



WORKPLACE ACCOMMODATIONS POLICY HIGHLIGHTS 5.01

Spring 2007

Overview

During the last three months, lawmakers revisited legislation related to workplace accommodations. Two laws addressing minimum wage standards and employment of persons with disabilities are being revised and updated, and the Government Accountability Office (GAO) is reviewing the effectiveness of four federal programs aimed at improving employment options for people with disabilities. Regulatory agencies concentrated their efforts on providing new resources to aid the public in understanding the **Americans with Disabilities Act** (ADA) and to guide employers in creating a more inclusive work environment. The Department of Justice issued a new toolkit on understanding the ADA, and the EEOC published a fact sheet on the ADA & employment in the healthcare industry. On the judicial front, the EEOC proceeded with its disability discrimination case against Wal-Mart.

Legislative Activities

Federal Program for Disabled Renamed to Better Reflect Mission

11.30.2006 – The Javits-Wagner-O'Day (JWOD) program will be renamed AbilityOne. The JWOD program, named after the 1971 Act that led to its creation, ensures that federal agencies purchase goods and services from businesses where the majority of the workers have severe disabilities. The reason for the name change is two-fold: 1) to better communicate the program mission, and 2) to respond to a routine update to the enabling legislation that will eliminate the Javits-Wagner-O'Day Act as a separate law and incorporate it, unchanged, into the U.S. Code. The official *Federal Register* notice regarding the name change is available at [\[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2007_register&docid=fr27no06-13\]](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2007_register&docid=fr27no06-13) [Source: GovExec.com]

Fair Minimum Wage Act of 2007 Approved in Congress

As of early February 2007, both houses of Congress have approved different versions of a bill to change the country's minimum wage laws, **"The Fair Minimum Wage Act of 2007"** [H.R. 2] & [S. 2]. The proposed legislation was introduced into the House by Rep. George Miller (D-CA) and, if passed into law, will amend the **Fair Labor Standards Act of 1938** by increasing the federal minimum wage from \$5.15 per hour to \$7.25 per hour over the next two-and-a-half years. Some members of the disability community have expressed concerns that the legislation may be passed into law without any consideration of workers who receive Supplemental Security Income (SSI) benefits. In response, it has been suggested by disability stakeholders that SSI earning caps should be increased in order to prevent SSI from becoming a disincentive for people with disabilities to seek employment opportunities. [Source: AAPD]

Regulatory Activities

DOJ Launches ADA Toolkit for State and Local Government

12.5.2006 – The Department of Justice's (DOJ) Civil Rights division has issued the first installment of technical assistance documents that will provide state and local officials with information on how best to comply with Title II of the ADA. These resources will aid officials in identifying and removing barriers that prevent people with disabilities from having access to government activities and services. Information on the toolkit can be found at [<http://www.usdoj.gov/crt/ada/pcatoolkit/abouttoolkit.htm>]. [Source: NCD]

EEOC Addresses Employment of Health Care Workers with Disabilities

2.26.2007 – The EEOC has issued a new question-and-answer fact sheet that addresses the application of the ADA to employees with disabilities in the health care industry. The fact sheet emphasizes that healthcare is a rapidly growing industry, expected to account for 19 percent of all new jobs between 2004 and 2014. Although Title I of the ADA applies equally to employers and employees with disabilities in all sectors and industries, this fact sheet explains how the ADA may apply in some unique situations arising from the health care setting, such as workers who are considered independent contractors because they work through staffing agencies. The full fact sheet is available at [http://www.eeoc.gov/facts/health_care_workers.html]. [Source: EEOC]

GAO Gives US Patent Office Permission to Reimburse Teleworkers

01.17.2007 – The GAO recently decided to allow the U.S. Patent & Trademark Office (USPTO) to reimburse its employees for costs of maintaining a high speed Internet connection in their homes, in conjunction with the agency's telework program. The USPTO is a federal agency that has proposed a groundbreaking initiative that allows employees to telecommute up to four days a week from an approved offsite location (usually the employee's home). The program is an effort to improve workforce recruitment and reduce traffic congestion in the D.C. area. Telecommuting as an employment option is becoming more popular for reasons of reduced employer and employee costs, and employers are embracing such arrangements by reimbursing employees for their Internet costs. This change in the way employers view telecommuting may positively affect employment possibilities for those individuals with disabilities who have access to employment only through telework.

[Source: *CNet News*]

GAO Performs Review of Federal Employment-Related Programs

1.26.2007 - There are a number of federal-level initiatives and programs that aim to improve employment opportunities for people with disabilities, yet there remains comparatively little information on their effectiveness. In response to this need for data, the U.S. Government Accountability Office (GAO) was asked to review three U.S. Department of Education programs: 1) Projects with Industry (PWI), 2) Supported Employment State Grants, and 3) the Randolph-Sheppard program. The GAO was also directed to review a fourth program, the Javits-Wagner-O'Day program, which is overseen by an independent federal agency, the Committee for Purchase. The GAO reviewed the extent to which performance measures had been developed for the four programs and what oversight procedures have been established. All of these programs, except for the Randolph-Sheppard program have federal performance goals and measures, but the GAO review concluded that some of these goals were not clearly defined and somewhat difficult to measure. Detailed information on the findings is available at [<http://www.gao.gov/docdb/lite/details.php?rptno=GAO-07-236>].

[Source: GAO]

New Nominations to the National Council on Disability

2.8.2007 – President Bush announced plans to nominate three individuals, Marylyn Andrea Howe of Massachusetts, Lonnie C. Moore of Kansas, and Cynthia Allen Wainscott of Georgia, to serve as members of the National Council on Disability (NCD). The appointed individuals would serve the remainder of the three year term, which expires in September 2008.

[Source: NCD]

ODEP Collaborates with Society for Human Resource Management

11.13.2006 – The Department of Labor's Office of Disability Employment Policy (ODEP) has decided to form an alliance with the Society for Human Resource Management (SHRM) in an effort to promote employment of people with disabilities. According to Roy Grizzard, Assistant Secretary of Labor for disability employment policy, "This alliance formalizes the relationship we have had with SHRM, benefiting SHRM as it serves its membership with the resources ODEP brings to table, and offering ODEP the opportunity for broader contact with human resource professionals." The new partnership will focus on promoting a national dialogue on improving employment of people with disabilities through training, education, outreach, and technical assistance. [Source: ODEP]

Secretary of Labor Seeks Nominations for 2007 NFI Award

2.13.2007 - The Department of Labor has begun accepting nominations for the Secretary of Labor's New Freedom Initiative (NFI) Award. This award was established in 2001 by current Labor Secretary Elaine L. Chao as a way of recognizing businesses, non-profit organizations, and individuals who have displayed tremendous leadership in furthering the efforts of the President's NFI in the area of employment for people with disabilities. More information on the award and nomination guidelines can be viewed in the February 12th *Federal Register* or at

[<http://www.dol.gov/odep/regs/fedreg/notices/2007002280.htm>].

[Source: ODEP]

Judicial Activities

Appeals Court Rules EEOC Can Proceed with Suit Against Wal-Mart

2.14.2007 – The Eight Circuit Court of Appeals has ruled that the Equal Employment Opportunity Commission (EEOC) may proceed with a disability discrimination lawsuit against Wal-Mart in *EEOC v. Wal-Mart Stores, Inc.* [**Case No. 06-1583**]. The suit alleges that the retailer violated the ADA when one its Missouri stores refused to hire a man with cerebral palsy as a greeter or cashier. The case against Wal-Mart was filed by the EEOC in January 2004, but it was delayed when a federal judge granted the defendant's motion for summary judgment and ended the case due to insufficient evidence of discrimination. The EEOC appealed and, with the opinion of the Court of Appeals, has been granted permission to continue. The decision is important because it marks the first time that the Eighth Circuit has ruled that an employer, rather than an applicant, must prove a claim that an applicant with a disability wasn't hired because he or she posed a threat to the safety of others or him or herself. [Source: SEDBTAC & *State News*]

Studies/Reports /Publications

2005 Census Data Regarding People with Disabilities

The US Census Bureau has released the results of the 2005 American Community Survey, which provides useful data and statistics on the state of people with disabilities. Here is a summary of some of the findings:

- Almost 15% of the U.S. population over the age of five has at least one disability.
- For individuals between ages 16 and 64, only 37.5% of those with a disability are employed.
- Among Americans with one or more disabilities, 21.1 percent (more than 8 million people) live below the poverty level.

This data may be very useful for disability stakeholders, providing them with up-to-date statistics on people with disabilities, especially as the data is categorized by state and county. The full results of the Census Bureau's survey may be viewed at [<http://factfinder.census.gov>].

[Source: US Census Bureau & AAPD]

DOJ Releases Five Year Progress Report on ADA Enforcement

The United States Department of Justice (DOJ) released a report in late October 2006 entitled "Access for All: Five Years of Progress," which looks at nationwide enforcement of the Americans with Disabilities Act (ADA) during the past five years. The report examined the following five areas in assessing progress: 1) enforcement of the ADA, 2) protecting the constitutionality of the ADA, 3) resolving ADA complaints through mediation, 4) providing technical assistance, and 5) certifying state accessibility codes. Much of the report considered progress in terms of stronger enforcement of the ADA through the Civil Rights division of the DOJ, and there was an emphasis on Project Civic Access (PCA). PCA is a program that ensures cities across the U.S. comply with the ADA through a review of selected municipalities' public spaces and services. The full report is available at

[<http://www.usdoj.gov/crt/ada/5yearadarpt/fiveyearada.pdf>]

[Source: DOJ]

Report Addresses Employment Concerns of Latinos with Disabilities

Proyecto Visión, the National Technical Assistance Center on Employment for Latinos with Disabilities, has released a report entitled "*Latinos with Disabilities in the United States: Understanding & Addressing Barriers to Employment*," which examines the unique barriers to employment faced by Latinos with disabilities and suggests ways to improve the opportunities. Proyecto Visión is a project of the World Institute of Disability (WID), a nonprofit research and policy center that promotes full inclusion of people with disabilities. The study concludes that participation of Latinos in vocational rehabilitation programs is disproportionate in comparison to overall population with disabilities. In response, the project provides successful models of programs that use cultural factors such as race/ethnicity and language when developing their job preparation and placement services. The report suggests improving vocational rehabilitation programs, reconsidering the disability community's approach to Latinos, integrating individuals with disabilities into the Latino community, and increasing the overall visibility level of Latino leaders with disabilities. The report is available for purchase at

[<http://www.proyectovision.net/report.html>] [Source: Proyecto Vision]

UN Special Reporter on Disability Releases Global Survey Results

The United Nations Special Reporter on Disability conducted a survey of global implementation on the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, an international measure governing incorporation of people with disabilities into society. In cooperation with the South-North Center for Dialogue and Development, the UN Special Reporter on Disability produced a detailed report based on the preliminary survey results. It found that no country had implemented all the measures necessary to provide equal opportunities for persons with disabilities. The survey was sent to government bodies and disabled persons' organizations in 191 countries, and responses were received from 114 countries. The questionnaire asked about a wide range of issues, including policies and legislation, allocation of resources, housing, health, and medical care. The full press release is available at [\[http://www.un.org/News/briefings/docs/2007/070216_Disability.doc.htm\]](http://www.un.org/News/briefings/docs/2007/070216_Disability.doc.htm). The full report and statement by the Reporter are available at [\[http://www.un.org/esa/socdev/enable/rapporteur.htm\]](http://www.un.org/esa/socdev/enable/rapporteur.htm). [Source: AAPD & United Nations]

Other Items of Interest

Professional Development Courses in Disability & Employment

The Employment and Disability Institute (EDI) at Cornell University has recently created a program to offer professional development courses and certificates in "Disability, Workplace and Employment Support Practice." These courses will be offered in an online format and will focus on improving employment outcomes for individuals with disabilities. For more information on the program, visit the following site: [\[http://www.ilr.cornell.edu/edi/edionline/edionline.cfm\]](http://www.ilr.cornell.edu/edi/edionline/edionline.cfm). [Source: EDI]

NOD EmployAbility Partnership Focuses on New Initiatives for 2007

The National Organization on Disability's (NOD) EmployAbility Partnership (NEP), a program aimed at increasing the number of Americans with disabilities in the workforce, focused on two initiatives in early 2007, the Army Wounded Warriors Careers (AW2C) and the Start of Success (SOS) internship program. SOS provides paid internships to high school students with disabilities, while the AW2C is a partnership that aids disabled veterans' transition into the workforce. With the NEP's advisement, AW2C has helped at least 1,600 soldiers start new careers. [Source: NOD]

International Activities

UN Adopts Convention on the Rights of Persons with Disabilities

12.13.2006 - At the end of 2006, the United Nations' General Assembly voted to adopt a treaty that would promote and protect the rights of individuals with disabilities worldwide. "The Convention on the Rights of Persons with Disabilities" is the first human rights treaty to be passed in the 21st century and is the first international treaty to be passed and negotiated in such a short amount of time. The convention now requires ratification by 20 nations in order for it to take effect. This will involve ratifying nations passing legislations in their home countries which prohibit discrimination based on any form of disability. View the full text of the treaty and other information at

[<http://www.un.org/disabilities/convention/>].

[Source: United Nations & Reuters, 12/13/2006]

United Kingdom Passes Disability Equality Duty

The Disability Equality Duty (DED), which was created under the United Kingdom's revised 2005 Disability Discrimination Act (DDA), came into effect in December 2006. The DED requires all public authorities to give "due regard" to promoting equality for persons with disabilities and embedding such activities in their day-to-day activities. One main component of the regulation is to encourage participation by people with disabilities in public life and requiring public sector entities to take steps in helping this. Employers are required to develop a Disability Equality Scheme, which includes an action plan and is written with the input of people with disabilities. These public employers will be required to review the scheme and assess the outcome. The regulation will have a significant impact on the IT department of these employers. "Employers have to be proactive so the next time they buy a new system, they have to anticipate that they might be employing disabled people and factor it into the procurement process" says Robin Christopherson, from AbilityNet, a charity that provides a range of services to help persons with disabilities access Internet and computing technology (ICT) more effectively. The full details of DED are available at [http://www.drc-gb.org/employers_and_service_provider/disability_equality_duty.aspx]

[Source: ZDNet UK, 10/31/2006]

Upcoming Events

Job Accommodation Network Annual Conference 2007

The Job Accommodation Network (JAN) will be hosting its annual conference August, 6-7, 2007, in Arlington, Virginia. The theme for the 2007 conference is "Empowering Employers to Build an Inclusive Workforce." The event is aimed at human resource managers, EEO compliance officers, disability program managers, and other professionals, in order to help these stakeholders develop the skills necessary to accommodate employees with disabilities and develop innovative employment practices. Go to [<http://conference.jan.wvu.edu/>] for more information.



This is a publication of the Rehabilitation Engineering Research Center on Workplace Accommodations supported by the National Institute on Disability and Rehabilitation Research of the U.S. Department of Education, grant # H133E020720. The opinions contained in this publication are those of the grantee and do not necessarily reflect those of the U.S. Department of Education

Workplace Accommodations Policy Highlights 5.01

Spring 2007

Avonne Bell, WAPH Editor: avonne.bell@cacp.gatech.edu

The Center for Advanced Communications Policy (CACP) produces a bi-monthly newsletter, *Workplace Accommodations Policy Highlights*, which reviews policy, regulatory framework and market factors that can be useful in reducing barriers to integrating people with disabilities into the workforce. The primary objectives of the Rehabilitation Engineering Research Center on Workplace Accommodation, a federal program funded by The National Institute on Disability and Rehabilitation Research (NIDRR), U.S. Department of Education, are to identify, design, develop, and promote new assistive devices and universally-designed technologies that will enable all individuals, and particularly those with disabilities, to achieve the greatest degree of independence and integration in the workplace. To accomplish its mission, the RERC engages in a comprehensive program of research, development, training, and information dissemination.

For further information on items summarized in this report, or if you have items of interest that you would like included in future editions, please contact the editor, Avonne Bell, Graduate Research Assistant (avonne.bell@cacp.gatech.edu) or Paul M.A. Baker, Ph.D., AICP, Director of Research (paul.baker@cacp.gatech.edu).