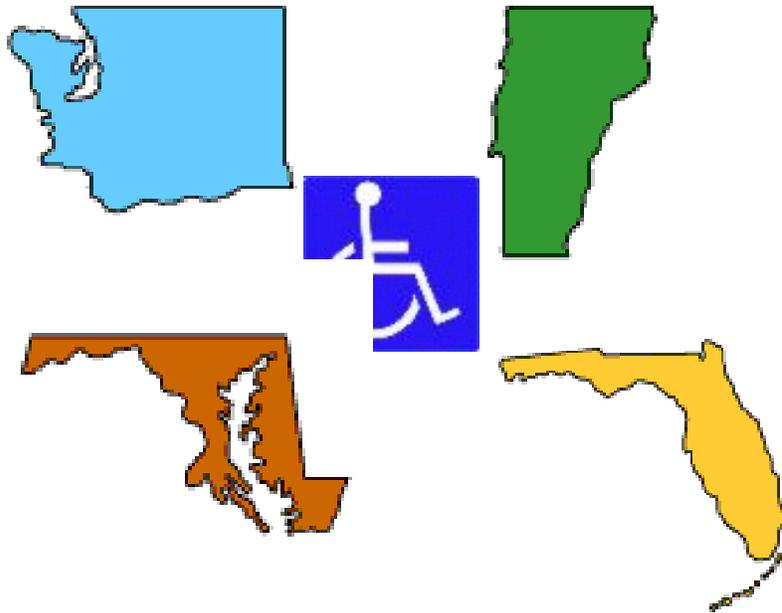


**INTERIM REPORT ON BEST PRACTICES
FOR THE EMPLOYMENT OF PEOPLE WITH DISABILITIES
IN STATE GOVERNMENT**



**PREPARED BY THE
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
IN SUPPORT OF THE
NEW FREEDOM INITIATIVE**

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EXECUTIVE SUMMARY

This report highlights best practices of four states – Florida, Maryland, Vermont, and Washington – that promote the hiring, retention, and advancement of individuals with disabilities in state government jobs. The United States Equal Employment Opportunity Commission (EEOC) is issuing this report as part of the agency's efforts in support of the New Freedom Initiative, President George W. Bush's comprehensive strategy for the full integration of people with disabilities into all aspects of America's social and economic life.

Despite progress made since the passage of the Americans with Disabilities Act (ADA) in 1990, people with disabilities still experience unemployment at a rate far above the national average. With more than five million workers nation-wide and with the unique opportunities they have to serve as model employers, state governments can play a significant role in enhancing employment opportunities for people with disabilities.

The governors of the four participating states voluntarily allowed EEOC to review a wide range of practices affecting individuals with disabilities who are state government employees or applicants for state employment. We examined practices related to the following:

- the recruitment and hiring of people with disabilities for state jobs;
- the provision of reasonable accommodations for individuals with disabilities who are state employees or applicants for state employment;
- the retention and advancement of individuals with disabilities within state government; and
- the employment of people with disabilities more generally – that is, in both public and private sector jobs.

This project has two purposes. First, we believe that all employers, including the participating states, can learn from the best practices outlined in this report. Second, we are offering participating states free, informal technical assistance to promote voluntary compliance with Title I (the employment provisions) of the ADA.

EEOC has identified a number of state employment practices worthy of consideration and even replication. For example:

- The states surveyed include individuals with disabilities as part of their diversity programs and their targeted outreach and recruiting efforts.

- Vermont provides for a “must interview” to anyone with a disability who meets the minimum qualifications for a state job.
- Washington passed legislation creating a supported employment program for individuals who need on-the-job training and long-term support to work successfully.
- Maryland and Vermont have tracked information related to the provision of reasonable accommodations that could be used to assess the effectiveness of their reasonable accommodation procedures.
- In 2004, Florida established the Agency for Persons with Disabilities and Maryland elevated its former Office on Individuals with Disabilities to cabinet-level status. These legislative and executive actions send a clear message “from the top” that people with disabilities are a state priority.
- Florida has secured a waiver from the Social Security Administration, enabling it to move persons with developmental disabilities into jobs without immediately jeopardizing their eligibility for Medicaid and Social Security Income benefits.
- Vermont has participated in a pilot project to establish “disability program navigators” at four state One Stop Career Centers established under the Workforce Investment Act to help people with disabilities access these services more easily.

A final report detailing the best practices of these four states and a number of others is scheduled for publication in October 2005. That report will likely examine in detail some of these and other practices noted in this interim report.

INTERIM REPORT ON BEST PRACTICES FOR THE EMPLOYMENT OF PEOPLE WITH DISABILITIES IN STATE GOVERNMENT

INTRODUCTION

This report details best practices undertaken by four states – Florida, Maryland, Vermont, and Washington – to promote the hiring, retention, and advancement of individuals with disabilities in state government employment.

Title I of the Americans with Disabilities Act of 1990 (ADA)¹ prohibits private and state and local government entities that employ fifteen or more employees from discriminating against qualified individuals with disabilities with respect to recruitment, the application process, hiring, advancement, and other terms, conditions, and privileges of employment.² Employers covered by Title I of the ADA must also make reasonable accommodations so that qualified individuals with disabilities may participate in the application process, perform the essential (or fundamental) duties of a job, and enjoy the benefits and privileges of employment available to all employees.

Despite the progress made as the result of the ADA, recent estimates still put the unemployment rate of people with severe disabilities at or near 70 percent. In response to this stubbornly high unemployment rate and other barriers that people with disabilities continue to face, President George W. Bush announced his New Freedom Initiative (NFI) on February 1, 2001. The NFI is the President's comprehensive strategy for the full integration of people with disabilities into all aspects of America's social and economic life. It promotes increased access to technology, education, the workplace, and community life.³

The United States Equal Employment Opportunity Commission ("EEOC" or "Commission") enforces Title I of the ADA and has, since 2001, taken a lead role in helping to implement the NFI's employment goals. In addition to carrying out its traditional enforcement and litigation functions under the ADA, the EEOC has stepped up its outreach and technical assistance efforts. In April 2002, we began a series of free ADA workshops targeted to businesses with 15 to 100 employees. Since August 2002, we have distributed thousands of copies of *The Americans with Disabilities Act: A Primer for Small Business*. We

¹42 U.S.C. § 12101 *et seq.*

²See 42 U.S.C. § 12102. Pursuant to statutory directive, the United States Equal Employment Opportunity Commission has issued regulations implementing Title I of the ADA. Those regulations can be found at 29 C.F.R. Part 1630.

³For information on the New Freedom Initiative, see <http://www.whitehouse.gov/infocus/newfreedom/>

have issued fact sheets discussing how the ADA applies to specific disabilities in the workplace and describing how telecommuting can be a reasonable accommodation for some individuals with disabilities. Finally, we have increased our outreach to people with disabilities through presentations at conferences sponsored by organizations of and for individuals with disabilities and publication of a fact sheet on the ADA for job applicants with disabilities.⁴

The “States’ Best Practices” project is EEOC’s most recent outreach and technical assistance effort aimed at increasing the employment of individuals with disabilities. EEOC’s decision to focus on states was in part based on the number of people state governments employ, collectively more than five million. States also have unique opportunities to serve as model employers not only for other public entities (such as county and municipal governments), but for the private sector as well.

The purposes of this project are twofold. First, it is hoped that all states (as well as local governments and private employers) will learn from the best practices of the participating states. Additionally, EEOC is offering participating states free, informal, technical assistance to aid in voluntary compliance with the ADA.

In addition to the four states reviewed in this interim report, several other states have agreed to share their best practices in the next phase of this project. A final report is currently planned for October 2005.

METHODOLOGY

States were chosen for this study based in part on geographical diversity and the range in size of their workforces. Of the states surveyed for this report, Florida has the largest number of state employees, approximately 130,000. About 98,500 individuals work for the state of Washington; Maryland has nearly 93,000 employees; and Vermont has the smallest number of state employees, with approximately 8,000.

Florida, Vermont, and Washington have similar personnel structures, while Maryland’s is quite different. The Florida Department of Management Services develops state-wide hiring and employment policies. These policies provide the minimum requirements that all state agencies must follow, although state agencies have some latitude to exceed these requirements. In Vermont, the Department of Human Resources develops policies and procedures to govern statewide human resources management practices. Although the recruitment process is managed centrally by the Department of Human Resources Employment Services Division, interviewing and hiring decisions are the responsibility of the

⁴EEOC publications on the ADA can be found at <http://www.eeoc.gov/types/ada.html>.

agency/department hiring official. For the period covered by this report, the Department of Personnel in Washington developed state-wide policies that individual agencies implemented. Washington also included a mix of centralized recruitment for some job classes and individual agency recruitment for others. As this report is being written, Washington is transitioning to a system in which most personnel policies and procedures will be established by collective bargaining agreements. Maryland has several different personnel systems, each of which has its own employment policies, practices, and procedures that apply to the agencies under that system.

The four selected states voluntarily participated in this study. EEOC provided the states general guidelines concerning the kind of information it wished to review. We wanted to find out what individuals with disabilities would encounter when applying for state employment and what they would experience on the job. The information we requested included the following:

- Job application forms, job announcements, and position descriptions;
- Written procedures for providing reasonable accommodations to qualified applicants and employees with disabilities;
- Information about procedures for administering employment tests, including any reasonable accommodations the states provide for the testing process; and
- Employee handbooks, manuals on recruitment and selection, directives on EEO and diversity, and other documents reflecting best practices related to the hiring, retention, and advancement of qualified individuals with disabilities.

Representatives from the EEOC's Office of Legal Counsel (OLC) held an initial teleconference with representatives from each state. The states determined what officials would provide information to the EEOC and what state agencies would be the subject of the review. Following the teleconference, OLC submitted a Request for Information to each state, reviewed the documents provided in response to the request, and conducted follow-up interviews with state officials to clarify or expand upon information in the documents provided. All participating states reviewed and commented on a draft interim report prior to publication.

OVERVIEW

This report has four main parts and a conclusion.

- Part I discusses best practices related to the recruitment and hiring of qualified individuals with disabilities, including targeted outreach and provision of reasonable accommodations for the application process. Best practices with respect to job announcements, the job application process, and position descriptions are also considered.
- Part II discusses ways that the subject states provide reasonable accommodations for qualified employees with disabilities, including written reasonable accommodation policies and other methods of ensuring prompt and fair resolution of accommodation requests. Some innovative accommodation solutions are also discussed.
- Part III describes what the states have done to ensure that, once hired, individuals with disabilities are treated fairly and have opportunities for advancement within state government. This part discusses not only specific state practices that promote advancement, but ongoing training for managers and supervisors that can proactively prevent discrimination.
- Part IV describes activities that, although not designed specifically to increase employment opportunities in state government, promote employment of people with disabilities generally.
- The conclusion summarizes the most promising trends that EEOC found as the result of its review and highlights some issues warranting further consideration in the final report.

PART I: RECRUITING AND HIRING

A. Targeted Recruitment and Outreach

Many employers have told the EEOC that they are unable to find qualified job applicants with disabilities. Often this is because employers are not looking in the right places. While many of this nation's individuals with disabilities who are unemployed are willing and able to work, finding them may involve more than simply engaging in the usual recruiting and hiring practices.

The following section discusses ways that the states surveyed by EEOC have attempted to increase the representation of qualified individuals with disabilities in their hiring pools and

in their workforces. Recruitment and outreach efforts are of essentially two types – those that seek to increase the number of applicants with disabilities for state jobs that are available to the general public, and hiring or training programs designed specifically for individuals with disabilities.

1. *Efforts to Increase the Pool of Qualified Applicants with Disabilities*

Three states – Maryland, Washington, and Vermont – reported that they currently undertake targeted recruitment and outreach efforts, or that they intend to do so or to enhance existing efforts in the near future. For example:

- The Maryland Department of Budget and Management has a Coordinator, Special Outreach and Employment Programs, to assist state agencies in targeting diverse applicant pools for state positions that include persons with disabilities.
- The Maryland State Highway Administration has included specific action items for recruitment and advancement of individuals with disabilities in its *Strategic Plan for Managing Diversity 2000-2004*. Specifically, the Plan calls for implementing a series of diversity strategies that include expanding the recruitment plan to promote state government employment opportunities to disability advocacy organizations, the American Association of Retired Persons, and the Veterans Administration.
- Washington state's affirmative action policy covers, among other groups, Vietnam Era veterans, disabled veterans, disabled persons, and people over the age of forty. The state's Department of Personnel administers the program, which means that it provides guidance and assistance to state agencies and institutions and monitors and reports on their progress. All general government agencies and higher education institutions must maintain an annual affirmative action policy and, depending on their size, must submit either an agency profile or an affirmative action plan (including a bi-annual update). The goal of the Department of Personnel is to address the underutilization of individuals with disabilities in the state workforce by:
 - cultivating relationships with disability groups;
 - disseminating job bulletins to persons with disabilities;
 - advertising in media that serve or represent persons with disabilities;
 - and

- developing a pool of qualified individuals with disabilities to fill temporary positions in underutilized job groups.
- Governor Jim Douglas of Vermont recorded a series of radio Public Service Announcements specifically designed to encourage people from all backgrounds, including those with disabilities, to consider employment with the state of Vermont. These Public Service Announcements aired in conjunction with the Governor’s announcement of October 2004, as Vermont Diversity and Disability Employment Awareness Month.
- Vermont reports that it actively engages in outreach to a diverse range of organizations that serve people with disabilities, such as the Vermont Center for Independent Living. To be included on the outreach list, any individual or organization may submit a request to the Employment Services Division.
- Vermont’s Department of Human Resources is developing a “Working for the State” workshop for community-based organizations throughout the state, particularly those that serve people with disabilities. The workshop will provide an overview of the application process, highlight state career options, and provide information on available resources.
- Vermont’s Department of Human Resources partners with the Division of Rehabilitation to assist individuals with specific impairments/disabilities, such as traumatic brain injury and developmental disabilities, in applying for jobs. The Department of Personnel also works closely with the Division for the Blind and Visually Impaired to provide vocational assessments and evaluations for assistive technology for persons who are blind or visually impaired.
- Vermont also allows individuals with “qualifying disabilities” who meet the minimum qualifications for a state job to ask for a “mandatory interview.” A “qualifying disability” is any disability that meets the ADA’s definition.

2. *Hiring Programs Specifically for People with Disabilities*

Two states – Washington and Vermont – have programs that specifically train and/or hire individuals with disabilities for state jobs.

- In 1997, Washington passed legislation creating a supported employment program for individuals who need on-the-job training and long-term support to

do their jobs successfully.⁵ The program allows agencies to add positions within their budgets that will not count against their allotted full-time employee positions for the entire time the individual is employed by the agency. The program targets individuals with developmental disabilities and those with significant disabilities who are eligible for vocational rehabilitation services. In October 1998 the number of individuals working who were hired through this program was 23; by October 2003 it was 107.

- Vermont identified three specific programs that provide employment and training opportunities for individuals with disabilities in state government jobs:
 - The VR-OPT Program offers training in clerical support skills and job readiness to prepare individuals with disabilities for potential positions.
 - The Clean Sweep Program provides training in a wide range of cleaning, safety, and maintenance procedures. Program participants receive hands-on training in internships that rotate among various types of jobs.
 - The On-the-Job Training (OJT) Program allows state departments to fill entry-level positions at a lower salary and to receive support in providing additional training or mentoring. The goal of OJT is to provide employment opportunities for individuals who, as a result of their disabilities, find it difficult to meet the testing, educational, or experience requirements for a position.

B. Job Announcements and Job Applications

The ADA does not require employers to use a specific type of job announcement or job application form. Some practices related to job announcements and applications, however, may discourage individuals with disabilities from applying for jobs. For example, a deaf individual who uses a sign language interpreter to communicate might not apply for a position described as requiring “good oral communication skills.” Similarly, a job announcement that fails to differentiate between a position’s essential (or fundamental) and marginal functions may discourage individuals whose disabilities make them unable to do the marginal functions from applying for the position, even though they may still be considered “qualified” under the ADA.⁶

⁵See Revised Code of Washington, §§ 41.04.750-41.04.780.

⁶The ADA considers an individual with a disability “qualified” if he or she can perform a job’s “essential functions” (or fundamental duties) with or without reasonable accommodation. See 42 U.S.C. (continued...)

On the other hand, employers can take several positive steps to ensure that their job announcements and job applications do not inadvertently exclude qualified individuals with disabilities from the applicant pool.

- Three states B Florida, Maryland, and Vermont B reported that information about the availability of reasonable accommodations for the application process and/or for performance of the job is included on some or all vacancy announcements.
- Agencies operating under the Maryland Department of Budget and Management provide all job applicants who take employment tests with information about how to request accommodations for the tests.
- Florida reported that, as part of ADA training at several state agencies, managers and supervisors are directed to designate those job functions considered “essential” in job descriptions and to prepare job descriptions prior to announcement of and recruiting for a position.

C. Interviews

The interview process is an applicant’s opportunity to convince the employer that he or she is the best qualified person for the job. The ADA seeks to ensure that this is as true for people with disabilities as for all other applicants. The law requires that reasonable accommodations be made for the application and interview process,⁷ which may mean conducting the interview somewhere that is accessible to a person in a wheelchair or providing a sign language interpreter for someone who is deaf. The ADA also seeks to ensure that applicants with disabilities are evaluated solely on the basis of their qualifications. Consequently, the law prohibits employers from asking about an applicant’s disability before a job offer has been made.⁸

These legal protections, however, are insufficient if individuals involved in the interview process are unaware of them. The following are some steps that states have taken to make the interview process effective for people with disabilities applying for state jobs.

- Florida’s Agency for Health Care Administration requires that all managers and supervisors receive ADA training that includes specific information about how

⁶(...continued)
12111(8); 29 C.F.R. § 1630.2(m).

⁷See 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. Part 1630, app. § 1630.2(o).

⁸See 42 U.S.C. § 12112(d); 29 C.F.R. § 1630.13.

to prepare job descriptions and conduct job interviews of applicants with disabilities. The Administration requires that all personnel be sensitized to issues that might arise during the application process. Thus, receptionists who work for the Administration are trained to be aware of communication and physical access issues that might arise if they come into contact with job applicants who have disabilities.

- Florida's Department of Transportation requires that hiring managers and supervisors, as well as interview panel members, receive ADA training addressing interviewing and development of position qualifications (i.e., knowledge, skills, and abilities required for specific positions).
- Florida's Department of State reported that it includes information about the ADA as part of its general hiring procedures.
- In its Structured Interview Guidelines, the Maryland Aviation Administration includes a section that specifically discusses individuals with disabilities and the interview process. Among other things, the Guidelines:
 - remind managers and supervisors that they may need to modify the "standard" interview process as an accommodation for applicants with disabilities;
 - instruct human resources personnel to ask all applicants whether they will need reasonable accommodations for the application process at the time an interview is scheduled;
 - remind hiring officials that individuals with disabilities may not be excluded from jobs because they cannot perform marginal functions; and
 - offer examples of common accommodations that might be requested as part of the application and interview process.
- The University of Washington's *Selection and Hiring Tools Reference* also informs hiring officials about the need to make reasonable accommodations during the interview process and includes a section discussing interviewing courtesies for job applicants with specific kinds of disabilities.
- Vermont provides hiring officials and personnel officers with a reference guide, *People with Disabilities, Employment and the Workplace*, that includes information on the ADA, interviewing techniques and etiquette, suggestions on interacting with individuals with specific disabilities, a discussion of reasonable accommodation, and resources. Most of this information is also posted on the

Vermont Department of Human Resources' website, www.vermontpersonnel.org.

- The University of Washington and the State of Vermont provide hiring officials with contact information for individuals and agencies in the state that can assist with issues concerning accommodations for the application and interview process

D. Mentoring

Mentoring programs can offer students with disabilities information about employment opportunities and access to positive role models. The American Association of People with Disabilities and the Department of Labor's Office of Disability Employment Policy co-sponsor National Disability Mentoring Day every October, as part of National Disability Employment Awareness Month. Beginning in 2003, Vermont and Maryland replicated this effort at the state level.

- Vermont's Disability Mentoring Day is intended to inspire a year-round effort to promote mentoring opportunities for individuals with disabilities and enables job seekers with disabilities to spend time visiting a business or government agency that matches their interests. State employees provide one-on-one mentoring and job shadowing to job seekers to help them evaluate personal goals, target career skills for improvement, explore possible career paths, and perhaps develop lasting mentor relationships.
- Maryland's Disability Mentoring Day uniquely combines an experiential first-hand view of state government work with workshops that may assist participants with disabilities to gain state employment. Participants are recruited from the state Division of Rehabilitation Services, the state Workforce and Technology Center, and field offices in the Baltimore metropolitan area, and assigned for the day based on each individual's training area and/or career interest. In addition to accompanying their assigned mentor in workday activities, all participants attend two informational workshops, entitled "Applying for State Employment" and "Taking State Examinations."

PART II: REASONABLE ACCOMMODATION

A. Reasonable Accommodation Procedures

The ADA requires covered employers to provide reasonable accommodations to the known physical and mental limitations of qualified individuals with disabilities. One way that an employer can promote compliance with this legal obligation is to have in place written procedures that clearly define the responsibilities of everyone involved in the reasonable

accommodation process and that enable tracking and prompt resolution of accommodation requests. The following subsections detail best practices that the subject states have implemented to ensure that requests for reasonable accommodations are handled appropriately.

1. *Written Reasonable Accommodation Procedures*

Washington and Vermont reported that they have state-wide written reasonable accommodation procedures:

- As early as 1993, the governor of Washington issued an Executive Order requiring all agencies or institutions with fifty or more employees to develop written reasonable accommodation procedures. Each agency and institution submitted its procedures to the Governor's Affirmative Action Policy Committee for review and approval.
- Vermont has developed a statewide Reasonable Accommodation Policy with attending procedures which carefully outline the Reasonable Accommodation request and appeal process. It requires that a copy of the Reasonable Accommodation policy and procedures be provided to all newly-hired state employees. In addition, this information is posted on the Vermont Department of Human Resources website, www.vermontpersonnel.org, under the "Workforce Equity and Diversity" section.

Florida reported that some of its state agencies have adopted written reasonable accommodation procedures that clarify the process for making requests and explain how agency officials should respond.

- For example, the Florida Department of Children and Families' reasonable accommodation procedures empower supervisors to provide the accommodation requested or one that is equally effective, but require them to refer the request to the human resources department if they believe the requested accommodation would change the nature of the employment. These procedures also require the human resources offices to notify applicants and employees in writing about the action taken on their request.
- Some Florida agencies include time lines in their procedures to help ensure prompt attention to requests for reasonable accommodation. For example, the Florida Department of Education requires division directors to notify the ADA Coordinator of all requests for reasonable accommodation within two business days.

2. *Procedures Related to the Denial of Reasonable Accommodations*

Not every requested accommodation can or should be granted. However, an employer can minimize the chance that an accommodation will be inappropriately denied by: (1) establishing procedures that ensure the denial has been properly reviewed and can be justified; and/or (2) providing employees with an opportunity to have an initial denial reviewed.

- The state-wide policy in Washington requires an agency to provide evidence supporting its decision to deny a reasonable accommodation (e.g., evidence that shows why an accommodation would result in undue hardship). A denial of an accommodation must be signed by the head of the employing agency or his/her designee. An agency that wants to deny an accommodation for reasons related to cost should consider whether resources are available from other sources within the state government, including the Department of Personnel's Disability Accommodation Revolving Fund. Established by the legislature in 1987, the fund is used to make unanticipated worksite modifications for which an agency or institution does not have the financial resources. The funds can be disbursed within two weeks after they are requested.
- Florida's Department of State's Reasonable Accommodation Record requires managers to explain, among other things, why an accommodation was not provided and requires that denials be submitted to the Department's Bureau of Human Resources prior to denying the accommodation. This helps ensure that denials are properly justified and all possible accommodations have been considered.
- Vermont has created a Reasonable Accommodation Committee (RAC) consisting of six members from various state departments and agencies, to review department or agency requests for reasonable accommodation and provide an "advisory opinion" as to whether an accommodation should be granted. Any employee who is dissatisfied with a department's or agency's response to a reasonable accommodation request may file an appeal with the RAC. The RAC conducts a review to analyze a job's essential functions, reviews medical documentation and the individual's suggested accommodations, determines whether a requested accommodation would pose an undue hardship, and investigates other possible accommodations.

3. *Tracking Requests for Reasonable Accommodation*

Tracking information about reasonable accommodations can help employers evaluate their performance in responding to accommodation requests and implement measures to improve performance where necessary. Among other things, tracking may enable a state agency to determine how long it takes to respond to requests for different types of reasonable

accommodations; whether there are particular types of reasonable accommodations that the employer has been unable to provide; whether there are agency components that have not granted requests for reasonable accommodations; and the reasons for denials. Where, for example, there have been repeated delays in the processing of reasonable accommodation requests, an agency can investigate the reasons for the problem and take the steps necessary to correct it.

- It may be helpful to document the request for accommodation and the steps taken in response to the request. Although requests for reasonable accommodation do not have to be made in writing, agencies in two states – Florida and Washington – use forms to ensure accuracy in handling a request.
- Florida’s Department of Transportation’s form prominently includes the toll-free phone and TTY number for the Job Accommodation Network (JAN), www.jan.wvu.edu (800-526-7234), and requires managers to indicate whether they contacted JAN. This reminds managers of important resources available to help with the accommodation process.
- In fiscal year 2001, various Maryland agencies began tracking annual statistical information regarding the provision of reasonable accommodations to state government applicants and employees. By fiscal year 2003, nineteen state agencies participated in tracking and reporting this data, which was included in the annual “Statewide Equal Employment Opportunity Report.” The data collected reflects the number of accommodation requests received from applicants and from employees, how many of those requests were granted and denied, and how many remain pending.
- In 2003, the Vermont Department of Personnel and the Division of Vocational Rehabilitation commissioned the University of Vermont's Center for Rural Studies to conduct a survey of classified state employees concerning disability and diversity issues in the workplace. The survey was mailed using stratified, random sampling, and resulted in a response rate of 45%, for an overall sample size of 1,443. Among other things, the survey revealed that:
 - Approximately 17% of state employee respondents identified themselves as having a disability within the meaning of the ADA, closely matching 2000 Census results for the general population in Vermont.
 - Of those self-identified disabled state employees, 45% said that their disability had started before they came to work for the state, and 68% said that their primary disabling condition was physical.
 - More than half of the 38% who indicated that they had requested accommodations responded that they had no problems receiving them,

and of the few who encountered problems, 25% received accommodations other than the ones they had requested. Only 3% ever felt that they had been discriminated against in the workplace based on their disability, either by other state employees or by the public.

B. Innovative Accommodation Solutions

This section highlights several practices reported by the state of Washington that either facilitate provision of reasonable accommodations or that exceed the ADA's requirements.

- The Department of Personnel's website has "Diversity Chat," a series of articles addressing reasonable accommodation issues under the ADA intended to provide a broad outline of facts for general guidance. The site also has information that shows how Washington State law exceeds federal requirements.
- The Department of General Administration (GA) has established a central pool of assistive technology. Agencies and institutions may borrow equipment from the pool. To reserve equipment, such as assistive listening systems for people with hearing impairments, agencies simply call GA at least a week prior to the event.
- The Braille Access Center is a program set up by the Department of Corrections, Department of Printing and the Washington State School for the Blind that uses inmate labor to transcribe materials into Braille.
- A State Taping Center was developed at Central Washington University to provide all state agencies and institutions with the capacity to produce audio versions of print materials.

PART III: PROTECTING THE RIGHTS OF INDIVIDUALS WITH DISABILITIES ON THE JOB

Employers must make sure that, once hired, individuals with disabilities have the tools they need to succeed and the same opportunities for advancement as other employees. In addition to practices specifically designed to provide opportunities for advancement, this part also considers how periodic training can work to prevent discrimination.

A. Activities That Specifically Promote the Retention and Advancement of Employees with Disabilities

The Maryland Aviation Administration specifically addresses in its bi-annual supervisory ADA training the issue of how to promote career development for individuals with disabilities. Using the publication "Career Development for Persons with Disabilities," produced in 2000 by the President's Committee on Employment of People with Disabilities⁹ and available online at www.dol.gov/odep/pubs/ek00/career.htm, as a resource, the training addresses topics such as:

- discussing career expectations with each employee;
- evaluating the employee's interests, talents, and skills, and developing appropriate goals;
- encouraging lateral movements, job rotations, and team assignments that will give employees problem-solving skills and leadership opportunities;
- facilitating networking by including individuals with disabilities in formal workgroups and informal employee gatherings;
- encouraging mentoring;
- ensuring training opportunities, and
- emphasizing an employee's responsibility for self-development.

B. Training

All of the states we surveyed indicated that training on the ADA is provided for managers and supervisors either on a state-wide or agency-wide basis.

- For example, beginning in 1992, the Governor of Washington sponsored several full-day training sessions on the ADA and provided operating funds for a team of ADA trainers that conducted customized training for small to large groups throughout state government. The Governor's ADA Coordinator, Governor's Committee on Disability Issues and Employment and the Attorney General's Office jointly developed and presented a series of nine, half-day training sessions on such topics as: reasonable accommodation and undue hardship; essential functions; direct threat; medical examinations and disability

⁹In 2001, the President's Committee on the Employment of People with Disabilities became part of the Department of Labor's Office of Disability Employment Policy.

related inquiries; ADA, worker's compensation, and the Family and Medical Leave Act; disciplinary actions and terminations under the ADA; and accommodating people with psychiatric disabilities. This series was repeated three times from 1994 through 2000, with an average attendance for each training session of over 100 state employees, predominantly supervisors or human resource specialists.

It is encouraging to see that training about the ADA and individuals with disabilities is increasingly becoming part of states' diversity initiatives.

- Information about individuals with disabilities is included as part of diversity training initiated by Vermont Governor Jim Douglas. The Governor offered this training first to his Extended Cabinet and then throughout the leadership team within state government. The program reinforces the value of an engaged, diverse workforce and sets standards of accountability.
- Florida's Agency for Health Care reported that its cultural diversity training (required for all supervisors) has been expanded to include disability and explores issues about workers' potential discomfort relating to people with disabilities.
- The Maryland State Highway Administration is also incorporating information about persons with disabilities into its training for all employees and into its advanced training for agency leaders.

Maryland also noted the following additional training specifically addressing individuals with disabilities:

- The Maryland Department of Transportation has produced a flyer, "ADA, MDOT, and You" that is given to all new employees at orientation. The flyer explains ADA reasonable accommodation obligations of the agency to its employees with disabilities and explains that the ADA prohibits interference, coercion, intimidation, or retaliation against individuals exercising their ADA rights. New hires are also provided with a detailed flyer explaining how to receive and make telephone calls using the Maryland Relay system.
- In 2001, the Maryland Department of Budget and Management sponsored an ADA "Train the Trainer" Conference, the purpose of which was to provide ADA training by state and federal ADA expert trainers that could then be replicated by the conference attendees on a large scale, ongoing basis for managers and supervisors at their own state workforce locations. Approximately 275 state agency representatives, including ADA Coordinators, Fair Employment Practice Officers, Employee Assistance and Employee Relations Personnel, EEO Officers, human resources Managers, Recruitment and Examination Managers,

and Training Officers attended. In addition to information about a wide range of ADA topics, the conference also included training on disability etiquette and sensitivity issues to raise consciousness about common missteps in interacting with individuals with disabilities.

- In 1997, the Maryland Department of Management & Budget issued a reference booklet entitled *The Americans with Disabilities Act and Employment Guidelines*, to all ADA coordinators statewide. The booklet provides a concise overview of ADA interpretation on the definition of disability, qualified, reasonable accommodation, undue hardship, direct threat to self or others, pre-employment- inquiries, medical examinations, qualification standards, drug and alcohol abuse, reassignments, health insurance and other employee benefits plans, and other frequently raised ADA employment law issues.
- The Maryland Aviation Administration ADA training for supervisors also includes distribution and discussion of the EEOC Technical Assistance Manual on Title I of the ADA, as well as various Department of Labor publications available at <http://www.dol.gov/odep/pubs/publicat.htm> addressing how to prepare for and conduct an effective job interview consistent with the ADA, making management decisions about accommodations, and examples of accommodation problems and solutions.

PART IV: OTHER BEST PRACTICES THAT PROMOTE THE EMPLOYMENT OF PEOPLE WITH DISABILITIES

All of the states we surveyed undertake a number of practices, in addition to traditional vocational rehabilitation services, to promote the employment of people with disabilities in both the public and private sectors. The following sections describe some of the most significant practices, including legislative and executive action, internships, and public/private partnerships.

A. Legislative and Executive Actions

- During its 2004 session, the Florida legislature created a new agency within the state called the Agency for Persons with Disabilities. The agency's mission is devoted entirely to assisting persons with disabilities with improving their quality of living through, among other things, improved housing, employment, and transportation opportunities. The agency will also focus on ways to use public funds more efficiently and effectively.
- State legislation enacted in Maryland in May 2004 elevates the former Governor's Office for Individuals with Disabilities to cabinet-level status, establishing the Department of Disabilities. The newly created department will

oversee the reform of government delivery of supports to people with disabilities.

- Under Executive Order 04-62, Florida created a Blue Ribbon Task Force on Inclusive Community Living, Transition, and Employment of Persons with Developmental Disabilities. The Task Force is charged with coordinating the provision of transition services statewide for students with developmental disabilities as they leave school and attempt to gain employment. The Task Force also wants to expand and improve competitive, integrated employment opportunities for individuals with developmental disabilities. A final report on achieving these objectives, including recommendations for legislative or regulatory action, is due December 15, 2004.
- Also by executive order, Florida established the Americans with Disabilities Act Working Group to provide information and technical assistance to state agencies and people with disabilities on the requirements of the ADA, including its employment provisions. The Working Group provides individualized assistance to state agencies seeking practical information on how to comply with the ADA's employment provisions. Applicants for state jobs and state employees also can use the Working Group's services to clarify their rights and responsibilities under the ADA. A subsequent executive order added a clearinghouse to the Working Group's mandate, the purpose of which is to make information on disability resources and services more easily obtainable. The clearinghouse also provides information on job opportunities, including jobs with state agencies.
- Under an initiative announced by Governor Jeb Bush in 2002, all Florida agencies will comply with section 508 of the Rehabilitation Act, which requires all Federal agencies to ensure that their electronic and information technology, including website, are accessible to persons with disabilities. Florida's decision to adopt these federal standards will assist applicants with disabilities in using websites to learn about and apply for jobs with Florida agencies.
- In Vermont the Governor's Workforce Equity and Diversity Council (GWEDC) was created by Executive Order to lead the state's efforts in the areas of Affirmative Action and Diversity by acting as a consultant and advisor to the Commissioner of Human Resources and the Secretary of Administration. The mission of the GWEDC calls for a greater focus on supporting a workplace culture that promotes equitable treatment for all and the value of workplace diversity. The Council, consisting of representatives from designated state entities, the state employees union, and ten members appointed by the Governor, includes strong representation from the disability community.

- The Governor of Washington established the Washington State Governor's Task Force on Employment of Adults with disabilities, which brings together business leaders, legislators, program and policy staff, and disability community advocates to create a coordinated and aggressive state policy to bring adults with disabilities into gainful employment at a rate as close as possible to that of the general public. Outcomes achieved by the Task Force include:
 - Creation of a clearinghouse that provides employers with a single point of contact for recruiting applicants who have disabilities and for technical assistance;
 - Enactment of a Medicaid buy-in for workers with disabilities with a high income cap (450% of federal poverty level, in gross income) and no asset test;
 - Creation of broad-based partnerships and continuing coordination around such issues as implementation of the Ticket-to-Work program and improving access, services and outcomes for people with disabilities under the Workforce Investment Act; and
 - A Careers Day program, developed and funded by Microsoft, for high school students with disabilities, their teachers, and parents.

B. Internship Programs

The Maryland Department of Budget and Management sponsored the Governor's QUEST Internship Program for Persons with Disabilities. Initiated in 2000, the program provides three-month internships in state government, with the possibility of an extension. QUEST, which stands for "Quality, Understanding, Excellence, Success, and Training," is a training/learning experience for customers of the state's Department of Rehabilitation Services, designed to enhance the participants' knowledge, skills, and abilities while working at a state agency. The internship program has included positions such as Communications and Marketing Trainee, Activity Therapy Aide, Graphics Assistant, Dietary Worker, Fiscal Accounts Clerk, Medicaid Program Associate, Maintenance Assistance, Office Clerk, Junior Accountant, Computer Information Services Specialist, Parole & Probation Caseload Aide, Residential Program Advisor, Buyer's Clerk, Real Estate Administrative Assistant, Publications and Community Relations Trainee, Payroll Clerk, and Personnel Associate.

QUEST interns receive a \$3,000 stipend. While there is no implied offer of employment to participants beyond the volunteer period, a number of past interns have applied for and been placed into positions based on the experience gained in their internship. The state reports that approximately 50% of all past QUEST interns are presently employed in their target job areas in either private or public sector positions.

C. Public/Private Partnerships

Two states – Florida and Vermont – identified partnerships they have with business and/or community organizations to promote the employment of individuals with disabilities.

- Florida has established the Able Trust, a 501(c)(3) public-private partnership foundation. Since 1990, the Able Trust has awarded over \$14 million to individuals with disabilities and nonprofit vocational rehabilitation agencies, and helped approximately 2,000 individuals with disabilities annually to enter the workforce. Among the projects supported by the Trust are: on-the-job coaching, supported employment, job skills-training, job development, employer outreach, and ADA facility compliance. Also known as the Florida Governor’s Alliance for the Employment of Citizens with Disabilities, the Trust increases employment opportunities for persons with disabilities through fund-raising, grant programs, public awareness campaigns, and education.
- Vermont reports that its Department of Human Resources Division of Vocational Rehabilitation, Department of Employment Training, and other state agencies are active participants in numerous activities, councils, and committees that address hiring and diversity issues with respect to individuals with disabilities, such as:
 - The Governor’s Summit on Employment of People with Disabilities, which brings together key stakeholders (e.g., state departments, business leaders, and community organizations) to plan and deliver discussions on current issues relating to employing people with disabilities. Previous summits have addressed: key issues and concerns facing job seekers with disabilities; barriers to transportation; mental illness; and youth and transition to work.
 - The Governor’s Committee on Employment of People with Disabilities sponsors the Youth Leadership Forum, in partnership with the Vermont Center for Independent Living, to encourage youth with disabilities to develop leadership skills and create a plan for their personal growth and career development.
 - Through sharing the best practices of businesses employing people with disabilities, the Vermont Business Leadership Network encourages Vermont employers to consider people with disabilities when recruiting and hiring.

D. Other State Actions That Promote the Employment of People with Disabilities

- Florida has secured a waiver from the Social Security Administration, enabling it to move persons with developmental disabilities into jobs without immediately jeopardizing their eligibility for Medicaid and Social Security Income benefits. Losing these benefits is one of the major obstacles preventing persons receiving Social Security benefits from obtaining employment, or seeking higher-paying jobs.
- Florida adopted a five-year initiative in 2003 to expand the state's Developmental Disabilities Program's emphasis on employment. The Program will divert 25% of people receiving Adult Day Training Services into competitive employment opportunities. The initiative seeks to move away from an emphasis on "prevocational training," which in practice delays or defers employment, in favor of learning through on-the-job training and workplace experience .
- Since 1999, the Maryland Department of Budget and Management and Department of Disability (formerly the Governor's Office of Individuals with Disabilities) have co-sponsored the Disability Employment Workgroup. Its stated purpose is to develop innovative ways to increase employment opportunities for individuals with disabilities within state government, and to ensure low cost access to high quality, current information regarding the ADA for state employees.
- Maryland's "WorkTech" program provides public and private sector employers with free information, consulting, and training about job accommodation strategies and the employability of individuals with disabilities. WorkTech services include a Universal Workplace demonstration site and statewide information and consulting services.
- In Vermont, the Department of Employment and Training Disability Program Navigator Initiative is a pilot program, operating out of four state Career Resource Centers (One Stops), designed to assist people with disabilities who are seeking training in job skills and who need help in "navigating" the employment application process. This program also provides information on employment support programs, such as the Social Security Administration's Ticket-to-Work Program.

CONCLUSION

We are encouraged by our initial findings concerning state best practices aimed at recruiting and hiring qualified individuals with disabilities. These practices include not only the establishment of some training and hiring programs specifically for individuals with disabilities, but more significantly, efforts to increase the number of qualified applicants with disabilities for jobs available to the general public. Based on information reported by the states, it appears that individuals involved in the hiring process have access to more than adequate training on subjects such as interviewing people with disabilities and preparing job descriptions. The job announcements that we have examined thus far do not describe jobs in a way that would inadvertently screen out qualified individuals with disabilities. In fact, some job announcements and job descriptions specifically reference the availability of reasonable accommodations for the application process and on the job.

The use of written procedures for providing reasonable accommodations, methods of documenting and tracking the disposition of requests, and the provision of appeal processes following denials of reasonable accommodations are also positive trends. Our final report will more closely examine the components of written procedures, such as time frames set for the disposition of accommodation requests and methods of funding more costly accommodations. We also expect to examine other innovative accommodation solutions and ways in which states have met or exceeded the ADA's legal obligations.

With respect to ensuring that individuals with disabilities are treated fairly once they are on the job, the states we have surveyed appear to offer significant ongoing training on the ADA and disability issues for managers and supervisors. We are particularly encouraged that training on disability issues is increasingly becoming part of the states' diversity programs. In our final report, we hope to explore in more detail actions that states have taken to promote the advancement of individuals with disabilities, such as training and mentoring programs.

Finally, the states we have surveyed for this *Interim Report* have taken a significant number of steps to increase the employment of people with disabilities generally. It is particularly noteworthy that several of these initiatives (and others noted throughout this interim report) were initiated by legislative or executive action. This fact sends a clear message "from the top" that the employment of people with disabilities is a state priority.

APPENDIX

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