

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, DC 20202

INFORMATION MEMORANDUM
RSA-IM-00-35
DATE: September 7, 2000

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES (GENERAL)
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)
CENTERS FOR INDEPENDENT LIVING
CLIENT ASSISTANCE PROGRAMS
PROTECTION & ADVOCACY OF INDIVIDUAL RIGHTS
PROGRAMS
REGIONAL REHABILITATION CONTINUING EDUCATION
PROGRAMS
AMERICAN INDIAN VOCATIONAL REHABILITATION
PROGRAMS
RSA SENIOR MANAGEMENT TEAM

SUBJECT: Executive Orders #13163 and #13164: Federal Hiring of Individuals with
Disabilities and Accommodation of Federal Employees with Disabilities

CONTENT: The purpose of this Information Memorandum (IM) is to alert addressees
regarding two Executive Orders signed on July 26, 2000. Both should
assist State Vocational Rehabilitation (VR) agencies in achieving quality
employment outcomes for consumers. The first, Executive Order #13163,
calls for the Federal government to hire 100,000 qualified individuals with
disabilities over the next five years. The second, #13164, requires federal
agencies to establish procedures for effective provision of reasonable
accommodations.

Executive Order #13163: All federal agencies are currently developing
implementation plans related to the Order. Plans are due to the Office of
Personnel Management (OPM) at the end of September. The plans
include timelines and hiring targets for each agency. In addition, the OPM
has requested, in a guidance memorandum regarding the Order, that
federal agencies describe how they plan to reach out to jobseekers with
disabilities. The memorandum states that an agency's plan should include,
"a description of the agency's strategy for recruiting individuals with
disabilities which could include outreach to state VR programs, state and
private employment offices, nonprofit organizations, universities, and
other organizations that work with disabled individuals on a regular

basis.” It is clear from the OPM guidance that the State VR program is regarded as an important component of outreach for federal agencies wishing to meet their stated hiring goals.

However, for those State VR agencies that wish to take a proactive stance in placing VR consumers in federal employment, there are many ways to facilitate the process of locating, applying for, and filling open positions in federal service.

The first step is to locate available positions. Today, the simplest way to learn about vacancies is via the Internet. Most federal agencies have, on their individual websites, a listing of available jobs. Federal agencies on the web include:

www.dol.gov	U.S. Department of Labor
www.hhs.gov	U.S. Department of Health and Human Services
www.usdoj.gov	U.S. Department of Justice
www.usda.gov	U.S. Department of Agriculture
www.hud.gov	U.S. Department of Housing and Urban Development
www.dot.gov	U.S. Department of Transportation
www.doe.gov	U.S. Department of Energy
www.dod.gov	U.S. Department of Defense
www.ed.gov	U.S. Department of Education
www.sba.gov	U.S. Small Business Administration
www.doi.gov	U.S. Department of the Interior
www.opm.gov	U.S. Office of Personnel Management

An easier way to access most federal job openings is through a website operated by OPM called USA Jobs. USA Jobs can be accessed via the Internet through www.usajobs.opm.gov.

Searches can be conducted for specific functional/issue areas, geographic regions, and salary ranges. Listings are updated daily, and there is a means to provide resume information so that certain positions can be applied for on-line. Most of the listings for the above agencies can be found on USA Jobs.

Once openings are located and the application is made, the use of special hiring authorities (Schedule A and Schedule B) for individuals with physical disabilities and for those with psychiatric disabilities may be appropriate. Once an offer of employment is made to an individual with a disability, documentation is required in order for a State VR agency to certify that the employee is eligible under Schedule A or Schedule B. Documentation consists of a letter from a physician stating that the individual in question possesses a disability, but that the disability will not

preclude that person from completing the essential job functions. Use of the authority can, in some cases, speed up the hiring process significantly.

Executive Order #13164: This Order calls upon federal agencies to improve their provision of reasonable accommodations to employees with disabilities. They will have one year from the date of the Order to submit their written procedures for accommodation provision to the Equal Employment Opportunity Commission. The Order requires procedures describing how the federal agency will process a request for a reasonable accommodation and provide a timeframe during which an employee can expect a decision regarding the request. In addition, the Order requires that denials of accommodations be made in writing and that they include an explanation as to why the application was denied.

Executive Order #13164 should facilitate the discussion of reasonable accommodations among consumers, VR staff, and the federal employer. In addition, it should improve the overall performance of federal employees with disabilities.

Attached to this memorandum are copies of both Executive Orders. If more information is required, please contact Jenn Rigger at 202-260-2179 or e-mail jenn_rigger@ed.gov.

Fredric K. Schroeder, Ph.D.
Commissioner

Attachments

cc: NATIONAL COUNCIL ON INDEPENDENT LIVING
COUNCIL OF STATE ADMINISTRATORS OF VOCATIONAL REHABILITATION
NATIONAL ASSOCIATION OF PROTECTION AND ADVOCACY SYSTEMS
NATIONAL REHABILITATION FACILITIES COALITION

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Part III

The President

Executive Order 13163--Increasing the Opportunity for Individuals With Disabilities To Be Employed in the Federal Government

Executive Order 13164--Requiring Federal Agencies To Establish Procedures To Facilitate the Provision of Reasonable Accommodation

Presidential Documents

Title 3--
The President

Executive Order 13163 of July 26, 2000

Increasing the Opportunity for Individuals With Disabilities To Be Employed in the Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote an increase in the opportunities for individuals with disabilities to be employed at all levels and occupations of the Federal Government, and to support the goals articulated in section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), it is hereby ordered as follows:

Section 1. Increasing the Federal Employment Opportunities for Individuals with Disabilities.

(a) Recent evidence demonstrates that, throughout the United States, qualified persons with disabilities have been refused employment despite their availability and qualifications, and many qualified persons with disabilities are never made aware of available employment opportunities. Evidence also suggests that increased efforts at outreach, and increased understanding of the reasonable accommodations available for persons with disabilities, will permit persons with disabilities to compete for employment on a more level playing field.

(b) Based on current hiring patterns and anticipated increases from expanded outreach efforts and appropriate accommodations, the Federal Government, over the next 5 years, will be able to hire 100,000 qualified individuals with disabilities. In furtherance of such efforts, Federal agencies shall:

(1) Use available hiring authorities, consistent with statutes, regulations, and prior Executive orders and Presidential Memoranda;

(2) Expand their outreach efforts, using both traditional and nontraditional methods; and

(3) Increase their efforts to accommodate individuals with disabilities.

(c) As a model employer, the Federal Government will take the lead in educating the public about employment opportunities available for individuals with disabilities

(d) This order does not require agencies to create new positions or to change existing qualification standards for any position.

Sec. 2. Implementation. Each Federal agency shall prepare a plan to increase the opportunities for individuals with disabilities to be employed in the agency. Each agency shall submit that plan to the Office of Personnel Management within 60 days from the date of this order.

Sec. 3. Authority to Develop Guidance. The Office of Personnel Management shall develop guidance on the provisions of this order to increase the opportunities for individuals with disabilities employed in the Federal Government.

Sec. 4. Judicial Review. This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person.

(Presidential Sig.)

THE WHITE HOUSE,

July 26, 2000.

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Presidential Documents

Executive Order 13164 of July 26, 2000

Requiring Federal Agencies To Establish Procedures To Facilitate the Provision of Reasonable Accommodation By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), as amended, and in order to promote a model Federal workplace that provides reasonable accommodation for (1) individuals with disabilities in the application process for Federal employment; (2) Federal employees with disabilities to perform the essential functions of a position; and (3) Federal employees with disabilities to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities, it is hereby ordered as follows: Section 1. Establishment of Effective Written Procedures to Facilitate the Provision of Reasonable Accommodation.

(a) Each Federal agency shall establish effective written procedures for processing requests for reasonable accommodation by employees and applicants with disabilities. The written procedures may allow different components of an agency to tailor their procedures as necessary to ensure the expeditious processing of requests.

(b) As set forth in Re-charting the Course: The First Report of the Presidential Task Force on Employment of Adults with Disabilities (1998), effective written procedures for processing requests for reasonable accommodation should include the following:

(1) Explain that an employee or job applicant may initiate a request for reasonable accommodation orally or in writing. If the agency requires an applicant or employee to complete a reasonable accommodation request form for record keeping purposes, the form must be provided as an attachment to the agency's written procedures;

(2) Explain how the agency will process a request for reasonable accommodation, and from whom the individual will receive a final decision;

(3) Designate a time period during which reasonable accommodation requests will be granted or denied, absent extenuating circumstances. Time limits for decision-making should be as short as reasonably possible;

(4) Explain the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue and the requested accommodation where the disability and/or need for accommodation is not obvious;

(5) Explain the agency's right to request relevant supplemental medical information if the information submitted does not clearly explain the nature of the disability, or the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace;

(6) Explain the agency's right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense;

(7) Provide that reassignment will be considered as a reasonable accommodation if the agency determines that no other reasonable accommodation will permit the employee with a disability to perform the essential functions of his or her current position;

(8) Provide that reasonable accommodation denials be in writing and specify the reasons for denial;

(9) Ensure that agencies' systems of record keeping track the processing of requests for reasonable accommodation and maintain the confidentiality of medical information received in accordance with applicable law and regulations; and

(10) Encourage the use of informal dispute resolution processes to allow individuals with disabilities to obtain prompt reconsideration of denials of reasonable accommodation. Agencies must also inform individuals with disabilities that they have the right to file complaints in the Equal Employment Opportunity process and other statutory processes, as appropriate, if their requests for reasonable accommodation are denied.

Sec. 2. Submission of Agency Reasonable Accommodation Procedures to the Equal Employment Opportunity Commission (EEOC). Within 1 year from the date of this order, each agency shall submit its procedures to the EEOC. Each agency shall also submit to the EEOC any modifications to its reasonable accommodation procedures at the time that those modifications are adopted.

Sec. 3. Collective Bargaining Obligations. In adopting their reasonable accommodation procedures, agencies must honor their obligations to notify their

collective bargaining representatives and bargain over such procedures to the extent required by law.

Sec. 4. Implementation. The EEOC shall issue guidance for the implementation of this order within 90 days from the date of this order.

Sec. 5. Construction and Judicial Review.

(a) Nothing in this order limits the rights that individuals with disabilities may have under the Rehabilitation Act of 1973, as amended.

(b) This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person.

(Presidential Sig.)

THE WHITE HOUSE,

July 26, 2000.