundation and the framework for change that is needed. We have had ten years of building on this foundation. But there is much still to be done, and it will take all of us working together to make these changes a reality.

The Presidential Task Force is bringing together people across the federal government to coordinate policy for people with disabilities. We have accomplished a great deal in a short time. Numerous recommendations have been made to the President and Vice President by the Task Force to begin taking action to eliminate barriers to employment and economic sufficiency for people with disabilities. These are listed in our reports: *Re-Charting the Course*, and *Re-Charting the Course: If Not Now, When?*.

I am very pleased to report that all Task Force recommendations have been acted upon by the Administration. I want to take a few minutes to highlight for you just a few of those recommendations and the resulting actions.

A critical recommendation of the Task Force was support of the **Ticket to Work and Work Incentives Improvement Act of 1999**. With leadership in the Senate from Senators Jeffords and Kennedy, and signed by the President into law last year, this important legislation will open the door to employment and health care for many people with disabilities in a way that gives them increased control and choice.

The Task Force recommended that the Federal government be a “model employer” of people with disabilities. This resulted in development of the Office of Personnel Management’s plan “**Accessing Opportunity, The Plan for Employment of People with Disabilities in the Federal Government**” on October 17, 1999. The President directed all Federal agencies to take immediate steps to implement this plan.

The Task Force's focus on barriers to employment experienced by people with psychiatric disabilities led to collaboration with the White House to sponsor a **Conference on Mental Health** to focus attention on the area of psychiatric disability. The conference resulted in development of numerous recommendations which have been acted upon by the Administration, including a directive from President Clinton to OPM to eliminate barriers to the hiring and promotion of people with psychiatric disabilities in federal hiring and benefits programs. I am pleased to announce that regulations governing this area were released by the OPM on July 7th, making it easier for the Federal government to recruit from this new pool of qualified potential employees. The Administration as a whole is committed to increased hiring of people with psychiatric disabilities.

The Task Force recommendation for **outreach to encourage small business ownership** by people with disabilities has resulted in extensive outreach to the disability community by the Small Business Administration (SBA). As part of this effort, the SBA is working in collaboration with the President's Committee on Employment of People with Disabilities, the Social Security Administration, the Veterans Administration, the Department of Housing and Urban Development, local Vocational Rehabilitation offices, Chambers of Commerce, and other entities, to forge partnerships at the state and local level and foster needed collaboration to expand opportunities in this area.

The Task Force recommendation to create an **interagency Youth-to-Work initiative** is being implemented and announcements will be made this week to launch major change in this area. An amendment to the Executive Order will charge Task Force members to collaborate to ensure improvement in the education, transition, employment, health, and independent living outcomes of young people with disabilities. This initiative will not only strengthen interagency collaboration, but also promote public awareness, ensure that youth with disabilities participate in programs under the Workforce Investment Act, and increase access to health care and resources. It will also establish a "Youth Advisory Council" to assist the Task Force to open up opportunities to this generation of Americans. These recommendations were based on extensive outreach to young people with disabilities and their families through a Town Hall meeting and a Summit convened by the Task Force this year.

The Task Force recommendation to create a **new Office on Disability Policy within the Department of Labor** headed by an Assistant Secretary for Disability was embraced by the Administration and included in the Department of Labor's FY 2001 budget request which is

currently under consideration in Congress. When established, this new Office will provide critical leadership in increasing the employment rate of people with disabilities. As a result of this recommendation, and of the leadership of Secretary of Labor Alexis M. Herman, who also serves as chair of the Task Force, an internal DOL disability team is already beginning this process. Evidence of the Department of Labor's commitment to access for people with disabilities in the new One-Stop delivery system was demonstrated in the issuance of strong non-discrimination regulations under section 188 of the Workforce Investment Act (WIA). In addition, this week Secretary Herman will announce three new DOL Training and Employment Information Notices to the Workforce Investment System. The first is a technical assistance guide, the *One-Stop Guide to Accessibility and Accommodation for Persons with Disabilities*, with detailed information on how to implement section 504 of the ADA, section 188 of WIA, and other obligations ensuring access to the workforce system. The second issuance relates to our youth with disabilities initiative. The third will provide information about employment of people with significant disabilities (including people who have been in institutions or other non-work settings or working at less than minimum wage). Together these issuances, combined with other actions being undertaken, send a strong message that the One-Stop system is indeed intended to be available to all customers, including people with disabilities.

The Task Force recommendation for **Work Incentive Grants** is also being implemented by the DOL and will provide seed monies to the One-Stop system to develop a more comprehensive and enhanced service delivery for people with disabilities.

The Task Force recommended establishing a new, one-stop web site to bring information about the breadth of disability policy, programs and services across the federal government into place. This site, **Disability.gov**, is being launched this week, and provides a wealth of information and services offered by virtually every major agency. It links to an abundance of helpful sites, information, programs and services so that people with disabilities, family members, employers and others will have easy access to information. The site includes links to the Employment and Training Administration's disAbility Online website which received more than 220,000 hits last month alone - which is four times the typical DOL webpage but is indicative of the hunger for information on employment by people with disabilities.

Increasing the **substantial gainful activity** amount under the Supplemental Security Income and Social Security Disability Insurance benefits programs to enable people with disabilities to earn more without risking loss of needed benefits, and ensuring that the Federal Government provides accessible **technology** and information were also important Task Force recommendations acted

upon by the Administration.

This week, Task Force member agencies are making multiple announcements about actions they are taking to increase employment and economic independence for people with disabilities.

These announcements are too numerous and varied for me to mention here, but they will include increasing accessible housing and community-based services for people with disabilities as they move from residential institutions to the community following the Supreme Court Olmstead decision, and new actions in areas such as technology, communications and transportation.

Together they demonstrate the commitment to the mission and mandate of the Task Force from leaders across the Federal Government. Together they are taking on the challenge of identifying and eliminating barriers to employment for people with disabilities.

I would be remiss if I did not mention that in developing recommendations, the Task Force is actively reaching out to the community of people with disabilities, their families, advocates, employers and providers. We want all stakeholders to be involved in this national dialogue - all voices to be heard. We have convened Town Hall meetings and two national Summits. One Summit focused on increasing choice, employment and wages for people with the most significant disabilities. The other focused on expanding opportunities for young people with disabilities. As a result of these activities the Task Force is preparing to collaborate across multiple Federal agencies to launch initiatives to increase employment for minorities, people with the most significant disabilities and young people with disabilities. We will continue to reach out in the belief that everyone needs to be at the table as the strategy for change emerges.

At this historic moment as we look back on our accomplishments and begin the next decade of implementation of the ADA, we can be confident that working together we will create a more just and equitable society in our nation - one that provides a road out of poverty into the mainstream of community and employment for all people. As indicated in the second report of the Task Force to the President: the time is now for action. *If Not Now, When?*

Thank you for the opportunity to be with you today.

LRM ID: CJB208

SUBJECT: LABOR Testimony on Americans with Disabilities Act
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

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FROM:

Tuesday, July 25, 2000 (Date)

Ann Bushmiller (Name)

____ (Agency)

____ (Telephone)

Erica Carter

Legal Intern

156-2582
202 ~~202~~

The following is the response of our agency to your request for views on the above-captioned subject:

____ Concur

____ No Objection

____ No Comment

____ See proposed edits on pages ____

✓ Other: See attached (1 page)

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Ms. Ogle's testimony is very informative. It appears that the Task Force has a strong commitment to make the American's With Disabilities Act truly stand for something.

Having worked with the Disability Community I am familiar with the staggering statistics with regards to poverty and unemployment of individuals with disabilities. The Task Force seems to be addressing and attacking the very problems that lead to those statistics. They are implementing key programs that if pursued, will turn the poverty and unemployment rate of individuals with disabilities around. These programs will make the American's With Disabilities Act more than just a great statute, they have the potential to be a turning point on how our nation deals with individuals with disabilities. Afterall, people with disabilities have a hunger to work and are truly an untapped resource.

My only concern is whether there are any procedures to make sure that the Plans and Acts currently in the works continue after this administration ends?

Erica Carter
for Ann Bushmiller