

People With Disabilities in the Federal Government:

An Employment Guide

The purpose of this guide is to provide information about laws and issues that affect the employment of people with disabilities in the Federal Government. The guide also contains information regarding the roles and responsibilities of various organizations, a glossary of terms, a discussion of hiring issues and authorities, facts about reasonable accommodation, and tips for working with people with disabilities and integrating them into the workforce.

The guide is not intended to be a substitute for legal advice or interpretation of the laws (readers are encouraged to seek legal counsel for their specific questions). The guide, therefore, serves as an overview of the various issues as well as provides the reader with a list of resources, including legal citations, that affect the employment of people with disabilities in Federal service.

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INTRODUCTION

The Federal Government must strive to create and maintain a sound, diverse, and cooperative work environment. Equal opportunity in employment for all people, regardless of race, color, sex, age, religion, national origin, or disability should be the common goal across government. Executive Order 13078, issued on March 13, 1998, established the Presidential Task Force on Employment of Adults with Disabilities. The Task Force was charged with creating a coordinated and aggressive national policy to bring working-age individuals with disabilities into gainful employment at a rate approaching that of the general adult population. Executive Order 13163, issued on July 26, 2000, established the initiative to increase the hiring of people with disabilities in the Federal Government. Executive Order 13217, issued on June 18, 2001, has a goal of increasing the productive employment of adults with disabilities. The purpose of this guide is to provide guidance, information, and references to aid Federal employers in their efforts to hire and advance employees with disabilities.

LAWS AND EXECUTIVE ORDERS

This section describes laws and Executive Orders that support and encourage the employment, retention, and advancement of people with disabilities.

Laws

1) Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 791), prohibits discrimination on the basis of disability in Federal employment and requires the Federal Government to engage in affirmative action for people with disabilities. The law:

- Requires Federal employers not to discriminate against qualified job applicants or employees with disabilities. Persons with disabilities should be employed in all grade levels and occupational series commensurate with their qualifications.

Federal employers should ensure that their policies do not unnecessarily exclude or limit persons with disabilities because of a job's structure or because of architectural, transportation, communication, procedural, or attitudinal barriers.

- Requires employers to provide "reasonable accommodations" to applicants and employees with disabilities unless doing so would cause undue hardship to the employers. Such accommodations may involve, for example, restructuring the job, reassignment, modifying work schedules, adjusting or modifying examinations, providing readers or interpreters, and acquiring or modifying equipment and/or facilities (including the use of adaptive technology such as voice recognition software).
- Prohibits selection criteria and standards that tend to screen out people with disabilities, unless such procedures have been determined through a job analysis to be job-related and consistent with business necessity, and an appropriate individualized assessment indicates that the job applicant cannot perform the essential functions of the job, with or without reasonable accommodation.
- Requires Federal agencies to develop affirmative action programs for hiring, placement, and advancement of persons with disabilities. Affirmative action must be an integral part of ongoing agency personnel management programs.

2) Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794d), requires Federal agencies to procure, use, maintain, and develop accessible electronic and information technology, unless doing so imposes an undue burden. National security systems are exempt. Federal agencies were required to comply with standards promulgated by the Architectural and Transportation Barriers Compliance Board (the Access Board) that took effect on August 7, 2000. Agencies must biannually evaluate their compliance with Section 508 and must report the results of these self-evaluations to the Attorney General.

3) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212). In order to promote the policy of "the maximum of employment and job advancement opportunities within the Federal Government for disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era who are qualified for such employment and advancement," this act placed into law the provisions of the executive order that authorized the noncompetitive appointment of Vietnam era veterans under Veterans' Readjustment Appointment (VRA). The act also ensures that all veterans are considered for employment under merit system rules and requires a separate affirmative action plan for the hiring, placement, and advancement of disabled veterans. Please note, however, that this law does not provide any preferences to disabled veterans or to veterans of the Vietnam era.

- 4) **The Civil Service Reform Act of 1978** requires "fair and equitable" treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or disabling condition.
- 5) **The Americans with Disabilities Act (ADA) of 1990** covers employers in the private sector and State and local governments. The substantive employment standards of the ADA, which are applicable to the Federal Government through the Rehabilitation Act, can be found at 42 U.S.C. Section 12111, et seq. and 42 U.S.C. Sections 12201-204 and 12210.
- 6) **The Veterans Education and Employment Program Amendments of 1991** require expanded job opportunities for veterans and disabled veterans through the Veterans Readjustment Appointment (VRA) Authority, 38 U.S.C. Section 4314.
- 7) **The Architectural Barriers Act**, enforced by the Access Board, requires that buildings and facilities be accessible to people with disabilities if they were constructed or altered by or on behalf of the Federal Government or with certain Federal funds, or leased for occupancy by Federal agencies, after 1968. When individuals with disabilities are unable to use a building because there are no accessible parking spaces, no curb ramps, no ramps at the entrance, no accessible rest rooms, no accessible drinking fountains, no raised lettering on signs, or other barriers exist, they may file a complaint with the Access Board.
- 8) **The Pregnancy Discrimination Act amended Title VII of the Civil Rights Act of 1964** to prohibit sex discrimination on the basis of pregnancy, childbirth, or related medical conditions. This amendment requires that employers treat pregnancy and related conditions in the same manner as any other short-term disability.
- 9) **Title 5, United States Code, Sections 3312 and 3318** require that any disqualification, non-selection, or passing over of a veterans' preference eligible applicant for medical reasons be approved by the Office of Personnel Management before the position can be filled. This includes an agency medical disqualification of a 30 percent or more disabled veteran for assignment to another position in a reduction in force. A non-preference eligible who is disqualified for medical reasons also has the right to a higher level review of the determination in the agency as stated in OPM regulation 5 C.F.R., Section 339.306.
- 10) **The Family and Medical Leave Act of 1993 (5 U.S.C. Section 6382)** requires Federal agencies and departments to allow employees to take up to twelve weeks of leave without pay, provided that the employee or a member of his or her immediate family (spouse, son, daughter, or parent) has a serious health condition and the employee meets several other statutory criteria. The leave may be taken intermittently or on a reduced leave schedule when medically necessary. Agencies may require the employee to transfer temporarily to another position under certain circumstances.

Executive Orders

- 1) **Executive Order 13078, Increasing Employment of Adults with Disabilities**, established the National Task Force on Employment of Adults with Disabilities (now referred to as the Presidential Task Force). The purpose of the Task Force is to create a coordinated and aggressive national policy to bring adults with disabilities into gainful employment at a rate as close as possible to the general adult population. The Executive Order included actions to ensure that the Federal Government is a model employer of adults with disabilities.
- 2) **Executive Order 13145, To Prohibit Discrimination in Federal Employment Based on Genetic Information**, prohibits discrimination in Federal employment against employees based on protected genetic information, or information about a request for or the receipt of genetic services. Executive departments and agencies are responsible for carrying out the provisions of this order to the extent permitted by law and consistent with their statutory and regulatory authorities, and their enforcement mechanisms. The Equal Employment Opportunity Commission is responsible for coordinating Federal policy concerning this Executive Order.
- 3) **Executive Order 13163, Increasing the Opportunity for Individuals with Disabilities to be Employed in the Federal Government**, promotes an increase in the opportunities for individuals with disabilities to be employed at all levels and occupations of the Federal Government. Agencies shall use available hiring authorities; expand outreach efforts; and increase their efforts to accommodate individuals with disabilities. This website incorporates OPM's guidance on the provisions of this Executive Order.
- 4) **Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation**, requires each Federal agency to establish effective written procedures to facilitate the provision of reasonable accommodation. Agencies shall submit their plans, and any modifications, to the Equal Employment Opportunity Commission.
- 5) **Executive Order 13217, Community-Based Alternatives for Individuals with Disabilities**, promotes community based alternatives for individuals with disabilities, including helping ensure that all Americans have the opportunity to live close to their families and friends, to live more independently, to engage in productive employment and to participate in community life.

ROLES AND RESPONSIBILITIES

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

1) U.S. Office of Personnel Management (OPM) (www.opm.gov)

OPM provides nationwide program leadership, development, and coordination for the employment of people with disabilities, including veterans with service-connected disabilities. This includes providing direction, guidance, and technical support to agency heads, directors of personnel, agency personnel offices and officials; developing recruitment policy and appointing authorities; providing information on employment methods and program development to departments and agencies; developing publications for use in promoting employment; developing, monitoring, and modifying examining procedures to facilitate the employment consideration of qualified applicants with disabilities; and developing medical policy and medical and suitability standards.

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

2) Equal Employment Opportunity Commission (EEOC) (www.eeoc.gov)

The EEOC is responsible for regulating and enforcing the Federal program for equal employment opportunity, developing the regulations and policies governing non-discrimination requirements, overseeing the development and implementation of Federal agencies' affirmative action programs, and adjudicating claims of disability discrimination in the Federal Government. Information on affirmative action plans for job applicants and employees with disabilities may be found in EEOC's Management Directives 712 and 713.

EEOC's Management Directive 713 requires that Federal agencies submit Annual Affirmative Action Program Plans and accomplishment reports. This directive is issued pursuant to the EEOC's obligation and authority under Section 501 of the Rehabilitation Act of 1973. EEOC is also responsible for approving or disapproving each agency-wide affirmative action program plan; evaluating the accomplishments of each agency; and communicating results of evaluations to each agency with instructions for submission of a revised agency-wide plan if required. EEOC will work closely with Federal Government personnel to assist in creating and implementing effective affirmative action programs.

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

3) Office of Disability Employment Policy (www.dol.gov/dol/odep)

The mission of the Office of Disability Employment Policy (ODEP) at the Department of Labor is to bring a heightened long-term focus to the goal of increasing the employment of persons with disabilities. ODEP provides policy analysis, technical assistance, and assists with development of best practices, as well as outreach, education, constituent services, and the promotion of ODEP's mission among employers. ODEP provides information, training, and technical assistance related to the employment of people with disabilities. Some of the projects and resources developed by the ODEP include:

- The **Workforce Recruitment Program (WRP)** (www.tricare.osd.mil/cap) for college students with disabilities, a joint venture with the Department of Defense which identifies college and university students with disabilities seeking summer and permanent jobs. Federal employers may access the candidate database by contacting their agency's WRP representative.
- The **ODEP** website provides visitors direct access to ODEP's publications, speeches, press releases, statistical data, workplace laws, and other related topics affecting the employment of persons with disabilities.
- The **Job Accommodation Network (JAN)** (www.jan.wvu.edu) is a consulting service used by ODEP to provide information on workplace accommodation and the employment provisions of the Americans with Disabilities Act, which are made applicable to the Federal sector through the Rehabilitation Act of 1973, as amended.

4) Federal Employers

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

Career development and promotion opportunities, and opportunities for training, awards, and other similar programs are an integral part of such employment and advancement.

Further, Federal employers are required to make reasonable accommodations to the known physical or mental limitations of a qualified applicant or employee with a disability, unless the agency can demonstrate that the accommodation(s) would impose an undue hardship on the agency. Absent undue hardship, agencies must remove physical barriers as a matter of reasonable accommodation to particular employees for whom necessary facilities are inaccessible.

It is illegal for a Federal agency to discriminate in employment against qualified individuals with disabilities. Anyone who believes he or she has been subjected to discrimination on the basis of disability may file a complaint with the employing agency's Equal Employment Opportunity (EEO) Office. Agencies should refer to EEOC's 29 C.F.R., Part 1614 and MD-110, for additional guidance on the EEO complaint process.

5) Other Services and Resources

Many valuable resources exist within the Federal Government to help agencies meet their obligations. The following agencies have such resources:

- Equal Employment Opportunity Commission;
- U.S. Architectural and Transportation Barriers Compliance Board ("Access Board");
- U.S. Department of Education: Rehabilitation Services Administration; Assistive Technology Program;
- U.S. General Services Administration;
- U.S. Department of Labor, Office of Disability Employment Policy, and
- U.S. Department of Transportation.

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

Other resources include:

- Local and State Committees on Employment of People With Disabilities;
- University medical centers and counseling programs; and
- Advocacy organizations for persons with disabilities. State Vocational Rehabilitation Agencies (SVRAs) (www.nchrtm.okstate.edu/pages/state_VR.html) and the U.S. Department of Veterans Affairs' (VA) Vocational Rehabilitation Program (www.va.gov/sta/guide/home.asp?DIVISION=ALL) are additional potential resources. They provide counseling, evaluation, training and other services to individuals with disabilities, including disabled veterans.

Through these various resources, agencies can find help to:

- Explain disabilities;
- Prepare certification documents;
- Refer qualified applicants and provide follow-up assistance for placements made;
- Provide assistance when individuals with disabilities who are employed under excepted service appointing authorities are upgraded or downgraded or when problems arise with regard to these employees;

- Evaluate the rehabilitation needs of Federal employees who develop disabilities and advise managers and supervisors about services available;
- Purchase special equipment that individuals with disabilities need to perform their jobs;
- Locate trained readers for persons who have vision impairments, qualified sign language interpreters for persons who have hearing impairments, and personal assistants for individuals with disabilities;
- Advise about modification(s) needed to overcome architectural, transportation, and communication barriers;
- Participate in training programs for Federal employees, managers and supervisors relating to subjects such as reasonable accommodations, modification of jobs or worksites, affirmative action programs, and other related subjects; and
- Arrange for Federal employees, managers, and supervisors to tour rehabilitation centers, workshops, campus facilities for students with disabilities, and independent living centers.

DEFINITIONS AND TERMS

1) Person with a Disability

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

- Has a physical or mental impairment which substantially limits one or more of such person's major life activities. A "physical or mental impairment" means:
 - Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more systems such as: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, respiratory, genito-urinary, hemic and lymphatic, skin, and endocrine; or
 - Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- Has a record (history) of such an impairment or
- Is regarded (perceived) as having such an impairment.
- Based on court decisions, examples of major life activities include caring for yourself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

2) Qualified Person with a Disability

A person with a disability is "qualified" if he or she:

- Satisfies the agency's job requirements for educational background, employment experience, skills, licenses, and any other qualification standards that are job related and consistent with business necessity; and
- Is able to perform those tasks that are essential to the job, with or without reasonable accommodation.

3) Essential Job Functions

Essential job functions are those job duties that are so fundamental to the position that the individual holds or desires that he or she cannot do the job without performing them. A function can be "essential" if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized and the employee was hired to perform the function. Determination of the essential functions of a position must be made on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.

4) Invisible (Hidden) disabilities

These are disabilities that are not readily apparent, such as asthma, arthritis, chronic fatigue syndrome, epilepsy, kidney disease, diabetes, cancer, chronic depression, learning disabilities, and mild mental retardation.

5) Targeted Disabilities

Targeted disabilities, as defined by the EEOC, are disabilities "targeted" for emphasis in affirmative action planning. These are: deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and genetic or physical condition affecting limbs and/or spine. Although the list of targeted disabilities is meant to include those who are most likely to suffer job discrimination, the EEOC recognizes that some disabilities that are not targeted are nevertheless just as severe or more severe than some of the targeted disabilities.

6) Substance Abuse

The Americans with Disabilities Act of 1990 amended the Rehabilitation Act (1973) definition of an individual with a disability to exclude "individuals currently engaging in the illegal use of drugs" with respect to discrimination based on illegal drug use regardless of whether it can be shown to adversely affect job performance or safety. Federal employers are no longer required to offer a firm choice or last chance agreement[s] unless mandated by agency policy or a collective bargaining

agreement. Managers should consult with their agency Human Resources Office, EEO Office, and Office of the General Counsel.

HIRING: ISSUES AND OPTIONS

HIRING ISSUES

1) Qualified Job Applicant

Federal employers must not discriminate against qualified job applicants with disabilities. When determining whether a particular job applicant with a disability can perform the essential functions of a job with or without reasonable accommodation, Federal employers must conduct an individualized assessment. If this assessment indicates that, due to the person's disability, even when given appropriate reasonable accommodations, he or she could not perform the essential job functions, or could not perform them without posing a significant risk of substantial harm to the applicant or others, the agency does not have to give further consideration to him or her. The agency must look objectively at the particular person's current ability to perform the essential job functions, with or without reasonable accommodation. Generalized "blanket" exclusions of an entire group of people with a certain disability often prevent such individualized assessments. Agencies should not make such broad-based exclusions that do not reflect up-to-date medical knowledge and technology or that are based on fears about future medical or worker's compensation costs.

2) Determining What Job Functions are Essential

Essential job functions are the basic duties that an employee must be able to perform, with or without reasonable accommodation. Agencies should carefully examine each job to determine which functions or tasks are essential to performance. This is particularly important before taking an employment action such as recruiting, advertising, hiring, promoting, or firing.

Agencies should ask the following questions to determine if a job's functions are "essential:"

- Are employees in that position actually required to perform the function?

Ex: If an announcement for a receptionist's position lists "typing" as a requirement, but other receptionists do not actually type as part of their job, the function is not "essential" to the job.

- How many other employees are available to perform the function or among whom the performance of the function can be distributed?

- Would removing the function fundamentally change the job?
- What degree of expertise or skill is required to perform the function?
- When asking these questions, the employer should focus on the purpose of the job, not on how the purpose is to be accomplished.

Ex: If a job requires mastery of information contained in technical manuals, this essential function would be "ability to learn technical material," rather than "ability to read technical manuals." People with vision and other reading impairments could perform this function using other means, such as audiotapes.

3) Medical Examinations and Inquiries

An employer must wait until after making a conditional offer of employment before conducting a medical examination of a job applicant. OPM regulations generally prohibit an agency from ordering a medical examination for either an applicant or an employee unless the individual is applying for or occupies a position that is subject to specific medical standards, physical requirements, or a medical evaluation program. Medical standards and physical requirements must be job related and be based on the minimum abilities necessary for safe and efficient performance of the duties of the position in question. For additional guidance, see 5 C.F.R. Part 339.

4) Confidentiality of Disability-Related Personal Information

All information obtained from permissible affirmative action inquiries and post-offer medical examinations and inquiries must be collected and maintained on separate forms, in files that are separate from the standard personnel files, and must be treated as confidential medical records.

HIRING OPTIONS

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

1) Competitive Appointments

Most Federal employees obtain jobs competitively. Applicants apply directly to the hiring departments and agencies for most positions. Federal employers use a variety of assessment tools in evaluating applicants and conducting hiring. If passing a

written test is required, testing accommodations are available, if requested. Once this process is completed, an agency may select from a list of qualified applicants. OPM has developed the USAJOBS (www.usajobs.opm.gov), the Federal employment information system, to assist job applicants seeking Federal employment. Job applicants can pursue Federal job opportunities by using any of the automated components of USAJOBS. USAJOBS provides worldwide job vacancy information, employment information fact sheets, job applications and forms, and has online resume development and electronic transmission capabilities. In many instances, job seekers can apply for positions on-line. USAJOBS is updated every business day from a database of more than 10,000 worldwide job opportunities. USAJOBS is available to job seekers in a variety of formats, ensuring access for customers with differing physical and technological capabilities. It is convenient, user friendly, accessible through the computer, and available 24 hours-a-day, seven days-a-week.

2) Time-Limited Appointments

An agency may fill a position using a temporary or term appointment when the need for an employee's services is not permanent. Temporary appointments are made not to exceed one year, with one 1-year extension. The work must not be permanent in nature. In contrast, term appointments are made for a period of more than one year but not to exceed four years. Term appointments are appropriate when there is project work, extraordinary workload, scheduled abolishment, reorganization, contracting out of the function, uncertainty of future funding, or the need to maintain permanent positions for placement of employees who would otherwise be displaced from other parts of the organization.

3) Student Employment Programs

The **Student Educational Employment Program** (www.opm.gov/employ/students/index.htm) helps Federal employers find the right people to fill current and future hiring needs. The program also gives students the opportunity to get hands-on experience in their chosen career field. Additional information on student employment can be found at the **Studentjobs.gov** (www.studentjobs.gov) website.

4) Presidential Management Intern (PMI) Program

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

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

PMIs receive an initial two-year appointment. During the two-year internship, PMIs experience structured orientation and graduation training programs facilitated by OPM, as well as seminars, briefings, conferences, on-the-job training, rotational assignments, and other developmental opportunities arranged by participating Federal employers. After successfully completing the two-year program, PMIs may be eligible for conversion to a permanent position and further promotional opportunities.

5) Appointment Under Special Authorities

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

- **Schedule A, 5 C.F.R. 213.3102(t) for hiring people with mental retardation.** This authority is used to appoint people with cognitive disabilities (mental retardation) who meet the eligibility requirements. Upon completion of 2 years of satisfactory performance the employee may be converted to an appointment in the competitive service. (5 C.F.R. 315.709)
- **Schedule A, 5 C.F.R. 213.3102(u) for hiring people with severe physical disabilities.** This authority is used to appoint people with severe physical disabilities who: (1) under a temporary appointment have demonstrated their ability to perform duties satisfactorily; or (2) have been certified by a counselor from a State vocational rehabilitation agency (SVRA) or the Department of Veterans Affairs Vocational Rehabilitation Office as likely to succeed in performance of duties. Upon completion of two years of satisfactory service under this authority, the employee may be converted to an appointment in the competitive service. (5 C.F.R. 315.709)
- **Schedule A, 5 C.F.R. 213.3102(gg) for hiring people with psychiatric disabilities.** This authority is used to appoint people with psychiatric disabilities who have demonstrated their ability to perform satisfactorily under a temporary appointment [such as one authorized in 213.3102(i)(3)] or who are certified as likely to be able to perform the essential functions of the job, with or without reasonable accommodation, by a State vocational rehabilitation counselor, a

U.S. Department of Veterans Affairs Veterans Benefits Administration or Veterans Health Administration psychologist, vocational rehabilitation counselor, or psychiatrist. Upon completion of 2 years of satisfactory service under this authority, the employee may be converted to an appointment in the competitive service. (5 C.F.R. 315.709)

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

- **Schedule A, 5 C.F.R. 213.3102(II) for hiring readers, interpreters, and other personal assistants.** This authority permits appointments of readers, interpreters, and personal assistants for employees with disabilities when filled on a full-time, part-time, or intermittent basis. Employees hired under this provision may be converted to competitive service when both of the following conditions are met: (1) the person has completed at least one year of satisfactory service in such a position and (2) employment as a reader, interpreter or personal assistant is no longer necessary for reasons beyond management's control, e.g., resignation or reassignment of the person being assisted. (5 C.F.R. 315.711)

6) Disabled Veterans

30 Percent or More Disabled Veterans. Federal employers may give a noncompetitive temporary appointment (see 5 C.F.R. 316.402(b)(4)) or a term appointment (see 5 C.F.R. 316.302(b)(4)) to a veteran with a compensable service connected disability of 30% or more:

- who was issued a notice of retirement or discharge from active military service due to the disability; or
- who was rated by the Department of Veterans Affairs (VA) within the preceding year as having a compensable service-connected disability of 30 percent or more.

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

If the appointment is for more than 60 days, the agency may convert the employee, without a break in service, to a career or career-conditional appointment at any time during the employee's temporary or term appointment. (5 C.F.R. 315.707)

Disabled Veterans Enrolled in VA Training Programs, 5 C.F.R. 315.604.

Disabled veterans who are eligible for training under the Department of Veterans Affairs' (VA) vocational rehabilitation program may enroll for training or work experience at an agency under the terms of an agreement between the agency and

VA. The veteran is not a Federal employee for most purposes while enrolled in the program, but is a beneficiary of the VA. The training is tailored to individual needs and goals so there is no set length. If the training is intended to prepare the individual for eventual appointment in the agency rather than just work experience, the agency must insure that the training will enable the veteran to meet qualification requirements for the position. Upon successful completion, the VA and the host agency give the veteran a Certificate of Training showing the occupational series and grade level of the position for which he or she has been trained. The Certificate of Training allows any agency to appoint the veteran noncompetitively under a status quo appointment which may be converted to career or career-conditional at any time.

7) Certification of Disability

In order to be considered for an appointment for a Federal job under the Schedule A hiring authorities, a job applicant must provide a certification of disability to the Federal agency where his or her application is being considered. The certification is issued by a counselor at the State Vocational Rehabilitation Agency or the Vocational Rehabilitation and Employment Service of the Department of Veterans Affairs. The certification must verify that the applicant has a severe disability and is therefore eligible under a Schedule A appointment authority, and that he or she is able to perform the essential duties of the position. The certification must also describe any needed reasonable accommodation.

If necessary, the certification can be accomplished in two steps. The first step is a letter certifying that the individual is disabled and eligible for appointment under a particular Schedule A appointment authority. This type of certification is sufficient for an applicant to be considered for any job.

The second step takes place after a disabled individual has been tentatively selected for the position. The second letter must state that the counselor has evaluated the job tasks and determined the applicant is able to perform the essential duties of the position. The letter also must state what reasonable accommodations, if any, are sought.

Any certificate of disability must be maintained in a separate, confidential folder, rather than in the person's official personnel folder (OPF). This material is not to be included or placed into the individual's OPF or Employee Medical Folder.

REASONABLE ACCOMMODATION

Federal agencies are required to make reasonable accommodation to the physical or mental limitations of an applicant or employee who is a qualified person with a disability unless the accommodation would impose an undue hardship on the agency. An undue

hardship is an action requiring significant difficulty or expense when considered in light of the employer's size, financial resources, and the nature and structure of the operation.

A reasonable accommodation is an adjustment or alteration that enables people with disabilities to apply for jobs, to gain access to the work environment, to perform job duties, or to enjoy the benefits and privileges of employment. The many types of accommodations include modifying a work site, adjusting work schedules, restructuring jobs, acquiring or modifying equipment or devices, obtaining accessible technology or other workplace adaptive equipment, providing interpreters, assistive devices, or readers, and reassigning employees.

Agencies should consider and provide accommodations on a case-by-case basis, taking into consideration the applicant or employee, his/her specific disability and existing limitations, the essential functions of the particular job, the work environment, and the effectiveness of the proposed accommodation. Executive Order 13164, issued on July 26, 2000, requires Federal agencies to develop written procedures for providing reasonable accommodations. Generally, an individual with a disability must request reasonable accommodation to trigger an agency's obligation to provide one. In all cases, agencies should consult the applicant or employee before they make an accommodation. However, the employer can choose to provide an accommodation that differs from the one requested as long as the alternative is effective. The process of considering and, in appropriate cases, providing reasonable accommodation is most effective when the applicant or employee and the employer engage in an interactive process to address the need. This interactive process to clarify the value and nature of a particular accommodation should consider some of the following questions:

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

In determining undue hardship, consider the following factors:

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

- Nature and cost of the accommodation.

Reasonable accommodations are as varied as the needs of the individuals, the type of position in question, and the agency's ingenuity. Below are some examples:

1) Testing with Appropriate Accommodations

Federal employers may not use any test or other selection criterion that screens out, or tends to screen out, people with disabilities unless the test is job-related for the position in question and consistent with business necessity. Agencies must select and administer tests to applicants or employees who have disabilities that impair sensory, manual, or speaking skills that accurately reflect the ability of the applicant to do the job in question rather than disabilities of the employee or applicant.

Modifying Written Examinations: Agencies could modify examination procedures to eliminate any artificial barriers that could prevent persons with disabilities from demonstrating their capabilities in the examination process. These procedures can include test administration methods or exam format.

Employers should schedule individual or small group testing, allow extra time, and use examiners who are aware of the test-taker's disability and have received appropriate training in test administration. Accommodations could include auxiliary aids and services leading to effective communication, such as providing Braille, large-print, or tape-recorded tests for persons with vision impairments. They could also include tape-recorded tests to people with reading disabilities, scribes or recording devices for persons who have difficulties using their hands to record answers, qualified sign language interpreters or computer-assisted real-time transcription (CART) services to convey spoken portions of tests -- including instructions -- to persons who are deaf, and assistive listening systems and devices for those who have hearing impairments.

Exam format: If an applicant's disability causes some part of a test to be unusable or inappropriate, the employer could modify the exam format or develop alternate materials which measure the same knowledge, skills, and abilities but do not screen out people with disabilities. OPM has modified certain examinations for persons with hearing or vision impairments and learning disabilities and may be able to offer advice about other types of modifications.

Examination Facilities: Employers must offer examinations in accessible facilities. If an examination facility contains barriers to access by persons with disabilities (stairs, inaccessible parking, etc.), and there are no alternatives available, the agency should take steps to surmount the barriers or, when this is not feasible, make arrangements to use an alternate, accessible location.

Many people with disabilities, even those with significant disabilities, do not need testing accommodations. However, employers often make testing accommodations for persons with neurological disorders such as cerebral palsy or multiple sclerosis, persons who have limited mobility or motor control of their arms or hands, persons with brain injuries, and persons with learning disabilities such as dyslexia. In many of these instances, the appropriate accommodations might include extending the testing time.

2) Restructuring Jobs

While job restructuring is one way of integrating qualified people with disabilities into the workforce, it does not alter the essential function of the job. Federal employers should identify which factors make a job incompatible with an individual's disability and, if possible, eliminate them so that the capabilities of the person may be used to the best advantage. This may involve changing job content by isolating and eliminating non-essential duties through reassignment, or altering the way objectives are accomplished.

Before undertaking job restructuring, an employer should make sure the following takes place:

- Understand the capabilities and limitations of the individuals. Throughout the process, employers should consult with the person with a disability. Employers can obtain supplemental information through consultation with disability specialists.
- Conduct careful job analysis to determine the exact demands of positions. This includes seeking input from those with intimate knowledge of the tasks involved, such as supervisors and persons who currently perform the job functions or those who have performed them in the past. This will help make an accurate differentiation between functions that are essential and those that are non-essential and can be reassigned. For a discussion of the steps agencies should take to determine a job's essential functions, see the section on "Hiring Issues and Options" in this guide.
- Use the restructuring and job analysis processes to create positions, modify existing position descriptions, develop recruitment strategies, determine selection criteria, design performance plans, determine training needs, and implement other human resource initiatives.

3) Modifying Work Sites

Changes in the work environment and technology will enable some people with disabilities to perform their duties more effectively. Employers might consider rearranging files or shelves to improve accessibility for people who use wheelchairs, using Braille labels for persons with visual impairments, raising or lowering equipment to provide comfortable working heights for people with back injuries, and

installing special holding devices on desks, machines, or benches for people with mobility impairments. Employers could also use adaptive technology such as screen readers for people who have visual impairments, or provide special heating or air conditioning units for persons who are sensitive to environmental temperature.

Supervisors, Reasonable Accommodation Managers, Selective Placement Program Coordinators, Disability Employment Program Managers, counselors at State vocational rehabilitation agencies and VA, and/or building managers, as well as persons with disabilities should review work locations to identify any needed modifications.

4) Accessible Facilities

Under section 504 of the Rehabilitation Act, all Federal agencies must ensure that their programs and activities are accessible to persons with disabilities. This does not mean that every element of every Federal facility has to be fully accessible. Rather, it means that agencies must take necessary steps to make all of their programs accessible to persons with disabilities.

Additionally, agencies may have to address architectural barriers as a matter of reasonable accommodation to an individual employee or applicant under section 501 of the Rehabilitation Act. Architectural changes such as ramps, wider doorways, elevators, work platforms, and handrails often make the work facility more usable by all employees, not just those with disabilities.

5) Adjusting Work Schedules

Some people with disabilities possess productive potential that is not utilized because they cannot meet the requirements of a standard 40-hour workweek. Employers could accommodate a variety of disabilities by taking advantage of the flexibility of alternative work schedules and telework. For example, people with mobility impairments might have difficulty maneuvering during peak periods on public transportation systems and could benefit from an earlier or later work day. In another instance, employees requiring medical treatments might need a flexible schedule on certain days of a week. Employers might accommodate employees that need to work shorter hours by using a part-time schedule or a job sharing arrangement.

6) Assistive Devices

People with disabilities have many assistive devices available to them. Under section 508 of the Rehabilitation Act, as amended, any electronic and information technology procured by Federal agencies must be accessible to employees and members of the public with disabilities, to the extent it does not pose an undue burden. Such devices might ensure successful job performance, enabling people

with disabilities to perform tasks they would not otherwise be able to do or to increase the quantity, quality, or efficiency of their work. Before purchasing any assistive equipment, the agency should discuss what is needed and/or desired with the individual requesting the accommodation.

Federal employers are authorized to purchase equipment if it is determined that the use of the equipment is a reasonable accommodation that will enable an employee with a disability to better perform his or her job. In certain cases, however, the Department of Veterans Affairs or State vocational rehabilitation office may provide the assistive device to the individual requesting a reasonable accommodation if the employee is already a client of that agency or office.

7) Readers, Interpreters, and Other Effective Communication Tools

One key component of reasonable accommodation is to ensure effective communication with employees who have communication-related disabilities, such as those with vision, hearing, or speech impairments. Agencies must provide appropriate "auxiliary aids and services" such as qualified sign language interpreters, trained readers, computer-assisted real time transcription services, and alternate format documents (Braille, large print, audio cassette, or computer disk), unless doing so would fundamentally alter the program or impose an undue hardship on the agency.

Readers: Persons who are blind or who have low vision may need trained readers to be able to access information contained in otherwise inaccessible material. For instance, a lawyer who is blind may need a trained reader to read aloud deposition transcripts and correspondence from opposing counsel. Also, appropriate assistive technology, such as screen readers or Braille displays, can make much computer-based information accessible to someone who is blind or who has low vision, thus reducing (though not necessarily eliminating) the employee's reliance on a trained reader.

Interpreters: Persons who are deaf or hard of hearing and who use sign language may need qualified sign language interpreters. A "qualified sign language interpreter" is someone that can competently, accurately, and impartially interpret, both receptively and expressively, using any specialized terminology necessary such that there is two-way communication in the employment setting. Someone who is deaf and who does not know sign language may benefit from a qualified oral interpreter in certain circumstances. Many people who are deaf learned to communicate using American Sign Language (ASL), rather than English, as their primary means of communication. ASL has a different vocabulary and syntax than English.

While an employee who is deaf or hard of hearing and who uses sign language may not need a qualified sign language interpreter dedicated to his or her full-time use, qualified interpreters should be used in the following circumstances:

- employee orientations,
- staff meetings,
- training,
- whenever job duties change or when there is a new major assignment;
- meetings involving more than two people (it is extremely difficult to follow group discussions by lip-reading),
- meetings to discuss annual or semi-annual performance evaluation, promotion eligibility, or disciplinary action, and, if needed,
- whenever efficient and effective communication is important, or when verbal communication will be lengthy, or if a person with a hearing impairment can show why other forms of communication would be ineffective.

An employer might not need qualified sign language interpreters for relatively short routine matters. In those cases, an employer might communicate with an employee who is deaf by exchanging handwritten notes or typing back and forth on a computer keyboard or TTY.

TTYs: A "TTY" (also known as a "text typewriter") is a device that allows someone who is deaf or hard of hearing or someone with a speech impairment to communicate by telephone by sending and receiving typed communications. The TTY user can communicate directly with someone else who also uses a TTY, or with those who do not use TTYs by calling a relay operator who will voice the disabled person's typed communication and then type the non-disabled person's spoken communications. Agencies could provide training to all co-workers of persons who use TTYs in how to make and receive calls using the relay system. The Federal Relay Service will provide appropriate training materials upon request. Check your local phone book for the Federal Relay Service number in your area.

Use of Untrained Co-workers as Readers or Interpreters: An employer should not rely on a co-workers of persons with disabilities to act as readers or sign language interpreters, unless the co-workers are qualified to do this work and it falls within their job description. Even if co-workers have learned rudimentary sign language through daily communication with the person who is deaf, they are unlikely to be able to provide effective communication in an employment setting.

CART Computer Assisted Real-Time Transcription: CART makes verbal communication accessible to persons who have a hearing impairment and who do not use sign language. It requires a trained person, like a stenographer, to use special equipment to transcribe verbal communication as it is taking place.

The transcription may appear on a computer monitor or be projected onto a screen. The service is similar to closed captioning of a live television program.

Alternate Format Materials: Agencies must provide alternate format materials or other auxiliary aids and services to allow persons who have visual impairments to have full access to written materials used in the course of their employment, including such things as employee manuals and leave and earning statements. Alternate formats include Braille, large print, audiocassette recordings, and electronic copies on computer disks.

8) Flexible Leave Policies

While the administration of the leave system is subject to certain laws and regulations, Federal employers may adopt flexible leave policies to accommodate people with disabilities. Below are some examples:

- When extreme weather conditions make it difficult for employees with mobility impairments to get to or from work. For example, employees are generally expected to report for work after snow removal has been accomplished. However, in many cases, snow removal equipment makes travel by mobility-impaired individuals even more difficult by creating snowdrifts at the curb cuts. Federal employers can adopt separate leave policies for such situations, but should identify in advance those employees who would be covered by the extended policy.
- When temporary building conditions adversely affect performance or health, such as extremes of heat or cold which could affect persons with neurological disorders or respiratory ailments.
- **Telecommuting/Telework, Flexiplace, or Alternative Work Site Arrangements:** Telework, also known as telecommuting and flexiplace, began as a Federal pilot project in 1990. Its original goals were to save energy, improve air quality, reduce congestion and stress on our roads and bridges, and enhance the quality of family-friendly and other work/life initiatives for Federal workers. Telework has also provided employees with disabilities the opportunity to work from home as a reasonable accommodation. Many agencies have been successful at having employees work in locations other than the office, namely, in their homes or a telecenter, encompassing a variety of jobs and work situations. For additional information, please visit the **Interagency Telework/Telecommuting** website (www.telework.gov).
- **Leave Sharing/Leave Bank:** An employee who is a member of his or her agency's voluntary leave bank, may receive annual leave from the leave bank if the employee experiences a personal or family medical emergency and has

exhausted his or her available paid leave. The agency's leave bank board operates the leave bank and determines how much donated annual leave an employee may receive from the leave bank. Any unused donated annual leave is returned to the leave bank.

- **Dependent Care Referral and Information Services:** Several agencies provide their employees with information on a variety of child and elder care options and/or placement referrals. If necessary, employees can get help finding and selecting childcare providers or services for an elderly person. Also, counselors can give over-the-phone information to a wide range of questions and help with problems. OPM has developed a comprehensive Handbook of Child and Elder Care Resources that identifies child and elder care services nationwide.
- Leave policies may also include granting extended leave without pay for illness or disability.
- **Family and Medical Leave Act**
(www.opm.gov/oca/leave/HTML/fmlafac2.htm)
Under the Family and Medical Leave Act of 1993 (FMLA), most Federal employees are entitled to a total of up to 12 workweeks of unpaid leave during any 12-month period, under certain circumstances.

Regardless of the flexibility an employer uses, they should carefully detail the policies to avoid misunderstanding and be consistent about applying the method for determining the length of the leave for all appropriate employees.

9) Reassignment

An employee who, because of a disability, is unable to continue to perform the essential functions of his or her current position may have options available other than applying for disability retirement. The employer should first explore the possibility of accommodating the employee in his or her current position. Often, all that is needed are minor job modifications or changes in the physical environment to allow an employee with a disability to continue working productively.

Agencies might consider reassignment as a reasonable accommodation when an employee, due to a disability, can no longer continue performing the essential functions of his/her current position, even with reasonable accommodation. In certain circumstances, agencies may also have an obligation to consider reassigning an employee to another position under the disability retirement laws. Under the Rehabilitation Act, a Federal employer should first attempt to provide reasonable accommodation in an employee's current position. If that is not possible, then a Federal employer may look for a vacant position that is equivalent to the employee's current position in terms of a number of factors, including grade, level of work

assignments, pay, benefits, and geographic location. If no equivalent vacancy exists, then the employer may look for a lower position that is as close as possible to the employee's current position. Reassignment does not include creating a new position or giving the employee a promotion. Although this is a non-competitive process, the employee must be qualified for the vacant position. In order to determine the employee's qualifications for a vacant position, the employer should consult with the employee about his/her work experience, skills, and education.

10) Eliminating Transportation Barriers

One of the most difficult problems for people with disabilities is transportation to and within the work site. Federal employers can help people with disabilities solve their personal transportation problems. Such assistance might consist of helping employees form car pools, helping people with disabilities locate co-workers with whom they may car pool, or allocating parking spaces to employees with disabilities as available.

Drivers who provide transportation to Federal employees with disabilities are entitled to special parking privileges. The General Services Administration has ruled that Federal employers are to give these persons the same priority in assignment of parking spaces that they give persons with disabilities.

Agencies that provide work transportation, such as shuttle buses between work sites, must ensure that equivalent accessible transportation is provided to employees with disabilities. Shuttle bus drivers should announce the location of stops to enable persons with visual impairments to use the service effectively. If the shuttle buses do not have lifts for persons who use wheelchairs, then the employer should provide alternate equivalent means of transportation.

11) Services Provided Through Contractors

Agencies must ensure that, when they provide support services through contractors, they provide appropriate reasonable accommodations to persons with disabilities who use those services. For instance, if an agency hires a computer firm to provide software training, the agency must ensure that training for an employee who has a hearing impairment is communicated effectively to that employee, usually by a qualified sign language interpreter. The contractor's training materials must be made accessible to persons who have vision impairments, such as by putting them in Braille, large print, audiotape, or on computer disk, depending on what would be effective for the person with a disability.

12) Minimal Cost Accommodations

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

- An employer could accommodate a person who uses a wheelchair who needs access to the building, the office, and files. The desk must be at the right height to accommodate the wheelchair. As a temporary solution, this could be accomplished by raising the desk using wooden blocks to prop it up, moving furniture so that the employee can move around the office, and placing files to make them easily accessible.
- An agency could accommodate an individual with arthritis who is experiencing difficulty with maintaining stamina during the workday. The individual might benefit from flexible work hours and a recliner to allow body position changes to cut down on fatigue.
- An employer could accommodate a person with visual impairments with visual aids, screen readers, enlargers, voice-activated software, and refreshable Braille displays.

Federal employers have available several resources to learn more about technology-related technical assistance and accommodation assessment. These include the Assistive Technology Program at the Department of Education, the Computer/Electronic-Accommodations Program (CAP) at the Department of Defense, the Center for Information Technology Accommodation (CITA), the Office of Government Wide Policy at General Services Administration, and the Architect and Transportation Barriers Compliance Board (Access Board).

13) Other Types of Modifications

There are various modifications or forms of assistance that can provide enormous benefits to both the person with a disability and the employer. Federal employers might consider training employees with disabilities for positions for which they do not have the basic qualifications and capabilities. Although there are initial expenses involved, the result will often justify the expenditure if the employee and the position are matched carefully beforehand.

WORKING WITH PEOPLE WITH DIFFERENT TYPES OF DISABILITIES

1) People with Mobility Impairments

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

Many people who have mobility impairments use adaptive equipment of one kind or another. Mobility aids such as canes, crutches, walkers, and wheelchairs are

especially common. Prosthetic devices (such as artificial arms or legs), and body braces might also be used. Some people with mobility impairments use service animals to assist them with carrying or retrieving items and opening doors in order to achieve greater independence.

Consider the following suggestions when interacting with individuals who have mobility impairments:

- When scheduling a job interview or meeting, make sure the location is accessible and that potential barriers such as a step at the threshold or parking will not preclude access.
- Do not hold the person's wheelchair or assume the individual wants to be pushed; always ask first. A wheelchair should be considered part of the person's personal space.
- Offer assistance but do not insist. If the person needs help, he or she will accept the offer and explain exactly what will be helpful.
- For prolonged conversations with someone who uses a wheelchair, sit down so as to be at the eye level of the wheelchair user.
- Do not be surprised if the person transfers from a wheelchair to a piece of furniture or gets out of the wheelchair to move about. Not all wheelchair users have paralysis; many can walk with or without the aid of canes, braces, or crutches.
- If a person uses crutches, a walker, or some other assistive equipment, offer assistance with coats, bags, or other belongings.
- Ensure extra maneuvering space and non-slip floor coverings for the safety of a person who uses crutches or a walker.
- Do not be sensitive about using words like "walking" or "running." People who use wheelchairs often use the same words.

2) People Who are Blind or Who Have Vision Impairments

The terms "blindness" and "vision impairment" may mean either a complete or partial loss of vision. For some persons, only the edges or a part of the visual field might be obscured, or some persons might have no central vision although side or peripheral vision still exists. A person's visual acuity might also change under different light conditions.

Many people who are blind get around on their own by using a guide dog or cane. People with vision impairments might or might not use these or other mobility aids. For many jobs, even those requiring lots of reading, vision is not necessary. Successful employment of people who are blind or who have vision impairments depends upon thorough job analysis, employer acceptance, and proper management support.

Consider the following suggestions when interacting with individuals who are blind or who have vision impairments:

- Offer assistance, but don't insist. If a person who is blind needs guidance through a door or to a chair, let the person take your arm and follow the motion of your body. Tell him or her where the chair is in relation to his or her body. If the person approaches steps, mention how many and the direction.
- Speak directly to the individual who is blind or who has a vision impairment, using a normal tone of voice.
- Introduce other people in the room or have them introduce themselves. This will assist the individual with orientation to the room and its occupants.
- Never touch or distract a service guide dog without first asking the owner for permission. Service animals are not pets and generally should not be disturbed while in a working mode.
- When giving directions, do not use references the person who is blind cannot see. For example, "over there" is not a good way of describing a location. When using directional words, use them with the orientation of the person who is blind or who has a vision impairment.
- Tell the individual when someone is leaving the room.
- When guiding a person into a new or strange surrounding, describe special features or decorations.
- Be prepared to read aloud information that is written, or ask the person if he or she could use the services of a trained reader.
- When interviewing or meeting with people with vision impairments, ask whether they would prefer a well-lit area. Avoid sharp contrasts of light and dark areas.

3) People Who are Deaf or Hard of Hearing

Individuals may be deaf or hard of hearing and be able to speak clearly. Employers may place them in almost any type of position, except those for which acute hearing is a legitimate safety requirement. Even in those circumstances, employers should perform an individualized assessment. Such persons may need extra time in settings where there is a lot of oral communication, such as interviews and meetings.

Communication difficulties should not be regarded as indicative of more extensive impairments and should not be allowed to obscure an applicant's knowledge, skills and abilities. In many situations, it may be necessary to obtain the services of a qualified sign language interpreter to provide effective communication if the person who is deaf or hard of hearing uses sign language as his or her primary means of communication. Other accommodations that may be necessary include the use of assistive listening systems and devices for persons who are hard of hearing, or computer-assisted real-time transcription (CART).

Consider the following suggestions when interacting with individuals who are deaf or hard of hearing:

- When speaking with someone who is deaf or hard of hearing, face the person directly. Attract his or her visual attention before starting a conversation. For instance, if you are entering his or her office and the person's back is to you, flicker the room lights.
- When speaking to people who are deaf or hard of hearing, use meaningful facial expressions and gestures to emphasize your intent and attitude. This helps to substitute for your tone of voice. Try to find a quiet place away from computers, telephones, and other sources of noise, that has adequate lighting.
- Not all people who are deaf or hard of hearing know or use sign language. Do not assume they need interpreters.
- If using a sign language or oral interpreter, speak directly to the person with the hearing impairment, not the interpreter. Speak clearly, in a normal tone of voice, and keep your hands away from your face.
- If you cannot understand the person with a hearing impairment, do not be afraid to ask him or her to repeat the message. If this approach does not work, you can ask if it would be helpful to communicate by writing or using a computer terminal.

4) People with Invisible (Hidden) Disabilities

There are many disabilities such as asthma, arthritis, heart disease, environmental illness, AIDS, chronic fatigue, psychiatric or mental illnesses, attention deficit hyperactivity disorder, learning disabilities, and mild mental retardation that are not visible to the onlooker. If an applicant brings such a condition to the prospective employer's attention, the employer may ask whether the condition might have an impact on the applicant's work and if any accommodation is necessary.

5) People with Mental Retardation

Many people with mental retardation have average or superior abilities in some respects. While it is true that some people with mental retardation may not be able to think, reason or remember as well as others, they, like others, have their own strengths and weaknesses. The effect of the disability can be lessened, and skills and abilities increased, through rehabilitation, education, and experience on the job.

People with mental retardation, like others, want to be independent and responsible for their own support. Success on the job often depends upon the willingness of others to devote reasonable time and interest to helping the individual adjust initially and meet new challenges as they arise. The object should be to reduce the need for learning details, exercising judgment, and finding new solutions to problems. One of the greatest obstacles to equal employment opportunity for these individuals is

persistent lack of employer confidence in, and lowered expectations of, their capabilities.

Consider the following suggestions when interacting with people with mental retardation:

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

6) People with Psychiatric Disabilities

Psychiatric disabilities are diverse and include anxiety disorders, depression, bipolar disorders, schizophrenia, and other conditions.

Consider the following suggestions when interacting with individuals who have a psychiatric disability:

- Talk to the individual as you would to anyone else. Integrate the person as fully into office activities as other employees. Do not ostracize him or her due to the psychiatric condition.
- As many psychiatric medications cause extreme thirst, allow the person to have access to beverages upon request, even where food and drink are normally prohibited.
- Consider offering a flexible schedule to allow the person to attend medical appointments and therapy sessions and to deal with medication issues, insomnia, fatigue, or other conditions that often accompany psychiatric disabilities.

7) People with Muscular or Neurological Limitation

Muscular or neurological disabilities may affect motor ability and/or speech. You might observe some involuntary or halting movement or limitation of movement in one or more than one appendage, as well as some lisping, indistinct speech or flatness of tone due to lack of fine motor control of the tongue and lips. The severity and functional effects of the disability vary from person to person. Unless the person has a significant disability, or has additional disabilities, accommodation may not be needed during an interview setting or meeting.

If the person's speech is difficult to understand, ask him or her to repeat what was said. Some people who have significant cerebral palsy or other muscular or neurological disabilities may communicate by writing, typing, or using a communication board or other electronic device.

8) Additional Tips for Working with People with Disabilities

The **Job Accommodation Network (JAN)** (www.jan.wvu.edu), a service of the U.S. Department of Labor Office of Disability Employment Policy, is another source of information offering several suggestions on working with people with disabilities that relate to interpersonal behaviors. From the home page, click on the site map; under "disability information" click on "websites that apply across disability areas" and then click on "etiquette."

Mainstream, Inc. (www.mainstreaminc.org) also provides tips on interacting with employees with disabilities. From the home page, click on "Especially for Employers" and then scroll down to "Tips on Interacting with People with Disabilities."

INTEGRATING PEOPLE WITH DISABILITIES INTO THE WORKFORCE

The Department of Labor's Office of Disability Employment Policy has a six-step process for integrating people with disabilities into the workforce. The process consists of:

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

6. **Awareness/Sensitivity** - Train managers, supervisors, and employees about disability myths and misconceptions. An educated workforce will be better able to ensure the success of employees with disabilities.

1) Interviewing

Interviewing people with disabilities is the same as interviewing people who do not have disabilities. In general, the selecting official should ask all applicants about their qualifications, experience, and skills for doing the job. However, there are some guidelines that are specific to people with disabilities. Unless an individual is seeking appointment under one of the special excepted appointment authorities, a selecting official should ask questions only about the person's ability to do the job. The office should make sure that all questions are job-related. The focus of the interview should be on the individual's ability to successfully perform the essential functions of the job and demonstrate the competencies or knowledge, skills, and abilities needed to perform the job. Understanding what are the job's essential functions and the competencies required to perform those functions is particularly important to prepare for applicant interviews.

If the person volunteers that he or she has a disability which makes it difficult to perform particular functions of a job, or if the selecting official believes that a person's readily-apparent disability might make it difficult to perform certain job functions, the selecting official may ask job-related follow-up questions, such as, "Describe how you can perform the job." The answer to such questions will indicate whether a reasonable accommodation is needed to enable the individual to perform the essential functions of the job. In addition to asking a job applicant with a visible disability how he or she can perform the job, an employer may also ask, "Do you need a reasonable accommodation?"

It is the responsibility of the job applicant to inform the employer of any accommodation needs, but once the issue has been raised, the employer and prospective employee should discuss the job functions and how they can be accomplished. Employers should not make general assumptions that an individual with a disability will be unable to do a certain part of the job or that a reasonable accommodation will be needed, unless the applicant could not perform the essential job functions without a specific reasonable accommodation that was so expensive that it would impose an undue hardship on the agency. Hiring decisions should not take into account the additional costs associated with providing a reasonable accommodation to an applicant with a disability.

2) Career Development

One of the major problems facing many people with disabilities is underutilization of their knowledge, skills, and abilities. Employers can use developmental details and reassignments as a means of on-the-job training, which will enhance promotion

opportunities. In addition, it is easy to fall into the trap of isolating employees with disabilities from others. Employees with disabilities should have opportunities not only to work with others on group projects, but also when appropriate, to take on leadership roles.

Federal employers should ensure that employees with disabilities are given full consideration for inclusion in upward mobility programs and that they are aware of career counseling. Employers should recognize that people with disabilities have career goals. Agency managers should sit down with employees and talk about goals. If it is the practice of your office to identify role models and mentors for employees, be sure to include employees with disabilities in that process. Every effort should be made to ensure that employees with disabilities, like others, are given the opportunity to reach their maximum potential.

3) Performance Evaluations

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

If an employee with a disability cannot satisfactorily perform the essential functions of his or her job after a full and fair trial period and with appropriate reasonable accommodations, then his or her employment may be terminated. The same job-related performance criteria should be applied to employees with disabilities that is applied to others. If it becomes necessary to terminate the appointment of an employee with a disability, the agency's Human Resources or Personnel Office should help in making this decision and taking appropriate action.

4) Awards

People with disabilities should have equal opportunity to receive incentive awards (special achievement/act or performance), quality step increases, and all other agency sponsored or non-agency sponsored awards. Do not limit efforts to special awards programs geared specifically to employees with disabilities.

5) Training

Give employees with disabilities an equal chance to benefit from training and development opportunities. Hold classes in accessible facilities; make materials available in electronic format, large print, Braille, or audio cassette for persons with vision impairments; provide trained note-takers and qualified sign language interpreters or computer-assisted real-time transcription services for persons who are deaf or hard of hearing; provide assistive listening systems and devices for persons who are hard of hearing; and make other appropriate reasonable accommodations. Encourage any training that would provide growth opportunities to allow employees with disabilities to advance in their careers. Such training could include developmental detail assignments, lateral reassignments, and leadership training.

RECRUITING AND RETAINING PEOPLE WITH DISABILITIES

Communication is the key to increasing organizational understanding and support for the employment of people with disabilities. The positive portrayal of employees with disabilities can greatly affect the public and co-workers' perception of, and enhance the self-esteem of, such employees. There are a number of target groups that can be contacted about recruiting and retaining people with disabilities, including advocacy and rehabilitation organizations, Federal agencies, student organizations, and community groups.

Communicating messages or events such as planned initiatives, programs or exhibits, employee success stories, activities and accomplishments, and training and career development opportunities will enhance the employment and advancement of people with disabilities. Two effective ways of communicating are internal memoranda or personal contact with the organization head, managers, supervisors and employees. Messages may also be integrated into existing media (e.g., an agency newsletter). Other communications media include:

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

An agency's public affairs office may be able to assist in preparing professional copy or in maximizing one's communication tools. Outside organizations such as the ODEP, Veterans' Service Organizations (VSOs), State and VA Vocational Rehabilitation Centers, and local news media may also be able to help.

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

APPENDIX 1: FEDERAL RESOURCES

1. Equal Employment Opportunity Commission (EEOC) (Federal Sector Programs) 1801 L Street, NW Washington, DC 20507 (www.eeoc.gov)
2. U.S. Department of Labor (DOL), Office of Disability Employment Policy (ODEP) 1331 F Street, Washington, DC 20004-1107 (www.dol.gov/dol/odep)
3. U.S. Department of Labor, Presidential Task Force on Employment of Adults with Disabilities 200 Constitution Avenue, Room 2220D, Washington, DC 20210 (www.dol.gov/_sec/programs/ptfead/Main.htm)
4. U.S. Office of Personnel Management, USAJOBS [for Federal employment information] 1900 E Street, NW, Washington, DC 20415 (www.usajobs.opm.gov)

For additional Federal resources as well as other public and commercial resources, see OPM's Organizations and Publications section of the Disability website.

APPENDIX 2: REFERENCES AND REGULATIONS

I. General Medical Personnel Guidance

Law:

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

Regulation:

- A. 5 C.F.R. 339, Medical Qualification Determinations
- B. 29 C.F.R. 1614, Equal Employment Opportunity Commission

NOTE: These are the Federal Sector Equal Employment Opportunity (EEO) complaint processing regulations.

- C. For most Federal employees, 5 C.F.R. Part 630, Subpart L, Family and Medical Leave.
- D. For certain Federal employees, including Postal Service employees, 29 C.F.R. Part 825, The Family and Medical Leave Act of 1993.

Information:

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

- 1. OPM — *Operating Manual — Qualification Standards for General Schedule Positions*, August 1994
- 2. OPM — *The Role of the Agency Medical Review Officer (MRO)*, March 199
- 3. OPM — *Guide for Administering Written Employment Examinations to Persons with Disabilities*, December 1994
- 4. OPM — *Guide Developing and Conducting the Structured Situational Interview: A Practical Guide*, January 1994
- 5. OPM — *Family-Friendly Leave Policies for Federal Employees: Employee Brochure*, November 1997
- 6. OPM — *Federal Employee Entitlement Under the Family and Medical Leave Act of 1993*, December 1996
- 7. OPM — *Appointments of Persons with Psychiatric Disabilities*, July 7, 2000

B. Equal Employment Opportunity Commission (EEOC)

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

NOTE: This document provides the EEOC's position under the Americans with Disabilities Act of 1990, on pre-employment disability-related questions and medical examinations and applies to Federal sector complaints of non-affirmative action employment discrimination arising under section 501 of the Rehabilitation Act of 1973, as amended.

- 2. EEOC - *EEOC Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities*, March 25, 1997, and Addendum, February 1, 2000.

NOTE: This guidance sets forth the EEOC's position on the ADA as it relates to individuals with psychiatric disabilities in the private and Federal sectors. The Addendum updates the guidance in light of Supreme Court decisions.

- 3. EEOC - *Compliance Manual Section on the Definition of the Term "Disability,"* March 14, 1995, and Addendum, February 1, 2000

4. EEOC - *Interim Enforcement Guidance on the Application of the ADA to the Disability-based Distinctions in Employer Provided Health Insurance*, June 8, 1993
5. EEOC - *Enforcement Guidance on Workers' Compensation and the ADA*, September 3, 1996
6. EEOC — *Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation*, October 20, 2000
7. EEOC — *Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the ADA*, March 11, 1999
8. EEOC — *Enforcement Guidance on the Effect of Representations Made in Applications for Benefits on the Determination of Whether a Person is a "Qualified Individual with a Disability"*, February 12, 1997

C. Social Security Administration (SSA)

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

II. Special Appointing Authorities for Persons with Disabilities

- A. 5C.F.R. 213.3102(t) - This hiring authority applies to persons with mental retardation.
- B. 5 C.F.R. 213.3102(u) - This hiring authority applies to persons with severe physical disabilities.
- C. 5 C.F.R. 213.3102(gg) - This hiring authority applies to persons with psychiatric disabilities.
- D. 5 C.F.R. 213.3102(II) — This hiring authority applies to readers, interpreters, and other personal assistants for other employees with a severe disability(ies).
- E. 5 C.F.R. 316.402(b)(5) — This hiring authority applies to 30 percent or more disabled veterans.
- F. 5 C.F.R. 315.604 — This hiring authority applies to disabled veterans enrolled in VA training programs.

Information:

- A. OPM - *People with Disabilities in the Federal Government - A Statistical Profile*, 1998
- B. OPM - *Guide for Administering Written Employment Examinations to Persons with Disabilities*, (PRDC-94-11), December 1994

III. Disability Retirement (OPM)

Regulations:

- A. Civil Service Retirement System (CSRS) - 5 C.F.R. Part 831, Subpart L, CSRS - Disability Retirement, generally September 22, 1993
- B. Federal Employees Retirement System (FERS) - 5 C.F.R. Part 844, FERS - Disability Retirement, generally February 1990

Information:

- A. CSRS/FERS - Documentation in Support of Disability Retirement Application, December, 1995 (consolidated form for CSRS and FERS)
- B. CSRS - OPM Pamphlet Information for Disability Annuitants, March, 1995
- C. CSRS - Application for Immediate Retirement, January, 1990
- D. FERS - OPM Pamphlet *Information for FERS Disability Annuitants*, March, 1996
- E. FERS - Application for Immediate Retirement, January, 1997

Other Resources:

- A. OPM *Life Events and Your Retirement and Insurance Benefits (for employees)*, October 1997
- B. OPM Work Related Injuries and Fatalities - - What You and Your Family Need to Know About Your Benefits, October 1999

Note: Briefly summarizes benefits (retirement, insurance, Thrift Savings Plan, Social Security, worker's compensation, etc, that may be applicable in a work related injury or fatality)

OPM's Retirement and Insurance Service also publishes *The CSRS and FERS Handbook for Personnel and Payroll Offices*, a comprehensive guide to help agencies administer Federal retirement benefits. The handbook is available for purchase through the Government Printing Office; a CD-ROM version is available for purchase from OPM. In addition, the Handbook and many other useful resources are available for download at OPM's Benefits Officers Resource Center website (www.opm.gov/asd).

IV. Drug and Alcohol Testing

Executive Order:

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

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

Mandatory Guidelines:

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

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

Law:

- A. Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 468, codified at 5 U.S.C. Section 7301 note (1987)
- B. Drug Abuse Prevention, Treatment and Rehabilitation Act of 1972, 42 U.S.C. Section 290ee-1 et seq., as amended by the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, 42 U.S.C. Section 290dd et seq., Pub. L. 102-321, 106 Stat. 367 (1992) (codified at 42 U.S.C. Section 201 note)
- C. Federal Employee Substance Abuse Education and Treatment Act of 1986, Pub. L. 99- 570, Title VI, 100 Stat. 3207-157 (1986) NOTE: This Act requires agency programs to provide prevention, treatment, rehabilitation, and education services to Federal civilian employees with respect to drug and alcohol abuse.

Regulation:

- A. 5 C.F.R. Part 792, Federal Employees' Health and Counseling Programs
- B. 49 C.F.R. Part 382, Controlled Substances and Alcohol Use and Testing

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

- C. 49 C.F.R. Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs

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

Information:

- A. National Institute on Drug Abuse - *Model Plan for a Comprehensive Drug-Free Workplace Program*, 1990
- B. U.S. Department of Transportation - *Alcohol & Drug Rules - An Overview*, February 1994
- C. U.S. Department of Health and Human Services - Substance Abuse and Mental Health Services Administration - *Basic Information on Breath Alcohol Testing for Implementation of the DOT Rules*, February 1995

- D. U.S. Department of Health and Human Services - An Overview of HHS Division of Workplace Programs (Federal Drug and Alcohol Program Oversight Responsibility)
- E. U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration - *Medical Review Officer Manual for Federal Workplace Drug Testing Programs, 1997*

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

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

V. Hearing Conservation

Regulation:

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

Information:

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

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

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

Regulation:

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

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

Information:

- A. OPM - *HIV/AIDS Policy Guidelines*, August 30, 1995

NOTE: Protection under the Rehabilitation Act, as amended, begins the moment a person becomes infected with HIV.

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

VII. Medical Disqualifications

Policy:

By law, an agency must submit any proposed medical disqualification of a preference eligible to OPM for approval or disapproval. By regulation, OPM requires agencies to give non-preference eligibles who are disqualified for medical reasons a higher level review within the agency.

Law:

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

Regulation:

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

Information:

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

NOTE: Reminds competitive service agencies that OPM must approve medical disqualifications of preference eligibles

- B. OPM - *Procedures Guide in Processing Medical Objections to Preference Eligibles*, March 1996
- C. OPM - *Typical Reasons for Not Sustaining Agency Medical Passover Requests*, March 1996

VIII. Medical Records

Law:

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

Regulation:

- A. 5 C.F.R. Part 293, Subpart E, Employee Medical File System Records
- B. 5 C.F.R. Part 297, Privacy Procedures for Personnel Records
- C. 29 C.F.R. 1910.1020(d)(1) (1990) Access to Employee Exposure and Medical Records, U.S. Department of Labor, Occupational Safety and Health Administration
- D. 29 C.F.R. 1904 (June 1986), A Brief Guide to Recordkeeping Requirements for Occupational Injuries and Illnesses, U.S. Department of Labor, Bureau of Labor Statistics
- E. 42 C.F.R. Part 2, Confidentiality of Alcohol and Drug Abuse Patient's Records (This regulation applies only to Employee Assistance Program (EAP) records)

Information:

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

IX. Workers Compensation

Law:

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

Regulation:

- A. 20 C.F.R. Parts 1 to 25, Federal Employees Compensation Act
- B. 5 C.F.R. Parts 353, Restoration to Duty from Uniform Service or Compensable Injury

Information:

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

X. Pregnancy Related Issues

Law:

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

Regulation:

- A. 29 C.F.R. Section 1604.10(b), See also, 29 C.F.R. Pt. 1604 App. (Questions and Answers on the Pregnancy Discrimination Act)

XI. Respiratory Protection Program

Regulation:

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

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

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

XII. Safety and Occupational Health Programs

Law:

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

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

Regulation:

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

XIII. Veterans and the Civil Service**Information:**

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

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

XIV. Violence in the Workplace**Information:**

- A. OPM - *Dealing with Workplace Violence: A Guide for Agency Planners*, February 1998
- B. U.S. Department of Labor, Occupational Safety and Health Administration - *Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers*, (OSHA Publication 3148), 1996

- C. U.S. Department of Justice, United States Marshals Service - *Security in the Workplace: Improving the Safety of Federal Employees*, (USMS Pub. No.61) September 1995
- D. U.S. Department of Justice - *Combating Workplace Violence: Guidelines for Employers and Law Enforcement*, International Association of Chiefs of Police (publication funded by Office of Justice Programs, Bureau of Justice Assistance)
- E. U.S. Department of Justice, National Institute of Justice - *Understanding and Preventing Violence*, February 1994
- F. U.S. Department of Justice, National Institute of Justice - *Psychoactive Substances and Violence*, February 1994
- G. U.S. Department of Justice, National Institute of Justice - *The Cycle of Violence*, September 1992
- H. ADA Information Brief, Volume 1, Number 4, *Violence and Workers with Psychiatric Disabilities: Myths and Facts*
- I. Partnership Against Violence Network (PAVNET) (www.pavnet.org). This provides information about violence prevention from seven Federal agencies.