

U.S. Department of Labor Civil Rights Center



EQUAL OPPORTUNITY GUIDANCE LETTER NO. 4

MAY 18, 1998

TO: GOVERNORS, STATE JTPA LIAISONS, STATE WORKER ADJUSTMENT LIAISONS, STATE EMPLOYMENT SECURITY AGENCIES (SESA), ONE-STOP CAREER CENTER SYSTEM LEADS, SESA EQUAL OPPORTUNITY (EO) OFFICERS

FROM: ANNABELLE T. LOCKHART
Director
Civil Rights Center

SUBJECT: Making America's Job Bank/America's Talent Bank Available to and Usable by Individuals with Disabilities

1. **Purpose.** To provide guidance on States' responsibilities to make America's Job Bank/America's Talent Bank (AJB/ATB) available to and usable by individuals with disabilities.

2. **References.** TEIN 28-96 (May 1, 1997): Study On Certification Chartering Criteria For One-Stop Career Centers; TEIN 27-96 (April 28, 1997): One-Stop Disability Initiative; TEIN 21-96 (March 17, 1997): Joint Issuance by the Assistant Secretary for Employment and Training and the Assistant Secretary for Special Education and Rehabilitation Services.

3. **Background.** Two statutes that prohibit discrimination on the basis of disability by recipients of Federal financial assistance for labor and workforce programs are section 504 of the Rehabilitation Act of 1973, as amended, and section 167 of the Job Training Partnership Act, as amended. The Department of Labor's regulations implementing Section 504 and Section 167, title 29 CFR parts 32 and 34 respectively, prescribe several recipient obligations to ensure that its services, including America's Job/Talent Bank workstations that are made available to the general public, are, to the maximum extent possible, available to and usable by individuals with disabilities. These obligations include, but are not limited to: (1) ensuring physical accessibility; and (2) providing reasonable accommodation to individuals with disabilities. (see Subpart C of part 32). The Americans with Disabilities Act of 1990 (ADA) imposes similar obligations. See section 4. for a discussion of the ADA and its applicability to State and local governments.

(1) Physical accessibility to programs and activities. Title 29 CFR 32.28 requires that "each facility or part of a facility constructed by, on behalf of, or for the use of a recipient, shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by" qualified individuals with disabilities. Section 32.28 further provides that the standards to be used are those most recently issued by the General Services Administration (GSA), unless alternative standards provide greater accessibility. The most recent standards issued by GSA are the Uniform Federal Accessibility Standards (UFAS). (See 41 CFR Subpart 101-19.6.) These guidelines should be used unless alternative guidelines provide greater accessibility. Alternative standards include the Americans with Disabilities Act Accessibility Guidelines (ADAAG). (See 28 CFR part 36.) Additionally, States should be aware that, if state guidelines provide for greater accessibility, those standards should be used.

The term "facilities" is not synonymous with the term "buildings." It has a broader meaning and includes such things as automated teller machines (ATMs) and roadside emergency call boxes. AJB/ATB workstations must be in compliance with accessibility standards. In most instances, such as in the case of ATMs, there is a specific UFAS or ADAAG standard. In others, such as with roadside emergency call boxes and AJB/ATB-type workstations, there is no specific accessibility standard. In the absence of a specific standard, a recipient should rely upon the general accessible design criteria contained in ADAAG and UFAS. Both ADAAG and UFAS provide guidance to recipients concerning design considerations for accessible routes, clear space, reach ranges, and operating mechanisms.

(2) Reasonable accommodation. As a separate and additional obligation, recipients must accommodate the disabilities of particular individuals in response to the specific limitations of their disabilities, unless the recipient can show that the provision of an accommodation would constitute an undue burden. (See 29 CFR 32.13 for a discussion of reasonable accommodation and undue burden.) Accommodations can include auxiliary aids as required by 29 CFR 32.4(b)(7) and 29 CFR 34.6(b) as well as staff-assisted services.

4. Relationship to ADA. The Americans with Disabilities Act of 1990(ADA) extends the prohibition of discrimination on the basis of disability to covered entities regardless of whether they receive Federal financial assistance. Title I of the ADA, which is enforced by the Equal Employment Opportunity Commission, applies to all employers, employment agencies, labor organizations and joint labor-management committees (see 29 CFR part 1630). Title II, which is enforced by the Department of

Justice(DOJ) and in some circumstances DOL, applies to "public entities" (e.g., any State or local government or any department, agency, special purpose district, or other instrumentality of a State or States or local government (see 28 CFR part 35). Title II is patterned after Section 504 of the Rehabilitation Act. Title III of the ADA, also enforced by DOJ, applies to public accommodations and commercial facilities (see 28 CFR part 36). To the extent that recipients of Federal financial assistance for labor and workforce programs are covered entities (e.g., employers, employment agencies, State and local governments and public accommodations) they are also covered by the ADA and its implementing regulations.

5. **Policy.** States must ensure that their obligation to provide programmatic and physical access to AJB/ATB is met. This includes ensuring that AJB/ATB workstations meet UFAS standards, unless an alternate standard provides greater accessibility. Further, States must provide accommodations, including auxiliary aids and staff-assisted services necessary to ensure equal opportunity for qualified individuals with disabilities. The Department of Labor supports and encourages States to find the methods and means of ensuring that job-seekers with disabilities and business individuals with disabilities can access the employment related information and use the new Internet tools for labor exchange.

6. **Action.** Recipients should review the location and placement of AJB/ATB workstations available to the public to ensure they are accessible to and usable by individuals with disabilities. Further, recipients should develop and implement strategies to accommodate the specific limitations of individuals with disabilities, including auxiliary aids and staff-assisted services. The determination as to the appropriate accommodation should be made in consultation with the individual with the disability, and may include other interested individuals or groups. Resources listed in 7. can assist the recipient in this regard. Finally, the Department recommends that a three-way partnership of the USDOL, State rehabilitation agencies and local disability advocacy agencies can develop ways to ensure access to service for individuals with disabilities. These activities should be undertaken with the assistance of the SESA Equal Opportunity Officer.

7. **Resources.** ETA's affirmative efforts to ensure access to the AJB/ATB system for individuals with disabilities include partnering with the National Federation of the Blind to develop a voice-based system to access AJB and to conduct regional accessibility conferences. In addition, ETA established the One-Stop Disability Initiative in recognition of the fact that the One-Stop Career Center System presents unique challenges as well

as opportunities to provide improved services to individuals with disabilities.

A One-Stop Disability Initiative website, found at www.ttrc.doleta.gov/onestop/dslstp.htm, is a good source for information on this issue. It includes the full text of the publication Technology and Serving Individuals with Special Needs presented by the Electronic One-Stop (EOS) Steering Committee. That publication includes a list of EOS Usability Principles which offers a general framework for the "look and feel" of EOS systems.

The One-Stop Disability Initiative website also provides a link to information on disability issues in general found on the DOL Disability Initiative website (<http://www.doleta.gov/access/>).

There are several other Internet web-sites which are recommended for those in need of additional information, including:

The Civil Rights Center (CRC):

<http://www.dol.gov/dol/oasam/public/regs/main.htm>

CRC is the agency within DOL that enforces section 504, section 167 and, under some circumstances, Title II of the ADA. The site includes laws, regulations and technical assistance related to disability.

The Department of Justice (DOJ) ADA home page:

<http://www.usdoj.gov/crt/ada/adahom1.htm>

DOJ enforces Titles II and III of the ADA. The site includes laws, regulations and technical assistance related to those two sections as well as links to other disability-related sites.

The Equal Employment Opportunity Commission (EEOC):

<http://www.eeoc.gov/>

The EEOC enforces Title I of the ADA and has information related to that Title.

The Job Accommodation Network (JAN)

<http://janweb.icdi.wvu.edu/>

JAN is a federally-funded program to advise employers as well as employees with disabilities on accommodations that are available to assist the worker in the performance of his or her job. JAN maintains a database of thousands of accommodations that have been provided to callers in the past.

ADA links:

<http://www.public.iastate.edu/~sbilling/ada.html>

The Iowa State University has compiled links to over 100 different websites of value to individuals with disabilities. Information on the ADA, products and services, communications,

specific disabilities, legal resources and more are included on this extensive page.

The President's Committee on Employment of People with Disabilities(PCEPD):
<http://www.pcepd.gov/>

PCEPD is a resource office within the Federal government focusing on disability issues and workers with disabilities. The PCEPD provides information and advice to both employers and individuals with disabilities, setting up and participating in a variety of other conferences and activities throughout the year.

8. **Inquiries.** Questions should be addressed to Everette West of CRC by e-mail at the following address: west-everette@dol.gov.